

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY

HEARINGS: DAY 11
(TUESDAY 15 JUNE 2021)

International Arbitration Centre
3rd floor Ritter House
Wickhams Cay II
Road Town, Tortola

Before:

Commissioner Rt Hon Sir Gary Hickinbottom

Solicitor General Mrs Jo-Ann Williams-Roberts (instructed by the Attorney General) and Mr Niki Olympitis of Withers LLP appeared for various BVI Government Ministers and public officials.

Mr Richard Rowe of Silk Legal and Mr Daniel Fligelstone Davies of Silk Legal appeared for those members of the House of Assembly who are not members of the Government.

Counsel to the Commission Mr Bilal Rawat also appeared.

Hon Alvera Maduro-Caines gave evidence.

Hon Neville A Smith gave evidence.

Hon Kye M Rymer gave evidence.

Hon Vincent O Wheatley gave evidence.

Court Reporter:

MR. DAVID A. KASDAN
Registered Diplomate Reporter (RDR)
Certified Realtime Reporter (CRR)
Worldwide Reporting, LLP
529 14th Street, S.E.
Washington, D.C. 20003
United States of America
david.kasdan@wwreporting.com

Those present:

Sessions 1 & 2

Mrs Jo-Ann Williams-Roberts, Solicitor General

Mr Richard Rowe, Silk Legal

Mr Fligelstone Davies, Silk Legal

Mr Bilal Rawat

Hon Alvera Maduro-Caines

Hon Neville B Smith

Ms Juienna Tasaddiq, Assistant Secretary to the Commission

Mr Andrew King, Senior Solicitor to the Commission

Ms Rhea Harrikissoon, Solicitor to the Commission

Constable Javier Smith, Royal Virgin Islands Police Force

Mr Dame Peters, Audio-Visual Technician

Session 3 & 4

Mrs Jo-Ann Williams-Roberts, Solicitor General

Mr Niki Olympitis, Withers LLP

Mr Bilal Rawat

Hon Kye M Rymer

Hon Vincent O Wheatley

Ms Juienna Tasaddiq, Assistant Secretary

Mr Andrew King, Senior Solicitor to the Commission

Ms Rhea Harrikissoon, Solicitor to the Commission

Constable Javier Smith, Royal Virgin Islands Police Force

Mr Dame Peters, Audio-Visual Technician

P R O C E E D I N G S

1
2 COMMISSIONER HICKINBOTTOM: Good morning, Mr Rowe.
3 Good morning, Mr Rawat. Good morning, everyone.

4 I think we're all ready to begin.

5 MR RAWAT: I'll begin by just introducing the legal
6 representatives who are here today. First of all, on behalf of
7 the Attorney General and the elected Ministers, if she acts we
8 have the Solicitor General Jo-Ann Williams-Roberts.

9 COMMISSIONER HICKINBOTTOM: Yes.

10 MR RAWAT: And secondly, on behalf of seven Members of
11 the House of Assembly we have Mr Richard Rowe.

12 Our first witness is The Honourable Alvera
13 Maduro-Caines. Ms Maduro-Caines appeared yesterday when she was
14 sworn, so she doesn't need to be sworn again, and so if I may,
15 I'd just like to begin with my questions.

16 COMMISSIONER HICKINBOTTOM: Yes. Thank you, Mr Rawat.

17 BY MR RAWAT:

18 Q. Ms Maduro-Caines, first of all, thank you very much
19 for returning to give evidence today. You may remember that
20 yesterday I asked you to provide your full name and your
21 professional address, so we don't need to go through that again.
22 I will have some questions for you today. Just to explain, they
23 are intended to be short and simple, but if at any point you
24 have difficulty understanding a question I've put or you'd like
25 me to repeat a question or put it in a different way, please do

1 ask me to do so.

2 There are a number of bundles in front of you. No
3 need for you to look at them now, but we will go and look at
4 various documents as we go through your evidence today.

5 The last thing that I'd like to remind you of is just
6 to ask you to remember to keep your voice up, to speak slowly.
7 And the reason for that is so that we can record your answers as
8 accurately and clearly as possible.

9 I might start off by asking you just to give the
10 Commissioner a brief summary of your professional background
11 before you entered into politics.

12 A. Good morning, everyone.

13 Before I entered into politics, I worked at the Trust
14 Company, Citgo BVI, for 19 years.

15 If I could go back further, I worked as a DJ for a
16 couple of years. When I came back, I worked for Citgo as a
17 legal secretary, and I was transferred to office manager, and
18 then I worked in the Computer Department of Citgo, and that's
19 for 19 years. I resigned and I went to work for the Post Office
20 as Assistant Postmaster for about four years.

21 Then I entered into politics.

22 Q. Thank you. And it's right, is it, that the first time
23 you were elected to the House of Assembly was in 2011?

24 A. Yes.

25 Q. And that was as the Member for the Sixth District?

1 A. Sixth, yes.

2 Q. And you were representing the National Democratic
3 Party at that time?

4 A. At that time, yes.

5 Q. And you were then re-elected in 2015?

6 A. Yes.

7 Q. And 2019?

8 A. Yes.

9 Q. And that's again for the Sixth District, isn't it?

10 A. That's right.

11 Q. And on both occasions you stood for the National
12 Democratic Party?

13 A. Yes.

14 Q. But is it right that subsequent to 2019, you have now
15 moved to represent the Virgin Islands Party?

16 A. Virgin Islands Party.

17 Q. In your time in the House of Assembly from 2011
18 onwards, have you held any ministerial office?

19 A. No, I--well, no, no, no.

20 Q. So, you haven't--

21 (Overlapping speakers.)

22 A. For a couple of months, I was Junior Minister of
23 Trade, but it only lasted for about three months.

24 Q. And was that in the previous administration?

25 A. For the previous administration.

1 Q. Thank you.

2 Now, you obviously represented the Sixth District for
3 a considerable period of time?

4 A. Yes.

5 Q. How many people lived in the Sixth District?

6 A. I would safely say about 3,000, maybe a lot more. I
7 know there are about 1,700 voters--voted (unclear).

8 Q. If I could ask you, again, Ms Maduro-Caines, if you
9 could just keep your voice up a little bit, please. I think the
10 microphone doesn't amplify. It records.

11 So, you told us that there's about 1,700 people?

12 A. Voters.

13 Q. 3,000 that live in the Sixth District?

14 A. About 1,700 voters.

15 Q. Have--are eligible to vote?

16 A. Yes.

17 Q. The official records show that in 2019 in the Sixth
18 District, 1,109 votes were cast of which you received 575.

19 A. Yes.

20 Q. Does that accord with your recollection?

21 A. Yes.

22 Q. And that was 51.85 percent of the total vote cast?

23 A. Yes.

24 Q. Now, you were here obviously yesterday, and you
25 obviously may not have been here for all of the day and may not

1 have been able to follow all the proceedings, but one of the
2 question that was asked of two Members of the House of Assembly
3 who came and gave evidence yesterday was whether they support
4 the current initiative to make the Register of Interests public.
5 Is that a measure that you would support?

6 A. Yes, I would surely.

7 Q. Now, it's obviously we're talking 2019.

8 A. Yes.

9 Q. You've been an elected representative for some years.
10 Going back, has it always been your view that the Register of
11 Interests should be open to the public for inspection?

12 A. To be honest, I never gave it much thought.

13 Q. Was there any reason that you--it's something you
14 haven't given much thought?

15 A. No. It's not something, you know, that I really have
16 given any thought to.

17 Q. But thinking about it now, would you accept that if
18 the Register is open to public inspection, that will only
19 improve transparency and accountability?

20 A. Yes.

21 Q. Now, again, because you are an elected Member of
22 long-standing, you must be aware of the requirement under the
23 Register of Interests Act of 2006 to provide a Declaration of
24 your interests on the date that you first assume your office and
25 then on every subsequent anniversary; is that right?

1 A. Yes.

2 Q. And were you aware that, if you didn't submit a
3 Declaration within three months of the date that it was due,
4 that that would amount to a breach of the Act?

5 A. No.

6 Q. And you say no--

7 A. I wasn't aware of that.

8 Q. You wasn't aware--you weren't aware of that.

9 Can you explain why it's something that you're not
10 aware of?

11 A. I wasn't made aware of it.

12 In 2011, when I was elected in November, I would have
13 to say there's probably a little--trying to find the right
14 words, but a process in teaching us what needs to be done
15 wasn't, did not happen at that time, so I learned as I went
16 along.

17 Q. And who did you learn from, Ms Maduro-Caines?

18 A. Various elected officials I would go and ask
19 questions. Sometimes I would ask the Office of the Registrar of
20 Interests should I book this, should I book that. Sometimes I
21 got answers; sometimes I didn't get answers, so...

22 Q. And were you going to public offices or were you going
23 to Fellow Members of the House of Representatives for
24 information?

25 A. House of Assembly--Members of the House of Assembly.

1 Q. And this was on your own initiative?

2 A. Yes.

3 Q. And so, if we take the Register of Interests
4 Declaration as an example--

5 A. Right--

6 Q. --when you see that, you would go and ask people what
7 am I supposed to do?

8 A. Right.

9 Q. When am I supposed to do it by?

10 A. Yes.

11 Q. And was that presumably so that you made sure that you
12 were complying with the obligations that were imposed on you?

13 A. Yes, because I'm not someone who was not
14 non-compliant, so...

15 Q. Again, your voice is dropping a little. If you could
16 just repeat that answer for us.

17 A. I said I'm not someone who doesn't normally follow
18 instructions on non-compliance.

19 Q. So, you were keen to make sure that you had complied?

20 A. Yes.

21 COMMISSIONER HICKINBOTTOM: Just to clarify this
22 point, really for my own benefit, but Mr Rawat will help me or
23 Mr Rowe will help me--I don't think you need to look at the
24 Registration of Interests Act, but under Section 3 of the Act
25 there's an obligation on Members to make a Declaration in the

1 relevant form on the date of assumption of office, and on each
2 subsequent anniversary of that date. That's mandatory, and so a
3 Member is in breach of Section 3, that if they do not make a
4 Declaration within those--within that time frame.

5 And then section 7, where the Declaration is not made
6 within three months from the date that it has to be made, then,
7 firstly, the Member is in breach of the Act, but also the
8 Registrar is then obliged to submit a report of that breach for
9 consideration by the Standing Committee; is that right?

10 I just wanted to make sure that I've got it right.

11 So, a Member is in breach of the Act if he or she is a
12 day late.

13 THE WITNESS: Yes.

14 COMMISSIONER HICKINBOTTOM: But it's not until the
15 Member is three months late that the sanction in section 7
16 applies?

17 THE WITNESS: Yes.

18 COMMISSIONER HICKINBOTTOM: Thank you. Thank you very
19 much.

20 MR RAWAT: Mr Rowe is signaling his agreement.

21 COMMISSIONER HICKINBOTTOM: I just wanted to make sure
22 I got it right, and I have. Thank you very much.

23 (Comment off microphone.)

24 BY MR RAWAT:

25 Q. You'll have heard the Commissioner just mention the

1 Committee, Ms Maduro-Caines. Under the Register of Interests
2 Act, there is supposed to be a Standing Select Committee charged
3 with considering matters relating to the Register of Interests.
4 Have you heard of that Standing Select Committee?

5 A. Yes.

6 Q. When did you first hear about it?

7 A. I can't really give a date, but quite some time.

8 Q. Well, if we break it down into the three sessions that
9 you were--because you've been a Member of three Houses of
10 Assembly, in effect, this is the 2011 to 2015 House of Assembly.
11 When you were elected representative in that house, did you
12 become aware of the existence of the Standing Select Committee?

13 A. I wasn't aware of it when I first got elected.

14 Q. Were you aware of it before the 2015 Election?

15 A. Yes.

16 Q. Have you ever sat as a Member of that Committee?

17 A. No, I have not.

18 Q. Have you ever been told that the Committee has ever
19 sat?

20 A. No, I have not.

21 I was selected to sit on two committees which is the
22 Public Accounts and Services.

23 COMMISSIONER HICKINBOTTOM: I'm sorry, I'm terribly
24 sorry. I couldn't hear that, I'm afraid.

25 THE WITNESS: I was selected to sit on two committees

1 which is the Public Accounts and the Services Committee.

2 COMMISSIONER HICKINBOTTOM: Right. Thank you.

3 BY MR RAWAT:

4 Q. And which Committees do you sit on at the moment?

5 A. The Public Accounts.

6 Q. I see. And the Services?

7 A. And the Services, yes.

8 Q. And so, if you're not a Member of a committee, unless
9 something CMS to the House of Assembly, you won't learn about
10 what that committee is doing?

11 A. No.

12 Q. Can we take a look at some of the declarations that
13 you've made?

14 A. Yes.

15 Q. Within the bundle that has been provided to you, you
16 will find declarations from 2015, so the date for you in terms
17 of 2015 is the 23rd of June 2015, which is when you would have
18 assumed office by being sworn in to the House of Assembly. If
19 we go, please, to page 134 of that bundle, if I've taken you to
20 the right page, you should see a page that has a stamp on it,
21 "received". It's from the Registrar of Interests of the
22 Government of the Virgin Islands, and it's stamped "Received
23 October 13, 2015".

24 Do you have that page?

25 A. Yes.

1 Q. If you go ten pages in to page 144, the last page of
2 this particular document, you see a signature there. Can you
3 confirm that that's your signature?

4 A. Yes.

5 Q. And it's 23rd of June 2015; is that right? That's the
6 date?

7 A. Yes.

8 Q. So, picking up on what the Commissioner said, you
9 should have submitted this. It's on the date that you assumed
10 office, isn't it? I can give you that, you were sworn on the
11 23rd of June 2015, so that appears to be signed on the date that
12 you assumed office on 2015, but there's obviously a difference
13 in dates between that and when it's received. I appreciate it's
14 some time now, but can you help at all with the difference in
15 the time?

16 A. No, I--I honestly can't.

17 Q. All right. You also filed your Declaration for 2016,
18 and we can see that at page 123.

19 So, again, the page you should see on it the stamp
20 from the Registrar of Interests received, and the date there is
21 September 8th, 2016.

22 Do you have that page?

23 A. Yes.

24 Q. Again, if you go to page 133, that's the last page of
25 that Declaration. And again, does it carry your signature?

1 A. Yes, it does.

2 Q. And it's dated September the 6th, 2016?

3 A. Yes.

4 Q. So, you should have filed this Declaration in
5 June 2016 by the 23rd of June 2016. So, would you accept that
6 at least it appears, at least in 2016, you were a few months
7 late?

8 A. Yes.

9 Q. If we look at your 2017 Declaration, that's at
10 page 112. The stamp on that page has--you have the page,
11 Ms Maduro-Caines?

12 A. Yes.

13 Q. The stamp on that page is dated July 11th, 2017, and
14 if we go to 122, that's the last page of this Declaration, again
15 does it carry your signature?

16 A. Yes, it does.

17 Q. And it's dated June 30, 2017, so again would you
18 accept that if the Due Date was the 23rd of June, then you were
19 a few days late in 2017?

20 A. Yes, sir.

21 Q. If we look at your 2018 Declaration, that's at
22 page 101. The page--if you have it, Ms Maduro-Caines--is
23 stamped again by the Registrar of Interests and carries the
24 dates written in manuscript 19 September 2018. If you go to
25 page 111, that should be the last page.

1 Again, is that your signature?

2 A. Yes, it is.

3 Q. And it carries the date August 11, 2018.

4 So, again, would you accept that, in 2018, you filed
5 your Declaration late?

6 A. Yes. Yes, sir.

7 Q. And if we look at your 2019 Declaration, that's at
8 page 90, page carries again the stamp of the Registrar of
9 Interests; and, in manuscript, the date that is written is
10 29th May 2019. The page with your signature is page 100.

11 Do you have the page?

12 A. I have it--the same.

13 MR ROWE: You could look to the--

14 BY MR RAWAT:

15 Q. There's a bundle to your side, if that will help you,
16 Ms Maduro-Caines. It might be easier for you to navigate the
17 pages. If you have page 100.

18 COMMISSIONER HICKINBOTTOM: Just for the sense of
19 context, Mr Rawat, this is 2019 after the 2019 Election, so I
20 assume then that this is the date--

21 (Overlapping speakers.)

22 MR RAWAT: The date is reset, and the date on which
23 Members of the House of Assembly were sworn was the 12th of
24 March 2019.

25 COMMISSIONER HICKINBOTTOM: Yes, okay.

1 BY MR RAWAT:

2 Q. I take, and I hope you have page 100,
3 Ms Maduro-Caines?

4 A. Yes, I do.

5 Q. Again, please confirm that that's your signature?

6 A. Yes, it is.

7 Q. And it carries the date, doesn't it--

8 A. Yes.

9 Q. --May 27, 2019?

10 A. Yes.

11 Q. So, as the Commissioner pointed out, the date on which
12 you assumed office in this new session of the House of Assembly
13 is the 12th of March 2019, so it would appear that, in making
14 your Declaration, your 2019 Declaration, you were two months
15 late at least; is that right? Do you accept that?

16 A. Yes, sir.

17 Q. Your 2020 Declaration will be at page 79. If you look
18 at the top of the page, it carries the stamp of the Registrar of
19 Interests and in manuscript the date 26 May 2020.

20 If you go to page 89, is that your signature on that
21 page, Ms Maduro-Caines?

22 A. Yes.

23 Q. And the date is March 16, 2020.

24 A. Yes.

25 Q. So, remembering that it's the 12th of March on which

1 the anniversary falls, you were just four days late then, but
2 the Registrar of Interests stamped it 26th of May. Can you help
3 the Commissioner at all as to why there is this difference in
4 dates?

5 A. The Registrar of Interests was out sick, and there was
6 no one there to accept the Declaration, so she asked that we
7 keep them until she returned to office.

8 Q. Did you have some correspondence with her about that?

9 A. There was a letter that she sent to each Member of the
10 House of Assembly.

11 Q. I see.

12 So, she informed you in March or early 2020 that she
13 might not be available?

14 A. Correct.

15 Q. And asked to you retain the Declaration--

16 A. Exactly.

17 Q. --until she came back?

18 A. Yes.

19 Q. I see.

20 If you go to page 68, this is your latest Declaration.

21 It's the Declaration for 2021 due on the 12th of March 2021.

22 You can see on this page there is again the stamp of the
23 Registrar of Interests and in manuscript the date 25th of May
24 2021. Your signature appears on page 78--you have that,
25 Ms Maduro-Caines?

1 A. Yes, I do.

2 Q. Again, is that your signature?

3 A. Yes, it is.

4 Q. And it carries the date March 15, 2021.

5 A. Yes.

6 Q. So, three days after it was due, but again there's a
7 discrepancy in the date on which you signed and the date on
8 which it's recorded as being received. Was that again due to
9 the unavailability of the Registrar?

10 A. I would think so.

11 Q. Well, do you remember being told--or if there's
12 another explanation for the discrepancy between dates, please do
13 give it.

14 A. No, there is none.

15 Q. Do you remember receiving correspondence in early 2021
16 about the Declaration of Interests?

17 A. I would see some correspondence. I would have to go
18 through them to see what's said.

19 COMMISSIONER HICKINBOTTOM: This is correspondence
20 from the Registrar in 2021?

21 THE WITNESS: Yes.

22 COMMISSIONER HICKINBOTTOM: Thank you.

23 BY MR RAWAT:

24 Q. So, stepping back from your declarations--and you have
25 filed seven declarations since 2015, it's right, isn't it, that

1 there are a number of occasions where you are filing the
2 Declaration late?

3 A. Yes, sir.

4 Q. Now, the forms that you completed, who sent those
5 forms to you?

6 A. The Registrar of Interests.

7 Q. So, would she send you a form every year saying, "It's
8 time for you to fill in your Declaration, please do so"?

9 A. Yes.

10 Q. And you referred to having correspondence with the
11 Registrar. Is that correspondence that you've retained?

12 A. In my office, yes.

13 Q. And does it include letters from the Registrar
14 reminding you of the need to complete?

15 A. Yes. Yes.

16 Q. Is that correspondence that you'd be willing to
17 provide to the Commissioner?

18 A. Yes.

19 Q. And does it include correspondence from you to the
20 Registrar?

21 A. No, it does not.

22 Q. You mentioned earlier that you would sometimes go to
23 the Registrar for assistance.

24 A. Oh, yes, but I have--I have not written to the
25 Registrar. I would normally speak on the phone, or if a

1 reminder is sent that my Declaration was not filed, then I would
2 file it.

3 Q. I see.

4 A. But not correspondence in letters.

5 Q. So, if you needed information, you would call her?

6 A. Yes.

7 Q. Now, if you look at that last page?

8 COMMISSIONER HICKINBOTTOM: Page?

9 MR RAWAT: We're looking at page 78, which is the last
10 thing.

11 BY MR RAWAT:

12 Q. The form is always in the same terms, and we'll go
13 through it in a little more detail, but when you're signing,
14 what it asks you to do is to say: "I declare that the
15 information contained in this Declaration is a complete and
16 accurate description of all interests that I'm liable to declare
17 under the Register of Interests Act 2006". Presumably,
18 Ms Maduro-Caines, when you came to sign the form each year, that
19 was something that you would have taken seriously; is that
20 right?

21 A. Yes.

22 Q. Now, if we look at the details that you disclosed to
23 the Registrar, I'm not going to take you through every single
24 form because the information that you give is quite consistent
25 over the years, but I just want to ask you some questions about

1 how you as a Member of the House of Assembly approached the
2 form. So, if we go to page 68--and this is the first page of
3 your 2021 Declaration--that has a preamble which reads as
4 follows: "The main purpose of the Register of Interests is to
5 provide information of any pecuniary interests or other material
6 benefit which a Member receives which might reasonably be
7 thought by others to influence his or her actions, speeches, or
8 votes in the House of Assembly or actions taken in his or her
9 capacity as a Member". I'll pause there.

10 Reading that, what did you take as a Member of the
11 House of Assembly to be the purpose of your completing this
12 form?

13 A. Page 68, you said?

14 Q. Yes.

15 A. That declaration should be made of any assets or any
16 company that you may have that may be a conflict of interest.

17 Q. And so, what's important is to give a clear accurate
18 record of anything that others might think might affect your
19 conduct as a Member of the House of Assembly. Would you accept
20 that?

21 A. Yes.

22 Q. Your voice dropped again.

23 A. Sorry. Yes.

24 Q. Thank you.

25 If we look through what you put in, the first

1 paragraph that you have to answer is at page 69. And it's in
2 relation to Directorships, and you were asked to declare whether
3 you have remunerated or unremunerated Directorships in any
4 company. You've always answered that "no". And that's right,
5 is it?

6 A. Yes, that's right.

7 Q. Two, paragraph 2, this is at page 70, to deal and set
8 out any details of any remunerated employment, office,
9 profession or trade that you have or in which you have any
10 pecuniary interests.

11 Now, what you've declared there is a salon and spa,
12 and when you say your daughter is a sole owner.

13 A. Yes.

14 Q. Do you have any interest in that business at all?

15 A. No, I'm just a signatory on that account is what I am.

16 Q. You then referred to a boutique called "Her Essence".

17 A. Yes.

18 Q. Is that a business that you own, yourself?

19 A. Yes.

20 Q. And when did you set up that business?

21 A. Last September.

22 Q. September 2020?

23 A. Yes.

24 Q. So, that was after your 2020 Declaration was due?

25 A. Yes.

1 Q. Which is why it first appears in this Declaration; is
2 that right?

3 A. Yes, sir.

4 Q. Now, you also refer to E&A Catering.

5 A. Yes.

6 Q. Which is a business that you referred to in other
7 Declarations. So, if I may, I'll come back to that.

8 A. Okay.

9 Q. But other than that, you haven't received remuneration
10 from any other business?

11 A. No.

12 Q. And there are no other businesses in which your
13 offices or trades--

14 A. No.

15 Q. --in which have you a pecuniary interest.

16 A. No, sir.

17 MR RAWAT: Commissioner, may I just have one moment,
18 please?

19 COMMISSIONER HICKINBOTTOM: Yes, yes.

20 (Pause.)

21 BY MR RAWAT:

22 Q. If you look at now paragraph 3, which is at page 71,
23 this is again a paragraph that you've always answered "no" to,
24 Ms Maduro-Caines. It takes the Members of the House of Assembly
25 back to categories 1 and 2, back to remuneration and back to

1 directorships, and it's intended to ask the Member to declare
2 any services that they provide to clients but which arise from
3 being a Member of the House of Assembly. So, an example that's
4 given is if you make representations on behalf of someone to a
5 Minister, and that someone is a client of yours, that's
6 something you've never done?

7 A. Never.

8 Q. I'll come back to paragraph 4 in a moment, but to take
9 some of other categories quickly. If you look at page 73,
10 that's paragraph 5 of the form which covers gifts, benefits, and
11 hospitality received in the Virgin Islands. You or your spouse
12 have never received any gift of a value greater than \$500?

13 A. No, sir.

14 Q. Or any material advantage of a value greater than
15 1.5 percent of the current salary of an elected Member of the
16 House of Assembly?

17 A. No, sir. That's right.

18 Q. And in terms of overseas visits, you've never, as a
19 Member of the House of Assembly, been funded for an overseas
20 visit other than by yourself or by the public purse; is that
21 right?

22 A. Only when I'm going away on government business.

23 Q. Yes.

24 A. Yes.

25 Q. When you're going away on government business, does

1 that come out of Government funds?

2 A. Right, yes. Yes, sir.

3 Q. And when you do have overseas trips as a Member of the
4 House of Assembly, you haven't received overseas benefits or
5 gifts?

6 A. No, sir. No, sir.

7 Q. And if you go page 77, a Member of the House of
8 Assembly is asked to declare if they have any--if either
9 themselves or their spouse or dependent children have interests
10 in shareholdings in any company or body with a nominal value
11 greater than \$25,000 or, if less than 25,000 but greater than
12 1 percent of the issued Share Capital.

13 Now, you've always said that you hold no shares?

14 A. No.

15 Q. And that's right?

16 A. The businesses that I list are not companies. They're
17 just trade licenses, trade licenses businesses.

18 Q. Is it d/b/as?

19 A. Yes.

20 Q. So, it's not the case in your position that you hold
21 shares--

22 A. No.

23 Q. --or your spouse holds shares or any dependent
24 children hold shares?

25 A. No.

1 Q. Let's go back, then, to 73--72, sorry. And that's
2 paragraph 4 on the question of sponsorship.

3 What 4(a) asks you is, did you benefit from any
4 sponsorship before election where, to your knowledge, the
5 financial support in any case exceeded in aggregate \$2,500.

6 Now, you obviously stood successfully,
7 Ms Maduro-Caines, in three elections.

8 A. Yes, sir.

9 Q. And you would have had to answer this question in
10 relation to each election, and we have your declarations from
11 2015. You've answered it no, but can I ask you this. Before I
12 do, I draw attention, please, to Note 2 at the bottom of the
13 page. It's page 72 of the Act.

14 If you look at the top, the first question that you
15 are asked is whether you benefited from any sponsorship before
16 election, but to your knowledge the financial support in any
17 case exceeded in aggregate of \$2,500, and then at the bottom the
18 page there's a note which says: "You should register money
19 given to you by your Election Campaign Committee and money spent
20 by your Election Campaign Committee in connection with your
21 election of your Commission".

22 Now, the first question is just to ask you this:
23 Looking at that 4(a), what do you understand the sponsorship
24 before election?

25 A. That anything received over \$2,500 should be recorded.

1 Q. And so, if you have a donation that's over 2,500 for
2 the purposes of your election campaign--you should record it?

3 A. Yes.

4 Q. So, this was an example I put to The Honourable Sharie
5 B de Castro, but I asked her this, and trying to understand how
6 it works: If 10 people give you donations of \$2,000, would you
7 have to declare those?

8 A. No, because this speaks to any donation over \$2,500.

9 Q. So, if someone--

10 A. If someone gives me \$25,000 or \$2,500, then, in my
11 view, the Declaration should be made. But if 10 persons give me
12 \$2,000, that's separate. That's 10 separate people, ten
13 separate persons.

14 Q. And if going to note 2, "money given to you by your
15 Election Campaign Committee", can you help with this: The
16 Honourable de Castro explained, and she's a territorial
17 representative?

18 A. Yes.

19 Q. She explained that in her party it works differently.
20 In your experience, standing for election as a district
21 representative, is there such a thing as an Election Campaign
22 Committee?

23 A. There are campaign committees. Every representative
24 has a committee within their district to help with
25 campaign--with campaigning towards election, and then there is a

1 general body of the Party.

2 Q. Right. So, for the Sixth District, you had a campaign
3 committee?

4 A. Yes.

5 Q. And what is your understanding of the funds that you
6 have to declare that that campaign committee spends on your
7 behalf?

8 A. To be honest, the campaign committee that I have is
9 not money affiliated, so to speak. Most of the funding comes
10 from me, from my personal money, but we have never gone out and
11 raised money. We just concentrate on getting voters to go to
12 the polls, so it wasn't money-affiliated, so to speak,
13 unfortunately.

14 Q. It's never been the case, in your experience that,
15 your campaign committee has spent--

16 A. No.

17 Q. --any money on your behalf?

18 A. No.

19 Q. But would you accept or is your reading of this
20 paragraph that if the campaign committee had spent sums over
21 \$2,500, then--

22 (Overlapping speakers.)

23 A. Yes.

24 Q. And you said that you, in effect, fund your own
25 campaign?

1 A. Yes.

2 Q. And other Members of the House of Assembly have made
3 the same point. There is no requirement on you, is there, to
4 declare how much you spend your own campaign; is that right?

5 A. No, no one has ever asked. No.

6 Q. And speaking generally outside the form--and this is a
7 question that the Commissioner raised with a number of witnesses
8 yesterday--is there any regulation as to how much you can, as an
9 election candidate, spend on your campaign?

10 A. Not to my knowing, no.

11 Q. Is there anything that requires you to declare how
12 much you have spent?

13 A. Not to my knowledge.

14 Q. I just now want to look at paragraph 8 of the form.
15 We will have to go to the different forms, deals with land, and
16 I just want to clarify just your interests, please.

17 If we start with 2015--that's at page 142--this is
18 your land Declaration 2015, and I just want to remind you,
19 Ms Maduro-Caines, of what you are required to do. You're asked:
20 Do you have any land other than any home used solely for the
21 personal residential purposes of you or your family. Now,
22 you've put there three entries, and you'll have to forgive me.
23 I may struggle reading your handwriting, but the first one is a
24 dwelling house, and you've given the address, and that's where I
25 couldn't read that bit of your handwriting. I wonder if you

1 could just give us just the address part at the bottom.

2 A. Baughers Bay.

3 Q. Baughers Bay. Now, "dwelling house", is that your own
4 residence?

5 A. That's my house, yes.

6 Q. So, strictly speaking, you wouldn't have to write that
7 down, would you? Because it's just your home? I'm not making a
8 criticism. I'm just asking you.

9 And then you've got a vacant plot of land; is that
10 right?

11 A. Yes.

12 Q. And then you referred to a dwelling house in Nevis?

13 A. Right.

14 Q. So, then if we go to 131, we're now in 2016. Again
15 you've written down--sorry, I'll wait. I'm going too fast.

16 Page 131, please.

17 Do you have it?

18 A. Yes.

19 Q. What you've declared there is again your home in
20 Baughers Bay?

21 A. Yes.

22 Q. And you've declared the home in Nevis, but you don't
23 refer to the vacant spot--vacant land that you had referred to
24 earlier?

25 A. That might have been an oversight.

1 Q. I see.

2 A. Oversight.

3 Q. I see.

4 If we go to 120, we're now in 2017, and that year you
5 again declared your home in Baughers Bay, and then you referred
6 to the vacant land again?

7 A. Yes.

8 Q. So, it does look at in 2016 it was an oversight and
9 you failed to put it in the form; is that right?

10 A. Yes, sir.

11 Q. But what you also don't record this time is there is
12 no reference to the property in Nevis. Had you got rid of the
13 Nevis property by then?

14 A. Right now it's up for sale.

15 Q. I see.

16 A. And there was something that I could not understand.

17 At one point, the land is not in my name. The
18 property in Nevis is solely in my husband's name, so I was
19 trying to understand whether it really should have been listed
20 since it's not in my name at all.

21 Q. I see.

22 A. You know, but it's being sold.

23 Q. I understand.

24 Now, you've pointed out something that may be
25 important because obviously it's an interest that is in your

1 spouse's name?

2 A. Yes.

3 Q. And what you seem to have said is that you couldn't
4 understand how to explain that on the form.

5 A. Yes.

6 Q. Did you go to anybody for assistance as to how to do
7 that?

8 A. I asked a few questions.

9 Q. You asked questions of--

10 (Overlapping speakers.)

11 A. You know, everybody has their own interpretation of
12 what should go on the form and what not to go on the form,
13 that's all.

14 Q. From your own experience--and you know, whilst you've
15 accepted that you were at times late in filing your Declaration,
16 has to be fairly put to you is that you have also filed it every
17 year?

18 A. Yes.

19 Q. We've got records since 2015. But from your
20 experience of doing that, do you find, or did you find that the
21 Guidance Notes given to you as a Member of the House of Assembly
22 did not provide you as much assistance as you would want?

23 A. There needs to be a bit more detail, and like I said,
24 especially for new Legislators, we need an orientation process
25 on how this is supposed to be done.

1 Q. You're not the only Honourable Member to speak about
2 the importance of orientation, but the point you made is that
3 different Members of the House of Assembly have their own
4 interpretation of what needs to be on the form and where it
5 needs to be.

6 A. Exactly.

7 Q. Can you help the Commissioner at all with what sort
8 of--you said it needs to be more detail. In what way do you
9 think it could be made--improved?

10 A. Well, if orientation programmes are had, then when it
11 comes to family members that need to be defined to immediate
12 family or--you know, it's--it's kind of broad as to--as to what
13 we should put down when it comes to family.

14 Q. May I come back to that in a moment, please.

15 A. Yes.

16 Q. I can take the appearance and disappearance of the
17 Nevis property quickly. If you want me to do so, I'll take you
18 to the rest of the forms, but at different times you referenced
19 the Nevis property; at other times of the forms you don't put
20 it.

21 A. Yes.

22 Q. And was that a consequence of your uncertainty over
23 whether to mention it's all or not?

24 A. Yes, sir.

25 Q. What I want to do before I come back to the question

1 that you've raised about how one refers to "immediate family", I
2 just want to talk about--I'll ask you some questions about the
3 E&A Catering company.

4 A. Yes.

5 Q. And again, I'll have to take you through the forms,
6 and you can comment as we go through on how you referred to E&A,
7 isn't it?

8 A. E&A.

9 Q. Again, if we go to 142 and back to 2015, please. I've
10 given you the wrong page reference. It's 136.

11 You've, under paragraph 2, which is remunerated
12 employment, you referred to E&A Catering, a food catering
13 company; this was in 2015. So, in 2015, were you getting
14 remuneration from the company, or did you have a pecuniary
15 interest in it?

16 A. No. It's my husband's company.

17 Q. And taking you back to 2015--

18 A. Yes.

19 Q. --did you have any kind of interest in the company at
20 that time?

21 A. No, not--interests, yes, I was signatory on the
22 account, yes.

23 Q. I see.

24 If you go to 2016 now--and this is page 125--you made
25 no reference to E&A Catering in 2016?

1 A. No, I did not.

2 Q. If you go to 2017, which you'll find at page 114,
3 again, you made no reference to it in 2017.

4 A. No.

5 Q. If you go to 2018, which you'll find at page 103, and
6 again, it's under paragraph 2 and remuneration or pecuniary
7 interests--you put E&A Catering there "owned by my husband".

8 A. Yes.

9 Q. So, it comes back into the form in 2018.

10 If you go to page 92, you've again into your 2019
11 Declaration, you've mentioned it, and you just say E&A Catering,
12 food catering business.

13 If you go to page 81, we come to your 2020
14 Declaration, you say--you put nothing this year in 2020. There
15 is no reference to E&A Catering.

16 When you go to your most recent Declaration, which is
17 at page 70, E&A Catering is back in the form, and you make--what
18 you say E&A Catering, "my husband is the sole owner".

19 Can you just explain firstly why in some forms you
20 make reference to this catering business and in others you
21 don't?

22 A. Okay. In 2020, that may have been an oversight
23 because, in 2019, I had it--I had it listed.

24 COMMISSIONER HICKINBOTTOM: I'm sorry to interrupt.

25 Is the situation with E&A Catering from 2015 up to

1 now, the situation hasn't changed, as I understand it. It's
2 owned by your husband--

3 THE WITNESS: Yes, it's owned by my husband.

4 COMMISSIONER HICKINBOTTOM: You're a signatory.

5 THE WITNESS: Yes.

6 COMMISSIONER HICKINBOTTOM: The factual position
7 hasn't changed?

8 THE WITNESS: No.

9 COMMISSIONER HICKINBOTTOM: We know the forms are
10 different.

11 THE WITNESS: Yes.

12 COMMISSIONER HICKINBOTTOM: Thank you.

13 THE WITNESS: This speaks to what really should go on
14 the form because, at one point--again, like I said
15 before--persons were saying if it's owns by your husband, then
16 it shouldn't go on the form, so there was a point where I was
17 should I put it or shouldn't I put it. And then I put it, and
18 then--you know, there are too many questions and sometimes not
19 answers that you need to be sure of.

