

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY

HEARINGS: DAY 4
(TUESDAY 11 MAY 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
appeared for Commissioner of Customs Mr Wade Smith.

Mr Wade Smith gave evidence to the Commission.

Mr Claude Skelton Cline gave evidence to the Commission.

Counsel to the Commission Mr Bilal Rawat also appeared.

Court Reporter:

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Those present:

Mrs Jo-Ann Williams-Roberts, Solicitor General
Ms Sara-Jane Knock, Withers LLP (attending remotely)

Mr Daniel Fligelstone Davies, Silk Legal

Mr Bilal Rawat (attending remotely)

Mr Wade Smith, Commissioner of Customs

Mr Claude Skelton Cline

Mr Steven Chandler, 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

P R O C E E D I N G S

SESSION 1

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3 COMMISSIONER HICKINBOTTOM: Good morning, Mr Smith.
4 Good morning, Solicitor General.

5 I think that everybody here has been involved in
6 these before, except Mr Smith himself, so the housekeeping
7 notices I know have been read out by the Secretary to the
8 Commission. I'll deal with the issue of privacy or publicity
9 at the end of the hearing in the usual way. At the Attorneys
10 request this hearing is currently in private.

11 Good. Could Mr Smith be sworn.

12 COMMISSION SECRETARY: Would you prefer to swear or
13 make an affirmation?

14 THE WITNESS: Swear.

15 COMMISSION SECRETARY: Take the Bible in your left
16 hand and raise your right hand.

17 THE WITNESS: I swear by Almighty God that the
18 evidence I shall give shall be the truth, the whole truth, and
19 nothing but the truth.

20 COMMISSIONER HICKINBOTTOM: Thank you, Mr Smith.

21 Now, Mr Smith, counsel to the Inquiry, Mr Rawat, will
22 be asking you most of the questions, and you will find him on
23 the screen in front of you, bottom right, and we hope
24 that--he's in quarantine, so we hope the connection with his
25 quarantine hotel holds up.

1 Mr Rawat.

2 MR RAWAT: Good morning, sir. Are you happy for me
3 to proceed with my questions?

4 COMMISSIONER HICKINBOTTOM: Yes, please.

5 BY MR RAWAT:

6 Q. Good morning, Mr Smith. I hope you can hear me.

7 A. I can.

8 Q. Can we start off--can I start off by asking you to
9 give the Commissioner your full name, please.

10 A. Wade Noel Smith, Commissioner.

11 Q. And your professional address?

12 A. Professional address? I take it you mean work
13 address?

14 Q. Yes, please.

15 A. Richard Stoutt Building, Wickhams Cay, Tortola,
16 British Virgin Islands.

17 Q. Thank you.

18 Can I start off by first thanking you for coming to
19 give evidence today. Your willingness to assist the Commission
20 is much appreciated.

21 I hope to keep my questions short and simple, but if
22 at any time you have any difficulty in understanding a question
23 and you would like me to repeat or rephrase it, then please do
24 ask me.

25 You should have in front of you a bundle of

1 documents. Can I check that that's in front of you?

2 A. This one? Yes.

3 Q. Thank you.

4 There is no need for you to open it at the moment,
5 Mr Smith, but we will need to look at some of those documents
6 in due course.

7 Can I finally just ask you to keep your voice up and
8 speak slowly. That's because your answers need to be
9 accurately and clearly recorded on the Transcript of this
10 hearing.

11 Now, what I want to start off by doing is to explain
12 why we've asked you to attend today. There are a number of
13 matters on which we believe you may be able to help the
14 Commissioner further. You are attending as a witness. As a
15 witness--and, indeed, the same applies to every lawyer in the
16 room or remotely participating in the hearing--you are under an
17 obligation to assist this investigation. You do have legal
18 representation, I understand, but what I can say is that I
19 don't intend, through my questions today, to put to you a
20 criticism or an allegation that you have to answer.

21 The first topic I would like to ask you questions
22 about is just your professional background. Could you give the
23 Commissioner a brief outline of your professional career; your
24 working history, if you like.

25 A. Yes, Commissioner.

1 Commissioner of Customs or Deputy Commissioner of
2 Customs of British Virgin Islands or Deputy Controller of
3 Customs 2000.

4 In 2003 or 2004, became Commissioner of Customs here
5 in the Virgin Islands.

6 In 2017, I took a short leave to contest the general
7 elections--unsuccessful at that time. I returned on contract
8 as a director of the Financial Investigation Agency for
9 approximately almost a year; and then reapplied back to Customs
10 and was successful in becoming the Commissioner of Customs
11 again in 2020, I think. Yes.

12 MR RAWAT: Sir, I think my internet may be playing
13 up. Can I check if anybody can hear me?

14 COMMISSIONER HICKINBOTTOM: We can hear and see you,
15 Mr Rawat.

16 MR RAWAT: It's again at my end, sir. If I may, I
17 will try and--I think it's--I think it's improved. I'll keep
18 on going, and if it's a problem, I might need to log in and log
19 out again.

20 COMMISSIONER HICKINBOTTOM: Certainly, Mr Rawat. At
21 the moment, we can see and hear you well.

22 MR RAWAT: Thank you.

23 BY MR RAWAT:

24 Q. Mr Smith, just to go back to your professional
25 history, I think you said you were Controller of Customs then a

1 Deputy Commissioner and then Commissioner up to 2017. So, up
2 until becoming Controller of Customs, had your career been in
3 the Customs Department?

4 A. Commissioner, could you repeat that question, please?
5 How was it--

6 Q. As I understand, just to summarise your--the career
7 history you've given us, in 2017, you had become Commissioner
8 of Customs, having previously held roles as a Deputy
9 Commissioner and a Controller of Customs; is that right?

10 A. No. I began--actually, Commissioner, I have been--I
11 have been an agent for the United States Customs Service prior
12 to coming to the British Virgin Islands. Coming to the British
13 Virgin Islands, I held a post of Deputy Controller of Customs.
14 I was a Deputy Controller of Customs for about three years
15 before becoming the Commissioner or the Comptroller of Customs.

16 In 2010, after legislative amendments, the post
17 became the Commissioner of Customs. I was a Commissioner of
18 Customs until about 2017.

19 A contested general election was unsuccessful.

20 Then I took up a contract with Financial
21 Investigation Agency as the Director, and I reapplied for the
22 post of Commissioner of Customs, and I was successful, so I'm
23 back in the position as Commissioner of Customs.

24 Q. Thank you for that.

25 So, you have a background at working in U.S. Customs

1 as well as the BVI.

2 A. Yes. I have a background in that. I work closely
3 with a number of Federal agencies, the high intensity
4 drug-traffic areas, the FBI, U.S. Marshals, U.S. Attorneys, and
5 we continue that enforcement relationship.

6 Q. In terms of your return to being the Commissioner of
7 Customs, was that a role that was advertised, or were you
8 simply appointed or invited to apply for the job?

9 A. Commissioner, it was a role that was advertised, and
10 I applied for the position.

11 Q. And in applying, one of the things I would like your
12 help on, please, Mr Smith, is just the process to which people
13 are appointed to jobs of civil service in the BVI. But when
14 you came to apply for the job, did you have to declare any
15 interests before taking up the job?

16 A. No. I applied, submitted my application, educational
17 background. I was invited to an interview process, went
18 through the interview process, met with the Public Service
19 Commission, and right then I learned I was a successful
20 applicant for the position, but no, I did not ask to declare
21 any interests.

22 Q. And you have seen from the correspondence that we
23 sent you that the Commission is interested in contracts that
24 Customs may have been involved in, and I'll get into the detail
25 of that in a moment.

1 When you were involved in that, even as the recipient
2 or if your Department is the recipient of a contract, even if
3 you don't sign it off, are you under any obligation in your
4 post to declare any interests that might arise?

5 A. No, Commissioner. No obligation to declare any
6 interests, in any--any of those--any arrangements. I'm not
7 under obligation.

8 Q. Now, you've already given an indication of what your
9 role as Commissioner involves, but you can you expand on that a
10 bit further and tell the Commissioner a little bit about what
11 your job involves?

12 A. Yes. Commissioner, the overall management and
13 responsibility of the Customs Department; enforcing laws
14 responsible for the importation and exportation of all goods
15 leaving and returning to the territory; border security.
16 Responsibility for revenue collection of probably the
17 second- or third-largest revenue-generating body for the public
18 of the Virgin Islands; working closely with the international
19 community on law enforcement and the fight against
20 transnational crime.

21 Also a system of agencies and performing other
22 agencies' functions as well--agriculture, Ports Authority,
23 Virgin Islands Shipping Registry, et cetera.

24 Q. Do you come in under any government department or
25 Ministry?

1 A. Commissioner, under the Ministry of Finance.

2 Q. So, it's the Ministry of Finance that you would have
3 to answer to?

4 A. Yes, that's correct, Commissioner.

5 Q. Now, the Constitution provides for a National
6 Security Council. I don't believe that it requires you as
7 Commissioner of Customs to sit on it, but are you ever asked to
8 attend the NSC?

9 A. Yes, Commissioner. Under the Constitution, we're not
10 a member of the NSC, but various times we are requested to
11 attend NSC meetings.

12 Q. In what circumstances would you have to attend an NSC
13 meeting?

14 A. Over the years, I have been requested to attend the
15 NSC meeting as far back as the hurricanes to source and make
16 recommendations for funding for law enforcement, including
17 Immigration Police and Customs; requested funding over the
18 years for those agencies to receive the requisite assets to
19 enforce or carry out their functions.

20 Also, as lately as with the COVID pandemic, we've
21 have to make--we would have to make reports or meet with our
22 National Security Council to give updates or feedback with
23 regards to how law enforcement is working towards the
24 suppression of COVID-19.

25 Q. You said a few moments ago that you were under the

1 Ministry of Finance. How long has the Customs Department been
2 answerable to the Ministry of Finance?

3 A. Commissioner, I believe the Customs Department has
4 been answerable to the Ministry of Finance since probably 1975.

5 Q. Now, is it right that Customs is the lead agency in
6 terms of border security?

7 A. Yes. Customs is the lead agency with regards to
8 border security.

9 Q. And given that lead role, would you--as the
10 Commissioner and as the Customs Department, would you have to
11 interact with the BVI Airports Authority?

12 A. Commissioner, yes. We would interact with
13 BVI--BVIAA, yes.

14 Q. And is that something that's still going on, that you
15 have to have a liaison with BVIAA?

16 A. Commissioner, yes. We communicate with BVIAA. We
17 meet on--operationally, we communicate with them just about
18 every week, and we also work together on different boards and
19 different bodies.

20 Q. Could you, Mr Smith, just help us a little bit more
21 with, firstly, which different boards and bodies do you
22 collaborate with the BVIAA on?

23 A. Commissioner, I cannot recall the acronyms, but there
24 is a body that meets at the airport just about quarterly, which
25 involves police immigration, Airports Authority, and Customs.

1 And also there is the group that's chaired by the Governor, the
2 Territorial Security Advisory Group. I think that's TSAG,
3 Commissioner.

4 Q. Now, the--you described this as being an "operational
5 liaison," so in terms of who would it be within the BVIAA
6 structure that you would be liaising with?

7 A. Commissioner, I will communicate with the Acting
8 Director from time to time. I have my operational people,
9 Assistant Commissioners, who will communicate with the
10 Operational Unit at the Airports Authority, not directly with
11 the--not directly with the Director but their Chief of
12 Operations.

13 Q. I think it's right, isn't it, that Chairman of BVIAA
14 is Bevis Sylvester; is that right?

15 A. That's correct, Commissioner.

16 Q. Do you know Mr Sylvester?

17 A. Yes, Commissioner.

18 Q. How long have you known him?

19 A. Commissioner, I have known Mr Sylvester probably from
20 around 2001. When I first came into the service, Mr Sylvester
21 was the, I think, Budget Director or Budget Coordinator,
22 something along those lines, in the Ministry of Finance.

23 Q. So, you had to deal with him in terms of the work of
24 your Customs Department?

25 A. Not--Commissioner, not directly with him. In terms

1 of--I communicate directly with the Financial Secretary, any
2 budgetary matters or anything like that is directly with the
3 Financial Secretary, who, in turn, will give instructions to
4 the Budget Director or Coordinator to make sure approved
5 funding is in place for all operations.

6 Right now, we have a Budget Director or Coordinator.
7 I don't communicate with them. I go directly to the
8 Minister--the Financial Secretary.

9 Q. Now, obviously, Mr Sylvester is now the Chair of
10 BVIAA. You're the Commissioner of Customs. At that level,
11 given that you've worked together with the BVIAA, do you have
12 any interaction with Mr Sylvester at all?

13 A. Commissioner, no, I have no interaction with
14 Mr Sylvester. The last time I communicated with Mr Sylvester
15 was, I think it was, about a week ago Friday. I could not get
16 through to anyone at the airport, and I made contact with the
17 Board, returned me to the Chairman, and that was to seek
18 permission for U.S. Coast Guard to get a space at the airport
19 to land. They were coming to do some aerial surveillance for
20 us, and they wanted to stop, get something to eat.

21 I contacted the Minister of Health, and Dr Georges
22 was in charge of the medical unit to find out if--what
23 protocols would be needed. They said it's okay for them, and
24 we got permission through the Director because I believe, after
25 that communication, he was in touch with the Director, and the

1 Director later called and said that permission is given, and
2 there is a protocol sheet that he will follow to me which the
3 Coast Guard would have to adhere to.

4 Needless to say, it never materialised because, at
5 the last minute, they said they had a change in plans,
6 (unclear) Commissioner.

7 Q. My internet has been unstable again, but it seems to
8 have recovered, so I think I will just try to keep on going for
9 the time being. But I hope everyone can still see and hear me.

10 COMMISSIONER HICKINBOTTOM: We can. You went for a
11 moment, Mr Rawat, but I think you're back.

12 BY MR RAWAT:

13 Q. Just before we move on, Mr Smith--

14 COMMISSIONER HICKINBOTTOM: Mr Smith wants to say
15 something first.

16 THE WITNESS: Yes, Commissioner. If I may--and I
17 will mention that we also--Mr Sylvester is also the General
18 Manager of a petroleum company in the BVI, and we've met with
19 him from Customs. My position is as Commissioner of Customs.
20 We've met with the petroleum company's management team with
21 regards to policies that were being implemented or (unclear)
22 for the fuel companies, so that has probably happened in recent
23 time as 2016 around those times, Commissioner.

24 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat.

25 MR RAWAT: Sorry, my internet connection seems to be

1 unstable at the moment.

2 THE WITNESS: Can I speak, Commissioner?

3 COMMISSIONER HICKINBOTTOM: Just one moment.

4 (Witness confers with Solicitor General.)

5 MR RAWAT: I will try to log in and log out, if I
6 may.

7 COMMISSIONER HICKINBOTTOM: Mr Rawat, do that, and
8 hopefully the connection will be better.

9 Just one moment while Mr Rawat tries and resolve
10 this.

11 (Pause.)

12 MR RAWAT: I hope you can see and hear me now.

13 COMMISSIONER HICKINBOTTOM: We can, I think. Yes.
14 We all can, Mr Rawat. I think you probably changed machines.

15 MR RAWAT: So hopefully that may help a little bit.
16 It did on the last occasion this happened.

17 COMMISSIONER HICKINBOTTOM: We can see and hear you
18 for now.

19 Mr Smith just wanted to say something, Mr Rawat,
20 before you recommence.

21 Mr Smith.

22 THE WITNESS: Yes, Commissioner.

23 And also with regards to Mr Sylvester, as I
24 mentioned, that he worked or he's the General Manager of a
25 local petroleum company. We've had Customs--has had a court

1 case with that petroleum company. I think it was 2015, around
2 then, so it's been quite a while with that.

3 BY MR RAWAT:

4 Q. Is that the case that went to the Privy Council,
5 Mr Smith?

6 A. Yes, Commissioner.

7 Q. So, you will have--effectively, there are two bases
8 on which you meet with Mr Sylvester, either as Chairman of
9 BVIAA or as a representative of a petroleum company?

