

TRANSCRIPT OF PROCEEDINGS

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COMMISSION OF INQUIRY INTO SABL

MR ALOIS JEREWAI

COMMISSIONER

CATHOLIC DIOCESE HALL KIMBE, FRIDAY 10 FEBRUARY 2012, AT 9.05
AM.

(Continued from Thursday 9 February 2012)

[9.05 am] THE COMMISSIONER: Yes, we were proceeding with Mr Mane; if Mr Mane can return to the witness stand.

BENEDICT MANE, continuing

XN: MR BOI

THE COMMISSIONER: Yes, Mr Mane?

MR BOI: Yes, Mr Mane, before adjourned yesterday due to the power blackout, I think we were on clause 15. I am referring you back to the statement by Messrs Joe Ugava, BlassiusReu and Peter Wakore which we were going through. There were some allegations against you. We put it to you for your response, and I think we were on clauses 15. That is the one I was going to in which it says there that, “Bihain long John Lacha i mekim toktok long Dava, Ben Mane ogenaisim ol lain tambublongem long Davanaolikam long Tanda na threthenim olpresagrup long knife naoltok, ‘graunblongyupela we?’ Dispela ipasim mausblong ol presagrupnamekimol man i sain tasol.” Mr Mane, what do you say to that?

A: Yes, counsel, that particular time, the people were frustrated because the project was supposed to go ahead quickly because the board meetings have indicated that this project must start straight away. And this particular group was trying to frustrate things and basically delay the project, so the people are feed up.

As I have mentioned, people – basically, services are lacking in that area. It is a remote area, so they wanted development. So on that basis, they all - both villages, we all came. There was a big meeting. There was a general meeting and people obviously were fed up with all these nonsense so they basically told them, you either shut up or - so yes, I admit the people -youths were holding some knives. Basically, they were saying, this project should go and this small minority cannot stop the project. That is basically what the message was. People all agreed after the meeting, even those minority groups themselves agreed that we should all now work together. So that is the bases. That is the background.

Q: Okay. Mr Mane, but the suggesting here is that you actively incited and encouraged youths or some people - your relatives - to threaten these people into submission and to sign.

A: I deny that, counsel. I have never threatened. I have never mobilized. I was just doing my job. It is the people themselves. They were the ones that were fed up. They wanted to stop all these nonsense, so that is what they did. I did not personally go and pick people up or stir people up to mobilize them to threaten these groups. I have never done that.

[9.08 am] Q: Very well. There is, in this statement, there is a reference to a MOU signed between the people and New Britain Palm Oil. What MOU are they referring to here?

A: I think they are talking about the sub-lease agreement. I do not know of any other agreement that was signed apart from that.

Q: Yes, other than the sub-lease, is there any other agreement, MOU or anything like that or just the sub-lease?

A: Just the sub-lease.

Q: I see.

A: There is no other agreement. And then when the sub-lease draft came out, we actually - I actually went through it with the Directors.

Q: Yes.

A: I even interpreted in pidgin for them to understand, and they all understood what was in there before they signed. Counsel, I have a copy of this pidgin version here.

Q: Yes, this is a pidgin copy of the sub-lease?

A: Yes, counsel. See interpretation of what was in the sub-lease.

Q: Interpretation of it?

A: Yes.

Q: Which was used to explain to the landowners?

A: That is right, yes. They cannot say they do not understand because they understand perfectly.

Q: Let us touch on the sub-lease. The people who signed the sub-lease at the end, who appointed them to sign the sub-lease on behalf of the landowners?

A: It is signed by the ILGs - the ILG Chairmen, sorry – the ILG Chairmen who represent the specific ILGs. There are six ILG chairmen, plus me at that time as the Company Secretary and the Chairman of LEL.

Q: Yes. Were the terms of the sub-lease explained to the ILGs who are basically the shareholders of the company whom, these Chairmen were representing?

A: Sorry, counsel?

Q: Were the terms of the sub-lease explained to these people or, basically, the ILGs who are shareholders or beneficiaries of the whole arrangement? Were the terms explained to---

A: Yes, it was explained to them before they signed.

[9.11 am] Q: You know the venue, where and when was this explained before they signed?

A: It was one of the meetings. I think it was in the village - one of the meetings held in the village before the actual signing.

Q: Which village is this? How many villages in the SABL area?

A: I cannot remember. It could be at Tanda - Tanda village or it could be at San Remo - sorry University Center - the University Center building, but I need to confirm that. It was in a minute.

Q: You can confirm. You are sure that there was a meeting in which---

A: There was a meeting because my pidgin version of the – it was on record - that I explained to them in - I interpret in pidgin so they can understand it before the actual signing. I think there should be a date.

Q: We will just, for the record, go through some of the pertinent terms of the sub-lease and you can comment on them. Sorry, before we do that, do you have a copy of the sub-lease there?

A: Yes

Q: I will just try and make one available for the Commissioner. Commissioner, I am trying to locate a copy of the sub-lease.

THE COMMISSIONER: I obtained a copy from the witness which I am looking at.

MR BOI: You have one.

THE COMMISSIONER: I am just scheming through the pertinent aspects of the sub-lease and I will pass it down to you, so just hold on. Give me about 5 minutes.

MR BOI: Yes.

A: Counsel, I have lodged that at the September Inquiry in Moresby. It should be on file. It should be on your file.

Q: Yes, I have a copy. I am just trying to locate one extra one to---

A: Yes.

THE COMMISSIONER: FFB stands for Fresh Fruit Brunch.

A: Fresh Food Brunch, yes.

[9.16 am] Q: It is funny Ownership and Penalty clause are almost - not almost, are exactly in the same terms as those of Pomio - Pomio SABLs. So rent itself is 100,000 per annum - K100,000 per annum.

A: At that time, yes.

Q: Subject to review, of course.

A: It has now increased, yes.

Q: Review upward?

A: Yes, upwards.

Q: Pass it down to counsel. Pass the copy down.

MR BOI: Commissioner I have a copy. You might want to refer---

THE COMMISSIONER: Yes, if I can retain this copy. Especially, Mr. Boi, I have noted from the opening statement on this particular SABL file that there is one sworn affidavit, and that is from the witness here; and there is a submission from one Norman Wakore on behalf of eight people representing seven clans.

[9.20 am] And there is a Statutory Declaration by one David Kura who appears to be an NGO or an activist of some kind, obviously, who would be opposed to this SABL. Perhaps matters arising from those documents could be posed to this witness while he is in the box.

MR TUSAIS: Commissioner, if I could assist. David Kura was talking about other SABLs, not Lolokoru.

THE COMMISSIONER: I see.

MR TUSAIS: That is on page 5 of the opening statement, one of which came on the newspapers yesterday, Rigula, sorry.

THE COMMISSIONER: Yes, I noted in the next page, 10 of them he has listed.

MR TUSAIS: Yes, he is not directly involved in Lolokoru.

THE COMMISSIONER: What about Mr Norman Wakore.

MR TUSAIS: Yes, that, I think we are getting into the mid of what he has raised that there seems to be some strife amongst landowners but not as far as the existence of the SABL and the relationship with the sub-lessee NBPOL is

concerned. Yes, I think we are exploring those issues through this witness and the witness to follow---

THE COMMISSIONER: Yes.

MR TUSAIS: About what their differences are. I mean on the surface, the operation looks to be quite successful. It has been established. It is bearing fruit literally and the people are benefiting but there seems to be some strife as to who exactly is in charge, and who benefits and by what percentages. So I think that evidence will be forthcoming as we go through the remaining witnesses.

THE COMMISSIONER: Yes. With regard to the statement that the witness is being examined on, I think he has given an indication that he denies those allegations; and, of course, there will be subject of comparative opposing evidence when we have the people who raised these issues come in and give evidence themselves.

I would like us to move this Inquiry. Let us not dwell too much on what may not be the - we note those to be the exercise undertaken, subject to verification by the Lands official employed the NBPOL who conducted the land investigations and compiled the investigation report. We move the Inquiry on at a faster pace than it is. We are going to dwell on matters that are of some relevance but not that significant the relevance. We will take too long, and time is not on our side.

MR BOI: Very well. Thank you, Commissioner. We just wanted to touch on the sub-lease and just to ask a few question as to whether the company - the sub-lessee has been complying with the Agreements.

THE COMMISSIONER: Before you come to the sub-lease, perhaps, if I could ask a few questions in relation to the allegations.

MR BOI: Yes.

THE COMMISSIONER: Mr Mane, sorry, in the opening statement here, I noted your name to be Name. That is wrong?

A: That is wrong.

Q: It should be Mane.

A: It should be Mane.

Q: All right. Mr Mane, the overall nature of the allegations made as the counsel had been taking you through, before we adjourned and also commencement this morning, seem to suggest that people did not give their consent or at least that group of opposing people did not give their consent for their land to be included in the customary portion of the land involved in the Lolokoru Oil Palm Estate. I would like you to comment on that.

A: Yes, Mr Commissioner, the people who are opposing, it is only a minority group. The land investigation - of course, at the initial stage when we were starting the project, they were not happy with the land investigation, especially the copy of the Deed here which I have got - which I assume was the land investigation report - included a whole lot of clans which were not supposed to be in there. It was done by the previous Vagori Logging.

Q: No, never mind that. The fact is it is in there and they have raised objections.

A: Yes.

Q: Let me take you to one of their objectors, Norman Wakore.

A: Yes.

Q: First of all, which clan does he belong to?

A: Norman is from Paligogoru clan.

Q: Yes.

A: I think it is Wilai. It is a Kulumo ILG.

Q: Yes, Kulumo Land Group.

A: Kulumo ILG. Kulumo Incorporated Land Group and the clan is Paligogoru.

Q: Yes, Kalupekoru.

A: No, it is Paligogoru.

Q: Paligogoru, yes.

A: Yes, and it is Wilai clan, sub-clan under Paligogoru.

Q: Yes, all right.

[9.26 am] A: It could be under Paligogoru.

Q: And Paligogoru group, I note that from number 244 to number 310 are all the names of this group.

A: Yes.

Q: Despite that, he raises contentions here, that is, Mr Norman Wakore. We will hear from him in due course.

Quite a number of people from his clan have signed their consents here and he has opposed to it. For one reason or another, we will get to his opposition when he comes into the witness box. But what do you say where there are a quite substantial number of his clan members who signed this consent and he has opposed to it?

A: I am not sure what his objective was for the objection.

Q: All right, you are not sure.

A: Yes.

Q: If you are not sure, you cannot go further than that. I note that his name is actually not here; I am just looking through very quickly, but that is fine. I just wanted you to respond and you have responded. You are not sure of what his objections are?

A: No.

Q: Fine. David Kura, of course, is not part of the landowning groups in that area?

A: No, Commissioner, he is different.

Q: He is a member of an NGO,an activist group?

A: Yes.

Q: Sometimes called busy bodies in some other proceedings. All right, counsel, take the witness further from there.

MR BOI: Yes, all right, we will just proceed on that. Mr. Mane, I will just take you through the sub-lease very quickly. You just comment on some pertinent terms I will direct you through.

Clause 4 of the sub-lease says something about transfer of shares. The tenant, that is New Britain Oil Palm, has agreed that upon registration of this lease, it will transfer fully-paid shares in New Britain Palm Oil per hectare to the – the planted hectare to the Landlord, that is, Lolokoru Estates Limited. Has that been complied with by New Britain Oil Palm?

A: Yes, it is 50 shares per planted hectare. So we have planted over 2000 hectares, so we received 100,000 shares.

[9.30 am] THE COMMISSIONER: And those shares are only in relation to that aspect?

A: That is Lolokoru.

Q: Not in NBPOL at large?

A: No, it is NBPOL shares, yes.

MR BOI: It is the company New Britain Oil Palm shares.

A: Yes.

Q: Transferred to Lolokoru as a contributor.

THE COMMISSIONER: In the NBPOL.

A: Yes, Commissioner, it is part of the benefits that landowners receive.

Q: Yes, I understand. I just want to be certain that it does not relate to only that development over there but it is at large.

A: All the other – yes, all the mini estates.

MR BOI: I also note that in item 4 of the Schedule – sorry, not Item 4 -item 7 of the Schedule to the lease, it says there is rent for 100,000 per annum or equivalent to K50per planted hectare. Item 8 says that the payment of rents of the quarterly assets on the first day of each February to the main harvest in November. Has New Britain Oil Palm been paying those rentals to Lolokoru Estate?

A: Yes, counsel. Yes, we receive shares every quarter paid at K50 per planted hectare. So at that time it is based on how many hectares we planted. As I mentioned, it was budgeted at 2000 hectares at K50. So we are receiving 100,000 per annum paid quarterly. But as I mentioned counsel, it is now just upwards because the hectares where the compound, and the residential areas and all the drains have now been included, so it is adjusted upwards. The hectares have increased, so the rates have increased.

Q: But on the whole, the company New Britain Oil Palm has been fair towards payments.

A: That is right, yes.

Q: What about the royalties?

A: FFB royalties, counsel?

Q: That has also been - the company has been faithful with their payment?

A: Yes, it says monthly, and we receive 10 per cent of the total tonnage of the plantation.

Q: What about Lolokoru Estate? Has it been paying some kind of dividends to the shareholders, the ILGs who are supposed to be the---

A: Yes, we are paying royalties. Yes, counsel, we are paying royalties every quarter.

Q: To the ILGs?

A: To the ILGs –to the six ILGs.

Q: Yes. On average, how much would be coming in?

A: On average, obviously, when we started, it was very small; so maybe K50 or something. But now we are averaging about 150 – 150,000 a month, that is 10 per cent of the total. Counsel, I do not have my figures here but I have actually tabled all the total FFBs that were paid since the beginning. I have misplaced my copy that was supposed to be given to you.

THE COMMISSIONER: It is approximately 150,000 per month to each ILG.

A: At the moment, yes - no, no, to Lolokoru. That is 10 per cent of the total tonnage, total cost of the crop from the plantation. So we get 10 per cent.

Q: The question is, how much is - is that right counsel - how much is each ILG receiving in terms of the royalty on the FFB, Fresh Fruit Brunch?

[9.34 am] Leave the others aside. Just answer that one first.

A: Yes. The percentage we have distributed – that we agreed on - was that the Kulumo ILG, Tavolo ILG and Dava ILG who are the principal ILGs from the Bulu area, they received 27 per cent.

Q: According to landownership?

A: That is right, they are the major landowners. They received 20 per cent each – 27 per cent each; and the three minor ILGs which are Karapa, Kaogo and Matanekito received 3 per cent each. So depending on how much declared profit or dividend that we should pay out, then it is paid out according to the percentage.

What we paid out is based on – counsel, is based on cash flow, what we can pay out because we are a company. We have got other responsibilities. We have to look after the company, pay our taxes, pay our workers, and pay the fuel and maintenance, all sorts of company responsibilities. At the same time, we have to look after the community, do the schools, do the roads, do the health centers and community church activities. And then whatever cash

we have - we have available, then we pay our cash royalty, so we have got these three objectives that we have to meet. So it is sort of a---

Q: So the actual payout is after reduction of all these other expenses?

A: That is right.

MR BOI: Yes, but on average - on average just very roughly, how much would you be paying per month to those ILGs?

THE COMMISSIONER: After all those expenses?

A: Counsel, yes, 120,000 is the - 120,000. That is the overall- that is the average---

MR BOI: Per annum?

A: Payout, that is right, we do to the ILGs.

Q: Is it per annum or per month?

A: No, per quarter

Q: Per quarter?

A: Yes, per quarter. So break that up into the percentage, then that is how much they get.

THE COMMISSIONER: It is 120,000?

A: Yes.

Q: On the average divided by all the ILGs?

A: That is right.

Q: It is divided by all the ILGs, counsel.

A: 27 per cent for three ILGs and 3 per cent for the other three, yes.

[9.37am] MR BOI: So, that is, those payments are not made as dividend payments but as royalty---

A: As royalties, yes.

Q: Royalty coming from New Britain Oil Palm as a result of the sub-lease which Lolokoru Estate kind of acts like the middle man---

A: Yes.

Q: And holds it and then deducts its expenses and then transmits the balance to them?

A: That is right, yes.

THE COMMISSIONER: Counsel, as I understand it from the witness, that is only in relation to Fresh Fruit Brunch. It does not include the rental. You will have to ask about 100,000 rental and other things. But let us just focus on the Fresh Food Brunch as the royalty.

He is saying after all the expenditure he has mentioned on the average, approximately 120,000 thousand is than divided among the ILGs. The three leading ILGs receive just over 27 per cent of that average of 100,000 - 120,000, rather- and the other remaining ones receive the remaining equivalent of the equity that is distributed accordingly in terms of minor landowning position they have.

MR BOI: Yes.

THE COMMISSIONER: I understand that very clearly. That is after all the expenditures he has already mentioned. Of course, these are all subject to the opposing witnesses telling us possibly some things to the contrary, but that is what we are here for. But perhaps you should take him now to the distribution of the land rentals.

MR BOI: Yes.

A: Commissioner, can I correct that?

THE COMMISSIONER: Yes.

A: The total income also includes the rentals as well.

Q: That is included in the average of 120,000?

A: That is right, yes.

Q: All right, there you are.

A: So it is 25,000 per quarter.

MR BOI: Yes.

A: Yes.

THE COMMISSIONER: In terms of the equity as given - or rather, transferred or allocated to you by NBPOL, since the allocation of that equity amounting up to 100,000 shares, have you – has Lolokoru Estate ever receive any dividend based on those equities?

A: Yes.

Q: All right.

A: Yes, Commissioner, we have. When dividends are paid out, we receive.

Q: You receive it, too?

A: That is right, yes.

Q: And that is also incorporated?

A: That is also – that is right, included in there.

Q: Incorporated into the overall distribution after all the expenses are mentioned which comesto an average of 120,000 to be distributed again, according to the ILG ranking?

A: Percentage, yes.

MR BOI: Yes, that is what he said. So like going by this, monthly or quarterly payments to the ILGs should be in the vicinity of 30 to 40,000 per---

A: Yes, for the 27 per cent.

Q: The three ILGs and the others should be about 10,000 per month - per quarter, the other three minor ILGs?

A: Yes, it is about 3000 each or – yes.

Q: The major one should be about within 30 to 40,000 per quarter?

A: 40, yes, per ILG.

Q: All right.

[9.40 am]

We just go to - you are no longer the Managing Director of the company but I think these things were done – you only left in September last year. So in relation to the shareholding of Lolokoru Estate, the IPA extract we have – available to the Commission – says that there are---

THE COMMISSIONER: Three shareholders?

MR BOI: Yes, 30 total issued shares - ordinary shares - 30 issued ordinary shares, and those shares are held by John Lacha, he owns 10 shares; Joe Ugava he owns 10 shares; and BlassiusReu who holds 10 shares. This is the IPA extract dated 1 August 2011. Confirm if those people are still the shareholders?

A: Counsel, they are shareholders but they are under trust. They do not own the shares individually because these people represent the three ILGs; Dava, Kulumo and Tavolo. They own---

THE COMMISSIONER: Yes, although it does not say they hold these shares in trust.

A: No. How can they hold---

Q: Sorry, let me finish.

A: Commissioner, sorry.

Q: Although it does not say in the IPA records that they hold these shares in trust. In effect, what you are saying is that they are holding those shares in trust.

A: Trust, yes.

Q: Are they the only three Trustees probably representing the three major landowning clans?

A: Correct, Commissioner. They are the Chairmen of the three ILGs so, obviously, they hold the shares under trust. It is not them individually, no.

Commissioner, we have seen that - sorry Commissioner, counsel, we have seen that problem now. It arose and that also contributed towards the force-take-over of the company. So we are now - the shareholders are now taking action to transfer the shares out from these people and transfer it straight to the ILGs so the ILG itself holds the shares, not individually.

Q: In actual apportionment---

A: That is right.

Q: According to the apportionment, you have been distributing the benefits so far?

A: That is right.

[9.44 am] Q: The wise thing to do is you had better do that very quickly.

A: Yes, so it stops all these nonsense.

MR BOI: Is there a Deed of Trust or any documentation to just confirm a witness that there is something held in trust by those three people for their respective ILGs?

THE COMMISSIONER: You mean Certificate of Shares?

MR BOI: Trust Deed.

THE COMMISSIONER: Or Trust Deed?

MR BOI: Yes.

THE COMMISSIONER: Yes.

A: Counsel, I cannot remember any Trust Deeds being signed.

MR BOI: Any statdec or any documentation showing confirming that those shares held by these people are held in trust on behalf of the ILGs? You have any documentation?

A: Yes.

THE COMMISSIONER: Such as a trust deed?

A: Yes, I think there are some documentation which says they hold the shares but I cannot locate it at the moment. But clearly, when we nominated those people as trustees to hold shares, they are holding shares under trust, not as individuals. But it is the documentation that I need to locate. I cannot locate that at the moment.

Q: You cannot, but have they been discharging their positions as Trustee-Shareholders according to the understanding that they are holding the shares in trust?

A: That is right, yes, under trust.

MR BOI: Mr Mane, what kind of safe guard have you in place to protect the shares because – I mean, how do you prevent one of those fellows from selling the shares to somebody else and pocketing the money and going away and the 10 per cent goes to---

A: Yes, counsel, I can see that now. Yes, counsel, I can see the danger. We have not but we have realized it now and we are going to put - the matter is still in court. But that is how it is. It contributed towards all these – force takeover at the moment.

Q: Just for completeness, there is a company Lolokoru Estates Limited been holding Annual General Meetings?

A: No, we have not been holding – on the assumption that we hold meetings - board meetings every quarter, but I know it is a different thing. But as far as the AGM, no we have not been holding AGM meetings.

THE COMMISSIONER: That is a very important requirement of every company.

A: That is right.

MR BOI: If you have not been holding shareholder meetings, who appoints those directors?