20 COMMISSIONER HICKINBOTTOM: Can I just break that down
21 into a couple of things.

22 So, you spoke to people, other Members of the House
23 people?

24 THE WITNESS: Yes.

25 COMMISSIONER HICKINBOTTOM: And some said that if it's

1 owned by a husband, it's got to go in.

2 THE WITNESS: Right.

3 COMMISSIONER HICKINBOTTOM: I think that perhaps
4 applies to the land as well, according to this, too.

5 So, you were unsure as to whether the land and this
6 business should go in it or not, it being the land and the
7 business being owned by your husband?

8 THE WITNESS: Yes.

9 COMMISSIONER HICKINBOTTOM: Thank you.

10 MR RAWAT: Thank you.

11 BY MR RAWAT:

12 Q. Could I just ask you a couple more questions about E&A
13 Catering.

14 A. Yes, sir.

15 Q. You should see on the table in front of you a grey
16 folder.

17 This might explain, Ms Maduro-Caines, we, and that is
18 the Commission, wrote to the Cabinet Secretary and asked for
19 disclosure of all election notices that have been published in
20 the Gazette. As you'll know, there is a requirement on you when
21 you stand for election to make the election Declaration. You're
22 not obliged to make it in the Gazette and different candidates
23 do it in different newspapers, but the documents that the
24 Cabinet Secretary was able to provide include documents that--or
25 records of your election notices, two of them.

1 If you go to page 15 in the bundle--and the pagination
2 is at the bottom right-hand corner--15. If you look at the very
3 top of the page first, it will give us the date, which is 10th
4 of October 2011, and it's the Virgin Islands Official Gazette of
5 that year.

6 Now, at the bottom--and this would have been the first
7 year that you were standing for election; is that right?

8 A. Yes.

9 Q. At the bottom, you've got Alvera Maduro-Caines'
10 Declaration.

11 A. Um-hmm.

12 Q. And you say there--and you give notice--and you then
13 say: "I'm connected with the following company in the capacity
14 as indicated". And you put there E&A Catering, and you've said
15 Director/Manager/Shareholder, and you say: "I further declare
16 that periodically I conduct catering services on behalf of
17 various Departments for the Government of the Virgin Islands and
18 Statutory Boards, including BVI Port Authority and BVI Health
19 Services Authority". And that's in 2011.

20 Was that the position in 2011?

21 A. Well, we didn't have a company. It's not a company.
22 It's a trade license, so maybe the words "Director" and
23 "Manager" should not, you know...

24 Q. That wording doesn't explain what the company was in
25 2011?

1 A. Right. It was just a trade license company.

2 Q. Now, again your voice dropped. What you said,
3 Ms Maduro-Caines, was that--

4 (Overlapping speakers.)

5 A. Yes, it's always been a trade license.

6 Q. And so, is your evidence that the wording that was
7 used to describe your involvement in 2011 was inaccurate?

8 A. Well, that's because trade licensing companies don't
9 have directors.

10 Q. Or Shareholders?

11 A. Or Shareholder, yes.

12 COMMISSIONER HICKINBOTTOM: And also in the line above
13 the name of the trade license, it's got "I'm connected with the
14 following company"--

15 THE WITNESS: Yes, yes.

16 BY MR RAWAT:

17 Q. But is it right that, at that time, you were
18 conducting catering services on behalf of various government
19 departments?

20 A. Yes, sir.

21 Q. If you look, the only other Election Notice we have,
22 the Commissioner did write--

23 A. Excuse me, I should say not I, but E&A.

24 Q. Say again?

25 A. Not I, but E&A Catering.

1 Q. Right. So, E&A Catering, in 2011, was offering
2 catering services to government departments; right?

3 A. Yes. And before that time.

4 Q. And at that time in 2011, were you getting
5 remuneration from E&A Catering company?

6 A. I don't get paid.

7 Q. 255, please.

8 MR ROWE: It must be wife what the husband do.
9 Totally separate.

10 MR RAWAT: I will let you catch up and get to the
11 page.

12 MR ROWE: Which is it?

13 MR RAWAT: 255.

14 MR ROWE: Thank you.

15 BY MR RAWAT:

16 Q. If you look again at the top, this gives us the date
17 of the Gazette, and it is the 7th of February 2019, so it's a
18 Declaration that you made ahead of the most recent election of
19 which you were successful?

20 A. Yes.

21 Q. And the Declaration you made was that you say: "I
22 hereby give notice that I am connected with the following
23 company in the capacity indicated", and what you say is
24 "Co-owner of E&A Catering".

25 Now, that was in January 2019. When you came to make

1 your 2019 Declaration--that's taking you back into the main
2 bundle--in '92, that's page 92 in the other bundle.

3 Sorry, not the grey bundle, the original bundles we
4 were looking at, your own witness bundle. On your
5 declaration--you don't necessarily need to bring this up,
6 Ms Maduro-Caines. What you had put in 2019 in your Declaration
7 was that E&A Catering is a food catering business.

8 A. Yes.

9 Q. I just want to kind of clear up any ambiguity or allow
10 you an opportunity to clear up any ambiguity because, in your
11 Declaration, you're describing yourself as a co-owner, certainly
12 in the evidence that you've given to the Commissioner today,
13 you've said that it's always been your husband that's the sole
14 owner.

15 A. Yes.

16 Q. What is the position--

17 A. He is the sole owner.

18 Q. So, again, the Declaration in the--

19 A. Wording--

20 Q. --Notice that you put, was that inaccurate?

21 A. The wording is not right.

22 Q. "The wording is not right".

23 (Witness confers with Mr Rowe.)

24 Q. Is there something you would like to add?

25 A. Yes.

1 Being the fact out there in the National Democratic
2 Party, there was a system or persons who would file these
3 notices for us in the Gazette, so the wording would have come
4 from that specific (unclear).

5 Q. I see. Again, your voice is dropping. You're very
6 soft-spoken.

7 (Overlapping speakers.)

8 A. The wording would have come from within that bundle.

9 Q. I see. So--

10 A. That bundle.

11 Q. Is your evidence that the two election notices that
12 I've shown you, one from 2011 and one from 2019, would have been
13 draft by someone else--

14 A. Yes.

15 Q. --in the National Democratic Party?

16 A. Yes.

17 Q. Were you given an opportunity to review the Notice and
18 approve it?

19 A. I honestly cannot recall.

20 Q. And the--I mean the Notice says--and we're looking at
21 it, it says at the bottom, that it's signed Alvera
22 Maduro-Caines.

23 A. Yes.

24 Q. Did you not have any concern that there might be an
25 inaccurate representation of your interests as an election

1 candidate?

2 A. To be honest, not at the time.

3 Q. One of the points you make or in the 2011 Notice, you
4 declared that the E&A food catering business--

5 A. Yes.

6 Q. --was providing services to Government, and that's the
7 purpose of making these election notices, isn't it?

8 A. Yes.

9 Q. Now, after 2011, did it continue to provide services
10 to Government?

11 A. Yes.

12 Q. In 2019, was it providing services to Government?

13 A. Yes, sir.

14 Q. And the one thing that isn't mentioned in that
15 Election Notice is whether or not you did hold contracts with
16 Government?

17 A. No, I did not.

18 Q. The "no, I did not", just clarify that?

19 A. E&A did not--has not had any contracts.

20 Q. When was the last time that E&A had contracts with the
21 government department?

22 A. We've never had a contract, so to speak.

23 Q. For what?

24 A. A contract would be like for over \$20,000 or something
25 of that nature. We just catering like before, 50 people, 100

1 people, somewhere along that line.

2 Q. So, throughout your time as a Member of the House of
3 Assembly, E&A Catering has been providing a service to various
4 government departments; is that right?

5 A. Yes.

6 Q. And when, in 2015--in 2011 the Notice was put up, the
7 Declaration was "periodically, I conduct services, catering
8 services, on behalf of various Departments", and you clarify
9 that the "I" there is a reference to E&A Catering?

10 A. E&A Catering.

11 Q. Looking at your 2019 Declaration and taking account of
12 the fact that the purpose of section 66 is to declare whether
13 you are providing services to Government. Do you think that it
14 ought to have mentioned that E&A Catering was providing catering
15 services to Government?

16 A. Repeat that again?

17 Q. In 2011, we looked at the Declaration, the
18 Declaration, the Election Notice, the Election Declaration
19 Notice, says that you provided catering services to various
20 government departments. Your evidence today has been that
21 that's what E&A Catering does. Throughout your time as a Member
22 of the House of Assembly, it provides catering services to
23 various government departments.

24 A. Right.

25 Q. That's right, isn't it?

1 A. Yes.

2 Q. Okay. So, now, if we take you to your 2019
3 Declaration at page 255--do you have that?

4 A. Yes.

5 Q. That makes no reference to E&A Catering providing such
6 a service to Government.

7 Now, you've explained that there was, if you like, a
8 unit within the National Democratic Party that would place these
9 Election Notices?

10 A. Yes.

11 Q. But stepping back from that, Ms Maduro-Caines, and
12 looking at this, do you think that if you were wanting to comply
13 properly with the requirements for making an Election Notice you
14 ought to have said that E&A Catering was still supplying
15 services to government departments?

16 A. I guess would say so--

17 Q. Again, your voice has dropped?

18 A. I guess it would have helped, yes, but there is
19 nothing that I personally am hiding.

20 Q. I'm not suggesting that, Ms Maduro-Caines, that you're
21 hiding anything.

22 A. Okay.

23 Q. I'm just trying to understand what you believe to be
24 the requirements on you as a candidate for election, and you
25 made that declaration in 2011. It doesn't appear in 2019.

1 A. Well, it should have appeared in 2019.

2 Q. It should have appeared in 2019?

3 A. Yes.

4 Q. Now, can I take you to page 6 in your own bundle. You
5 can put the grey bundle away for now. If we're on the same
6 page, you should have a same letter dated the 19th of
7 February 2021 from the Commission addressed to you as a Member
8 of the House of Assembly.

9 Do you have it?

10 A. Yes.

11 Q. In that--and it was a letter requesting the provision
12 of information in relation to your interests and your
13 Declaration of Interests, and if you go to Page 7, you'll see
14 the requests that the Commissioner made of you. And if I
15 summarise those, the first was the date and content of each
16 Declaration of Interests you've made at any time. The second
17 was, irrespective of any such declarations, the information and
18 documents you would provide in a Declaration of Interest, and
19 then the third is whether during the period of appointment as a
20 Member you failed at any time to comply with your obligation to
21 make such a Declaration pursuant to section 3.

22 Now, your answer and your reply is at page 9, and it's
23 a letter from you dated the 12th of March 2021.

24 Do you have that?

25 A. Yes.

1 Q. Now, one of the points you make, you make the
2 first--the first two points you make is that, "As a Member of
3 the House of Assembly, since the introduction of the Register of
4 Interests Act of 2006, I have complied with section 3 of same in
5 the form and manner as set out in Schedule 1 therein". Now,
6 earlier you agreed that there had been occasions when you had
7 filed your Declaration of Interest late.

8 Now, as the Commissioner pointed out, section 3
9 requires you to file it on the date that you assume office and
10 on the subsequent anniversary.

11 Would you accept looking at what you wrote about
12 complying with section 3 at--in your letter, that that doesn't
13 give the full picture?

14 A. The--while it is not--it is not right for us to file
15 late, I think some kind of--I have to find the word. It's late,
16 but it was filed. And that's not making it right, and we will
17 endeavor to do better. It's a learning process.

18 Q. The other point that you make is that you don't keep
19 copies of your Declaration of Interest. Why is that?

20 A. I've never kept copies. No particular reason because
21 they're in the Registrar's office, so my view is if anyone needs
22 to see them, then a request can be made because I don't normally
23 keep copies of many things, too many papers.

24 Q. But you've kept copies of correspondence received from
25 the Registrar; is that right?

1 A. Yes, my secretary always keeps those.

2 Q. Now, if we go back to the letter from the
3 Commission--and this is going back to page 7--what the
4 Commissioner referred to there was paragraph 10 of Schedule 1 of
5 the 2006 Act, and the letter reads as follows: "The
6 Commissioner considers and in any event requests that when
7 responding to that paragraph you should include any relevant
8 interest of immediate family members and any persons living in
9 the same household".

10 Now, I will just take you back to your answer, first
11 of all, which is at page 11--sorry, page 9, please.

12 What you said is in relation to paragraph 10 of
13 Schedule 1 of the Principle Act of 2006, it does not
14 specifically address interests of immediate family members.
15 However, once again in the spirit of assisting your Commission
16 and further strengthening good governance, I do propose to
17 recommend to the House of Assembly that such paragraph can be
18 amended to expressly mention the said family members.

19 Now, I just pause there because it's right, isn't it,
20 that this letter takes from the letter that was jointly drafted
21 by Members of the House of Assembly on the Government side; is
22 that right?

23 A. Yes, sir.

24 Q. You also mentioned you agreed on the same position?

25 A. Yes, sir.

1 Q. If I just ask you, first of all, what do you
2 understand by the phrase "immediate family members"?

3 A. I understand it to be your husband and--your husband
4 or you wife, and your children as immediate family members.

5 Q. So, your husband and your children, even if they're
6 adult children?

7 A. Yes, even if they're adult children.

8 Q. I see.

9 Now, what you've said is that you would be proposing
10 that paragraph 10 be amended to expressly mention said family
11 members. Have you made such a proposal?

12 A. Personally? No, but I know some proposals are made
13 but not by me personally, but it's true.

14 Q. Having given the Commissioner the statement saying
15 that you would be proposed--you would be recommending to the
16 House of Assembly that such paragraph be amended--

17 A. Be amended, yes.

18 Q. Have you taken any steps to recommend anything to the
19 House of Assembly?

20 A. No, we have not met on a whole to formally discuss
21 this, but it's something that we're looking into.

22 Q. Again, Ms Maduro-Caines, your voice is dropping again.

23 A. We have not formally met to discuss it, but we will as
24 a body and make this proposal.

25 Q. Well, when you say "as a body", is that a body meaning

1 the group of the Government Members of the House of Assembly?

2 A. Yes.

3 Q. Why do you need to have a further meeting, given that
4 you've all--all the Members of the House of Assembly that wrote
5 this letter on the Government side, all say I do propose to
6 recommend to the House of Assembly? Was there a need for a
7 further meeting?

8 A. Wording, to get the proper wording in the proposal
9 that we will make.

10 Q. And is it still the intention to make the proposal?

11 A. Yes, sir.

12 Q. Could I take you just to an example at paragraph 10.
13 If you go, please, to page 144 in the bundle, just the very last
14 page of the bundle, right at the back. If you go right to the
15 back of that same bundle. You've got it?

16 A. Yes.

17 MR ROWE: Turn the page. Turn the page.

18 MR RAWAT: Thank you.

19 BY MR RAWAT:

20 Q. What it says is: "If bearing in mind the definition
21 of purpose set out in the introduction to this form, do you have
22 any relevance just which you consider should be disclosed but
23 which do not fall within the nine categories set out above,
24 please list them".

25 Now, that takes us back to the question that I asked

1 you a while ago, which was about your understanding of the
2 Preamble and the purpose of this form.

3 What do you take to be the purpose of paragraph 10
4 which is headed "Miscellaneous"?

5 A. To be honest, I never wrote--I have never given it
6 much thought because I don't know how to define "Miscellaneous"
7 under this.

8 Q. Is it another aspect of the form that you have found
9 confusing when you're completing these declarations?

10 A. I won't call it "confusing", but how do you define
11 "Miscellaneous"? Under this, I do not know.

12 COMMISSIONER HICKINBOTTOM: Is it unclear as to what
13 you--

14 THE WITNESS: Yes, yes.

15 COMMISSIONER HICKINBOTTOM: I see that.

16 BY MR RAWAT:

17 Q. We have been asking questions about what you
18 understand by "immediate family members" because one view that
19 could be taken of this is that this is what you're expected to
20 do, is to set out here any other interests that may affect or
21 may be thought by others could influence how you work as a
22 Member of the House of Assembly, so it could be taken very
23 widely; it could alternatively be interpreted narrowly. Is that
24 part of why it's also unclear to you?

25 A. Yes. It needs to be defined.

1 Q. And so--

2 A. "Miscellaneous" is a broad word.

3 Q. Stepping back from the form and as you've pointed out,
4 whilst they may have been filed late, they were filed, but
5 you've been having to complete these forms over three sessions
6 as a Member of the House of Assembly.

7 Stepping back from it, do you think that the guidance
8 that's given to you, even the form itself, is unclear?

9 A. Well, not all of it. There are just some few grey
10 words that need to be modified.

11 Q. Is that something that you've raised with other
12 Members of the House of Assembly?

13 A. Yes, I have.

14 Q. Is it something that you've raised with the Registrar
15 of Interests?

16 A. Yes, I have.

17 Q. When did you raise these concerns--
18 (Overlapping speakers.)

19 A. Verbally.

20 All the time.

21 Q. "All the time"?

22 A. Yes.

23 Q. Now, taking you back to 2011, has this been an issue
24 for you since 2011?

25 A. Every time it's been an issue but I fill out the forms

1 to the best of my ability. I do what I think is right.

2 Q. Now, you mentioned the importance of "orientation".

3 A. Yes.

4 Q. That solved the problems that you perceive in the form
5 entirely, or do you think that what's needed is a better form?

6 A. Orientation would help. It's sort of like when you're
7 just newly elected, there are these conferences that you want
8 and it helps you determine new elected official and how he or
9 she should act and things they should do. So, if we have
10 something like this, pertaining to this form, which I think some
11 things on the form could be defined, it would help.

12 Q. You referred to conferences that a newly elected
13 representative could go on.

14 A. Yes.

15 Q. Taking you back through your time as an elected
16 representative, how many conferences have you been able to go
17 on?

18 A. Quite a few.

19 Q. So, were there conferences available to you in the
20 2015 Session that you were able to go on?

21 A. Yes.

22 Q. And do you think that you would be assisted--of
23 course, you're no longer a newly elected representative--

24 (Overlapping speakers.)

25 Q. You're an experienced Member of the House of Assembly,

1 but if there is--the position would be improved if elected
2 representatives were reminded of their obligations to complete
3 the form and the sanctions that could follow if they don't do it
4 on time?

5 A. Yes.

6 Q. Would that help?

7 A. Yes.

8 Q. And do you think that should be part of the
9 orientation?

10 A. Yes.

11 Q. And then the second elements of your concern, which is
12 the form itself, that's something, in your view, that needs
13 work?

14 A. Yes.

15 Q. Is that right?

16 A. Yes.

17 Q. Thank you. Could I just move on to a different topic,
18 please, Ms Maduro-Caines, and that is the fund that allows
19 elected representatives to distribute assistant
20 grant--assistance grants.

21 Now, I put some of these questions to The Honourable
22 de Castro and The Honourable Flax-Charles. The difference
23 between them and you is that you are a district representatives
24 whilst they are territorial representatives, and the reason I
25 want to ask you is just to understand it from the perspective of

1 a district representative.

2 So, first of all, do you, as a district
3 representatives have access to the fund that allows you to give
4 assistance grants to individuals?

5 A. Yes.

6 Q. Does it allow you to give assistant grants to
7 businesses?

8 A. Not in that form as if a business would come and say
9 "I'm in problems, I need money", no. If we have an individual
10 who owns a business--I don't want use this one, but in debt,
11 persons would come to us to help with payment to bury their
12 loved ones, so in essence we would make a request for the check
13 to be written to the funeral home and not the person. And if
14 maybe somebody come and say their electricity bill is due,
15 they're going to get cut, then we would request that the check
16 be made to the electricity department but not to a business
17 itself.

18 Q. Yes. You can authorise a payment on behalf to a
19 business--

20 A. Of the person, yes.

21 Q. But you can't help a business--

22 A. Exactly.

23 Q. --in trouble. And the process that's been explained
24 to us--and I would like you, if you can, just to confirm or
25 correct it, is firstly that the applicant completes the form?

1 A. Yes.

2 Q. It will come to you as the district representative?

3 A. Yes.

4 Q. With the necessary documents?

5 A. Yes.

6 Q. Do you at that point conduct a due-diligence exercise?

7 A. Yes, I do.

8 Q. And then you--from there it will go to the Clerk--

9 A. The Clerk of the House.

10 Q. And where does it go from there?

11 A. From the Clerk of the House it goes to the Treasury.

12 If there is any discrepancy, then when it reaches to the Clerk,
13 she would advise us. If there is discrepancy when it reaches to
14 the Treasury, then the Treasury will advise the Clerk who would
15 advise us.

16 Q. Now, when you say "discrepancy", what do you mean by
17 that?

18 A. There are times when maybe one person have applied to
19 two or three of us for money, and sometimes we try to crosscheck
20 but it's not all the time. We crosscheck with each other, and
21 it goes to the Clerk, and she will call and say this person has
22 already given this person, you know, do you want to reconsider
23 or sometimes stuff would go to the Treasury and then would send
24 it back and say (unclear) not anything on our behalf but it
25 depends on where they're paying the money from. It cannot be

1 paid from this account, you have to pay from this, and it has to
2 be done over.

3 Q. As a district representative, how much are you given
4 to distribute each year?

5 A. 125.

6 Q. 125.

7 And taking 2019-2020 as an example, in that year, did
8 you distribute the entirety of the funds used?

9 A. Yes.

10 Q. And again, in your experience as a district
11 representative, obviously the amount of the fund available to
12 you may have changed--

13 (Overlapping speakers.)

14 A. Yes, it has.

15 Q. --since you've been doing it since 2011, but do you
16 find that each year you distribute the entirety of the fund?

17 A. The entire requests is high on my desk.

18 Q. Do you find yourself in the same position that other
19 representatives have told the Commissioner about, that the
20 amount you have available to you is less than the amount
21 requested of you?

22 A. Yes, it is.

23 Q. And The Honourable de Castro explained that there is a
24 document that is issued that gives you guidance--

25 A. Guidelines on what--on how to go about who to give

1 money to.

2 Q. So, is it down to you to weigh up the merits of an
3 application?

4 A. Yes.

5 Q. And does that document--The Honourable de Castro has
6 agreed to provide it to the Commissioner, so I don't need to ask
7 you to do it, but does that document--do you find it a helpful
8 document in assisting you in deciding the merits of an
9 application?

10 A. Yes, it is. It's very helpful.

11 Q. I mean, you are to some extent as an elected
12 representative in a difficult position, aren't you? Because
13 whilst you may be able to help some people, you can't help
14 everyone?

15 A. No.

16 Q. So, you have to make a choice--

17 A. Yes.

18 Q. --as you go through the year, don't you?

19 A. Yes.

20 Q. Is there a maximum under the guidance that you're
21 allowed to pay out to an individual?

22 A. Not to my--not to my knowing, no.

23 Q. Do you, yourself, have any criteria born of experience
24 that you might apply?

25 A. Yes, I do.

1 I am my own PI, so the persons asks for money, along
2 with submitting the form or a letter or a bill, I do my own
3 investigation to see if this is, indeed, the case before I make
4 my judgment on giving.

5 COMMISSIONER HICKINBOTTOM: Just a pause there a
6 moment, you do this due diligence or you do this investigation?

7 THE WITNESS: Yes.

8 COMMISSIONER HICKINBOTTOM: And then you have to make
9 a choice--I suspect a difficult choice because of the enormous
10 amount of--the enormous number of requests that you get.

11 THE WITNESS: Yes.

12 COMMISSIONER HICKINBOTTOM: And also I suspect if the
13 evidence of yesterday is right, a wide variety of--

14 THE WITNESS: Of needs--

15 COMMISSIONER HICKINBOTTOM: --of needs, from yesterday
16 from an urgent operation through to a school who may want a cup
17 for a competition or all sorts of various individual and
18 community needs?

19 THE WITNESS: Yes.

20 COMMISSIONER HICKINBOTTOM: So, a difficult choice,
21 but you do the investigation, you make the choice?

22 THE WITNESS: Yes.

23 COMMISSIONER HICKINBOTTOM: When you send it on, then,
24 to the Clerk of the House of Assembly and then on to the
25 Treasury to the Accountant General.

1 THE WITNESS: Yes.

2 COMMISSIONER HICKINBOTTOM: They obviously make sure
3 that everything is in order, that all of the papers are in
4 order.

5 THE WITNESS: Yes.

6 COMMISSIONER HICKINBOTTOM: But would you expect them
7 to make any--to look at the merits of the case, or are the
8 merits of the case really down to you?

9 THE WITNESS: They do. From my understanding they do,
10 but ultimately, then it comes back to me.

11 COMMISSIONER HICKINBOTTOM: I understand. So, really
12 the burden is on--

13 THE WITNESS: Is on me.

14 COMMISSIONER HICKINBOTTOM: --you or the other
15 Members?

16 THE WITNESS: Yes.

17 COMMISSIONER HICKINBOTTOM: Thank you very much.

18 BY MR RAWAT:

19 Q. Picking up on that, Ms Maduro-Caines. If you consider
20 something is a deserving case and for some reason as it goes up
21 the chain to the Clerk and then to the Treasury Department, they
22 raise an objection and it comes back to you effectively refused,
23 is it open to you to go back and say "no, I think this is--this
24 is an important case, and this should be paid"?

25 A. One, I've never had--

1 Q. (Unclear)--

2 A. --in all my years I have never had an objective like
3 that.

4 Q. So, in your experience, have you had all of your
5 recommendations, if you like, have they all been accepted?

6 A. Yes.

7 Q. One of the points that The Honourable de Castro made
8 was that the funds are also there to allow elected
9 representatives to--these are not her words; they're mine--but
10 to pursue particular interests. If you, for example, have a
11 particular interest in education or, let's say, well-being, you
12 could use the fund to promote those interests. Is that
13 something that you have done as well?

14 A. Yes, yes.

15 Q. Do you have any guidance on how to--you obviously have
16 a finite amount of money each year, it's \$100,000, but do you
17 have any guidance given to you as how to split the use of the
18 funds at all?

19 A. No, no. It's entirely up to the rep, but I always go
20 education and healthcare as my priority.

21 Q. So, it's down to your judgment. You could decide--

22 A. Yes.

23 Q. --this year I'm going to use the fund to help those
24 who need urgent operations?

25 A. Right.

1 Q. Or you could say, "As an elected representative, I
2 think that promoting education is the important goal this year,
3 and I'm going to use the fund in that way"?

4 A. Yes, sir, yes.

5 Q. Okay. Now, are there restrictions on who you can give
6 a grant to?

7 A. We can't give to family members.

8 Q. What's the definition of "family members"?

9 A. Your husband, your children.

10 Q. Is that again, your adult children?

11 A. Yeah, adult children.

12 Q. Thank you. I mean, beyond that small circle, beyond
13 husband and children, wider family, you can make a grant to a
14 member of your wider family; is that right?

15 A. Well, I guess so because a family is--almost everyone
16 in this country, on this island is related.

17 Q. But I suppose there are degrees of relations so,
18 there's obviously your immediate family which you described as--

19 A. Immediate family.

20 Q. --spouse and children of whatever age?

21 A. Or brother or sister.

22 Q. Or brother and sister. Is it wider for you in terms
23 of would you give a brother or a sister--

24 A. No.

25 Q. --an assistant grant?

1 A. No.

2 Q. First cousins?

3 A. There are a lot of first cousins.

4 Q. I appreciate that, but I mean, it's just what help are
5 you given in drawing the line as to who you can and cannot give
6 an assistant grant to?

7 A. Well, I don't give to family. But I give to anyone
8 else who I think is deserving with proof that you really need
9 it. And there are persons out there who really need it. I
10 mean, there are persons that are--especially now during COVID,
11 who are still working two or three days a week at minimum wage,
12 have five or six children to support and they're struggling. I
13 know back in the days even before I was elected, I went in the
14 system so I know, I've had up to 13 young men living in my
15 House. When I get up in the mornings, I have to step over young
16 men to get to my kitchen because their parents didn't have
17 enough money to keep them, to feed them or to spend any time
18 with them. So, I took my house and I set up systems where they
19 could use a computer, where they could record music, teach them
20 how to cook, just to keep them from being another lost person.

21 So, the situations are there are real, the struggles
22 are real, and with this allocation, it does help, you know,
23 somewhat. It may not help all the time, for a long period, but
24 it helps for some time.

25 Q. The reason for my question is it's just about what

1 help you are given in terms of guidance as an elected
2 representative as to who you can and cannot help. I accept
3 without reservation that you will have more people than need
4 help than you can actually help?

5 A. Yes.

6 Q. But you've drawn the line when you say that I don't
7 give money to--

8 A. Well, not from--not from the Government funds.

9 Q. Yes. Of course. We're only talking about your work
10 as an elected representative, but the point is that for you,
11 your approach is I don't help spouse, I don't help children, I
12 don't help brothers and sisters. But as you've explained,
13 family is wider than that.

14 A. Yes.

15 Q. And the point is that you may have a member of your
16 wider family who is a deserving case, and if you can't help
17 them, what that prompts is this question: Where do they go to
18 for help?

19 A. Well, there are other sources they can go to. They
20 can go to--there is clubs like the Lions Club, Rotary Club who
21 helps, you know, in certain cases, especially would help or
22 whatever. There is also the Social Development Department they
23 could access to try and get help.

24 Q. Now, if that person is living in your district, and,
25 if you like, they fall outside your line, can they go for

1 assistance to a Member in another district?

2 A. If they wish.

3 Q. So, obviously you can make applications to your
4 territorial representatives?

5 A. Of course.

6 Q. But in terms of applications to your district
7 representatives, you're not restricted to the representatives in
8 the district you live?

9 A. No, because I have help from other districts as well.

10 Q. If I just move on to the next matter I would like to
11 ask you about, the BVI Constitution of 2007, mandates that an
12 elected Member of the House of Assembly has to vacate his or her
13 seat if that Member is a director or manager of a company that's
14 contracted to business with the Government, unless they have
15 been exempted by the House of Assembly. Section 67 provides
16 that the House of Assembly can exempt a Member.

17 Now, in your case, have you ever been exempted from
18 vacating your seat under section 67?

19 A. No, because I have no contracts with Government, or my
20 family.

21 Q. Your family in your tenure, taking you 2011 through?

22 A. Never.

23 Q. In that period, you've never had a contract with
24 Government?

25 A. No.

1 Q. Your family has never had a contract with Government?

2 A. No.

3 Q. And just so that we can be clear, if you like, your
4 association with Government has been that E&A Catering has
5 periodically provided services--

6 A. Yes, sir.

7 Q. --to the various government departments?

8 A. Yes.

9 Q. The next question I would like to put to you is this:
10 You've given some insight into how campaigns are
11 financed. Would you accept that if the Virgin Islands
12 authorities legislated and instituted policies in relation to
13 candidate and party financing and in relation to the
14 registration of political parties for financial-reporting
15 purpose, then that would only increase trust in the system?

16 A. Yes.

17 Q. And that's a question that's directed to the need for
18 campaign finance reform.

19 A. Yes.

20 Q. Is that, in principle, something that you would
21 support, Ms Maduro-Caines?

22 A. Yes, I will, yes.

23 Q. And overall, is your position--and again, it's asking
24 whether it's a position in principle--is it one that, you know,
25 measures that will improve transparency and improve

1 accountability are measures that you would be in support of?

2 A. Yes, sir.

3 Q. If you could give me a moment.

4 MR RAWAT: Commissioner, if I may have a moment,
5 please.

6 COMMISSIONER HICKINBOTTOM: Yes.

7 MR RAWAT: Thank you.

8 (Pause.)

9 MR RAWAT: Commissioner, I have no further questions.
10 Can I just conclude by thanking Ms Maduro-Caines for returning
11 this morning to give evidence and also thank her for the way in
12 which she has given that evidence.

13 COMMISSIONER HICKINBOTTOM: After that, I add my
14 thanks to Ms Maduro-Caines.

15 THE WITNESS: Thank you.

16 COMMISSIONER HICKINBOTTOM: Very much appreciate your
17 time, your time, your answering the questions and also the
18 manner in which you've answered them.

19 THE WITNESS: Thank you.

20 MR RAWAT: There is just one piece of homework that
21 we're going to ask Ms Maduro-Caines to leave with, and that's--I
22 noted that Mr Rowe is making a note of it.

23 But Ms Maduro-Caines has agreed to provide her
24 correspondence--

25 THE WITNESS: Yes.

1 MR RAWAT: --between her and the Registrar--

2 MR ROWE: And the Registrar.

3 THE WITNESS: Yes.

4 MR RAWAT: --by the secretary. I would be very
5 grateful if we could see that.

6 COMMISSIONER HICKINBOTTOM: Yes, thank you very much.

7 MR ROWE: When would you like this by then?

8 THE WITNESS: I will liaise with Mr Rowe about the
9 details of that.

10 But in the meantime, if I could ask if you could just
11 rise briefly so that we can sanitise the room.

12 COMMISSIONER HICKINBOTTOM: 5 minutes? Thank you very
13 much.

14 (Witness steps down.)

15 (Brief recess.)

16 HON NEVILLE A SMITH, COMMISSION WITNESS, CALLED

17 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat.

18 MR RAWAT: Commissioner, first of all apologise for
19 the delay in receiving the Hearing.

20 Our next witness is going to be The Honourable Neville
21 Smith, and he's represented today by Mr Daniel Fligelstone
22 Davis. Mr Davis, Fligelstone Davies, has produced a number of
23 documents this morning, which we needed to make copies of and
24 which relate to the evidence of Mr Smith, so that was the reason
25 we started later than we intended.

1 COMMISSIONER HICKINBOTTOM: Thank you.

2 BY MR RAWAT:

3 Q. Can we begin, if we could ask if The Honourable
4 Mr Smith can be sworn, please.

5 COMMISSIONER HICKINBOTTOM: Yes, thank you.

6 COMMISSION SECRETARY: Would you like to affirm?

7 THE WITNESS: Yes.

8 COMMISSION SECRETARY: If you could take the Bible in
9 your right hand, please and read.

10 THE WITNESS: I swear by Almighty God that the
11 evidence I shall give shall be the truth, the whole truth, and
12 nothing but the truth.

13 COMMISSIONER HICKINBOTTOM: Thank you, Mr Smith.
14 Mr Rawat.

15 BY MR RAWAT:

16 Q. Good morning, Mr Smith.

17 A. Good morning.

18 Q. Could I start off by, first of all, thanking you for
19 coming today to assist the Commission with its work.

20 I also start with asking witnesses some formalities,
21 and the first one that I need to ask is to give your full name
22 to the Commissioner.

23 A. Commissioner, my full name is Neville A Smith.

24 Q. And your professional address?

25 A. Richard Stoutt Building.

1 Q. Hopefully I will keep my questions short and simple.
2 But if at any time they come across as neither short nor simple,
3 please just stop me, and if you'd like me to repeat the question
4 or rephrase it, then ask me to do so.

5 There are a couple of bundles in front of you, and I
6 think you brought a copy of the set of papers that were provided
7 to your representatives. We won't look at them just yet, but we
8 may go to different pages in those bundles as we go through your
9 evidence. The last thing to remind you is just please do try
10 and keep your voice up. The microphone isn't going to amplify
11 your voice. It's there to record. So, if you keep your voice
12 up, speak slowly, that means that we will have an accurate and
13 clear records of your evidence.

14 A. I will do.

15 Q. Can I now ask you first of all, if you could just give
16 a summary of your professional background before you entered
17 politics to the Commissioner, please.

18 A. I worked at (unclear) now called "Hanie's" (phonetic)
19 for the past three years. After that, I was elected to
20 government.

21 Q. I see. Now, when you were elected, was the 2019
22 Election the first time that you stood for elected office?

23 A. Yes, Commissioner.

24 Q. And you were selected as an at-large candidate for the
25 Virgin Islands Party; is that right?

1 A. Yes, sir.

2 Q. And, as I understand how the Virgin Islands Party
3 work, you have to be nominated to stand as a territorial
4 candidate?

5 A. Yes, sir.

6 Q. You're going to have to keep your voice up a bit now,
7 Mr Smith. It's dropping a little, and so if you can--

8 A. I'll try.

9 COMMISSIONER HICKINBOTTOM: Keep your voice up. Just
10 for my information, the nominations, as I understand it, I'm not
11 sure that we've dealt with this evidence before, but the
12 nominations, as I understand it, is by way of a vote at the VIP
13 Congress.

14 THE WITNESS: Yes, Commissioner.

15 COMMISSIONER HICKINBOTTOM: So, you're elected in that
16 sense, but by the VIP Congress to stand as an at-large candidate
17 and then there's the election.

18 THE WITNESS: Yes, Commissioner.

19 COMMISSIONER HICKINBOTTOM: Thank you very much.

20 BY MR RAWAT:

21 Q. And the way the system operates in the Virgin Islands
22 is that every voter will essentially have five votes. They can
23 vote for a representative in the district that they live in, and
24 then they have four votes for the at-large candidates?

25 A. Yes, Commissioner.

1 Q. And according to the official results--and I just
2 wanted you to confirm this--as a territorial candidate, you
3 received 4,694 votes in the 2019 Election, which was
4 12.272 percent for votes cast for territorial candidates. Does
5 that accord with your recollection, Mr Smith?

6 A. That sounds familiar, yes.

7 Q. Well, I think you were number two in the list, so you
8 did reasonably well.

9 And then when you were sworn into office, which was on
10 the 12th of March 2019, were you immediately appointed as Deputy
11 Speaker?

12 A. Yes, Commissioner.

13 Q. And you're still in that role as Deputy Speaker?

14 A. Yes, Commissioner.

15 Q. Does that mean--is it a fair description of you that
16 while being Deputy Speaker, you are, in effect, a back-bencher?