10 A. Commissioner, I didn't understand what he said.

11 COMMISSIONER HICKINBOTTOM: You interact with
12 Mr Sylvester in two ways, one with him as the BVIAA Chairman,
13 and secondly as the General Manager of the petroleum company?

14 THE WITNESS: Commissioner, primarily as the Director
15 of the petroleum company. As I said, I communicate with him
16 once with regards to getting permission for the U.S. Coast
17 Guard to utilise the facilities at the airport, and that was
18 it. But primarily as an importer for the petroleum company.

19 BY MR RAWAT:

20 Q. Thank you.

21 Mr Smith, could you now just help me with a couple of
22 points about what two entities do. We've seen some of the
23 papers there is a reference to the Border Control Task Force.
24 Can you tell the Commissioner what that does?

25 A. Commissioner, that is the Joint Task Force. The

1 Joint Task Force was actually developed--came into force, I
2 think, beginning--or after the lockdown began. This group
3 comprises Immigration, Customs, and Police, and the mission is
4 to secure the borders and work together jointly. We've had
5 officers, Customs Officers, as well as Immigration Officers
6 sworn in as Special Constables to assist the Police on land,
7 and also to protect the borders and work closely with the other
8 land-based operations, which included, like I said, the three
9 major agencies, the major law enforcement agencies here in the
10 BVI.

11 Q. Thank you.

12 I think you may have already answered this question
13 because the documents also refer to the "Joint Task Force," but
14 is that actually another way of referring to the Border Control
15 Task Force?

16 A. Commissioner, there was never Border Control Task
17 Force. It is the Joint Task Force.

18 Q. Is that the proper name, Joint Task Force?

19 A. That's correct, Commissioner. JTF, and that's
20 basically to performing the functions of border security and
21 internal security. What we decided during those times is each
22 agency had a main primary responsibility for enforcing their
23 laws. Customs could not enforce Police, vice versa
24 Immigration. In some instances, it was quite useful, where in
25 some instances you can execute or enter premise without a

1 warrant, if you're looking for illegals, whereas the Police
2 would have to go to the Magistrate to get the warrant to
3 execute their function, so it worked pretty well, Commissioner.

4 Q. Now, Mr Smith, if we could move to the Request. If
5 you pick up the bundle that should be in front of you and just
6 go through--I think if I just ask you to go through--if you
7 could find Page 21, it paginates in the bottom right-hand
8 corner. Page 21, if you've got it, Mr Smith, has what it looks
9 like a lot of incomprehensible text on it, but the word
10 "X-MS-Exchange" appears. Do you have that?

11 A. On Page 21?

12 Q. Yes.

13 COMMISSIONER HICKINBOTTOM: I'm not sure I have that,
14 Mr Rawat.

15 MR RAWAT: Ah, right. I've got--

16 COMMISSIONER HICKINBOTTOM: My Page 21 is headed
17 Appendix B.

18 THE WITNESS: Yes.

19 COMMISSIONER HICKINBOTTOM: So is Mr Smith's.

20 MR RAWAT: Right. My pagination is slightly
21 different from yours, sir, but if I could just have a moment.

22 (Pause.)

23 (Voices off microphone.)

24 COMMISSIONER HICKINBOTTOM: Hold on a minute--oh,
25 right.

1 MR RAWAT: I'm wanting to go, if you like, to the
2 second part of the bundle that begins the pagination, so I was
3 taking Mr Smith to 21 as being the last page of the first
4 tranche of documents, and then the pagination starts again.

5 COMMISSIONER HICKINBOTTOM: He hasn't got that, but I
6 have.

7 Do you want to really refer him to Page 1 opposite
8 Page 21?

9 MR RAWAT: Exactly.

10 COMMISSIONER HICKINBOTTOM: Mr Smith, if you go to
11 the beginning of the bundle and find Page 1 and then work your
12 through way through Page 21, the numbering starts again. So,
13 just flip through the first documents until you get to Page 21,
14 and then there should be another Page 1.

15 THE WITNESS: Okay. Page 20 and then Page 1?

16 COMMISSIONER HICKINBOTTOM: Correct. It's that
17 Page 1 that Mr Rawat is referring you to.

18 THE WITNESS: Okay.

19 COMMISSIONER HICKINBOTTOM: We've got it, Mr Rawat.

20 MR RAWAT: Thank you, sir.

21 BY MR RAWAT:

22 Q. That, Mr Smith, was the Request that was sent to you
23 by the Commission, and if you keep an eye on it or keep a
24 finger on it, if you go to Page 4 moving forward, you should
25 have a Page 4 a memorandum from the Customs Department that is,

1 if you like, cover response to that Request. You have that?

2 A. Page 4, yes, Commissioner.

3 Q. And it works as an introduction to the documents that
4 you then provided to the Commission.

5 Now, before we start looking at the detail, Mr Smith,
6 could you just explain to the Commissioner how you went about
7 complying with the Request.

8 A. Commissioner, referring to the letter that was sent
9 to me?

10 COMMISSIONER HICKINBOTTOM: Yes.

11 BY MR RAWAT:

12 Q. Yes. What searches did you conduct in order to
13 comply with the Request?

14 A. Yes, Commissioner. Once I receive the Request, I
15 got--went through e-mails that we've had, and I sent my draft
16 to my supervisor as well as the IRU with all the information
17 that was compiled, Commissioner.

18 Q. Did you have to fill in a questionnaire from the IRU?

19 A. Commissioner, I don't recall a questionnaire. I
20 don't recall a questionnaire, Commissioner.

21 Q. You mentioned a supervisor. What did you mean by
22 "supervisor"?

23 A. Oh, sorry, Commissioner. The supervisor would be the
24 Financial Secretary. This would be my supervisor.

25 Q. Without diminishing your role, is that sort of the

1 equivalent of your line manager?

2 A. No. The Financial Secretary's--is responsible for
3 all the Departments under the Ministry of Finance, including
4 Customs and Land Revenue and those Departments.

5 Q. Now, if you, Mr Smith, just keep your thumb at Page 4
6 for a moment and jump back to Page 1, you'll see that it's in
7 respect of arrangements in relation to the provision of radar
8 barges and ancillary services to the BVI Government. Now, we
9 know EZ Shipping had been providing a service by the provision
10 of radar barges. Can you just tell the Commissioner when that
11 company started providing that service?

12 A. Commissioner, I believe it was August 28. Late
13 August.

14 Q. Is that last year, 2020?

15 A. I'm sorry, Commissioner?

16 COMMISSIONER HICKINBOTTOM: Was it last year?

17 THE WITNESS: Last year, 2020.

18 BY MR RAWAT:

19 Q. Yes. If you look at Page 2 Request C, please.

20 A. Page 2, Commissioner?

21 COMMISSIONER HICKINBOTTOM: Yes.

22 BY MR RAWAT:

23 Q. I will just read it out: "You consider that any
24 other Ministry or arm of Government was involved in these
25 arrangements, could you please indicate which Ministry or arm

1 of Government and the role it played."

2 And your answer on Page 4, if we could look at that,
3 is that you say: "I have no consideration in this regard."
4 And I just wanted you, Mr Smith, could you just expand on that
5 response. What did you mean by "I have no consideration in
6 this regard"?

7 A. That's D--Commissioner, that's D--okay, Commissioner.
8 Noted the answer actually should have been "no other government
9 department was involved in this." The Ministry of Finance was,
10 Commissioner.

11 Q. So, is it your--your evidence is what you should have
12 said was that it was the Ministry of Finance that was involved
13 in these arrangements?

14 A. Yes, Commissioner.

15 Q. If we could look at now Request A, which was, if I
16 summarise, looking for documentation and information of the
17 arrangements between BVI Government and EZ Shipping and other
18 potential suppliers held by your Department, and in answer you
19 produced four documents. Could I look at one of those, which
20 was Page 6, please.

21 A. Page 6 of Annex A?

22 Q. Yeah.

23 So, if we're on the same page, it's dated 11 of
24 August 2020, and it's from Global Ocean Transport Inc.

25 Have you got that, Mr Smith?

1 A. Yes, Mr Commissioner.

2 Q. Now, it begins: "Firstly, I would like to introduce
3 myself." So, it looks that it wasn't--it was an unsolicited
4 response, an unsolicited letter to you; is that right?

5 A. That's correct, Commissioner.

6 Q. Why was this sent to you?

7 A. Commissioner, when--through the Comprehensive Border
8 Security Plan with the JTF, it was decided there would be the
9 need for some type of marine platform, radar platform. There
10 was an unsolicited submission by EZ Shipping, and through the
11 JTF it was then decided that you would need to source the input
12 from the other companies that provide a similar service. And
13 the BVI there are, I think, about three or four companies that
14 have that type of equipment that could provide that service,
15 one being Global Ocean, and my Deputy wrote to them to get that
16 organisation. He was tasked by the JTF to gather that
17 information from additional suppliers.

18 Another company was Caribbean Transport.

19 Q. Could I stop you there for a moment, Mr Smith. We
20 will get on to Caribbean Transport in a moment, but do I
21 understand this letter was written in response to an approach
22 from your Deputy?

23 A. That's correct, Commissioner.

24 Q. And that--that's Mr Romney, isn't it?

25 A. Correct, Commissioner.

1 Q. And do you have a copy of the letter that Mr Romney
2 sent to Global Ocean Transport?

3 A. Commissioner, I don't know if it's in the bundle, but
4 there was an e-mail thread, and this was a response back to the
5 e-mail that Mr Romney would have sent.

6 Q. Mr Smith, it doesn't appear that that e-mail to this
7 company was included in the material you provided. Would you
8 be content to provide it to the Commissioner?

9 A. Yes, Commissioner.

10 Q. Thank you.

11 You mentioned that there was an unsolicited approach
12 from EZ Shipping. Now, you said the Border Security Plan had
13 formulated an idea of having a marine radar platform. Was that
14 plan published? Was it public?

15 A. Commissioner, which plan? Are we speaking about the
16 Comprehensive Border Security Plan?

17 (Overlapping speakers.)

18 Q. Yes.

19 A. That wasn't published publicly, Commissioner.

20 Q. I'm sorry, I didn't catch your answer, Mr Smith.

21 COMMISSIONER HICKINBOTTOM: It wasn't published,
22 Mr Rawat.

23 BY MR RAWAT:

24 Q. Right.

25 So--and one aspect of it, of the Comprehensive Border

1 Security Plan, was that there should be a marine radar
2 platform; right?

3 A. Commissioner, yes. One section of that Comprehensive
4 Border Security Plan, I think, is the last--somewhere along the
5 last pages spoke about the marine radar platform and what was
6 an unsolicited response or unsolicited request from EZ
7 Shipping.

8 Q. Would you be willing, Mr Smith, to provide the
9 Commissioner with a copy of the Comprehensive Border Security
10 Plan?

11 A. Commissioner, absolutely.

12 I believe it was sent in the bundle, Commissioner.

13 Q. Now, if it wasn't public, it follows, though, does
14 it, that it wasn't publicly known that the Government was
15 looking to find marine radar platforms, was it?

16 A. Repeat that question, Commissioner?

17 Q. You've said that the Border Security Plan wasn't
18 published, the public did not know its detail. That Border
19 Security Plan includes marine radar platform.

20 So, is it right that the public did not know that
21 there was a plan to find marine radar platforms?

22 A. Commissioner, at that time, no, there wasn't. There
23 was pretty urgent response, and it was not publicly known at
24 that time. But the unsolicited response that was given went to
25 the Commissioner of Police and, I believe, the National

1 Security Council.

2 Q. Right. Could we look at that response. It's in the
3 bundle at 663. You can see at the top it's headed "EZ Shipping
4 Barge Service Proposal"; yes?

5 A. That's correct.

6 Q. 6 of May 2020. You can see who it's addressed to,
7 and at the bottom of the page you can see who it's copied to.
8 You have all of that, Mr Smith?

9 A. That's correct.

10 Q. Now, when did you--this is, as you've described it,
11 the "unsolicited proposal." When did you become aware of this
12 proposal? When did you first become aware of it?

13 A. Commissioner, I became aware of this proposal
14 probably in late August 2020.

15 Q. Since then, given that it was--nobody outside
16 Government knew that there was a proposal or there was an
17 interest in marine radar platform, have you--have you become
18 aware of how or what prompted this proposal to be sent in at
19 that time?

20 A. Commissioner, I would rather not speculate on this as
21 I rejoined the Department in August. This was in May.

22 Q. So, thank you for that clarification, sir.

23 So, at the time of this correspondence, you were not
24 actually in post; is that right?

25 A. That's correct, Commissioner.

1 Q. So, was it Mr Romney that was sort of acting, if you
2 like, acting as the Customs Commissioner?

3 A. No, Commissioner. At that time Mr Lettsome would
4 have been Acting Commissioner. Mr Romney is Deputy
5 Commissioner.

6 Q. It seems a bit strange that at the same time that the
7 Government is internally expressing an interest in marine radar
8 platforms but has not said anything public that a company
9 should send in an unsolicited proposal to the Government.

10 Would you agree with that?

11 A. Commissioner--repeat that question for me, please,
12 Commissioner?

13 Q. I will rephrase it, Mr Smith.

14 The situation in May 2020 is that the Government is
15 thinking of investing, shall we say, or is considering the use
16 of marine radar platforms, but it has not said so publicly,
17 according to you. And then you have this unsolicited proposal
18 comes in from a private company.

19 At any time after you came into your post, which is
20 from August 2020, did you learn from anyone--any conversation,
21 any meeting that you attended--how EZ Shipping came to make
22 that proposal at that time?

23 A. Commissioner, after I came back to the post and being
24 a part of the JTF, the Joint Task Force, is when I learned
25 about the proposal from EZ Shipping as well as the other

1 proposals that were requested, including--including the one
2 that was mentioned earlier, which is "Ricardo Leonard"
3 (phonetic). I can't remember the name.

4 VOICE: Global.

5 THE WITNESS: Global, Global Marine.

6 BY MR RAWAT:

7 Q. But did anybody--did you ever learn any information
8 as to how--whether anybody encouraged EZ Shipping to send in
9 the proposal or whether anybody told them about the interest in
10 marine radar platforms?

11 A. No, Commissioner. When I--when I learned about it, I
12 asked my Deputy, and he made it clear that he had not received
13 copy of it, but he was aware that there was an unsolicited
14 request, and the Commissioner of Police, I think, communicated
15 that to him, but he had not received a copy at that time.

16 Q. And is that Mr Romney that you're referring to there?

17 A. That's correct.

18 Q. I want to just take you through some e-mails. Now,
19 they are e-mails generated before you were in post, but I think
20 they will give context to my further questions.

21 So again, if you go to Page 671 in the bundle. It
22 should show you a series of e-mails. The one at bottom is
23 dated--I think this is sort of the American way of dating, so
24 it's the 2nd of June 2020 at the bottom, and then you have one
25 from the 17th of June 2020, and then the top one again is the

1 17th of June 2020, and that's from Mick Matthews, who was then
2 the Police Commissioner; is that right?

3 A. That's correct, Commissioner, so we're saying the
4 17th of June and 2nd of June.

5 Q. Yes.

6 So, at the very bottom--there are three e-mails on
7 this page, basically. At the very bottom, there is one which
8 is dated--it's dated 6/2/2020, but I think that's the 2nd of
9 June 2020. We then have an e-mail from the Financial Secretary
10 dated the 17th of June 2020, and then the e-mail which is
11 Mr Matthews's e-mail of the same date. And on that,
12 Mr Lettsome and Mr Romney are in the circulation list. Can you
13 see that?

14 A. Yes. Yes, Commissioner.

15 Q. Now, this refers to the Border Security Plan that you
16 were talking about, so it does--by that date, June 2020,
17 what--was the border--the Comprehensive Border Security Plan
18 finalised?

19 A. Commissioner, I believe it was completed by
20 June 2020.

21 Q. Again, to give you context, if you go to the
22 preceding page and go to 669.

23 A. Yes, Commissioner.

24 Q. If you go at the very bottom, there is an e-mail from
25 the Cabinet Secretary July the 3rd--Friday, July the 3rd, 2020.