A: The ILGs appoint the directors. They are the shareholders.

Q: Very well, I think we will leave it at that. Commissioner, I have no further question.

THE COMMISSIONER: All right. I just want to take Mr. Mane back to the sub-lease with NBPOL. Have you got your copy there?

A: No, Commissioner, that was my copy.

Q: Counsel, can you just provide him your copy for the time being, please?

[9.48am] Mr Mane, can you open to clause 10 which is on page 2 of the Sub-Lease Agreement?

A: Yes.

Q: You note in the sub-clause (a) which says, “All oil palms planted by the tenant”, which is NBOPL, I assume?

A: Yes.

Q: Which is the case, sorry? Which is the tenant? “All oil palms planted by the tenant on the land shall be and remain the property of the tenant. Subject to Clause 10B, if this lease is terminated by the landlord other than in accordance with the provisions of this lease or by the tenant as a consequence of any default by the landlord under this lease, the landlord must pay to the tenant an amount as compensation for the tenant’s loss

which an amount shall be made up of the tenant's projected profit from subsequent harvests of the oil palms for the term and the costs incurred by the tenant in constructing buildings, roads and drainages on the land. You understand this clause?

A: Yes

Q: Primarily, this means if you are to prematurely terminate the sub-lease, you will have to pay to NBOPL the total costs of its acreage of oil palm development over there. On top of that you must pay the total cost of all infrastructures including roads, buildings - buildings bought for the purposes of the estate, as well as other supportive infrastructures such as schools, aid posts and so on?

A: Yes, that is correct

Q: Let us assume if the investment in Lolokoru Oil Palm Estate - and we have not heard any evidence to suggest the actual cost of the development of the Lolokoru Oil Palm Estate - but let us assume that it is in the vicinity of 10 million to K20 million. That will be the total cost your landowner company Lolokoru will have to pay NBOPL should you prematurely terminate this lease. You understood that at the time of signing?

A: Yes.

Q: And on top of that, you will pay for all the profits they expect to make for the term of the sub-lease which is 40 years – or 45 years, rather.

A: Yes, 45.

Q: You understood that also when you signed this lease?

A: Yes.

Q: You all consciously submitted to this term or condition of the sub-lease?

A: Commissioner, also during the period - towards the end of the period, the sub-lease also says that all of those infrastructures will be handed over to us so it will be our property.

Q: The way I read it here, it does not say that.

A: It is in the sub-lease, all of the sub-lease.

[9.52am] Q: Can you take me to the provision of the sub-lease which says that, perhaps in the Item? Sorry I did not look at this prior to this hearing. I have just been given a copy but I did not see that. What concerns me is that the very first paragraph says "exclusion of implied covenant". That could be an implied covenant but clause 1 excludes all implied covenant. In another words, everything must be read from this document.

A: Yes.

Q: And you are on dangerous ground, Mr Mane. Let me read sub-clause (b), maybe that will help.

Clause 10 sub-clause (b) says, "The Landlord acknowledges that damages will not be an adequate remedy for the tenant if this lease is terminated in the manner described in Clause 10A; and that the tenant is entitled to seek injunctive relief as a remedy for any such termination of this lease in addition to any other remedies available to it in law or in equity."

And then sub -clause (c) says, "The tenant shall not be required to remove either the oil palms, or any buildings or other improvements constructed by it on the land at the expiration of the term or earlier termination of the lease." Maybe that helps you. You think so, that helps you?

A: Yes.

Q: In other words, everything developed there reverts to you at the expiration of the lease.

A: That is right.

Q: Are you concerned a bit about sub -clause (b) which excludes - which places you in a position where if they seek an injunction by virtue of this clause, you cannot defend it. If they go to court, you have agreed not to defend it.

A: I did not know that, Commissioner.

Q: That is what it means. If you should terminate the lease for one reason or another that is not in accordance with the terms of this sub-lease and if they should want to seek a restraining order from the court of jurisdiction, which is the National Court of Justice, under this clause, you have agreed not to defend it.

A: I did not know that, Commissioner.

Q: All right, that is fine. The more appropriate- I should comment along the way - the more appropriate way to enter into security for the developer who sinks in a lot of money is to give them a mortgage, but not to impose penalty clauses such as clause 10. Clause 10 is a penalty clause.

The more secure way for all landowners is to simply give a mortgage and let the matter be dealt with under the laws of Mortgage or laws of Securities. Counsel that is the only matter I wanted to draw to the attention of the witness.

MR BOI: Commissioner, those are all the questions we have for this witness. He may be excused.

THE COMMISSIONER: Mr Mane, you have been very helpful, thank you.

A: Thank you.

Q: You excused for the time being.

A: Okay, thank you.

THE WITNESS WITHDREW

MR BOI: Commissioner, we intended to call Mr Lawrence Waluka but he has indicated that the kind of evidence he would give to the Commission is more or less similar to that given by Mr Benedict Mane because both of them facilitated the creation of the SABL.

THE COMMISSIONER: Who is that, again, sorry?

MR BOI: Lawrence Waluka.

THE COMMISSIONER: Yes.

MR BOI: He has asked whether we will---

THE COMMISSIONER: Is he going to cast any serious explanations to the conduct of the land investigation? If he is going to go through the same motions we have gone through which Mr Mane, I think we should get down to the land investigations and call MsHolland first.

MR BOI: Yes, that is why we will---

THE COMMISSIONER: In fact in hindsight, we ought to have called MsHolland first before even Mr Mane. But now that we have gone through with Mr Mane, I just realized that Ms Holland could explain the process that she undertook and then all the other witnesses can either confirm or deny what had been undertaken.

MR BOI: Mr. Tusais spoke to her and she is on her way.

THE COMMISSIONER: All right, let us adjourn for 10 minutes and summon her up here. She supposed to appear this morning. I want to have her in the witness box before we proceed with the other the witnesses.

MR BOI: Very well, Commissioner.

THE COMMISSIONER: Adjourn for 10 minutes for a beetlenut and summon Ms Holland up here. Associate, adjourn for 10 minutes.

SHORT ADJOURNMENT

[10.16am] **LILLIAN HOLLAND, sworn:**

XN: MR BOI

THE COMMISSIONER: Yes, counsel?

MR BOI: Thank you, Commissioner. We have a witness, Ms Lillian Holland.

THE COMMISSIONER: Sorry, counsel, I did not hear you. We have Ms?

MR BOI: We have Ms Lillian Holland.

THE COMMISSIONER: Lillian Holland.

MR BOI: She is – sorry, is it Ms or Mrs?

A: Mrs.

Q: Mrs Lillian Holland. She is the Lands Officer with New Britain Oil Palm Limited, which is the sub-lessee to this SABL.

THE COMMISSIONER: She is responsible for the land investigation?

MR BOI: Yes.

THE COMMISSIONER: All right.

MR BOI: In relation to the land investigation, as well as the other arrangements or dealings with the SABL. Mrs Holland, can you state your full name and your occupation for the record?

A: I am Mrs Lillian Holland, Lands Officer for New Britain Palm Oil Limited.

Q: In that capacity as the Lands Officer for New Britain Palm Oil, you have had some dealings with portion 1C milinch of GaruafourmilTalasea. That is the land on which Lolokoru Estate is located.

A: Yes, I have.

Q: Before we get to that, can you - what is your background? What is the nature of your training? You were trained in - what is your training?

A: Sorry, come again?

Q: What is your training background?

A: Okay.

Q: Your profession?

A: My background, I am a Bachelor Holder in Land Management, graduated from---

Q: Bachelor in Land Management.

THE COMMISSIONER: Bachelor's Degree?

A: That is right.

Q: In Land Management?

A: That is right.

Q: Thank you. From the University of Papua New Guinea?

A: University of Technology.

Q: University of Technology.

MR BOI: How long have you been in the field?

A: Since 1997.

Q: Since 1997.

A: So I have been with NBPOL for about almost 14 years now. But prior to joining NBPOL, I was with - I worked with Provincial Lands Office in Alotau and then worked with Hides Gas Field before joining NBPOL.

Q: All right, thank you.

THE COMMISSIONER: Sorry 14, 1-4? 14, 1-4 years with NBPOL?

A: Yes.

Q: Yes?

MR BOI: As part of your duties with New Britain Palm Oil, you have had some dealings with the Lolokoru Estate located on portion 1C, milinch of Garua fourmil of Talasea, West New Britain, that is, the Lolokoru Estate. You are familiar with that Estate?

A: I am familiar.

Q: You are familiar?

A: Yes, I am.

[10.20am] Q: You played a crucial role in the creation of that SABL. Is that correct?

A: That is correct but not alone. I acted together or jointly with the Provincial Lands office.

Q: Yes.

THE COMMISSIONER: Sorry, you conducted land investigation in relation to that particular Special Agriculture and Business Lease in conjunction with?

A: Provincial Lands Office Kimbe.

MR BOI: Who are the officers in the Lands Department with whom you conducted the land investigation in relation to this SABL?

A: Mr. Ben Madiu and Mr. KasenDumui.

Q: Messrs Ben Madiu and---

A: Mr KasenDumui.

Q: KasenDumui. As far as the involvement was concerned, they accompanied you down to the site when you were conducting the investigation or they were - what was the nature of their collaboration with you? Did they do the investigation together with you or how was their involvement?

A: I think it is - if I may just explain a bit on what happened or in regards to this LIR?

Q: Yes.

A: What happened was we were asked - and I have got documents or something to show that there was actually a meeting and some agreement-understanding made for us to assist with the - assist the Provincial Lands Office with the LIR because of reasons given that they had no resources and lack of manpower.

At that time when we were about to start the LIR for Lolokoru, there was a major land mediation at Buvusi which Mr Dumui was attending; and that was one of the major reasons why he had asked us to do - to take part in the LIR.

The specific part where we were asked to assist was the collection of the signatures - what is referred to as the Agency Agreement - but we did not do that alone. We went with the DPI Officer at that time, Mr Harry Keretini, who was also a member of - who was also an Executive Officer of the West New Britain Oil Palm Development Committee and he sort of officiated at that meeting.

The rest of the sections of the LIR like the Boundary Declaration, Custom Declaration, Certification of Custom and the rest of it, was done by the Provincial Lands Officer where we provided transport for him to the site and thereby executing the documents on site.

[10.25am] Q: So how was landowner consent obtained?

A: The landowner consent was obtained through meetings with them. And again, I must state that there was also a meeting which, earlier on, we were referring to them as Awareness Meetings but we now refer to them as our F Pick Meetings.

In that awareness meeting that we attended, we had the presence of the Provincial Lands Officer. I have the minutes of that meeting here. Mr Dumui was at that meeting; Mr Harry Keretini, the DPI Officer at that time, plus the landowners. We had that meeting back at Kintakiuvillage.

In that particular minute or meeting, they clearly stated to us what they wanted or how they wanted to go by this particular lease-lease-back arrangement and thereby giving their consent that the project should go on. But thereafter, they continued to provide us minutes of their internal ILG or landowner meetings they had within the six ILGs.

Q: Can you make available to the Commission a copy of the minute you say was conducted during the awareness and the signing?

A: Submitting a letter from LAL.

Q: There is some---

THE COMMISSIONER: Counsel, I just want to get the name right. Is it Lolokoru or Loloko?

MR BOI: Lolokoru.

THE COMMISSIONER: Spelt?

MR BOI: L-o-l-o-k-o-r-u.

THE COMMISSIONER: The other side is Nalukoru?

MR BOI: Yes, Nalukoru, I think. That is the other side state lease, yes. That is the State land.

THE COMMISSIONER: Go on, sorry.

MR BOI: Mrs Holland, there is some evidence before the Commission that when you were doing the land investigation and trying to obtain the consent, you went---

THE COMMISSIONER: Counsel, look, I think she had done something and she had compiled a land investigation report. Why do we not have her tender the land investigation report, and we take her through each of the documents and she will come out with what you are trying to establish here.

MR BOI: Yes, I was just trying to put to her the---

THE COMMISSIONER: We are taking a bit of time doing this. I mean let us get down to the nitty-gritties.

MR BOI: Commissioner, perhaps---

THE COMMISSIONER: I have a copy here. Mrs Holland, have you got a copy of your land investigation report?

A: No, I have not brought a copy.

Q: You have not, all right. Just take this copy back and have it formally tendered.

MR BOI: Yes. She will probably identify the documents first.

THE COMMISSIONER: Please, do that. Hand it to the witness. If I can just assist in that segment. MrsHolland or MsHolland?

A: Mrs.

Q: MrsHolland, all right. Mrs Holland, you look at the bound document in front of you. Do you recognize it on the title page, to start with?

A: Yes

Q: What does the title page say there?

A: Land Investigation Report into Landowners, Belane Pilapila.

Q: All right. Look into the first content of that document - bound document. Open it and look into the first set of documents that comprise that set of bound documents?

[10.30am] What does it say there?

A: Land Investigation---

Q: That is the Content, is it not?

A: Yes, that is the cover sheet.

Q: All right, go past the Contents. Go to the first document.

A: Department of Lands, Land Investigation Report.

Q: All right. How many pages does that comprise? No, just that first document you just read out the title?

A: Two - two pages.

Q: Right. What is the document next to that?

A: Improvements after that.

Q: What is that? What is that, sorry, that document you have just read out again; not the first one, the second one?

A: Improvements.

Q: The one you are looking at now?

A: Improvements.

Q: Improvements, good. Next one?

A: The Agency Agreement.

Q: Next one?

A: Declaration into Custom.

Q: Next one after that?

A: Landowners' Schedule.

Q: Next?

A: Certification.

Q: By whom?

A: Certification by Kasen Dumui.

Q: That is the Provincial Lands Adviser?

A: District---

Q: Sorry.

A: District Lands Officer.

Q: District Lands Advisor. Next document?

A: After the certification is the certificate in relation to boundaries.

Q: All right. The document after that?

A: It is a pro forma.

Q: Pro?

A: Pro forma.

Q: Pro forma of what?

A: Valuer General's requirement for preliminary valuation of proposals for land alienation.

Q: It is only a pro forma and not the actual valuation?

A: It is only a pro forma.

Q: Not the actual valuation?

A: No.

Q: All right. Next document after that?

A: A Certification by West New Britain Provincial Administration.

Q: Who issued that?

A: Signed by KasenDumui.

Q: Mr Kasen Dumui.

A: That is right.

Q: KasenDumui, all right. Next one? Sorry, that KasenDumui?

A: Yes.

Q: All right, next one?

[10.34am] A: Sketch Plan of – or Locality Sketch Plan of Bilane Pilapila, or the land referred to as Lolokoru.

Q: Is the Sketch Plan in there or not?

A: Sketch Plan is here.

Q: All right.

A: The next page is the Survey Plan of Boundaries for Bilane Pilapila, this actual Survey -Registered Survey Plan.

Q: All right. What category survey is that?

A: Rural Class 1.

Q: Class 1, all right. Is that all?

A: Yes, that is about it.

Q: No, what I mean is that---

A: I mean the document, sorry, okay.

Q: Is that all in the bound document?

A: Lolokoru Estates Limited – sorry, Certificate of Incorporation on Change of Name to Lolokoru Estates Limited Company number 1-9261.

Q: All right, next?

A: That is about it, Commissioner.

Q: All right. And you were responsible to put these documents together in that bound form?

A: Yes, I was as per the instructions given by the Provincial Lands Officer at that time, Mr KasenDumui.

Q: All right. You want to have that tendered formally?

MR BOI: Yes, I tender that formally.

THE COMMISSIONER: What is the date of that Land Investigation Report – the very front -the first document LIR -the form, not the content?

A: It is probably found in there.

Q: Come back.

A: 4 December, is it?

Q: No, that is not the one. That is the Statutory Declaration. Go after that heading page, content page, the next one. What date is that? You will see it at the back of the final page.

A: It does not have any date here.

Q: It does not?

A: It does not.

Q: Okay, we will put it undated. But you think it is approximately the date of the next document. You think it is the - that should be about the date of the next document?

A: That is right.

Q: Which is?

A: Which is 4 December 2003, and that would have been the completion date of the LIR.

Q: Yes, all right. Counsel, I will take that as exhibit 1, portion 1C. Is it Garua?

MR BOI: Portion 1C Garua.

THE COMMISSIONER: Garua – milinchGarua fourmil - I beg your pardon,fourmilGaruaMilinch---

MR TUSAIS: Milinch Garua fourmil Talasea.

THE COMMISSIONER: MilinchGarua fourmil Talasea.

MR BOI: Fourmil Talasea, yes.

THE COMMISSIONER: West New Britain, WNBW.

EXHIBIT 1 – LAND INVESTIGATION REPORT – 4 DECEMBER 2003 - PORTION 1C,MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

THE COMMISSIONER: Counsel,now you can proceed to examine the witness on all these documents that are enclosed here.

MR BOI: Yes, we are a little bit disadvantaged but – I think we all have one copy of that. But nevertheless, as I was saying, MrsHolland, during the time you wanted to have the land or the landowners sign their consent, you went down to Kana and the landowners refused andthey told you to go back. Is that so? Did that happen during one of those times you went down to have the land investigation signed?

A: Yes, I confirm that, that was during the first attempt; and it was made in my report to Mr KasenDumui. My report to him was dated 28 November 2003, as per his instructions, for me to provide a report to his office thereafter.

Q: Yes. So you confirm that you were---

A: So no signing was done in the first attempt when the dispute erupted. We left without them signing any documents.

Q: Commissioner, I tender this. This is a report from Mrs Holland in relation to that episode in which she attempted to have the land investigation signed by the landowners and she was chased away as was - she has confirmed that. This is the report to Mr KasenDumui, the Lands Officer. I tender this.

THE COMMISSIONER: What date is it?

MR BOI: It is dated 28 November 2003.

THE COMMISSIONER: All right.

MR BOI: 28 November 2003.

[10.40am] THE COMMISSIONER: Yes, all right. That will be received as exhibit 2, portion 1C, fourmilGarua milinchTalasea, West New Britain Province.

EXHIBIT 2 – REPORT BY MRS LILIAN HOLLAND TO MR KASEN DUMUI, LANDS OFFICER – 28 NOVEMBER 2003 – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

MR BOI: Mrs Holland, you said you have been liaising, communicating and cooperating with the Lands Department in relation to the land investigation for this SABL. Did you have some documents or correspondence which may be of assistance to the Inquiry in relation to your consultation?

A: Yes, I have documents here that show that when the interest was raised to us by Lolokoru Estate Limited, we did approach the Provincial Lands office in our letter dated 11 June 2003, where – sorry, that is probably the second letter - our first letter was 13 March 2003, whereby we requested that they request for the official land investigation instruction number; and that they carry out the land investigation, and conduct the land investigation, and provide a report thereafter as it is their sole responsibility to carry out the LIR. This was all stated clearly in our letter of 13 March 2003. A follow up letter of that nature was done again on 11 June 2003.

Q: Yes, all right. Can I have a look at those?

A: Sure. I am not sure if you need this other document dated 17 October 2003 where I captured in a letter formally what MrKasenDumui authorized us to do as per the meeting we had in his office on 15 October 2003.

[10.43am] Q: Commissioner, these are copies of correspondence between herself and the Lands office, and I propose to tender these as part of the record of the---

THE COMMISSIONER: Yes, tender each one of them separately.

MR BOI: It is just a – the letter is dated 13 March 2003.

THE COMMISSIONER: Letter?

MR BOI: Letter dated 13 March 2003.

THE COMMISSIONER: Yes.

MR BOI: From Lillian Holland to Mr KasenDumui, Lands Officer - Lands Coordinator. The title of the letter is Request for Land Investigation Instruction number 4, Bilane Pilapila.

THE COMMISSIONER: Sorry, Instruction number what?

MR BOI: The subject matter---

THE COMMISSIONER: No, the number, sorry? Instructions number?

MR BOI: Yes, just request for land investigation.

THE COMMISSIONER: No, what is the Instructions number, the number there?

MR BOI: There is no number here.

THE COMMISSIONER: No number?

MR BOI: No number.

THE COMMISSIONER: All right.

MR BOI: She was requesting for the Instruction number.

THE COMMISSIONER: Yes.

MR BOI: That is the letter dated 13 March 2003, from Lillian Holland to Mr KasenDumui headedRequest for Land Investigation Instruction number for Bilane Pilapila.

THE COMMISSIONER: I see, request for number?

MR BOI: Request for number.

THE COMMISSIONER: All right, request for Instructions number for Land Investigation.

MR BOI: Yes, that is right.

THE COMMISSIONER: All right, the next one. That will be exhibit, I receive it as Exhibit 3.

MR BOI: Yes.

THE COMMISSIONER: Garua, Talasea - I am just going to go short.

MR BOI: Yes.

THE COMMISSIONER: It stands for fourmil, milinch and the province: Garua, Talasea, West New Britain Province.

EXHIBIT 3 –LETTER FROM MRS LILLIAN HOLLAND TO MR KASEN DUMUI, LANDS OFFICER – 13 MARCH 2003 – REQUEST FOR LAND INVESTIGATION INSTRUCTION NUMBER FOR BILANE PILAPILA – PORTION 1C,MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

THE COMMISSIONER: Go to exhibit 4, you are about to tender.

MR BOI: Letter dated 11 June 2003, from Lillian Holland to KasenDumui. The heading - the subject there is Follow-up Request for Land Investigation Instruction number for Proposed BilanePilapila Estate.

THE COMMISSIONER: That will be taken as exhibit 4, Garua, Talasea, West New Britain Province - after portion 1C, I beg your pardon.

EXHIBIT 4 – LETTER FROM MRS LILLIAN HOLLAND TO MR KASEN DUMUI - 11 JUNE 2003 – FOLLOW-UP REQUEST FOR LAND INVESTIGATION INSTRUCTION NUMBER FOR PROPOSED BELANI PILAPILA ESTATE – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

THE COMMISSIONER: Anymore?