17 A. I would say that, Commissioner.

18 Q. Right. And in terms of the way the House of Assembly
19 operates, you're on the Government side, but essentially it's
20 you and Ms Maduro-Caines are the back-benchers?

21 A. Yes, Commissioner, but also when I'm on the Bench I'm
22 mutual.

23 Q. Say that again?

24 A. I'm on the Bench as Speaker, I am neutral.

25 Q. Yes. And you would be called upon to play that role

1 when The Honourable Willock is not available?

2 A. Yes, Commissioner.

3 Q. Now, the purpose of asking you to come and assist the
4 Commissioner today is to look at the system around how Members
5 of the House of Assembly have to declare interests. When we
6 began yesterday, there were three aspects of it that we're
7 seeking information about.

8 First, what you have to do as an election candidate,
9 secondly, the obligations that fall on you as Member of the
10 House of Assembly, and the third is any obligations following
11 you as a Member of Cabinet. That last one doesn't apply to you.
12 It may come in time that it does, but one of the points that has
13 come across is that, at present, the Register of Interests is
14 private. A Member of the public cannot inspect it. There is
15 draft legislation in the offing that will change that situation,
16 so a Member of the public can inspect the Register.

17 From your perspective, Mr Smith, is that an initiative
18 that you would be supporting?

19 A. Yes, Commissioner.

20 Q. And although you perhaps have only been in politics as
21 an elected representative for a short period of time, has it
22 always been your view that it is important for the Register of
23 Interests to be public?

24 A. Yes, Commissioner.

25 Q. As I said, we--you assumed office on the 12th of

1 March 2019. I'd like to like at the First Declaration you
2 submitted, and we're going to the bundles now. You have paper
3 copies, but I'd suggest that you use the lever arch files that
4 would be easier to navigate.

5 A. Yes, sir.

6 Q. There should be a bundle with your name on the front
7 of it. And if you turn to page 80 in that bundle.

8 A. Page 18?

9 Q. 80. Eight-zero.

10 A. Eight-zero.

11 Q. Thank you.

12 I'm going to go into the details on the form in a
13 little while. I just want to ask you firstly some questions
14 about the process and how you approached it as a new Member of
15 the House of Assembly.

16 This is your 2019 Declaration, and you can see on the
17 page that I've taken you to that it is stamped with the stamp of
18 the Registrar of Interests and in manuscript is written the date
19 of 9th of April 2019.

20 Do you have that, Mr Smith?

21 A. Yes, I do. Thank you.

22 Q. Now, if you go 10 pages along to page 90, and, in
23 fact, that's probably the very last page in the bundle, so if
24 you turn right to the back, that's the last page of the
25 Declaration.

1 Does it carry your signature?

2 A. Yes, it does, Commissioner.

3 Q. And correct me if I've misread your handwriting, but
4 it's dated March 12th, 2019, isn't it?

5 A. Yes, Commissioner.

6 Q. Now, this is the First Declaration you filed. How did
7 you come to fill in the form? How did it get to you in the
8 first place?

9 A. It was delivered to us I think by the Registrar to the
10 House of Assembly. That's how I got it.

11 Q. And did the Registrar send it to you in advance of the
12 12th?

13 A. I think it came on the 12th. I'm not sure so I don't
14 want to speculate.

15 Q. And did the Registrar provide you with the form as
16 well?

17 A. It was sent in a sealed envelope.

18 Q. I see.

19 Now, at that time, when you were--well, before we get
20 to this, let's look at your 2020 Declaration. Page 69, please,
21 Mr Smith, in your bundle. If we have the same page, you should
22 see up there again the stamp of the Registrar of Interests and
23 written in manuscript the date 13th of May 2020.

24 Do you have that?

25 A. I have that.

1 Q. If you turn now to page 79, again please confirm that
2 that's your signature?

3 A. Yes, it is.

4 Q. And again, if you could confirm that you dated that
5 March the 12th, 2020.

6 A. Yes.

7 Q. Now, until a very short while ago, we didn't have your
8 2021 Declaration, and so it's not in the bundle, but I think you
9 have a copy of it, and now the Commissioner has as well. Can I
10 again just take you to that.

11 Now, if we look at the front page of that, for obvious
12 reasons it won't carry the stamp of the Registrar because it's
13 come from you and not from her. But if you go to the back of
14 the document, again that's your signature, isn't it?

15 A. Yes, it is, Commissioner.

16 Q. Mr Smith, you dated it March the 4th, 2021?

17 A. Yes, Commissioner.

18 Q. Now, if I step back from that, you've put in three
19 declarations, sworn into office on the 12th of March 2019, and
20 that means under the law, doesn't it, that your obligation
21 falls, firstly, on the 12th of March 2019 and then every
22 anniversary of that date until the next election? That's right,
23 isn't it?

24 A. Yes, Commissioner.

25 Q. And was that your understanding from the very

1 beginning that that was the obligation that was placed on you as
2 a Member of the House of Assembly?

3 A. Yes, Commissioner.

4 Q. And did that understanding come from the information
5 provided to you by the Registrar of Interests?

6 A. Yes, Commissioner.

7 Q. Were you also aware that, if you didn't submit by the
8 Due Date, 12th of March, you would be in breach of the Register
9 of Interests Act?

10 A. Yes, Commissioner.

11 Q. But also that if you then took more than three months
12 to send in your Declaration, that would be another breach of the
13 Act?

14 A. Yes, Commissioner.

15 Q. And did you understand that if that happened--and of
16 course, it hasn't happened in your case, Mr Smith, but if that
17 happened, then the Registrar would have to write a report to a
18 Standing Select Committee?

19 A. Yes, Commissioner.

20 Q. Now, your Fellow Members of the House of Assembly
21 outed you yesterday as a Member of the Standing Select Committee
22 for the consideration of the Register of Interests; that's
23 right, isn't it?

24 A. Yes, Commissioner.

25 Q. Can you help the Commissioner with this because others

1 were not able to do so. When was that Committee actually set
2 up?

3 A. I think maybe September. I'm not too sure. I may
4 have some notes on that, if you don't mind. I think I wrote
5 down the date somewhere.

6 COMMISSIONER HICKINBOTTOM: Yes. Look, please,
7 Mr Smith.

8 THE WITNESS: Bear with me.

9 (Pause.)

10 THE WITNESS: Back of the envelope.

11 On the 2nd of September 2019. It was Gazetted on the
12 12th of September 2019.

13 BY MR RAWAT:

14 Q. Third of September, did you say?

15 A. It was Gazetted on the 12th of September.

16 Q. I follow. Thank you.

17 Now, that process, without being dismissive of your
18 role, but does that mean that that's when you are allocated to
19 Select Committees rather than the Select Committee meeting?

20 A. Yes, that's when we were selected.

21 Q. Has the--since September 2019, has the Committee met
22 at any time?

23 A. I don't recall.

24 Q. Have you had any discussions, informal or formal,
25 about what the purpose of the Committee should be?

1 A. No, I would say no to that.

2 Q. Have you, yourself, taken the time to look at the act
3 to try and understand what your obligations might be as a Member
4 of that Committee?

5 A. I partially look at it, yes. I have an idea of what
6 it's supposed to represent.

7 Q. And what do you understand the remit of the Standing
8 Select Committee to be?

9 A. It's to assure the actual Register as well, to make
10 sure that we keep the Register up-to-date and keep things in
11 perspective.

12 Q. You say to go through the Register, so did you
13 anticipate that the Committee would ask the Registrar to bring
14 the Register to them and that you could then see if Members of
15 the House of Assembly were complying with their obligations?

16 A. I cannot answer that question because I'm not sure
17 about that part of it. Whether they can do that--because from
18 what I know, the Register cannot be shared with anyone, so I'm
19 not too sure that that could have happened.

20 Q. So, when you've explained that you took the job of the
21 Committee or one task of the Committee to be to check that the
22 Register was being compiled, that was--you hit an immediate
23 difficulty, didn't you, because, in your understanding of the
24 Act, you can't be shown the Register?

25 A. Correct.

1 Q. Did it occur--can you just remind us who the other
2 Members of the Select Committee are?

3 A. I don't want to speculate. I know the Premier.

4 Q. Can I suggest some names to you and you tell me if I'm
5 right or wrong?

6 A. Please do.

7 Q. The first is the Premier is the Chair.

8 A. Yes.

9 Q. Then Marlon Penn?

10 A. Certainly, yes.

11 Q. The Honourable Kye Rymer?

12 A. Yes.

13 Q. I should have said The Honourable Marlon Penn, but
14 I'll say that now, and then The Honourable Kye Rymer?

15 A. Yes.

16 Q. And then The Honourable Shereen Flax-Charles?

17 A. Yes, (unclear) and myself.

18 Q. And yourself. So, as far as you can remember is that
19 the total of the Committee?

20 A. Five members.

21 Q. Yes. And that's representatives of both parties,
22 isn't it?

23 A. Yes.

24 Q. On both sides of the aisle, I'd say; there's more than
25 one party, or more than two, in fact.

1 But at any time did you consider as a committee asking
2 the Registrar to come before you to tell you whether or not
3 there was compliance?

4 A. As a new parliamentarian, I was guided--I had been
5 guided by someone who had experience to see whether or not they
6 would recall, so I cannot say that I myself would have liked to
7 know more about the Register of Interests. There is a bit of
8 confusion in how it is written, and it's hard to understand at
9 times.

10 Q. Can I come back to that point?

11 A. Sure, you can.

12 Q. It's an important one I want to ask you about. So, if
13 I don't, please remind me.

14 But you said that you would be guided by more
15 experienced voices. Did you have a particular voice in mind
16 from which you would seek guidance?

17 A. Anyone who was elected before me.

18 Q. Right. And on that Committee who was elected before
19 you?

20 A. Two Members.

21 Q. And who are they?

22 A. The opposition leader and the Premier.

23 Q. That's The Honourable Marlon Penn and the Premier.

24 Now, you say that you would have liked to know more,
25 and as I said, we'll come back to the question of what you

1 perceive to be the difficulties with the Act. But would you
2 have thought it beneficial for the Committee to ask the
3 Registrar to give you a report about the extent of compliance?

4 A. Well, what happened is the Registrar, herself, would
5 have made herself available to explain the Register because
6 reading the Register, there seemed to be interpretation; and,
7 after we filled out the first one, after going back in the
8 Respondent telling him to say whether something is wrong or
9 right, I figured everything was correct.

10 Q. I see.

11 Now, that goes to filling in the form itself.

12 A. Right.

13 Q. My question was directed more widely to--if you have
14 circumstances where Members of the House of Assembly are not, in
15 fact, for example, submitting declarations or their declarations
16 are late such that they might be in breach of the Act for
17 whatever reason, is that something that you felt as a Member of
18 the Committee that you ought as a Committee to look at?

19 A. Well, to be honest I was not really sure who filed
20 late or early--

21 (Overlapping speakers.)

22 Q. I'm sorry to talk across you, so you finish your
23 answer.

24 A. It never come across that somebody was late because I
25 know I was always early.

1 Q. Yes, but that's something as a committee you would
2 only find out if you asked the Registrar?

3 A. Yes.

4 Q. Because, as a committee, you could have asked the
5 Registrar--she wouldn't necessarily have to appear in front of
6 you, but she is the Clerk to your Committee, but you could have
7 asked the Registrar is there complete compliance? That's a
8 "yes" or "no" question.

9 A. Yes.

10 Q. And if there was incomplete compliance, as a committee
11 you could have asked her for more details, couldn't you?

12 A. Yes.

13 Q. But it appears that that is something that your
14 Committee has never considered necessary to do; is that right?

15 A. Correct.

16 Q. As a Member of the committee, do you think going
17 forward that is something that it would be important for the
18 Committee to look at?

19 A. Yes.

20 I think it needs to be where we have some sessions and
21 relating to how the form is worded because, like I said, for me,
22 as a newly elected Member, I actually interpreted how I can
23 without no guidance.

24 Q. There are two issues, aren't there, Mr Smith? The
25 first is whether you get it in on time.

1 A. (Witness nods.)

2 Q. You're nodding your head, which isn't recorded on the
3 Transcript, so you have to say "yes" or "no"?

4 A. Yes, yes.

5 Q. And the second is what you put on the form?

6 A. Yes, sir.

7 Q. I'm going to park that issue with you, and I'll come
8 to it in a moment, and my questions are directed to the first
9 one, whether the Committee could just check whether people were,
10 in fact, even getting it in on time, and that's something that
11 you've agreed would be a useful thing for the Committee to do.

12 A. Yes, Commissioner.

13 Q. Now, I'm going to your--we might need to look at your
14 2021 Declaration, but I'm going to use your 2020 form. I think,
15 on a quick look at your Declaration, the details are the same
16 across all three years, so that means if we use the 2020 form,
17 we can stick to the bundle. So let's look at page 81 in that
18 form--or 80, in fact.

19 Now, I've asked this of other witnesses. Page 80, the
20 form appears to have remained unchanged throughout but with the
21 Preamble to the schedule that you have to fill in, the form you
22 have to fill in reads: "The main purpose of the Register of
23 Interests is to provide information of any pecuniary interest or
24 other material benefit which a Member receives which might
25 reasonably be thought by others to influence his or her actions,

1 speeches or votes in the House of Assembly or actions taken in
2 his or her capacity as a Member".

3 Now, taking you back to the first time that you filled
4 that form in 2019, but obviously subsequently, when you read
5 that Preamble, what did you understand the purpose of the form
6 to be? What were you being asked to declare in principle?

7 A. I understand it to be if I have any companies,
8 anything to do with government business-wise or any family or
9 relatives actually it said relative, not family, but relatives
10 involved in any contract with Government.

11 Q. Would A fair way--and you can say "no" if you want to,
12 but would a fair way of putting it be that the purpose is to set
13 out in a form anything that others might think could influence
14 the way you're behaving as a Member of the House of Assembly?

15 A. Yes.

16 Q. And there's an important aspect of it, although it's
17 not available to the public, it does go to public perception of
18 how legislators conduct their business, doesn't it?

19 A. Yes.

20 Q. Because obviously you've managed or made yourself read
21 the Act. The purpose of the Act, isn't it, is to monitor and
22 ensure that people are making proper declarations?

23 A. Yes.

24 Q. And, in fact, when you sign, as you did, when one
25 signs on the last page, you are signing a Declaration that

1 you've given a complete and accurate description of all
2 interests that you're liable to declare?

3 A. Yes, Commissioner.

4 Q. And that's an important certification, isn't it?

5 A. Agree.

6 Q. Now, if we look, and in fact I described this as your
7 2020 form. In fact, it's your 2019 form, it's your first one.
8 But if we go through the first paragraph which is at page 81,
9 you're asked to declare Directorships, and that's remunerated or
10 unremunerated Directorships in any company. And on your form
11 you've actually struck out "unremunerated", so you've made clear
12 that these were all remunerated positions; is that right?

13 A. Yes, Commissioner.

14 Q. And you set out there seven companies in which you
15 hold Directorships.

16 What position do you hold in each of those companies?
17 If we take them in turn, if I give you the name and you give me
18 your position?

19 A. Sure.

20 Q. Caribbean Security Limited?

21 A. Managing Director.

22 Q. NS Cleaning and Imports.

23 A. Managing Director.

24 Q. Frontline Sounds?

25 A. That's--that's not a corporation, but I'm the sole

1 owner.

2 Q. Is that a d/b/a?

3 A. Yes, yes.

4 Q. International Construction Limited?

5 A. Director, Managing Director as well.

6 Q. I may get this one wrong, but is it N&L Charter?

7 A. Yes.

8 Q. And what position did you held in N&L Charter?

9 A. As a Member. There's actually a trade license
10 company.

11 Q. NS Water Services Company?

12 A. Also same thing again, as d/b/a.

13 Q. And N&S Services?

14 A. N&S Services is also a mixed d/b/a.

15 Q. A d/b/a. So, in fact, some of these might not be
16 strictly described as companies?

17 A. Correct.

18 Q. And your role in them would not be described as
19 Director, but rather as owner?

20 A. Correct.

21 Q. And are you--in the ones that are d/b/as, are you the
22 sole owner of those?

23 A. Water Services, no, not as sole owner. That's where
24 my son, but that's now dissolved. I actually changed that,
25 that's leave my son alone.

1 NL Traders is my brother.

2 Then International Construction is a partnership with
3 Jerome McMillan. Frontline System is by myself. Caribbean
4 Security Lender is also a business partner in the name of David
5 Dupris.

6 NS Cleaning and Imports, I'm not too sure. My
7 mother's name was on that company before, but I think it has s
8 changed now. Maybe it's just me on that company as well.

9 Q. Right.

10 Now, if we go to paragraph 2 at page 82, in that
11 section, the Member of the House of Assembly is asked to
12 disclose any employment, office, trade, profession or vocation
13 for which you are remunerated or in which you have any pecuniary
14 interest. Now, you've marked that as "no" because you've put
15 your interests under Directorships, but--and again this goes to
16 how easy it is to fill in the form. Could your d/b/as be put in
17 there?

18 A. Once again, I mean, I guess it's how you interpret the
19 form, and from my interpretation I left out of the form. I
20 stand to be corrected.

21 Q. Yes. It's not a criticism. I'm genuinely asking for
22 your help on this.

23 A. Yes.

24 Q. The point, Mr Smith, is that, if you, as a House of
25 Assembly Member have doubts about where to put information on

1 the form, that may--the Commissioner may conclude that the form
2 doesn't work, and so?

3 A. I understand.

4 Q. You declared everything under one, and so my question
5 is: When you were looking at this, did you think to yourself
6 are there some things I should put under 2 or can I put it all
7 under 1? Was there any doubt in your mind?

8 A. Yes, Commissioner there was doubt.

9 Q. And so, you elected to put your interests under the
10 directorships section?

11 A. Yes, Commissioner.

12 Q. Now, when we get to 3, which is at page 83, that's
13 headed "clients". And you're asked whether any of the paid
14 employment registered either under or under renumerated
15 positions entailed the provision to clients of services which
16 depend essentially upon or arise out of your position as a
17 Member of the House of Assembly. There are Explanatory Notes in
18 the form, and note 1 says the services covered by this category
19 include actions connected with any parliamentary proceedings,
20 sponsoring meetings or functions in the House of Assembly
21 building or offices, making representations to Ministers, fellow
22 Members, or public servants or company delegations to Ministers,
23 and the provision of advice on parliamentary or public affairs.

24 Now, you've marked that as "no", so what did you
25 understand you were being asked to disclose under that

1 paragraph?

2 A. To be honest, Commissioner, I really didn't quite
3 understand this. I actually just said "no".

4 Q. And what difficulty did you have with that paragraph
5 in particular?

6 A. I think I misunderstood it, the whole of it on the
7 whole because reading it now asking this, clients to whom you
8 have personally provide service, so I was wondering if--I don't
9 think it had to do with abilities I have. They had services to
10 me. I'm not too sure. I was confused about it.

11 Q. You don't have to take this from me, but what I'm
12 going to suggest is it's directed towards, and I'll give you an
13 example. If, for example, a client of one of your companies
14 wanted to make representations to a Minister and you introduced
15 the client to the Minister or you went along with the client to
16 a meeting with the Minister, that would be something that you
17 would be expected to put in on under paragraph 3?

18 A. Exactly--well, again, let me know it's correct.

19 Q. Right.

20 So, you haven't used your position as a Member of the
21 House of Assembly to assist clients of your companies?

22 A. No, I have not.

23 Q. Or, indeed, of your d/b/a's?

24 A. No, I have not.

25 Q. Now, the more important question is the wider one, and

1 that is that it appears from what you've told us today that when
2 you read that form, you don't feel that it gives you sufficient
3 guidance as a Member of the House of Assembly?

4 A. Correct.

5 Q. If I look at paragraph 4 now with you, and that's at
6 84, paragraph 4 asks you two questions, and I'm going to take
7 you, Mr Smith, just to (b), first of all, on there because this
8 arises when you are already a Member of the House of Assembly;
9 right? And what it asks to you declare is: Do you benefit from
10 any form of sponsorship or financial or material support as a
11 Member of the House of Assembly? And the guidance that it gives
12 you is at Note 1. You should register under the section any
13 financial or material benefit, direct or indirect, for example,
14 the provision of free or subsidised accommodation or provision
15 of the services of research assistant or at a subsidised salary
16 rate.

17 Now, you've made three Declarations, so you have a
18 little bit more experience as a Member of the House of Assembly
19 than you perhaps might have been in 2019.

20 A. Correct.

21 Q. But, in your time as a Member, have you received any
22 form of benefit or sponsorship that would mean that you have to
23 make a Declaration under 4-B?

24 A. No, Commissioner.

25 Q. Now, if a situation arose where--I'm going to slightly

1 assume. Let's assume that you have an office from which you
2 conduct your business.

3 A. Yes.

4 Q. As the Neville Smith who is not a Member of the House
5 of Assembly. If you used that office for Assembly business for
6 the business of being an elected representative, is that
7 something that you would have thought you should declare then on
8 this form?

9 A. Commissioner, I do not use my businesses to do
10 anything. I'm really in the day-to-day operations anymore of
11 the companies, so that would not take place.

12 Q. Yep.

13 The point is, it's again not so much about what you do
14 or don't. It's giving--it's asking for your assistance as to
15 how you understand the form. But, you know, what do you
16 understand you need to declare on that form?

17 A. What I understand about the form is, if I'm doing any
18 start-up business Government through my business, I should say
19 "yes", as I understand it. If you're doing anything--

20 Q. That was the purpose of the form, but if we look at
21 4-B, when you read that--and you've done it three times now, but
22 when you read that--what do you understand you are obliged to
23 put there?

24 A. If anybody give me any kind of sponsors towards my
25 candidacy or any kind of gifts or anything I should report it,

1 but once again, I fund my own campaign.

2 Q. We'll come back to that because that comes under 4(a),
3 but this is about, without labouring the point, but it's about
4 you now, if you like.

5 A. Sure.

6 Q. And it's about using other services in order to carry
7 out your business as a Member of the House of Assembly, and
8 that's what I'm suggesting 4-B is directed at. But what I'm
9 really wanting to understand from you is when you read it, what,
10 in your head, or were you saying to yourself, this is the sort
11 of information I would need to provide?

12 A. I do not look at it that way. I look at it, like I
13 said, I know I do not do these things, so that's why I said
14 "no".

15 Q. Thank you.

16 Can we just look at the 4(a) which goes back to your
17 point about campaign funding because what you're asked is, did
18 you benefit from any sponsorship before election where, to your
19 knowledge, the financial support in any case exceeded in
20 aggregate 2,500, and the note that you're given to assist you in
21 contemplating the form you find at Note 2 because it says you
22 should register money given to by your Election Campaign
23 Committee and money spent by your Election Campaign Committee in
24 connection with your election with your permission. So, that's
25 if someone else, it's two things, isn't it?

1 A. Yes.

2 Q. Any individual gives you money?

3 A. Correct.

4 Q. Or if your campaign committee gives you money?

5 A. Correct.

6 Q. Or if your campaign committee spends money on your
7 behalf?

8 A. Correct.

9 Q. And is your understanding or tell me what you
10 understood by the word "sponsorship before election"?

11 A. I make the assumption that if somebody come and
12 sponsor me anything before election, it can be used as a bribe.
13 That's how I look at it and as I understand it. So, if the task
14 was sponsorship before election you're looking at somebody
15 giving you a gift as I understand it.

16 Q. So, for example, somebody giving you a free car to use
17 during your election campaign--

18 A. That should be listed.

19 Q. Yes.

20 Do you make a distinction between donations or
21 sponsorship?

22 A. Well, I haven't received donation or sponsorship, so
23 that's a question I'm not too sure you want me to answer.

24 Q. No, but it's the definition--

25 (Overlapping speakers.)

1 A. There is a difference between donation and
2 sponsorship.

3 Q. Yes.

4 A. There is a definition--a difference.

5 Q. So, I appreciate that your point is that you've had to
6 pay your own way through your campaign, but if somebody gave you
7 a donation of 2,500 or above, would you list it in that section?

8 A. Yes.

9 Q. And why would you do that?

10 A. Because I receive funds from my campaign in excess of
11 what it's supposed to be.

12 Q. I see.

13 So, are you taking sponsorship to include donations?

14 A. I look at it same way. I mean, even have the same
15 definition. It means a different definition. I look at it the
16 same way. Once you collect money--

17 Q. You should declare it?

18 A. --I should declare it.

19 Q. Do you think the form could be improved if it made
20 clear that it encompassed a donation?

21 A. I think the form is--this paragraph of this form is
22 good to me, but the more that you can include to make it more
23 substantial, I welcome that as well.

24 Q. Before we leave the question of how campaigns in the
25 Virgin Islands are funded, this is a point that the Commissioner

1 raised, first of all, with the Attorney General yesterday, but
2 you've made the point you fund your own election, but are there
3 any regulations that govern how campaigns can be funded?

4 A. I think there's regulations on how campaigns can be
5 funded, but I know that you funding your own is not in those
6 regulations I can recall.

7 Q. So, you can spend as much money you like on your own
8 campaign?

9 A. I feel--I feel that way because that's my funding, so
10 I assume if I want to spend two dollars on my campaign and lose
11 2,000 and win, I think that's the discretion of me.

12 Q. Yes.

13 So, there are no rules that says you're only allowed
14 to spend X amount of your own money?

15 A. No, there are not.

16 Q. And do you know of any general regulations that govern
17 how your party can support your campaign?

18 A. I think there is some sort of document guiding you on
19 how you use campaign money through the election amendments, but
20 I'm not sure. I'd be guided on that one.

21 Q. And who provides that document? Who issues that?

22 A. The Election Office. There would be the Election
23 Office.

24 Q. Thank you.

25 We can go through the rest of the form relatively

1 quickly, I hope.

2 If you go to 85--page 85, please, Mr Smith. Paragraph
3 5 covers gifts, benefits, hospitality in the Virgin Islands, and
4 what you're expected to declare is whether you or your spouse,
5 to your knowledge, received any gift of a value greater than 500
6 or any material benefit or material advantage of a value greater
7 than 1.5 percent of the current salary of an elected Member.

8 Now, in every Declaration, you've said that's "no",
9 and that's the case, is it, for you?

10 A. Yes, Commissioner.

11 Q. Whether we go to page 86 and paragraph 6, that relates
12 to overseas visits. And what you're expected to declare is any
13 overseas visit that arises out of your position as a Member
14 where the cost is not borne either by yourself or by public
15 funds. And in your case, in every Declaration you said "no" to
16 that?

17 A. Yes, Commissioner.

18 Q. The next is at paragraph 7, page 87 overseas benefits
19 and gifts, and that's again, it's the same amount, \$500 to you
20 or your spouse or any material advantage of a value greater than
21 1.5 percent of the current salary received from either a foreign
22 government or foreign organization or a person, again, which
23 relates to your membership, and in your case that's "no"?

24 A. Yes, Commissioner.

25 Q. Right.

1 When we get to 8, and that's land, what you're asked
2 to declare is whether you have any land other than any home used
3 solely for the personal residential purposes of you or your
4 family. You said "no" in 2019.

5 And what you're asked to do, you're then asked to
6 indicate the nature of the land and give some details on it.

7 A. Yes, Commissioner, but can I explain that?

8 Q. Yes.

9 A. In the first 2019--I didn't quite understood that way.
10 I thought it meant if you have any land dealing with Government
11 or any Government property, so I did not list my land at the
12 time.

13 Q. Yes.

14 A. For the last two years because I was confused. I
15 thought it meant if I rent Government land, if I rent to
16 Government, that's what I thought it meant.

17 Q. I see.

18 So, you thought that what you were required to do was
19 declare, if you like, an interest in land which was linked to
20 Government?

21 A. Yes, Commissioner.

22 Q. Either you were renting land to Government or you were
23 renting land from Government?

24 A. Yes, Commissioner.

25 Q. If you take that a step further--I mean, you might

1 have sought a purchase of Crown Land, is that the sort of thing
2 that you would have thought would have had to be declared?

3 A. Yes. Yes, Commissioner.

4 Q. Now, what was it about the wording of paragraph 8 that
5 led you to that conclusion, Mr Smith?

6 A. Because actually nature of the land, whether it's
7 commercial or residential, in fact, that is dealing with
8 actually the political part of it. I thought it meant if you
9 have any land dealing with Government since you claimed stop
10 with Government not your own personal belongings, Commissioner.

11 Q. I see.

12 Now, in 2019, so what you're telling the Commissioner
13 is that, in 2019, you made a mistake and you misread,
14 misunderstood the statement; is that right?

15 A. Yes, Commissioner.

16 Q. If you jump back to page 77 in the bundle, this is
17 paragraph 8 in your 2020 Declaration?

18 A. Yes, Commissioner.

19 Q. And that's blank as well, so was it the position that
20 a year later you still misunderstood the position?

21 A. Yes, Commissioner because, what happened the fact that
22 nobody came back and said something was wrong I thought was
23 correct.

24 Q. Now, you've spoken of the importance of seeking
25 guidance from more experienced voices.

1 A. Right.

2 Q. When you were completing your form or even at any
3 point afterwards, did you have discussions with more experienced
4 voices about how to fill the form in?

5 A. Not at 2020. No, I did not.

6 Q. Other Members of the House of Assembly who have
7 already given evidence to the Commissioner have said that they
8 considered that there is some difficulties around the form and
9 how they understand it, and that they have raised this in
10 discussion, and Ms Maduro-Caines, who was just before you, said
11 that it seemed to her that each Member had their own
12 interpretation of what to put in the form and where to put it.

13 A. Correct.

14 Q. Did you get any guidance of any sort from others?

15 A. Sorry to interrupt.

16 This--this time around I didn't because I asked the
17 question because I think what happened get more involved in
18 aspect of it as well, so I get a few guidance from her this
19 year, so it's more--I can understand it more of this year than
20 previous years.

21 Q. I see.

22 So, did you--I mean, let's finish the point and look
23 at your 2021 Declaration, and so that we can just get that into
24 the record.

25 So, you did fill in at page--it's paragraph 8, there

1 is no page number by itself, but what you completed you haven't
2 given the details of your personal residential home; that's
3 right, isn't it?

4 A. Correct.

5 Q. And that's because--is it because you understood that
6 if you're just using a property for residential purposes for you
7 and your family you don't have to declare it?

8 A. Correct.

9 Q. But what you have declared is three pieces of woodland
10 which is one in Hope Hill, the second one in Hope Hill as well,
11 and then the third in Long Hook; that's right, isn't it?

12 A. Correct.

13 Q. And with the assistance of others, you now understand
14 that it's not limited to, let's call it "connections" to
15 Government land?

16 A. Correct.

17 Q. It's wider than that, isn't it?

18 A. Correct.

19 Q. So, it's any land that you could use for a purpose
20 other than residential; is that right?

21 A. Correct.

22 Q. Now, those three lots, Hope Hill one lot, a second lot
23 in Hope Hill, and then the Long Hook property, is that the
24 entirety of your landholdings?

25 A. Correct.

1 Q. And was that the situation in 2019?

2 A. Correct.

3 Q. And in 2020?

4 A. Correct.

5 Q. So, if you'd had the advice at the beginning, these
6 three pieces of information would have been in your 2019 form?

7 A. Yes, Commissioner.

8 Q. If I go back to the bundle--and let's go to
9 page 89--this is the section where you're asked to declare the
10 following, and that is whether you're a shareholder. It's not
11 just you. It's either yourself or with or on behalf of your
12 spouse or dependent children. And you were asked to declare
13 shareholdings of any company or body which has a nominal value
14 (a), greater than \$25,000 or (b), less than 25,000 but greater
15 than 1 percent of the issued shares capital of the company or
16 body, and you said "no" to that.

17 Now, you've explained that the businesses that you put
18 under Directorships split. Some of them are d/b/as, some of
19 them are companies. Now, in relation to the companies, do you
20 own shares in those companies?

21 A. Yes.

22 Q. Are those Shares--do they have a value at least
23 greater than 25,000?

24 A. Directly, I don't want to--

25 (Overlapping speakers.)

1 Q. Well, could they fit into either category, that it's
2 either over 25 or--

3 A. I would say "yes".

4 Q. --greater than 1 percent?

5 A. I would say "yes".

6 Q. So, are they companies in which you own a substantial
7 interest and essentially a substantial amount of Shares?

8 A. I would say "yes".

9 Q. Now again, this goes to a point which is not a
10 criticism of you, Mr Smith, but how easy it is to use the form
11 because you've put "Directorships" under paragraph 1. Was there
12 any reason that you thought, well, I don't need to say anything
13 about my shares under paragraph 9?

14 A. I think that's just a misunderstanding of me in the
15 form. We did put in "no"--I mean, I should have put something.

16 Q. I think we can probably take the evidence a little
17 further by going to your 2021 form because, although it's blank
18 in both 2019 and 2020, you've now, in 2021, set out four
19 companies--haven't you?--so first it's Caribbean Security
20 Limited, NS Cleaning and Imports, International Construction
21 Limited, and Frontline Sound System. So, there are your four
22 companies and then the other three, correct me if I'm wrong, NS
23 Services, NS Water Services and NNL Charters are your d/b/as?

24 A. Correct.

25 Q. So, on these companies you've put in each one on your

1 2021 form subcategory (a) so, what you've indicated is that you
2 have shareholdings in those four companies that is greater than
3 25,000?

4 A. Correct.

5 Q. Now, again, was the additional detail you put in your
6 2021 Declaration, did that come from having taken advice from
7 the Attorney General?

8 A. Correct.

9 Q. In terms of going to get that advice, was it something
10 that you did of your own volition or was it as part of a group
11 of Members of the House of Assembly that you went off to get
12 this information?

13 A. I did it on my own.

14 Q. Right.

15 And aside from the Attorney General, was there anybody
16 else that you went to for advice?

17 A. Cannot recall.

18 Q. Say that again?

19 A. I cannot recall I went to anyone else.

20 Q. But what you decided to put in your form, was it
21 really on the advice of the Attorney General?

22 A. Basically yes, and after trying to learn more about
23 the form on my own, yes.

24 Q. And in terms of the Registrar of Interests, is it
25 right that what she would do every year is send you reminders of

1 the need to fill in the form?

2 A. Correct.

3 Q. And you would probably be in the Registrar's good
4 books because you do fill in the form on the date you're
5 supposed to. And so you haven't had any reminders that you may
6 have missed the date, have you?

7 A. I don't recall any.

8 Q. Are you aware of colleagues in the House of Assembly
9 who've had such reminders?

10 A. No.

11 Q. Is the difficulties with the form or the process
12 something that has been discussed with other Members of the
13 House of Assembly by you?

14 A. I would say "yes", at times when I fill out the forms
15 you're asked questions but the thing about it is nobody could
16 give you a definite answer. It seems everybody interpreted from
17 their own way.

18 Q. And so, would you accept this, that you don't find the
19 form to be the most useful thing to fill in? Is that a good way
20 of putting it?

21 A. I wouldn't say that.

22 Q. How would you say?

23 A. I would say to develop a more friendly--a more
24 friendly use.

25 Q. Like user-friendly?

1 A. User-friendly as need to happen.

2 Q. And the guidance that's given to Members of the House
3 of Assembly could be improved, then?

4 A. I would say "yes" to that.

5 Q. And thinking about it, you filled three now, is there
6 any particular aspect of the form that you think is particularly
7 difficult?

8 A. I'm still not clear about the whole form. I think we
9 need to have some sort of tutorial about what some of the forms
10 mean or they could bring it on to us a smaller way to understand
11 because to me the aspects of it is wide. I think it should be a
12 little more clearly defined so that we could understand it more.
13 Because it is the fact that we change it to be transparent and
14 we're trying to be opened up, it should be clear enough that you
15 fill in whatever is needed in the form, that's how I look at it.

16 Q. It's important for--I mean, going back to the purpose
17 of it, that you have given an accurate account of anything that
18 might be seen to effect how you operate as a Member of the House
19 of Assembly, that's important, isn't it?

20 A. Yes.

21 Q. Could I take you back to your bundle?

22 A. Sure.

23 COMMISSIONER HICKINBOTTOM: Could I just say this, and
24 this is only a comment. It's not a question, but the Register
25 of Interests Bill, new Bill, and I make this observation with

1 two big caveats. First is, I understand the evidence so far,
2 this Bill has not even been to Cabinet yet, let alone gone to
3 the House. But as I read it, the form is not changed. It's the
4 same form in the current bill, the Bill which opens up the
5 Register to the public but it doesn't affect the form yet.

6 THE WITNESS: Correct.

7 If I may, I think when they reach to us a lot of
8 changes should be made to it. So, I'm very much agreed with
9 that.

10 COMMISSIONER HICKINBOTTOM: Thank you.

11 BY MR RAWAT:

12 Q. Picking up on your theme, Mr Smith, on changes, if you
13 go to page 6 in the bundle--

14 A. (Unclear).

15 Q. Yes, please. Our bundle is also your bundle, but I'm
16 taking you back to--this is a letter on the 19th of
17 February 2021, written by the Commission to you, and it makes
18 certain requests for information. You will see those requests
19 set out at page 7 and can you see that there's Nos. 2 and 3.