1 Do you have that?

2 A. Yes, Commissioner.

3 Q. It refers to "special NSC meeting," and if you go
4 over the page, it gives--it refers to an agreement that various
5 bodies should revisit the proposal received from privately
6 vessel owners offering their vessels for management control
7 efforts.

8 Do you have that?

9 It's on Page 670.

10 A. Six-seven-zero?

11 Q. Yes.

12 The e-mail runs over to the next page.

13 A. Okay. Okay. Yes, Commissioner.

14 Q. Now, I appreciate it's before you came in post,
15 Mr Smith, and tell me if you can't help with it, but do you
16 think this is what prompted the approaches to companies like
17 Global?

18 A. Where the officers requested information?

19 Q. Yes.

20 A. Yes. That probably--Commissioner, that probably
21 prompted that.

22 Q. If we go back to 669, that's an e-mail dated the 5th
23 of January 2020 from Mr Matthews. The circulation list
24 includes Mr Lettsome and Mr Romney, doesn't it?

25 A. That's correct.

1 Q. And he is referring there to the EZ Shipping
2 unsolicited proposal, isn't he, if you look at the first
3 paragraph?

4 A. Yes, Commissioner.

5 Q. Now, if you go--he then sets out what the costs would
6 be per week, and then if you go to the paragraph under that,
7 Mr Matthews says that he'd explained where we had made use
8 boats as platforms, these had been provided free with just
9 costs of fuel and provisions.

10 Now, was that the system that was in place at the
11 time or in the past when you'd used platforms, that you were
12 being provided them for free?

13 A. Commissioner, let me one second so I can read that
14 paragraph.

15 COMMISSIONER HICKINBOTTOM: Yes, yes.

16 THE WITNESS: Okay. Commissioner, can you repeat
17 that question, please.

18 BY MR RAWAT:

19 Q. You will see from that paragraph Mr Matthews refers
20 to, in fact, that in the past, when there had been a need to
21 use marine platforms, boats as platforms, these had been
22 provided for free.

23 Now, firstly, do you agree with that? Was that the
24 position in the past? And secondly, was that still happening
25 at around this time in 2020?

1 A. Commissioner, I don't know if that was the case in
2 the past, and if it was the case in the past, I would not--I
3 would not allow my officers to receive which I consider would
4 be a gift. If you're speaking about platforms, the Customs
5 Department--the Customs Department enforces the laws and
6 enforces the laws quite stringently on companies, especially
7 boats, charter boats, pleasure boats, and to receive what I
8 consider a gift as using a vessel for free, I have never
9 accepted anything for free. I instruct my officer--I'm sorry,
10 Commissioner, one second. Can you hear me?

11 I've never instructed my officers to receive any
12 gifts for free, especially when it comes to dealing with these
13 entities that we have to regulate and supervise. And also in
14 addition to the amount of training that we've had as regards to
15 anti-money-laundering and terrorist financing and the 41
16 Recommendation of the Financial Action Task Force.

17 So, those receiving equipment and utilising equipment
18 for free, no, I would not support that, and I would not
19 encourage my officers to do that. That would have to be
20 something through the Ministry of Finance, and they would have
21 to delegate that to us, but it's not something that I
22 would--that I would endorse or I could endorse.

23 (Overlapping speakers.)

24 Q. Please finish, Mr Smith.

25 A. Yes, Commissioner.

1 So, I'm pretty strict about that, and my officers
2 will tell you that's not something that I--I entertained.

3 Q. You mentioned it would have to be something that goes
4 through the Ministry of Finance, but as far as you're aware,
5 had there in the past been arrangements whereby the Ministry of
6 Finance had accepted the use of boats as platforms where the
7 only cost to the public purse were for fuel and provisions?

8 A. Commissioner, I'm not aware of that. Since
9 I've--since I've returned, I know there has been a number of
10 vote--a number of vessels. And Commissioner, as I reflect,
11 during that time, Commissioner, it was made public that the
12 Government was seeking marine assets to assist in the border
13 protection. It was made public. Whether there was a radar
14 platform or not, but it was made public. There has been a
15 number of charter companies that sent their proposals to the
16 JTF to Customs to provide their vessels, which is--which was
17 similar to what the Customs Department and Police would have.
18 Midnight Express. I think there is one sitting right out here.
19 That proposal came in that was approximately \$3,000 a day.

20 So, there were a number of boats that were there.
21 There was another vessel I know that came in. I think that was
22 \$20,000 a week. Again, that was a 36-foot Intrepid, a small
23 interceptor. Those type of vessels could only give you
24 two-three hours at sea at the max. So I take that back: That
25 announcement was made, and people--a number of boat owners were

1 submitting proposals to Government. Government, in turn--when
2 I say "Government," I mean through the Ministry of Finance, in
3 turn--hired a couple of those boats to provide border security
4 and helping border protection.

5 Q. We may come back to that in a moment, but just I
6 think initially you told us that the detail of the Border
7 Security Plan had not been made public at this time, but is it
8 now your evidence that, in fact, the public were aware that the
9 Government was seeking marine assets?

10 A. Commissioner, the Comprehensive Border Security Plan
11 was not a document that was made public, but I know--but I
12 heard the announcement, I've heard members of the public
13 commenting. This was before I came back to the Department
14 where a number of boats were hired to provide border security.

15 COMMISSIONER HICKINBOTTOM: That sounds different,
16 though. The function of a boat like Midnight Express is
17 completely different from a radar barge.

18 THE WITNESS: Right, but Commissioner, if I may, you
19 said had it been made public, not for radar barge but for
20 marine assets and not specifically radar boats.

21 COMMISSIONER HICKINBOTTOM: Yes, but both Midnight
22 Express and so forth, but not for radar barges?

23 THE WITNESS: Not for radar barges, that's correct.

24 COMMISSIONER HICKINBOTTOM: Okay. Thank you.

25 BY MR RAWAT:

1 Q. But in terms of using your phrase "marine assets,"
2 who had made it public?

3 A. Commissioner, that was--that was announced on the
4 radio.

5 Commissioner, a year ago--a year ago today, it was
6 very--it was quite chaotic, and every--just about every day,
7 every evening at 6 p.m., the entire BVI community would tune in
8 to Facebook Live to get an update from the Government. It was
9 quite, quite chaotic, and that information was communicated in
10 terms of what Government was doing in terms of suppressing
11 COVID-19, what they were doing in terms of protecting the
12 borders. Everyone in the BVI were in panic from the very first
13 day when there was one announcement of the possibility of one
14 case. The territory was in a frenzy, and everybody wanted to
15 know what is being done. "We got to do this, these things are
16 happening."

17 Commissioner, I have been in this line of work for
18 quite a long time, and I would say to you, Commissioner--I
19 thought you were on video when I saw you earlier, but you're
20 here in the BVI--I would say to Commissioner and his team, I
21 invite you to go on a border patrol and see what it's like at
22 2-3:00 in the morning when these guys are out there. I would
23 invite you to see what we're up against.

24 And Commissioner, those--excuse me--those power boats
25 that were provided unsolicited--I would say "unsolicited"

1 proposals, they couldn't cut it, and they were--they were, like
2 I said, 40 feet, the waters are rough. You cannot give that
3 24-hour coverage. The most you can give without wearing down
4 the officers might have been two hours, three hours, and you
5 have to change shift.

6 So I hope that helps a little, Commissioner.

7 Q. Could I ask you, please, to turn up Page 642 in the
8 bundle, Mr Smith.

9 A. I have it, Commissioner.

10 Q. Now, at the very bottom, you should see the same
11 e-mail that we have just been looking at.

12 A. Yes, Commissioner.

13 Q. But at the top is an e-mail from your Deputy,
14 Mr Romney, dated--I think it's the 3rd of 11th 2020 or 11th of
15 March 2021, with you copied in and Mr Lettsome, and it's
16 addressed to Mr Frett, who is at the Ministry of Finance, isn't
17 he?

18 A. That's correct, Commissioner.

19 Q. And Mr Romney said: "In the e-mail below, this is
20 where we have communicated with you about the original pricing
21 as we had understood. Note the date (July 16) of the e-mail.
22 This time we have not seen the proposal."

23 Now, I think it might help to see the e-mail that
24 he's referring to at July 16. That's at 673.

25 A. Six-seven-three?

1 Q. You have--at the bottom of the page there is an
2 e-mail there, July 16, from Mr Romney to Mr Lettsome and
3 others. It says: "Good afternoon, everyone. As discussed in
4 our meeting, the proposal by EZ Shipping is sent for all to
5 review."

6 The second attachment is just a suggested route of
7 the two vessels by EZ Shipping that was not part of the
8 original proposal.

9 So, what I wanted your help on was taking us back to
10 Page 462.

11 A. Yes, Commissioner.

12 Q. Just what was meant by Mr Romney's reference, "this
13 is where we had communicated with you about the original
14 pricing as we had understood"? Can you just shed some light on
15 what Mr Romney is saying there?

16 A. Commissioner--I believe, Commissioner, that what was
17 on topic by Mr Romney, I think, was \$17,000 or something, in
18 that range, a week for two barges, and I think what he was
19 telling the Deputy Financial Secretary is that was not the
20 price that they understood because the price apparently was
21 \$17,000 a day, and that was initially what was--what was--what
22 Mr Romney believed could be--could have been stated was \$17,000
23 a week when, in actuality, he understood it to be \$17,000 a
24 week, and it seems as if it was \$17,000 a day.

25 Commissioner, I believe that's what he's referring

1 to.

2 Q. Turn to Page 677, please.

3 A. Six-seven-seven?

4 Q. Yes, please.

5 A. Yes, Commissioner.

6 Q. Another e-mail from Mr Romney dated the 19th of
7 July 2020, addressed to Mr Lettsome and others.

8 Can I just invite you, please, Mr Smith, just to read
9 the first--or read the entirety of that e-mail, please.

10 A. "Good afternoon, Colleagues."

11 Q. No, you don't have to read it out. Just read it to
12 yourself.

13 A. Oh.

14 (Witness reviews document.)

15 A. Okay. Yes, sir.

16 Q. Now, you appreciate that you came into this later, in
17 August 2020, but as we saw from the previous e-mail, you had
18 some involvement in it subsequently. Can you help us with
19 this. The reference to "it will change the whole dynamics of
20 this operation moving forward if we are to use the proposed
21 platforms," what does that refer to?

22 A. This is speculative. I wasn't there, but what I
23 believe that this is referring to, the whole "change the whole
24 dynamics," I think is referring to the costs, the operational
25 costs, of the entire JTF. These figures are for the radar

1 barges, I think is what he's referring to, how it would impact
2 the operations.

3 Commissioner, I believe that there were funding that
4 may have been put in place. I want to believe, Commissioner,
5 made a million dollars to assist in payments for the Joint Task
6 Force in terms of repatriation, vehicles, engines, fuel,
7 attempt to finish paying for a number of vessels that were
8 scheduled to return to the BVI, a number of law enforcement
9 vessels. So, quite a bit of that cost was already accounted
10 for, Commissioner.

11 So I believe, Commissioner, to answer the question, I
12 think he's referring to the costs as something that was not
13 budgeted for.

14 Q. Subsequent to your joining the Department or
15 rejoining the Department in August 2020, did you have
16 discussions with Mr Romney about the costs of getting these
17 radar barges?

18 A. Commissioner, no.

19 Q. So, no one expressed concern to you--no one within
20 your Department expressed concern to you over the costs of
21 these radar barges?

22 A. Commissioner, are we referring to prior to me
23 rejoining?

24 Q. After you had rejoined. Did anyone in the Department
25 come to you and say, "I'm concerned over the cost of these

1 radar barges"?

2 A. Commissioner, no one came to me and said they were
3 concerned about the costs. However, Commissioner, we've met
4 and discussed the costs of these barges and let the Ministry of
5 Finance know.

6 Can I elaborate, Commissioner?

7 COMMISSIONER HICKINBOTTOM: Yes, thank you.

8 THE WITNESS: When--I think that I learned about the
9 cost of \$17,000 per week, then I learned about the cost of
10 \$17,000 per day. Then there was some type of
11 negotiations--negotiating going on, and I think the range came
12 down to about \$14,000 per day for three barges.

13 And Commissioner, like I mentioned earlier, you
14 had--there were a number of power boats that were offered for
15 hire, and they were ranging at \$3,000 a day, which would give
16 you, I think, two or three hours at sea at the most, and that
17 would be within the channels. I'm not talking about extended
18 beyond the channel where it gets pretty bad out there.

19 So, you're talking about \$3,000 a day, and if you had
20 three barges, three radar barges, which is--gives you maybe
21 \$3500-\$3700 a day as opposed to \$3,000 a day on those smaller
22 boats.

23 And also, Commissioner, that's why I invited you to
24 see what it's like out there. I have been there. I have been
25 there. I have been in operations where I've seen--where people

1 have been killed by law enforcement, and law enforcement boats
2 have been struck and bullets penetrate those hulls.

3 In terms of safety and--in terms of safety and in
4 terms of what is offered by the smaller charter boats, which is
5 somewhere in the same range of price, they did not give the
6 24-hour range, the 24-hour coverage. The Virgin Islands, the
7 British Virgin Islands is probably the closest to the United
8 States of any other country. We are only separated by less
9 than three-quarters of a mile at the western end of Tortola and
10 eastern end of St. John. There is a lot of high traffic of
11 people moving between the territories all day, all night, and
12 the barges give you that coverage, give you that 24-hour
13 security.

14 Again, right now, we're pretty comfortable, we're
15 pretty relaxed, and we've forgotten what it was like a year ago
16 today. But a year ago today, no one wanted to leave their
17 home, people were scared, they were terrified, and these barges
18 give--became a household name, Commissioner, where everyone was
19 communicating, WhatsApp'ing pictures, sending pictures around
20 once they saw those barges in position. Like I said, those
21 smaller boats, not even a bathroom facility on these smaller
22 boats, and the Joint Task Force comprises men and women, so it
23 was not adequate. They were there for a particular purpose,
24 and once they were notified by the barges, the teams and the
25 barges, communication was transmitted to the land-based teams,

1 which included Customs and Immigration Police, and the
2 land-based teams would respond, and that's what the barges
3 gave: 24-hour border protection.

4 Coming back to the question that was asked, so when
5 you look at the spreadsheet, Commissioner, and you look at what
6 was offered in terms of equipment and what was actually
7 utilised as a vast difference, we've had--you mentioned
8 Global--Global--whichever one that was that belonged to Ricardo
9 Leonard. That charge for that vessel was \$15,000 a day for one
10 vessel, whereas the other company provided three vessels at a
11 cost of \$14,000 for three vessels. Another company said they
12 had other commitments and could not participate.

13 So, the equipment that was used--the equipment
14 that's--and at that time--at that time Customs Police did not
15 have--were down to one vessel that was functioning, and that
16 vessel again running three shifts could not sustain the demands
17 that was placed on that vessel.

18 In addition to that, as the Chairman of the JTF, we
19 worked closely with my U.S. counterparts to ensure that, on
20 their end, the U.S. and the French counterparts, which was out
21 of St. Maarten to ensure on their end if we could be notified
22 of any vessels leaving their countries, respective countries,
23 heading east or west towards the BVI--for the BVI and vice
24 versa. So, we worked closely with other law-enforcement
25 agencies because the suppression of COVID could not be done by

1 one country alone. All countries had to play their active
2 role, Commissioner.

3 I hope--I hope I may have answered all, if not some
4 of those questions, Commissioner.

5 COMMISSIONER HICKINBOTTOM: Thank you. Just trying
6 to work out some of the maths very briefly before Mr Rawat asks
7 his next question.

8 The contract, it turns out, was \$17,500 a day. You
9 said it went down to \$14,000 per day by negotiation of some
10 means. Now, by my population, that's about a hundred thousand
11 dollars a week, \$128,000 a week.