MR BOI: The third letter - the document is another letter dated 17 October 2003, from Lillian Holland to Mr Kasen Dumui and headed - subject is Land Investigation Report, portion 1C, milinch Megigi fourmil Talasea, Bilane Pilapila, West New Britain Province.

THE COMMISSIONER: There is a letter in relation to LIR?

MR BOI: To the LIR, yes.

THE COMMISSIONER: Enclosing? Is it enclosing LIR?

MR BOI: No, it is not.

THE COMMISSIONER: It does not say. What does it say?

MR BOI: It says,“I realize that the relevant section, mainly declaration of agents, declaration of recognition of custom, certification in relation to boundaries appending action by your office.”

THE COMMISSIONER: All right, that will be received as exhibit 5,portion 1C, Garua,Talesa, West New Britain Province.

MR BOI: Yes.

EXHIBIT 5 – LETTER FROM MRS LILIAN HOLLAND TO MR KASEN DUMUI – 17 OCTOBER 2003 – LAND INVESTIGATION REPORT – PORTION 1C, MILINCH MEGIGI FOURMIL TALASEA, BILANE PILAPILA, WEST NEW BRITAIN PROVINCE

[10.48am] THE COMMISSIONER: Are they all the correspondence?

MR BOI: Yes, those are all the correspondence. Mrs Holland, we go back to your evidence which you indicated or you confirmed that the first time you went down, you made a report.

THE COMMISSIONER: Counsel, before you go through that, Mrs Holland, all the correspondence you have just tendered, being those you addressed to Mr Dumui, the first two were your requests for instructions number to be issued for you to undertake the land investigations. Is that correct?

A: Not really, Commissioner. If you see my first - the first letter that I drafted to Mr. Dumui, I specifically stated that the landowners wanted us to assist them in lodging an application for their SABL, but you will see that I stated thereby requesting his office to conduct the land investigation report because it is their responsibility.

Q: And that is the one dated 13 March 2003?

A: That is correct.

Q: And the second letter was a follow-up because Mr Dumui did not respond to your first letter?

A: That is true.

Q: And that is the letter dated 11 June 2003. Is that correct?

A: That is right.

Q: Did you receive any formal response in writing from Mr Dumui?

A: Commissioner, I confirm that no correspondence was received from Mr Dumui during the course of the work on Lolokoru Estate, and if you look at couple of my - I think some of the documents that I presented there, you will

note that I emphasized that although I have not received any correspondence or replies to my correspondence, I would continue to write to him for purposes of record keeping should anything arise in future.

Q: I understand. Just simply, did you receive any correspondence - any formal response in writing?

A: No, I did not.

Q: None whatsoever?

A: None whatsoever.

Q: It is no wonder he could not answer any questions when he was in the witness box. That is negligible. And so you went ahead and carried out what would have otherwise been the responsibility of the Division of Lands and the Department of Lands and Physical Planning to embark on a land investigation, correct, in those circumstances?

A: In that circumstance and probably providing the necessary help as and when they needed it, but with the understanding at the back of my mind that this---

Q: Mrs Holland, you need not justify yourself. Just plainly answer the question. In those circumstances, you went ahead and conducted the land investigations?

A: As per instructions given by Kasen Dumui to execute the certain sections.

Q: Nonetheless, you went ahead and conducted the land investigations?

A: As in - per the documentation provided.

Q: You do not have to be basic. You did or you did not? You conducted the land investigations. There is nothing wrong with it. You did or you did not?

A: I did.

Q: Do not be evasive. You did or you did not?

A: I did but I did not do it alone.

Q: Do not give me any buts. You did or you did not? You did?

A: I did.

Q: There is nothing to fear about. There are people who want matters to be progressed. You were not getting any response from those who are in authority and responsible for this, and you went ahead and did it. That is all you need to tell us.

[10.51am] Q: Counsel?

MR BOI: Mrs Holland, I take you back to the first time you tried to have the landowners sign their consents or sign the land investigation forms, you got chased away and you subsequently made a report to Mr Dumui about the events, which you have handed up the report and we have already tendered that.

A: That is right.

Q: When was the next time you went in to have the consent signed?

A: That would have been like two to three weeks. I cannot remember correctly, but the dates are there in the letter or in the report that I did to Kasen. But it was after two to three weeks and that, again, came through the Executives of Lolokoru to say that the landowners had resolved the internals and were ready to sign the section - that particular section of the land investigation report.

Q: So you took those forms and you went back?

A: That is correct.

Q: Those forms were signed?

A: The forms were signed.

Q: The consent forms were signed by the landowners?

A: On the second attempt.

Q: On the second attempt?

A: That is right.

Q: Where would that have been? At what venue did they sign the consent?

A: That was at the village at Bulu.

Q: And you were present?

A: I was present there with Mr Keretini.

Q: With Mr who?

A: Keretini, the DPI Officer at that time.

Q: Yes. How about Lands officers? Were some Lands people there with you too?

A: No, the Lands officer was not there with me, neither his delegate as per the understanding or the issues that he raised in one of the letters that I addressed to him saying that he was attending an urgent land mediation at Buvusi.

Q: How about company officials, the people from Lolokoru Estates Limited, the company? Were there some representatives there as well?

A: Yes, Mr. Waluka was there.

Q: Lawrence Waluka?

A: And my communication point would have been through Mr Waluka and Mr Mane to inform me that the matter in the village was resolved.

Q: The nature of the land investigation and the reasons for them to sign were explained to the landowners?

A: Yes, they were explained very carefully and they have all been captured in my report to Mr KasenDumui.

Q: Who did the explaining?

A: Mr Keretini started off and I assisted where help was needed to further explain what they needed to do and why they were doing that thing, or why they needed to sign that document. And also, to further explain that we were carrying out what we were instructed to do. So that was also explained.

Q: Was there some response or representations made by the landowners in response to your explanation of their need for them to sign the land investigation forms?

A: Yes, there were some explanations done by the landowners. When asked if they consented or when asked if they were happy to sign, they did; that they were happy to sign and they signed. At the end of the ceremony, it ended peacefully with a bit of food at the end which correctly tried to capture that in my report to MrDumui as well.

Q: Were there any objections raised during the signing or during the discussion or the explanation in relation to them signing the land investigation forms? Was there any objections or opposition?

A: Not in the second attempt, not when we went down for the second attempt. There was no objection.

[10.54am] Q: Everybody present at that time appeared to agree and they signed?

A: That is right, they signed. But the signing did not take one full – like the entire signing did not take one day. Like because they live in various villages, you have to – there is Buludava, there is Bulumuri, there is Kintakiu. You have to travel from one place to the other and at a particular place, you could have a group of people.

So in order to make people understand fully what they were getting themselves involved in, we had to go maybe a day to another village, and a day to another village, so we could spend as much time we could with the people to ensure they understood what they were getting themselves into.

Q: Did the signing of the land investigations forms – were done over several locations?

A: That is right over a number---

Q: At different places and on different times?

A: That is right.

THE COMMISSIONER: As I understand from the witness, they went from village to village. Is that right?

A: That is correct.

Q: On different dates?

A: On different dates and I---

Q: And if you are able to fit several villages into one day, you were able to do that. If not, you do the following day?

A: That is right.

MR BOI: On those times and places, was there any objections raised or some kind of opposition to signing the land investigation? Did you encounter any opposition?

A: No, I did not encounter any opposition because before I went out for the second attempt, I did talk to the - I did address the issue with the Directors of Lolokoru Estate Limited that we were not going to go into a place where there was dispute. If the landowners invited us again to go in, then we would go.

Q: All right. After having collected all the signatures of the landowners, what did you then do? What was the other step you took in relation to progressing the land investigation report?

THE COMMISSIONER: Before you get to that, counsel, Mrs Holland, how did you actually conduct this or obtain these signatures? Did you place this document on a table provided in each village you visited and each one of the persons who signed came up, identified their names on the list and signed?

A: No, Commissioner, I was a party sitting down on the table where the document was. So we ensured that if it was a Mary - for example, if it was a

Mary John's name, Mary John had to sign; a Daniel would not sign for Mary John. So we ensured that the persons named there signed for himself or herself. But, no, the document was not left alone. We were there with the document.

Q: I understand. You supervised it but people actually came in a queue, for all practical ways, we do things, right?

A: Yes.

Q: They came up as their names were called or as they came up in a queue, identified themselves and you---

A: As their names were called.

[11.00am] A: Those are important little things because we are talking about informed consent. Counsel, go on.

MR BOI: Yes. Just to go further on those signings, on all those occasions and places - locations at different times when the signing was done - you were there and who else?

A: Mr Keretini.

Q: Mr?

A: Harry Keretini. Yes, I thought it was wise to bring along Harry because the Provincial Lands Officer was not there.

Q: Mr Keretini, yourself and some company people were witnessing those signings.

A: That is right.

Q: All right. After having collected the signatures, what did you do next to progress the land investigation report?

A: We organized transportation for Mr Dumui to go to the - that was after he finished his land mediation at Buvusi to go to the site and execute the

boundaries, the boundary as per a particular section in the LIR, plus do the custom declaration there as well.

And if you can see one of the documents that I tendered, I probably stated somewhere there, probably in the report that I did to him, a date or something which the landowners said it was okay for him to go.

Q: Mr Dumui was here yesterday and he denied having anything to do with this land investigation report. What do you say to that?

A: I disagree.

Q: You disagree?

A: I disagree.

THE COMMISSIONER: I am minded to have him recalled, actually. But let me – counsel, just take a seat and I will just take Mrs Holland through the land investigation report quickly.

Mrs Holland, declaration of custom in relation to land tenure or land ownership – actually, it should be customary land tenure or customary land ownership - I noted that you have them all set out in land group or clan. Is that correct?

A: That is correct.

Q: In that document, first of all, you have Dava Land Group, you recall that?

A: Yes.

Q: And in Dava Land Group, you have 17 clans comprising of that land group; Dava land group?

A: That is right.

Q: All right. Then you have – it is spelt T-a-u-c-h-a-l-e, but when we heard evidence from Mr Ben Mane, he pronounced it Tahale.

MR BOI: Tauchale.

A: Tauchale.

THE COMMISSIONER: Tauchale.

MR BOI: Yes.

THE COMMISSIONER: He pronounced it Tahale land group, and that land group comprised of nine clans. Do you recall that?

A: Yes.

Q: Then we have Karapa Land Group which comprises of one land group, one clan, a very large clan of the same name?

A: That is right.

Q: Then we have Kaogo Land Group which comprises of one clan of the same name also?

[11.04am]

Then we have Matanekito Land Group which comprises of clan of the same name. Then you other members and they are listed as Kulumo Land Group with two clans, you recall that?

A: Yes.

Q: Then Karapa Land Group of one clan comprising - that constitutes that land group. You recall that?

A: That is right.

Q: Those are all the landowners organized into their respective clans under their respective land groups.

A: That is right.

Q: That constitutes the declaration where those who have signed this have declared in accordance with the customs of that area, ownership to the land involved in this lease?

A: That is right.

Q: At any time during the course of obtaining the signatures to this declaration clan by clan and land group by land group, did you encounter any refusal or opposition to clan members signing their consents?

A: No.

Q: Apart from what you encountered in the first attempt at obtaining the signatures?

A: That is correct. When I started, there was no opposition.

Q: And if anyone from any of these clans and land groups does not have his name and signature there, then obviously, we will treat that as a refusal to sign this document.

A: That would be so or they could be out somewhere, maybe out of that province, yes.

Q: Elsewhere at the time of this signing?

A: Signing, that is right.

[11.04am] Thank you, counsel, you can go from there.

MR BOI: Mrs Holland, the names on the list- in the land investigation list which were signed which Mr Commissioner has just taken you through, where did you get all those names from?

A: These names were given to me by the landowners when we assisted them to register their six ILGs.

Q: So the names in respect of the individual clans and that, they all - they were given to you by the landowners themselves. At that time you were assisting them to register the ILGs?

A: That is correct.

Q: Thank you. You said you sent – New Britain Palm Oil funded for Mr Dumui to go and walk the boundaries and certify as custom. Did Mr Dumui do that?

A: Yes, Mr Dumui did that.

Q: He did that.

A: That is right.

Q: He signed the certificate as to boundaries?

A: Yes, he signed the certificate.

Q: And the certificate as to custom?

A: That is correct, yes.

Q: Okay, that forms part of your report?

A: That forms part of the LIR.

THE COMMISSIONER: Mr Dumui signed that certificate based on what you presented him?

A: No, the custom and the boundary, he did that himself.

Q: Let me be a bit clearer on what I am inquiring into. Mr Dumui, as I understood from you so far, did not actually attend any of the meetings in which you obtained these consents. And so what I am asking is that he provided the certificate right at the end of all of what you have done based on the information you provided him?

A: He signed the final document after we knitted up everything, after he had done the customary - the boundary declaration and the custom declaration. Then he did the final documentation on behalf of the West New Britain Provincial Government.

Q: How was he able to do that? Did he actually go around to the land and met with the people?

A: That is correct. The declaration of the boundary was organized with him, yes.

Q: I want to know if he actually went down and satisfied himself one way or another by either walking with landowners, or travelling the peripheries of the boundaries of the land involved here. How did he get to - because he has given evidence and he said he had nothing to do with all these? How was he able to provide that certificate as to custom, as to authenticity, even the authenticity of the signatures as to consent? How was he able to do that when he himself said he was never involved in anyway?

A: Yes, I confirm that the Agency Agreement is where he did the – the people signed. They signed the Agency Agreement. He was not there. That is the one that he sort gave his approval or authorization for us to assist him in doing. But the other sections as you will see in my correspondence to him, I captured that. Those parts of the section - the other sections were still pending is his office's action, and so they were executed by him.

Q: That is all fine, Mrs Holland. I just do not want you to labour into aspects of this land investigation report, particularly the certification by Mr Dumui where you are actually not in a position to tell us. I have already indicated, I am minded to recall Mr Dumuito question him on that. You do not have to labour yourself into it. It is just that I ask this so that you tell me from your own knowledge as to how he was able to provide that certification. And if you did not know, you should just tell me you do not know.

A: As I understand, the boundary, the boundary certification is supposed to be walked and then signed.

Q: What you understand and what was actually done are two totally different things, you follow me?

A: I follow you.

Q: So did you know how he came about providing that certificate or you do not know?

A: I remember us providing transport for him to go down to Lolokoru to execute that.

Q: Providing transport is one thing and if you are not there – if he went there or he did not, he went on a spree to Bialla or elsewhere, you are not in a position to tell us, are you?

A: Yes, Commissioner, I was not there to witness whether he walked or whatever he did before signing it.

Q: Absolutely, so you really cannot cast any explanation?

A: No, I cannot.

Q: To assist us as far as the certification is concerned?

A: That is right.

Q: All right.

[11.15am] MR BOI: Mrs Holland, other than the certificate signed by Mr Dumui, was there a certificate as to alienability signed by the Provincial Administrator?

A: In the---

Q: Following the presentation on your land investigation report, it is usual that the Provincial Administrator has a look and then certifies that land is available for alienability?

A: No, sir, in this copy, you cannot find one.

Q: So, apparently, maybe he did not sign it or you do not really know?

A: I am unable to confirm because the final documentation was left with KasenDumui to review, and I must admit that this did not take like two weeks, it was on his table for almost a couple of months before we picked that up from him; one or two months just to ensure that he was satisfied with what was before him.

Q: So after you – are you telling the Inquiry that after you completed the report, you left it with Mr Dumui for him to review and have a look satisfied himself before you take it further. Is that what you suggesting?

A: That is right and to see that all the various sections and whatever the Provincial Lands Office is supposed to ensure that its covered in this documentation is done before being sent off to Department of Lands in Moresby.

Q: So you left it. After sometime, you picked it up and you took it to Lands Department? Or, what happened to the report after---

A: After Mr Dumui reviewed it or examined it, I was called to collect the document from him and then I---

Q: Called by Mr Dumui or who?

A: Sorry?

Q: Who called you to come and pick it up?

A: Mr Dumui. So after I picked it up, I sent it to AKT Associates, our Agents, who then lodged it on behalf of the ILG to the Department of Lands – sorry, on behalf of Lolokoru Estates.

Q: So following the report, normally the - thereis a lease agreement signed between the landowners and the State to lease the land to the State for it to be leased back. You are familiar with the section 11 Lease - Head Lease?

A: That is right.

[11.20am] Q: In this SABL, we do not seem to have a copy of the head lease. You happen to know whether there was head lease signed for this SABL?

A: Sir, is that the same document you are referring to as an Instrument of Lease?

Q: Yes, there is a lease lease-back agreement.

A: Yes, I have a copy with me here.

Q: You have a copy?

A: That is right.

Q: Okay. Can I have a look at that, please? The Inquiry does not have that.

THE COMMISSIONER: Counsel, we did have the benefit of the Lands file on this particular SABL.

MR BOI: Commissioner, no, we were not given a Lands file on that one.

THE COMMISSIONER: What we have here is in fact the grant.

MR BOI: It is purportedly to be a head lease but I---

THE COMMISSIONER: Yes, lease from the customary landowners to the State for the purposes of the lease-back.

MR BOI: Yes, that is purportedly a section 11 lease. However, it is not signed by the Secretary for Lands.

THE COMMISSIONER: The document in front is the only difference from the other exhibit 1.

MR BOI: Yes.

THE COMMISSIONER: But that seems to be in order, I mean in terms of the issue.

MR BOI: Yes, there is a---

THE COMMISSIONER: But your question is as to who signed them?

MR BOI: Yes, perhaps at is this juncture, I tender this document to form part of the record because it is already in evidence.

THE COMMISSIONER: There is a repetition of other documents there which have come in exhibit 1 already; statutory declaration as to native – I beg your pardon, customary land tenure - is that right - Agency Agreement?

MR BOI: Yes, we have Agency Agreements in here. I am not sure whether this is the same as the one in the LIR.

THE COMMISSIONER: Let the whole document come in as exhibit and we can do the comparisons later.

MR BOI: Yes.

THE COMMISSIONER: All right.

MR BOI: I tender this.

THE COMMISSIONER: What is the title of that, the Head Lease?

MR BOI: Yes, the lease-back, lease of land dated 6 April 2005.

THE COMMISSIONER: Hang on, that will be bound documents with the head lease at the top, right?

MR BOI: Yes.

THE COMMISSIONER: Head Lease at the front. Dated?

MR BOI: Dated 6 April 2005.

THE COMMISSIONER: That will be 6/4/05. That will be exhibit 6; portion 1C, Garua, Talasea, West New Britain Province.

MR BOI: Yes.

**EXHIBIT 6 –BOUND DOCUMENTS WITH HEAD LEASE – 6 APRIL 2005
– PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW
BRITAIN PROVINCE**

MR BOI: Mrs Holland, how did you get your hand on to this one, the lease-lease-back? Who gave it to you?

A: Before we sent the document off to Port Moresby, we got a copy of the document for our office files. That is how we got a copy of the document. But initially when the document was sent, it was collected by

AKT Associates from Department of Lands, and there is a letter here that gave us the instructions to give that document to Mr Kasen Dumui for his execution - addressed to Mr Kasen Dumui, District Officer Lands, for execution by landowner.

So there was a letter that came to us on 26 January. On 27 January, we forwarded that document to Mr Dumui, and that document did not get executed until April 2005. There is a copy of this.

[11.23am] Q: All right. Can you hand up this – Commissioner, I tender that document being the cover letter to the head lease, the Lease-Lease-Back document which was sent to Mr Dumui to facilitate signature.

THE COMMISSIONER: All right, that will exhibit 7, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 7 – COVER LETTER TO THE HEAD LEASE – 26 JANUARY 2005 – TO KASEN DUMUI–PORTION 1C, GARUA, TALASEA, WEST NEW BRITAIN PROVINCE

MR BOI: Just to get the paper trail correct, you said that you sent the LIR to your Agent AKT, went to Lands Department and sent back this document, the Lease Lease-Back document for you to have it executed. Is that what you are saying?

A: That is correct; have it executed by Mr Dumui. That is correct.

Q: You got it from AKT and then you gave it to Mr Dumui to facilitate the execution?

A: Yes, it was couriered to us; sent through post, yes.

Q: Yes. Did Mr Dumui facilitate the execution of the Head Lease?

A: Yes, I confirm to you that he executed that. He facilitated it and executed that document.

[11.25am] Q: What about those people who signed on behalf of the landowners; Mr Mane, Mr Reu, Mr Joe Gaba, Casper Lacha, Bernard Waluka, Malamba Gambu, Bernard Metta? Do you know where these people signed this head lease?

A: Sorry, come again?

Q: You know where the---

THE COMMISSIONER: Signing took place?

MR BOI: The signing took place?

A: That would be at the Talasea LLG - Local Level Government chamber.

Q: So those people came over to TalaseaLLG and they signed?

A: That is right.

THE COMMISSIONER: Talasea LLG.

MR BOI: LLG. Are these the duly appointed -are these people whom I have just called, the duly appointed agents of the landowners?

A: Yes, sir those names were given by the landowners themselves to us.

Q: Is that reflected in the land investigation report?

A: That is right.

Q: Can you show us where these agencies' appointments are made? Commissioner, can I just show you the payment documentation which is shown to me by the---

[11.28 am] THE COMMISSIONER: Yes, there is one variation. Is that what you noted? It will be in place of John Lacha. There is Casper Lacha who signed the head lease.

MR BOI: Head lease.

THE COMMISSIONER: I assume they are brothers?

MR BOI: I am not sure about that.

THE COMMISSIONER: We will find out, either brothers or father and son.