20 Now, I don't want to ask you about that, but if you
21 see underneath there is the letter that reads as follows: "With
22 reference to paragraph 10 of Schedule 1 of the 2006 Act, the
23 Commissioner considers in any event requests that when
24 responding to that paragraph you should include any relevant
25 interests of immediate family members and any persons living in

1 the same household". Now, we can see an example of what
2 paragraph 10 says if we turn back or go forward to page 90, if
3 we go right to the back of the bundle. What it says is, "if
4 bearing in mind the definition of purpose set out in the
5 introduction to this form, you have any relevant interest which
6 you consider should be disclosed but which did not fall within
7 the nine categories set out above, please list them".

8 Now, when you responded to the Commissioner's letter,
9 you did that at page 10 in the bundle. It's a letter from
10 yourself dated the 15th of March 2021. Now, The Honourable de
11 Castro has already explained that the substance of the letter
12 was drafted following meetings of Members of the House of
13 Assembly on the Government side; is that right?

14 A. Correct.

15 Q. And you then--you were at liberty to add or remove
16 from it as you wished; is that right?

17 A. Correct.

18 Q. Now, in relation to paragraph 10, you adopted the
19 response that other Members of the House of Assembly have also
20 given to the Commissioner, and you say in relation to paragraph
21 10 of Schedule 1 of the principal Act of 2006, it does not
22 specifically address interests of immediate family members.
23 However, once again in the spirit of assisting your Commission
24 and further strengthening good governance, I do propose to
25 recommend to the House of Assembly that such paragraph can be

1 amended to expressly mention the said family members.

2 Now, have you made any proposal or recommendation to
3 the House of Assembly on this point?

4 A. No, I did not.

5 Q. Are you aware if any other Member of the House of
6 Assembly has made such a recommendation?

7 A. I don't recall.

8 Q. Now, the purposes given of making the recommendations
9 is in the spirit of assisting the Commission. Now, the
10 Commission has a defined lifespan. Do you have any sense of
11 when this recommendation might come through?

12 A. Well, normally when we have meetings we bring up stuff
13 like this, so most likely they would come up very soon in a
14 meeting that we had in discussion to get this done. And I think
15 there is some sort--and the public interest--public interest
16 bill.

17 Q. Are you thinking of the integrity--

18 A. I think we have something in that also, too, that
19 speaks to this as well.

20 Q. I see. But, of course, that may make its way through
21 the House of Assembly on a different time scale to the one that
22 the Commissioner is working on. My question is actually the
23 fact that you answered that you want in the spirit of assisting
24 the Commission, and the question is really what recommendation
25 were you thinking of that would assist the Commission?

1 A. Well, what we was hoping that once we give the
2 approval to open the Register to you all, you will see the
3 information because I had copies of my own but I could not have
4 located them at the time, so that's why I say in this document
5 is through the spirit of process of you getting this
6 information.

7 Q. Um-hmm. But what you were saying at your paragraph
8 (c) was that you would recommend amending paragraph 10 of the
9 form to expressly mention said family members, and you would
10 make that recommendation in the spirit of assisting the
11 Commission.

12 A. Yes.

13 Q. And what I'm asking--it's not just falling on your
14 shoulders, Mr Smith, because other Members of the House of
15 Assembly said the same thing to the Commissioner, but my
16 question is really: When would the recommendation be made in
17 order to assist the Commission?

18 A. Well, we normally keep meetings frequently, so I'm
19 assuming that we will try to get a recommendation before the
20 Commission is over as well.

21 Q. If I take you, though, to paragraph 10, page 90 right
22 to the back, please. Sorry, paragraph 10 in the form. If you
23 go to page 90, I'm taking you back to your form and what
24 paragraph 10 says. Go right back to the very last page in the
25 bundle.

1 A. Oh. 90.

2 Q. Yes. And you'll find paragraph 10 of the form that
3 you are asked to complete as a Member of the House of Assembly.
4 Now, I've read it out but again, it goes back to how you as a
5 Member of the House of Assembly approached the form when you had
6 to complete it, and then the question is this: What do you
7 understand to be the purpose of paragraph 10?

8 A. When I read this, it made me--if I have any relatives,
9 any kind of relatives--I look at this as a relative, not just
10 family. So I look at it as a wider scope. And as far as I know
11 I don't have--I can't recall and I don't know who all are
12 related to the BVI, so I have to be very cautious of how I say
13 "yes" or "no" because some might be related to me and I didn't
14 know, so I left it blank.

15 Q. Yes. But what you understood it to be, is it's
16 directed beyond your spouse or beyond your dependent children.
17 It's about whether you have a relative that you know is a
18 relative?

19 A. Yes.

20 Q. Who has an interest that may reflect on how you
21 conduct yourself as a Member of the House of Assembly?

22 A. Yes, that's how I understood it.

23 Q. So, you took a wide interpretation of paragraph 10?

24 A. Yes, I did.

25 Q. But during your evidence, doing the best you can, and

1 accepting that you can--you can only think of those that you
2 know you're related to.

3 A. Correct.

4 Q. You answered that in the negative?

5 A. Correct.

6 Q. Can I turn to another topic, and you've given through
7 your legal representative today, the guidelines for processing
8 assistance grants, which we've got copies, Commissioner, and I
9 hope you have a copy, too, Mr Smith.

10 Now, you're an at-large or a territorial
11 representative, so I think that the amount that is available to
12 you each year is \$150,000; is that right?

13 A. Correct.

14 Q. And I'm not asking about sort of the COVID payments
15 that you may have been asked to assist with. It's just the
16 assistance grants, but have you found or is it your experience
17 in the time that you have been an elected representative that
18 you've actually distributed the entirety of the fund each year?

19 A. Correct.

20 Q. And is it also your experience that when you look at
21 the amount of money that you have each year to distribute
22 against the number of requests you have, there is not enough
23 money?

24 A. Correct.

25 Q. And if so, it's up to you to do the unenviable task of

1 deciding who you will give money to and who you won't?

2 A. Correct.

3 Q. Now, if we look at this form, when did you first get
4 this form?

5 A. Being a part of the House of Assembly, I work very
6 close with the Clerk, they normally ask for information, and
7 upon my being as a Member, I asked for guidelines.

8 Q. They weren't sent to you automatically when you first
9 start?

10 A. No.

11 What happened is that the Clerk was trying to set up
12 (unclear) seminars, but because of Hurricane Irma, and when we
13 went in, it was very hectic, and we were trying to get things
14 done, everything was rushing, and every time we tried to set up
15 a session, one or two Members have been away, so it never came
16 to future. But I took it upon myself to learn and get
17 information.

18 Q. Now, it covers as a piece of guidance a lot of
19 different situations so it allows you to give, for example, we
20 take the first one, the first thing that it prohibits is
21 assistance to self.

22 A. Correct.

23 Q. The second is that assistance to companies in which
24 representatives have a majority ownership or majority ownership
25 interest is not allowed.

1 Now, that suggests that you could give assistance to a
2 company in which you have no interests; is that how you
3 understand it to work?

4 A. Well, how I understand it is you don't give companies
5 any assistance, that's how I look at it. I look at it--what my
6 interpretation of this is I would not give a company assistance.

7 Q. Yeah. That's how you do in practice, but if you read
8 number two, you could reinterpret it in this way: It says
9 assistance to companies in which representatives have a majority
10 ownership interest is not allowed. So, on that guidance, if you
11 had a minority ownership interest, you could give assistance to
12 a company. You if had no interest at all, you could give
13 assistance to a company. Would you accept those interpretations
14 of paragraph 2?

15 A. Well, I think that's your interpretation, sir. I'm
16 not sure I would interpret it at the moment.

17 COMMISSIONER HICKINBOTTOM: Can I just try and divine
18 two things here. These are guidelines which we have just
19 received, and, thanks to Mr Fligelstone Davies, we've got them
20 today. There are two things, though, aren't there, these are
21 guidelines, and, as Mr Rawat says at paragraphs 1 and 2 prohibit
22 certain things, so under the guidelines you can't do it.

23 THE WITNESS: Right, correct.

24 COMMISSIONER HICKINBOTTOM: Paragraph 2 says
25 assistance to companies in which representatives have a majority

1 ownership interest is not allowed, so the guideline prohibits
2 that.

3 THE WITNESS: Correct.

4 COMMISSIONER HICKINBOTTOM: Over and above that, you
5 were and, indeed, other Members may not in practice give
6 companies, any company, majority ownership or not, they don't
7 give companies assistance? That's a different thing because
8 it's not set down here. It's just what you do. Do you see the
9 distinction?

10 THE WITNESS: Yes.

11 COMMISSIONER HICKINBOTTOM: As between what these
12 guidelines prohibit and what you might do in practice?

13 THE WITNESS: I understand.

14 COMMISSIONER HICKINBOTTOM: Yes.

15 BY MR RAWAT:

16 Q. What you can do, though, is you can give financial
17 assistance for educational scholarships. You can give to
18 community organizations, you can assist with medical expenses,
19 education--

20 COMMISSIONER HICKINBOTTOM: I'm sorry, just to pause a
21 moment, sir, we've only seen this, that's not your fault,
22 indeed, it's because of Mr Fligelstone Davies that we've got
23 this.

24 MR RAWAT: Yes.

25 COMMISSIONER HICKINBOTTOM: And so, we're all sort of

1 looking at this for the first time today.

2 The first two paragraphs prohibit things; no doubt
3 about that. They prohibit assistance to yourself or close
4 family members, which are defined, and companies in which you've
5 got a majority interest.

6 Paragraphs 3 and 4 allow you to give. They confirm
7 that you're able to give assistance for scholarships and to
8 certain community organizations. What paragraph 5 does, it's
9 got nothing to do with prohibitions or powers. What it says is
10 that where you've got an application for medical expenses,
11 they've got to be accompanied by certain documents, so that's a
12 sort of procedural thing.

13 And again paragraph 6 is the same. It says that
14 requests in respect of educational grants, again, they've got to
15 have supporting documentation, so that's again, a procedural
16 thing.

17 So, this is a mixture of things which are prohibited,
18 things which are expressly allowed, but I don't think they
19 pretend to be comprehensive. They just confirm that certain
20 things are allowed. It indicates that in respect of particular
21 requests they've got to be substantiated in a particular way.

22 THE WITNESS: Correct, Commissioner.

23 And also this is just a guide. The guide that we use,
24 but the Clerk is the one who will make sure that this is done,
25 so that's a check and balance, once we say something is correct,

1 she follow this guide as well.

2 COMMISSIONER HICKINBOTTOM: So, the Clerk of the House
3 will, for example, if an application has been made by you, will
4 strike that out because it's contrary to paragraph 1.

5 THE WITNESS: Correct.

6 COMMISSIONER HICKINBOTTOM: Or if it's in respect of
7 an operation but is not accompanied by the evidence of the
8 attending physician.

9 THE WITNESS: Correct.

10 COMMISSIONER HICKINBOTTOM: That will also come back,
11 so she makes sure that this is complied with in that sense.

12 THE WITNESS: Correct, Commissioner.

13 COMMISSIONER HICKINBOTTOM: Thank you very much.

14 THE WITNESS: You're welcome.

15 COMMISSIONER HICKINBOTTOM: Mr Rawat.

16 Sorry, whilst on this, and again, mainly because this
17 is the first time we've had this, in respect of paragraph 10,
18 paragraph 10 reads: "District offices expenses relating to
19 rent, staff and operating expenses are allowed up to a maximum
20 of \$24,000 per annum". Leaving aside whether you do this or
21 not, am I to understand by that that, of your \$150,000, \$24,000
22 of that sum can be used on your district office expenses?

23 THE WITNESS: Commissioner, I cannot answer that
24 question because I'm not in a district.

25 COMMISSIONER HICKINBOTTOM: Of course not.

1 (Overlapping speakers.)

2 COMMISSIONER HICKINBOTTOM: Okay. Fair enough. Thank
3 you.

4

5 BY MR RAWAT:

6 Q. You may not be able to answer the next question, then,
7 which is at paragraph 12, Mr Smith, because that says district
8 projects are allowed from the grant.

9 What is meant by "district project"?

10 A. I think I can answer that question.

11 For instance, this is a project in a school, with the
12 district, set by the district, they could decide to do a project
13 in a district.

14 Q. I see.

15 And is it down to the individual, elected
16 representative, to decide in the first instance whether it's a
17 viable project or not?

18 A. I would say "yes", it would consultants--some sort of
19 consultants, somebody who is in the field of whatever they want
20 to fix.

21 Q. If you look at paragraph 8 on the first page, which
22 refers to financial assistant grants being limited to
23 individuals experiencing genuine hardship brought on by unusual
24 and extenuating circumstances. Is it just left to you to decide
25 whether the circumstances of the applicant are both unusual and

1 extenuating?

2 A. If I could talk on my own behalf.

3 Q. Of course.

4 A. I would suggest that how I look at it, if somebody
5 come in with a problem and I investigate the situation, then I
6 could make a determination if there is evidence that that person
7 do need help, then I will try to provide the assistance to help
8 him.

9 Q. But you obviously have a lot of people needing help,
10 and you may share the view of your colleagues that actually you
11 get more requests for help than you can actually assist with?

12 A. That is true, but how I broke down my category is, I
13 look at people who want help and who need help. That's how I
14 categories what I do. I look to who need instead of who want.

15 Q. I mean, what are your criteria for someone--defining
16 someone as falling into the category of needing help rather than
17 wanting help?

18 A. Sorry about that.

19 Q. Yes.

20 A. I have investigated myself and have the evidence that
21 they do need help, like somebody I know is behind three months
22 in rent or the bank is trying to take over their home because
23 they're not working, things like that, or somebody--some family
24 have like six kids or four kids, not working. I look at it as
25 who need, and then--not somebody's who's working already,

1 getting an income but still you come and you say you need help
2 with your rent. I could have on a second say, "Hey, look, I
3 have more people with need than you", so I give it to people
4 that need it most.

5 COMMISSIONER HICKINBOTTOM: That requires an
6 assessment by you, a judgment by you.

7 THE WITNESS: Yes, yes.

8 COMMISSIONER HICKINBOTTOM: And it's a potentially
9 particularly difficult judgment, as I see, for at least two
10 reasons, that one is I suspect as Mr Rawat said, the amount of
11 applications you get for people whose, I will use the phrase,
12 whose "need" for help is substantial. The number of
13 applications and the amount of the applications must far
14 outweigh the amount of money that you've got.

15 And secondly, the applications you must get must range
16 over a huge scope of need. I mean, from people who need
17 operations to people who are behind with rent, all sorts of
18 things.

19 So, in respect of the assessment that you have to make
20 as to where this money goes, it's particularly difficult, isn't
21 it?

22 THE WITNESS: To the Commissioner, I don't think it's
23 difficult because what I do, I work alongside some the same
24 organizations like social services and FSM to get the
25 information, so they might send people to me but when I speak to

1 them, I tell them okay it's possible to put it on the form.
2 This is not something that I'm doing on my own. I seek the help
3 from the different organizations that we have, even some of the
4 non-profit organizations who might have people who just need
5 food, who need help. There, too, I cooperate with them and get
6 the information, and then I'll tell an individual, go and fill
7 out a form, come to me and then I'll make an assessment. This
8 is not solely--I make sure--

9 COMMISSIONER HICKINBOTTOM: Thank you very much.

10 BY MR RAWAT:

11 Q. The question I put to Ms Maduro-Caines is the
12 situation where if you have someone that you're prohibited from
13 assisting who does need help, where can they go for assistance?

14 A. Like I said a while ago, I also deal with FSM, the
15 social welfare, so if somebody come in, can I help with them and
16 their family, I may tell them go to FSM, to go social services.
17 And sometimes other Members might be able to assist that person,
18 if they're not related to them as well, once they're not
19 related. But what I always try to do is check and balance,
20 whereas if somebody come to me for help, I might try to call
21 other Members to find out if this person came to you for help to
22 avoid duplications.

23 Q. I see.

24 Is there a system, I think it does refer it to
25 paragraph 14, which refers to a tracking system. Is that

1 operated by the Clerk of the House of Assembly?

2 A. Yes, that would be operated by the Clerk of the House
3 of Assembly, but what I propose to do myself is I keep copies of
4 every form that I fill out, and that is copies from the Clerk.
5 I would have some of them, but if she have them, I'll have
6 access to them under my own name.

7 Q. I see.

8 Are you aware or do you have any understanding how
9 well this tracking system works? Because it's intended to avoid
10 multiple or repeated grants.

11 A. I think it works very well because at times the Clerk
12 will, she will send you back some of the stuff saying that that
13 is a duplicate, or somebody is already helping this person, so
14 there is a check and balance.

15 Q. Thank you.

16 In terms of your distribution of the fund, obviously
17 that's an ongoing process throughout the year, and as I
18 understand it, you don't get the full lump sum at the beginning
19 of the year. You get it in quarterly amounts; is that right?

20 A. Correct.

21 Q. But is there any audit undertaken of how you
22 distributed the funds?

23 A. Well, I cannot say there's an audit from the House of
24 Assembly to me, but there is audits being done on the House of
25 Assembly. They have to do an audit anyway, so it will be

1 audited.

2 Q. When you say "audits" of the House of Assembly, who
3 will carry out that audit?

4 A. I think the internal audit.

5 Q. And so, as far as you're aware, the Internal Auditor
6 will come in and check whether the system is working overall?

7 A. As far as I know because our Government should have
8 internal audited of all the families.

9 Q. I see.

10 Could I just turn to a new matter, and that is
11 section 67 of the Virgin Islands Constitution, and again,
12 Mr Smith, you've helpfully provided a copy of a House of
13 Assembly Resolution No 8 of 2019. Do you have that in front of
14 you?

15 A. I think, Mr Rawat--
16 (Overlapping speakers.)

17 MR RAWAT: Whilst that's being done, perhaps if I
18 could just move to another question so we can deal with it. We
19 will come back to that matter, Mr Smith.

20 BY MR RAWAT:

21 Q. The question, and it's one I've asked of others and
22 except on the point of campaign financing because--and it's to
23 ask for where you stand on this position, and it's whether if
24 the Virgin Island authorities legislated or instituted policies
25 that covered candidate and party financing and also covered the

1 registration of political parties for the financial--for
2 financial-reporting purposes, whether in your view that is
3 something that would increase trust in elected representatives
4 and in the system?

5 A. Please repeat the question again.

6 Q. Do you think or do you agree that Trust in the system
7 of governance and the way elected representatives conduct
8 themselves would be increased and also the risk of corruption
9 would be decreased if there were legislation and policies in
10 place that covered candidate and party financing and required
11 political parties to register themselves for financial-reporting
12 purposes?

13 A. I welcome any--any law that would make it transparent
14 and to make good governance for the BVI.

15 Q. I'm sorry, drilling down a little bit, would you
16 welcome a law that sought to regulate how much people could
17 spend on their campaign or how much a political party could
18 spend on its campaign?

19 A. I welcome that.

20 Q. And do you think that it would assist public
21 perceptions and public understanding of the process if political
22 parties were asked to declare how much they had spent on their
23 campaign?

24 A. I think so.

25 Q. And do you also think that if people were--and this

1 takes us back to the form, but if there was a requirement to
2 declare donations, perhaps above a certain level, but do you
3 think that would also assist in transparency?

4 A. I have no problem with that as well.

5 Q. We've now got copies, and we can go back to the
6 section 67 point.

7 Thank you.

8 Mr Smith, it's two resolutions of the House of
9 Assembly that you provided to the Commissioner today. If you
10 give me a moment, please.

11 (Pause.)

12 Q. Now, the first one is Resolution No 8 of 2019, which
13 was Gazetted on the 12th of August 2019, and on the second page
14 you've given us a second resolution, Resolution No 9 of 2019,
15 again Gazetted on the same day, 12th of August.

16 Now, in both of those, the decision of the House of
17 Assembly was to exempt you from vacating your seat as an elected
18 Member of the House of Assembly, that's right, isn't it?

19 A. Correct, correct.

20 Q. Now, just so that the Commissioner can understand the
21 process, and we will take each of them in turn, but firstly you
22 got Resolution No 8 and Resolution No 9. Is it right to say
23 that they were in respect of two separate contracts?

24 A. There is one contract.

25 Q. I see.

1 A. Actually, there's two Contracts, there's two different
2 areas, that's why--

3 Q. Yes, and I think we can see that on the form because
4 on the first one it says that the first one the Resolution No 8
5 was in relation to your being a Director in Frontline Systems
6 which was going to hire out equipment for the Virgin Islands
7 Festivals and Fairs Committee for periods in 2019. And that was
8 July--25th of July to 5th of August, and then 6th of August to
9 7th of August.

10 The second resolution is again, Frontline Systems
11 hiring out equipment, but it was for a different period, the 9th
12 to the 10th of August.

13 A. Correct.

14 Q. So, from your perspective, one contract is Frontline
15 Systems hiring out sound and related equipment for a festival;
16 is that right?

17 A. Correct.

18 Q. Now, before this resolution was passed, had Frontline
19 Systems already entered into the contract?

20 A. You mean for the past?

21 Q. Yes.

22 A. We were negotiating the contract.

23 Q. At that time.

24 Now, at that time, and this is--we're in 2019--what
25 was your role, if any, in the company in Frontline Systems?

1 A. The same as it is now, like I told you, Frontline is a
2 solely-owned company by me.

3 Q. But were you taking an active part in the company?
4 Were you involved in the negotiations?

5 A. I would say "yes" because I did a contract. I draw up
6 a contract. Not a contract but a proposal.

7 Q. I see.

8 So but even though because you're a director of the
9 company that wants to contract with Government, unless you want
10 to vacate your seat, you have to get yourself exempted; is that
11 right?

12 A. Correct, but can I make--can I also say that Festivals
13 and Fairs is a statutory body which I did not have to bring this
14 to the House of Assembly but I did it because I want to be
15 transparent.

16 Q. Now, that's very helpful, actually, because you say
17 that it's a statutory body and, therefore, you didn't have to
18 bring it to the House of Assembly. What was that based on?

19 A. After speaking to the past AG, I was told that
20 statutory bodies do not have to come to the House of Assembly to
21 declare.

22 Q. I see.

23 A. The exemption from the past AG.

24 Q. So, if you could have as Director of Frontline Systems
25 entered into any number of contracts with any number of

1 statutory bodies and you wouldn't have had to seek exemptions
2 from the need to vacate your seat, is that what it comes down
3 to?

4 A. I still would have done it because I want to be
5 transparent.

6 Q. I follow that you take a stop. But what you're saying
7 is that you weren't obliged to do it?

8 A. Correct.

9 Q. So, you could have a contract with any statutory body
10 and you would not be obliged to disclose that to the House of
11 Assembly?

12 A. Correct.

13 Q. And this was something in effect your evidence is that
14 you volunteered to do it?

15 A. Correct.

16 Q. Did--this is at the time when you're negotiating, did
17 you end up getting the contract?

18 A. Correct.

19 Q. And how much was the contract for?

20 A. I can't recall off the top of my head right now.

21 Q. I see.

22 You said a few moments ago that at the time this
23 happened you were negotiating with--for the contract. Was it
24 something that you had to go through a tender process for?

25 A. Correct.

1 Q. You said, quite fairly, that you can't remember the
2 precise details of the contract now. But would you be willing
3 to share with the Commissioner the details of that contract
4 process?

5 A. I will have to see if I can locate the contract from
6 the financial--not finance, Festival and Fairs, if they have a
7 copy of the contract because due to Hurricane Irma and stuff,
8 for a while I was not living in my house so most of the
9 documents that I've got, had gotten wet and stuff, that was
10 after 2019, I still was living in just a kitchen.

11 Q. Right.

12 A. So most of the stuff I did not save. Maybe it got
13 damage from water and stuff like that, but I could get it from
14 Festivals and Fairs, if you would like.

15 Q. I think it would assist the Commission to understand
16 how the process works, if we could have--

17 A. No problem.

18 Q. --the documents that's relevant to the process.

19 Just so what your advice that was given to you--and
20 who gave the advice to you?

21 A. From the AG, past AG.

22 Q. The former Attorney General?

23 A. Former. But can I also state that this company has
24 been engaged in festivals from onset.

25 Q. Frontline Systems?

1 A. Right, more than 20 years, we have been bidding for
2 festival. Times I win the bid, times I do not win the bid. So
3 it's not just when I came while I was elected. This was
4 something I was doing way before political aspirations. So,
5 just please keep that in mind as well. Thank you.

6 Q. That's again an important point because what you chose
7 to do was in relation to one specific contract to seek an
8 exemption from the House of Assembly, and what your advice was
9 that you wouldn't actually need to do that?

10 A. Yes, but I did, because of the atmosphere in the BVI,
11 once you're a political member, everybody look at you as corrupt
12 somewhat, so I decide to avoid any sort of confusion, any talk,
13 let me just be transparent with it and get it out, and that's
14 why I did that.

15 Q. And you've explained as a company, Frontline Systems
16 has been operating--

17 A. Yes.

18 Q. --in this area--

19 A. International and local.

20 Q. Now as both an international and local operator,
21 presumably from time to time it has bid successfully or
22 unsuccessfully for government contracts?

23 A. Correct.

24 Q. So, two questions arise from this. First is that,
25 given your approach to the need for transparency, if in 2021,

1 Frontline Systems now decides again to bid for another contract
2 from the other Festivals Committee, would you then be obliged to
3 again--or would you feel obliged to bring it back to the House
4 and get an exemption?

5 A. Well, yes, again, because of transparency I would
6 rather everything come out in a case, I will bring it back to
7 the House, of course.

8 Q. Excepting that from your personal circumstances and
9 your personal decision, do you think that it's something that
10 all legislators should do, that they should treat this
11 section 67 commitment as encompassing contracts with Statutory
12 Boards?

13 A. I can't speak for other Members on that, but I feel if
14 you want to--if you want to make sure that people see you living
15 in the right light and doing the right thing, you bring things
16 up front. That's how I live my life, to bring things up front
17 so that people could see what I'm doing instead of speculating,
18 because, as it were, speculation is a funny thing.

19 Q. I'm not asking you to speak for the others, they may
20 have different opinions from you, but I'm asking for your view
21 as a Legislator whether effectively the obligation that arises
22 under section 67 to seek an exemption should cover contracts
23 with statutory bodies?

24 A. If it makes--if it makes it a sure better governance
25 and transparency, yes.

1 Q. And again, this is from with respect to Frontline
2 Systems having operated for over 20 years, sometimes getting a
3 government contract, sometimes not, but again, going back to the
4 form, is that the sort of interest that you would hope someone
5 who advocates transparency, that that's also the sort of thing
6 that people should make clear that they put on their Register
7 and Interest Declaration?

8 A. Correct.

9 Q. Because again, that goes back to the point, doesn't
10 it? It's putting it out there, any information that may lead to
11 someone saying, well, this could influence your job as a Member
12 of Assembly?

13 A. Correct.

14 MR RAWAT: Sir, can I have a moment?

15 COMMISSIONER HICKINBOTTOM: Certainly, yes.

16 (Pause.)

17 MR RAWAT: I have no further questions.

18 Can I thank Mr Smith for coming today and both for
19 giving evidence and for the way that he has given his evidence.

20 COMMISSIONER HICKINBOTTOM: And can I thank you, too,
21 Mr Smith. As Mr Rawat said both for your time and also for the
22 way in which you have given your evidence, the very clear way in
23 which you have given your evidence.

24 I just raise two things. First, Mr Rawat, is there
25 any homework for Mr Smith?

1 MR RAWAT: I think the one piece of homework that we
2 would give him is the details around the festivals contract.

3 COMMISSIONER HICKINBOTTOM: Good. Thank you very
4 much.

5 THE WITNESS: Commissioner, what I will try to do is
6 ask--maybe I will ask what is the process, how the process works
7 and give you a copy of the contract as well.

8 COMMISSIONER HICKINBOTTOM: Thank you very much.

9 MR RAWAT: Very helpful. Thank you.

10 COMMISSIONER HICKINBOTTOM: The other thing, I think,
11 is really for the Solicitor General, we've now got the
12 guidelines which have come through Mr Smith, but it would be
13 helpful, firstly, simply to confirm with the Clerk of the House
14 of Assembly that these are the guidelines. I'm fairly confident
15 they are, but only one set of guidelines has been referred to.
16 So, if we could confirm that these are they.

17 And secondly, again, just from the Clerk, if we could
18 obtain simply since when these have been in force, since when
19 they were published, and that they are indeed the Clerk's
20 guidelines. But looking at them, they are drafted very much as
21 though they've emanated from the Clerk to the House of Assembly.
22 That would be very helpful. Thank you.

23 Good. Mr Rawat, The Honourable Kye Rymer I think is
24 next.

25 MR RAWAT: Is our next witness.

1 COMMISSIONER HICKINBOTTOM: How would you like to do
2 this? Do you want a five-minute break and then start with
3 Mr Rymer?

4 MR RAWAT: I was going to suggest we have a half hour
5 break for lunch now.

6 COMMISSIONER HICKINBOTTOM: Yes.

7 MR RAWAT: We, of course, convey our apologies for
8 keeping The Honourable Rymer for a little longer than he might
9 have expected, but if we have a short break and then we can
10 begin his evidence.

11 COMMISSIONER HICKINBOTTOM: Yes. Good. We will
12 break, and we will try to start again at 25 past 1:00.

13 MR RAWAT: Thank you.

14 COMMISSIONER HICKINBOTTOM: Good. Thank you very
15 much.

16 (Recess.)

17 COMMISSIONER HICKINBOTTOM: I think we're ready to
18 resume.

19 Thank you, Mr Rawat.

20 THE WITNESS: Good afternoon, Commissioner. The next
21 witness is The Honourable Kye Rymer.

22 Can I ask the witness be sworn, please.

23 COMMISSION SECRETARY: Good afternoon. Would you like
24 to swear an oath or make an affirmation?

25 THE WITNESS: Affirmation.

1 COMMISSION SECRETARY: If you could take the piece of
2 paper in front of you--no--yes. If you could turn it around.

3 THE WITNESS: I solemnly, sincerely and truly declare
4 and affirm that the evidence I shall give shall be the truth,
5 the whole truth, and nothing but the truth.

6 COMMISSIONER HICKINBOTTOM: Thank you very much.

7 BY MR RAWAT:

8 Q. Thank you, Honourable Rymer. Thank you very much for
9 coming to give your evidence today. Your assistance is much
10 appreciated.

11 Can I begin with an apology. We appreciate that we've
12 kept you waiting, but hopefully we'll get through all of your
13 evidence and you'll be able to get on with your working
14 commitments.

15 I need to begin with some formalities. The first is
16 to ask that you give the Commissioner your full name, please?

17 A. Commissioner my full name is Kye M Rymer.

18 Q. And your professional address?

19 A. Manuel Reef, Tortola, BVI.

20 Q. There are a number of bundles that you'll see in front
21 of you. You don't need to look at them yet, but we will go to
22 them in due course. What I would say also is that I hope that I
23 will be keep my questions short and simple. If at any time I
24 ask you a question that you find difficult to understand, please
25 just do ask me either to repeat it or to rephrase it, and I will

1 do so.

2 This may not affect you, Mr Rymer, but we ask all
3 witnesses to remember to keep their voice up and to speak
4 slowly. The reason for that is that the microphone in front of
5 you isn't there just to amplify. What's more important is that
6 it's to record, and it's important we have your answers as
7 clearly and accurately as possible.

8 Again, this is a question that we put to all Members
9 of the House of Assembly that have attend so far, and that is to
10 ask you to begin by giving a summary of your professional
11 background before you entered politics.

12 A. Before entering politics, I worked in the Government.
13 I was a public officer for about 16 years. I worked in various
14 capacities, the last being the Commissioner of Motor Vehicles
15 before entering politics.

16 Q. And it's right you stood and were elected as the
17 Member of the Fifth District, and that was for the Virgin
18 Islands Party in the 2019 Election?

19 A. Correct.

20 Q. And was that the first time that you stood for
21 election?

22 A. Yes, sir.

23 Q. Now, how many people live in the Fifth District?

24 A. How many people live in the Fifth District? I can't
25 really say. I know we have about 1,800 registered voters for

1 the Fifth District.

2 Q. Above have that, do you have any sense of how many
3 others live in your district?

4 A. I don't have a sense of that, sir.

5 Q. Now, the official results show that--and these are
6 taken from the Web site of the Government of the BVI, that 1,238
7 votes were cast in the Fifth District, and you got 638 of those
8 votes, which was 51.53 percent. Does that accord with your
9 recollection of your success at the polls in 2019?

10 A. Correct.

11 Q. And once elected and on assuming office, is it right
12 that you were then immediately appointed to your role as
13 Minister for Transportation, Works, and Utilities?

14 A. Eventually I was appointed the Minister for
15 Transportation, Works and Utilities, yes.

16 Q. Well, how much time passed between assuming office as
17 a Member of the House of Assembly and being appointed to--

18 A. When we were sworn in. We got elected in February and
19 were sworn in, I think, in March.

20 Q. Yes.

21 And at that point did you become the Minister?

22 A. Yes, sir.

23 Q. And have you remained in that role ever since?

24 A. Yes, sir.

25 Q. Right.

1 As you will appreciate the issues, the issue that
2 we're investigating at the moment is the question of interests,
3 and one of the topics that has been canvassed is the Register of
4 Interests. The Commissioner understands that there is a Bill
5 pending, it's the Register of Interests Bill 2021, hasn't
6 reached Cabinet or indeed the House of Assembly, but one of the
7 proposals in that Bill--and this was raised with the Attorney
8 General yesterday--is that is to make the Register of Interests
9 public. Now, is that a measure that you will be supporting?

10 A. It is a measure I will be supporting based on your
11 question, is being amended to be public, the Register, yes.

12 Q. From your perspective as an elected representative,
13 have you always been of the view that the Register of Interests
14 should be public?

15 A. It was never really a topic of conversation for me to
16 say that for it to be public or not.

17 Q. But thinking about it, is it something that you think
18 as a step will promote transparency and accountability?

19 A. Well, being in this position now, it is a right step,
20 and it definitely will build institutions as to making sure that
21 we are transparent, yes.

22 Q. Now, you said that you assumed office in March of
23 2019. Others have confirmed this, the date on which you were
24 all sworn in office or sworn into the House of Assembly was the
25 12th of March 2019. Now, under the Register of Interests Act of

1 2006, which is what the current law--which is the current law
2 applying to Members of the House of Assembly in terms of their
3 interests, you're required to provide a Declaration of interests
4 on that date, the 12th of March 2019, and then you're required
5 on every subsequent anniversary to provide a Declaration of your
6 interests.

7 Were you aware that that was an obligation on you at
8 the time that you were sworn in?

9 A. I can't remember if I was made aware at the time.

10 Q. If you go please to your bundle, there should be a
11 bundle with your name on, Mr Rymer.

12 Do you see it?

13 A. Yes.

14 Q. If you could turn to page 58 in that bundle.

15 This is the first page of the Declaration that you
16 made in 2019. If you go to the very last page in the bundle,
17 right at the back, there's a signature there. Can you confirm
18 that that's your signature?

19 A. Yes, it is.

20 Q. And it's dated the 25th of September 2019; is that
21 right?

22 A. Correct.

23 Q. And is that date in your handwriting?

24 A. Yes, it is.

25 Q. Now, the form is a standard form that is sent by the

1 Registrar of Interests to all Members of the House of Assembly,
2 and the evidence that the Commissioner has received so far is
3 that this form was sent by the Registrar to Members on or around
4 the 12th of March 2019.

5 Do you remember receiving the form from the Registrar?

6 A. I can't confirm if I received it on that date after
7 being sworn in, so I can't confirm that I did get it on that
8 day.

9 Q. Can you confirm this: Have you received
10 correspondence from the Registrar?

11 A. Yes, well, multiple, as you will see in this package,
12 I did receive correspondence from the Registrar in terms of
13 making my Declaration.

14 And if I can elaborate a little bit--

15 Q. Can I just stop you there.

16 A. Yeah.

17 Q. It's important for the record that we take things in
18 stages. I will come back to that--

19 A. No doubt.

20 Q. --and allow you an opportunity to elaborate.

21 Now--so, I'll come back also to the question of
22 correspondence with the Registrar of Interests if I may. The
23 point before we leave this page is that, although the obligation
24 on you is on the 12th of March 2019, you were out by over six
25 months, weren't you?

1 A. Yes. I was out about six months, and that is
2 because--sir, because prior to election I made a Declaration,
3 and after election nothing changed, so it may not have been a
4 priority in terms of making this Declaration.

5 I did also have some concerns with the form in terms
6 of the information requested; and, during that time, you know,
7 quite ambitious in terms of getting the job done for the people
8 of this Territory, I may have neglected to complete the form,
9 but based on the contents or the reason for the Register of
10 Interests Act is for us to declare any interests, and I know
11 nothing changed pre-election and after election in terms of any
12 businesses that I owned or any interests that I had.

13 Q. The reference that you made to declaring your
14 interests for the purposes of election, that's the obligation on
15 you as a candidate to declare interests, isn't it?

16 A. Yes, sir.

17 Q. And the obligation is to publish those interests
18 insofar as they relate to Government contracts in a newspaper in
19 the Virgin Islands?

20 A. Correct.

21 Q. And that's an obligation on all candidates, isn't it?

22 A. Yes, sir.

23 Q. This is a separate obligation. You should have, I
24 hope, it's the other bundle that's--the black lever-arch file
25 there. If you turn that up, it should be headed, I hope,

1 "Constitution and Legislation Bundle".

2 Do you have that?

3 A. Yes.

4 Q. If you turn to page 59, please, that's the first page
5 of the Register of Interests Act of 2006, which is the law that
6 affects you as a Member of the House of Assembly. If you turn
7 to 61--sorry--yes, 61, please. Section 3 says this: "A Member
8 shall make a Declaration in the form set out in Schedule 1
9 within 30 days after this Act comes into force", and the Act
10 came into force in February, the 18th of February 2008, "and
11 thereafter on the date on which he assumes the function of his
12 office and on each subsequent anniversary of that date".