12 THE WITNESS: Correct.

13 COMMISSIONER HICKINBOTTOM: So, it's a bit--it's
14 something over \$400,000 a month.

15 THE WITNESS: Say \$400,000 a month.

16 COMMISSIONER HICKINBOTTOM: No, a month is over 28
17 days.

18 THE WITNESS: I believe, Commissioner, I have seen in
19 the news it might have been \$360,000.

20 COMMISSIONER HICKINBOTTOM: Okay, okay. \$360,000 a
21 month. There will be some records of that.

22 THE WITNESS: Yeah.

23 Commissioner--can I add something else, Commissioner?

24 COMMISSIONER HICKINBOTTOM: Yes, thank you.

25 THE WITNESS: It's something that--I have it on my

1 phone. Commissioner, there was another unsolicited request or
2 proposal from a vessel, a Mari yacht. A Mari yacht is anything
3 that's over 80 feet long. This vessel is 88 feet. That is
4 currently detained by Customs at the Village Key Marina. This
5 vessel, Commissioner, is a vessel of interest. The captain is
6 a person of interest for law enforcement. This vessel made a
7 proposal to Customs to utilise their boat as a platform, and
8 that was--that vessel was charging, I think, 20,000 a week for
9 that vessel.

10 Commissioner, that vessel recently left the BVI, went
11 to St. Maarten, Grenada, without permission of the Health
12 Department, without permission of the Customs Department, and
13 attempted to re-enter the BVI and was intercepted by U.S. Coast
14 Guard who, in turn, notified the local authorities, and that
15 boat is now in detention under 14-day quarantine. And once
16 they come out of quarantine, then they have to face the
17 law-enforcement agencies again. That was unsolicited proposal
18 to Customs for \$20,000 a week for that vessel.

19 COMMISSIONER HICKINBOTTOM: Okay. Okay. Thank you
20 very much, Mr Smith.

21 Mr Rawat.

22 BY MR RAWAT:

23 Q. Mr Smith, you just referred to another unsolicited
24 proposal. Can you explain why you didn't disclose that earlier
25 to the Commission?

1 A. Commissioner--Commissioner, that proposal--that was
2 not submitted in the bundle because I did not have a copy of
3 it. It came in in a hard copy. It was mailed in. And when
4 the boat was detained by Customs, I had my officers ask if he
5 has a copy of that, and the officers did get a copy by picture,
6 and it was forwarded to me. So that, again, can be submitted
7 to the Commission as well.

8 Q. Well, can you provide a photocopy of the hard copy
9 that you have?

10 A. Commissioner, I don't have the hard copy, but I can
11 try to regain the hard copy from the captain. If I can't, then
12 all I have is the picture.

13 COMMISSIONER HICKINBOTTOM: Otherwise, that's the
14 best you've got?

15 THE WITNESS: Otherwise, that's the best I got.

16 At the end of 14 days, when we meet with the captain,
17 we will try to get a hard copy of that.

18 BY MR RAWAT:

19 Q. Now, another point is that the e-mails that I have
20 been showing you, which--some of which are sent by Mr Romney,
21 some are certainly he's copied into them as well as
22 Mr Lettsome, these are all e-mails that were not disclosed by
23 you in Response to the Request, but they're plainly relevant to
24 the Requests. Can you tell the Commissioner why you didn't
25 disclose those e-mails?

1 A. Commissioner, can you repeat those e-mails dating
2 what, sir?

3 Q. You remember the e-mails that I just took you through
4 a moment ago, Mr Smith?

5 A. Right.

6 Q. Those show they're either sent by Mr Romney or they
7 are copied to him and Mr Lettsome. Taking just your answers
8 alone, they're plainly relevant to the Requests that the
9 Commission sent you. So, why is it that they were not part of
10 the disclosure that you provided to the Commission?

11 A. Well, Commissioner, I don't think--with all due
12 respect, I don't think I was copied on those e-mails. I'm
13 looking at them, and I'm not seeing that I was copied on those
14 e-mails. Whatever I was copied on, once I did a search of
15 my--on my computer, I was able to extract and send what I
16 found, so I didn't--I'm looking at one here the 19th of
17 July 2020. I was not--I couldn't have been copied on that,
18 Commissioner. I was not assigned to the Department at that
19 time.

20 Q. If you go back to Page 1, the Request itself,
21 Mr Smith.

22 A. Page 1, Mr Commissioner?

23 MR RAWAT: Yes.

24 COMMISSIONER HICKINBOTTOM: Yes. Not as it were the
25 first Page 1, but that Page 1, yes, thank you.

1 THE WITNESS: Yes, Commissioner.

2 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat.

3 BY MR RAWAT:

4 Q. The fourth paragraph down that begins "In respect of
5 arrangements."

6 A. Yes, Commissioner.

7 Q. It refers to the last three years to date. It also
8 (a) refers to material in the possession of the Customs
9 Department, so it's not referring to you in person as an
10 individual, Mr Smith. It's referring to the Department that
11 you lead and a period of time when you were not in post.

12 When responding to this request, did you ask
13 Mr Romney if he had any relevant material, or did you just do a
14 search of your own material?

15 A. Commissioner, I did ask Mr Romney if he had
16 information, some of those information like the Global Ocean
17 Company, I got some of that information from Mr Romney.

18 So, with regards to that, Commissioner, I didn't have
19 that--like I said, I didn't have that from Mr Romney, but it
20 was in no way an attempt to try to conceal any information from
21 the Commission.

22 Q. I'm not suggesting that one moment, Mr Smith, but can
23 I also check, were you able to access Mr Lettsome's e-mails or
24 ask him if he had any relevant information?

25 A. Commissioner, I did not know--no, I did

1 not--Commissioner, we met, and we all sat together, and we met,
2 so Mr Lettsome did not indicate that he had any additional
3 information as it relates to this, Commissioner.

4 Q. Mr Smith, can we deal with it this way: Would you be
5 willing after this session to go back to your Department and
6 speak to your Deputies and others in your Department to make
7 sure that you have complied fully with this Request?

8 A. Absolutely, Commissioner.

9 Q. Thank you.

10 Well, let's look at Page 8 in the bundle.

11 A. Yes, sir.

12 Q. In fact, I think--now--yes. So, this is a response,
13 and it was one that you provided. This is one of the
14 responses. It's an e-mail dated August 11th, 2020, from
15 Caribbean Transport, and if I summarise, it says that they
16 can't fill your requirement needs.

17 A. Sorry, Commissioner, you said Page 8?

18 COMMISSIONER HICKINBOTTOM: Yes, Page 8.

19 THE WITNESS: I'm not--

20 BY MR RAWAT:

21 Q. Not the first Page 8. I think if you--if you go back
22 to the Page 1 that we were looking at, which has the Request.

23 Or better still, let me do it this way, Mr Smith. Go
24 to Page 87.

25 A. Commissioner, I have Page 87.

1 COMMISSIONER HICKINBOTTOM: Thank you.

2 BY MR RAWAT:

3 Q. Now, at the bottom there, can you see an e-mail from
4 Mr Romney dated July 27, 2020?

5 A. Yes, Commissioner.

6 Q. It's an e-mail to Caribbean Transport, but just take
7 a moment to yourself to read that e-mail.

8 (Witness reviews document.)

9 A. Yes, Commissioner.

10 Q. Now, tell me if you don't agree with it, but
11 Mr Romney is contacting Mr Stoutt of Caribbean Transport to
12 look about utilising the services of one vessel for one month.
13 Do you agree with that?

14 A. That's correct, Commissioner.

15 Q. And if you go to Page 86, Mr Smith--

16 A. Yes, Commissioner.

17 Q. --you will see at the very bottom, Tuesday August 11,
18 2020, the start of Mr Stoutt of Caribbean Transport, the start
19 of his response. And then go over back to Page 87, and you
20 will get the full answer. If you would read that again,
21 please, to yourself.

22 A. 11, Commissioner?

23 Q. Sorry?

24 A. 11th?

25 Q. At the very bottom, 11th of August 2020, there is an

1 e-mail from Caribbean Transport at bottom of Page 86. If you
2 read from there over back to Page 87, you'll have the answer.
3 You'll have Mr Stoutt's response.

4 A. Right. Yes, Commissioner.

5 Q. Now, is it right that this was part of the
6 process--after the EZ Shipping proposal had come in, was this
7 the part of the process of writing to other companies?

8 A. Commissioner, based on the Report that we read
9 earlier from National Security Council, I understand it to
10 instruct the Committee of the JTF to source additional
11 information and get additional quotes, Commissioner. So, I
12 think this is part of the instructions that were given to them
13 by NSC.

14 Q. So, Mr Romney has gone out and contacted Caribbean
15 Transport for one vessel and they said they can't help. And
16 you remember we looked at the Global letter a while ago?

17 A. Correct.

18 Q. That was again--you're going to provide Mr Romney's
19 e-mail of that that was sent to Global, but that again was a
20 response to that Inquiry, isn't it?

21 A. It was a response to the instruction?

22 (Overlapping speakers.)

23 Q. Yeah. Mr Romney was given an instruction, he
24 contacted Global, he contacted Caribbean Transport. Is that
25 how it went?

1 A. Correct, to the best of my knowledge, Commissioner.
2 Correct.

3 COMMISSIONER HICKINBOTTOM: Yes.

4 BY MR RAWAT:

5 Q. If we go back to 86, if you work up to the next
6 e-mail from Caribbean Transport, you've got an e-mail dated
7 11th of March 2021 from Mr Romney, and it's to Mr Frett with
8 you copied in, and it says: "Please compare dates between EZ
9 Shipping proposal (August 12) and this one from Caribbean
10 Transport (August 11th)."

11 Can you just shed any light on that? What does that
12 e-mail refer to?

13 A. Commissioner, I believe that e-mail is referring to
14 the quotes that they had for both companies or not from
15 Caribbean Transport. So I guess it's for the same--wants to
16 refer to the same timeline that these requests were made.

17 Q. You're copied in. It's months after the Caribbean
18 Transport e-mail. What was going on in March 2021 about EZ
19 Shipping?

20 A. March, April--okay, so that was just recently.

21 Commissioner, at that time, I believe there was some
22 question or queries put forward to the Financial Secretary of
23 Ministry of Finance, and some of the same information that was
24 forwarded was the same information that I was requested to
25 forward.

1 Q. So, between August 2020 and today, including
2 March 2021, you've had correspondence with the Department, with
3 the Ministry of Finance, about this Contract; is that right?

4 A. This Contract?

5 Q. Yes.

6 A. With the Ministry of Finance, that's correct.

7 Q. Yes.

8 So, again, that is not disclosure you have made,
9 Mr Smith. Would you be willing to go back again and look at
10 that? Because I suggest to you it does come within the
11 Request.

12 A. Yes, Commissioner. It may have been verbal telephone
13 conversation, not e-mails.

14 Q. Do you make a note of conversations like that?

15 A. No, Commissioner.

16 Q. Would you at least undertake to review all the
17 Customs Department e-mails to make sure that any correspondence
18 with the Ministry of Finance has been disclosed?

19 A. Absolutely, Commissioner.

20 Q. Thank you.

21 Could you go now to Page 5, and I think it's--it will
22 be the second Page 5 in your bundle, so it's a little bit after
23 that Request, the actual Request itself that we were looking
24 at.

25 A. Page 5?

1 COMMISSIONER HICKINBOTTOM: Yes.

2 THE WITNESS: Yes, Commissioner.

3 BY MR RAWAT:

4 Q. If we're on the right page or on the same page,
5 Mr Smith, we should have something that's got in manuscript at
6 the top "Appendix B."

7 A. That's correct.

8 Q. All right. It's a letter dated the 12th of August,
9 and it is addressed to the Commissioner of Customs, and it's
10 from EZ Shipping. Do you have that?

11 A. Yes, Commissioner.

12 Q. Now, by 12th of August 2020, were you in post?

13 A. Commissioner, I will have to check. I don't know if
14 I was in post at that time.

15 COMMISSIONER HICKINBOTTOM: Can you check that? It
16 was about then, I think. You took up the post again at about
17 that time.

18 THE WITNESS: If I have--if I could have ten seconds,
19 I could try to call and find out to confirm.

20 COMMISSIONER HICKINBOTTOM: There are a number of
21 things you will need to confirm, Mr Smith, so perhaps we could
22 just make a list of it, and you could do that afterwards.
23 Thank you very much.

24 THE WITNESS: Okay.

25 BY MR RAWAT:

1 Q. If you can't answer any of these questions, Mr Smith,
2 do tell me, and don't try and speculate, but the letters
3 written from the owner of EZ Shipping, Mr Chalwell, now
4 assuming you may have been at the meeting on the 12th of
5 August 2020, had you met Mr Chalwell before at any time?

6 A. Had I met Mr Chalwell before?

7 Q. Yes, before August 2020.

8 A. Yes, Commissioner.

9 Q. In what circumstances had you met him before
10 August 2020?

11 A. Commissioner, BVI is a small place. Most of the
12 families more or less know each other, I have known Mr Chalwell
13 for probably well over 20, 25 years.

14 Q. So, you know him both in a personal and professional
15 capacity, then?

16 A. Commissioner, I have known him--I have known of him
17 in a personal capacity, and I've known him--well, his company,
18 EZ Shipping, is one of the local carriers of the BVI, so from
19 time to time we've--they've had interactions with Customs with
20 regards to importation, seeking clearance, those type of
21 Customs matters.

22 Q. In your previous time as Customs Commissioner, had EZ
23 Shipping provided services to your Department?

24 A. No, Commissioner.

25 Q. Now, the letter begins: "Thank you for taking the

1 time to meet us--to meet with us today." Is it the practice of
2 the Department that, when it has meetings of this sort, that a
3 note would be taken?

4 A. Commissioner, sometimes there was an informal
5 meeting. So, based on that, I probably was in position at that
6 time.

7 I'm sorry, go ahead, Commissioner, and I will address
8 it.

9 Q. I think the last thing you said is you were probably
10 in post by then; is that right?

11 A. Yes, yes, Commissioner. Was probably in post at that
12 time.

13 Q. Well, do you remember meeting Mr Chalwell in
14 August 2020?

15 A. Commissioner, based on this, yes.

16 (Witness reviews document.)

17 A. Okay. Yes, Commissioner.

18 Q. The letter is quite detailed. Wouldn't a note of the
19 meeting have been taken by Customs?

20 A. No, note would not have been taken by Customs
21 primarily for more than one reason. Customs cannot--Customs
22 cannot enter into any contractual agreement with anyone, and
23 something like this would have to be referred to the Ministry
24 of Finance.

25 Q. Well, did you, in fact, refer it to the Ministry of

1 Finance?

2 A. Yes. This information was sent to the Ministry of
3 Finance.

4 Q. How would it have been sent to the Ministry of
5 Finance?

6 A. Usually hard copy, confidential, confidential hard
7 copy.

8 Q. Now, aside from your--yourself and Mr Chalwell, who
9 else would have been in the meeting?

10 A. Aside from myself, Mr Chalwell, it would have been
11 Mr Lettsome and Mr Romney.

12 Q. Just to help you as to when you were in post,
13 actually, Mr Smith, if we turn over--we will come back but if
14 you turn over to Page 6, this is the Global letter August 2020.
15 I'm grateful my instructing solicitor pointed out this, but you
16 can see that the letter is addressed--is dated 8th of August
17 and addressed to you, so you must have been in post by early
18 August, mustn't you?

19 A. You can--you can assume it, but that doesn't
20 necessarily mean that I must have been in post because even
21 though I wasn't in post, everyone thought I was in post because
22 of, you know, because of me serving in that capacity for quite
23 a number of years.

24 Q. All right. If we go back to Page 5, if you go to the
25 third paragraph, there is a proposal there from Mr Chalwell for

1 the use of two vessels, and he gives a figure for the rates,
2 which is at Point 2.

3 Now, you say that it's not for the Customs Department
4 to negotiate or enter into contracts, but presumably your view
5 as to the number of vessels that would be required would be
6 very important, wouldn't it?

7 A. That's correct, Commissioner.

8 Q. Can you explain why Mr Rom--why there was a change
9 from now when Mr Romney was writing to Caribbean Transport on
10 July the 27th of 2020 the Customs Department was looking to
11 utilize the services of one vessel, but now the discussion is
12 about the use of two vessels? What had changed in that short
13 time to make the Customs Department now consider using an
14 additional vessel?