MR BOI: Same. This is a revision on this document you showed me or showed the Commission of the – which was shown to the Commissioner in relation to the appointment of the agents is signed by Mr Dumui. Do you have any agency agreement signed by the landowners themselves nominating the named people here; Lawrence Waluka, Ben Mane, Blassius Reu, Joe Gaba, John Lacha, Bernard Waluka, Malamba Gambu, Bernard Metta. Those names here, do you have any documentation during your land investigation stages? Do you have any documentation to show that the landowners actually nominated these persons to sign the head lease or any other documentation on their behalf?

[11.32 am] A: I am unable to confirm that because the execution of the lease-lease-back – the actual document was facilitated by the Provincial Lands Office.

Q: I am referring you back to your investigation report here. You go through it and you will show the Commissioner what document in there was signed by the landowners authorizing these named persons here to sign the lease as agents on their behalf.

THE COMMISSIONER: Counsel, that will be Agency Agreement, right?

MR BOI: Yes.

THE COMMISSIONER: Where the landowners agree that the signatories to the head lease, that is, the lease from the customary landowners to the State will be signed by these people.

MR BOI: Yes, that is the Agency Agreement I am referring to.

THE COMMISSIONER: Yes. Are you able to point us to such a document, Mrs Holland?

A: No, I am unable to probably find which document you are referring to.

Q: Mr Associate, just let me have these bound documents. We have a lot of absentee agreements here.

Mrs Holland, there does not seem to be any Agency Agreement which is a document that comes immediately after the Statutory Declaration as to land tenure where the people who signed their consents, also consent to named

persons from among the landowning clans who will act as agents on their behalf, including also agents executing the head lease for the State. There does not seem to be such a document on the documents contained in the Land Investigation Report which you have tendered. It is exhibit 1.

Would you have any explanation as to why such a document is not there? Or, is it assumed from elsewhere such as directorship of the landowner company? Give some sort of explanation.

A: Okay. Basically, those people who would have been agents would have been the Chairmen of each of the ILGs, the six ILGs; or persons, maybe they thought they were elder in some cases to sign on behalf of a particular group.

MR BOI: They are the leaders. You say they are the leaders or representatives of the ILGs involved in this SABL?

THE COMMISSIONER: Bear in mind there are three. There is claimed to be three, subject to evidence to the contrary. There are three leading clans, and then there are others who are considered to be subsidiary clans in terms of landownership of the lease – land-lease area.

Perhaps, she will not be in a position to link that up, but the authority will have to be determined from elsewhere, although that should be one of the paramount documents to be included.

MR BOI: Yes.

THE COMMISSIONER: In the land investigation. But that is the anomaly we are beginning to find out in the course of this Inquiry. Apart from the anomaly that Lands Officers have shown very scant attention to what primarily is a cry for development down that way, Talasea; and the Lands Officer in contrast to the development in and around Kimbe area decided not to go to Talasea. Where is the priority?

MR BOI: Yes, we will probably recall Mr Dumui and ask him that question.

THE COMMISSIONER: We will recall him.

MR BOI: Commissioner, I propose to move on. I think the witness is not directly involved with the signing of the head lease, but she may be able to shed some light

on this next issue which is the signature by the State or representative of the delegate for the Minister for Lands.

Mrs Holland, we note from the head lease copy you gave us that there is no signature here or the lease has not been signed by the Minister for Lands or the Secretary for Lands as the other party on behalf of the State. Are you able to shed some light on why is that? Or, is this a wrong copy? Or, you know whether he signed it?

A: Sorry, what section or which particular---

[11.37 am] Q: This is the signature page of the Lease-Lease-Back Agreement, and it was never signed by the landowners or representatives-agents of the landowners and the State or the Minister for Lands or his delegate, the Secretary for Lands, on behalf of the State to confirm that the land is now leased back; leased to the State for lease back.

All I am saying is that under signature page, we can see the signatures of the landowners. But there is no signature by the Minister for Lands or the Secretary for Lands. Or, are you able to explain that?

A: Yes, sir, because this is the raw document. This is the copy of the document that went to the Department of Lands. That was to be used to issue the Special Agriculture and Business Lease.

Q: That is the raw document?

A: That is right.

Q: The one which went from here?

A: The one that came from Moresby and then it went back to Port Moresby.

Q: All right. But, are you aware whether the Secretary for Lands signed the documents?

A: I am not sure if you are referring to section 103, sir.

Q: I am referring to section 11.

A: Not in this document.

Q: Do you know whether the Secretary for Lands or the Minister for Lands signed on behalf of the State?

A: Is it the Certificate of Alienability you are referring to?

THE COMMISSIONER: Counsel, I am inclined to accept that either the Minister or the Secretary signed for the particular lease to be issued. Obviously, this witness is not from the Department of Lands. What she has are only what she has.

MR BOI: Yes.

THE COMMISSIONER: And if – I asked an earlier question: Is this one of the leases where the Department of Lands and Physical Planning was unable to provide us any information; one of those missing files?

MR BOI: Yes.

THE COMMISSIONER: Is it?

MR BOI: No, we do not have any files from the Lands Department.

THE COMMISSIONER: We do not?

MR BOI: It is one of the missing files, yes.

THE COMMISSIONER: We do not, all right. Do not grill this particular witness on that. We will have to do our best and assume that because the lease is issued, obviously, a grant was made. Otherwise, it would not have been issued and a folio and volume, and portion would not have been allocated; namely portion 1. But if it has to do with the agency part, I think she has covered that, subject to other evidence we will receive in due course.

[11.40 am] Is that what I see as the Lease-Lease-Back on the front of exhibit 7? Is that the actual signed grant? Is that a grant, the document comprising the grant?

MR BOI: No, this is raw document, as I said. It is the raw document which went from here to---

THE COMMISSIONER: Rather, they do not use the word raw document. That is a draft of what it is supposed to be.

MR BOI: Yes.

THE COMMISSIONER: Right?

MR BOI: That is correct.

THE COMMISSIONER: It is not a raw document. It is a resemblance of what is supposed to be a lease – head lease.

MR BOI: Yes.

THE COMMISSIONER: Right, to be executed after all these other processes.

MR BOI: That is correct.

THE COMMISSIONER: All right. That is the one that is not the signed one by the Secretary or the Minister.

MR BOI: No.

THE COMMISSIONER: All right. You can take her as far as that and period. You cannot expect this witness who is not an official of Department of Lands to verify any further than she can already.

MR BOI: Commissioner, we assume that it was probably signed because that is a grant.

THE COMMISSIONER: That is a matter we have to raise by calling back Mr Henry Wasa, Mr Romney Kila Pat, all of these people who have been giving us a run around over there.

MR BOI: Yes.

THE COMMISSIONER: When we get there.

MR BOI: Yes, as I was saying, Commissioner---

THE COMMISSIONER: Yes?

MR BOI: There is a grant on file. So perhaps the head lease had been signed.

THE COMMISSIONER: Let us confirm it when we get back to Port Moresby.

MR BOI: Yes.

THE COMMISSIONER: Let us not give these guys a break.

MR BOI: Very well, Commissioner.

THE COMMISSIONER: It is negligible so far. Here, we come and we find the Lands Officers who apparently were involved in one aspect or another and they come into the witness box and would not tell us. We have not got much time, nor money. We have to complete by 21 March which is next month. Please, go ahead, counsel.

MR BOI: Very well. We will move on from the head lease to some general questions. Can you – Mrs Holland, you confirm that this is a – have you done this kind of arrangement and work for other SABLs as well in West New Britain or on behalf of New Britain Palm Oil?

A: Only on instructions given by Mr Dumui to assist.

THE COMMISSIONER: No, you do not have to answer it that way.

A: Yes.

Q: Have you done any other similarly?

A: Yes.

Q: Do not be evasive. You have done nothing wrong, all right? Do not fear this Inquiry. You answer and you answer straight forward.

MR BOI: Following the grant by the State to Lolokoru Estates, the SABL grant, you are aware that there was a sub-lease entered into – sub-lease agreement entered into between Lolokoru Estates and New Britain Palm Oil to develop the land?

A: That is right.

Q: That is correct. The sub-lease, were you involved in its execution, the signing between the landowners and the company?

A: Yes, I was present on the day of signing.

Q: You were present on the date signed?

A: Yes.

Q: The people who signed, freely signed? They did not have any objections or anything of the sort? They were happy to sign?

A: That is right, they signed freely.

Q: Were there any inducements held out to the people to sign?

A: Sorry, come again?

Q: Any inducements held out?

THE COMMISSIONER: Gis. Yupela grisim ol long sainim or nogat?

A: No, but I should answer like, there was a letter that was sent out to them informing them of the signing.

MR BOI: A letter informing them of the signing?

A: Yes, of the date of the signing.

Q: But no other inducements?

A: No.

Q: No, okay. Since you were present at the signing, were the terms of the sub-lease – were the terms - some of the clauses in the sub-lease explained to the landowners before the signing?

A: Yes, it was explained to them before the signing. But prior to the signing, copies of those sub-lease agreements were given to the LEL Board to bring those to the attention of the landowners.

Q: During the signing, you say somebody explained to the landowners. Who did the explanation?

A: That would be Mr Greg Mamando, the Senior Project Manager, at that time whom I accompanied or we both went together as representatives from the company.

Q: Can you just repeat that name, Mr?

A: Mr Greg Mamando.

Q: Greg Mamando?

A: Yes. He was the Senior Project Manager at that time.

Q: All right.

[11.45 am] Following the signing of the sub-lease, the company New Britain Palm Oil proceeded to develop the estate. Are you in a position to inform the Inquiry as to the rough costs or the rough investment by New Britain Palm Oil in developing this particular SABL?

A: Sir, I would not be able to tell you right away now at this Inquiry. I am unable to do that.

THE COMMISSIONER: Who in your company can assist us?

A: Mr Ashley Barns will be able to help or the General Manager, Mr Harry Brook.

MR BOI: Mr who?

A: Mr Ashley Barns, he is the Coordinator for Mini Estates; or Mr Harry Brook, General Manager.

Q: How do you spell his name?

A: Sorry, which one, the first one Ashley? A-s-h-l-e-y.

Q: Yes.

A: Barnes, B-a-r-n-e-s, he is the Coordinator for Mini Estates; or Mr Harry Brook, he is the General Manager.

THE COMMISSIONER: Sorry, what is the General Manager's name?

A: Mr Harry Brook.

Q: Harry Brook?

A: Yes.

Q: Mr Harry Brook.

MR BOI: Commissioner, I have no further questions for this witness.

THE COMMISSIONER: I have a couple of general questions. Mrs Holland, just to gain some insight into the manner in which NBPOL organizes mini estates, in doing so, first of all, it is a corporate organizational aspect which the company – your company – adapts to in bringing people within this part of West New Britain into the palm oil industry, you assist. Your company assists in mini estates?

A: That is right.

Q: And therefore, among the objectives are land involvement; and therefore, the involvement of customary landowners?

A: That is right.

Q: And recognizing the special ownership system – customary ownership system – your company created this particular section which you have been functioning in?

A: That is right.

Q: And as a result as you have indicated, you have been involved in other Special Agriculture Business Leases similar to Lolokoru?

A: That is right.

Q: We have heard evidence from Mr Mane that among the incentives for such corporate organizational structuring to bring mini estates into the overall oil palm industry conducted by NBPOL in West New Britain, he said you provide certain landowner benefits among which is in case of Lolokoru - I do not know about the others – in case of Lolokoru, a 100,000 shares had been allocated to that company – landowner company?

A: That is right.

Q: And delivered by the mini estates in the overall supply to the NBPOL mills?

A: That is right.

Q: Lolokoru has – counsel, assist me – is that 5 per cent?

A: 10 per cent.

MR BOI: 10 per cent.

THE COMMISSIONER: And Mr Boi, 10 per cent?

MR BOI: Yes, 10 per cent.

THE COMMISSIONER: Lolokoru has a 10 per cent royalty applied on that formula, the FFB formula?

A: That is right.

Q: On top of that is the direct land rental of K100,000 per hectare; and in the case of Lolokoru, that is based on K50 per hectare?

A: That is right.

[11.50am] Q: And it is in this overall perspective that sometimes perhaps, accepting that

the Government of Papua New Guinea and also the Provincial Governments have limited resources that business cannot wait - if I may put it that way - NBPOL takes the initiative in leading in, for instance, the land investigation.

A: That is right.

Q: So long as it is done authentically, it should be all right, in your view?

A: That is right.

Q: All right, Counsels?

MR BOI: Thank you, Commissioner, we have no further questions for this witness, so she may be should excused.

THE COMMISSIONER: While she is in the witness box, would it serve any purpose for us to have her convey to perhaps Mr. Barns to come here and just give us the specific on the cost of developing Lolokoru?

MR BOI: Commissioner, perhaps, could we - could the Commission maybe - sorry.

THE COMMISSIONER: Mr Tusais?

XN: MR TUSAIS

Q: Let us think about this. Perhaps, we will do a letter to him specifying what we wish to - his assistance on - rather than asking Mrs Holland here to do that for us here.

THE COMMISSIONER: He may not have –he does not necessarily have to appear. He could be requested to merely provide us the---

MR TUSAIS: The information through writing.

THE COMMISSIONER: Through writing.

MR TUSAIS: Which serves this Commission's purpose, yes, given our limited time here in Kimbe, it might not be the better option.

THE COMMISSIONER: Yes.

MR TUSAIS: I will write to Mr Barns.

A: Sir, Mr Barns is currently out of the – he is currently out of the country.

Q: Okay, perhaps, to the General Manager himself.

A: But maybe you can address it to the General Manager and he can delegate or attend to it himself, yes.

THE COMMISSIONER: I will explain to you in the event that you should speak to the General Manager. This is necessary for us to assess particularly clause 10 of the Sub-Lease which is also a penalty clause and we want to be able to report that these kinds of arrangements throughout the country, we have encountered similar arrangement in Pomio where the clause relating to ownership of the development included also the penalty clause. There is no way landowners will ever, ever be able to meet the penalty clause should they terminate the lease - unlawfully terminate the lease.

In my view at least - I do not know about my two brother Commissioners - in my view we need to report on that to the government so that in the process of recommending what regulatory or legislative measures we might put in place, we recommend matters relating to penalties, liabilities and so on that customary landowners are entering into. Ultimately, it will place in a better perspective what dangers there are in losing customary land forever. That is the perspective from which we are interested in enquiring as to the costs.

When we calculate against the penalty clauses, as I have noted in clause 10 of this sub-lease, we will be in a better position to report to the government. Have we had this sub-lease tendered? I do not think so?

MR BOI: No, I am sorry, that was an oversight, Commissioner.

THE COMMISSIONER: Can we have it formally tendered so it is on---

MR BOI: I have formally tendered the sub-lease.

THE COMMISSIONER: Okay, the Sub-lease that between New Britain Palm Oil Limited and Lolokoru Estate Limited---

MR BOI: Yes, Lolokoru Estate.

THE COMMISSIONER: Is accepted as exhibit 8, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 8 –SUB-LEASE BETWEEN NEW BRITAIN PALM OIL LIMITED AND LOLOKORU ESTATE LIMITED – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

MR TUSAIS: Sorry, Commissioner, before the witness is excused, I think she has a few more correspondence- copies of letters that I think went mostly out of her office to the Lands office. If she has, perhaps, that could be tendered as well just to show in effect what this witness strived to do in order to comply as much as possible with requirements for land investigations. Do you have any other letters you wrote to Mr. Dumui or his other Lands Officers?

A: I have a copy of the application - the SABL Application that was lodged by AKT Associates. I am happy to tender that as well.

Q: I think we will go one by one.

A: Okay.

Q: You call out what it is and we will have it marked as exhibit.

A: Okay. This one is an application pursuant to the provisions of section 11 and 102 of the Land Act 1996, seeking the grant of a Special Agriculture and Business Lease over portion 1C, milinch Garua fourmil Talasea, West New Britain, Lolokoru Estates Limited.

MR TUSAIS: Yes, I seek to tender that, Commissioner. It is peripheral evidence that sheds light on the process.

THE COMMISSIONER: Yes, all right.

[11.56am] I will accept that as exhibit 10, portion 1C, Garua---

MR BOI: Commissioner, is it 10 or 9?

MR TUSAIS: 9, Commissioner.

THE COMMISSIONER: I beg your pardon. I wrote 9 but I read 10.

MR TUSAIS: Sorry.

THE COMMISSIONER: Exhibit 9, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 9 – APPLICATION PURSUANT TO THE PROVISIONS OF SECTION 11 AND 102 OF THE LAND ACT 1996 SEEKING THE GRANT OF A SPECIAL AGRICULTURE AND BUSINESS LEASE – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE – LOLOKORU ESTATE LIMITED

A: I have here background contacts of Lolokoru Mini Estates that was provided by Mr Paul Ramei, Deputy Administrator for Implementation and Monitoring, at that time to Mr William Padio, who was the Provincial Administrator at that time. The title reads “Background Contacts, Lolokoru Mini Estate”.

MR TUSAIS: That could be tendered as well.

THE COMMISSIONER: All right, this letter dated 14 January 2003, from Mr Paul Smith Ramei to the Provincial Administrator, West New Britain Provincial Administration, in relation to background contacts of Lolokoru Mini Estate is received as exhibit 10, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 10 – LETTER OF 14 JANUARY 2003 - FROM MR PAUL SMITH RAMEI TO PROVINCIAL ADMINISTRATOR, WEST NEW BRITAIN PROVINCIAL ADMINISTRATION – LOLOKORU MINI ESTATE – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

THE COMMISSIONER: Next one, please.

A: Over Portion 1C, milinchGarua fourmil Talasea, West New Britain Province, Lolokoru Estates Limited,Gazettal number G1, 6 January 2005.

Q: This one, that is, the - I beg your pardon. What is the name here Brian?

A: Aldrich.

Q: Aldrich.

A: Yes.

Q: All right.

[12.00pm]

From Brian Aldrich to Mrs Holland dated 13 January 2005, advising of the grant of Special Agriculture and Business Lease over portion 1C, Garua,Talasea, West New Britain Province; and gazetted in Gazette number G1 of 6 January 2005. That will be exhibit 11,portion 1C,Garua,Talasea, West New Britain Province.

EXHIBIT 11 – LETTER FROM BRIAN ALDRICH TO MRS HOLLAND – 13 JANUARY 2005 – SPECIAL AGRICULTURE AND BUSINESS LEASE – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE – GAZETTE NUMBER G1 – 6 JANUARY 2005

THE COMMISSIONER: Yes, next?

A: I have the meeting minutes that I received from the Directors of Lolokoru Estate as we were progressing the entire negotiation process leading to the signing of the SLA. The first one was Minutes of Directors Meeting number 1-03 held on 11/1/03 at Kintakiu Village dated January 15 2003.

Q: That document will be received in exhibit as – received in evidence as exhibit 13 - I beg your pardon---

MR TUSAIS:12.

THE COMMISSIONER: Exhibit 12, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 12 – MINUTES OF DIRECTORS MEETING NUMBER 1-03 – 11/1/03 AT KINTAKIU VILLAGE – JANUARY 15 2003 – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

THE COMMISSIONER: Next, please.

A: I have here an e-mail that was sent to me by Mr Ben Mane dated 8 March 2003, in reference to a meeting that was held on 28 April 2003, and he provided the minutes to that meeting. The title of that meeting, Minutes of Directors Meeting number 2/03 held on 24/04/03 at Wanguwangu.

Q: This will be received in evidence as exhibit 13, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 13 – E-MAIL TO MRS HOLLAND FROM MR BEN MANE – 8 MARCH 2003 – REFERENCE TO MEETING HELD 28 APRIL 2003 – TITLED MINUTES OF DIRECTORS MEETING NUMBER 2/03 HELD ON 24/4/03 AT WANGUWANGU – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN

A: I have here another meeting minutes from Lolokoru Estates Limited dated 14 October 2003, titled Minutes of Board of Directors Meeting number 3-03 held on the 4 October 2003 at Tanda Village.

THE COMMISSIONER: Yes, that will be taken into evidence as exhibit 14, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 14 – MINUTES OF MEETING FROM LOLOKORU ESTATE LIMITED – 14 OCTOBER 2003 – TITLED MINUTES OF BOARD OF DIRECTORS MEETING NUMBER 3-03 – 4 OCTOBER 2003 – TANDA VILLAGE – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

THE COMMISSIONER: Yes?

A: The last one is the SABL title but I think you have got that. The one I have got has got the one where NBOL's interest has been registered on it, the Sub-Lease interest.

MR TUSAIS: We have received that, yes.

A: You have got that already?

MR BOI: That is right.

A: Okay.

MR TUSAIS: It is the lease.

THE COMMISSIONER: That is with exhibit 7, I think - I beg your pardon, exhibit 6.

MR TUSAIS: Sorry, Commissioner, that is the Lease-Lease-Back, the original Lease Lease-Back Agreement between the State and the landowners. This is the title document itself.

THE COMMISSIONER: That is the title, all right.

MR TUSAIS: Lease title issued by the Registrar of Titles.

THE COMMISSIONER: All right.

MR TUSAIS: We do not have a copy of that.

THE COMMISSIONER: Let us receive that.

MR TUSAIS: Yes, let us receive that.

THE COMMISSIONER: That will be exhibit 15. That is the title of portion 1C.

MR TUSAIS: Yes, Commissioner.

THE COMMISSIONER: That will be exhibit 15, portion 1C, Garua, Talasea, West New Britain Province.

**EXHIBIT 15 –LEASE TITLE ISSUED BY REGISTRAR OF TITLES -
PORTION 1C, MILINCH GAROA FOURMIL TALASEA, WEST NEW
BRITAIN PROVINCE**

MR TUSAIS: Yes, Commissioner, those are documentations that Mrs Holland has to provide. My final request to Mrs Holland itself is we are having difficulties copying or arranging for photocopies for the LIR. We only received that yesterday from Mr Dumui. If Mrs Holland could offer - we can only ask her; we cannot force her.