13 So that's the obligation. You must assume it on the
14 date that you assume the functions of your office, that was the
15 12th of March 2019, and then on the anniversary of that date.

16 The Attorney General, in her evidence yesterday, said
17 that one feature of this Act is that it gives no defense of a
18 reasonable excuse, so the fact that you declared your interests
19 as an election candidate doesn't mean that you can avoid filling
20 in this form. Do you accept that?

21 A. Now reading the Act and being privy to the information
22 after this, yes, I can agree that it is a bit different, yes.

23 Q. Well, if you were operating under the mistaken
24 assumption that because you had put an advert in a paper you
25 didn't have to make a Declaration of interests, what had led to

1 you make that assumption?

2 A. You said I make an assumption in terms of putting the
3 two together as I mentioned I did, I thought making my
4 declaration prior, pre-election and after, I had nothing to
5 declare, and I thought that, you know--I didn't make this a
6 priority actually in terms of declaring based on the Register of
7 Interests Act 2006.

8 Q. But that's a provision that you can see you must
9 consider to be important, mustn't you?

10 A. Yes, sir. It's a provision that is important, and
11 being a new Legislator, having someone direct us to noting these
12 things would have been properly documented, I'm sure, but we had
13 no prior training or information in terms of certain acts that
14 you're now speaking of.

15 Q. You were a new Legislator. Was there anyone in the
16 Party who might be described as an old Legislator?

17 A. Explain "old".

18 Q. Old.

19 A. I have some old--

20 Q. Old in terms of experience. Was there anybody who'd
21 been elected in 2019 in your party that had been a Legislator in
22 previous Houses of Assembly?

23 A. Well, as you'll be aware, The Honourable Premier, he
24 has been. He was the only one at the time previously elected.

25 Q. And did you go and ask The Honourable Premier what

1 your obligations as a Member of the House of Assembly were?

2 A. If I went and asked him? I can't say that I went and
3 asked him what the role was, but, you know, once you got your
4 documentation, you reviewed, you did your research, and, you
5 know, with the help of The Honourable Premier, yes, then we
6 moved forward.

7 Q. So, is that, yes, I did go and ask The Honourable
8 Premier or, no, I did not go and ask The Honourable Premier?

9 A. The information was provided in terms of some--in
10 terms of some of the functions that you would carry out
11 especially as a Minister, you had your Cabinet Handbook, you
12 were given various documents, the Constitution and so forth.

13 Q. Did ask you The Honourable Premier--
14 (Overlapping speakers.)

15 A. I didn't ask--

16 Q. --lifts?

17 A. I can't say that I went and asked him about the
18 Register of Interests.

19 Q. Did The Honourable Premier, on his own volition, offer
20 you advice about the importance of the Register of Interests
21 Act?

22 A. Well, don't you--just about 28 months, I still can't
23 recall if we had that conversation.

24 Q. Did you receive a letter from the Registrar inviting
25 you to complete the form?

1 A. Yes. And as documented in some of these bundles, you
2 see that there were multiple requests from the Registrar. I had
3 some concerns--well, not concerns, but I had some issues with
4 filling out some of the documents at that time, and, you know,
5 it probably wasn't a priority. Yes, I erred in terms of filling
6 out my Register of Interests form. I filled the first one for
7 after being elected as you just documented in September.
8 Subsequent to that I--

9 Q. Can I pause you there, please, Mr Rymer. I will give
10 you an opportunity to address each form, but it's important for
11 the purposes the record that I take each in turn.

12 COMMISSIONER HICKINBOTTOM: Can I just ask this as
13 well. You said it wasn't a priority, and I understand--

14 THE WITNESS: Personally priority.

15 COMMISSIONER HICKINBOTTOM: I understand that it was
16 not a personal priority, and I understand that having just been
17 elected and appointed a Minister--

18 THE WITNESS: Yes.

19 COMMISSIONER HICKINBOTTOM: --you had a lot of things
20 to do. But this is a statutory requirement of an act of the
21 House of Assembly. It's mandatory, there are no defenses.
22 Shouldn't that circumstance have made this quite a high
23 priority?

24 THE WITNESS: Yes. Commissioner, I think like you
25 mentioned, it should have been a high priority, and like I

1 mentioned, I erred in terms of submitting the Register of
2 Interests Act, and--you know, it probably--like I mentioned, it
3 wasn't a priority at that time based on all the other
4 obligations of being a Minister, being a representative, being
5 newly elected, being ambitious in terms of going out and doing
6 the work for the people. I may have slipped. I also was doing
7 a lot of traveling at that time. During that time frame, I,
8 too, was appointed Deputy Premier, so there was quite a few
9 things that probably--and I could have quite a few excuses why I
10 didn't submit.

11 But, in the end, I made the submittals though a bit
12 late, and I can accept that, you know, I didn't do it based on
13 the act. And I'm someone who actually believes in the law of
14 the land, and like I said, I erred in submitting it, and
15 subsequent to that I completed all of them for the three years
16 that I have been here. Though late for the second year, I still
17 made my declarations.

18 COMMISSIONER HICKINBOTTOM: Thank you.

19 BY MR RAWAT:

20 Q. If you look, please, at that Section 3 again, and just
21 we have--this is the reason we have to take each form in turn.
22 The requirement in Section 3 is that you filed a Declaration on
23 the 12th of March 2019, and you accept that you didn't do that,
24 did you?

25 A. No, I didn't do that, sir.

1 Q. And so, in that sense, you were in breach of the Act
2 in 2019?

3 A. I definitely was in breach.

4 Q. If you turn to--

5 A. For 2019.

6 Q. --page 64, please. If you look at Section 7, it
7 reads, "where a Member"--and this is 7(a)--"where a Member fails
8 to make a Declaration within a period of three months from the
9 date on which the duty to make that Declaration accrued, the
10 Member shall be in breach of the provisions of this Act, and the
11 Registrar shall within the 14 days of the knowledge of such a
12 breach submit a report of such breach to the Committee, which
13 shall meet to consider the report within 21 days of its
14 submission".

15 Now, in relation to that 2019 Declaration, you were
16 again, because you submitted it in September, in breach of
17 Section 7, weren't you?

18 A. You have made that clear, yes, and I accepted that I
19 was in breach of that declaration, sir.

20 Q. And the effect of that is that, in your case the
21 Registrar should have sent a report to the Standing Committee?

22 A. Based on the Act, yes, the Registrar should have.

23 Q. In your case did the Registrar send a report?

24 A. Send a report to whom?

25 Q. To the Standing Committee.

1 A. Well, I would not be aware of that. Or else I would
2 have been summoned or I would have understood the repercussions
3 of not completing my Declaration, so I can't say--or I haven't
4 seen it.

5 Q. Could I take you to the only other Declaration that we
6 have from you, and that is at 47 in the bundle. If you can put
7 the legislation bundles to one side.

8 A. Could I ask you the reason why that is the only
9 Declaration have you for me?

10 Q. Because that is the only Declaration that we have
11 received from the Registrar of Interests, and because the
12 Commission has written to you in the past asking firstly if you
13 were willing to give your interests--your declarations over.
14 And secondly, if you had any information that would assist the
15 Commissioner, and in both instances you haven't felt able to
16 provide that, so this is the entirety of the evidence of the
17 declarations that we have in relation to you.

18 A. Okay.

19 Q. Can I again take it in stages. If we go to that
20 document first, I will ask you some questions about it, then you
21 may be able to explain what has happened to the next
22 Declaration.

23 A. But, could I clarify, sir? Certain things that you
24 said, you said that you asked for information. I never kept
25 records, but after being summoned, I resulted the Registrar of

1 Interests for copies, since it's now public, and she provided me
2 with my three submissions, and I do copies of them somewhere, so
3 we do have copies--I do have a copy of all my submissions.

4 MR RAWAT: If I could have a moment, please.

5 (Pause.)

6 BY MR RAWAT:

7 Q. Can you give an explanation, please, Mr Rymer, why,
8 whilst you were able to reach out to the Registrar, you didn't
9 instruct your lawyers to provide this material to the
10 Commission?

11 A. I think that's a question for the lawyer.

12 Q. I think Mr Olimpitis will agree with me that he can't
13 give evidence at this point, so can you, before we deal further
14 with it, but did you give instructions to your lawyers to
15 provide this documentation to the Commission?

16 A. I didn't give any instructions, but I actually
17 received a bundle, and it included all my declarations.

18 COMMISSIONER HICKINBOTTOM: Can I just break this down
19 slightly.

20 You received a bundle from the Registrar of Interests?

21 THE WITNESS: I went and I got a copy because I think
22 an e-mail told me I need to work with that information.

23 COMMISSIONER HICKINBOTTOM: You personally got the
24 information? You sent that then to whom?

25 THE WITNESS: I have it. I have my document. But in

1 conversation with my--with Mr--with Mr Niki, he has a copy of
2 the--my Declaration as well.

3 COMMISSIONER HICKINBOTTOM: Right.

4 BY MR RAWAT:

5 Q. Well, let's go to the one declaration we have, and
6 I'll ask you some questions about that, and then that may shed
7 light on the third one that you received.

8 If you look at that one, that's at page 47 in the
9 bundle.

10 A. 47 or 37?

11 Q. 47.

12 A. There are two.

13 COMMISSIONER HICKINBOTTOM: We've dealt with--
14 (Overlapping speakers.)

15 MR RAWAT: We looked at 2019.

16 COMMISSIONER HICKINBOTTOM: This is the other one?

17 MR RAWAT: This is the other one that the Commission
18 has received from the Registrar, and it's at page 47 in the
19 bundle.

20 THE WITNESS: I've got that.

21 BY MR RAWAT:

22 Q. So, that one is stamped on the front page with the
23 Registrar of Interests stamp, and it has in manuscript 27th of
24 January 2021.

25 And if you look at page 57, you have there--it is

1 dated or it has a signature, and is that your signature?

2 A. Yes, sir.

3 Q. And it has in typescript the date 27th of
4 January 2021.

5 So, is this your Declaration for 2020?

6 A. Yes, it is.

7 Q. So, that's the Declaration that you should have filed
8 on the 12th of January--12th of March 2020?

9 A. Correct.

10 Q. So, that's a Declaration that is filed over 10 months
11 after the date when it was due?

12 A. And you would also acknowledge that, during that time,
13 we were engaged in trying to keep the country safe with COVID,
14 and being a part of Cabinet, we spent a whole lot of hours in
15 Cabinet, whether remotely and also in the House of Assembly, and
16 that is another reason I could have multiple excuses, but it all
17 boils down to me not submitting on time, and this is another
18 reason why.

19 But again, nothing within my declarations changed as I
20 maintained, and I--I probably may not have made it a priority
21 and hence the reason why the late submittals.

22 Q. But again, the difficulty that you and any other
23 Member of the House of Assembly faces is that, under the Act,
24 there is no excuse for not complying with it, is there?

25 A. Yes. And the consequences should have been in place

1 so that we would have, you know, made sure that we submitted as
2 well.

3 Q. You say that's your 2020 Declaration. You've breached
4 Section 3 again because you didn't file it on the 12 of March,
5 2020, and you breached Section 7 because you filed it more than
6 three months after the 12th of March 2020, so again that's
7 something that you accepted.

8 Now, you say there--you said just now that you should
9 have faced the consequences?

10 A. Correct. And that would be the report from the
11 Registrar to the Committee, and then we would definitely know
12 how to, you know, address it from that standpoint.

13 Q. Now, the Committee is, to give it its full title,
14 which is the title that has in the Act, is that it is a Standing
15 Select Committee, which--Standing Select Committee of the House
16 of Assembly charged for the time being with the consideration of
17 matters relating to the Register".

18 Now, The Honourable Neville Smith, who gave evidence a
19 short while ago, was able to assist the Commissioner by
20 explaining to him that the Committee was established at least
21 for this session of the House of Assembly on the 2nd of
22 September 2019 and Gazetted on the 12th of September 2017.

23 Now, the evidence that we've received from other
24 Members of the House of Assembly is that you were appointed to
25 that Standing Select Committee; is that right?

1 A. Yes.

2 Q. And in that--being appointed to the Standing Committee
3 in September 2019, did you at that point take steps to gain an
4 understanding of the requirements of the Register of Interests
5 Act of 2006?

6 A. I may--I may have, yes. I may have gained some
7 interest in it, yes.

8 Q. Well, what steps did you actually take?

9 A. What steps did I take in terms of what?

10 Q. Well, you were appointed to a committee.

11 A. Yes.

12 Q. Charged with considering the Register of Interests.

13 A. Yes.

14 Q. I asked you if you had taken steps, once appointed, to
15 try and understand what the Register of Interests Act was for?

16 A. Yes, and I think that is why--maybe that's the reason
17 why I submitted it at that time and understanding the importance
18 of it, and you would see from my--my first submittal it was
19 around that time.

20 Q. Your 2019--

21 A. Yes.

22 Q. But having gained that understanding of the importance
23 of the Register of Interests Act, why when it came to 2020, were
24 you 10 months late?

25 A. Well, I basically just explained based on all the

1 other commitments, you know, it probably would have slipped in
2 terms of submitting.

3 Q. You said that the consequences should have followed,
4 and that is a report to the committee. You obviously would have
5 had to recuse yourself from the committee if the report had been
6 sent about your conduct, wouldn't you?

7 A. That's--you're telling me. I'm not sure.

8 Q. Well, would you recuse yourself? If the Registrar
9 sent a report saying The Honourable Kye Rymer hasn't filed a
10 Declaration for 10 months, would you sit and consider that
11 report?

12 A. Well--

13 Q. Or would you step aside?

14 A. Well, let me say that the Committee--I was never
15 summoned to the Committee, so that I can't answer to say what
16 the report would have been like. But if that was the case, I
17 definitely would have recused myself, if that was need be.

18 Q. You say you've never been summoned to the Committee.
19 Since its establishment on the 12th of September 2019, how often
20 has the Committee met?

21 A. I have not been summoned to the Committee as yet to a
22 meeting, so I can't--I'm not sure if there was any meetings
23 called, so I can't say.

24 Q. Have you ever taken it upon yourself to try and
25 convene a meeting of the Committee in order to discuss

1 compliance with the requirements of the Act?

2 A. I'm not sure if that would have been my
3 responsibility.

4 Q. Well, why does it need to be attributed to you as a
5 responsibility? Why couldn't you take it upon yourself--

6 A. Well, I think there is a structure in place, and the
7 meetings are called based on, I guess, availability of the
8 Chairman who happens to be an Honourable Premier.

9 Q. And so is it down to The Honourable Premier to take
10 responsibility for whether the Committee meets or not?

11 A. I presume so.

12 Q. In your circumstance, you've explained the
13 circumstances in which you could not comply within obligation to
14 file a 2019 Declaration on time and also the circumstances why
15 you could not comply with filing a 2020 Declaration on time.

16 Did it not occur to you that other Honourable Members
17 may be in a similar situation and that may be a worthwhile topic
18 for the Committee to meet and to discuss?

19 A. I can't say.

20 Q. Why can't you say?

21 A. I wouldn't know other members' submittal. I would not
22 know.

23 Q. But you knew the predicament that you were in?

24 A. Yeah, yeah.

25 Q. Isn't it a logical conclusion that others might have

1 the same difficulty as you?

2 A. I am not sure. I can't speak to other Members.

3 Q. And so is the way that you approach your work as a
4 Member of the House of Assembly is to simply focus on only what
5 you know and think?

6 A. No, but you're asking me about a submittal for other
7 Members and if they themselves erred, I would not have asked
8 them their personal business because this pertains to their
9 Declaration, so I can't go to them and say and that. I wouldn't
10 go to them and ask them did you submit, if not, let us go and
11 have a meeting. I just never asked.

12 Q. You may have misunderstood my question?

13 A. Probably.

14 Q. The point is that you were in a particular
15 predicament, weren't you? You were appointed a Minister, but
16 you've explained to the Commissioner why you were late in 2019.
17 You've explained to the Commissioner why you were late in 2020.
18 I'm suggesting to you that you might not have been alone in
19 experiencing difficulties with compliance; and, as a Member of
20 the Standing Select Committee, it might have been a good step to
21 say to the other Members of the Committee perhaps we should
22 consider whether there is--there are others who are also
23 experiencing difficulties in compliance. I wasn't asking you
24 about whether you had conversations about people's interest, but
25 whether it occurred to you to raise this with the Standing

1 Committee so that you could all collectively address whether
2 there were problems in principle with compliance?

3 A. Okay. Well, you suggested. I misunderstood you
4 saying that if I knew other Members did not submit, it was my
5 duty or it should have been my duty to go and ask them and then
6 convene a meeting, so I misunderstood you, if that is not what
7 you said.

8 Q. That isn't, but you still haven't answered my
9 question?

10 A. Well, you were making a suggestion, I didn't know you
11 asked me a question.

12 Q. Did it occur to you--

13 A. No.

14 Q. --to go to Standing Committee--

15 A. No.

16 Q. --to discuss whether there were others experiencing
17 the same difficulties as you with compliance?

18 A. No. It didn't--it didn't occur to me because I go
19 back to the same point that I may not have known the submittals,
20 so I didn't know if anyone else was in breach.

21 COMMISSIONER HICKINBOTTOM: Mr Rawat will have some
22 more questions for you on the system, but this doesn't sound to
23 me to be a system that is working very well in terms of
24 governance.

25 THE WITNESS: Well, the--

1 COMMISSIONER HICKINBOTTOM: The Standing Committee has
2 some responsibility for the Register of Interests.

3 THE WITNESS: Yes.

4 COMMISSIONER HICKINBOTTOM: As I understand it, it's
5 never met. You or the Deputy Premier have been extremely slow
6 in complying with obligations, and have certainly been in--

7 THE WITNESS: Repeat?

8 COMMISSIONER HICKINBOTTOM: You've been very slow in
9 complying with any obligations and had been in substantial
10 breach. Nothing has happened. This is not a system that's
11 working, is it?

12 THE WITNESS: Well, this is an institution that can be
13 improved. It can be improved.

14 COMMISSIONER HICKINBOTTOM: Okay. Yes, thank you very
15 much.

16 BY MR RAWAT:

17 Q. But it might be said that it can only be improved if
18 Honourable Members take their statutory obligations seriously?

19 A. That's a part of the improvement as well as the
20 processes in place and making sure the other parts of the Act
21 are followed as well, yes.

22 Q. But you've referred to reaching out to the Registrar
23 for your declarations because you've now obtained copies of
24 them; is that right?

25 A. Oh, yes, yes.

1 Q. And does that include--what happened to your
2 Declaration for 2021, which was due on the 12th of March 2021?

3 A. What do you mean, what happened to it?

4 Q. Well, we haven't seen a copy of your Declaration, if
5 you filed a Declaration.

6 A. So, what I mentioned earlier is that it was filed, and
7 I retrieved a copy from the Registrar myself, so I'm not sure
8 where the--why she was not able to submit it to you, but I have
9 a copy of it.

10 Q. On what date was it filed?

11 A. It's dated the 12th of March 2021.

12 Q. And you have a copy of it. We don't have a copy of
13 it. Who else has a copy of it?

14 A. He has a copy of it. My lawyer has a copy of it.

15 Q. Would you be willing to provide a copy of your 2021
16 Declaration to the Commissioner?

17 A. Oh, of course. We will.

18 COMMISSIONER HICKINBOTTOM: Thank you.

19 BY MR RAWAT:

20 Q. Did the Registrar send you any correspondence about
21 your failure to comply with the requirements of the 2006 Act?

22 A. Yes.

23 Q. Did she send you reminders?

24 A. Yes.

25 Q. And when it came to the anniversary, did she send you

1 a letter saying, "This is the form you've got to fill in, and
2 here it is, fill it in by the 12th of March"?

3 A. I think I've seen that, yes.

4 Q. You say you've seen it. Do you have copies of that
5 correspondence?

6 A. I can get you a copy of them, yes.

7 Q. Well, again I ask would you be willing to provide
8 copies of the correspondence you received from the Registrar to
9 the Commission?

10 A. Yes, sir.

11 Q. Could we turn, please, in the bundle to page 10. If
12 I've taken you to the right page, you should have a letter dated
13 the 19th of February 2021 from the Commission?

14 A. Yes, sir.

15 Q. Now, that letter is focused on the Register of
16 Interests 2006, and if you go to page 11, it sets out at page 11
17 three requests that were made of you as a Member of the House of
18 Assembly, and a similar letter was sent on the same day in the
19 same terms to Members of the House of Assembly.

20 And so, you were asked, Honourable Rymer, to say three
21 things. Firstly, the date and content of each Declarations of
22 Interest you've made at any time during your tenure; secondly,
23 you were asked to provide, irrespective of any such
24 Declarations, the information and documents that you would
25 provide in such a Declaration of Interest; and then, thirdly,

1 you were asked, if, during your period of appointment as a
2 Member you have failed at any time to comply with your
3 obligation to make such a Declaration pursuant to Section 3(1),
4 in respect of each such failure, a full explanation as to why
5 you did not make such Declaration and what, if any, sanction,
6 admonishment, or direction or other adverse consequence
7 resulted.

8 Now, before I leave it, can I draw your attention just
9 to the paragraph that follows, which relates to the actual form
10 itself, and it may be something that we have come back to, but
11 if it's a particular paragraph of the form, and that is
12 reference to paragraph 10 of Schedule 1 of the 2006 Act, and the
13 letter says: "the Commission considers, and in any event
14 requests that when responding to that paragraph you should
15 include any relevant interests of immediate family Members and
16 any persons living in the same household".

17 You will find your reply at page 13.

18 What you said was, in response to the letter: "As a
19 Member of the House of Assembly, and since the introduction of
20 the Register of Interests Act of 2006, I have complied with
21 Section 3 of same in the form and manner as set out in
22 Schedule 1 therein".

23 Now, coincidentally, the 12th of March 2021 was the
24 date on which you had signed your most recent Declaration, but
25 what you said at (a) is that you have since the introduction of

1 the Act complied with Section 3.

2 Now, given when you submitted your 2019 Declaration
3 and your 2020 Declaration, that isn't quite right, is it?

4 A. Well, I wouldn't say it's quite right. But I did
5 comply. I think the--the response, it probably left out the
6 fact that the late aspect of the Act was not considered, so it
7 is where I didn't comply.

8 Q. Was there a reason why you didn't disclose in that
9 letter that you hadn't, as of the 12th of March 2021, been able
10 to submit a Declaration on time?

11 A. No.

12 Q. You also said at (b) which other Honourable Members
13 who sent similar letters also say, is that you don't keep copies
14 of your Declarations of Interest. Why don't you keep copies of
15 your Declarations of Interest?

16 A. I think it's--I'm not sure why I don't keep a copy of
17 it. The Register after all was a private issue, so I'm not sure
18 it was necessary to keep copies as to the reasons why I
19 went--while we at the House of Assembly we agreed to make--to
20 amend the legislation to allow for retrieval of this
21 information.

22 Q. One of the things that the act also allows is for one
23 Honourable member to raise a complaint about the interests of
24 another, and so that complaint goes through the Registrar, but
25 it can end up in front of the Standing Committee and it

1 ultimately can end up in front of the House of Assembly.

2 A. Um-hmm.

3 Q. In circumstances like that, where you are at that risk
4 of a complaint, wouldn't it be sensible to keep a record of your
5 own Declaration as you submitted it?

6 A. Well, you're saying that now, I could understand, yes.

7 Q. Can we look at the information that you did provide,
8 and if we go to page 47, please. I'm taking you back,
9 Honourable Rymer, just to the most recent Declaration that we
10 have, which is the one that is dated the or stamped, so forgive
11 me. The date that the Registrar has put on it is the 27th of
12 January 2021. But, as you've explained, this is your 2020
13 Declaration.

14 Now, what the Act obliges you to do when you're making
15 the Declaration, is to declare all the interests that are held
16 on the date on which the duty to make the Declaration arose.

17 Now, that would be the interests that you hold or any
18 Member holds as of the 12th of March of every year.

19 Now, when you came to make your Declarations, because
20 you were making them late, were you making them as at the 12th
21 of March or as at the date that you were submitting the
22 Declaration?

23 A. Well, like I mentioned, the Declarations are all the
24 same. Nothing changed in them, so it would have been March 12th
25 or it could have been in September but nothing actually changed.

1 Q. But this is a wider question. Where a Member such as
2 yourself is submitting late, do you think that there is any
3 possible confusion, because they're submitting late, as to what
4 interests they need to declare?

5 A. No. Like I mentioned, the interests remained the
6 same, so at that time or at the late stage, they were all the
7 same, so you know there was no confusion in terms of if I may
8 have forgotten an interest or something.

9 Q. Well, the question was deliberately not aimed at your
10 particular situation, but I'm putting you in the one
11 circumstance that I'm relying on is that you submitted late.

12 A. Yes.

13 Q. When you come to do that--

14 A. --answer yes.

15 Q. --between the 12th of March and the 25th of September,
16 your circumstances may have changed, you may have got rid of an
17 interest. You may have gained an interest. If you are
18 submitting late, does it create any confusion for you as a
19 Member as to whether you should be declaring the interest as of
20 the 12th of or March or at the date you actually submit the
21 form?

22 A. So the question is to me or any Member?

23 Q. Well, to you as an example of someone that submits
24 late.

25 A. Because I just answered--

1 Q. I accept--I accept that your evidence is that your
2 interests have not changed throughout. The point is whether it
3 causes confusion for those whose interests might change?

4 A. Oh, so now it's for other Members? Well, I can't
5 answer that. If they're late, I would hope that they would
6 report what their current status is.

7 Q. So, as of the date that they file it?

8 A. Yes.

9 Q. If you look at page 47, there's a preamble to the
10 form, which sets out its purpose. When you first filled the
11 form, did you read that Preamble?

12 A. Yes.

13 Q. It says: "The main purpose of the Register of
14 Interests is to provide information of any pecuniary interest or
15 other material benefit which a Member receives which might
16 reasonably be thought by others to influence his or her actions,
17 speeches or votes in the House of Assembly or actions taken in
18 his or her capacity as a Member".

19 Now, when you read that, what did you conclude to be
20 the purpose of the form?

21 A. Just as it states. You provided any information of
22 the interests or material that would benefit a Member, just like
23 it read.

24 Q. But doesn't it go further than that? Don't you have
25 to consider that it's important to declare interests that may be

1 thought by others as potentially influencing your conduct as a
2 Member of the House of Assembly?

3 A. It says that, yes.

4 Q. So, in completing this form, if you're doing it
5 diligently, do you not have to, as a Member of the House of
6 Assembly, think, well, what would others reasonably believe of
7 what I put in this form?

8 A. Well, exactly--the form is saying that whoever think
9 that I may have certain things I may register, but I wouldn't
10 know what they think about me, but I know the interests that I
11 had that I listed them.

12 Q. Well, can we look at the interests that you listed,
13 just going through your responses to each paragraph.

14 At 48, the first point matter that you were asked to
15 declare is whether you have any remunerated--unremunerated
16 Directorships in any company, and you've answered "no", and
17 that's your position?

18 A. Yes.

19 Q. And that position has remained unchanged throughout
20 your time as a Member of the House of Assembly?

21 A. Correct.

22 Q. When we go to 2, you're asked there, as a Member of
23 the House of Assembly, whether you have any employment, office,
24 trade, profession or vocation apart from membership in the House
25 of Assembly or ministerial office for which you are remunerated

1 or on which you have any pecuniary interest".

2 Now, you've answered in 2020 "no", and then in--I
3 think is that the position in your 2021 forms? You answered
4 "no", again?

5 A. No, in 2020, I think I listed a person's name because,
6 under the trade license--under one of the trade licenses, there
7 was an employee of the business who was not functioning, but
8 that was changed in the subsequent Declaration.

9 So, the person that was named on the trade license
10 that worked for me at that time, when this Declaration was made,
11 was in the process of getting transferred to their rightful
12 place that they wanted to work.

13 Q. I think we might be getting our years mixed up. So,
14 I'm looking at your 2020 Declaration. Mr Olimpitis has the
15 advantage over everyone in the room apart from yourself in that
16 he has the 2021 Declaration, so here is your 2020 Declaration.
17 You said "no". So, if I go to--I think you're thinking of your
18 2019 Declaration on page 60.

19 A. Yes. That's what I was speaking about.

20 Q. Yes.

21 A. In my First Declaration, I listed that.

22 Q. Yes.

23 A. And the subsequent one, it is not listed because that
24 employee has now moved on.

25 Q. For the benefit of the Transcript and those who may be

1 following this online, in 2019, when you made your 2019
2 Declaration, which is the first time you made the Declaration,
3 you had written under (2), scooter rental business, and then you
4 gave the name of an employee.

5 A. Yes.

6 Q. Now, and what your evidence is to the Commissioner is
7 that by the time you came to fill in your 2020--

8 A. Yeah--

9 Q. --form, that business was effectively moribund?

10 A. No, I didn't say that.

11 What happened in 2019, the scooter-rental business was
12 not functioning, but all the trade licenses were always kept
13 up-to-date. Being as many other persons in our community, we
14 do--we're ambitious, we go and get multiple trade licenses for
15 businesses that we think might work. Some probably never got
16 off the ground, but this scooter-rental business, it was in
17 operation for a certain time. An employee came in from
18 overseas, got a work permit through the trade license, but
19 eventually with the business I work in, that person went on to
20 find employment subsequently.

21 Q. Looking at page 60, what you're asked to do is to set
22 out details, and all that you've written is "scooter-rental
23 business". Looking at that, do you think that you were giving
24 sufficient details on that form?

25 A. Probably not now since I'm looking at it closely.

1 Q. Because you don't even name the company, do you?

2 A. I didn't name the company.

3 Q. Now, if you go, please, to page 21C in your bundle--

4 A. Yes.

5 Q. --this is an extract from the Island Sun for Saturday
6 the 2nd of February 2019. If you look in the third column
7 across and then three down, there is your Declaration of
8 Interests?

9 A. Yes.

10 Q. And that's the Declaration that you file as an
11 election candidate, isn't it?

12 A. That's right.

13 Q. And what you said there is that you're connected to
14 the following companies in the capacity as indicated, and you
15 say: "Courtesy Bike Rentals as co-owner and Manager, Renta Car
16 BVI as co-owner and Manager.

17 Is Courtesy Bike Rentals the scooter company?

18 A. Yes.

19 Q. Now, this was in January 2019. You don't mention
20 Renta Car BVI on your 2019 form?

21 A. Yes.

22 Q. Is there any reason for that?

23 A. Yes, because Renta Car BVI is again you obtain trade
24 licenses, you get license plates, the business is not operating,
25 there are a couple of vehicles with the rental plates on there

1 that is driven by family, myself or my daughters. So, it's not
2 a business that I'm out there promoting and making money from.

3 Q. But the trade license is still up-to-date?

4 A. Most of the trade licenses are up-to-date. And it's
5 only after this Commission was called because many of us have a
6 lot of trade licenses. I obtained my first one in 2001, but
7 that business has closed since, but annually, we always try to
8 pay our trade licenses to keep them current.

9 Q. When you were earlier giving the explanation as to why
10 you were late with your 2019 Declaration, one of the reasons you
11 gave was that you made a Declaration as an election candidate?

12 A. Yes.

13 Q. And that led to you think, well, do I need to do it
14 again in this form? But what you didn't put on your form was
15 any reference to Renta Car BVI?

16 A. I think because the interests asked for anything that
17 you were getting remuneration or anything like that, so I didn't
18 think it was necessary to list it.

19 Q. In 2019, were you getting remuneration from Courtesy
20 Bike Rentals?

21 A. No.

22 Q. So, you put in your form in 2019 reference to a
23 business, the scooter-rental business, reference to a business
24 for which--from which you were getting no remuneration but then
25 decided not to put in reference to Renta Car BVI, which was

1 another business for which you were not getting remuneration; is
2 that right?

3 A. Correct.

4 And the reason for listing--listing them is again
5 because for the scooter business, there were actually a couple
6 of--there were a couple of scooters that I owned that I would
7 actually ride, so those trade licenses or those license plates
8 were attached to that trade license, so I just thought it was
9 necessary to list it. But subsequently there was no--you know,
10 the scooter, put them away so they're not actually on the road
11 at this moment.

12 Q. Let's go back to 15 in the bundle?

13 A. 15?

14 Q. We will go back to the form again. Paragraph 3 links
15 back to what any Member may have written in paragraphs 1 and 2.
16 And it's--what you're asked is whether any of the paid
17 employment registered either under Directorship of remuneration
18 entailed a provision to clients of services which depend
19 essentially upon or arise out of your position as a Member of
20 the House of Assembly. And you'll see the notes at the bottom,
21 and it says services covered by this category include action
22 connected with any parliamentary proceeding, sponsoring meetings
23 functions in the House of Assembly, its building, also making
24 representations to Ministers and Fellow Members, et cetera.
25 Now, there you've answered "no", and is that the case, that

1 you've never made representations, for example, on behalf of
2 anyone?

3 A. No.

4 Q. If you go to paragraph 451, there are two aspects of
5 paragraph 4. The first is it asks a Member to answer this
6 question: "Did you benefit from any sponsorship before
7 election, where to your knowledge, the financial support in any
8 case exceeded in aggregate \$2,500?" And again the note, if I
9 direct your attention to Note 2 at the bottom, you were asked to
10 register money given to you by your Election Campaign Committee,
11 money spent by your Election Campaign Committee in connection
12 with your election with your permission. So, there are three
13 things you could be asked to declare: Sponsorship before
14 election, money given to you by your Election Campaign
15 Committee, and money spent by your Election Campaign Committee.

16 Now, when you approached the form and you were looking
17 at this question, what did you understand was meant by
18 "sponsorship before election"?

19 A. Sponsorship, it just meant if you had any--just like
20 it stated. That's what I--my answer to all those who are known.

21 Q. But does that include donations?

22 A. That's your interpretation of it?

23 Q. No. It's my question.

24 A. No, I'm just trying to understand. You said if it
25 includes the nation, so we're speaking about sponsorship and

1 donation.

2 Q. Is there a difference in your mind between the two?

3 A. Yes, there is a difference.

4 Q. Can you explain to us what you understand
5 "sponsorship" means.

6 A. Well, as I'm thinking about it now, sponsorship and
7 donation are basically the same thing.

8 Q. You say you're thinking about it now. When you were
9 completing the form in 2019, did the way it's worded cause any
10 uncertainty in your own mind?

11 A. No.

12 Q. So, if you had received a donation that was over
13 2,500, would you have declared it in this form?

14 A. Yes.

15 Q. Do you think that the fact that it specifically refers
16 to just to sponsorship could cause uncertainty?

17 A. No.

18 Q. So, all Honourable Members looking at this form should
19 be clear and in no doubt that what they should be writing down
20 here is if they've received any donations towards their
21 campaign?

22 A. I can't speak to all Honourable Members, sir.

23 Q. Well, would The Honourable Kye Rymer write down any
24 donations that he received over 2,500?

25 A. Yes, as I did, I would know.

1 Q. The question that the Commissioner has raised with a
2 number of Honourable Members is about whether there are any
3 regulations in place in the Virgin Islands concerning campaign
4 finances. Are you aware of any such regulations?

5 A. Well, I--no.

6 Q. One point that a number of Members of the House of
7 Assembly have already given evidence have made is that they fund
8 their own campaigns. To what extent did you have to fund your
9 own campaign?

10 A. I purchased shirts, a few memorabilias, and I did a
11 whole lot of grassroots campaigning and went house-to-house.

12 Q. Is there any limit that you're aware of how much money
13 you can choose to spend on your own campaign?

14 A. At that time I wasn't aware. Anybody who wants to
15 spend whatever money they have in terms of whatever they need to
16 get a jump, get a jump.

17 Q. You say at that time I wasn't aware of it. Has your
18 understanding changed since that time?

19 A. No, I'm not aware.

20 Q. The second part of paragraph 4 says--asks Members to
21 answer this question: "Do you benefit from any form of
22 sponsorship or financial or material support as a Member of the
23 House of Assembly?" And there, the guidance that us given to
24 Honourable Members is: "You should register under the section
25 any financial or material benefit, direct or indirect, for

1 example, the provision of free or subsidised accommodations or
2 provision of the services of a research assistants or at
3 subsidised salary rate".

4 Now, in your case, you've answered "no" to that, and
5 that's been the same throughout your time as a Member of the
6 House of Assembly, hasn't it?

7 A. Yes.

8 Q. So, you don't receive any kind of benefits or support
9 in any way as a Member of the House of Assembly?

10 A. From whom?

11 Q. From others other than public funds.

12 A. No, sir.

13 Q. Again, if we go to five, which is at 52, you're asked
14 under five, and this is gifts, benefits and hospitality, and
15 it's in brackets the Virgin Islands but you're asked, have you
16 or your spouse, to your knowledge, received any gift of a value
17 greater than \$500 or any material advantage of a value greater
18 than 1.5 percent of the current salary of an elected Member of
19 the House of Assembly from any company, organization or person
20 within the Virgin Islands which in any way relates to your
21 membership with the House of Assembly", and you've answered "no"
22 to that, and that's been the position for you throughout your
23 time as a Member of the House of Assembly; is that right?