15 A. Well, Commissioner, a number of things could have
16 changed. It could have been discussions surrounding exactly
17 where the position of these vessels would be. And also, if
18 memory serves me correctly, this particular company, I believe,
19 may only have one, maybe two barges, and they still had their
20 regular cargo run, which was from Puerto Rico to the BVI to
21 ensure that supplies were still coming into the BVI.

22 I would assume that Mr Romney wanted to get a vessel
23 from--maybe give each company an opportunity to make a
24 presentation. I'll submit a proposal and use a vessel from
25 each company, but these are the companies that did not have the

1 equipment, amount of equipment, as the other family or the
2 other barges.

3 Q. You did have a positive response from Global. Did
4 you have Global in for a meeting?

5 A. No. Global--we did not meet--I'm sorry, I did not
6 have a meeting with Global. I do not, Commissioner, believe
7 that there was a meeting with Global because initially of the
8 price that was submitted. I don't think a meeting was had with
9 Global.

10 Q. But if you said that initially there had been some
11 questioning of the EZ Shipping price, which was quoted over
12 17,000 a day, on the letter at Page 5, the rate seems to have
13 gone down.

14 To your knowledge--and please don't assume or
15 speculate--was there any discussion at all with Global about
16 whether they would negotiate the price of their ships?

17 A. I don't know if there was any discussions with
18 Mr Romney and Global.

19 Q. You said "discussions with Mr Romney and Global."

20 A. But there was none with me, Commissioner, and Global.

21 Q. Now, going back to Page 5, in relation to discussions
22 with the EZ Shipping, I mean, do you actually have a memory,
23 Mr Smith, of this meeting?

24 A. This meeting?

25 Q. Of the 12th of August.

1 A. As I recall, I don't recall--I don't know the date,
2 but I know that Mr Chalwell came to the office and made a
3 proposal.

4 Q. And as you said, the views of the Customs Department
5 on the benefits of a proposal would be very important to the
6 Ministry of Finance, wouldn't they?

7 A. Yes, Commissioner.

8 And once--the views are important, but not in one
9 instance, Commissioner, from Customs but as a matter of fact
10 the views of the JTF was advanced to the Ministry of Finance
11 and National Security Council.

12 Q. When you say the views of the JTF, do you have
13 documents that contain what the views of the JTF were on this
14 proposal?

15 A. Yes. There should be minutes outlined and the views
16 of the JTF, and that information again was taken to the
17 National Security Council.

18 As you can see, Commissioner, there was--there was a
19 section where the National Security Council gave forward the
20 instructions.

21 Q. Do you get--are you provided with copies of minutes
22 of the JTF?

23 A. Yes. Minutes are circulated, Commissioner.

24 Q. Would you be willing, Mr Smith, to provide the
25 Commissioner with copies of those minutes, the relevant copies

1 that relate to this Request, to the Commissioner?

2 A. Sure, Commission--yes, Commissioner.

3 Q. Could you turn, please, to Page 307 in the bundle.

4 You might want to keep your thumb on Page 5, though.

5 A. Page 3?

6 Q. Three-zero-seven.

7 A. Commissioner, I have it.

8 Q. Again, a letter from EZ Shipping but this time dated
9 the 21st of August 2020.

10 Do you have it, Mr Smith?

11 A. Yes, Commissioner.

12 Q. Now, you can compare it to Page 5, if you want, but
13 if we take it on its face, it refers to a meeting on the 21st
14 of August. Was there a second meeting with EZ Shipping on the
15 21st of August?

16 A. Commissioner, there was a meeting not with--not
17 shared by Customs, but there was a meeting with the Financial
18 Secretary, the Minister of Finance, and I was called to that
19 meeting, in addition to Mr Chalwell was at that meeting as
20 well.

21 Q. So, just so that--because what it looks like, if you
22 read this letter in isolation, Mr Smith, is that you or
23 Mr Romney had a meeting with EZ Shipping on the 21st of August,
24 but your evidence is actually that, on that date, you were
25 called to a meeting with the Minister of Finance and

1 Mr Chalwell; is that right?

2 A. That's correct.

3 Q. If you look at--I should have asked you this earlier,
4 but if you look at the second paragraph, it says: "Our company
5 prides itself on a history of marine trade and transport
6 throughout the Caribbean region."

7 Does EZ Shipping have a history of marine trade and
8 transport throughout the Caribbean region?

9 A. Yes, Commissioner.

10 Q. And it--but yet not one where they at least, during
11 your current seat as a Commissioner of Customs, not one where
12 they provided any services to Customs itself?

13 A. Commissioner, not provide any services to BVI
14 Customs, no, but I'm aware that they may have been called and
15 utilised the preferred offices for the U.S. military to, I
16 think it was, Panama and some of those other countries, provide
17 supplies.

18 Q. If you look at the third paragraph, Mr Smith, which
19 begins "We would like to."

20 A. Correct. Yes, Commissioner.

21 Q. It now proposes the use of three vessels for the
22 purpose of assisting the Government of the BVI.

23 Can you--given you were at this meeting, what had
24 changed between the 12th of August and the 21st of August for
25 Customs to now be thinking of having three vessels rather than

1 two?

2 A. Commissioner, initially it was two vessels at that
3 specific rate that was mentioned, it was \$17,000 or somewhere
4 around there. At that meeting, Mr Chalwell indicated that he
5 would like to pitch in or assist, give back to the territory
6 and provide a third vessel, and that vessel had been a
7 stationary vessel which is on the South side of the BVI
8 coverage--providing coverage in that area. And the price was
9 still at a reduced--at a reduced price.

10 COMMISSIONER HICKINBOTTOM: I'm sorry, I don't quite
11 understand that.

12 THE WITNESS: Okay.

13 COMMISSIONER HICKINBOTTOM: Looking back at
14 paragraph--Page 5, Page 5, 12th of August, two vessels, \$7,200
15 a day.

16 THE WITNESS: Correct.

17 COMMISSIONER HICKINBOTTOM: And then 21st of August,
18 three vessels, \$14,000 a day.

19 THE WITNESS: Yes, Commissioner.

20 On Page 5, it's \$7,200 per day per vessel.

21 COMMISSIONER HICKINBOTTOM: Well, it says "for this
22 service."

23 THE WITNESS: Right. It was under the impression,
24 and I think our colleagues were under the impression that
25 7,000--\$7200 per day per vessel.

1 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat.

2 BY MR RAWAT:

3 Q. The wording is the same in both letters, Mr Smith,
4 because it says "Our rate for this service is."

5 A. Which page are we on, Commissioner?

6 Q. On Page 5 and Page 6?

7 A. And 7?

8 Q. Yes.

9 It seems to me that you could get two vessels for
10 7,200, and then you can have three vessels for 14,000, but I
11 think my question was--I mean, you said that they wanted to
12 give back to the community. That sounded very much like they
13 wanted to give a gift. My question was: Why did you need--you
14 have gone from asking--making inquiries seeking one vessel from
15 Caribbean Transport or Global to then accepting a proposal for
16 two vessels to now accepting a proposal for three vessels.

17 So my question is what, from your perspective, has
18 Customs had to change over that short period of time?

19 A. Well, Commissioner, initially as I mentioned, the
20 requests of one vessel was at the time that was prior to my in
21 reinstatement in the Department. After that, there was
22 discussions regarding the amount of vessels that would be
23 needed to effectively cover the borders. One vessel could only
24 cover the eastern end of the BVI. The other vessel could only
25 cover the western end. So, it would be--it would not be

1 effective to have one vessel in one area. You would see them
2 circumvent the borders, and they would leave from--instead of
3 coming through the western end, they would go north--I think
4 that's north out there--and they would go around, so the other
5 vessel would give the coverage and give more of a range of
6 coverage, and that's what we were looking at.

7 Q. If that's what was in mind, why bother making
8 inquiries of other companies when you just ask for one vessel?

9 A. Repeat that, Commissioner?

10 Q. If you always had in mind that the coverage needed
11 more than one vessel, why write to other companies only asking
12 about the availability of one vessel?

13 A. Commissioner, as indicated, the other companies
14 written to did not have the assets as the other companies, so
15 they were only to provide one vessel. In most cases, they only
16 have one vessel, and the other vessel, like I mentioned, would
17 still be engaged in trade in supplies that come into the
18 territory.

19 Q. There has been, hasn't there--there has been a change
20 in the number of vessels now being required, Mr Smith. As far
21 as you're aware, at any time in August 2020, was there any
22 discussion about approaching other companies to see if they
23 would want to be involved in this increased coverage?

24 A. Mr--yes, and that has been done, Commissioner, where
25 other companies were notified.

1 Q. But do you mean that it was done subsequent to
2 Mr Romney's July 27th e-mail? There have been approaches again
3 to companies?

4 A. No. I think that was--that was Mr Romney's response
5 or letters to those companies, was to get other companies
6 involved.

7 Q. So--

8 (Overlapping speakers.)

9 A. The request--

10 (Overlapping speakers.)

11 Q. After that e-mail--other than that e-mail, you had no
12 meetings, as a Customs Department, with any other company; is
13 that right?

14 A. No. Commissioner, no other meetings with any other
15 Department. I know--with any other companies, I know a hard
16 copy was dropped off at the office. I didn't keep that copy,
17 but I had it on the phone. I was dropped off at the office,
18 but I never met the individual.

19 Q. And you had no further correspondence with any other
20 companies about the provision of radar barges?

21 A. No other communication with any other company about
22 the provision of radar barges, Commissioner.

23 Q. Okay. Could you go to Page 51, please.

24 A. I have it, Commissioner.

25 Q. If we're on the same page, again, Mr Smith, it should

1 be a contract for EZ Shipping, and you have disclosed that to
2 the Commissioner; is that right? It's dated the 18th of March-
3 -

4 A. Yes.

5 Q. --2021.

6 A. That's correct, Commissioner.

7 Q. Now, you said that you don't have any involvement
8 with the Customs Department in preparing or negotiating
9 contracts; is that right?

10 A. That's correct, Commissioner.

11 Q. So, the ultimate price is not down to your
12 Department; is that right?

13 A. The ultimate...?

14 Q. Price.

15 A. The ultimate price is...?

16 Q. The price on the Contract. That's not something for
17 the Customs Department, is it?

18 A. No. The price for the Contract is not through the
19 Customs Department.

20 Q. Who prepares this Contract?

21 A. Those contracts are prepared by the Attorney General
22 Chambers.

23 Q. I see.

24 And how did you come to be given this--to receive
25 this Contract?

1 A. Because I think you mentioned, if I may, in a bundle
2 you requested I tried to get as much information as I can, and
3 I contacted the Ministry of Finance to get a copy to include in
4 a bundle.

5 Q. I see. Thank you. Right.

6 So, in the normal course of events, this is not the
7 sort of document that would come to you; is that right?

8 A. No, this doesn't--this document doesn't come to me.

9 Q. I see. Thank you.

10 Sorry to make you jump around in the bundle,
11 Mr Smith, but could I just take you back to Page 6, please.

12 A. Yes, Commissioner.

13 Q. It's the Global letter of 11th of August 2020.

14 A. Yes, Commissioner.

15 Q. Just so that we can be clear, but you can see that in
16 the second sentence, Mr Leonard says that "my company operates
17 four shallow draft landing craft," and then he makes the
18 proposal to provide a landing path with surveillance support
19 limited to British Virgin Islands waters only, and he puts a
20 price.

21 Now, I think you may have already answered this, but
22 was there ever any discussion within the Customs Department
23 after August 2020 of going back to Global and asking if they
24 had more boats available?

25 A. Commissioner, that communication would have been with

1 Mr Romney and Global, but I would say that--and, you know, BVI
2 is a small place. I know that a number of these vessels were
3 not operational. They were engaged in--they were involved
4 in--I know one of them was involved in an accident that was
5 operational, so I don't think all those vessels were
6 functioning.

7 Q. Did you know that in August 2020, Mr Smith?

8 A. If I knew that they were not functional in
9 August 2020?

10 Q. Yes.

11 A. No. I said--no, I didn't know that, but I said maybe
12 they were in communication with Mr Romney.

13 MR RAWAT: All right.

14 COMMISSIONER HICKINBOTTOM: Just before you go on,
15 Mr Rawat, the proposal on Page 6, which is--I'm just trying to
16 compare it with the EZ proposal of the following day. This is
17 for one, one at \$15,000 a day but all of the fuel and so on
18 included; and that EZ Shipping is, you say, 14,400 a day
19 excluding fuel, yeah, okay. I just wanted to check that.
20 Thank you.

21 Thank you, Mr Rawat.

22 MR RAWAT: Right.

23 BY MR RAWAT:

24 Q. Are EZ Shipping still providing this service to the
25 Customs Department?

1 A. No, Mr--no, Commissioner.

2 Q. When did they stop doing so?

3 A. Commissioner?

4 Q. When did they stop providing the service?

5 A. They stopped providing the service at the end of
6 January.

7 Commissioner, as we meant--as we speak about
8 Global--Global Ocean, the type of vessels that they use in
9 addition to the price but the type of vessel that they use
10 would not be the type that would be--would be effective, for
11 it's a landing craft, meaning it opens from the front, so you
12 would be--it's hard to explain, but you would be in a hole.

13 COMMISSIONER HICKINBOTTOM: I see that, but that
14 means that whatever they'd quoted that that's not there to be
15 in their effective proposal, is it?

16 THE WITNESS: No.

17 COMMISSIONER HICKINBOTTOM: So, Global were never a
18 runner?

19 THE WITNESS: No, they were never--based on the
20 price, they never--

21 COMMISSIONER HICKINBOTTOM: No, based on their craft.

22 THE WITNESS: Their craft, yeah, type of craft wasn't
23 adequate, either.

24 COMMISSIONER HICKINBOTTOM: Okay.

25 BY MR RAWAT:

1 Q. The--I think that you said that effectively EZ
2 Shipping were providing this service from August 2020 to
3 January 2021. During that time, how was the quality of the
4 service measured?

5 A. How was it measured? The quality of the service was
6 measured was monitoring the amount of vessels that pass by.
7 The radars were monitored, the detections which led to
8 interceptions which led to prosecutions, all those statistics
9 were there.

10 Q. And who was responsible for that monitoring? Was it
11 the Customs Department, or was it done independently?

12 A. It was done in tandem with the Customs Department
13 which was responsible to gather all the statistics, and that
14 was assigned to the Deputy Commissioners of Customs.

15 Q. Now, you say it was "done in tandem," but in tandem
16 with who?

17 A. Well, Immigration--the Immigration Department was
18 there, but--

19 (Overlapping speakers.)

20 A. --Department has or had most of the training and
21 utilisation of their radar equipment.

22 Q. So, reports must have been prepared on the--on the
23 service setting out how it had performed; is that right?

24 A. That's correct.

25 Q. And do you have copies of those reports, Mr Smith?

1 A. Yes. The presentations that were made to NSC.

2 Q. Are you--again, can I ask, would you be willing to
3 provide copies of any reports, statistics, or presentations
4 concerning the performance of EZ Shipping to the Commissioner?

5 A. Absolutely, Commissioner.

6 Q. Just to move on to just another topic, it touches
7 on--it loops back to evidence you given a little earlier. If
8 we go to Page 77, please, a memorandum from your Department
9 dated the 9th of November 2020, and you can see the reference
10 in the first paragraph to TSAG. I think that's an organisation
11 you referred to earlier, didn't you? I've now forgotten what
12 the full name of it is.

13 A. Territory Security--

14 COMMISSIONER HICKINBOTTOM: Advisory Group.

15 THE WITNESS: Advisory Group.

16 BY MR RAWAT:

17 Q. Yes.

18 And--I don't know whether you may be able to remember
19 this or not, but there is a reference to Option 3. Can you
20 remember what Option 3 was referring to?

21 A. Option 3 in terms of the radar--the radar solution?

22 Q. I don't know. You tell me. I don't have the
23 document that refers to Option 3, so I'm just hoping that you
24 might be able to remember.

25 A. Okay. One second. Let me read this, please,

1 Commissioner.

2 (Witness reviews document.)