THE COMMISSIONER: She will not offer unless you ask, so you had better ask her.

MR TUSAIS: Yes, copy of the LIR and perhaps the Lease-Lease-Back Agreement.

THE COMMISSIONER: Yes.

A: I will be happy to do that for you, sir.

MR TUSAIS: Thank you.

THE COMMISSIONER: Thank you, Mrs Holland. Any further aspects to pursue with Mrs Holland?

MR TUSAIS: No, except perhaps to thank Mrs Holland for her great assistance.

THE COMMISSIONER: All right. Before you are excused, Mrs Holland, I believe this is the first time we have encountered a situation with regard to the processing of an SABL where Lands officials did not have a direct involvement. That is a matter I must make a comment on before excusing Mrs Holland from the witness box.

And whilst it may appear to many that that is an irregular process, particularly in light of lack of legal provisions setting out the procedures required to have this SABLs granted, what had happened here in light of the wishes of the majority of the people of the particular people of Talasea who wanted certain developments to go onto their land or combination of all their land, have processed what are official processes which should have been undertaken by the State agencies, particularly the Department of Lands and Physical Planning with their Provincial Division which clearly did not take place here.

But nonetheless, the desires and ambitions of the people of the area cannot be simply overcome by what may appear on the face of it to be an irregularity so long

as the authenticity of consents, agreement that was given in an informed manner is there, we can only admire and encourage you people to do that. Whilst you may have detractors, or dissensions or opposition, we will find out soon when we call the other witnesses.

On that note, I want to thank Mrs Holland for what I consider – apart from the fact that there is no agency agreement in place as to who should sign the head lease on behalf of the landowners - what appears to be a very, very – an excellent job done.

In East New Britain, I made similar comments in relation to one Mrs Amos who did up or who actually attended, despite the fact that she had toddler children, she actually proceeded to Pomio and went to all the villages that she considered necessary and came out with the land investigation report, which was very admirable for a woman with toddlers - several toddler children to mind - and she carried this all out without the assistance of her superiors.

Mrs Holland, thank you very much for your assistance to this Commission of Inquiry. You are excused.

THE WITNESS WITHDREW

MR BOI: Commissioner, we have three more witnesses to go through. They are landowner representatives. But I will have to mention as well that it is lunch hour, unless you want us to continue. I need your directions.

THE COMMISSIONER: What is the time now? I am sorry I do not have a clock in front of me.

MR BOI: It is 12 minutes past 12.

THE COMMISSIONER: All right, it is lunch break. We will adjourn to - what do you suggest, 130?

MR BOI: About 1.30 to continue.

THE COMMISSIONER: Mr Tusais?

MR TUSAIS: Commissioner, could I mention that today we set aside for Rera Holdings. There are people from Rera here. Perhaps we could just advise that Rera will come on as soon as the witnesses for Lolokoru - and we anticipate that it should take the rest of the afternoon.

THE COMMISSIONER: Yes.

MR TUSAIS: So perhaps Rera could start about 2.30– 3, and we will see how far we go.

THE COMMISSIONER: Yes. Rera is - in fact, we should have done Rera while we were in East New Britain.

MR BOI: Okay.

THE COMMISSIONER: But it is on the east coast, is it not, or south coast?

MR TUSAIS: South coast.

THE COMMISSIONER: Yes.

MR TUSAIS: South east of Kokopo - south west of Kokopo.

THE COMMISSIONER: It is on the Solomon Seas side, not on the Bismark Sea side.

MR TUSAIS: That would appear.

THE COMMISSIONER: And they have had to come all the way from there.

MR TUSAIS: Yes, in fact they find it easier to come to Kimbe then to go to Kokopo that is up there.

THE COMMISSIONER: In hindsight, we should have started with them and not Lolokoru, yes. I did not realize that. Okay, let us mention them at 1.30 and see what we do, yes. That is the best we can do. We adjourn to 1.30 and we call theirmatter first before we continue with the Lolokoru matter.

Associate, adjourn the Inquiry to 1.30.

LUNCHEON ADJOURNMENT

[1.50pm] THE COMMISSIONER: Counsel, you want to mention Rera first.

MR TUSAIS: Yes, Commissioner, I indicated earlier, perhaps we – there are only about two witnesses left in Lolokoru. Mr. Boi, who has carriage of that, will be leaving early tomorrow. Perhaps he should finish that matter off and we start afresh with Rera as soon as he finishes this.

THE COMMISSIONER: Okay, there are only two witnesses?

MR TUSAIS: About three. I think they will be short.

THE COMMISSIONER: All right. But those present for Rera, perhaps we just mention it. Rea Holdings, those who have come for this SABL, please wait while we complete Lolokoru in Talasea, then we will come to you because counsel in carriage of Lolokoru will be leaving tomorrow, so we must complete all the witnesses. Thank you.

Yes, counsel, which witnesses to be called next?

MR BOI: Thank you, Commissioner, the next witness is Mr John Lacha.

JOHN LACHA, sworn:

XN: MR BOI

A: L-a-c-h-a.

Q: L-a-c-h-a.

THE COMMISSIONER: Yes?

MR BOI: Commissioner, we apparently need an interpreter for this witness. We need an interpreter for this witness. He prefers to give evidence in pidgin.

[1.53pm] THE COMMISSIONER: You think we can proceed in pidgin?

MR BOI: If that is acceptable to yourself, the tribunal, Commissioner. I have no problems with it.

THE COMMISSIONER: What do you think, Mr Tusais? There maybe some technical matters that can only be---

MR TUSAIS: Yes, the Commissioner has not actually made any decision, pronouncements on the language by which the Commission is to hear evidence. We have been proceeding so far with English. But it is in your hands; I am just passing the buck back to you, Commissioner, if you wish for us to---

THE COMMISSIONER: All right. Pidgin is a National language, so we will proceed in pidgin.

MR TUSAIS: Thank you.

MR BOI: Witness Komisena i---

THE COMMISSIONER: Sorry, counsel, I did not ask. Were you enquiring about a translator in the event that he is speaking in language or pidgin?

MR BOI: He prefers to speak in pidgin.

THE COMMISSIONER: Pidgin?

A: Yes.

Q: Good, we will proceed in pidgin.

MR BOI: Thank you. Mr Lacha, Commissioner has agreed for you to give your evidence in pidgin.

A: Yes.

Q: Is it okay with you?

A: Yes.

Q: Please state your name, your clan, your tribe and your family for the record.

THE COMMISSIONER: Yes, proceed, counsel, sorry.

MR BOI: Yes, all right. Witness, I asked if you can state your name. What is your name?

A: My name is John Lacha.

Q: John Lacha?

A: Yes.

Q: You are from?

A: I am from Buludava - Buludava Village.

Q: Buludava?

A: Buludava.

Q: What clan or tribe do you belong to?

A: To make it clear to the Commissioner that my tribe in Buludava is Komana clan. So, Commissioner, I will now speak here in this Inquiry about Lete clan where the clan or land belongs to my father's mother; Lete clan.

Q: I am going to ask you questions and you are going to respond to them.

A: Okay.

Q: I am asking you about your clan and your tribe. What is your clan and tribe?

A: My clan is Komana clan. My tribe is Dava ILG. Dava ILG.

THE COMMISSIONER: Dava?

A: Yes.

Q: Yes?

MR BOI: Is it true that you were Chairman of Dava ILG?

A: Yes.

Q: Are you still the Chairman yet?

A: No, I am not.

Q: When did you resign?

A: I was terminated due to my personal problems with Dava ILG.

Q: Yes. When did you finish?

A: 2003.

Q: 2003. This was prior to the granting of this SABL. Is that correct?

A: Yes.

Q: Are you aware of this SABL, Special Agriculture and Business Lease, at portion 1C, milinch Garua fourmil Talasea? The name of the land is called Bilane Pilapila. Are you aware of this SABL up there that was developed for Oil Palm Estate? Are you aware of this?

A: Yes.

Q: Were you involved in any of these areas when development of SABL was going to take place? You are a member of Kamana clan of the Dava tribe and Chairman of Dava ILG, were you involved in any way in the formation of this SABL or not?

A: In court I will say that when I was a Director, I can tell the court of what I know during the time I was working with them.

Q: Yes. And since you were involved, you are aware of this?

A: Yes, I am aware of some things inside of this SABL.

THE COMMISSIONER: All right, tell your story.

A: Yes, I will give my story now.

Q: Let him give his examination – evidence-in-chief.

A: Yes.

MR BOI: Yes.

A: I will give my story now. Commissioner, I am a Director of Vagori Logging. Casper is---

THE COMMISSIONER: Vagori?

A: Vagori Logging.

Q: Vagori Logging, yes.

A: Kasper Nuli is Secretary for Vagori Logging.

Q: Kasper who?

A: Nuli. When I was there as one of the Directors, we were thinking that when the logging is completed, we will proceed again with this agriculture project in Bilane Pilapila.

[1.58 pm] Q: Yes?

A: When we talked about this agriculture project, we talked about Nalukoru and Wanguwangu; two state land.

Q: Yes?

A: But these two state lands would not be suitable for a project such as a Mini Estate. That is why we were thinking of taking Bilane Pilapila customary land to combine with these two state lands to convene this project.

Q: Yes?

A: When we completed this, we asked the Kiaps or Lands Officer to go down and make the land investigation.

Q: Yes?

A: During that time, there were three Kiaps who went down.

Q: Yes?

A: One of them is Ben Taborakol who is deceased, and the other one is Kasen Dumui.

Q: Kasen?

A: Kasen Dumui.

Q: Dumui?

A: Yes.

Q: Yes?

A: And the other one is Lazarus. He is also a Kiap.

Q: Lazarus?

A: Yes.

Q: Would you know his other name?

A: I am not sure of his other name.

Q: Yes, all right, Lazarus.

A: Yes, Lazarus. Two Kiaps; Ben Taborakol and Kasen Dumui, they both did not carry out the land investigation properly.

Q: Yes?

A: The other Kiap Lazarus went down and he carried out this last land investigation and asked, who are the landowners of this land Bilane Pilapila?

Q: Ereman?

A: Vokua.

Q: Vokua?

A: Yes, and Pani.

Q: Pani?

A: Yes.

Q: He had signed this?

A: Signed the consent for the land.

[2.03 pm] Q: Yes?

A: He signed this consent form.

Q: Yes?

A: When this work was completed, we were present at the Board Meeting of Vagori Logging and then we went and registered this land at Moresby – at the Lands Department in Moresby.

Q: Yes?

A: After the registration in Moresby, we came back. We stayed here for a while and the Secretary requested us, the Directors, to come and he advised that Vagori had been terminated. He called us, Directors, to come and he advised that Vagori Logging Company will cease to operate.

Q: Which Secretary requested?

A: Kasper Nuli.

Q: Did he say why?

A: The reason why, Commissioner, I am not sure why he terminated this.

Q: Yes?

A: After a long while about six months later when the company stopped, I myself came to Commerce Department here in Kimbe and got some advice.

Q: Yes?

A: I went to Moresby to transfer this Title from Vagori to a new company for Bulu.

Q: What is the new company?

A: The new company is Lolokoru but at that time when I was in the process of forming it, it did not have a name yet.

Q: All right.

A: Yes, and then later it would be Lolokoru---

Q: All right, transferred to a new company but did not have a name yet.

A: I went to Moresby and I talked to the Lands Department. Then they sent me down to IPA. I talked to a lawyer by the name of William Marum. I think he is from Kavieng.

Q: At IPA?

A: IPA, yes; lawyer for IPA.

Q: Yes.

A: I talked to him about transferring this title to the new one. The lawyer asked me why Vagori had stopped? I told the lawyer that I was a decision maker

but I did not know why the logging came to stop. I did not know why Vagori was stopped.

The lawyer advised me that when a logging company ceased operations, he asked for the shares of the company. Where are the shares of the company; dozer, skidder, chainsaw, houses? Where are the shares? Because when a company ceases operation, all the shares must go back to the National Government.

Q: Yes?

A: He was asking me about this. I asked him about transfer and he told me that, we cannot transfer the title because you owe IPA 27,000; Vagori Logging's debt with IPA.

Q: You mean transfer to change the name of the company?

A: The name of the company to the new company, yes.

Q: How much is the outstanding debt, 20?

A: 27,000.

Q: Yes?

A: And I asked the lawyer to please call NBPOL in Kimbe, West New Britain, so that I could talk with the Managing Director Nick Thomson.

Q: Yes?

A: When I talked to Nick Thomson, I explained about these things because I wanted to take the title back to develop this agriculture project. When Nick Thomson spoke with me, I advised him of the 27,000, and his response was that he was going to buy the 27,000. Inside this West New Britain area, that is my area and I will develop all the area inside West New Britain.

[2.07 pm] Q: Yes?

A: When Mr Thomson gave the okay, the lawyer told me to go back and those Directors including yourself – sorry, Commissioner, I did not brief you

about something – inside Vagori Logging, we have four villages; Wakarakai, Pangalu---

Q: Sorry, wait, four villages?

A: Four villages, yes.

Q: Okay, and these villages are?

A: Wakarakai, one---

Q: Slowly. Say it clearly again?

A: Wakarakai.

Q: Wakarakai.

A: Yes. The other one is Pangalu village.

Q: Yes?

A: The other one is Bulumuri, Buludava - two Bulus; Bulumuri, Buludava.

Q: Sorry, Muri?

A: Bulumuri.

Q: Bulumuri, yes.

A: Yes.

Q: Yes?

A: The other one is Buludava.

Q: All right.

A: Inside this logging – Vagori, where we live, we operate with two TRPs.

Q: Yes?

A: One is Vagori TRP.

Q: And number 2?

A: Number 2 is Bulu TRP.

Q: Yes?

A: The lawyer advised me that, when you return, those Directors including yourself, Nagogoru from Wakarakai; Ben Waluka from Pangalu, including Chairman Alois Baki, they must first of all sign off.

Q: All right, we will go back again to this. Lawyer for IPA had advised you?

A: Had advised me when you go back---

Q: Who was to sign, again?

A: The Directors from Wakarakai and Pangalu.

Q: Yes?

A: Wakarakai Director is Mango Goru.

Q: Sorry?

A: Mango Goru.

Q: Mango Goru. Who else?

A: Pangalu, Ben Waluka.

Q: Pangalu?

A: Yes.

Q: Who else?

A: Chairman for Vagori Logging, Alois Baki.

Q: Alois Baki?

A: Baki, yes. They must sign off, firstly, and then later we will transfer this title. The lawyer advised me that the title will be transferred through myself to the new project.

[2.11 pm] Q: Yes?

A: When I returned here, we held a meeting at the LLG. These three men then signed.

Q: LLG or ILG?

A: LLG.

Q: LLG.

A: Talasea LLG; Local Level Government.

Q: Yes?

A: At this time, we started the first meeting of the new company Lolokoru.

Q: Yes? You started the Lolokoru Estate?

A: Yes, Lolokoru Estate.

Q: Okay. You have already given the background and we are aware of this.

A: Yes.

Q: Counsel, that is his evidence-in-chief. You can take it from there.

A: Commissioner, can I finish it because I have some more information?

Q: Sorry, there is some more information?

A: Yes, some more. When we started this logging and the new Estate, NBPOL sent its officer down to sign this Sub-Lease Agreement.

Q: This is on top of this new arrangement now.

A: Yes, new arrangement now.

Q: What is the name of the officer that was sent?

A: Lillian.

Q: Lillian who?

A: That one, I do not know her other name.

Q: Mrs Holland?

A: Holland, yes.

Q: Lillian Holland?

A: Yes.

Q: Yes?

A: When Lillian went down, I did not want to sign this Sub-Lease Agreement.

Q: Yes?

A: Until after about three months later, the village people forced me to sign this document. They forced me to sign this Sub-Lease Agreement.

Q: Your own village people?

A: Yes, my own.

Q: And also your clan?

A: Yes, all the Bulu.

Q: Your own clan, plus the other clans too?

A: My own clan, and also my wife who was angry with me and told me to sign because if I did not, problems would arise; they are going to fight with you.

Q: Yes?

A: At that time when Lillian went down and when Lillian was still there, all the machines were already moved to the project area and they started to clear.

Q: Before Lillian went down or at the same time when Lillian went down?

A: No, the machines from NBPOL went down to that area.

Q: Yes, before Lillian went down or at the same time when Lillian went down?

A: No, the machines were sent there before Lillian went down.

Q: These are earthmoving machines to excavate the land and clear the bush?

A: Yes, to clear the area for planting palm.

Q: Yes?

A: When I refused to sign this Sub-Lease Agreement, all the machines were moved back. They moved them back again.

Q: NBPOL removed them?

A: Yes.

Q: They moved them back?

A: They moved back all the machines.

[2.15 pm] Q: Yes?

A: After I signed, all the machines were returned to start work.

Q: Yes?

A: At this time, I was also a Director; Director for Lolokoru Estate. I want to make it clear to the Commissioner that they did not appoint me but only made my transfer; for my shares to be transferred to myself and then I go to be Director of Lolokoru Estate.

Q: This position came with the transfer from Vagori Logging Company to Lolokoru Estate?

A: Yes, logging company, Lolokoru Estate.

Q: Yes?

A: When I was there - some of them were appointed Directors by the village people - I was only there for a short while when I was removed as Director due to my own personal problems.

Q: Did this problem cause them to remove you or because there was another reason for your removal as Director?

A: Commissioner, I want to make it clear that it was not a problem concerning the company, no. It was a personal problem outside. It was because I was living far way and that was why they removed my directorship.

Q: This problem affected your close working and contact with the company's work?

A: No, no – yes, it must be like that. This is probably why they removed me. I stay far away and they just stay there and that is why they removed me.

Q: They held a meeting and removed you?

A: They removed me.

Q: When was this?

A: This was in 2003, Commissioner.

Q: Can you remember the month?

A: I cannot recall the month and date.

Q: Did they remove you before the issuance of this SABL or after?

A: No, the SABL was already completed. It was after Lolokoru started to operate.

Q: Yes, the process of obtaining this SABL was in 2003.

A: Yes.

Q: From the evidence we have already obtained.

A: Yes.

Q: Then afterwards, the title was issued in 2005.

A: 2005, yes.

Q: Anyway, so---

A: I am aware.

Q: You go ahead.

A: When they removed me, I saw that because this Bilane Pilapila, the ILG – they just formed the ILG –they are now the owners.

Q: Owners, what do you mean? They are owners of?

A: Like a group - they are a group in forming this Lolokoru ILG.

Q: Owner, you mean in shareholding?

A: No, no, I mean ILG, like groups when they started this company Lolokoru Estate.

Q: Yes, I mean like this, they are shareholders in Lolokoru?

A: Yes, but shares---

Q: Then later they start up individual ILGs?

A: Individual ILGs, yes.

[2.18 pm] Q: Your ILG, too, is inside?

A: It is there, Dava ILG.

Q: Yes?

A: I was not happy with them and I went to Moresby.

Q: Why were you not happy?

A: I was not happy because they terminated me without any reason of why they did that because I thought back to---

Q: Who from your own clan did they put to replace you?

A: For director?

Q: Yes.

A: Commissioner, for director, as I have said, my own name was transferred.

Q: I have already got that down. When they terminated you, was your ILG still inside the company Lolokoru, the new company that took over the logging?

A: Yes.

Q: Who from your own clan stood in as Director inside Lolokoru?

A: Kasper Lacha.

Q: Kasper?

A: Lacha.

Q: Okay, let me get this down first. Yes?

A: I went to the Lands Department in Moresby.

Q: Was that still in 2003?

A: It was 2004 and then I went.

Q: Okay.

A: I engaged a lawyer for myself.

Q: Yes. What is his name?

A: His name is Norbert Kubak.

Q: Norbert Kubak.

A: Kubak Lawyers, yes.

Q: Yes. What did you engage him to do for you?

A: I engaged him to write a letter for myself to the Lands Secretary at the headquarters. He wrote this letter and I took it to the Lands Secretary.

Q: What did this letter say?

A: In this letter, I asked for recognition of myself and my shares; two, also to recognize the land inside Bilane Pilapila.

Q: The shares that you hold, are they for your clan or for yourself?

A: No, that is only for myself. The shares are mine.

Q: Is this land for yourself or for your clan?

A: It is for the clan; the Lete clan.

Q: Why is it that the shares are under your name only and not under your clan?

A: No, because from now, we are not doing those things. When Ben Madiu was asking about this, I was still not in favour of this. I still want the shares

to be under us, so they must explain this properly; and we must have proper discussions before transferring the shares.

Q: Kasper Lacha inside your clan, how is he related to you? Is he a brother or a nephew?

A: He is a cousin. Yes, he is a cousin brother to me.

Q: Cousin brother; first cousin, second cousin?

A: Yes, second cousin.

Q: You fathers are brothers?

A: Brothers, yes.

Q: Okay, go on.

A: So I went and gave this letter to the Secretary and the Secretary told me that, your letter will be kept here with me for two weeks and the Board of Directors for Lands Department are going to read it first. If they read it and approve it, then we will go ahead with your work. If they think otherwise, then it will not go ahead. So when I came to check, it was approved after two weeks of consideration.

Q: Approved it for?

A: That was for my new work to get, specifically, a new ILG from the rightful landowners.

Q: So, forget about this ILG under Kasper Lacha---

A: No, no, no, it is not for Lolokoru – it is for Lolokoru but I got a new ILG again. This is also going through the court for – like the landowners themselves must have an ILG; Incorporated Land Group.

Q: So for this reason, you are going to court?

A: Yes, I am going to court. I complained and we are now going to court.

Q: Your court case is to replace this ILG for your clan where Kasper Lacha is now the Chairman?

A: That is for Dava ILG.

Q: Is that right?