24 A. Yes, sir.

25 Q. Now, what you're asked or what Members are asked is to

1 include any hospitality given and services or facilities offered
2 free or to a price generally below that available to members of
3 the public, except that where the advantage is known to be
4 available to all Members of the House of Assembly, and you're
5 also told that you should include not only gifts and material
6 advantages received personally by you and your spouse, but also
7 those received by any company or organization in which you or
8 you and your spouse jointly have a controlling interest. Now
9 again, you answered "no", but when you've completed the form now
10 three times, on your evidence, this aspect of the requirements
11 imposed on you as a Member of the House of Assembly, do they
12 raise any uncertainty or doubt in your mind as to what
13 information you are required to provide?

14 A. No.

15 Q. Paragraph 6, which you've again answered "no" on all
16 forms, relates to overseas visits, and it's where the visit is
17 related to your membership or rises out of your membership as a
18 Member of the House of Assembly, so it's not about personal
19 trips you may make, and where the cost has been borne by someone
20 other than you or public funds. And again, in your case, the
21 position is you've answered negative to all of that in every
22 Declaration; that's right, isn't it?

23 A. Correct.

24 Q. Paragraph 7 relates to overseas benefits and gifts.
25 It's the same question that you were asked to complete, and it's

1 directed to you or a spouse, if you have one. And it's about
2 receiving gifts, as I said earlier over \$500 or 1.5 percent of
3 the current salary.

4 But at this time it's given to you or on behalf of a
5 foreign government, organization, or person, and in your case,
6 as a--the answer you have given is "no", you haven't received
7 such gifts at all; is that right?

8 A. Yes.

9 Q. Now, can I pause there just to ask you this: This
10 Declaration of Interests is directed at you as a Member of the
11 House of Assembly. You also are a Minister, and you have been a
12 Minister since you were sworn in to the House of Assembly. Is
13 there a separate process by which Ministers have to declare any
14 interests? If, for example, as a Minister you were to receive a
15 gift or a benefit from a foreign government, organization or
16 person, what would be the process for you to declare that
17 interest?

18 A. I--I think it all falls in line with this, this
19 document that you would declare it.

20 Q. And so, your understanding of this document is that it
21 doesn't--it's not just limited to you as a Member of the House
22 of Assembly. It would also cover you as a Minister?

23 A. Correct.

24 Q. If we go to paragraph 8, which is at page 55, you've
25 declared two residential properties in Fahie Hill and Cane

1 Garden Bay. And you if turn to page 66, you referred to those
2 same two properties in your 2019 Declaration.

3 A. (Witness nods.)

4 Q. And is that the same position in 2021?

5 A. Yes, sir.

6 Q. Now, if you look at the top of the page, please, what
7 you're asked to declare is: "Do you have any land other than any
8 home used solely for the personal residential purposes of you or
9 your family?" You've put both of these lands--these pieces of
10 land as residential. Are they homes that you use for your
11 personal residential purposes or are they rental properties?

12 A. Well, they are--we lived in both at some time, but
13 they could--they are on the market for rental.

14 Q. I see.

15 A. Yeah.

16 Q. And that's--so the reason that you declared them was
17 not because they were not purely residential?

18 A. Yes.

19 Q. Thank you.

20 Now, if you go to paragraph 9 to page 56, what you
21 were asked to do is you were asked: "Do you have, either
22 yourself or with or on behalf of your spouse or dependent
23 children, interests in Shareholding in any company or body which
24 has a nominal value (a) greater than \$25,000 or (b) less than
25 25,000 but greater than 1 percent of the issued shares capital

1 of the company or body", and you answered "no" to that. And
2 that's been your position in each form, hasn't it?

3 A. Yes. But, in my 2021, I listed my wife's name, for
4 being a--and I just listed it for transparency, as being a
5 1 percent Shareholder in her company that her mom's owned.

6 Q. I'm sorry, your voice dropped a little bit there?

7 A. She was in the 2021 Declaration, based on transparency
8 and listing everything I listed, though this speaks to greater
9 than 1 percent, I just listed her as a 1 percent Shareholder.

10 Q. I see.

11 A. Yes.

12 Q. So, the point you're making is that you weren't under
13 an obligation to list that.

14 A. No.

15 Q. But you decided to do so?

16 A. Yes.

17 Q. And it's an interest that your wife has, which is up
18 to 1 percent.

19 A. 1 percent.

20 Q. Which is 1 percent of the issued share capital of a
21 company?

22 A. Yes.

23 Q. I see. Thank you.

24 Let's turn to the last paragraph in the form which is
25 at 57.

1 Now, the paragraph says, "bearing in mind the
2 definition of purpose set out in the introduction to this form,
3 you have any relevant interests which you consider should be
4 disclosed but which do not fall within the nine categories set
5 out above, please list them".

6 Now, you've left that blank by which I take it you
7 have no interests that you felt come under that paragraph; is
8 that right?

9 A. That's correct.

10 Q. And it's the position in 2019, is it the position in
11 your 2021 form?

12 A. Correct.

13 Q. Again, a slightly wider question, please.

14 What do you understand is the purpose of paragraph 10
15 which is headed "Miscellaneous"?

16 A. Well, the meaning is this: Bearing in mind the
17 definition of set out in introduction of this form, if I have
18 any relevant interests which would consider should be disclosed
19 but which do not fall within the nine categories set out, please
20 list them, I don't.

21 Q. Well, you've read out paragraph 10 to me. Can you
22 elaborate a little bit more by what you took it--what is it
23 directed to?

24 A. I thought the question was--was straightforward. It
25 asked if I have any relevant interests in anything else, and I

1 don't.

2 Q. It refers you back to the Preamble, to the
3 introduction to the form?

4 A. Yes.

5 Q. Which refers to interests which might reasonably be
6 thought by others to influence your actions, speeches or votes
7 as a Member of the House of Assembly. So, on one view, it's
8 quite a wide request.

9 Now, you said that what you had in mind was whether
10 you had any relevant interests. What do you understand or what
11 do you mean by relevant interests?

12 A. Interests just like it list, if I had any interests,
13 businesses, monetary or whatever it is, just interests, and I
14 know that I don't.

15 And I understand you're saying it's broader. In it
16 says "miscellaneous", but it just boils down to me saying that I
17 do not have any relevant interests that I should disclose that
18 does not fall in those categories.

19 Q. And do you take the paragraph as being directed as you
20 alone or at other members of your family?

21 A. Well, it didn't list family but it says--it says
22 bearing in mind the definition for any relevant interests, so I
23 saw it as me.

24 Q. If you go--

25 A. Other parts of the document it speaks to wife, it

1 speaks to spouses, children.

2 Q. If you go back to page 13, which is your response to
3 the Commissioner the 12th of March, earlier I had shown you the
4 Commissioner's letter of the 19th of February which addressed
5 paragraph 10 which we have just been looking at. At your answer
6 (d), you make the point about paragraph 10 that it is not
7 specifically address interests of immediate family members, and
8 you continue: "However, once again in the spirit of assisting
9 your Commission and further strengthening good governance, I do
10 not--I do propose to recommend to the House of Assembly that
11 such paragraph can be amended to expressly mention the said
12 family members".

13 Have you made a recommendation to the House of
14 Assembly?

15 A. I personally have not.

16 Q. Is there any reason why you personally have not made a
17 recommendation, given that is what you said you would be doing?

18 A. Well, I--I heard you mention earlier we're amending
19 the Register of Interests Act, and that is going through the
20 process at this time. It will go through Cabinet and then come
21 to the House, and it will be debated there. So, it's actually
22 in process to be addressed.

23 Q. On the Attorney General's evidence, the Register of
24 Interests Bill 2021 has not yet got to Cabinet.

25 A. Correct.

1 Q. What you've said there is that the reason you wanted
2 to make the recommendation was in part to assist the Commission.
3 As you'll appreciate, the Commission is working within a defined
4 time period.

5 A. And that is why I think we are here today, to make the
6 recommendation as well, but the process is to get to the House,
7 it goes through relevant processes to get there.

8 Q. And just so that we're clear about your evidence, is
9 it that when the Register of Interests Bill 2021 reaches the
10 House of Assembly you will be making a recommendation about
11 paragraph 10 of Schedule 1?

12 A. I--we're hoping once it gets to the Cabinet stage--I'm
13 a Member of the Cabinet--that would be a part of it, yes.

14 Q. So, can you make recommendations to the legislation in
15 Cabinet?

16 A. Yes.

17 Q. And is that the point at which you propose to make
18 this recommendation?

19 A. Yes.

20 Q. You've now completed three forms for each year that
21 you have been a Member of the House of Assembly. Stepping back
22 and looking at the process of filling in the form, are there any
23 other aspects of it that, in your opinion, could cause
24 uncertainty or doubt and so make it harder to complete the form
25 accurately?

1 A. I think once it is explained to go through the
2 process, it should be easy to fill out based on the form.

3 Q. You say once it's explained. Explained by whom?

4 A. Whomever, whether it's a Registrar, whether it's the
5 House of Assembly, whether it is that initial training.

6 It--once it's explained, I think it's quite simple to fill out.

7 Q. Wouldn't it be better to amend the form so that the
8 Explanatory Notes give more information to Members as to what
9 they should be doing?

10 A. I think it's all explained, but if you consider that
11 there is aspects of it that is not, you know, as clear to
12 understanding we should amend, yes.

13 Q. What's important is your experience of completing the
14 form.

15 A. Anything can be improved, simply put. The form, it
16 can be improved, and I would be actually a champion to make sure
17 that it is improved.

18 Q. Then the question can become this: From your
19 experience of having to complete the form--

20 A. Yes.

21 Q. --have you reached any views on how it can be
22 improved?

23 A. I--

24 Q. In terms of its content?

25 A. I would have to go to the form and list them out and

1 get that to you.

2 Q. Well, thank you.

3 Can we move just to another topic, please, and that is
4 your role in Cabinet.

5 What is the process in Cabinet if you need to declare
6 as a Minister attending Cabinet a potential conflict of
7 interest?

8 A. You recuse yourself, if a matter comes up for Cabinet.

9 Q. And what if you have any doubts or uncertainty over
10 whether there is a conflict or there might be a conflict?

11 A. I'm aware of what the conflicts would be, and many
12 cases I have recused myself when it comes to various decisions
13 in Cabinet.

14 Q. But are you aware of whether there is a process that,
15 as a Member, you have some doubt or some uncertainty--

16 (Overlapping speakers.)

17 A. The Cabinet Secretary would guide us if there is any
18 doubt would be the Act.

19 Q. So, as you understand it, you have two options as a
20 Minister: Firstly, if you see that there is a conflict, you
21 declare it and you recuse yourself; and, secondly, if you have a
22 question in your mind about whether it is arise then the first
23 person to ask for guidance is the Cabinet Minister, Cabinet
24 Secretary?

25 A. Yes, or the AG, who is a part of Cabinet as well. So,

1 we get legal advice from the Attorney General while in Cabinet.

2 Q. If you got the--do you still have the Constitution and
3 Legislation Bundle with you?

4 A. Yes.

5 Q. I hope--if it's got a second tab in it, that if you
6 turn that second tab up, hopefully you will see there a policy
7 and procedure bundle?

8 A. Yes.

9 Q. If you turn the first page, please, that's the Cabinet
10 Handbook of 2009. If you go then to page 14 there is a heading
11 called "Declaration of Interests".

12 Do you have that?

13 A. Yes.

14 Q. If I take you down to the bottom paragraph which is
15 2.25, which is headed "doubts about one's interest", what it
16 says is Ministers or Members having doubts or uncertainty about
17 their interest in a Cabinet matter should inform the Premier in
18 advance of the matter coming up for Cabinet discussion.

19 Was that something of which you were aware?

20 A. Oh, yes, and it goes back to 2.23 where he speaks
21 about the same declaring your interest, so once the matter comes
22 up, it doesn't exempt you from being in Cabinet, once that
23 matter comes up, then you recuse yourself based on 2.23.

24 Q. Yes, but I'm asking you about 2.25 because 2.25 says
25 if you have doubts about your interests, then you should inform

1 the Premier, and your earlier answer was that actually you would
2 go to the Cabinet Secretary or the AG, so my question was
3 whether you were aware that the policy says "inform the
4 Premier". It doesn't refer to the AG or the CabSect. Were you
5 aware of that policy?

6 A. I'm fully aware, sir.

7 Q. Was there any reason you didn't mention it when I
8 asked the question earlier?

9 A. Because I usually don't have a doubt of any interests.
10 I am aware if there is any doubt from that it comes to Cabinet.

11 Q. The question wasn't directed, whether you have a doubt
12 or not. The question was about what did you know about the
13 policy about what you should do if a doubt arises.

14 Are you aware of other Ministers or Members of Cabinet
15 going to the Premier?

16 A. I can't answer that. I'm not sure.

17 Q. If you look, there is a grey bundle there, the larger
18 one, which is the bundle further away from you. What I would
19 like your assistance on now is how--it's two things really.
20 Firstly, it's how in practice as a Cabinet Minister needing to
21 declare a conflict or a potential conflict it actually operates,
22 how the system operates. And then secondly, the framework
23 within which conflicts or declarations of interests are made.
24 And as you've indicated, you have made Declarations of Interests
25 on a number of occasions, and I would just like you to take you

1 to some of those just to ask you about how the approach that you
2 adopted as a Cabinet Minister.

3 So, what you should have is a document, the bundle is
4 headed "third Affidavit of Sandra Ward".

5 Do you have that?

6 A. Yes.

7 Q. Sandra Ward is the Cabinet Secretary, and she has
8 provided a number of Cabinet Minutes for the Commissioner.
9 We're not going to read out large chunks of it, but if I could
10 take you, please, to 352 in the document--in the bundle.

11 This is--sorry, do you have the page?

12 A. Yes, sir.

13 Q. This is a Cabinet meeting on the 2nd of October 2019,
14 and if we look at those who are listed as present, you are
15 listed as present; is that right?

16 A. Correct.

17 Q. If you go to 372. There is the item on the Agenda
18 that's now being considered is memorandum 352 of 2019, which
19 relates to office accommodation for the Office of the Premier
20 and the junior Ministers?

21 A. And the first point that is made--this is at 65--is
22 that you, as Minister for Transportation, Works, and Utilities
23 recused yourself from the meeting because of family relations
24 with the proposed landlord.

25 Q. So, my first question is: How does recusal work? Do

1 you step out of the meeting entirely or do you just sit there
2 but take no part in the meeting?

3 A. I step out the room.

4 Q. Now, the reason that it's given for your need to
5 recuse yourself is family relations with the proposed landlord?

6 And if you see at 373, the decision that was made by
7 Cabinet was that the Government should enter into a Lease
8 Agreement with the Lake Development Company Limited for a period
9 of three years for office space measuring 3,067 square feet on
10 the third floor of the Cutlass Tower to accommodate the Office
11 of the Premier, and it was also decided that the Government
12 would enter into a Lease Agreement with Lake Development Company
13 Limited for a period of five years for office space on the sixth
14 floor of Cutlass Tower to accommodate the offices of the Junior
15 Minister of Tourism and Junior Minister for Trade and Economic
16 Development.

17 Now, I should add, if we look at 74, that the next
18 step the Cabinet decided was to instruct the Attorney General's
19 Chambers to vet the leases prepared by the landlord, but in
20 terms of your need to declare an interest, it's recorded as
21 family relations with the proposed landlord. What, in fact, did
22 that mean? What was the extent of the family relation?

23 A. Well, like it mentioned in 372 because of family
24 relations, the landlord is my wife's mother, so that is why I
25 recused myself.

1 Q. So, in that instance, it was because the landlord is
2 your wife's mother?

3 A. Yes.

4 Q. So, your mother-in-law.

5 If we go to 396, this is another Cabinet meeting 7th
6 of November 2019. You're again present, and if you go to 4.20?

7 A. I'm sorry, what was that?

8 Q. 396, and then it's in the same Minute at 4.20.

9 Now, at 4.20, it's again relating to an office
10 accommodation for the relocation of government ministries and
11 departments from the central administration building. And again
12 right at the beginning, you were one of two Ministers to recuse
13 yourself, and it's recorded as to avoid a conflict of interest
14 in this matter. To give you context, what decision was being
15 sought is that a number of Ministries, including your own,
16 should move to other accommodation. And if you go to 4.22, that
17 includes second floor space in the Cutlass Tower in Road Town.

18 Now, the conflict is just recorded here as a conflict
19 of interest, and again, just could you clarify for the
20 Commissioner, what was the conflict of interest there?

21 A. The same as what we mentioned--it's the same building,
22 the same scenario. Just a different Department. The relation
23 is my wife's mother, her being a landlord. And during this
24 time, as you can see there, we were remodeling the
25 center--around the administration complex, so all offices needed

1 to move, so we were trying to find various locations throughout
2 the Territory.

3 Q. And once again, in this situation, so you would have
4 received the papers in advance of the Cabinet meeting, and so
5 you would then--we would have an opportunity to consider whether
6 an interest arose to declare it as you did, and then would you
7 again just step out of the meeting?

8 A. Correct.

9 Q. If you go to 569, please. We have a Cabinet meeting
10 on the 13th of May 2020 where you are present. If you go to
11 596, please.

12 A. Right.

13 Q. Start at 595.

14 This is a memorandum from a Fellow Minister for
15 Natural Resources, Labor and Immigration and it points relates
16 to appointments to the Social Security Board.

17 A. Yes.

18 Q. And the second point that is made is that Cabinet
19 noted and acknowledged that the Minister for Transportation,
20 Works, and Utilities, which is yourself, declared that he would
21 not participate in discussions for the caption paper due to
22 close family ties.

23 Now, the wording is slightly different. It goes back
24 to your point that the answer you gave earlier that once you
25 declared the interest, you step out. Now, what is said here is

1 that you won't participate in discussions. Does that mean that
2 once again you stepped out, or did you stay but simply stay
3 quiet?

4 A. I stepped out the room.

5 Q. So, when--and this just may be your practice--but when
6 you are going to declare an interest at Cabinet, is it your
7 practice always just to step out of the room?

8 A. That is the practice of Cabinet, yes.

9 Q. Now, again, what is referred to is close family ties.
10 If we look at 597, please there is a reference there, and this
11 is Social Security Board, but it's a reference to Cabinet
12 deciding that Ms Patsy Lake be appointed as Deputy Chairman, is
13 that the close family tie that you were concerned about?

14 A. Yes, my wife's mother.

15 Q. If you go to 628 in the bundle, please, 3rd of March
16 2021, Cabinet meeting, you are again present. If you go to 663?
17 This is an item on the Agenda presented by the Minister of
18 Education, Culture, Youth Affairs, Fisheries and Agriculture.
19 And it's about appointments of Members to the Virgin Islands
20 Festivals and Fairs Committee. As we understood it from The
21 Honourable Neville Smith earlier, that's a statutory Board; is
22 that right?

23 A. Yes.

24 Q. Now, again, at the top, what you are recorded as doing
25 is recusing yourself from discussion of the caption paper

1 because of familial relations with persons recommended to be
2 appointed to the Committee.

3 Now, those that were recommended you'll find listed at
4 664, but would you just help the Commissioner with this. What
5 was the precise nature of the family ties that were of concern
6 to you?

7 A. On page 665.

8 Q. Yes.

9 A. 112.2, Ms Viola de Castro, who was up for appointment
10 for Vice Chairman, is my mother's sister, that is my aunt.

11 Q. Your aunt?

12 A. Yes.

13 Q. Now, looking at those Cabinet Minutes, there is a
14 pattern where you declare an interest and as you said, you step
15 out and you don't take part in the debate.

16 Now, you've explained to the Commissioner that that
17 relates to or where the conflicts have arisen for you is firstly
18 your mother-in-law and then your aunt. Are you given any
19 guidance beyond what's in the Cabinet Handbook as to where to
20 draw the line where what interests, family interest, falls on
21 one side of the conflict line and what family interest falls on
22 the other side, or is it a matter for your own judgment?

23 A. Well, I know we campaigned a lot on transparency, good
24 governance, and we are a close-knit community. We are a small
25 community, and my--I would know based on who are close family

1 relations. I would declare based on my knowledge. I cannot
2 speak to other Members, but I know when and where I should sit
3 or recuse myself.

4 Q. How do you know that?

5 A. Based on the relationship with the Agenda Item.

6 Q. And so, it's a matter for your own judgment to decide
7 whether or not a conflict arises?

8 A. Yes.

9 Q. And I can take you back to the Cabinet Handbook, if
10 you wish but its interests whether private, pecuniary or
11 non-pecuniary of Ministers, Members of Cabinet or their
12 immediate family must be declared prior to discussions, but
13 other than what's in the Cabinet Handbook, you're given no
14 assistance as a Minister as to deciding where the line falls?

15 A. Well, I would know. I know immediate family would
16 know my wife and my children, but like--you know, I recuse
17 myself from my mother-in-law and my aunt.

18 Q. And so, for you, it goes beyond your spouse and your
19 children. It encompasses--it would encompass your wife's side
20 of the family, your mother-in-law. It would encompass also your
21 aunts and uncles?

22 A. And that is--and that is for my Declaration to the
23 public that I do not take part in those conversations when it
24 comes to, like you saw that I did for the accommodations and the
25 Boards and so forth. So, I do recuse myself from that. But

1 there are guidelines, and you can see the institution of
2 Cabinet, it works. The norm is to recuse yourself for those
3 things.

4 Q. You mentioned there are guidelines. Are you referring
5 to what I've taken you to in the Cabinet Handbook?

6 A. Correct.

7 Q. There is nothing else other than the Cabinet Handbook,
8 is there?

9 A. If there is, I'm sure you will tell me.

10 Q. Unfortunately, I don't get to sit in Cabinet, you do?

11 A. I mean, in terms of documentation, not sitting there
12 but just being the legal mind, is what I meant.

13 Q. But other than--leaving the legal mind aside, other
14 than the Cabinet Handbook, there is no other document or
15 guidance to assist you as a Cabinet Minister?

16 A. Well, we have previous documents, you have the
17 Constitution that you're guided by, and some that probably I
18 can't remember at this moment, but there are various documents
19 pertaining to this institution.

20 Q. I see. Can you help with this: I know that
21 the--there are post meetings or a record of the decisions of
22 Cabinet is published to the public. In circumstances where you
23 have declared an interest, for example, is that included in that
24 record?

25 A. I don't think it is.

1 Q. So, the public wouldn't know whether on one Cabinet
2 meeting or the other, you, as a Minister, declared an interest?

3 A. I presume that they wouldn't be aware, but I'm sure
4 this form now they will be aware.

5 Q. Can I just move on again to a different point, and
6 that is taking you back now to your work as an elected
7 representative rather than a Minister, and hopefully we can deal
8 with that briefly, and it's about the use of funding to provide
9 assistant grants--assistance grants to voters or to members of
10 the public, I should say.

11 Now, you have or we write to say you will have access
12 to those funds as the Member for the Fifth District?

13 A. Correct.

14 Q. And in your case, it's \$125,000, isn't it?

15 A. Correct.

16 Q. And the evidence that we've heard is that you will
17 receive requests, you make an assessment. Once you've made a
18 decision, if it's a positive decision, it goes to the Clerk of
19 the House of Assembly. Ultimately will also go to the Treasury
20 Department. Is that how the process works?

21 A. Basically, yes, but there is also a process where you
22 give, for instance, the purpose of the assistance is to assist
23 persons in the community, and at times I'm sure the Members may
24 have spoken about the funding not being enough, but a point
25 getting into office, I received also documentation from the

1 previous--from my predecessor in terms of assistance that was
2 given to persons in our community, mostly elderly folks where
3 you would issue assistance in, you know, various price.

4 So, based on me being elected, that was--most of that
5 was honored, and with the additional request or various projects
6 within your district, you know, you utilise the fundings for
7 that, but the process is--and I see the guidelines here in front
8 of me for the processing of these assistance grants.

9 Q. Are those, just for the record, do you recognise those
10 guidelines? Are they the ones that were issued to you?

11 A. Yes.

12 Q. I may have misunderstood your earlier evidence. You
13 referred to documentation received from your predecessor.

14 A. From the Clerk, from the predecessor.

15 Q. I see.

16 A. In terms of the assistance grant given to persons--the
17 vulnerable persons in a community.

18 Q. So, these were the grants that your predecessor had
19 already approved, if you like?

20 A. Correct.

21 Q. I see. So, it wasn't, for example, additional
22 guidance or criteria that you apply?

23 A. No.

24 Q. The guidelines that we have are all the guidelines
25 that are available to you?

1 A. Yes.

2 Q. If you could help with this, though, within the
3 guidelines, as you understand them, is it possible for someone
4 to make a prospective application if, for example, someone needs
5 something in the future, provided they satisfy you, can they
6 come in advance, or does it always work in a way for people once
7 they've incurred a debt, if you like, they then need to come to
8 you for assistance?

9 A. Well, persons have various reasons to apply for
10 assistance. Sometimes it is some that has passed, some that is
11 coming up.

12 Q. And in the time that you've been a Member of the House
13 of Assembly, you have an annual budget of 125,000.

14 A. Yes, 10,000 plus per month.

15 Q. And do you get it on a monthly basis or do you get it
16 on a quarterly basis?

17 A. Quarterly basis.

18 Q. Has it been your experience that the amount that you
19 have to distribute is always much less than the number of
20 requests that you are expected to fulfill?

21 A. Confirm.

22 Q. And in each year that you have had this fund to
23 distribute, have you distributed the entirety of it?

24 A. In its entirety.

25 Q. Are you--is your--the way that you distributed audited

1 at all in any way? Does anyone turn up to your office and say
2 let's have a look at your records?

3 A. I think that would be done at the House of Assembly,
4 because all applications are submitted to the House of Assembly,
5 so I'm sure internal audit would do their due diligence or
6 through the Treasury Department. But, if need be, I have all
7 applications on file.

8 Q. If you--obviously, you're the first step in the
9 process, and there are others involved, have you ever had an
10 application returned to you by the Clerks of the House of
11 Assembly with a query?

12 A. Yes.

13 Q. And what sort of queries does the House of Assembly
14 Clerk raise?

15 A. There could have been an issue where the same
16 applicant may have received or is seeking assistance from
17 multiple legislators.

18 Q. Is that a common issue?

19 A. I can't say it is.

20 Q. Well, how often has it happened to you?

21 A. I can't recall.

22 Q. And have you ever had an application returned to you
23 by the Treasury Department with a query?

24 A. It wouldn't come to me directly. It would go back to
25 the Clerk.

1 Q. Once it goes back to the Clerk, what does the Clerk do
2 with it?

3 A. That's the same thing you just asked earlier in terms
4 of the Clerk returning it, and I guess multiple application from
5 the same--from the same person.

6 Q. So--

7 A. There is a process--

8 Q. It travels the same way in both directions. If the
9 Treasury raises a query they'll send it--

10 A. To the Clerk.

11 Q. Who will then send it on to you.

12 A. Correct.

13 Q. Have you ever encountered the circumstance whereby
14 either by the Clerk to the House of Assembly or the Treasury a
15 query has been raised, and you have then said no, I think this
16 is a deserving case?

17 A. No, I respect the work of the Clerk, and I would also
18 always make--I would make the amendment.

19 Q. Now. What if the amendment includes--

20 (Overlapping speakers.)

21 A. Probably cancel the application.

22 Q. And as far as you're aware, these are the guidelines
23 issued to you as a Member of the House of Assembly?

24 A. To our Members, yes.

25 Q. Does the Clerk to the House of Assembly use the same

1 guidelines?

2 A. You would have to ask her regarding that. I'm not
3 sure.

4 Q. You may give the same answer to this question, but do
5 you know what guidelines the Treasury Department uses?

6 A. I presume it's the same guideline.

7 Q. The next topic I would like to ask you about is the
8 operation of section 67 of the Constitution. Section 67 is
9 headed "tenure of seats of Members of the House of Assembly".
10 And it sets out circumstances in which a Member of the House of
11 Assembly vacate his or her seat in the House. And one of those
12 circumstances is that if he or she becomes a Party to any
13 contract with the Government of the Virgin Islands for or on
14 account of the public service or if any firm in which he or she
15 is a partner or any company of which he or she is a director or
16 Manager becomes a Party to any such contract or if he or she
17 becomes a partner in a firm or a director or Manager of a
18 company, which is a Party to any such contract. So, if that
19 circumstance arise, the starting point is that the Member has to
20 vacate his or her seat.

21 There is a caveat, though, which is in subsection 7
22 which allows that if it appears just to the House of Assembly to
23 do so, the House can exempt an elected Member from having to
24 vacate their seat.

25 Now, Honourable Rymer, have you ever been exempted

1 from vacating your seat under section 67?

2 A. I haven't earned a contract, so I was never involved
3 in this situation.

4 Q. Now, we heard from The Honourable Neville Smith, who
5 explained that he has in respect of a particular contract been
6 exempted. He gave it context because what he explained was that
7 it was a situation where he was not obligated to bring the
8 matter before the House of Assembly but he did so anyway, and
9 then a decision was made by the House to exempt him. Now, that
10 was on a vote. Did you vote in favor of the exemption in
11 relation to The Honourable Neville Smith?

12 A. I was present at that House sitting, and yes, in the
13 affirmative, I voted for him to retain his seat based on the
14 fact that this was something that he had been doing for multiple
15 years.

16 We heard the advice from the AG stating that it was
17 not necessary for him to be present based on the fact that
18 Statutory Bodies are not required to come to the House, so yes,
19 I voted, yes.

20 Q. You've heard the advice from the Attorney General
21 which is the previous Attorney General. How was that advice
22 delivered to you as Members of the House of Assembly?

23 A. I think we sat in the House of Assembly and we
24 discussed it at that time.

25 Q. Are there any other situations that have arisen where

1 you have been asked to vote for or against an exemption under
2 section 67?

3 A. I think there was yes, I would have to try to refresh
4 my memory, but I think there was another case, yes.

5 Q. Perhaps that's something we can ask you to think
6 about.

7 A. Sure.

8 Q. There are at least, I think on your evidence, two
9 occasions when you've been asked to consider a motion for
10 exemption. Is there any information provided to you as an
11 Honourable Member, to help you decide whether to vote in support
12 of a motion to exempt or against it?

13 A. Yes, we had arguments. Once the motion is moved in
14 the House then we'll decide from there. If we need further
15 information, then we will request it.

16 Q. And can that further information come to you in the
17 form of paper?

18 A. Sure.

19 Q. You said that you heard argument, so in that case is
20 it people standing up and speaking for or against the motion?

21 A. Correct.

22 Q. But you can also ask for, as you say, further
23 information which can be in paper form?

24 A. Yes.

25 Q. Thank you.

1 The last matter that I would just want to raise with
2 you is the question which goes back to the question that we are
3 putting about campaign finance. Do you agree that there would
4 be an increase in public trust and confidence in the system and
5 also a potential decrease in the use of corrupt practices if
6 there were in place legislative measures and policies to govern
7 candidate financing at elections, party financing, and also to
8 require political parties to register for financial record
9 purposes?

10 A. You said a whole lot right there. One point that
11 stuck out is the fact that you said--you spoke of "corruption".
12 Could you elaborate on that part, please.

13 Q. What I'm putting to you is it's not related to
14 specific individuals, it's whether you would agree in principle
15 with this. I can break it down for you.

16 A. Yes, please.

17 Q. Firstly, that you have (1), legislative and policy
18 measures in place to govern candidate financing at elections;
19 (2), you have in place legislative and policy measures to govern
20 party financing, campaign financing; and (3), that there is a
21 requirement on political parties to register for
22 financial-reporting purposes.

23 Now, those are three measures. Would you agree or
24 disagree that if such measures were in place, then in principle
25 that would result in an increase in public confidence in the

1 system?

2 A. Okay. So, you're confirming that at this stage that
3 the public is not confident in our system as to how we campaign,
4 we fund the campaign and the election.

5 COMMISSIONER HICKINBOTTOM: I'm not sure that rises a
6 proposition.

7 THE WITNESS: No, I--

8 COMMISSIONER HICKINBOTTOM: I think, Mr Rawat, his
9 question says that those measures will increase public
10 confidence, and the other part is the proposition which he
11 didn't repeat, is that they would decrease the risk of
12 corruption--

13 (Overlapping speakers.)

14 THE WITNESS: Thank you, Commissioner. But my
15 question is he spoke of the public's perception as it is now, so
16 I was just wondering if there is any--what the information is
17 that the public is not comfortable with, the current situation?

18 COMMISSIONER HICKINBOTTOM: That's not the basis of
19 the question. The basis of the question is whatever the
20 confidence of the public is, whatever the risk of corruption is,
21 public confidence would be increased from whatever level it is,
22 and the risk of corruption will be decreased from whatever level
23 it is by those measures.

24 THE WITNESS: Sure. Once you--once you put measures
25 in place to improve your institutions, and I'm sure it would

1 benefit the public's perception, yes.

2 COMMISSIONER HICKINBOTTOM: Thank you.

3 THE WITNESS: But he mentioned corruption, so I just
4 wanted to know the--

5 COMMISSIONER HICKINBOTTOM: I will not change his
6 phrase but he meant the risk of corruption.

7 THE WITNESS: And hence my reason for asking.

8 COMMISSIONER HICKINBOTTOM: And that's perfectly
9 proper. Thank you.

10 BY MR RAWAT:

11 Q. I hope that that clarified the point for you, and
12 thank you for your answer to it.

13 MR RAWAT: May I have a moment, please?

14 COMMISSIONER HICKINBOTTOM: Thank you.

15 (Pause.)

16 (Witness confers with Mr Olimpitis.)

17 COMMISSIONER HICKINBOTTOM: Mr Olimpitis isn't allowed
18 to give evidence. But if, as a result of that conversation, you
19 want to give any further evidence, now's your chance.

20 THE WITNESS: No, he was just telling me I'm doing a
21 good job.

22 COMMISSIONER HICKINBOTTOM: That's fine. Good.

23 Anything else, Mr Rawat?

24 MR RAWAT: Just one question, please.

25 BY MR RAWAT:

1 Q. It's taking you back to the guidelines. Guideline 10
2 says the district office expense is related to rent, staff and
3 operating expenses are allowed up to a maximum of 24,000 per
4 annum.

5 So, of the 125 that you get as a district
6 representative, you can take 24,000 to run your office in
7 effect; is that right?

8 A. Yes.

9 Q. And, in your case, did you take that 24,000 to run
10 your office?

11 A. No, I didn't.

12 Q. How much of it did you take?

13 A. To do what?

14 Q. To run your office?

15 A. My office is my fee for my district.

16 Q. So, you don't incur expenses in relate to rent, staff,
17 and operating expenses?

18 A. No, sir.

19 Q. Thank you. I have nothing further.

20 Can I conclude by thanking The Honourable Rymer for
21 coming to give evidence and also for the way in which he has
22 given evidence today.

23 A. Yes, thank you.

24 COMMISSIONER HICKINBOTTOM: Just three thing,
25 Mr Rymer, very short.

1 Firstly, can I, too, thank you for coming and giving
2 your evidence so clearly.

3 Secondly, I know you're the Minister of the
4 Transportation, Works and Utilities. By slip of the tongue
5 during one of my questions I referred to it as the Deputy
6 Premier. Can I apologise to you and to The Honourable Dr
7 Natalio Wheatley who is coming tomorrow.

8 And thirdly, just one or two things. I think you've
9 kindly agreed to produce, and I don't know, have we got a list
10 of those or can we remember those? We will confirm them with
11 Mr Olimpitis in any event.

12 BY MR RAWAT:

13 Q. The list, if it helps, is, firstly, that
14 correspondence with the House--the Registrar of Interests as the
15 first one.

16 A. Yes.

17 Q. Second, a copy of the 2021 Declaration, which is, I
18 think, within the possession of Mr Olimpitis anyway.

19 A. And could I make a--could I make a correction to that?
20 I think when I gave evidence I mentioned that I declared the
21 1 percent for my wife.

22 Q. Yes.

23 A. It was actually on this form the letter to the
24 Commissioner.

25 COMMISSIONER HICKINBOTTOM: You did, sir.

1 THE WITNESS: But not on the Declaration because it
2 was not necessary. Just for confirmation.

3 BY MR RAWAT:

4 Q. Thank you for clarifying that. I think the third
5 piece of homework that we have for The Honourable Member, is
6 that he's going to check which other motion came before him as a
7 Member of the House of Assembly in terms of section 67.

8 A. Okay. I think I vaguely remember. I think it's
9 Honourable Mark Vanterpool's in terms of Declaration, some were
10 providing some food from his supermarket during the COVID era.
11 So, I really don't like homework, so I'm trying to pick my
12 brain.

13 Q. If you can produce the motion on which you were asked
14 to vote, that would be very helpful.

15 COMMISSIONER HICKINBOTTOM: And we will confirm with
16 Mr Olimpitis, those three things.

17 THE WITNESS: Thank you.

18 COMMISSIONER HICKINBOTTOM: Anything else?

19 MR RAWAT: No. Thank you for your time, sir.

20 COMMISSIONER HICKINBOTTOM: Thank you very much.

21 THE WITNESS: Thank you.

22 COMMISSIONER HICKINBOTTOM: Now, we've got The
23 Honourable Vincent Wheatley next.

24 MR RAWAT: If we could have a five-minute break so we
25 can set the room up for COVID purposes.

1 COMMISSIONER HICKINBOTTOM: Yes. Thank you very much.

2 (Witness steps down.)

3 (Brief recess.)