3 A. Okay.

4 Option 3, Commissioner, there were three options
5 presented at JTF as well as TSAG, and Option 1 was having a
6 control--a control centre [REDACTED]

7 [REDACTED]

8 Option 2 would have been [REDACTED]

9 [REDACTED]

10 And Option 3, I believe, was [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] of the location of the Control Command
15 Centre.

16 Q. And so, what you've got--you've got unsolicited
17 solutions from local vendors, and the first one is S & D
18 Security and Alarm Systems. And if we could look at the
19 proposal of that, it's Page 89 in the bundle.

20 A. Yes.

21 Q. You have it at the bottom there? There is a
22 provision of an estimate.

23 If you give me a moment, please, Mr Smith.

24 (Pause.)

25 Q. So, there is a reference there to provision of our

1 estimate, one which comes with one radar thermal camera and
2 recording system. I think the actual estimate itself is at
3 Page 125, if you could just compare that.

4 A. Yes, Commissioner.

5 Q. And I think if you go to 129, you see that there is a
6 total cost there of some \$2.35 million.

7 So, first question is: Who are S & D Security?

8 A. S & D Security is a locally owned company,
9 Commissioner. They were located in Road Town, but I think they
10 have recently moved their location, provides a number of
11 security solutions for a number of businesses and homes in the
12 BVI.

13 Q. Either during your current time as Commissioner, your
14 previous time as Commissioner, had you worked with S & D
15 Security and Alarm Systems in a Customs context?

16 A. Commissioner, S & D Security provided minor services
17 for Customs in terms of repairing--repairing locks--repairing
18 locks in the past.

19 Q. Okay--

20 (Overlapping speakers.)

21 A. Repairing locks.

22 Q. Sorry to interrupt you, Mr Smith. Please finish.

23 A. Minor--minor services.

24 COMMISSIONER HICKINBOTTOM: And in a sort of
25 sentence, what was this system? This system. Was this a

1 marine-based system or--

2 THE WITNESS: This system, Commissioner, utilisation
3 of the radar barges, and what we--part of the plan was to come
4 up with a more permanent solution.

5 Remember, Commissioner, during the COVID pandemic and
6 the lockdown, there was not much time to adequately plan, so we
7 began the planning process of a radar solution where we would
8 have radars in strategic locations permanently fixed in the
9 BVI.

10 COMMISSIONER HICKINBOTTOM: On land?

11 THE WITNESS: [REDACTED]

12 [REDACTED]
13 [REDACTED] In addition, radar would be utilised by Ports

14 Authority. They had a vested interest to know when larger
15 ships are coming in. RVIPIF conservation and fisheries, to know
16 when fisherman are fishing illegally in territorial waters.
17 So, there was a number of agencies that would have been a part
18 of this.

19 COMMISSIONER HICKINBOTTOM: So, this was a fixed
20 radar system?

21 THE WITNESS: This is a fixed radar system.

22 COMMISSIONER HICKINBOTTOM: A land based--

23 THE WITNESS: Land-based radar system.

24 COMMISSIONER HICKINBOTTOM: Okay. Thanks very much.

25 BY MR RAWAT:

1 Q. If we just--to finish up the point, if you go back to
2 Page 77, please.

3 A. Yes, Commissioner. Yes, Commissioner.

4 Q. You have the second one, just so we can complete the
5 picture, Midnight Marine Holdings Limited, and that's--if we go
6 over to the next page, we see the estimate there that's given.

7 A. Yes, Commissioner.

8 Q. Which I think is--well, it's shaded. It seems to be
9 it's an estimate--it's described as an estimate relative to
10 fortify the border, sorry, and the total cost in the table is
11 5.75 million or 5,700,000--\$5,750,000. Now, this is a company
12 that's owned by Mr Chalwell again.

13 Again, was that a company that you had worked with in
14 the past--

15 (Overlapping speakers.)

16 A. Excuse me, Commissioner, you said a figure of
17 \$5.7 million?

18 COMMISSIONER HICKINBOTTOM: 5.7, yes.

19 THE WITNESS: Yes.

20 (Overlapping speakers.)

21 BY MR RAWAT:

22 Q. If you look in the box, it's shaded, but you could
23 see it says "total".

24 A. Yes. Yes, Commissioner.

25 Q. Now, again, here is another company that Mr Chalwell

1 owns, but either in your present role as Commissioner or the
2 previous time you occupied the post, had you worked with
3 Midnight Marine before?

4 A. No, Commissioner.

5 Q. And these unsolicited proposals were, were they--did
6 they go to the attempt to find a permanent proposal in terms of
7 using radar to protect the borders?

8 A. Well, Commissioner, with the--in the BVI,
9 Commissioner, when individuals with different type of equipment
10 or services, they approach--it's not usual for them to approach
11 government officials and make a request and say, "We can
12 provide this, if you think about this, we could do this for
13 you."

14 We have been--we have been discussing for quite a
15 while the possibility of a (unclear)vessel. This was even
16 discussed in early 2000 with the late Minister "Omahaj"
17 (phonetic), and he was an advocate for security utilising a
18 Coast Guard-type vessel.

19 And when we got this information--when we got this
20 information, it was something that we were already in the
21 planning stages of, and we met with the experts that we have in
22 the BVI, in particular "Sean Durand" (phonetic) of the Ports
23 Authority, and we got some information regarding what a vessel
24 should be outfitted with.

25 And we prepared through the Ministry of Finance what

1 is called an "RFQ," a Request for a Quotation, and that was
2 submitted--that information was submitted to the Ministry of
3 Finance, and that was advertised to get vendors who could
4 produce this type of equipment with what it is that the Customs
5 Department would be looking for, not only for the Customs
6 Department but including the shipping registry, conservation of
7 fisheries, Ports Authority and Customs and Police. Again, that
8 would be--that information would be forwarded to you,
9 Commissioner, and that was presented to National Security
10 Council as the future of the territory with Customs and the
11 future in terms of protecting the borders.

12 COMMISSIONER HICKINBOTTOM: So, it was intended to be
13 a permanent solution rather than leasing barges?

14 THE WITNESS: That was the intent. Because of the
15 short space of time, we had no option--no other option than to
16 have immediate relief at borders, but the long-term,
17 Commissioner, was to use our own vessel utilised by law
18 enforcement agencies and also as a training platform for other
19 regional administrations that are engaged and are trying to
20 build a marine unit that could provide maritime training for
21 them as well.

22 COMMISSIONER HICKINBOTTOM: Well, in terms of these
23 solutions, we've looked at the S & D Security proposal.

24 THE WITNESS: Right.

25 COMMISSIONER HICKINBOTTOM: That's land-based.

1 THE WITNESS: Land-based.

2 COMMISSIONER HICKINBOTTOM: The Midnight Marine, the
3 one we've got seems to be--

4 THE WITNESS: Marine.

5 COMMISSIONER HICKINBOTTOM: And the letter says
6 "Additionally, Marine had provided estimates for permanent
7 border security platform." Is that the marine--no, that can't
8 be the marine one. It says "additionally."

9 THE WITNESS: Additionally, yes.

10 COMMISSIONER HICKINBOTTOM: That sounds like Midnight
11 Marine produced some other proposal?

12 THE WITNESS: Their other proposal would have been a
13 marine platform.

14 I think in that they listed different type of
15 equipment--

16 COMMISSIONER HICKINBOTTOM: I'm with you, yes.

17 So, the one that immediately follows the letter, they
18 are--there are boats that move about?

19 THE WITNESS: They are boats that move about.

20 COMMISSIONER HICKINBOTTOM: But the other proposal
21 was a marine platform?

22 THE WITNESS: Land-based platform.

23 COMMISSIONER HICKINBOTTOM: Okay.

24 THE WITNESS: In addition to that, there were a
25 number of other companies that came that followed--followed S &

1 D. There were a number of companies, Caribbean Security,
2 Russell Jones, Digicel, Top Priority Security. A number of
3 other companies followed them and made their proposals for
4 permanent solution.

5 COMMISSIONER HICKINBOTTOM: Mr Rawat.

6 BY MR RAWAT:

7 Q. Yes, could I took you back to 669 in the bundle,
8 please, Mr Smith.

9 A. Yes, Commissioner.

10 Q. It's an e-mail I've shown you before, but could you
11 just take a moment just to read through it by yourself, please.

12 A. From the top to the bottom, Commissioner?

13 Q. Yes. The top one from Mr Matthews.

14 A. Okay.

15 (Witness reviews document)

16 Q. Have you got it, Mr Smith?

17 A. Couple sentences more, please.

18 Q. I want you to read it so I could ask you a couple of
19 questions on it.

20 A. Okay.

21 Q. Particularly if you see the fourth paragraph that
22 begins "Of course."

23 A. Yes, Commissioner.

24 Q. Mr Matthews sets out a number of concerns over the
25 costs which is of the EZ proposal, and other ways in which the

1 money could be spent.

2 Now, I accept that you were not in post at the time
3 of this e-mail, which is July 2020, but subsequent to your
4 coming back into the role of Commissioner, was there any
5 discussion within your Department with others like Mr Romney
6 and Mr Lettsome about the cost of this Contract with EZ
7 Shipping?

8 A. Commissioner, there were discussions about the costs
9 which I indicated earlier, and as I mentioned in comparison to
10 the other proposals that were made with regards to even the
11 smaller vessels. They were very close in terms of the price
12 range without the vessels.

13 Q. If you look at the last sentence of that paragraph,
14 there is a reference to "our previous plan submitted to NSC."

15 Now, would I be right that that's the reference to
16 the Comprehensive Border Security Plan that you referred to
17 earlier?

18 A. I would assume so. Yes, Commissioner.

19 Q. Now, the point is made that the radar platform didn't
20 feature as a priority in that plan, and that's the context in
21 which Mr Matthews is expressing his concerns.

22 Subsequent to your arrival, did you share those
23 concerns, or did you disagree with them?

24 A. No, this--this--we did not share those concerns, like
25 I said, mentioned in regards to smaller vessels that were--that

1 may have been offered, as you said, what you said, you may have
2 spoken about.

3 I know he mentioned that his team was supposed to go
4 and get additional information with regards to other vessels,
5 but they never reported back.

6 Q. If they weren't a concern--and again, you may not
7 know this, so please don't speculate, but prior to the
8 finalisation of the Border Security Plan, had Customs been
9 pressing for the leasing of radar barges?

10 A. Commissioner, I'm not--I'm not sure about that,
11 Commissioner.

12 (Overlapping speakers.)

13 COMMISSIONER HICKINBOTTOM: Mr Rawat, I see the time,
14 and also--

15 MR RAWAT: I've actually come to--I believe I've come
16 to the end of my questions, sir.

17 I want to do two things, if I may. The first is
18 Mr Smith has kindly agreed to do some further work for you to
19 ensure that there is still compliance by the Customs Department
20 with the Request, and if I could just perhaps list the points
21 that he's agreed to go and do some work on.

22 The first is to review the disclosures that had been
23 made and the documents available against the Request again, and
24 that's particularly against A, B, and B on the Request, and in
25 particular perhaps looking at whether Mr Lettsome and Mr Romney

1 have any additional e-mails or correspondence or documents.

2 The second is a copy of the Comprehensive Border
3 Security Plan.

4 And the third is any relevant Joint Task Force
5 minutes that were provided to the Customs Department.

6 I think that's the full list I've got, sir. Those
7 are my notes of what I think Mr Smith has agreed to do for the
8 Commission.

9 COMMISSIONER HICKINBOTTOM: Thank you, Mr Rawat.

10 (Overlapping speakers.)

11 COMMISSIONER HICKINBOTTOM: Anything else?

12 MR RAWAT: The final thing, sir, if I may, is to
13 thank Mr Smith for coming today and for the way he's given his
14 evidence this morning and this afternoon now.

15 COMMISSIONER HICKINBOTTOM: Yes. Well, thank you,
16 Mr Rawat, and can I reiterate that to you, Mr Smith. Thank you
17 for going to give evidence. We will write to you with the list
18 of things that Mr Rawat has read out that we will also check
19 there is nothing else. I think that's the full list, but we
20 will write you to confirm that.

21 And I think the only other thing--matter for the
22 Solicitor General, I think, confidentiality. Is there anything
23 that has been revealed today which may be privileged or
24 confidential?

25 SOLICITOR GENERAL: There has been, I think, one

1 occasion that we would like to look at particularly with regard
2 to security, national security, so again we would ask for one
3 to three days to review the Transcript.

4 COMMISSIONER HICKINBOTTOM: And we will relay that,
5 Solicitor General. When the Transcript comes in, we will give
6 you a couple of days to review it, and let us know if there are
7 any redactions that you think need to be made.

8 SOLICITOR GENERAL: Yes, Mr Commissioner.

9 MR RAWAT: I raise one matter, please. This is
10 obviously a private hearing. Everyone is bound by
11 confidentiality, and that includes that confidentiality extends
12 to any documents that are provided to participants in this
13 hearing.

14 Now, the Solicitor General may wish to address you on
15 this as well, but out of an abundance of caution, I wonder
16 whether, in my submission, none of the matters that have arisen
17 today with Mr Smith directly impinge on those which
18 Mr Fligelstone Davies represents, and I wonder whether he would
19 be agreeable to leaving the bundle that has been provided to
20 him behind at least until you've heard back from the Solicitor
21 General because that then safeguards as much as possible this
22 remains a confidential and private hearing.

23 COMMISSIONER HICKINBOTTOM: Certainly, Mr Rawat.

24 MR FLIGELSTONE DAVIES: That's no problem. There is
25 just one matter that Mr Rawat may have forgotten.

1 It was not just a minute but remember you were also
2 talking about the views that the JTF would have forwarded to
3 the National Security Council. This is also on the list of
4 things that you wanted Mr Smith to take a look at.

5 COMMISSIONER HICKINBOTTOM: That's very helpful,
6 Mr Davies, and what we will also at some stage check with the
7 Transcript just to make sure everything is there, but that's
8 helpful, thank you.

9 And if you could simply leave the bundle behind, that
10 too would be helpful.

11 Again, Mr Smith, thank you very much.

12 So, we will now adjourn until 2:00 when the next
13 witness is due. Thank you all.

14 (End of Session 1.)

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SESSION 2

COMMISSIONER HICKINBOTTOM: Good afternoon,
Mr Skelton Cline.

THE WITNESS: Good afternoon.

COMMISSIONER HICKINBOTTOM: Now, I think everybody
other than you, Mr Skelton Cline, have been involved in these
hearings before, and I think that the Secretary has, anyway,
given some housekeeping notices so you know what's happening.

Just to confirm that at the moment this hearing is
private. That's because the Government has asked them to be
private until they ensure that nothing is said or disclosed
during hearings that is privileged or confidential in any
way. They do that normally within a couple of days of us
receiving the Transcript. The Transcript then becomes open.
Do you understand? But until you get a Transcript, then,
it's private and can't be publicised in any way. Do you
understand?

THE WITNESS: Sure.

COMMISSIONER HICKINBOTTOM: Good. What I'll do is
I'll ask Mr Rawat now. He'll be asking most of the
questions, and you'll find him here. We hope that--he's in
quarantine, still. He's remote, but hopefully the internet
will hold up.

Sorry. The Solicitor General. Take a seat.

Are you ready, Solicitor General?

1 SOLICITOR GENERAL: I am.

2 COMMISSIONER HICKINBOTTOM: Mr Rawat.

3 MR RAWAT: Thank you, sir.

4 BY MR RAWAT:

5 Q. Good afternoon, Mr Skelton Cline. I hope you can
6 see and hear me.

7 A. I can. Good afternoon.

8 COMMISSIONER HICKINBOTTOM: I'm sorry, Mr Rawat.
9 This is my fault. We've got to swear Mr Skelton Cline in.

10 MR RAWAT: Yes.

11 COMMISSIONER HICKINBOTTOM: The Secretary will do
12 that, Mr Skelton Cline.

13 THE WITNESS: Okay.

14 COMMISSION SECRETARY: Would you like to swear an
15 oath or make an affirmation?

16 THE WITNESS: Affirmation is fine.

17 COMMISSION SECRETARY: Okay. If you'd like to turn
18 the sheet over in front of you and repeat what is written on
19 the sheet.