A: Commissioner, Kasper Lacha is Chairman for Dava ILG where he replaced me.

Q: Yes.

A: Right now, what I am doing is I am getting Incorporated Land Group such as Lete ILG.

Q: What ILG?

A: Lete ILG.

Q: Lete?

A: Yes.

Q: You are member for both – is Lete another clan also?

A: Lete is my mother's father's clan where this---

Q: And Dava?

A: Dava is another one, Komana clan. This is another clan.

Q: What is your status inside this clan?

A: Inside Komana is because of my father, my real father. In Lete, it is my father's mother.

Q: So I want to get this clear. You are not happy- number 1, you are not happy that they have replaced you?

A: Yes, it is like that.

Q: So you went and you want to start one ILG where it will show that you can stand up. So you decided that you will go and stand beside your grandmother?

A: Yes.

[2.22 pm] Q: Okay, you go ahead.

A: Yes. I completed what I was doing and they sent me to Officer Simon Malu. He is in charge of Customary Land.

Q: Yes, I know him.

A: Both of us completed the work and he sent me again to Max Vagi who is in charge of Land Registration for ILGs. After this, he sent me to Mark Tola. When I finished with Mark Tola on the third floor – he is with the Registrar of Titles - after I finished with him, I went down to National Gazette.

Q: Counsel, could I have the Land Investigation Report. Officer, the associate is not here, can you fetch it for me? This Lete, regarding your grandmother's clan - you wait for a while – Lete clan is not listed among the clans here.

MR BOI: Lete clan is from – under Kulumo tribe, I am told.

THE COMMISSIONER: I notice the Dava Land Group of which is the land group.

MR BOI: Yes, the witness is from Komana clan.

THE COMMISSIONER: Kulumo? Kulumo Land Group?

MR BOI: Kulumo ILG.

THE COMMISSIONER: Kulumo.

MR BOI: Yes, that is at Kulumo.

THE COMMISSIONER: Land group. I do not see Lete among those under Kulumo. You said Lete is a clan inside Kulumo Land Group?

A: Commissioner, at Vagori Logging where we stay, the name Lete is there. It is still receiving money. When we came to Lolokoru, they did not want to put out Lete because to be honest and come out clear with the Commissioner, Lete is the principal landowner for this project area, Bilane Pilapila.

Q: This is now being disputed?

A: Yes, this is how it stands right now.

Q: Because Lete is not inside?

A: Lete is not there; there is change.

[2.28 pm] Q: This was before the Land Court, and you went all the way to the National Court for judicial review and it was sent back to Land Mediation to make a decision? Is that right, counsel?

MR BOI: Yes.

THE COMMISSIONER: That is where we are.

MR BOI: That is correct.

THE COMMISSIONER: Were you there at that time – you had raised the issue or dispute or why Lete is not inside Kulumo Land Group?

A: No, Lete is in Kulumo Land Group, but when children are born. We are now with Dava. That is why when Lete was not inside this---

Q: I understand this. But I want to know during the time that they came with the form to get consent – your signatures – did you raise this issue?

A: I did not raise it. I thought that it was also there. But after checking it now, it is not there. From the start from Lolokoru up until now, Lete is not inside these things.

Q: You call the names of the other people from Lete?

A: If you look at Paligogoru---

Q: No, I want you to call the names of some of the men and women from Lete.

A: Lete married and gave birth to Kalupe Koru. Kalupe Koru went---

Q: Kalupe Koru is one of them?

A: Yes, a woman.

Q: Audience will keep quiet.

A: A women.

Q: Yes?

A: And then Kalupe Koru got married and gave birth to the father's mother who is Gambu.

Q: G-a-m-b-u?

A: G-a-m-b-u, yes, Gambu.

Q: The second name is Koru also, too, or it is different?

A: Gambu.

Q: G-a-m-u?

A: Yes, G-a-m-b-u.

Q: B-u?

A: B-u.

Q: All right, Gambu. And the second name?

A: Their names, we used to call---

Q: All right. Who else?

A: Gambu got married and gave birth to my father.

Q: The name of your father?

A: Ereman Wokuapandi.

Q: You are following your family line?

A: Yes.

Q: I want to know the names of the other descendants from that family line. Are you able to give me some names?

A: From Lete clan?

Q: Yes, the ones who are alive right now, men and women?

A: Yes, they are still alive.

Q: Call the names.

A: One of them is married to Pulo.

Q: No, I do not want to know the marriage from the grandparent's stage where children were born. I want to know the names of the ones who are still alive right now inside this clan?

A: Lete.

Q: Yes, the name inside the clan of Lete; Markus, Joe?

A: I am here, Joe is here.

Q: You and who is the other one?

A: Elias is there.

Q: Elias who?

A: Elias Wakore.

Q: Elias Wakore, Joe?

A: Robert Gambi.

Q: Robert?

A: Gambi.

Q: The second name, sorry? I want to hear it clearly.

A: Gambi.

Q: Gambi, yes. Who else?

A: Andrew Gala.

Q: Andrew Bala.

A: Gala.

Q: Rara?

A: Gala, G-a-l-a.

Q: Yes?

A: The other one Patrick Wuga.

Q: All right, stop there. Counsel, I am going to just select some names at random through this group and just check because, otherwise, we are going into an area where we are not supposed to be.

[2.33 pm] Do you know a man called – sorry, a woman, hang on – a man called Leo Wakore?

A: Leo?

Q: Wakore?

A: Leo Wakore?

Q: Yes.

A: Leo Wakore? I know Blassius Wakore. Leo Wakore? Yes, he must be---

Q: Is he in your land group?

A: He belongs to the group Bilane.

Q: All right. What about this line bearing the second name called Utu?

A: Utu, that group belongs to Bilane.

Q: The group bearing the second name is Pandi, Valobo Komboli, Popo; do you know them?

A: That is Vilai clan.

Q: Valobo?

A: Valobo?

Q: Do you know them?

A: Valobo? What is the other name, please?

Q: There are plenty of them; Michael, Andreas, Giru, Linus, Norbert?

A: Valobo? These people live here. They are the Kulumo tribe.

Q: All right. You said Lete is part of this land group – I beg your pardon, sorry - Kulumo Land Group. If they put Lete inside, would you be happy?

A: For it to go in, I will be happy because if we look at the mediation for land, Lete is the landowner. Why is it not there?

Q: I must let you know that we are not going to run land dispute settlement.

A: Yes.

Q: Mediation or hearing.

A: Yes.

Q: I only want to make it clear so that we are able to understand why it is important for the officials to carry out the process of land investigation properly before the lease is issued.

A: Yes.

Q: So were you there at that time when this process took place?

A: Yes.

Q: Is that right?

A: Yes.

Q: And now, you are not happy that Lete is not there?

A: It is not inside.

Q: And from your own mouth, you said that you left Dava. Is that right?

A: No, I did not leave Dava, I left Chairman for Dava ILG.

Q: You left chairmanship for Dava?

A: Yes.

Q: You went and organized to register Lete group?

A: Yes.

Q: Because they were not there?

A: Yes.

Q: Inside Kulumo?

A: Kulumo.

Q: And if the organizers put Lete back inside with the Kulumo group, are you going to be happy?

A: Yes, I am going to be happy.

Q: And because of this, you were not happy so you came and opposed it?

A: Yes, this is why I caused this problem.

Q: I have heard your opposition and why you oppose this.

A: Yes.

Q: You went against this SABL?

A: SABL, yes.

Q: That is clear. There is no need for you to talk further on this dispute; we understand.

A: Yes, it is not finished yet.

Q: Do you have anything else to say?

A: No. Commissioner, it is finished now. That is all I have to say.

Q: That just about covers what this dispute is all about and why he is objecting to this SABL.

MR BOI: Yes, apparently, he does not have any objections to the existence of the SABL. It is just his removal as the director and subsequent---

THE COMMISSIONER: I noted that.

MR BOI: Yes.

THE COMMISSIONER: Particularly in Kulumo Land Group, I hope the executives of Kulumo Land Group have taken note and do something about it because the development is a good development out there.

[2.40 pm] I hope the – if indeed they have---

MR BOI: Commissioner, other than that, there does not seem to be any substantial issues in relation to the consent aspect. I have no questions for this witness.

THE COMMISSIONER: All right. Mr Lacha, I recall his name being somewhere. Just wait there for a while. I am checking for some more things. It must be the other document there. Please, officer?

MR TUSAIS: It could be on one of the tagged pages.

THE COMMISSIONER: I just want to go to the title. Thank you.

MR BOI: The signature page.

THE COMMISSIONER: The signature page, yes.

MR BOI: Yes, his name got crossed out when the new Chairman---

THE COMMISSIONER: Yes, and which would be the loose ones.

MR BOI: No, at the end of the book.

THE COMMISSIONER: Right under, yes.

MR BOI: Yes.

THE COMMISSIONER: Signatory to the head lease, is it not?

MR BOI: That is right his name was put back. I think it was crossed out when he got---

THE COMMISSIONER: Crossed out and Kasper---

MR BOI: Yes.

THE COMMISSIONER: Lacha's---

MR BOI: When he got replaced as Chairman of the ILG.

THE COMMISSIONER: Yes, Kasper Lacha was inserted.

MR BOI: Yes.

THE COMMISSIONER: You said that Kasper is your cousin?

A: Yes, our fathers are brothers.

Q: His father and your father?

A: Yes, cousin brother. So the clan, they are the Luka clan and I am Komana clan, something like that.

Q: All right, I understand, thank you. Mr John Lacha, thank you very much for your evidence. Thank you for coming.

A: Thank you very much, Commissioner.

Q: You can leave now.

THE WITNESS WITHDREW

MR BOI: Commissioner, the next witness, I think we will be very brief. He is Mr William Done. He is the leader of the pressure group which resisted or chased away Mrs Lillian Holland.

THE COMMISSIONER: Has he got any interest in the land comprised in the SABL?

MR BOI: He is a landowner.

THE COMMISSIONER: Yes, the land comprising SABL?

MR BOI: Yes.

THE COMMISSIONER: Then have him called.

MR BOI: Yes, he is from Dava ILG, Talovi clan. I am calling him simply because, Commissioner, you indicated yesterday you might want to hear from him as to his reasons for his – when they opposed the SABL, when Lillian---

THE COMMISSIONER: Please have him called.

MR BOI: William Dome?

THE COMMISSIONER: Do you remember the site visit? There was a very vocal young man, opposed to the SABL. Is he on the list?

MR BOI: He is John Lacha's son.

THE COMMISSIONER: I see.

MR BOI: Yes.

THE COMMISSIONER: All right.

MR BOI: He is John Lacha's son. So we felt that the father---

THE COMMISSIONER: But the father has given evidence, yes. Very well, stand and hold the Bible in your hand. How would you like us to proceed in English or Pidgin?

MR DOME: Pidgin.

WILLIAM DOME, sworn:

XN: MR BOI

Q: Witness, your name is William Dome? You are from the village Talovi, or is it the name of the clan?

A: Talovi clan.

Q: You are from Talovi clan, Dava ILG?

A: Yes.

Q: Which village?

A: Buludava.

Q: Buludava village?

A: Buludava village.

Q: You are a leader of a pressure group that opposed this SABL?

A: SABL pressure group supports it. Pressure group supports the SABL, but the process where they carried out this land investigation, the pressure group is against it.

Q: The name of the pressure group? What is the name of this pressure group.

A: The pressure group comprises of some educated young men, and we are part of it. We are part of this thing.

THE COMMISSIONER: Yes, educated---

A: Yes.

Q: Persons from within those groups of villages?

A: Between those two villages.

[2.45 pm] MR BOI: Does the pressure group have a name or just pressure group?

A: They just call us pressure group.

Q: Okay fine. There is evidence before the Commission that---

THE COMMISSIONER: Can we just take note, before he continues, of the fact that pressure group does not oppose the SABL. I think that is very important.

MR BOI: Yes, all right.

THE COMMISSIONER: We can just pass that on to other evidence which all comes to the question of – the ultimate question; they opposed or not.

MR BOI: Yes.

THE COMMISSIONER: It says, “pressure group i no oposim SABL”.

A: No.

Q: All right. But you oppose or you do not agree with the procedure of acquiring this SABL?

A: Requiring this customary land inside.

Q: All right, counsel, go from here.

MR BOI: When you say you support the SABL but do not support the means, or the way in which it is secured or how it is secured, what aspects of those means are you opposed to, or were you opposed to?

A: Investigation through this customary land, what the landowners are concerned about is that there was no awareness carried out for the landowners before sub-leasing into the lease-lease-back. It is for this reason that there were no landowners then.

It is like development was going to take place, and they wanted to rush it so that is why we have intervened to put it on hold for a while.

THE COMMISSIONER: Counsel, let me capture it in short, combined with what we were told on the site visit.

When we visited Lolokoru Estate day before yesterday – that was Wednesday – those people who met us as the Estate told us that there was a resolution in the middle of all the ILGs and inside the Executives or Directors of Lolokoru Estate Limited as a Landowner Company.

They passed this resolution that they would go ahead with this development. If there were any land disputes still there, that you would set up a Land Dispute Settlement Committee. This committee would deal with this land dispute and if you have to take it to court or before the court, where I now notice that, yes, there is a case pending, then this process should be completed and the court makes a decision of who the landowners are. Then you can break up the land into portions and mark your share inside this landowner company to go ahead with this oil palm development. Is that right?

A: Yes.

Q: So you are not happy that this process of land dispute has been placed at the back and development is going ahead?

A: Yes.

Q: It is your desire that this dispute should be settled first before development takes place?

A: Yes.

Q: All right.

[2.50 pm] The reality of the situation or what is now before us is like this. While this dispute is still there, development has already gone ahead. Is that right?

A: Yes, that is right.

Q: So now, your job is to solve this dispute for this process that you have carried out already; and if you are not satisfied with this, it is too late now.

A: Yes, that is true.

Q: The oil palm is already standing and the roads have gone through.

A: Yes.

Q: A school has been built. This is regarded as after the event; it is complete. So your main consideration now is to settle and complete this land dispute so

that you will know who is going to get what share inside this company, the Landowner Company Lolokoru. Is that right?

A: Yes, sir, that is right.

Q: That just about rounds off this witness's position.

MR BOI: Thank you, Commissioner. I think that was the kind of evidence that we wanted the Commissioner to hear to put it in perspective.

THE COMMISSIONER: Let us hear him on where do they go from here. Let us hear him from his own mouth.

MR BOI: Yes.

THE COMMISSIONER: He can hear. It is all right, you go ahead. You go on, sir.

A: Yes. At that time when we formed this pressure group, the company was thinking about obtaining these two state lands. And because the company was short, it decided to bring in the customary land Bilane Pilapila so that they would develop it.

So this is the concern of the people who are making representation now, even the three ILG chairmen at that time also supported this idea. They came up with the idea that we must find the landowners first before we get involved in this. So somehow, we saw that this thing was rushed through. It was rushed through - the signing of documents and all that - and this is why everything is turning out like.

I was the bloke who sent this Lands Officer Lillian back to town which was the first attempt to have the document signed. I was there at that time, and I sent her back. I said, you go back and we will sort out the landowner issue first before we get a surveyor to come in.

We are happy with the SABL but we do not know who the landowners are, and it is not right for you to come. So this is the result of complaints by the people which has resulted in the operation of the company today with us at Lolokoru. This has caused a lot of disputes inside there. That is my small contribution, thank you.

Q: But the main dispute is to solve it, and it goes with the resolution that is already there.

A: Yes.

Q: Fix up this landownership.

A: Yes, the resolution---

Q: According to the custom of that area.

A: Yes, that is the way.

Q: Okay. Counsel, I just want to – because I think it is important - this SABL is also a special one to compare with plenty others which we have inquired into. You have a big desire, a big push and a big ambition to bring some development to this area where government services are lacking.

During the site visit and, too, some have already given evidence that the main problem you have is when you are travelling on speed boats, a lot of people have gone missing at sea during bad weather because there is no infrastructure for roads. And also, we have seen that the nearest school at the Catholic Mission after you go past Talasea station is very far from where you are staying. So education is one service that is lacking.

So the consideration and views taken by your people or your leaders, in the majority, have passed a resolution that never mind, you must go ahead with the development and deal with the dispute later.

My view is that your SABL, deep in your minds, you are all for it that this must eventuate. If this kind of development goes ahead, then you will bring these types of services together with whoever is in partnership with you for this development. In your case, it is NBPOL. It could have been any other company.

All you need to resolve now is the true landownership for different portions of land each clan owns within that area. Based on this, you will then determine the equity or share inside the landowner company. Is that right?

It appears you have addressed this problem. Despite your objections, development has already taken place. It will be against your own interest if you go and cut down these oil palms and say, remove these oil palms and we will address this dispute first. This is not right because the trees have grown and are producing bunches – oil palm seed bunches.

So I think I must make this comment before you step down from the witness box. You must resolve this and resolve it as soon as possible this land dispute. This will level everything so that you will go ahead with the development that you had initiated by not waiting for the government to come and bring services to you.

[2.55 pm] Counsel, have you anything to add?

MR BOI: No. Thank you, Commissioner, that brings us to the end of the---

THE COMMISSIONER: Conclusion of Dome's evidence.

MR BOI: Yes. Can this witness be excused?

THE COMMISSIONER: Is that all right? Thank you very much, Dome, you are excused.

THE WITNESS WITHDREW

MR BOI: The lead counsel and I have agreed that we will – so far, that is what we can present before the Commission at this stage. That is the last witness. We propose to call the manager of the company but what he would have said has been said by Mr Mane already.

THE COMMISSIONER: No, we can receive the costing of the development by writing. Is that right, Mr Tusais?

MR TUSAIS: Yes, Commissioner.

THE COMMISSIONER: You will cause a letter to the company NBPOL to disclose the cost of – from other evidence, for instance in Pomio, we received

evidence that to fully develop one hectare of oil palm, it will cost approximately K15,000. So you multiply the total hectareage of an estate and you will get the cost. So in this case, it is about 1700.

MR BOI: Almost 2000, including the state land as well.

THE COMMISSIONER: Correct, in excess of 2000. Let us say 2500-2600, you multiply that by K15,000, and that is the cost of a full bearing oil palm estate.

MR BOI: Yes, it would be in excess of 3 or 4 million.

THE COMMISSIONER: By rough calculation because of evidence from other SABLs, we can determine that but there are special infrastructures totally different. For instance, Pomio, there is nothing there. When you get to Palmalmal, it is a stop. And then to progress into the SABLs called Pomata, Ralopal, Nakiura, it is an extra cost, actually; but, cause a letter to the General Manager of NBPOL and get the exact figures.

MR BOI: Commissioner, just at the end of it, I had overlooked to tender the IPA Extract for Lolokoru Estates and I tender that.

THE COMMISSIONER: IPA Extracts in relation to Lolokoru?

MR BOI: Lolokoru Estates Limited as at 1 August 2011.

[3.00 pm] THE COMMISSIONER: All right. I will receive it as in evidence as exhibit 16; portion 1C, Garua, Talasea, West New Britain Province.

MR BOI: Yes.

EXHIBIT 16 – IPA EXTRACT FOR LOLOKORU ESTATE LIMITED – 1 AUGUST 2011 – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

MR BOI: Commissioner, can we amend that?

THE COMMISSIONER: Yes.

MR BOI: I have just been handed a latest – a later one than that, the one the Commission has – by the manager of the company. It is dated – it is an extract as at 6 October 2011. So the date on that---

THE COMMISSIONER: Sorry, Lolokoru Estates Ltd, dated?

MR BOI: 6 October 2011.

THE COMMISSIONER: All right I will receive the IPA Extracts of Lolokoru Estates Limited, dated 6 October 2011.

MR BOI: Yes. The next document is the gazettal – the Gazette.

THE COMMISSIONER: Yes?

MR BOI: Copy of the grant of the SABL. It is Gazette number G1 of 2005, dated 6 January 2005.

THE COMMISSIONER: Sorry, Gazette number G?

MR BOI: G1.

THE COMMISSIONER: 1 of 2000 and, sorry, 16?

MR BOI: Of 6 January.

THE COMMISSIONER: 6 January 2000 and?

MR BOI: 2005.

THE COMMISSIONER: And 5.

MR BOI: Yes.

THE COMMISSIONER: All right. That will be exhibit 17, portion 1C, Garua, Talasea, West New Britain Province.

EXHIBIT 17 – GAZETTE NUMBER G1 OF 2005 – 6 JANUARY 2005 – PORTION 1C, MILINCH GARUA FOURMIL TALASEA, WEST NEW BRITAIN PROVINCE

MR BOI: Commissioner, that concludes the evidence in relation to the hearings in portion 1C.

THE COMMISSIONER: Garua.

MR BOI: Milinch Garua fourmil Talasea. Thank you.

THE COMMISSIONER: We still need to - when we return to Port Moresby, call the Department of Lands and Physical Planning.

MR BOI: Sorry, I forgot to mention. In relation to the Provincial Lands Officer in which there were some discrepancies in the evidence given by Mrs Holland, I have talked to Senior Counsel---

THE COMMISSIONER: Mr Dumui – Mr Kasen Dumui.

THE BOI: And then the other fellow. Senior Counsel Assisting has indicated he will attend to it next week when those fellows are giving evidence.

THE COMMISSIONER: Who was the officer who was sitting up front here all morning and disappeared after lunch?

MR BOI: He is one of the Lands officers who gave evidence. I have got his name here somewhere, Ben Madiu.

THE COMMISSIONER: That was Ben Madiu?

MR BOI: Ben Madiu, yes. He was not involved.

THE COMMISSIONER: He was not involved, yes. Mr Kasen Dumui was the first one.

MR BOI: Kasen Dumui. Mr Tusais has indicated he will put some of those issues to him when he gives evidence next week.