4 COMMISSIONER HICKINBOTTOM: I think we're ready to
5 continue.

6 Just before we start with the next witness,
7 Mr Olimpitis, could I just raise one matter. I did not want to
8 raise it in the middle of the last Witness's evidence because it
9 would have interrupted it, but I should have mentioned it at the
10 end. The 2021 return for the last Witness, which you had and
11 nobody else did, that was very unfortunate. Why didn't you
12 share that with us, particularly as you asked for and received
13 the bundle of documents so you knew we hadn't got it.

14 MR OLYMPITIS: I hadn't dawned on me that you hadn't
15 got it. I thought you did have it, so I really didn't know
16 until--

17 COMMISSIONER HICKINBOTTOM: But you had our bundle so
18 you knew--

19 MR OLYMPITIS: Never a complete bundle. I didn't, for
20 example, have the Cabinet Minutes bundle.

21 COMMISSIONER HICKINBOTTOM: It hadn't have to do with
22 Cabinet Minutes. This is the bundle--the Witness bundle.

23 MR OLYMPITIS: I hadn't focused on the 2021
24 Declaration.

25 COMMISSIONER HICKINBOTTOM: Right. But I still don't

1 know how we ended up not having it, but it's very unfortunate.
2 Could we make sure that we check the documents and make sure
3 that full disclosure is made?

4 MR OLYMPITIS: Yes.

5 COMMISSIONER HICKINBOTTOM: Thank you.

6 HON VINCENT O WHEATLEY, COMMISSION WITNESS, CALLED

7 COMMISSIONER HICKINBOTTOM: Mr Rawat.

8 MR RAWAT: Thank you, Commissioner.

9 Our next witness is The Honourable Vincent Wheatley,
10 who has already given evidence to the Commission, and so he
11 doesn't need to be sworn again.

12 COMMISSIONER HICKINBOTTOM: You are still under the
13 oath or affirmation you gave. And Mr Rawat would have done this
14 anyway, I just apologise for how long it's taking to get to your
15 evidence. I'm afraid it's just the evidence is taking longer
16 than we thought, but things happen. We are ready now.

17 Yes, Mr Rawat.

18 MR RAWAT: The other formality that we don't have to
19 deal with is because you came on the last occasion, there is no
20 need again to you to give your full name or your professional
21 address or indeed some the other details we sought from you
22 about your professional background because that's already on the
23 Transcript.

24 BY MR RAWAT:

25 Q. But as I told you on that last occasion, I will try

1 and keep the questions short and simple. But again, if at any
2 time you need me to repeat a question, then please just do ask
3 me and I will do so.

4 A. Certainly.

5 Q. There are a number of bundles in front of you. We may
6 not need to go to all of them, but as we need to do so, I will
7 take you to the documents as necessary.

8 You will obviously have the experience of having given
9 evidence to the Commission before, but again, could I ask you
10 just to keep your voice up and speak as slowly as you can
11 because that's just allows for your answers to be accurately and
12 clearly recorded on the Transcript. And it's, of course,
13 important that we do get an accurate record of your evidence.
14 Again, now--on the last occasion we met, the focus was on your
15 work as a Minister. I would like to begin more now while
16 looking at your role as a Member of the House of Assembly.

17 Now, correct me if I'm wrong, it's right that you were
18 elected as Member of the Ninth District on behalf of the Virgin
19 Islands Party in the 2019 Election?

20 A. That is correct, sir.

21 Q. And was that the first time that you had stood for
22 election?

23 A. It was the first time.

24 Q. Now, you're representing the Ninth District. How many
25 people live in the Ninth District?

1 A. Our estimate, it's a very transient community, I would
2 say 3,500, thereabouts.

3 Q. And, of those, how many were eligible to vote in the
4 2019 Election?

5 A. About 12,500. 1215, sorry. 1215.

6 Q. Thank you.

7 A. Thereabouts.

8 Q. Yes. I think "thereabouts" is a good answer, and the
9 reason for that is because the next point I was going to put to
10 you that the official results on the website of the Government
11 of the BVI record that 1,278 votes were cast, of which you got
12 69.72 percent, which is 891 votes.

13 Does that accord with your recollection of the outcome
14 of the election?

15 A. Sounds about correct.

16 Q. And you would have been sworn in on the 12th of
17 March 2019 as a Member of the House of Assembly?

18 A. That is correct.

19 Q. You were pointed immediately to your role which is
20 your ministerial role as Minister for Natural Resources, Labour,
21 and Immigration.

22 A. I think it was a week after.

23 Q. I see.

24 But, since then, you have remained in that role?

25 A. Yes.

1 Q. Thank you.

2 A. The portfolio did change a little bit, but yes, the
3 Ministry, yes.

4 Q. If you want to add anything at this point about how
5 the portfolio has changed, please do so.

6 A. We added Social Security and NHI to my portfolio
7 because I think last year April, thereabouts.

8 Q. Thank you.

9 One of the topics that I have been asking witnesses
10 about is the Register of Interests, particularly the Register of
11 Interests Act 2006. Now, that Act, as the Attorney General has
12 explained and confirmed to the Commissioner, mandates that the
13 Register itself is not available for inspection to members of
14 the public.

15 A. That's correct.

16 Q. The Attorney General has also explained that there is
17 a draft bill in preparation which is going to be the Register of
18 Interests 2021 Bill.

19 A. Um-hmm.

20 Q. She explained to the Commissioner that hasn't, in
21 fact, reached Cabinet yet.

22 A. Not to my knowledge.

23 Q. And, therefore, it hasn't reached the House of
24 Assembly yet?

25 A. Correct.

1 Q. But one of the--one of the sort of clauses in that
2 Bill will make the Register of Interests open to the public for
3 inspection.

4 As an initiative, is that an initiative that you would
5 support?

6 A. Absolutely. Absolutely.

7 Q. No, although you are a relatively new arrival to
8 legislative politics, you have obviously been involved in
9 politics prior to your election, but has it always been your
10 view that the Register of Interests should be public?

11 A. It was not something that I considered whether it
12 should be public or not. It was established, I think, in 2008;
13 and, to date, I can't recall anyone ever even applying to look
14 at it, so it never occurred to me even as a concern because same
15 information would be put in the Registry, it was in the Election
16 Office before election, very same information. So, that is
17 published in the local newspaper, so whoever wants to know what
18 in the Commission about the Register of Interests going back to
19 the same newspaper, it's same information, so there is no need
20 to actually access it.

21 Q. Yes. But, during the course of the year, the
22 information can change, and the Election Notice, you're only
23 required to do that if you stand as a candidate. The point you
24 would agree of the Register of Interests is to have an accurate
25 record of what Members' interests are.

1 A. Correct.

2 Q. We may come back to that as we look at the actual form
3 that you are required to complete as a Member of the House of
4 Assembly, but what the Act--the obligation it imposes on you and
5 all Members of the House of Assembly is that you have to provide
6 a Declaration of your interests on the date that you assume
7 office, so for you that was the 12th of March 2019.

8 A. That is correct.

9 Q. And then your obligation triggers again every
10 subsequent anniversary?

11 A. Yes.

12 Q. Now, if we look at your First Declaration, which if
13 you take--there should be a bundle there which has your name on
14 it.

15 Do you have it?

16 A. I think so.

17 Q. I hope so as well.

18 If we go to 61 in that bundle.

19 A. Um-hmm.

20 Q. This the first page of your 2019 Declaration under the
21 Register of Interests Act, and if you see at the top of the page
22 it's got the stamp of the Registrar of Interests, and the date
23 there is the 21st of November 2019.

24 A. Um-hmm.

25 Q. If you go through into the bundle to page 71, can you

1 confirm, Mr Wheatley, that that is your signature?

2 A. That is my signature, that is correct.

3 Q. Underneath is the date 21st of November 2019. Is that
4 in your handwriting?

5 A. It appears to be.

6 Q. Now, if we look at the next page, which is 72, we have
7 got some of the correspondence to you from the Registrar--not
8 all of it--and this is a letter dated the 4th of September 2019
9 from the Registrar to you.

10 A. Um-hmm.

11 Q. It's headed "Declaration of Interests 12th of
12 March 2019", and it records: "I write once more to remind you
13 of your overdue Declaration of Interests for the period
14 12th March 2019 in the hope that you will give this outstanding
15 matter your preferred attention, thereby observing the
16 requirement under section 3 of the Register of Interests Act
17 2016", and then she offers her assistance to you.

18 If you go to the next page, 73, a second letter from
19 the Registrar to you, 29th of October 2019, and it records again
20 headed "Declaration of Interests 12th of March 2019", and the
21 Registrar writes: "I'm somewhat puzzled by your lack of
22 response to my numerous letters to you regarding your
23 Declarations of Interests of period at caption", that is
24 12 March 2019. "Please at your earliest convenience inform me
25 whether you intend to comply with the requirement of section 3

1 of the Register of Interests Act 2006. If I do not have a
2 response to this letter, I will interpret that to mean that you
3 do not intend to comply with the requirements of the Act. I
4 await your response". And then she gives some information about
5 the hours of her office opening and its location.

6 Those are two letters. One can draw the conclusion
7 from their content that other letters were sent to you.

8 Did you respond to the letters from the Registrar?

9 A. I don't recall responding to a letter.

10 And if a response was sent, I'm not sure I was made
11 aware of it because these things come in my mail from my
12 secretary. My secretary would respond to this email on my
13 behalf. Whether there is a response or not I really cannot say.

14 Q. Does your secretary hold or keep the correspondence?

15 A. No.

16 Only certain often, the mail comes in, it comes to the
17 Secretary, it comes to me, and then I send it back to someone,
18 the one that pertains to me goes back to my secretary.

19 (Overlapping speakers.)

20 Q. I spoke across you, so please do finish the answer
21 again.

22 A. Usually an action point, and what I recall, what I
23 would have said back in 2019.

24 Q. And is this the secretary to you as--

25 A. Personal secretary.

1 Q. As a Member of the House of Assembly?

2 A. No, no. Personal secretary.

3 Q. I see.

4 Now, would you be willing to check with your personal
5 secretary if she had retained the correspondence between you and
6 the Registrar?

7 A. I want to check on that?

8 Q. Yes. Would you be willing to check that your
9 secretary has kept the correspondence?

10 A. Oh, sure, I can check.

11 Q. Yes.

12 And if she has retained any correspondence between
13 yourself and the Registrar for 2019 or indeed any year since
14 2019, would you be able to provide them?

15 A. Once we have them, I will have no problem at all to
16 provide that to you.

17 MR RAWAT: What I'm going to ask, sir, if we could
18 just ask Mr Olimpitis to make a note of that so that it can be
19 actioned, and I see Mr Olimpitis has nodded his agreement.

20 BY MR RAWAT:

21 Q. Now, your Declaration in 2019 was due on the 12th of
22 March 2009. That's the statutory obligation that the Act places
23 on you. You've submitted it eight months late.

24 Now, the Act--the first difficulty that it presents to
25 you, as a Member of the House of Assembly, is that you are

1 required by the Act--

2 A. Yes.

3 Q. --to provide it on the 12th of March or else you are
4 in breach. But the Act also provides--and this is under section
5 7--that if you failed to do it within three months of the 12th
6 of March, that's another breach of the Act, and then what should
7 happen is that the Registrar should write a report.

8 Now, do you accept in relation to 2019, firstly, you
9 didn't comply with the requirement to submit a Declaration by
10 the 12th of March?

11 A. Absolutely.

12 Q. And secondly, that when you did submit the
13 Declaration, you were again in breach because it was more than
14 three months after the 12th of March?

15 A. Actually accept and apologise. I have apologised
16 profusely already.

17 Q. If you look at 59 in the bundle, this is again a
18 letter to you from the Registrar of Interests, Victoreen
19 Romney-Varlack, who very recently retired from the post. It's
20 dated the 10th of March 2020. It's headed "Declaration of
21 Interests 2020", and reads: "Dear sir, on 12th of March 2019,
22 you took an oath and assumed the functions of your office as a
23 Member of the House of Assembly. The 12th of March 2020 marks
24 the first anniversary as a member of the fourth House of
25 Assembly on the Virgin Islands. According to section 3 of the

1 Register of Interests Act 2006 hereunder set out for your ready
2 reference, a Member is required to file a Declaration of
3 Interests on each subsequent anniversary of taking office", and
4 the letter does indeed set out section 3.

5 And it continues: "Enclosed herewith is a Declaration
6 form for your completion and returned to this office at your
7 earliest convenience, bearing in mind that the Declaration is
8 due on 12th March 2020".

9 And then the Registrar refers to the fact that
10 the--her office is open on Tuesdays and Wednesdays, and asks for
11 the Declaration to reach her during the period of 17th and 18th
12 of March 2020.

13 Now, that's--and correct me if this is wrong, but what
14 appears to be the case is that, in advance of the 12th of March,
15 the Registrar has sent you a notice that you had to fill in the
16 form for another year?

17 A. Usually in February we get a notice.

18 Q. So, you are aware that you'd received those notices--

19 A. I'm aware.

20 Q. --from the Registrar?

21 A. I'm aware.

22 Q. And do those notices go to every Member of the House
23 of Assembly so far as you're aware?

24 A. I would assume so.

25 Q. If we go to 58, on the 3rd of June 2020, the Registrar

1 wrote to you in these terms: "I'm to remind that your
2 Declaration of Interests for period March 2020 is now overdue.
3 Please make every effort to have the situation rectified at your
4 earliest convenience".

5 She sent you another letter on the 22nd of July 2020,
6 which referred back to that letter of the 3rd of June, and
7 continued: "I'm to remind you that your Declaration of
8 Interests for the period March 2020 is overdue and that you
9 should make every effort to rectify this outstanding matter at
10 your earliest convenience".

11 If you go to page 56, there was on the 18th of
12 August 2020 another letter where, to quote the Registrar, she
13 referred to your "delinquent Declaration of Interests for the
14 period 12th of March 2020", and asks you to give the matter your
15 urgent attention.

16 She wrote to you again on the 5th of January 2021,
17 which you find at page 55.

18 A. I have it.

19 Q. And again, drawing to your attention letters over the
20 last year in connection with your outstanding Declaration of
21 Interests which fell due on 12th of March and the fact that you
22 have not responded, she says: "If you have any difficulty in
23 complying, please so inform me at your earliest convenience".

24 If we go, then, to the page 54, 24th of February 2021,
25 there was another reminder letter that the Declaration of

1 Interests, which fell due on 12th of March 2020, is long
2 overdue.

3 If you turn to the next page, at 53, on the same date,
4 the 24th of February, which accords with your earlier evidence,
5 Mr Wheatley, but what you'd said is you've got a reminder for
6 2021. On that date, what the Registrar wrote was that March 12,
7 2021, will mark the second anniversary of your taking office as
8 a Member of the House of Assembly. She refers then to the
9 requirements of section 3 of the Register of Interests Act, and
10 as it says: "To facilitate your compliance, I have enclosed a
11 Declaration form for your convenient filing", and she's asked
12 for it by Tuesday the 16th of March.

13 So, on that day, you not only received another chaser
14 but also the fresh reminder, if you like, the fresh notice for
15 2021, so the position for you, in terms of 2020, was that you
16 were late by over 12 months.

17 A. Yeah.

18 Q. So, once again, you had, first of all, breached the
19 Act by not putting your Declaration in on the 12th of
20 March 2020, and then you committed a second breach of the Act
21 because you were outside the three months that section 7
22 mandates. Would you accept that?

23 A. Totally accept that.

24 Q. Now, if we go to page 42, this is a Declaration which
25 is stamped by the Registrar 12th of May 2021. Do you see that?

1 It's actual--the date is written in manuscript on the stamp.

2 A. Yeah, I see it.

3 Q. If you go through to page 52--

4 A. Five-two?

5 Q. Five-two, please.

6 A. Um-hmm.

7 Q. Again, please confirm that that page has your
8 signature on it.

9 A. That is my signature.

10 Q. And it's dated 16th of March 2021.

11 A. Um-hmm.

12 Q. Is that your handwriting as well?

13 A. That's my handwriting.

14 Q. Now, we have two Declarations from you, one which
15 we've linked 2019, and this one, so the question, first of all,
16 is: Does this Declaration--is this your 2020 Declaration?

17 A. No.

18 Q. Or is it your 2021 Declaration?

19 A. 2021.

20 Q. Did you actually file a 2020 Declaration, if you
21 recall?

22 A. I did, yes.

23 Q. Do you know what's happened to that?

24 A. I guess it's filed with the Registrar of Interests. I
25 don't know.

1 Q. We have seen the letter on the 24th of February 2021
2 to you. How soon after that date do you remember filing your
3 Declaration?

4 A. I don't recall a date of filing, but I know I did hand
5 it in.

6 Q. And did you, yourself, hand it in to the Registrar?

7 A. I did myself personally drove there and handed it in.

8 Q. To her office?

9 A. To her office.

10 Q. So, sometime between or sometime after 24 February is
11 what you can say?

12 A. Absolutely, after the 24th.

13 Q. Now--so this is your 2021 Declaration?

14 A. This is my 2021, yes, that is correct.

15 Q. I mean, we can make further inquiries, but the
16 Registrar hasn't provided your 2020 Declaration to us. You
17 didn't keep a copy of it?

18 A. No.

19 Q. Do you keep a copy of any of your Declarations?

20 A. Yes.

21 Q. Which ones did you keep a copy of?

22 A. I have 2021.

23 Q. I see.

24 Can we look at the information that you have recorded
25 on the form, and if I explained, Mr Wheatley, what I would like

1 as we go through it is to do two things: First of all, look at
2 the information that you felt it necessary to provide, but also
3 to ask you questions about your approach to filling the form and
4 how easy or hard you might have found it.

5 If you go to 61 in the bundle...

6 A. Just between 2019 and 2020 will be the exact thing.
7 Nothing changed between those two years, but 2021 was different.

8 Q. Yes.

9 What I'm taking you back to is the first page of your
10 2019 Declaration made in November.

11 Now, what the Act requires to you do is to give your
12 Declaration of Interests as at the Due Date, so what it asks you
13 to do is to say what interests did you have on the 12th of
14 March 2019.

15 A. Yes.

16 Q. What you were doing here is giving this form in in
17 November 2019, so when you completed it, were you making a
18 Declaration of your interests at the time that you completed
19 it--

20 A. Yes.

21 Q. --or for the Due Date?

22 A. For the time I completed it.

23 Q. So, you were saying this is what Vincent Wheatley has
24 that's relevance as of November 2019?

25 A. Sorry, it was from Due Date.

1 Q. The Due Date is--so--

2 A. Not going to change anyway.

3 Q. Yes.

4 A. The Due Date.

5 Q. That's what you had in mind?

6 A. Yes.

7 Q. That you had to say what did I have at the time of the
8 Due Date?

9 A. That's correct.

10 Q. Now, the Preamble which we see on page 61--

11 A. Um-hmm.

12 Q. Sets out this: "The main purpose of the Register of
13 Interests is to provide information of any pecuniary interests
14 or other material benefit which a Member receives which might be
15 reasonably thought by others to influence his or her actions,
16 speeches, or votes in the House of Assembly or actions taken in
17 his or her capacity as a Member".

18 Now, that's a statement for the purpose of completing
19 this form. When you read that, what did you take it to require
20 from you as a Member of the House of Assembly?

21 A. Basically any companies or assets that I held that may
22 lead to influence in any way or form.

23 Q. So, did you keep in mind that what you had to be aware
24 of is what others might reasonably think--

25 A. That's correct.

1 Q. --an interest could have--might really reasonably
2 think that the interests could affect how you conducted yourself
3 as a Member of the House of Assembly?

4 A. Absolutely.

5 Q. Now, I asked this question of The Honourable Rymer who
6 had just given evidence because, like him, you are a Minister.
7 This document is directed to the Members of the House of
8 Assembly. Is there a separate process for Ministers to declare
9 interests?

10 A. At this point in time, no, but there should be, and I
11 would support any measure that differentiates a Member, a
12 regular Member, from a Minister and representatives because they
13 have different responsibilities and different decision-making
14 responsibilities.

15 Q. Would you support an entirely different form for those
16 who have ministerial office, or would you--

17 (Overlapping speakers.)

18 A. Propose the Ministerial Code of Conduct as for
19 Ministers. They're separate from, let's say, a back-bencher
20 because they're different situations the ministers deal with
21 they don't have to deal with.

22 Q. What we're--I'm asking you questions about here is the
23 interests that you have to declare.

24 A. Right.

25 Q. So, The Honourable Rymer's evidence was that, when he

1 read this form, he took it to cover his role as a Minister as
2 well as a Member of the House of Assembly. Your evidence seems
3 to suggest that you had a different view of it.

4 A. It has to cover both. I'm not sure how he could
5 divorce the two in this kind of setting.

6 Q. So, taking that, do you think that the form could be
7 improved in any way--

8 A. Absolutely.

9 Q. --to address the role of Ministers?

10 A. Absolutely. That's why they forwarded the Ministry
11 Code of Conduct. It will address the Ministers' concerns that
12 may be different from a regular person, so I do support that
13 position.

14 Q. Does that mean that, in your view, the layout of this
15 form, its structure, the questions it asks may need to be
16 revisited?

17 A. In the public service, there is always room for
18 improvement in all areas. Yes, the form probably needs to be
19 revised at this point in time so it looks like the current
20 reality on the ground.

21 Q. We may need to come back to that as we go through the
22 form, but if we take paragraph 1, which you will find at
23 page 62, that's headed "Directorships", and you're asked to
24 declare whether you have remunerated or unremunerated
25 Directorships in any company, and you said "no" to that?

1 A. No.

2 I'm not Director of any company.

3 Q. And taking it across three Declarations, is that the
4 position in all three?

5 A. That's correct.

6 Q. It's not changed whilst you have been in the House?

7 A. That is correct.

8 Q. The--if we look now at paragraph 2 of the form, which
9 you will find at page 63, there you're asked to declare a
10 enumerated employment--it's headed "Renumerated employment
11 office, professional", et cetera, and you are asked this
12 question: "Do you have any office, trade, professional location
13 apart from membership of the house or ministerial office for
14 which you are renumerated or in which you have any pecuniary
15 interest?", and you set out four businesses.

16 A. Five.

17 Q. Five, you're right.

18 ICT Management Services. Is that "FAT Virgin"--

19 A. FAT Virgin Enterprise, Solitude Day Spa, CCT, and
20 Disaltec.

21 I'm a Shareholder.

22 Q. Yes.

23 A. I own shares in those companies.

24 Q. I see.

25 That's a matter I will pick up as we go through the

1 form, but in relation to the first three, you've marked next to
2 them "ownership", and in relation to the last two, which is CCT
3 and Disaltec, you said that you were a minor shareholder in
4 those.

5 Now, we don't have your Election Notice in the bundle,
6 but we did receive an Election Notice from The Honourable Sharie
7 B de Castro, and on the same page it has your Election Notice
8 published.

9 A. Sorry about that.

10 Q. That's in the Island Sun?

11 A. Yes.

12 Q. And you published, I think, over two weeks.

13 A. Yes.

14 Q. And twice.

15 Now, the Island Sun is the 16th of February 2019, you
16 made this Declaration which you said, "I hereby declare I have
17 shares or interests in the following companies which may have
18 from time to time conduct business with the Government of the
19 Virgin Islands, and you list there ICT Management Service, CCT
20 Limited, and Disaltec.

21 A. Um-hmm.

22 Q. Now, we will come back to the shares question in a
23 moment--

24 A. Sure.

25 Q. --but you marked them as "companies", so are all of

1 the ones that you've listed on this page at two, are they all
2 companies?

3 A. No. Some are d/b/as.

4 Q. Which ones are d/b/as?

5 A. Disaltec would be a d/b/a.

6 That's it.

7 Q. So, there are four companies and one d/b/a?

8 A. Yes.

9 No. CCT and Disaltec were companies, yes, but
10 ownership I bought shares in the company.

11 Q. Yes.

12 A. I think they would be companies.

13 Q. Obviously, there is a difference and you can hold
14 shares in a company, and that's the extent of your involvement?

15 A. Right, exactly.

16 Q. As I said, we will come back to that.

17 But in relation to any of those that are companies,
18 are you a director of them?

19 A. No.

20 Q. So they didn't fall to be recorded under 1?

21 A. Exactly.

22 I'm not a Director.

23 Q. In relation to 3, then, if you look at 64, that's
24 asking you whether in relation to the paid employment you listed
25 under Directorships or remuneration, whether that involves the

1 provision to clients of services which depend upon or arise from
2 your position as a Member. There is the note at the bottom,
3 Note 1, sets out the sort of services that you should have in
4 mind which include making representations to Ministers,
5 providing advice on parliamentary affairs, sponsoring meetings
6 in the House of Assembly.

7 Now, you've recorded there as the client, to whom you
8 personally provide such services, the Government of the Virgin
9 Islands. Why did you put that there?

10 A. That might have been a misrepresentation because one
11 of the companies do provide services for statutory bodies. So,
12 to be clear, I put it in there.

13 Q. Now, that highlights a potential ambiguity in the
14 form. If you've read it and put information which now on
15 reflection you say may be wrong or could have been put
16 elsewhere, does it suggest to you that this is an example of
17 where the form could be improved?

18 A. I would say so.

19 Q. Now, the--

20 A. It might have been going through the form quickly, may
21 have misunderstood.

22 Q. And so, because it seems to be--it's directed to
23 non-Government clients to whom you facilitate or provide
24 services, and it's because you have a position as a Member of
25 Assembly, is it?

1 A. Okay. I get it.

2 Q. Now, the--you put the Government of the Virgin
3 Islands, you point out one of your businesses works for a
4 statutory body?

5 A. Statutory body.

6 Q. Looking at it again and on reflection, do you think
7 that where that situation arises where a Member has an
8 association with a business that is contracting with an element
9 of Government they should be required to give those details in
10 this Register of Interests?

11 A. I'm not sure this is the place for the details but to
12 declare that it does exist, I would say "yes".

13 Q. But, if you take your example, do you think it would
14 be appropriate that the Member be asked to identify the company
15 and the statutory body with which they have a contract?

16 A. I do not think it's a requirement based on laws. It
17 says "Business with Government", but just to be as clear as I
18 can, I put it here, let's be transparent, there is nothing
19 (unclear) required to do it because the letter says
20 "Government", not "statutory bodies", and seeking advice on
21 this.

22 Q. What my question is directed to is the future and the
23 possible ways that this form might be improved, and it relates
24 back to your own evidence about the ambiguity that it prompted
25 in your own mind. But if there was a form that required that a

1 Member to give some details of a contract that they had with an
2 element of Government--statutory body, government department or
3 a ministry--is that something that you would be in favor of?

4 A. Oh, absolutely.

5 Now there is something called "corruption perception",
6 and anything that the Ministers add is a very good thing to do.

7 Q. And it goes to the point, doesn't it, that the more
8 information that the public have the better the informed they
9 will be about what is going on?

10 A. I fully concur with that.

11 Q. Now, just--if I just ask you one other thing. This
12 is--we're looking at your 2019 Declaration, but if you keep your
13 thumb at 65 but look at page 43, please. This is your 2021
14 Declaration.

15 A. Um-hmm.

16 Q. If you could just clear up the sort of ambiguity
17 because, in 2019, when you listed ICT Management Services, it
18 was not under "Directorships". It was under "remuneration".

19 A. Remuneration.

20 Q. But then when we come to 2021, you have listed it as
21 something where you have a Directorship in. What exactly is the
22 situation in relation to ICT Management Services?

23 A. It's not Directorship. It's ownership.

24 Q. So, at least in that form, you put it in the wrong
25 place?

1 A. In that area, yes.

2 Q. In 2021?

3 A. Yes.

4 Q. What it should have been is under 2?

5 A. Under 2, yes.

6 Q. Now, again, that raises, doesn't it, a question about
7 the assistance that the form is giving you as a person
8 completing it, if you can make that mistake.

9 A. Yes.

10 Q. And there could be all sorts of reasons why you put
11 one thing in one box and not in another, but again do you think
12 that the form can be clarified--could be better clarification to
13 form so the information--the information given is recorded more
14 accurately?

15 A. Because it appears directly, yes, if you're listed as
16 Director, and then that creates confusion. That is a technical
17 term. Some person because they own a company call themselves
18 directors also, but you are either owner or a director.
19 Sometimes you can be both. But yes, I think so, better guidance
20 would be beneficial, so bring clarity to what exactly you're
21 trying to find out.

22 Q. And what exactly you should give--
23 (Overlapping speakers.)

24 A. You have an interest in the company, it was really as
25 Director or you do have some level of interest in the particular

1 company.

2 I'm not sure what the difference would be in terms of
3 influence as an owner and as a director, how they are perceived
4 by anyone in the public.

5 Q. That's a fair point because--and that takes us to
6 another point, doesn't it, because it's not then about where on
7 the form you put the information but how much information you
8 give.

9 A. Yes.

10 Q. Looking at that, do you think just writing the name of
11 the business is sufficient information for the public?

12 A. For the purpose of this form, yes, but this is not for
13 public consumption.

14 Q. But it will be one day.

15 A. Yes.

16 At that point in time, the whole form would have to
17 change because the public want more details for whatever reason.

18 Q. I see.

19 Let's go to--if we go back to 65, you there--it's
20 paragraph 4, and it asks you about sponsorship, and asks you two
21 things in fact, the first, if we look at (b) is whether you
22 benefit from any form of sponsorship or financial or material
23 support as a Member of the House of Assembly.

24 Now, the note that is intended to help you we find at
25 Note 1. You should register under the section any financial or

1 material benefit, direct or indirect, for example, the provision
2 of free or subsidised accommodation or provision of the services
3 of research assistant or to subsidise salary rate.

4 In your case, you said no?

5 A. No--yeah.

6 Q. Now, you mentioned that you have a personal secretary.

7 A. Yes.

8 Q. Is that something that could come within the scope of
9 4(b)?

10 A. No. That comes with the job.

11 Q. That comes with the job?

12 A. Um-hmm.

13 Q. I may--

14 A. All Ministers have personal secretaries.

15 Q. I see.

16 A. All Ministers have structure.

17 Q. I thought by "personal secretary" you meant entirely
18 personal secretary?

19 A. Private secretary.

20 Q. I see.

21 So, the position is that, as a Minister, you have a
22 private secretary?

23 A. That is correct.

24 Q. And your private secretary, in your case, deals with
25 all of your correspondence?

1 A. Just about.

2 Q. And that's correspondence coming to you as it was from
3 the Registrar to you as a Member of the House of Assembly rather
4 than as a Minister?

5 A. It can come from both--all of them come at Minister
6 and come from some district or someone with a particular
7 concern, any matter under my portfolio. You have a myriad--a
8 diverse amount of correspondence every single day.

9 Q. So, the private secretary covers your portfolio as a
10 Minister but also your role as a Member of the House of Assembly
11 and the district representative?

12 A. That is correct.

13 Q. Now, the first question you're actually asked, though,
14 is at (a), and it refers to sponsorship before election where,
15 to your knowledge, the financial support in any case exceeded in
16 aggregate 2,500. And the assistance again, it refers to 2 at
17 the bottom, which is the italicised text, "You should register
18 money given to you by your Election Campaign Committee, money
19 spent by your Election Campaign Committee in connection with
20 your election with your permission".

21 So, what do you understand by the term "sponsorship
22 before election"?

23 A. Persons supporting the campaign.

24 Q. And does that cover donations made to you to support
25 your campaign?

1 A. That is correct.

2 Donations, cash or in kind. Some persons may give you
3 cash, some may give you T-shirts or--sponsors, different things
4 for you, fliers, in response to a banner, in response to
5 whatever.

6 Q. And--

7 A. Or ads on the radio and so forth.

8 Q. In order for you to--because what you're required to
9 do is to declare it when it goes over \$2,500.

10 A. Um-hmm.

11 Q. So, did you have a system in place to track that, to
12 make sure that you either were under 2,500 or whether you were
13 over it?

14 A. Yeah. I didn't have assistant because I didn't get
15 anything. There was no need for assistant. If I did have, I
16 would have created a system to track who and what so give "thank
17 you" note afterwards.

18 Q. This links into a point that the Commissioner has
19 raised with a number of the Members of the House of Assembly,
20 and they--and that is about how campaigns are financed in the
21 BVI, and they've said that they--some of them just said, "I paid
22 for my own campaign". Was that the case for you?

23 A. As a newly elected Member, we had no choice. We're
24 not the known persons, popular person, so yeah.

25 Q. So, when you referred to people buying T-shirts or

1 sponsoring a banner, that didn't happen in your case?

2 A. No. There's why I have very few.

3 MR RAWAT: I see.

4 COMMISSIONER HICKINBOTTOM: In terms of the campaign,
5 you paid for your own campaign?

6 THE WITNESS: Pretty much.

7 COMMISSIONER HICKINBOTTOM: For the district?

8 THE WITNESS: Definitely in the districts.

9 COMMISSIONER HICKINBOTTOM: But in terms of the
10 election as a whole, the Party would have borne quite a lot of
11 the expenses of the election campaign because it would have--

12 THE WITNESS: I would assume so, yes.

13 COMMISSIONER HICKINBOTTOM: --sort of Territory-wide
14 campaign.

15 THE WITNESS: There's big events and you don't have to
16 pay. Somebody is paying for it.

17 COMMISSIONER HICKINBOTTOM: You began going around
18 door to door in your district.

19 THE WITNESS: Exactly.

20 COMMISSIONER HICKINBOTTOM: They would be doing the
21 big events, the Party events and the Territory-wide events?

22 THE WITNESS: We aren't burdened with that there.

23 COMMISSIONER HICKINBOTTOM: Yes.

24 THE WITNESS: Campaign managers refer to that.

25 COMMISSIONER HICKINBOTTOM: Yes.

1 BY MR RAWAT:

2 Q. This part of the form refers to is as an Election
3 Campaign Committee. Did you have either a district committee or
4 campaign committee?

5 A. Yes. District committee.

6 Q. And how does that work in terms of the district
7 committee funding your campaign at all?

8 A. They don't fund the campaign. They basically help you
9 going door to door, knocking on door to door, if you have the
10 manifestos, help give out manifestos. If there is a fundraiser,
11 they would help you get the thing organised and so forth, but
12 they're not involved in raising funds directly like that to
13 bring into the campaign.

14 The delegates--the candidates are the ones responsible
15 for raising the money, not the committee. The committee assists
16 with whatever they're trying to do.

17 Q. If we turn now to page 66, what you're asked to
18 declare is gifts, benefits, and hospitality that you received
19 from any company, organization or person within the Virgin
20 Islands, which anyway relates to your membership in the House of
21 Assembly, and you said "no" to that, and so obviously there are
22 thresholds which are set out; for example, it must be greater
23 than \$500 but that hasn't arisen in your case on any of these
24 three?

25 A. As a former public officer, I'm familiar with this

1 logic. It wasn't anything new to me, so we help avoid these
2 things. You simply say "no".

3 Q. I see.

4 A. It was known to me, the person they are for you,
5 gratitude for whatever, I can't do it, simple as that.

6 Q. If we go to 6, you've put no overseas visits. Now,
7 obviously, as a Minister or the Member of the House of Assembly,
8 you may have to do overseas visits?

9 A. I did, but not during this period. I think it was
10 2019 I traveled.

11 Q. I think we are looking at your 2019. I think it might
12 have been your 2021. If you go to 48, we take a look at that.

13 A. Oh, yes, there it is.

14 Q. 2021 Declaration, and you listed a number of countries
15 visited and dates, and you have recorded them as happening in
16 20--

17 A. '19.

18 Q. 2019, and one in 2020, but what you're asked to do is
19 to declare overseas visits where the cost of the visit was not
20 wholly borne by yourself or by public funds. And in most of the
21 cases you say that the Government pays.

22 A. Yes, public funds.

23 Q. In fact, those trips were funded by public funds, and
24 you needn't put them in there; is that right?

25 A. Yes. Correct, yeah.

1 Q. Do you agree?

2 A. Yes.

3 Q. And so, again, that's a misunderstanding of the form?

4 A. I think I missed the word "not".

5 Q. You may have--yes, and also you've referred to a
6 personal trip.

7 A. Yeah.

8 Q. And again, that would fall outside what you're
9 required to declare. Would you agree?

10 A. You know, I agree. We are trying to get as much
11 information as I can, you sometimes get a little bit zealous
12 trying to provide all information, and some persons think in
13 terms of not what happened. But I did miss or did not. It
14 should have been big and bold.

15 COMMISSIONER HICKINBOTTOM: With the understanding of
16 the question, would the answer have been "no"?

17 THE WITNESS: Yes, it would have been "no", yes.

18 COMMISSIONER HICKINBOTTOM: Thank you.

19 BY MR RAWAT:

20 Q. And then we could stay with this form, if you want,
21 Mr Wheatley, but at 49, it's 7, which is the next thing you
22 declare; and, of course, it relates to gifts and benefits that
23 you might have received from a foreign government, organization
24 or person. The answer for you has always been "no"; is that
25 right?

1 A. No, for over \$500. When I did travel I did receive
2 gifts on behalf of the country which I brought, and deposited at
3 the Premier's Office because they were national gifts, not
4 personal gifts.

5 Q. And is there a policy governing what you do, if as a
6 Minister or Member of the House of Assembly you do receive a
7 gift and what you should do with it?

8 A. From traveling, if I'm traveling abroad and I receive
9 a gift on behalf of the country, it goes to the Premier's Office
10 as the leader of the country.