20 THE WITNESS: I do solemnly, sincerely and firmly
21 (unclear) affirm that the evidence I shall give shall be the
22 truth, the whole truth, and nothing but the truth.

23 COMMISSION SECRETARY: Thank you. Thank you, Mr
24 Skelton Cline.

25 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat.

1 MR RAWAT: Thank you.

2 BY MR RAWAT:

3 Q. Mr Skelton Cline, could you give the Commissioner
4 your full name, please.

5 A. Claude Skelton Cline.

6 Q. And your professional address?

7 A. Cane Garden Bay, Tortola, British Virgin Islands.

8 Q. Can I thank you for coming to give evidence today.

9 I hope to keep my questions short and simple, but if at any
10 time you have difficulty understanding a question or you'd
11 like me to repeat it or put it in a different way, please do
12 ask me.

13 A. Sure.

14 Q. There is in front of you a small bundle of
15 documents. We may need to go to that in due course, but we
16 don't need to turn it up at the moment. To just explain to
17 you what it is, it's the correspondence that the Inquiry has
18 had with you by e-mail and letter.

19 And can I just ask you, also, Mr Skelton Cline, if
20 you could just remember to keep your voice up and to speak
21 slowly because that makes it easier for your answers to be
22 clearly recorded, and accurately so, so that that makes for a
23 better Transcript of this hearing.

24 To start off, I'd like to just explain why we've
25 asked you to attend today. You have been sent a Letter of

1 Request by the Commission and also a summons, and the reason
2 for those are because there are a number of matters on which
3 we believe you can help the Commission. You're attending as
4 a witness. As a witness and, indeed, it's an obligation that
5 sits on every lawyer here, you are under an obligation to
6 assist this investigation. You don't have legal
7 representation, I believe, today, but I should make clear
8 that I don't intend, through my questions today, to put to
9 you a criticism or an allegation that you have to answer.

10 Could I begin, please, with some background,
11 Mr Skelton Cline. Could you just give the Commissioner an
12 outline of your professional history, your work history.
13 Perhaps you could start with where you went to university.

14 A. Sure. Well, first, I'm a husband of my wife, and a
15 father. I attended undergrad at Florida Memorial University
16 in Miami, Florida, which is a historical black college. And
17 then I did my Master's of Divinity, so I'm a trained
18 theologian by profession, and then postgraduate studies at
19 Ashland University, School of Theology in Ashland, Ohio.

20 And since then, you know, Pastor for some 20 years
21 in the City of Detroit, Michigan as well as led community
22 development in housing and for low-to-moderate income persons
23 as our target.

24 So, in terms of my professional life, it's been in
25 the area of ministry/leadership.

1 Q. Could I break that down a little, please.

2 You say it's in the area of being a pastor and then
3 providing leadership, and you spoke about community projects.
4 Were you doing that kind of work in America after you left
5 university?

6 A. Yes, that's correct. Community work has always
7 been a part of my sojourn, and so we lived--well, not
8 lived--we did ministry, our church was in--what was then, I
9 think, the poorest ZIP Code in Michigan; and so that being
10 the case, we developed a mission and a vision around serving
11 that particular community. It sort of involved--after
12 school, it involved parenting classes. It involved housing
13 development. It involves tax credit. It involved multiple
14 designation that allow the entity, the faith-based entity, to
15 do work within that community in a more seamless fashion.

16 Q. And when you were doing the community involvement,
17 did you obtain funding as a church, or did you have a
18 separate business or consultancy that allowed you to obtain
19 funding for your community work?

20 A. Well, the church under, I don't recall it--I don't
21 know if it's 501(c)(3) but whatever, the church at that time
22 received the specific state designation that then allowed it
23 to do work in that area. So, if in the case of tax credits
24 or whatever, the Board would then seek out specific funding,
25 financing, et cetera, or in-kind services, depending on what

1 the specific ministry item was.

2 Q. Aside from those two parts of your role, pastorship
3 and community work, did you hold any other positions whilst
4 in America?

5 A. Yes. At one point I became Director of--the
6 official title at that time was Executive Assistant to then
7 Mayor, but it was during the time, I think--let me see--the
8 Bush Administration. I think it was called faith-based,
9 Director of Faith-Based Affairs. I don't remember the
10 specific title, but that was just give leadership to an
11 ecumenical group that constituted imams, rabbis, pastors, et
12 cetera. So I functioned in a quasi way in facilitating those
13 efforts on the governmental side, the "local municipality"
14 they would call it.

15 Q. So you were working to the Detroit mayor, who was
16 mayor at the time.

17 A. Correct.

18 Q. And who was that mayor?

19 A. That mayor was a gentleman by the name of Kwame
20 Kilpatrick.

21 Q. And how many years did you spend in America in
22 total, Mr Skelton Cline?

23 A. At least 25-26, thereabouts.

24 Q. And what year did you return to the British Virgin
25 Islands?

1 A. Officially, 2010.

2 Did you get that?

3 Q. Officially. You said officially 2010.

4 A. Yes.

5 Q. The use of the word "officially" suggests there was
6 an unofficial date at which you came back to the BVI.

7 A. Well, I think, you know, transition, but I
8 would--to be exact, the date would be '10, 2010.

9 Q. I see. So, when you say "transition," were you
10 sort of slowly moving over from the States after 25 years?

11 A. Yeah. Well, I've always, you know, vacation. My
12 family are here, so I would always go back and forth. I had
13 preaching engagements, panels that are--you know, different
14 things I would be invited to, so it all depended.

15 Q. And before making this sort of final move back to
16 the B.V.--the British Virgin Islands, what was your last role
17 in the U.S.?

18 A. Always a senior pastor. Been my--that's been my
19 singular role in the U.S.

20 Q. And what was it that having been in the U.S. for 25
21 years, studied there, worked there, taken up leadership
22 positions, what was the reason why you decided not to stay in
23 the U.S.?

24 A. Well, our son was born. And so, once our son was
25 born--I always--well, I always intended to come back home. I

1 mean home is home. There's no place like home; and so, it
2 was always my intention to return home. But when our son was
3 born, that accelerated my steps because I wanted him to grow
4 up in a kind of a familiar and small environment, similar to
5 what I had was small, communal.

6 Q. There wasn't any reason why you couldn't stay in
7 the U.S. anymore.

8 A. Absolutely not.

9 Q. And can you just sort of clarify this: Were you
10 always known as Claude Skelton Cline, or did you change your
11 name at any point?

12 A. My dad--well, I've always carried my mom's last
13 name. So, upon returning home and again upon my son being
14 born, I decided to add Skelton officially to my name, but I
15 always refer to myself--but most persons in the U.S.
16 would--and even now, they would still call me Pastor Cline.

17 Q. Thank you.

18 Now, when you returned in 2010, did you have any
19 plans about what you would do on your return?

20 A. Well, I think in general it was to come back and
21 lend a contribution, certainly in advancing my homeland, my
22 country's--you know, I'm a strong inde--I'm a strong advocate
23 of independence. I would like to call it "Vexit," similar to
24 the British's "Brexit"; and so, I'm a strong advocate of
25 that, so I--it's--so my efforts have always surrounded that

1 and continues to. So, sometimes it's in the political realm,
2 sometimes it's in the ecclesiastical realm. At the moment,
3 you know, social. I do have a radio program, so it comes out
4 one way or another, but that's my foci.

5 Q. Did you, on your return, get involved in politics
6 at all?

7 A. Yes, I did. As a matter of fact, in 20--when where
8 was that? So it must have been 2011. I--at the time I
9 joined--well, I ran as an Independent, initially, in the
10 district where I grew up, and then I later joined the
11 National Democratic Party, and I ran for that district at
12 that time, unsuccessfully, but the Party had then gained the
13 government. So that must have been 20--must have been 2011,
14 somewhere thereabouts.

15 Q. You said you were unsuccessful, but did you get a
16 post in Government because your party had succeeded?

17 A. Well, I'd like to think that I got a post in
18 Government because of my competencies; and so, the fact that
19 the party that I supported was in charge, I suspect, as is
20 the case, would have been helpful in that area.

21 But initially--at some point I became
22 Director--Managing Director of the BVI Ports Authority.

23 Q. Again, sorry, but I think my question was not the
24 best phrased question I've ever put to someone, so I'm going
25 to break it down a little bit, please.

1 So you've talked about running for office. Your
2 then--did you set up a consultancy and get any government
3 contracts on your return?

4 A. No.

5 Q. Well, were you involved in the Virgin Islands
6 Neighborhood Partnership Project?

7 A. Yes. That was--that pre-dated all of that, though.

8 Q. All right. So, what year did you become involved
9 in the Partnership Project?

10 A. That would have been around '07-'08 or '08-'09.
11 '07-'08, I think, is when that started.

12 Q. So, was that during the period that you were
13 transitioning?

14 A. No. At that point, I had not transitioned yet, but
15 in earnest, I would say '09 is when I became more focused in
16 transition. But if I recall correctly, that particular--that
17 particular group would have been '07-'08.

18 (Overlapping speakers.)

19 Q. So, whilst you were still working in--you were
20 still U.S.-based but then involved in the Partnership Project
21 as well.

22 A. Yes, yes.

23 Q. Was the contract awarded to you as an individual or
24 to a business that you owned?

25 A. A business. I've never contracted that I--not in

1 my personal name, no.

2 Q. And what was the name of that business?

3 A. Oh, it was a consultancy. I'll have to refresh the
4 exact name. It was a consultancy.

5 Q. Well, I think some of the media reports that are
6 available in public refer to the Claude Ottley Consulting
7 Limited.

8 A. Well you--

9 Q. Does that ring a bell?

10 A. That's possible, Ottley Consultant. You see, I'm
11 not--I'm not a reader of the media, the local media so--but
12 that sound--that sounds familiar, but I can refresh my memory
13 with the exact name, yeah.

14 Q. Right. Well, would you be happy to, after you've
15 given your evidence just to confirm in writing what the name
16 of the consultancy was?

17 A. Sure.

18 Q. Thank you.

19 Now, Claude Ottley, how is that linked to you?
20 Obviously your first name is "Claude." Is the--does the
21 Ottley have any significance for you?

22 A. It's a middle name, my dad's name.

23 Q. I see.

24 So your full name is still Claude Ottley Skelton
25 Cline, is it?

1 A. Correct.

2 Q. I see. Okay. Now, you say it was a consultancy.
3 Was it a registered comp--a limited company or was it--were
4 there other people involved in the company with you?

5 A. No, it would have been registered--I would
6 suspect--well, it has to be--in the Virgin Islands, but
7 only--in terms of involved with me, only as needs be, you
8 know, but depends on what service was being rendered.

9 Q. In relation to the Neighborhood Partnership
10 Project, which Ministry contracted with you on that?

11 A. The Ministry of Education.

12 Q. And who was the Minister at the time?

13 A. At that time it was Minister Andrew Fahie.

14 Q. Do you still have documents within your possession
15 and control relating to that agreement?

16 A. I doubt that very much.

17 Q. If we--if the Commission needed it, would you be
18 willing to review your records to see if you do have any
19 documents?

20 Sorry. You may not have heard me. I asked
21 if--would you be willing to review your records to see if you
22 did have any documents?

23 COMMISSIONER HICKINBOTTOM: Pastor Cline said yes.

24 THE WITNESS: Yeah.

25 MR RAWAT: Oh, I'm sorry. I think--again, I think

1 it's the internet maybe against me.

2 BY MR RAWAT:

3 Q. Now, you said a few minutes ago, Mr Skelton Cline,
4 that you were then subsequently appointed to be the chair of
5 the BVI Airports Authority.

6 A. (Unclear.)

7 Q. Can you remember--

8 A. The Managing Director of the BVI Ports Authority.

9 Q. I see.

10 A. The ports. And (unclear)--

11 Q. And when was that?

12 A. If I recall, that would have been maybe 2012, 2012
13 to about 2015, somewhere thereabouts. Don't quote me
14 because, you know, I'm--it's--it would have been thereabouts.
15 I'm following my election year trend, as I remember, which
16 would have been 2011, so about a year later. 2012 to about
17 2015.

18 Q. So, just to get our timeline right, on your
19 recollection, at about 2007-2008 you're involved in the
20 Neighborhood Partnership Project as a consultant. You're
21 then having run for election in 2012-2013, appointed to be
22 the Managing Director of the BVI Ports Authority.

23 A. Correct.

24 Q. Now, between those two dates, give or take a year,
25 between those two dates, did you receive any other government

1 contracts?

2 A. No, it's...

3 Q. So, turning to the BVI Ports Authority, how did you
4 come to be appointed to be the Managing Director?

5 A. Well, as I recall, I went through an interview
6 process. I later learned, you know, there were several
7 candidates who were also interviewed, and then I think they
8 later told me there was--whatever the process for scoring of
9 categories. At any rate, after the interview, I was the
10 successful candidate.

11 Q. Do you remember--you said, obviously, you set out
12 your recollection of the process. Do you remember if you
13 were asked if there was any due-diligence exercise conducted?

14 A. I'm not sure what you mean. Tell me--what
15 (unclear)--

16 Q. Well, in some jurisdictions, when someone's
17 appointed to a position like Managing Director of a public
18 body, that public body will undertake due diligence, which, I
19 think in layman terms, might translate as "they'll check them
20 out" so they would, you know, ask your referees about you,
21 ask whether you're of good character. They'll ask all sorts
22 of questions of people. Do you remember whether the process
23 included that sort of exercise?

24 A. Well, I had to submit references; I would think it
25 would. That would seem to be the natural course, but I don't

1 know all--with any level of specificity all that transpired
2 behind the scenes. I just responded to the--to the--what do
3 you want to call it?--the interview process as--their
4 "search," that's the word I'm looking for. I responded to
5 their search for what was called a "Managing Director."

6 Q. I see. So the process. I mean did they ask you to
7 give details of your previous history in the U.S. or anything
8 like that?

9 A. I remember it was quite comprehensive. Again, I
10 don't know what all--specifically at this point, what all
11 that they asked, but it was quite, you know, an application
12 process that I had to submit.

13 Q. How long was the contract for?

14 A. I think three years. I think it was three years.

15 Q. And did you seek a renewal of the contract after it
16 had expired?

17 A. That's correct.

18 Q. And what was the outcome of that?

19 A. Well, I was offered--let me--let me say that
20 differently. I was offered an extension to my contract, and
21 in the end, I did not--they did not extend the contract. And
22 for causes that I thought were wrong, then I engaged, you
23 know, an attorney and--to protect and ensure what I believe,
24 you know, was "legitimate expectation," I think was the term
25 that was used, the legal term. And, as a matter of fact,

1 that case is still pending.

2 Q. So you have a legal case ongoing against the BVI
3 Ports Authority.

4 A. No. This was against the Government Cabinet. BVI
5 Ports Authority had approved my contract, approved the terms
6 and conditions and compensation, and then it would--at that
7 time the--I guess it's still the case, they will advance that
8 to Cabinet, who would then also have final sign-off. So my
9 case is specifically against Cabinet of the Virgin Islands.

10 Q. I see. So it's a claim against the Government,
11 really, rather than your direct employer.

12 A. Correct.

13 Q. During the time that you were the Managing
14 Director, was that a full-time role?

15 A. Correct.

16 Q. So, did you do--undertake any consultancy work at
17 all in that time, or were you fully committed to the Ports
18 Authority?

19 A. Ports Authority.

20 Q. Just--can I move on now just to the--your present
21 business interests, if you like, or consultancy interest.
22 Could you just provide the Commissioner with an outline of
23 the businesses or companies that you currently own or are
24 involved in?

25 A. Say it again.

1 Q. Can you give the Commissioner a brief outline of
2 the businesses and companies which you currently own or are
3 otherwise involved in?

4 A. Currently, Grace Consultant--Grace Consulting and
5 Counseling, which is a marital/counseling coaching. It also
6 has a Bible school component. As a matter of fact that we're
7 getting ready to start back. We had just been approved but
8 to be a satellite in the Virgin Islands from the Oral Roberts
9 University in Tulsa, to offer a satellite, but Hurricane
10 Maria at the time messed up that well, messed up everything,
11 and so we're about to jump-start that.