THE COMMISSIONER: You will fix him for what date next week?

MR TUSAIS: Thursday, tentatively.

THE COMMISSIONER: Thursday next week?

MR TUSAIS: Yes.

THE COMMISSIONER: Very well, we will leave Mr Dumui until next week. Let me emphasize for the sake of all the interested people in these SABLs in attendance the primary role. I think I will talk in pidgin.

The functioning of these Special Agriculture and Business Leases are established when they are brought to the attention of the officials of land investigation. This is the function of the Department of Lands and Physical Planning and the Division of Lands in the province.

We, at the Lolokoru Estates, got evidence from Mrs Lillian Holland which showed that she headed this land investigation. This officer is an employee of NBPOL and not a government officer but she carried out her job in a proper manner. Whatever work she has carried out was done properly but there is only a shortcoming in the Agency Agreement whereby the landowners, through each one of their ILGs, mark it and sign an agreement with the Government of Papua New Guinea to lease your land to the government and then it leases it back to you and the company of your own choice; this is not there. But all the work that was carried out by her was done properly.

It is also clear that she wrote some letters to the Lands Adviser in West New Britain Provincial Administration but did not receive clear written response. But we have already seen in evidence that the officials had given their consent for her to go ahead and carry out this land investigation. But it is important for the officials of those responsible state agencies, especially on land investigation or Lands Department through the division of the province, that they must do this job because in this manner, we can achieve a true and authentic – authentic means it is a true - investigation they have carried out and men and women who are landowners were given the go ahead to lease their land for development. This was not the case with Mrs Lillian Holland.

In evidence it is clear that a lot of you have consented after you were made aware of the project. We have already found out what the minor problem is and, that is, that you want to settle the land dispute later; development has already taken place and you are going to settle this. But for the officials of the government, I must make this statement so that they are aware.

Even though there is no law and regulation in place to assist with this process, they must do this job. They must do this job and not leave it to the hands of the private enterprise the process of issuing a lease because the final result is that the lease will go back down to the hands of the government and government must do this job. And because of this, we are going to call Mr Dumui to come back on Thursday next week. Whoever is interested to hear the types of questions we are going to put to him, this is the time for you all to come and listen.

Counsel, that is about all I wanted to say in relation to this SABL. Mr Dumui is fixed for Thursday next week.

MR TUSAIS: Yes.

THE COMMISSIONER: This matter can now be adjourned and we can proceed with Rera Holdings.

MR TUSAIS: Yes, Commissioner, perhaps we have a 5 minutes break.

THE COMMISSIONER: Sure.

MR TUSAIS: We will just check to see if the witnesses that are listed are present.

THE COMMISSIONER: Very well, thank you, everyone who came for Lolokoru. We are going to adjourn for 5 minutes and the counsel will advise as to what time we are going to reconvene again to proceed with Rera Holdings.

The Commission of Inquiry is adjourned temporarily for 5 minutes, thank you.

SHORT ADJOURNMENT

[3.27 pm] THE COMMISSIONER: Yes, Mr Tusais, please?

MR TUSAIS: Thank you, Commissioner. We are going to commence the matter of Rera Holdings Limited - SABL granted to Rera Holdings Limited. It is described as a section - sorry not section - portion 2C, milinch of Kapiurafourmil of Talasea but it is in the West New Britain Province.

THE COMMISSIONER: Kafiura?

MR TUSAIS: Kapiura; it is a river.

THE COMMISSIONER: How do you spell that?

MR TUSAIS: K-a-p-i-u-r-a.

THE COMMISSIONER: All right.

MR TUSAIS: Yes, Kapiura, fourmil of Talasea.

THE COMMISSIONER: Yes.

MR TUSAIS: But this SABL is located in the East New Britain Province. The land area described is 68,300 hectares.

THE COMMISSIONER: 68,000?

MR TUSAIS: 68,000.

THE COMMISSIONER: It is a large area.

MR TUSAIS: It is a very large area. That is shown on Survey Plan Catalogue number 15/981.

THE COMMISSIONER: Yes.

MR TUSAIS: Yes, Commissioner, this SABL is supposed to be held in the East New Britain Province. The land investigation report officials involved in that are all located in Kokopo. The Commission does not have the means to fly them to Kimbe. So time and money allowing, we will receive evidence from them at a later stage.

Apart from that, evidence from Mr Simon Malu based in Port Moresby, has been received. He has been questioned on his involvement in the land investigation process along with East New Britain based Lands officials. If I could just state for the record, Mr Malu admitted to being involved in the land investigation process. I believe he is from around that area and I think in his off - holiday period he stated

in evidence that he conducted awareness. But awareness is only in a few villages, at least in one village and he said people from other villages came to give their views. That remains to be seen after we listen to some witnesses that have come to Kimbe specifically to give evidence.

Other evidence has been received from Mr Francis Daink. He is the Deputy Secretary for Agriculture. I believe, sir, you were in the hearing room when his evidence was given. From his evidence especially from the public hearings conducted at Palmalmal government station in Pomio, it was clear from the outset that there were people both for and against and some in between still deciding whether to be part of the –but they were not aware or they had not been explained exactly what the development proposals were. So that was that meeting, the only meeting held at Palmalmal.

Later meetings were held in Kokopo town but those meetings were predominantly made up of public servants. The first was done at - sorry, there was a meeting held in Kokopo in an exclusive area not visited by ordinary members of the public - the persons on the street as it were - in a restaurant called Takubar Restaurant. That again was made up principally of public servants - 11 public servants and a handful of landowners. Commissioner, I suggest that I just briefly go through the opening statement made at Waigani just to give some context to this SABL.

THE COMMISSIONER: Mr. Tusais, I understand there are two lawyers representing each side present.

MR TUSAIS: Sorry, Commissioner.

THE COMMISSIONER: Perhaps, they could be invited to the bar table.

MR TUSAIS: For the record, there are two lawyers, Mr. Roger Otto. He is representing the developer company and officials of the Rera Holdings Limited; and also Mr Thomas Mane – sorry, Imal, excuse me - Mr Thomas Imal from Selcor Lawyers. He is for the landowners who are not totally in agreement with the project suggested by---

THE COMMISSIONER: Or more or less opposed to the SABL.

MR TUSAIS: Yes, Rera Holdings in conjunction with DDLumber. Perhaps if they made their appearances---

THE COMMISSIONER: Please approach the table and - Mr Imal, yes I have heard you in Kokopo. Welcome back.

MR IMAL: Thank you.

THE COMMISSIONER: But you seem to have forgotten the attire, and you are here without a tie.

MR IMAL: Commissioner, I have one in my pocket, I guess.

THE COMMISSIONER: I will allow you to appear without it, but make sure if the proceeding goes on and continuous and you are required here, you come back with a neck - come back here properly attired.

But, I understand, Mr Otto, you have been granted leave---

MR OTTO: Good afternoon, Commissioner.

THE COMMISSIONER: From Port Moresby.

MR OTTO: Yes.

THE COMMISSIONER: Mr Imal, you have been granted leave in Kokopo.

MR IMAL: Yes.

THE COMMISSIONER: Yes, I think that leave is extended to here. So please, Mr Tusais will continue with the proceedings and you can fit in where you are required to fit in. Yes, Mr. Tusais, thank you.

MR TUSAIS: Yes, thank you, I will try to be brief. There is a bit of - said in the opening. This SABL, as you correctly pointed out, is quite large.

The land investigation was done - conducted – sorry, the land investigation officers flew over the area in a helicopter to mark out the boundary. That is something new, as far as walking the boundaries is concerned, and we are yet to determine whether that is actually walking the boundaries; but that is an issue that is to do with the Lands Department.

The Direct Grant was made under section 102 of the Land Act on 14 August 2008 to Rera Holdings Limited by Mr Pepi Kimas as delegate of the Minister. It was published in Gazette number G145 on Thursday, 14 August 2008. The SABL was granted over land described as MukasMelkoi, portion 2C, Kapiura, Talasea.

Rera Holdings is a company registered with the IPA. It is given company number 1-57144. It was incorporated on 19 July 2006. Its principal place of business is in Rabaul, section 64 Allotment 4, Malaguna Road, Rabaul.

There are three shareholders. All the shareholders are companies themselves, that is Sipaele Limited, Lokamo Investment Limited and Moseng Limited. All of these companies are now deregistered. That is something that this Commission will have to---

THE COMMISSIONER: Take into consideration.

MR TUSAIS: Take into consideration later because it seems from their status as if there are no shareholders of the company as they are not legal persons, as we speak.

The Directors for Rera Holdings are listed as Mr Nick Hite of Ruach Ward, Leo Tensiomana of Poio Ward in the Melkoi LLG, Michael Sei of Moken Ward, Anton Solong of Meletong Ward, Albert Tenhole of Masio Ward, Chris Katua of Kawang Ward and Mark Mapinai of Maso Ward. All of these are in the Melkoi LLG in which this SABL is found. The Company Secretary is listed as Henry Ioma of Malatong Ward, Pomio.

THE COMMISSIONER: Yes.

MR TUSAIS: Commissioner if you allow, the Lands Department - there was an Instrument for Lease-Lease-Back Agreement made on 26 April 2008 - or 25 April, sorry. I have got a copy of it; perhaps, if I could just pass this up.

THE COMMISSIONER: Officer, could you? Yes, thank you.

MR TUSAIS: And just from that, I handed up just so that the Commission can note villages and the 46 ILGs that are listed.

THE COMMISSIONER: Yes.

MR TUSAIS: Making up or constituting customary landowners and their clans. There are 15 villages listed, that is why I could just go through them quickly.

That is Uvol village, Meletong village, Polpolo village, Inahele village, Ruach village, Philamata village, Maso village, Tavolo village – sorry---

THE COMMISSIONER: Tavolo?

MR TUSAIS: Yes, Tavolo, Pomio – I am not sure if I am right here - but there is a Pomio village listed, Hanaoira village, Esletena village, Sumbuna village, Metong village, Miniga village and Warale village. Then there are 46 ILGs listed, they are listed on the piece of paper I do not wish to go through all of them.

THE COMMISSIONER: Yes.

MR TUSAIS: The lease-lease-back was witnessed by Ereman Peril, the Lands Acquisition Officer for East New Britain, and Simon Malu, Waigani based. Now, he is Director for Customary Lands Division.

The Sub-Lease schedule states the purpose of the lease to be for commercially cultivating oil palm and other agricultural crops and their products for export.

Going back a bit earlier by letter dated 14 September 2006, landowner representatives led by Leo Tensiomana, Michael Sei, Anton Solong and others wrote to DDLumber inviting them to develop the project; convert certain hectares into oil palm or agricultural activities in the Ania valley and in Block 4.

Commissioner, in certificate in relation to boundaries, Ereman Peril of East New Britain Lands Division, together with Simon Malu, certified on 14 February 2008, they hopped on a helicopter with Albert Tenhole, Joe Mana, Patrick Melo, Lukas Naka, Paul Angae, Thomas Ossa, Anna Kipolo and Leo Tensiomana to do an aerial survey on board the chopper; and this chopper is said to have flown as far as practicable and boundaries of the said land was indicated.

[3.35 pm] This SABL is located close to West New Britain Province. It is in close proximity to other SABLs in the area; Commissioner, you are well aware of that having dealt with East New Britain.

THE COMMISSIONER: Yes, it is below Nakiura.

MR TUSAIS: Yes, all the SABLs in the vicinity combined, total about 200,000 hectares and Rera Holdings is the largest with 68,300 hectares. The company nominated as developer is DD Lumber. In its project proposal, it says that a road built from end to end would go for 90 kilometres. That is how large the area is. Commissioner, the Valuer General at that time Mr Chris Kavaru valued the land in Rera to be worth about K1.2 million. That is the Valuer General's estimate, Mr Chris Kavaru.

Rera Holding Limited, the lessee holding title to this SABL sub-leased to DD Lumber company of Malaysia to develop oil palm project. In its agriculture project proposal, the DD Lumber said it expected to make K2.6 billion profit after operation of 15 years.

The SABL is located in the Uvol area of Pomio District. It stretches – it is bounded by the Melkoi river to the east Nakanai mountains to the north, the Solomon Sea back to the south, and the border to West New Britain Province to the west. It is located about 120 kilometres out of Kokopo, the capital of East New Britain.

[3.38pm] Commissioner, an Environment Permit number WDL3 (2426) was issued to DDLumber on 4 March 2010 for a 25 year period.

Commissioner as far as the PNGFA is concerned, Forest Clearance Authority number 15/05 was issued to DD Lumber Limited by the Forestry Board on 7 October 2010 after approval was given by the East New Britain Provincial Forest Committee chaired by Administrator Mr. Tubal. The Commission is yet to determine if forest clearance has commenced. That will be confirmed by the first witness we will call. That is as far as background is concerned.

THE COMMISSIONER: In the background, MrTusais, you mentioned the proposed agriculture development. Is that agricultural development plan - or was that agriculture development plan by DDLumber presented to DAL and approved?

MR TUSAIS: It was presented to DAL and DAL approved - positively approved of this and forwarded it to the PNG Forest Authority which eventually issued a Forest Clearance Authority.

THE COMMISSIONER: That agriculture plan, I imagine, will be submitted in evidence.

MR TUSAIS: Yes, the next witness will submit that. There are two volumes; volume 1 and volume 2, thank you. Commissioner I wish at this stage to call MrMarvin Lucero.

[3.49pm] THE COMMISSIONER: Sorry, Mr Marvin?

MR TUSAIS: Sorry, could you say your second name, please? Is it Lusero or Lucero?

MR LUCERO: Lucero.

MR TUSAS: Lucero?

MR LUCERO: Yes, L-u-c-e-r-o.

THE COMMISSIONER: Lucero?

MR LUCERO: Yes.

THE COMMISSIONER: Yes, I will have him sworn in.

MR TUSAIS: I will probably ask you, are you a Christian?

MR LUCERO: Yes.

THE COMMISSIONER: Could kindly stand up and hold the Bible in your hand.

MARVIN LUCERO, sworn:

XN: MR TUSAIS

Q: Mr Lucero, you are a Forester employed by DD Lumber/Global Elite. Is that correct?

A: Yes, that is correct.

Q: What is this Global Elite? Is this the same company as DD Lumber?

A: This is still within the Group of DDLumber.

Q: Mr Lucero, you graduated from Mindanao State University in the Philippines with a Degree in Forestry?

A: Yes, that is true.

Q: You started work in 1991 in the Philippines until about 2005 when you came to Papua New Guinea and started work with Stettin Bay Lumber Company based in Kimbe, West New Britain.

A: Yes, I did.

Q: You left Stettin Bay in 2008 and up to now, you are with DDLumber Group?

A: Yes.

Q: Could you state your involvement with DDLumber, specifically in relation to the development – sorry, the project that DDLumber intends to carry out in the MukasMelkoi area of Pomio District?

A: Yes, in charge in the preparation of the project proposal submission to Forestry for the FCA applications, including also the preparation of the Environmental Plan after the Environmental Permit has been submitted to Environment; given to us, the Environmental Permit.

Until now I am preparing the FiveYear Plan in relation to the FCA which was given to DD Lumber, but we are still revising it and held for a while pending result of the Commission of Inquiry Report.

THE COMMISSIONER: Sorry, I just could not hear you at all, I am sorry. Let me just clarify what you just said. Since you are engaged in employment with DDLumber, you were involved in the preparation of what?

A: The project proposal.

Q: What project proposal was that?

A: For this agriculture – for this MukasMelkoiAgricultural Project.

Q: Mukas Melkoi Agriculture Project?

A: Yes.

MR TUSAIS: Commissioner, the proposal came in two volumes?

A: Yes.

Q: Okay. I think these are your copies. I will just show it to you so it will assist the Commission to understand where you are coming from.

A: Yes, this is the one. We have submitted to Forestry in relation to our application for Forest Clearance Authority for this project as Micro Large Scale Integrated Agricultural Project.

THE COMMISSIONER: These are agricultural project proposals?

A: Sir, I beg your pardon?

Q: Those are agriculture project proposals?

A: Yes, the other volume, because of the attachment, that is why it comes to this thick. It comprises of volume 1 and volume 2.

Q: I understand that. I did not ask about that. What I am asking is those are those are the agriculture proposals?

A: Yes.

Q: Agriculture Development Proposal?

A: Yes.

Q: And who, did you say, you submitted it to?

A: After I submitted to the Department of Agriculture, then I submit to Forestry.

MR TUSAIS: Commissioner, I tender these two volumes.

THE COMMISSIONER: Yes.

MR TUSAIS: Perhaps it will shed some light on what exactly DDLumber is up to in MukasMelkoi. They come in two volumes; perhaps if they could become exhibit 1A and 1B.

THE COMMISSIONER: Correct, exhibit 1A and 1B. I will receive the Agriculture Development Proposal which is referred to as Mukas?

A: Yes, Mukas Melkoi.

Q: Mukas Melkoi Agriculture Development---

A: Project.

MR TUSAIS: Large Scale Integrated Agriculture Project.

THE COMMISSIONER: Large Scale Integrated Agriculture Project. I will receive it as exhibit 1A and 1B,portion 2C, Kapiura, Talasea, East New Britain Province.

EXHIBIT 1A – MUKAS MELKOI LARGE SCALE INTEGRATED AGRICULTURE PROJECT – PORTION 2C, MILINCH KAPIURA FOURMIL TALASEA, EAST NEW BRITAIN PROVINCE

[3.53pm] THE COMMISSIONER: Thank you.

MR TUSAIS: Commissioner, I will just bring this to---

THE COMMISSIONER: Thank you, counsel. Sorry, the associate is on other errands.Proceed, counsel.

MR TUSAIS: Yes. Intension of DDLumber was to grow oil palm. Was it to grow oil palm? What did DDLumber plan to do in this project?

A: Yes, that is the main crop that DDLumber wants to grow in this area, oil palm.

Q: You speak.

A: In case in the future, I think there some potential crops which would be agreeable with the landowner company, then they will – DD Lumber has an option.

THE COMMISSIONER: Let us just focus on your primary immediate proposal, first.

A: That isoil palm.

Q: We have all these future plans all over the place. Let us just focus on what are the immediate plans, first.

A: Okay. Thank you, Commissioner.

MR TUSAIS: The cover of both volumes has a picture of oil palm, I think. There is a mature palm in the background already probably bearing fruit and newly planted oil palms in the front. Is that currently what is happening in MukasMelkoi? Have you planted oil palm?

A: Not yet. That is just a shot for presentation purposes, the picture.

THE COMMISSIONER: You have not commenced yet with the---

A: Not yet.

MR TUSAIS: I am sorry, I was misled. I mean if anybody saw it, they would think in Mukas Melkoi, there was this impressive plantation of oil palm.

A: Sorry, for that.

Q: It is a bit misleading.

A: Yes.

Q: That is what I am saying.

A: Sorry for that. It is just to emphasize the purpose of the project.

Q: Has your development proposal- has the project kicked off? Have you started work?

A: Not yet because we are still waiting for the approval of the Five Year Plan within the Forestry.

Q: Were you involved in the initial land investigations and in the process to get this land registered as a Special Agriculture and Business Lease?

A: No, your Honour.

Q: Sorry?

A: I am not involved in the LIR – in the land investigation - because that was conducted sometimes in 2007 I'm not in the company at that time.

Q: You came in 2008?

A: Yes.

Q: When you came in, what was the situation on the ground? Maybe you tell the Commission about what you saw.

A: When I came in, the lease had already been issued, and I was advised to prepare these project proposals and compilation of all the attachments.

MR TUSAIS: I am sorry, Commissioner, I did not hear that. There is this power – I have asked our policemen to ask them to switch it off, or maybe use a hand saw to cut the timber.

THE COMMISSIONER: I do not think the Bishop will be too happy.

MR TUSAIS: Sorry.

THE COMMISSIONER: Never mind. Yes?

MR TUSAIS: Could I ask the witness just to say that again, please?

THE COMMISSIONER: Yes.

A: I was not involved in the lands investigation being conducted because when I arrived, the company was sub-leased under – the lease had already been approved – given to the company.

MR TUSAIS: Approval was already given?

A: Yes.

Q: Okay, that is good.

THE COMMISSIONER: In other words, a sub-lease was already signed between the landowner company and your employer DD Lumber?

A: Yes.

Q: All right.

[3.57pm] MR TUSAIS: DD Lumber, according to our searches with IPA, it registered itself as a business mainly dealing with forestry like harvesting logs, sawmilling logs, export of logs, just logging. It does not state that it has any background in agriculture. Is that what DD Lumber is? It is mainly and purely a logging company?

A: No, there is a ship with the – the company trying to expand to venture on agriculture. But when the company applied to IPA for the revision of the – I mean for the IPA, the IPA requires the company some sort of evidence. So we need the FCA first before we revise the registration as a business entity.

THE COMMISSIONER: You need the FCAs?

A: Yes.

Q: Before you revised the---

A: Yes, that is the advice.

Q: The activities of the company?

A: Yes, that is the advice from IPA. That is why when we applied for the FCA--

Q: I do not think that is the process. FCAs are only granted when you have a firm agriculture development proposal on the ground as approved by the Department of Agriculture and Live Stock---

A: Yes, that is the one.

Q: And they think you will carry out this agriculture development as contained in the proposal, then will they recommend to Forestry to grant you the FCA? You know what an FCA is?

A: Yes.

Q: What is it?

A: It is a Forest Clearance Authority.

Q: That is right, and it has nothing to do with whether or not IPA will allow you to vary your business activities as a foreign registered company or a foreign dominated shareholding company.

A: That is the advice from us from the - when we inquired the variation of the registration of DD Lumber.

Q: Nonetheless – counsel, before you proceed – nonetheless, what is on the IPA records, despite what you have just said, your activities do not include agriculture development.

A: Yes.