11 Q. I see?

12 A. That's the policy I've always followed, even before
13 being elected.

14 Q. And that's when you were in your role as a public
15 officer before election?

16 A. That's correct.

17 Q. But is that written down somewhere?

18 A. I can't say that it's written, maybe it's an unwritten
19 policy, but if you're traveling on behalf of the country and you
20 receive a gift, that gift is for the country, so whenever I
21 return, I always brought the gifts to the head of the country.
22 I don't keep them. They're not for me.

23 Q. Now, if we look at page 50, which is--we're
24 on--actually if you have 50 open, please, but also look at 69.
25 Let's look at 69. That relates to part eight of the form, which

1 is land, and you're asked, "do you have any land other than any
2 home used solely for the personal residential purposes of you
3 and your family?" Now, if you look at the first entry that you
4 put in at 69, you said "family home".

5 A. First entry.

6 Q. Do you have it?

7 A. Uh-huh.

8 Q. My question is again whether that's a mistake because
9 you are not required to declare a home that you're using solely
10 for the personal residential purposes of you or your family?

11 A. That would be a mistake there. That's correct.

12 That's where I live.

13 Q. But then what you described is residential rented land
14 in North Sound Virgin Gorda, Woodland in North Sound Virgin
15 Gorda, and Woodland again Stage Mount. So, that's what you said
16 in 2019. If we look at your 2021 Declaration, which is at
17 page 50, you there put--you've again put your home, haven't you?
18 That's the penultimate one, Hanson Bay Virgin Gorda?

19 A. Hm-umm.

20 Q. What you also put is apartment building North Sound
21 Virgin Gorda, a vacant lot in North Sound Virgin Gorda, a vacant
22 lot in Anegada is that Peach Point?

23 A. Point.

24 Q. Then another in Carrot Bay, Tortola.

25 A. Um-hmm.

1 Q. Your home, and then it's slightly cut off but I think
2 it's another vacant lot again on Virgin Gorda.

3 A. Yes.

4 Q. So, between 2019 and 2021, your land holdings had
5 changed?

6 A. By one, yes. That's correct.

7 Q. That's correct?

8 A. That's correct.

9 Q. But that's the entirety of the landholdings in which
10 you have an interest, and you set those out?

11 A. That is correct.

12 Q. Again, though, as we're going through your form, what
13 you seem to be acknowledging is that you have made mistakes. In
14 some instances you've given more information than you're
15 required to do.

16 A. Yes.

17 Q. What was it about either the way you were filling in
18 the form or the form itself that made you give, in your case,
19 too much information?

20 A. I think an effort not to miss anything, and also too
21 as a Minister, there's a tremendous amount of work you have to
22 do. When you have to stop and fill in a form, time is a premium
23 thing, and just going through too quickly, we are busy.

24 Q. But again, if--

25 (Overlapping speakers.)

1 A. I would rather give too much than too little.

2 Q. Goes back to the theme that I was
3 explaining--exploring with you earlier which is whether the form
4 could be improved and be clearer about what is required?

5 A. Absolutely.

6 Q. If you look, and we can stay at page 69, but
7 paragraph 9 A asks about shareholdings.

8 A. Page?

9 Q. Go to 70, if you've got it?

10 A. Sorry?

11 Q. 70, seven-zero. What it asks you, is do you have,
12 either yourself or with or on behalf of your spouse or dependent
13 children interest in shareholdings in any company or body which
14 has a nominal value (a) greater than \$25,000, or (b) less than
15 25,000 but greater than 1 percent of the issued shares capital
16 of the company or body.

17 Now, you've left that blank, but you have indicated
18 when we looked at it earlier, and we can look at it again, that
19 you were a minor shareholder.

20 A. Yeah.

21 Q. Now, those minor shareholdings, would either of them
22 or both of them come within Section 9?

23 A. Not even close.

24 Q. So, a very minor shareholding, then?

25 A. Yes. Not even close.

1 Q. Now, look then at 71 and paragraph 10. That's headed
2 "miscellaneous". And it says, "if bearing in mind the
3 definition of purpose set out in the instruction to this form,
4 you have any relevant interests which you consider should be
5 disclosed but which do not fall within the line categories set
6 out above, please list them.

7 Now, late or not, you have now filled in three forms.

8 Looking at that, what do you believe this paragraph is
9 intended to elicit from somebody completing the form?

10 A. It's as it says, a category that doesn't fit any of
11 the other name, but I think what happened in this case, I ran
12 out of space in the other one, and so I shifted one of them from
13 the previous one into the space here. It's a proper--with my
14 deceased father which doesn't belong to me alone, so it's kind
15 of like it's not really mine, but my name is attached to it as
16 interest, so--

17 Q. I'm sorry to interrupt you. My question wasn't
18 actually directed to that because, in fact, you have given us a
19 piece of information that we don't have because on the two forms
20 that we have from you, your 2021 Declaration and your 2019
21 Declaration, Section 10 is blank.

22 A. Um-hmm.

23 Q. So, the reference that you made to another property
24 and putting it there--

25 A. No, 2019 and 2020, same property.

1 Q. I see?

2 A. This wasn't in 10, but there was no space on the paper
3 so I just put it there.

4 Q. I see. So, that's something that you think should be
5 in 10, but you put it somewhere else?

6 A. No, it should be in the other place but it was placed
7 in 10 also.

8 Q. Right?

9 A. Because I had no space on the paper. You see at the
10 very bottom is cut off, that's why it is cut off on that one.

11 Q. I think you're referring to page--I think it's
12 page 50. Let's go to that.

13 A. I think that is where I would have normally put that.
14 Exactly. I think where I would have put that particular one,
15 but there was no space, so I just put it.

16 Q. But if you go to page 52, this is where my confusion
17 arises. Your 10 is empty on page 52.

18 A. Hold on. One, two, three, four, five, six.

19 Q. It's Paragraph 10 that I'm looking at?

20 A. And this comes from the properties that I know, and
21 one is six and one is seven, I think. And the actual one I put
22 at the bottom of the page; I shifted over to 10.

23 Q. I see.

24 A. It's strange.

25 COMMISSIONER HICKINBOTTOM: It's not there. On

1 page 52.

2 THE WITNESS: Maybe it's in the 20, 21 is in 10, and
3 one declaration it is in number 10. A particular piece of
4 property.

5 COMMISSIONER HICKINBOTTOM: It must be--

6 THE WITNESS: 2020.

7 COMMISSIONER HICKINBOTTOM: The absent 2020.

8 THE WITNESS: In one of them it is in Number 10, the
9 one property that was mentioned because it was the last one to
10 mention, and there was no space. That's what happened here.

11 BY MR RAWAT:

12 Q. But the wider question is when you look at 10, it's
13 just what do you consider it refers to? And would you agree
14 with this, and I think that it's disclosing any relevant, any
15 other relevant interests that thinking about it, you conclude
16 others might reasonably think could affect your work as a Member
17 of the House of Assembly?

18 A. It says miscellaneous, which means it doesn't fit any
19 other categories--was somehow, some affiliation, some kind of a
20 strange affiliation with some entity that others might perceive
21 to affect your statements in the House. That's the way I see
22 it.

23 Q. So, it's quite a wide request, isn't it?

24 A. It's like what you call it? It's like a placeholder
25 for some unknown quantity, something that's public where it is

1 doesn't really fit at all, but (unclear) you want some shares in
2 spacecraft.

3 Q. So, what you're required here, what your analysis is
4 to think about anything else?

5 A. Attached to you.

6 Q. That you're linked to, that someone else might think
7 actually that could affect how he or she behaves as a Member of
8 the House of Assembly?

9 A. Well, it's very, very wide. It could be a friend or
10 acquaintance so I'm not sure what is intended to capture there
11 because they can to apply many things.

12 Q. Given the uncertainty you've expressed about this
13 paragraph, which could be read as an intention to capture
14 everything else--

15 A. Anything is possible.

16 Q. Does it bring back the point that I brought to you
17 earlier, which is that the form could be improved by giving more
18 guidance about what should be set out in 10?

19 A. Oh, I fully agree. The form probably needs to be
20 improved.

21 Q. And would you accept this: That it is important for
22 Members of the House of Assembly not to be too restrictive about
23 their interpretation of this form because what's important is
24 for them to ultimately--if it's going to become public, that
25 what's important is that the public have a full appreciation of

1 what interests they do actually hold?

2 A. Oh, absolutely. I mean, when we came into office, we
3 came in at three great principles, transparency, accountability,
4 and good governance, and we've demonstrated that through all the
5 laws we've passed. We want to strengthen these institutions and
6 make them more productive, more useful to the public, so I'm all
7 for it, and we've demonstrated by laws we've passed also that
8 we're moving in that direction.

9 We came into kind of a broken system, so to speak,
10 that we know we have to fix. Many inefficiencies within the
11 system.

12 Q. The next topic I'd like to just turn to is something
13 that you did give evidence about when you last came before the
14 Commissioner, and that is conflicts in Cabinet, and we start off
15 with this. Can you just remind us of what the process is, if
16 you need to declare a conflict as a Minister attending a Cabinet
17 meeting?

18 A. The practice has been, if you're unsure, you bring it
19 to the Premier's attention, and if you're not whether there is a
20 conflict or not. If you have questions whether it's a conflict,
21 when that matter arises, you actually recuse yourself, which
22 means you don't deliberate at all on that particular matter.
23 You're put out of the room completely until we've come to a
24 final decision, and then you return to the room.

25 Q. So, you physically step out of--

1 A. You physically leave the room. You don't hear any of
2 the discussion, any kind of decision-making or anything. You're
3 not physically there in the room during that particular
4 discussion.

5 Q. If you look to your left, you should see two grey
6 bundles. If you take the bigger bundle, if I explain what that
7 is, it's a set of Cabinet Minutes which are exhibited to an
8 affidavit from Ms Sandra Ward, the Cabinet Secretary, and it's
9 the minutes where she has been able to locate where Ministers
10 have declared an interest. If you go to page 170 in that. It's
11 a Cabinet meeting of 26th of July 2019.

12 A. Hm-umm.

13 Q. You are recorded as being present.

14 A. Hm-umm.

15 Q. If we go through it to page 193, please.

16 On that page, you should see a memorandum concerning
17 membership of the British Virgin Islands Tourist Board.

18 A. That's correct.

19 Q. Now, the first point that is noted is the Minister for
20 Natural Resources, Labour and Immigration excused himself from
21 the meeting, a discussion of the caption paper because of his
22 close relationship to one of the nominees recommended for
23 membership of the BVI Tourist Board.

24 And so, at that point, you would have stepped right
25 out of the meeting?

1 A. That is correct.

2 Q. Now, so perhaps I'm going to tell you what happened in
3 the meeting that you stepped out of, but if you look at 194, the
4 Cabinet Minute records that Cabinet approved the appointment of
5 the following Members of the British Virgin Islands Tourist
6 Board for a certain period through to 2022, and it then lists
7 the name of those who were so approved.

8 Now, my question is directed to what did "close
9 relationship" mean because what you declared is a close
10 relationship to a nominee, so could you help the Commissioner
11 with this, firstly by identifying the nominee and then
12 explaining the nature of the close relationship?

13 A. The nominee would be No. 3, Ms Arlene Parsons. She's
14 my sister.

15 Q. I see.

16 Now, in terms of what guidance you receive as a
17 Minister in terms of identifying a conflict, it's limited, isn't
18 it, to what's in the Cabinet Handbook?

19 A. Correct.

20 Q. And so, in terms of how you then judge what is a close
21 relationship and what isn't a close relationship, how does that
22 operate in your mind? What criteria do you hold?

23 A. I will keep it very, very simple. If you don't want
24 someone saying, oh, she's on the Board because you voted for
25 her; you voted for her because she's your sister, and these kind

1 of things. So you recuse yourself, even though the same thing
2 with the Cabinet Decision one.

3 Q. Yes. Now, I understand your rationale for why you
4 stepped out, and my question is directed to is where do you draw
5 the line or can you draw a line? I mean, your sister, in your
6 judgment, it was not appropriate for you to vote on a Cabinet
7 Decision that involved a sibling?

8 A. Um-hmm.

9 Q. But if it involved a cousin, would you take a
10 different view?

11 A. It depends on whether it is first cousin or second
12 cousin. We go quite far back.

13 Q. And--

14 A. And also measure in my mind of public's perception,
15 depending on how the public also views the relationship.
16 Because the public may think--it's not what the public is going
17 to think about the relationship. You know what I'm saying is,
18 you are doing it because of your sister or you're not doing it
19 because of your sister or you're doing because it's your cousin.
20 So, the public as a whole has a perception of how close family
21 is. It can be a second cousin, but after thirds cousin, of
22 brother, sister, first cousin, you must recuse. After that, it
23 doesn't matter. So it's not so much what we feel was kind of
24 measure public's perception because of nepotism, you're only
25 there because your brother voted for you, so these are things we

1 have to look at. What is the public's perception of closeness.

2 Q. So, your approach as of when you're sitting as a
3 Minister in Cabinet is to ask yourself what would the public
4 think of this if I stayed in this meeting?

5 A. Part of it is that, yes.

6 Q. Now, as the evidence of The Honourable Rymer was that
7 although there is a record of what decisions are made in Cabinet
8 is published, whether a Minister recused himself or herself is
9 not published, and so how would the public be able to assess
10 whether you've made the right decision?

11 A. I am not sure. That's in our country. We'll see the
12 Board Member, and the public will know who is related, so they
13 might not accuse us, but they would know.

14 COMMISSIONER HICKINBOTTOM: Just to take the example
15 that Mr Rawat referred you to, which is your sister on the
16 Tourist Board, my understanding is that the public will know,
17 obviously the Members of the Tourist Board as a appointed by the
18 Cabinet. They'll know that you're a Member of the Cabinet.
19 They will not know that you recused yourself in the decision to
20 appoint.

21 THE WITNESS: I take that point. It is possible, that
22 they will not know if it's not published.

23 BY MR RAWAT:

24 Q. The risk that you expose yourself to is that the
25 public will reach the opposite conclusion to what actually

1 happened, which is in this case you stepped out of the room, but
2 the public might come to the conclusion well, actually, Vincent
3 Wheatley stayed in the room?

4 A. And this is what happened.

5 That is a potential weakness in the system. What we
6 are trying to achieve has not been achieved because the public
7 isn't informed of the process.

8 Q. And I appreciate that there are particular
9 difficulties around Cabinet Decisions and how they can be made
10 public, but is one way that it could be resolved is by
11 publishing--that if you're publishing the decisions by
12 publishing the fact that, for example, in relation to one
13 decision that Cabinet made, Minister Vincent Wheatley recused
14 himself?

15 A. And as we change the system now to we have to apply to
16 be in both as opposed to simply Cabinet in making the Decision,
17 so there is no unopen process for applying for boards,
18 membership on boards.

19 Q. But it's wider than that, isn't it? It's not just
20 about boards. It's about the public knowing whether or not you
21 have recused yourself in relation to a Decision--

22 (Overlapping speakers.)

23 A. In a sense, yes. I'm saying that's why we have moved
24 to improve the system, persons in the public apply openly.

25 Q. Yes. And I accept that that's a change that's in

1 relation to Statutory Boards.

2 A. Yes.

3 Q. But my point is that my question comes to this. If
4 the public could be informed of those instances where a Minister
5 has recused himself or herself in relation to a decision, would
6 that not improve public confidence in the way you're approaching
7 decision-making as a Cabinet?

8 A. I think you're right. We can go within the Rules that
9 we currently have they can improved them, we can contemplate.
10 Cabinet Rules are very clear what needs to happen if you have a
11 close relationship between both of them.

12 Q. Can I move to a different topic, please.

13 A. Absolutely.

14 Q. And that's a topic I hope we can take it shortly
15 because we have asked a number of Honourable Members about this,
16 and their evidence has been useful in the Commissioner's
17 understanding the system, but it's in relation to the provision
18 of assistant grants--assistance grants to people in your
19 district.

20 So, I'm going to put a set of propositions to you and
21 tell me if you agree or disagree with them. The first is that,
22 as a district representative, you have access to a fund that can
23 be distributed to people in your district?

24 A. Absolutely. I think it's \$125,000.

25 Q. \$125,000 that you receive in quarterly sums?

1 A. Yes, it comes in quarterly sums.

2 Q. I don't know whether the document is still in front of
3 you, it might be just under your mask there. But there is a
4 document headed "guidelines for processing assistance grants".
5 Can you confirm that those are the guidelines that you have
6 received as a district representative?

7 A. That's correct. This is it.

8 Q. And the way the system works is that individuals can
9 make an application to you, and you will make an assessment of
10 that application.

11 A. That is correct.

12 Q. After that, it goes to the Clerk to the House of
13 Assembly who will also conduct a review exercise; is that right?

14 A. That is correct.

15 Only one exception, and that's in the case of
16 funerals, they aren't really required to apply for that one.
17 It's in my case automatic. I give a standard donation towards
18 funeral costs. You don't have to apply for that one.

19 Q. Now, do you know--

20 COMMISSIONER HICKINBOTTOM: I'm sorry, Mr Rawat, is
21 that you're--is that what you do?

22 THE WITNESS: What I do, sir.

23 COMMISSIONER HICKINBOTTOM: It's not necessarily what
24 everybody does?

25 THE WITNESS: No, no. These are discretionary funds,

1 so to speak.

2 COMMISSIONER HICKINBOTTOM: Thank you.

3 BY MR RAWAT:

4 Q. I see. So, your own assessment of how you use that
5 found is--

6 A. By needs, sir.

7 Q. If there is an application in relation to a funeral,
8 you're going to grant it, the money is going to be paid?

9 A. To the funeral home directly, not to the person, to
10 the funeral home.

11 Q. Yes. Now, in other instances it goes to the Clerk of
12 the House of Assembly--

13 A. They all go to the Clerk.

14 Q. Right.

15 A. All payments go through the Clerk of the House of
16 Assembly.

17 Q. Even the ones where you--in relation to funeral costs?

18 A. Yes. I float the fund for the funeral home myself,
19 but it goes through the very same process.

20 Q. I see.

21 A. The point I was making is they don't have to apply for
22 that particular one. That's the point I was making.

23 Q. I follow. So, if there is a funeral, that where you
24 are aware that assistance is needed--

25 A. Exactly.

1 Q. --you will fill in the form rather than requiring an
2 application?

3 A. There you go.

4 Q. And then it goes through the process?

5 A. It goes through the process, sir.

6 Q. So, these guidelines are for you?

7 A. Um-hmm.

8 Q. Do you know what guidelines the Clerk of the House of
9 Assembly uses?

10 A. The same one, they come from the House of Assembly.

11 Q. And then there it goes to the Treasury Department as I
12 understand it?

13 A. For the cutting of the check, yes.

14 Q. What else does the Treasury Department do at that
15 stage?

16 A. It depends on--and there's a little technicality here.
17 Depends on when the request was made, and when the check is
18 going to be cut, it might involve the Ministry of Finance. If
19 it crosses over from one year to the next.

20 Q. I see.

21 A. Once the Treasury cuts the checks, my secretary come
22 back to the House of Assembly, and they will call my secretary
23 who collects the checks and then distributes them.

24 COMMISSIONER HICKINBOTTOM: I'm sorry to interrupt.
25 Is the general scheme then that, leaving aside funeral expenses

1 which I understand, an application will come in to you, no doubt
2 lots more applications than you have--

3 THE WITNESS: Funding, of course.

4 COMMISSIONER HICKINBOTTOM: You then assess the
5 application.

6 THE WITNESS: Um-hmm.

7 COMMISSIONER HICKINBOTTOM: Again, other Members have
8 been asked this same question, but given that the need is far
9 greater than the amount of money you've got, and the wide scope
10 of possible needs, you have to make what seems to me to be quite
11 a difficult assessment.

12 THE WITNESS: Very.

13 COMMISSIONER HICKINBOTTOM: In assessing who gets
14 money, who gets what, who gets nothing.

15 THE WITNESS: Very true.

16 COMMISSIONER HICKINBOTTOM: That's your assessment as
17 the Member, so the burden of that falls on you, you exercise
18 your discretion and make whatever awards it is you make. That
19 then goes to the House of Assembly Clerk, I think it's she,
20 checks it against--

21 THE WITNESS: Same criteria.

22 COMMISSIONER HICKINBOTTOM: Same criteria.

23 THE WITNESS: It follows.

24 COMMISSIONER HICKINBOTTOM: But in particular to make
25 sure the supporting documents which are referred to in some of

1 the heads, so she makes sure that it has the supporting
2 documents. That she then takes it up or sends it back to you if
3 she's not happy.

4 THE WITNESS: Exactly. If it's not properly done, it
5 comes back to me to get the--

6 COMMISSIONER HICKINBOTTOM: To get the supporting
7 documents.

8 THE WITNESS: Or signature or whatever is needed.

9 COMMISSIONER HICKINBOTTOM: And then it eventually
10 gets through the House of Assembly Clerk and gets to--

11 THE WITNESS: The Treasury.

12 COMMISSIONER HICKINBOTTOM: Who again, no doubt checks
13 that everything is in order.

14 THE WITNESS: Um-hmm.

15 COMMISSIONER HICKINBOTTOM: In terms of the
16 bureaucracy. I don't mean that in a pejorative sense but in
17 terms of the supporting documents, they then sign the check.

18 THE WITNESS: Um-hmm.

19 COMMISSIONER HICKINBOTTOM: Does that mean that the
20 primary, if not the sole burden of deciding on the merits of the
21 application really falls on your shoulders?

22 THE WITNESS: Between myself and the Clerk, so in
23 terms of choosing the persons, yes, it chooses the persons we
24 are going to help, that's my primary responsibility. The
25 processing is the Clerk and the Treasury. Once the Treasury

1 completes the checks, the checks are sent back to the House of
2 Assembly.

3 COMMISSIONER HICKINBOTTOM: To you.

4 THE WITNESS: No, they sent back to the House of
5 Assembly where they're sorted and then sent to prospective
6 Members, they're the Members for distribution.

7 COMMISSIONER HICKINBOTTOM: So, eventually the checks
8 come back to you?

9 THE WITNESS: They come right back to us.

10 COMMISSIONER HICKINBOTTOM: And then are distributed?

11 THE WITNESS: And then are distributed.

12 COMMISSIONER HICKINBOTTOM: That's very helpful.

13 Thanks. In terms of process. Thank you.

14 BY MR RAWAT:

15 Q. One of the points, or one of the ways that you are
16 able to use the fund is obviously there will be welfare issues
17 that you will want to address, which include medical, funeral
18 and immediate needs?

19 A. And seniors.

20 Q. And seniors.

21 Now, I think this was the Honourable Flax-Charles gave
22 this evidence, that you can also use it for projects that
23 effectively you had been elected on, particularly interests of
24 yourself.

25 Now, in terms of and picking up on the theme that the

1 Commissioner put to you that, you're in this situation where
2 there is a finite sum of money but a very large number of
3 requests.

4 Is it just down to you how you distribute the money?
5 I mean, the extent to which you might have to fund a medical
6 welfare need as opposed to perhaps if you have a broader policy
7 interest in education, is it just down to you how you spend the
8 money?

9 A. It's an individual thing. Most of my funding was
10 towards the seniors in the community. I think I have like 42
11 seniors that receive checks monthly, 40 to 45 seniors that
12 receive checks monthly. The rest of the money may go towards a
13 school, it may go towards a small project, a small cleanup, you
14 want to clean up some garage from a particular area or beautify
15 a particular area. That's up to Members to decide how they will
16 spend that money. You can spend all the money on one thing or
17 you can try and spread the money around several different
18 things. I try to help as many persons as I can, so I have a lot
19 of persons who get monthly checks from me. Then there's another
20 set who get one-time checks, one-off checks. I'm behind three
21 months on my rent. Can you give me a check. I could pay one
22 month for you, one month for you, one month for you, as opposed
23 to three months for one person. That's individual choices that
24 we have to make, and it's very difficult because somebody is
25 going to feel left out because you can't help everyone with a

1 finite amount of money.

2 COMMISSIONER HICKINBOTTOM: Just as you have a
3 particular interest or leaning in terms of the assistance to
4 seniors, might other Members have different particular
5 interests, educational?

6 THE WITNESS: Absolutely, absolutely. Some Members
7 may fund after school programmes from their funding. Others
8 might work with grocery, others may work with--just depends on
9 what the needs are in the district.

10 COMMISSIONER HICKINBOTTOM: Yes.

11 THE WITNESS: So, it's a district by district need
12 that you have to address.

13 BY MR RAWAT:

14 Q. And paragraph 10 of the guidelines say that you
15 can--district office expenses related to rent, staff, and
16 operating expenses are allowed up to a maximum of 24,000 per
17 annum. So, from the total amount of 125 that you get, you can
18 use 24 of that to operate an office in your district?

19 A. That's correct.

20 Q. Is that what's allowed?

21 A. It's what's allowed. I've never used it for that. I
22 pay my own rent and I give the money towards these other
23 initiatives I may choose to do. I've never used that for rent.

24 Q. I see.

25 But again, that's another part of the difficulty that

1 you're confronted with?

2 A. Yes.

3 Q. Because there are yet another use that could be made
4 of the money?

5 A. Yes.

6 Q. Now, I think when we--I started asking you questions,
7 you volunteered that you have 3,500 people--

8 A. Yes.

9 Q. --approximately living in your districts, so that's
10 the total pool of people that you will need to help in any one
11 year; is that right?

12 A. That's not right because we get requests from all over
13 the BVI. I may get requests from other districts also because
14 persons may know me or whatever. They may write to me.
15 Sometimes persons have large bills, so it may take two or three
16 of us to help them come together to meet that particular
17 challenge. So, we get requests from all over the BVI.

18 Q. Which links perhaps I hope to my next question which
19 is, of course, that each district will have a different
20 population size.

21 A. That's correct.

22 Q. But you all have the same amount of money?

23 A. Yes.

24 Q. So, is that another potential problem? Because, I
25 mean, if your district has a significantly larger population

1 than the district next to you, that's a difficulty with which
2 you are presented because there is less--it's harder for you to
3 help as many people as you might want?

4 A. It shouldn't be. All districts should relatively be
5 around the same size. So you have boundary exercises every so
6 often. They should be kept around the same size. There should
7 not be a significant difference between district A and district
8 B. I don't know what the numbers are right now population size,
9 but there should be no significant difference.

10 COMMISSIONER HICKINBOTTOM: On top of that, there are
11 also the Territorial Members.

12 THE WITNESS: That's correct.

13 COMMISSIONER HICKINBOTTOM: You obviously have
14 effectively a constituency across--

15 THE WITNESS: The whole Territory.

16 COMMISSIONER HICKINBOTTOM: The whole Territory. And
17 as you say, somebody in a particular district in need can apply
18 to Members of other districts?

19 THE WITNESS: Oh, absolutely. Absolutely. It's up to
20 the Member to decide if he's going to honor it or not.

21 Sometimes you just can't. So, in terms of funding, the amount
22 of money you have is not enough. You can increase the money,
23 you can double the money, it's still not enough, so we only make
24 that too big of a deal in terms of district A versus district B.

25 BY MR RAWAT:

1 Q. I was looking at your total population size because
2 obviously in your district there is a smaller number of those
3 people who can vote, and that may decide the size of a district,
4 but within your district you may be getting requests from people
5 who don't vote but need your assistance.

6 A. Absolutely. We don't discriminate in that instance.
7 There is need.

8 Q. And is the population--is the population in each
9 district roughly the same? Is that your evidence?

10 A. Size-wise. I want to say about voters versus
11 nonvoters--I wouldn't know.

12 Q. Yeah.

13 A. But districts themselves, the numbers should be very
14 close to each other.

15 Q. In terms of how many people are living?

16 A. Rights.

17 Q. Whether they're a voter or not.

18 (Overlapping speakers.)

19 A. That's why we have the rebounding every so often to
20 make sure all districts are approximately the same size.

21 Q. Could I move on just to two more matters that I would
22 like--

23 A. I want to offer one bit of information that you didn't
24 ask. I publish about my money spent every single year. It's
25 not required but I do it so the district can see how the money

1 is being spent. That is published.

2 Q. So, at the end of the year you say right, I got
3 \$125,000, this is how I've done it?

4 A. This is what I started with, I now have zero, this is
5 the way it was spent.

6 Q. I see.

7 Well, that links into a question I've asked of others,
8 which is whether they're audited, and the answer was that that
9 probably happens, what happens simply left?

10 A. Yeah.

11 Q. And that's something that you do voluntarily?

12 A. I volunteer that, yes.

13 Q. I see.

14 Where would you publish it?

15 A. On my website.

16 Q. Now, the next matter to move on to is the question of
17 section 67 of the Virgin Islands Constitution of 2007. I can
18 take you to it, but hopefully I can do it shortly.

19 A. Sure.

20 Q. I think I have at least the answer to my first
21 question. I think I can predict what your answer will be, so
22 what section 67 allows--requires is that it sets out certain
23 circumstances in which an elected Member is required to vacate
24 his or her seat, and one of those circumstances is if he or she
25 becomes a Party to any contract the Government of the Virgin

1 Islands for or on account of the public service or if any firm
2 in which he or she is a partner or any company in which he or
3 she is a director or Manager becomes a Party to any such
4 contract or if he or she becomes a partner in a firm or a
5 director or Manager of a company, which is a Party to any such
6 contract.

7 Now, there is within the Constitution also that the
8 House of Assembly can allow--can decide to exempt the Member
9 from that requirement.

10 Now, as I've said, I think I'm fairly certain what the
11 answer to this question will be, but it's this: Have you, in
12 your time as a Member of the House of Assembly been exempted
13 under Section 67 from vacating your seat?

14 A. No because I have no basis of the Government proper.
15 I have no company doing business with the Government, so I
16 wasn't required to do that.

17 Q. We heard from The Honourable Neville Smith earlier
18 today who explained that he has been the beneficiary of an
19 exemption vote. He's explained to the Commissioner the
20 circumstances in which it arose, so we don't need to go into
21 that, but did you vote in favor of that motion?

22 A. Absolutely.

23 Q. Are there any other motions that have been brought
24 before the House in terms of exemption whilst you have been in
25 the House of Assembly?

1 A. I think there is one, Malone also, if memory serves me
2 right, which I supported also. We cannot publish our people
3 because they have been elected. They should be allowed to
4 continue to make a living.

5 Q. In the making that decision, and we can take The
6 Honourable Neville Smith's situation as the example, are you
7 given any guidance as to how to assess the merits of the motion
8 application?

9 A. Not sure we're given guidance as such. We do have
10 discussions about it because again the public perception again
11 is something we have to always consider as to where the person
12 got a contract--had the basis before they were elected, they
13 started a business after they were elected, if they were
14 involved in any decision about the contract and so forth. So we
15 do have discussions at that level but not necessarily official
16 or I should say formal guidance notes on it. I don't recall.
17 What we do look at is the particular cases as they arise.

18 Q. Now, you say we have discussions. Is this discussions
19 as The House of Assembly?

20 A. No, Government.

21 Q. As a government. But then it ultimately has to go
22 before the House of Assembly, doesn't it?

23 A. You wouldn't have those open discussions with
24 everybody. We speak among ourselves.

25 Q. To reach a view about what you're going to do?

1 A. Yes.

2 Q. I see.

3 And then what happens when the motion comes before the
4 House?

5 A. We all get up and give our debate on it or input on
6 it, and we vote on it afterwards.

7 Q. Is there scope within the standing orders of the House
8 for Members to request that further information be obtained
9 before a vote is taken?

10 A. Absolutely.

11 Q. And in what way can that further information be
12 provided to the House?

13 A. It depends on what information comes out during the
14 debate, a portion of it, and if there is anything that--it
15 depends on what it might be, we want to know how much is the
16 contract, how long has the business been around. Different
17 person have different agendas as to whether they want more
18 information before they can--before they can vote, but what
19 might necessarily stop the vote, but they can request more
20 information that they would get at some point in time.

21 Q. The last topic, please. And this may be the question
22 that you asked me to repeat again, but it's this: You've been
23 asked about how campaigns are financed in the BVI and how you
24 financed your own campaign, but I'm going to put a set of
25 propositions to you, and they are--they're not--they're

1 hypothetical. I'm not asking you questions about your own
2 campaign but it's also just about reform of campaigns and
3 campaign finance.

4 Now, do you agree that if there were firstly,
5 legislation or policies governing candidate and party financing
6 and secondly, a requirement that political parties should be
7 registered for financial reporting services, then that would
8 have two consequences: The first is to increase trust in the
9 system, and the second is to remove or decrease the risk of
10 corrupt practices taking place or taking root? That's the
11 question and I want your answer to that.

12 A. I would say the issue of campaign financing is not
13 anything new to the BVI. If you look at the United States of
14 America is the big discussion going on for the last couple of
15 months about corporate and this money and that money, and the
16 effects upon campaign financing and what happens when the
17 candidate that they're backing wins, you see Joe Biden pull back
18 environmental--or brought back environmental restrictions that
19 were removed because particular donors who finance campaigns
20 demanded these things after their candidate won. So campaign
21 finances are a concern all around the world, and I think it
22 should be different here because somebody finances a campaign,
23 it is quite likely it may come with strings, so I'm all for
24 transparency in that case.

25 I'm not sure how much it would decrease the risk

1 because it is something called, as you said earlier, there is
2 something called "perception corruption", so to speak, the
3 perception of corruption. You don't have to guess which country
4 is on that list, which is Venezuela for very, very bad
5 corruption in politics. It's a very wealthy country in terms of
6 oil. But when you have money and politics mixed and its
7 interest person covering their interests or they're likely to
8 cover their interests. And it's been a big cry for many, many
9 years, of campaign finance has been around in BVI for a long
10 time. And I can see the kind of Government we have,
11 transformation of Government, that we will move towards negative
12 campaign financing, more transparent and more open. I can see
13 it happening. To me, it would cut down on what others may
14 perceive to be corruption.

15 Doesn't mean it happens, but it's the perception we're
16 talking about here. The perception of corruption, well, if so
17 and so financed my campaign, and whatever that person want, they
18 think they will get it. So it's a perception thing.

19 So, this brings transparency to that. The person who
20 person give a dollar, and person B give two dollars, and you
21 could see what they are receiving in the end as opposed to
22 getting things or making this happen on their own merit.

23 I think in the BVI, more often than not, I don't have
24 any cases, persons get job based on merit, not based on who
25 campaign finance, who campaign didn't finance. Whatever people

1 are going to do, people are going to do.

2 COMMISSIONER HICKINBOTTOM: I certainly understand
3 that as an assessment of yours, but without regulation of
4 campaign financing and Declarations of campaign financing, which
5 you do not have here in the BVI, nobody knows, do they?

6 THE WITNESS: Well, I'm showing in this case they have
7 all those things and it still happens.

8 COMMISSIONER HICKINBOTTOM: But people know that it
9 happens in the sense that they know who the donors are--

10 (Overlapping speakers.)

11 COMMISSIONER HICKINBOTTOM: But they do--don't
12 they?--they know who the donors are and they can see what the
13 policies are as you have done, put two and two together, but
14 where there is no regulation or Declarations required in respect
15 of campaign financing, that can't be seen.

16 THE WITNESS: As I said, I can see where all
17 Government would probably move towards implementing such a
18 structure.

19 COMMISSIONER HICKINBOTTOM: So, you would support a
20 move towards more openness in respect of campaign funding?

21 THE WITNESS: Oh absolutely. We have started
22 developing and strengthening all our institution, and I think
23 this will continue. We have to be--we can police ourselves
24 well, and this will be one of them. So I will be fully in favor
25 of adding some more structures to campaign financing if it's

1 going to make us more comfortable and more transparent, and
2 moreover, to win the public's trust in the public officials that
3 they know when this person is elected they are going to get a
4 fair shake as an individual versus thinking I'm only left out
5 because I didn't support this campaign.

6 MR RAWAT: Commissioner, I have no further questions.
7 But I'm going to leave Mr Wheatley with two pieces of homework
8 if I may, and I will ask Mr Olympitis to record that now. It
9 will, of course, be recorded on the Transcript, if anyone needs
10 to check it, but it's firstly, if we could have a copy of your
11 2020 Declaration because we haven't received that.

12 Secondly, it's copies of any correspondence that has
13 been retained by your Secretary between yourself and the
14 Registrar.

15 THE WITNESS: Just one challenge there. My secretary
16 is on vacation, and it obviously--so give me a few days to get
17 that one.

18 MR RAWAT: That's not a problem.

19 THE WITNESS: Okay. Good.

20 MR RAWAT: Thank you very much.

21 Other than that, if I can conclude by thanking
22 Mr Wheatley for coming today and giving evidence and also for
23 the way in which he has given that evidence. Thank you very
24 much.

25 COMMISSIONER HICKINBOTTOM: Can I hear that,

1 Mr Wheatley, thank you very much for your time and your
2 patience, quite a large part of this afternoon but also for the
3 way in which you have given your evidence, very clear, very
4 helpful. Thank you.

5 THE WITNESS: My pleasure, thank you.

6 (Witness steps down.)

7 COMMISSIONER HICKINBOTTOM: I think that's it.

8 MR RAWAT: That's it.

9 COMMISSIONER HICKINBOTTOM: For today. And I think
10 tomorrow we start with 10:00.

11 MR RAWAT: With The Honourable Julian Fraser.

12 COMMISSIONER HICKINBOTTOM: Good. Thank you very
13 much.

14 (Whereupon, at 5:15 p.m. (EDT), the Hearing was
15 adjourned.)

16

17

18

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

A handwritten signature in cursive script, reading "David A. Kasdan", positioned above a horizontal line.

DAVID A. KASDAN