12 And then there is Grand Savings, which is an
13 import-export entity, just does work as it relates to any
14 businesses, procurement things we did from China or be it
15 from wherever, or services on the ground.

16 And I work for my wife, but I'm not--I'm not an
17 owner of that.

18 Q. What business does your wife have?

19 A. I'm sorry?

20 Q. What business is it that you work in for your wife?

21 A. Yeah, we runs a--run a pizza shop. It's called
22 "the original"--it's called "New York Pizza."

23 Q. And then any others that you're involved in or work
24 or working or own?

25 A. Yeah, what I'm--and I'm--I worked also for my

1 family group, Skelton Group of Companies, and I am the
2 Executive Pastor of New Line Baptist Church.

3 Q. Are there--so you've told us obviously of Grace
4 Consultants and Counseling Services, Grand Savings, the New
5 York Pizza, the Skelton Group of Companies, and then you're a
6 pastor, an executive pastor. So--

7 A. Right.

8 Q. Are there any other businesses in which you are an
9 investor or a shareholder?

10 A. I'm a shareholder, although I haven't received any
11 dividends for years. I think--what do I think of?--BVI
12 Investment Club, telecommunication, CCT Bolt firm (phonetic).
13 I don't know what they call it now. But I don't--I
14 think--yeah, those are what come--comes to mind. Here, in
15 the Virgin Islands, you can take out 10 trade license in
16 hopes of doing something and nothing ever happens, so that's
17 why if I--if I pause, that's the only reason why I would
18 pause. You know, I'm just thinking of what--what's active or
19 what I'm actually involved with so...

20 Q. But of the ones that you've mentioned, ones that
21 because they--they are the ones that have come to mind, the
22 ones that are--the businesses that you're most active in and
23 are which most current?

24 A. Correct.

25 Q. And the Skelton Group of Companies, what does

1 that--what sort of areas does that cover?

2 A. Oh, that covers my grandparents. That covers
3 quarry, concrete, real estate, development, bay lots, storage
4 facilities. Those are about the four key components of
5 Skelton Group.

6 Q. And are there any--of that group of companies, is
7 it an entirely family-owned concern, or are there outside
8 investors involved in that?

9 A. No, that's--that's exclusively a family-owned
10 company.

11 Q. And of any of your ongoing concerns, be it Grace
12 Consulting or Grand Savings, are those also, if you like,
13 solely owned or family owned without outside investors?

14 A. Correct.

15 Q. Could I ask you just to turn now to the bundle,
16 please, Mr Skelton Cline.

17 A. I think it is this black--black binder?

18 COMMISSIONER HICKINBOTTOM: Yes.

19 BY MR RAWAT:

20 Q. And despite its size, it has a very small number of
21 papers in it, which I hope if I could ask you just to turn to
22 Page 11.

23 A. 11. Yes.

24 Q. You have there a copy of the Witness Summons that
25 was sent to you, and it does two things. If you look at the

1 second paragraph, it asks you to attend today, which you have
2 done, but it's also asked you to bring with you hard copies
3 of documents, and they're then summarised at A through to C,
4 and that goes over to the next page.

5 If I ask you just to look at the--Page 14, please,
6 in the bundle.

7 A. 14?

8 Q. Yeah. This is just a response that you made to the
9 Letter of Request, where you said that--and so the Letter of
10 Request preceded the summons, but you said there that
11 you--you would be able to provide a--or a provision of a hard
12 copy would be most viable and asked where it could be
13 delivered. Now, in terms of the summons, have you brought
14 any documents with you today, Mr Skelton Cline?

15 A. I have.

16 Q. And do those documents cover all three elements set
17 out in the summons?

18 A. (Unclear.) My Reports and--yes, whatever I have
19 relative to--to Grace and the contract, yeah.

20 Q. And if we just quickly perhaps go through just A to
21 B and C. A asked you about contracts you may have entered
22 into as an individual, but I believe it was your evidence
23 earlier, Mr Skelton Cline, that you've never entered into a
24 contract with the BVI Government as an individual; is that
25 right?

1 A. Yeah, that would--I--that would all be in a
2 company, as far as I can recall.

3 Q. Right.

4 And so, B, that would cover any company or business
5 that you're connected with. So that would cover--if we leave
6 aside Grace Consultants, if the Skelton Group had been
7 involved in a contract with the BVI Government, that would be
8 set out in B; yeah?

9 A. Yeah, I--I would think so, but as a--as an employee
10 of that, I would not even have--I would not have referenced
11 that.

12 Q. I see. And then--but what you have done in
13 relation to Grace Consultants at C, that's where you've
14 brought along reports, et cetera; is that right?

15 A. Correct.

16 MR RAWAT: Mr Commissioner, could I just have a
17 moment, please?

18 COMMISSIONER HICKINBOTTOM: Yes.

19 (Pause.)

20 BY MR RAWAT:

21 Q. And just to confirm, Mr Skelton Cline, you're happy
22 to leave those documents with the Commission team today; is
23 that right?

24 A. Unfortunately not all.

25 Q. And why is that?

1 A. Let me explain. The--this is what's written. Let
2 me just--since it's in front of me--accurate--I think I sent
3 you the note--at least things normally have date on them.
4 Anyway, I don't really--

5 Q. What are you looking at, Mr Skelton Cline? Which
6 page are you looking at?

7 A. You said 14, but mine says Page 2.

8 Q. Okay.

9 (Overlapping speakers.)

10 A. Mr Chandler, is the page I'm looking at. I'm just
11 looking for the date, which is--

12 Q. Right. The date on 14 was the 22nd of April 2021.
13 Mr Chandler replied to--sent a letter to you, and you replied
14 on the 29th of April 2021.

15 A. Right. So which was just--I just want to get the
16 dates, (unclear) it was in front of me.

17 Pool (phonetic) Secretary, who was on vacation, was
18 due to come back--come back two weeks now, I guess. Anyway,
19 she came up on a ferry that had some Corona stuff, so she was
20 told to stay in for another full seven days. She just
21 returned yesterday. So I--but I still brought the copies so
22 you would, you know, so that you'll be clear because I've
23 been very public about this. I still brought the copies with
24 me, but she--she has said to me that she needed until
25 Thursday at least to finish up the scanning and the labeling

1 as I've had in my originals. So since she--

2 Q. I follow.

3 A. Since she said Thursday, I think it would be
4 credible to say I should have the balance of them by Friday
5 and to which they can be gotten. The simple things like the
6 three contracts, you know, I have, so you can guide me if you
7 want to just take the whole thing at once. I'm not sure if
8 you have had preview of the contracts themselves. I notice
9 that that's also in the document.

10 COMMISSIONER HICKINBOTTOM: Just to clarify for
11 myself, Mr Skelton Cline, in relation to the--so the material
12 you haven't got that your secretary is going to put together
13 by the end of this week--

14 THE WITNESS: Correct.

15 COMMISSIONER HICKINBOTTOM: --is that going to be
16 electronic by then?

17 THE WITNESS: Well, she said the challenge with
18 electronic is that every time she sent it, even to the
19 Ministry of Finance or the Premier's Office, it's always had
20 to be broken up, and I don't understand what all that means,
21 but it couldn't be in one file.

22 COMMISSIONER HICKINBOTTOM: Okay. But when it
23 comes to us, is it going to come electronically or in hard
24 copy?

25 THE WITNESS: Well, I'm an old-fashioned guy, so

1 I--I'm always in favour of handing the hard copies.

2 COMMISSIONER HICKINBOTTOM: Well, that's very
3 helpful, to me anyway, but in respect to the stuff you
4 haven't got that's coming in later this week--

5 THE WITNESS: Right.

6 COMMISSIONER HICKINBOTTOM: --is that going to be
7 sent to us in hard copy or electronic?

8 THE WITNESS: So I can do both. I will--I can have
9 them send it electronically, but just be aware that it will
10 be segmented, whereas the hard copies are in--

11 COMMISSIONER HICKINBOTTOM: In files.

12 THE WITNESS: Right. So, for example--let me see.
13 So the hard copies are in these files, you will notice; and
14 so the whole labeling for each--for the ease of reference--

15 COMMISSIONER HICKINBOTTOM: That's--

16 THE WITNESS: --so when they come, I can--they'll
17 come back like this. And if you're asking for electronic
18 version, then she can send that, but just know it won't be
19 like in one document.

20 COMMISSIONER HICKINBOTTOM: It will be broken up
21 into documents--

22 THE WITNESS: Right.

23 COMMISSIONER HICKINBOTTOM: I understand that.

24 Now, in respect to these hard copies--

25 THE WITNESS: Yeah.

1 COMMISSIONER HICKINBOTTOM: --which I understand
2 that you're happy to leave today, but are these your
3 originals?

4 THE WITNESS: Right. No, I'm not happy to leave
5 today. I'm happy to leave the contracts because I simply
6 took them back from her before coming here because this is
7 what she's using to continue to make up the rest of the
8 files. So she's started, since she came back yesterday, but
9 there's still some more scanning and copying to do.

10 COMMISSIONER HICKINBOTTOM: But scanning of those?

11 THE WITNESS: Of these, yes, in part. Some has
12 already been done.

13 COMMISSIONER HICKINBOTTOM: But are there any
14 documents which she's scanning that are outside those
15 documents?

16 THE WITNESS: No, this is it. So I brought
17 everything here today.

18 COMMISSIONER HICKINBOTTOM: So "here" is a hard
19 copy of everything you've got.

20 THE WITNESS: Correct.

21 COMMISSIONER HICKINBOTTOM: Okay.

22 I'm sorry, Mr Rawat, I just wanted to clarify that.

23 (Overlapping speakers.)

24 MR RAWAT: I think we have to--I think Mr Skelton
25 Cline's--the three lever arch files that Mr Skelton Cline has

1 are the hard copies, which his secretary has started putting
2 into electronic form.

3 THE WITNESS: Correct.

4 COMMISSIONER HICKINBOTTOM: The difficulty, as
5 Mr Skelton Cline has pointed out, is that it is--one has to
6 break up the documents when you're scanning them, but he's
7 just basically taking all of the documents from the secretary
8 so that he could bring them today. But she--they will then
9 have to go back to her to finish the work of doing scanning.

10 So I think probably--and it may be something that
11 Mr King may also wish to--may have a view on because it falls
12 within his area, but it might be that given that Mr Skelton
13 Cline has indicated his willingness to comply and provide
14 these documents, that we just give him and his secretary
15 until 4:00 p.m. on Friday to provide everything
16 electronically. And then if there are any issues that arise,
17 we can always come back to him for further assistance.

18 COMMISSIONER HICKINBOTTOM: Just give me a moment.

19 Yes.

20 But if you're happy with that, Mr Skelton Cline, we
21 are too.

22 (Overlapping speakers.)

23 THE WITNESS: She told me Thursday, but I feel
24 comfortable with Friday.

25 COMMISSIONER HICKINBOTTOM: No, that sounds very

1 sensible.

2 THE WITNESS: Yeah.

3 COMMISSIONER HICKINBOTTOM: So, Friday at 4
4 o'clock?

5 THE WITNESS: Sure. Yes.

6 COMMISSIONER HICKINBOTTOM: Okay. Thank you very
7 much.

8 THE WITNESS: And so that--so I'll bring the
9 contracts back then as well, because these you can have. I
10 understood that you--I had the sense that you did not have a
11 copy of all three contracts?

12 COMMISSIONER HICKINBOTTOM: Are those going to be
13 scanned as well?

14 THE WITNESS: Well, we already have this. This
15 part is done.

16 COMMISSIONER HICKINBOTTOM: So we can have those.

17 THE WITNESS: You can have (unclear). Okay.

18 COMMISSIONER HICKINBOTTOM: Well, if you could
19 leave those there. Thank you, Mr Skelton Cline, that's
20 excellent. Thank you.

21 MR RAWAT: Sir, at this stage, I think, I've no
22 further questions at this moment for Mr Skelton Cline. So
23 all I would like to do is just to thank him for coming today
24 and for the evidence that he's given to you today.

25 COMMISSIONER HICKINBOTTOM: Thank you very much,

1 Mr Rawat.

2 Mr Skelton Cline, if I could reiterate that, thank
3 you for coming. Thank you for bringing the documents. And I
4 understand that some of these things take time, but I'll
5 simply direct that they're sent through electronically by 4
6 p.m. on Friday, and that deals with that. Thank you very
7 much for the evidence you've given and the courteous way that
8 you've given it and clear way that you've given it.

9 Can I just check with the Solicitor General. Is
10 there anything?

11 SOLICITOR GENERAL: (Unclear.)

12 COMMISSIONER HICKINBOTTOM: Okay. So the
13 Government is happy for this hearing to be opened, not
14 private. What that means is that once the Transcript is
15 available, it'll simply be published and sent--I mean it will
16 be available on the Web to you and everybody else.

17 THE WITNESS: Sure.

18 COMMISSIONER HICKINBOTTOM: Unless you have any
19 objections.

20 THE WITNESS: No, I'm fine.

21 COMMISSIONER HICKINBOTTOM: Good.

22 THE WITNESS: I would like to ask a question,
23 though.

24 COMMISSIONER HICKINBOTTOM: Certainly.

25 THE WITNESS: Yeah. It's for my own clarity, the

1 documents that you requested from me, is it that you're
2 unable or have not been able to ascertain those documents
3 from specific government agencies?

4 COMMISSIONER HICKINBOTTOM: Alright. Okay. I
5 mean, there are other people in this room who are better
6 qualified to answer that question, but I'll answer it first.
7 And the answer is, firstly, that we--that I can ask anybody
8 for any documents, even if they are duplicates, but that's
9 not the real answer. The real answer is that the Government
10 can't give all of those documents because some of your
11 documents will be internal documents.

12 And secondly, over a number of hearings it's--and
13 this isn't a criticism of the Government or at least it's not
14 a criticism yet, but the Government have not fully responded
15 to requests, so they haven't given us all of the documents
16 that we've asked for. And so, for those two reasons,
17 practical reasons, as opposed to legal ones, that's why I've
18 asked you for the documents.

19 THE WITNESS: Okay.

20 COMMISSIONER HICKINBOTTOM: And somebody will--I
21 don't think there's anything to add to that as to the gaps
22 that we have.

23 MR RAWAT: Sir, may I make two just additional
24 points?

25 COMMISSIONER HICKINBOTTOM: Yes.

1 MR RAWAT: The first is that during the course of
2 the hearing, there have been a couple of matters that
3 Mr Skelton Cline had said that he will check out for us, for
4 example, the proper name of the consultancy company that went
5 into the Neighborhood Partnership Project. If I tell him
6 that what we'll do is we'll--the COI will write to him just
7 to set out what those matters are so he will have a record to
8 assist him in responding.

9 The second point to make to Mr Skelton Cline is, of
10 course, that the summons remains open, and that means that
11 you can ask him to come back to assist you further, if
12 necessary, without the need to issue a new summons. It
13 doesn't mean that he will be asked to come back, but he may
14 be asked to come back.

15 COMMISSIONER HICKINBOTTOM: Thank you, Mr Rawat.

16 In terms of the first point, it's just easier if we
17 write to you, Mr Skelton Cline, rather than you jotting down.

18 THE WITNESS: (Unclear.)

19 COMMISSIONER HICKINBOTTOM: And we'll do that.

20 The second is that you'll see from the terms of the
21 summons that the summons technically lasts throughout all of
22 the hearings of the Commission of Inquiry. So, we don't have
23 to issue another summons, but if we want to ask any more
24 questions, we'll obviously give you proper notice--

25 THE WITNESS: (Unclear.)

1 COMMISSIONER HICKINBOTTOM: --and deal with it in
2 that way, if that's okay.

3 Any other questions that you have for us?

4 THE WITNESS: Not at the moment.

5 COMMISSIONER HICKINBOTTOM: Good.

6 Nothing else from anyone else?

7 Thank you very much.

8 (End of Session 2.)

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 black ink, appearing to read "David A. Kasdan", written in a cursive style. The signature is positioned above a solid horizontal line.

DAVID A. KASDAN