Q: So tell me, have you commenced logging operation?

A: Not yet.

Q: In this particular lease?

A: Not yet, your Honour.

Q: And you are certain of that?

A: Yes, your Honour.

Q: Have you – it has already been read out that there is a Forest Clearance Authority - counsel, assist if I am correct here.

MR TUSAIS: Yes.

THE COMMISSIONER: There is a Forest Clearance Authority already granted.

A: Yes, your Honour

Q: In other words, you had the intention of proceeding with forest clearance.

A: Yes, your Honour.

Q: But you have not actually cleared any forest?

A: Not yet, your Honour, because we are still waiting for the approval of the Five Year Plan, then after that, the Annual Plan, and still the Log Pond approval and this kind of approval for construction. So that is why the company has not been able to commence yet the actual operation.

Q: You hold a Degree in Forestry Science from Mindanao State University?

A: Yes, your Honour.

Q: Does that include any qualification in respect of Agriculture?

A: Not really, your Honour, only when I came here in Papua New Guinea through some readings---

Q: No, that is not my question. My question is, do you hold any qualification in respect of Agriculture Science?

A: No, your Honour.

Q: And you were involved in putting together this agriculture proposal?

A: Yes, your Honour.

Q: Were there any others in your company who were involved in putting together this agriculture proposal?

A: Yes, your Honour, they hired some consultants.

Q: And who would that be?

A: I cannot remember the names, your Honour, because---

Q: You can call me Commissioner.

A: Commissioner, because my GM just collected all the ideas and I was just assigned to compile all those and prepare the project proposal.

Q: Do you not think it is highly inappropriate that you do not - you are not qualified to be the person to receive all these material and then put together this proposal which relates to agriculture development?

A: Not really - not so much, your Honour, because we have sought their technical expertise also.

Q: I do not accept that.

A: I am sorry, your Honour.

Q: You have to be qualified to put together a proposal like this.

A: Okay, your Honour.

Q: This will be similar to asking a medical doctor to come and put together a legal proposal for me.

A: Yes, your Honour.

[4.03 pm] Q: Counsel, proceed.

MR TUSAIS: Yes. This land area in Mukas – sorry, the project area - how would you describe its topography? You know topography as a Forester, the landscape.

A: Yes.

Q: Is it basically flat land, or it is mountains and swamps? You tell the Commission.

A: Yes, counsel. Portion of it is mountainous area. That is why it is about only 31 per cent that can be developed into an agriculture project.

Q: Yes. There is a report compiled by Mr Daink who is the Deputy Secretary for Agriculture. He says only an estimated out of the 68,000 hectares, only about 22,000 to 30,000 hectares has potential for cocoa, oil palm and coconuts.

A: Something like that, counsel.

Q: That is what he says. He is eminently qualified and has experience in agriculture; he went and came back and said. The other land topography is mountains with fields with steep slopes not suitable for agriculture.

A: That is true, counsel.

Q: It is the Nakanai mountains; they are very high.

A: Yes, counsel.

Q: Others, not mountains or high hills with steep slopes. Again, he says they are not suitable for agriculture.

A: Yes, counsel.

Q: High hills with moderate slopes.

THE COMMISSIONER: Mr Tusais, could I ask Mr Otto, counsel for DD Lumber if he, by any chance, has a copy of the Sub- Lease Agreement at this stage?

MR OTTO: Yes, I have been shown a copy by counsel. I never had one.

[4.06 pm] THE COMMISSIONER: Please, I would like the assistance of a copy of the sub- Lease so that - I am just interested in what Mr Tusais is asking the witness as to the land area involved in the sub-lease and the suitability of the area for oil palm development, and whether - it is part of the Terms of Reference that we want to

look into as to why so called developers are taking a hold of the lease-back over the entire area when the suitability of the area for the proposed agriculture development does not cover the whole of the area. So I just want the assistance - officer, can you just – you have got a copy I can---

MR OTTO: Yes.

THE COMMISSIONER: Thank you, I will hand it back. I just want to lease some questions.

MR TUSAIS: Commissioner, I have got extra copies here. I will make them available.

THE COMMISSIONER: All right, give Mr Otto that copy.

MR TUSAIS: Thank you.

THE COMMISSIONER: All right, proceed. This one is in relation to lease of customary land by the State.

MR TUSAIS: Yes.

THE COMMISSIONER: I am actually requesting for the Sub-Lease Agreement – copy of the Sub-Lease Agreement from Rera Holdings to DD Lumber.

MR TUSAIS: Yes, sir, okay.

THE COMMISSIONER: But, counsel, never mind. Are you – yes, thank you.

MR TUSAIS: I am not sure if my friends have that. Perhaps Mr Otto could have that as part of his---

A: It is in the book that we brought.

THE COMMISSIONER: Again, this is a very standard – it seems all these companies seem to adopt this, a standard sub-Lease from Pomio to Gulf and back to West New Britain. Never mind, be as it may, proceed, Mr Tusais.

MR TUSAIS: Yes. Mr Lucero, maybe I will not beat around the bush. I am just saying this area, there is only - less than half of that area is suitable for agriculture. The rest is that Nakanai mountain.

A: Yes.

Q: It is not suitable for agriculture. And then related to my first question to you was about your company's expertise or capacity for agriculture. You said DD Lumber has not registered with the IPA as an agriculture company; you have confirmed that.

I have put to you that topography is less than half suitable for agriculture. I will ask you this. How serious is DD Lumber about growing oil palm? Is it serious about growing oil palm or is it after those trees that are growing in the flat areas and on the mountains?

THE COMMISSIONER: Is it in the pretext? Let me be even straighter. Is it in the pretext to extract the timber standing on that land?

A: No, Commissioner, as my personal view because in Malaysia, this company or the sister company in Malaysia is also involved in development of gravel and oil palm. So that is why they want to expand their business into oil palm from purely logging when they first came in Papua New Guinea.

Q: I am looking at Item 5 of the Sub-Lease Agreement that your company entered into with the title holder, Rera Holdings Limited; item 5 of the schedule to that Sub-Lease Agreement. And the land – item 5 relates to the sub-leased land which is the whole of portion 2C, and it says, “All of the property being the whole of the land known as the Mukas Melkoi comprised in the state lease listed above comprising an area of 68,300 hectares will be planted with oil palm and other suitable agriculture crops.” Mr Daink from the Department of Agriculture and Livestock had indicated on his inspection, he considered that area not in access of 27,000.

MR TUSAIS: 22 to 30,000.

THE COMMISSIONER: Not in access of 30,000 is suitable for agriculture development. So why did your company want all that land in access of the suitable area for planting of oil palm or other cash crops, or other – I beg your pardon – other agriculture crops?

A: That one, Commissioner, I cannot comment since the sub-lease would have already been there when I came in, and I think the sub-lease was prepared by the Lands people.

THE COMMISSIONER: I accept that and I can also understand the fact that you are not a qualified Agriculturist, you would not be, technically speaking, in a position to answer us on that.

A: Thank you, your Honour.

MR TUSAIS: Yes, okay, which brings us back to what Commissioner asked you previously. He stated to you that you do not hold Agricultural qualifications or any training to equip you to prepare those reports. Just related questions; are there any Agriculturists actually employed by DD Lumber?

A: As of now, not yet, counsel, because we have not started yet. Unless the approval has been done - I mean like the Five Year Plan and Annual Plan, and that is the time that the company will hire the Agriculturist for this matter.

Q: I will go back again and just explore this area. For a FCA, that is, Forest Clearance Authority - Forest Clearing Authority under Special Agriculture and Business Lease - to be granted, the developer or the person wishing to get FCA approval to cut the trees must actually have agricultural qualifications too before the FCA is issued. You are a Forester. Are you familiar with those provisions under the Forestry Act Section 90A?

THE COMMISSIONER: And 90B?

MR TUSAIS: And B?

A: I have not read that section of that Forestry Laws, counsel.

Q: Do you know what a FCA is?

A: Yes, counsel.

Q: What is it?

A: It is a clause for clearance authority; in this case agriculture.

THE COMMISSIONER: What is its nature? Do you understand its full nature?

A: Yes, Commissioner.

Q: All right. Then I will ask you, what is the maximum hectarage you can clear at any one time under a FCA?

A: There is a target approval for the clearance. So it should be 500---

Q: No, you answer me simply.

A: 500 hectares.

Q: You answer the question. What is the maximum hectarage you can clear at any one time under a FCA?

A: For landscape agriculture, Commissioner, it is 500 hectares. After develop, then there is another approval for another 500 hectares.

MR TUSAIS: I am going to ask you. Why did DD Lumber sister company not come and apply to be developer of that project in Mukas Melkoi?

A: Counsel, not the sister will come. The DD Lumber will hire its agriculturist to do this agriculture project.

THE COMMISSIONER: Hire a sub-contract, in other words.

A: Maybe, I am not sure. Or, maybe because we will hire the Agriculturist by himself, DD Lumber.

Q: Do you not think that these people are better off engaging directly their expert Agriculturist company rather than doing it through you, DD Lumber, if that is the case?

A: No---

Q: Why become a middle man?

A: No, maybe because---

Q: Do not give me maybe. Either you know or you do not know. I am not going to sit here all afternoon taking maybes.

A: Sorry, Commissioner.

[4.15 pm] Just a preliminary acquisition of the project. So the company already started development for agriculture and my role would be on the other projects, not in this project anymore.

Q: Is he the appropriate company official to be answering these questions?

MR TUSAIS: Perhaps, his role is limited to Forestry matters. Is that what you are?

A: Yes, counsel.

THE COMMISSIONER: Who is your principal? Who is the Managing Director of your company?

A: The Managing Director is Yu Ming Yung.

Q: Where is he?

A: He stays overseas. We have the one who manage or do the preliminary coordination is the General Manager.

Q: Yes.

A: He is Ting Chong Hoi.

Q: Where is he?

A: He is in Port Moresby.

Q: In Port Moresby?

A: Yes.

Q: Mr Tusais, perhaps you could note these two Executives of DD Lumber who we can continue with the hearing of this matter in Port Moresby where we will call them.

MR TUSAIS: Okay.

THE COMMISSIONER: Go on, thank you.

MR TUSAIS: We will move onto other areas. When you started with 2008, did you actually go into the area in Mukas Melkoi?

A: No, counsel.

Q: You have not set foot in Mukas Melkoi?

A: No, counsel.

Q: So how did you know how to prepare those reports if you do it by remote control? You have not been there.

A: We just base with the local hirer that had been sent there, so we just base to do reports or just compile them, all these things based on paperwork.

Q: Maybe you also saw reports done for other projects in other provinces and kind of cut and paste?

A: No, counsel.

Q: Okay. As an official of this DD Lumber company, are you aware of what the landowners on the ground are saying about the project? Are they all for the project? Are they with you or are there some landowners who do not want DD Lumber to – and Rera Holdings - in partnership to carry out this oil palm project?

A: In any project, counsel, there is always an opposition. So in here, there is I think some groups that do not want Rera Holdings to spearhead the project and maybe they do not want DD Lumber.

THE COMMISSIONER: Mr Lucero, counsel is not asking about any other project in relation to this one. Are there any objections?

A: Sorry Commissioner?

Q: And what kind of the objections are those?

A: I am not familiar, Commissioner.

MR TUSAIS: Okay, I will just ask you a few other questions and I will be finished. In that project proposal - we know you are not an Agriculturist but you put that project proposal together - your company DD Lumber, it plans to cut down trees before planting oil palm and setting fire to large tracks of land before they plant the oil palm. Is that what you propose to do?

THE COMMISSIONER: Burn the debris, in other words, to burn the cut debris; the trees?

[4.23 pm] A: The plant is not like that, to burn the debris because that will still - burning large debris would also, I mean, give this carbon and will help in concentration in the carbon atmosphere.

MR TUSAIS: Commissioner, I think it is in volume 1 in the attachments.

THE COMMISSIONER: Yes.

MR TUSAIS: That is an agricultural plan to grow oil palm. Sorry, I photocopied this but it was in---

THE COMMISSIONER: Attachment 9, I will just – bear with me, counsel, it is important. Just take some time and I will get to it. By the way, the Sub-Lease Agreement is in this – in volume 1 also of this – the document has been tendered as exhibit 1A. Just letting you know so that you can always find it here. I think it is in Volume 2 because it is attachment 9. I have almost got it, counsel, just bear with me.

MR TUSAIS: Yes, Commissioner, I have found it.

THE COMMISSIONER: It says here at page 11 of the document attached in volume 2 as attachment 10, and it says “Oil Palm Plantation Feasibility Study”; and at page 11, second paragraph it says, “Burning of the felled area has to be carried out after 45 to 60 days of dry weather to ensure a successful burn.

Burning is a very dangerous operation that requires full and close supervision of experienced personnel.” That is what you say here.

A: That is the document prepared by the Agriculturist hired by the company and on the---

Q: You hired from where? Agriculturist you hired from where?

A: A local just to prepare the - a Papua New Guinean just to prepare that portion of the attachment.

Q: Mr Lucero, it does not matter who is engaged to prepare any document. It becomes the property of the Principal who instructed for this kind of a thing to be prepared. Do you understand that?

A: Yes, Commissioner.

Q: You cannot detach your company from this proposal by simply saying it was prepared by that bloke we just hired down the road. You understand?

A: Yes, Commissioner.

Q: This is your proposal to burn.

A: Yes, Commissioner, but the strategy can be revised in the submission of the Annual Plan and the Five Year Plan.

Q: Revised. When will that be revised when you have already got a sub-lease that nearly numbers up to 99 years giving you access into that area.

A: Because there is still approval for the Five Year Plan, Commissioner. It is not that we get the sub-lease, we can go direct to the area. We still need the approval for Forestry and---

Q: Do you not think it would be more appropriate to ensure you have every plan in its exactation before you even give an access by way of a sub-lease into the area? Do you not think that is the proper way of doing things?

A: Yes your Honour.

Q: You want the benefit of these documents?

MR TUSAIS: Commissioner, without appearing to beat the subject to death, I am going to put another aspect of this report. This is on page 55 pagination. I am not sure where it appears but this is after the nursery 5.9 - paragraph 5.9. It is titled "Land Preparation for Planting of Oil Palm; Preparing the Site". While Commissioner is flipping through, you just listen while I read this. This is from the report you submitted to Agriculture Department and then to Forestry.

It says, "DD Lumber will clear the land for planting in phases. Each phase will cover average land area of 5000 hectares". Further down you say, "When the process of removing the trees from the cleared site is completed, the cleared land will be left out for a while in order to let the felled remnant to dry. Fire will then be set to the whole plantation site when the remnant of the clearing is dry." That is what it says in there. Do you remember seeing that?

A: Yes.

Q: Okay. What I want to know and I have put this to Mr Daink in Port Moresby, is this modern agriculture practice? It sounds a bit like a primitive subsistence slash-and-burn method of practice of conducting agriculture on a large scale. What are your views?

A: By that time this thing was prepared in 2008, so at that time this standard or, I mean, acceptable land preparation at that time. But nowadays, they have changed already because of this climate change.

THE COMMISSIONER: Mr Lucero, Papua New Guinea had come a long way from subsistence form of agriculture. This report or rather this proposal, agriculture development proposal, had been prepared well after those times of slashing and burning in a primitive style.

You introduced yourself as the person who had been employed and placed in charge to develop an agriculture proposal. We have taken note of the fact that you are not an Agriculturist by qualification. Do not take us around in circles giving us what you consider to be an appropriate answer to these questions. Either you know or you do not know. Is that understood?

A: Yes, Commissioner.

Q: Question has been put to you. Is that an appropriate method of clearing and preparing land for oil palm planting? If you do not know, you simply say, I do not know. What is your answer to that?

A: No, your Honour.

Q: You do not know?

A: Yes, Commissioner.

MR TUSAIS: Commissioner, I do not think I will get---

THE COMMISSIONER: Any further.

MR TUSAIS: I will be achieving anything by going further with this witness. He has stated his involvement in the project.

THE COMMISSIONER: Yes. I would like him to – Mr Tusais, I would like him to lead us to the appropriate person in their company, the sub-lessee---

MR TUSAIS: Yes.

THE COMMISSIONER: To give us some of these answers. It is imperative to the Terms of Reference of this Inquiry. And as he had already indicated his Managing Director and General Manager who – General Manager who is in Port Moresby and the Managing Director, I imagine, is still engaged in the Chinese New Year overseas because that is where everyone had gone; and we may be able to call them to cast some light on this technical issues we are raising.

MR TUSAIS: Yes.

THE COMMISSIONER: For the purposes of this Inquiry. Perhaps, Mr Tusais, I could ask him.

MR TUSAIS: If it pleases.

THE COMMISSIONER: I could ask Mr Lucero some questions in that regard. You were asked by your principals to come and give evidence in this Inquiry?

A: Yes, Commissioner.

Q: Who in particular?

A: The General Manager, Commissioner.

Q: Who is?

A: Ting Chung Hoi.

Q: Ting Thung Hai?

A: Ting Chung Hoi, H-o-i.

MR TUSAIS: Could you just spell that for the record so we get it right?

THE COMMISSIONER: Yes, can you spell that name to us?

A: Ting, T-i-n-g; Chung, C-h-u-n-g; and Hoi, H-o-i.

[4.29 pm] Q: Mr Lucero, it is not the purpose of this Inquiry to make monkeys out of people who appear before it. Definitely, if we appear to be placing you in a difficult position, I would like to explain to you that you can only do the best you can as far as your employment engagements are concerned. Without any derogation as to your individual position, your personal respect-integrity is all maintained; we respect you for what you are.

A: Yes, Commissioner.

Q: You can only be under directions of your superiors.

A: Yes, Commissioner.

Q: So take no offence from the way we have been conducting these questions.

A: No problem, Commissioner.

Q: Good.

MR TUSAIS: Commissioner, perhaps this witness can assist us in just one other area before we excuse him.

THE COMMISSIONER: Yes.

MR TUSAIS: Apart from yourself, are there any other workers who are non-Papua New Guineans? Are there any other foreigners working on this Mukas Melkoi Large Scale Integrated Agriculture Project?

A: Right now, not yet because it was not started yet. But when it commenced, the – like the ground, survey and everything, ground preparation, the company will hire. Because just right now, just work on preliminary approval like the paper plan, the annual plan and these things.

Q: Yes. In the two volumes – at least in one of the volumes – DDL, the company intends to recruit workers from Indonesia, Malaysia and Philippines, your country.

A: Yes.

Q: It is stated in there.

A: Yes.

Q: Okay. Do you know how many they plan to recruit?

A: From the – it is just 6 per cent or something like that, only after we cannot hire technical expertise here in Papua New Guinea; this is the last option to hire from overseas.

Q: Commissioner, I do not have any further questions in relation to this witness.

THE COMMISSIONER: Neither do I. He is not – Mr Lucero is not in a position in terms of executives of the company to be able to answer questions – pertinent questions in relation to the corporate structuring and so on. And so, I think, we should excuse him from further evidence.

A: Thank you, Commissioner.

Q: But we will take note and we will take appropriate action. If you can advise your principals that we intend to summon them to give evidence possibly in Port Moresby.

A: Yes, Commissioner, I will do inform them.

Q: And you counsel – the company’s counsel is also taking note of what I am saying. All right, Mr Lucero can be excused. You can be excused. Thank you very much for coming.

A: Thank you, Commissioner, counsel.

Q: Yes.

THE WITNESS WITHDREW

THE COMMISSIONER: Where does that take us to in terms of---

MR TUSAIS: I have got quite a number of witnesses listed.

THE COMMISSIONER: Yes.

MR TUSAIS: It is going on to 5.

THE COMMISSIONER: Would you like us to take---

MR TUSAIS: Start afresh if Commissioner is willing to sit tomorrow.

THE COMMISSIONER: It is up to you; I am willing to. But I understand you can – I am available, but you might want some time of your own. You can suggest to me if you want to, we can proceed tomorrow. Otherwise, we can proceed on Monday.

MR TUSAIS: I will just consult with both counsel.

THE COMMISSIONER: By all means.

MR TUSAIS: Sorry, Commissioner, I have consulted with my pair of counsel here. They are prepared to be here on Monday; make changes to their travel plans and fly out on Tuesday.

Perhaps, if we started early on Monday morning 8.30, I plan to start with persons who are objecting to the SABL so that witnesses – clients of Mr Otto here who are representatives of Rera Holdings, can listen and perhaps explain what the detractor say to this so we get a bit of a balance.

THE COMMISSIONER: They can countermand whatever allegations may be---

MR TUSAIS: Maybe shown instead of speaking first and later sitting there and listening to all these without having a chance to---

THE COMMISSIONER: Yes.

MR TUSAIS: I think both counsel agree to this approach.

THE COMMISSIONER: Yes, and shaking their heads terribly wildly.

MR TUSAIS: Yes, Commissioner.

THE COMMISSIONER: I agree we should proceed in that manner on Monday. What time do you suggest on Monday?

MR TUSAIS: 8.30, Commissioner.

THE COMMISSIONER: 8.30?

MR TUSAIS: We start on 9 or at least before 9 o'clock.

THE COMMISSIONER: I prefer we start at 9.

MR TUSAIS: Thank you.

THE COMMISSIONER: As you know, we all came from the private practice and, usually, we take the first hour of the day to ensure our officers – where we will revert to when this Inquiry is over and where our bread and butter will be; that our officers are up and running before we continue with this. So 9 o'clock, please, on Monday.

MR TUSAIS: Thank you.

THE COMMISSIONER: All right, adjourn the Inquiry to – with regard to Rera Holdings to Monday at 9 o'clock in the morning, Monday 13.

AT 4.35 PM, THE COMMISSION OF INQUIRY INTO SABL WAS ADJOURNED UNTIL MONDAY, 13 FEBRUARY 2012, AT 9.00 AM.

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