

TRANSCRIPT OF PROCEEDINGS

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COMMISSION OF INQUIRY INTO SABL

MR NICHOLAS MIROU

COMMISSIONER

KIUNGA VOCATIONAL TECHNICAL COLLEGE, MONDAY 21
NOVEMBER 2011 AT 9.00 A.M.
(Continued from Saturday 19 November 2011)

COMMISSIONER MIROU: Yes, good morning, Mr Bokomi.

MR BOKOMI: Commissioner, good morning to you. For this morning's hearing of the Commission of Inquiry into Special Agriculture and Business Leases in the Western Province, you would note that we have a number of witnesses' whose summons are returnable this morning. However, I would propose that those particular witnesses come back at 1.30, in particular, those are the witnesses who are executives of North East West Investment Limited; namely Waiti Kwani. Waiti Kwani, are you there? Please stand up. Foxy Asobi, Ronson Moiya, Samson Ubre---

COMMISSIONER MIROU: And Mrs Waine; Betty Waine.

MR BOKOMI: And Mrs Waine.

COMMISSIONER MIROU: Good morning. Counsel will be ready to hear your evidence this afternoon if you can bear with the Commission. We need to call evidence from Tosigiba. So in regard to your evidence, we will hear you this afternoon at 1.30. So thank you for coming this morning and presenting yourself, and we will be ready this afternoon to hear each of you your evidence as per the statements that you have submitted to the Commission. You may be excused to do other things during the day if you wish to, but you can come back at 1.30 pm this afternoon, okay.

MR BOKOMI: The other two witnesses in relation to portions 27C and 1C, as well as portion 14C and portion 1C Tumu Timbers Development Limited and Tosigiba Investment Limited, respectively, are as follows: Mr Michael Titus of Titus Lawyers is in the court room – sorry, the hearing room and Mr Hudson Hape, please come forward. Can you come forward?

COMMISSIONER MIROU: Please come forward.

MR BOKOMI: These two witnesses, for the record, I know them personally. So I will refrain from cross-examining them. So Mr Tusais will bear that responsibility. He will do that tomorrow, on his indication. He is preparing to basically have them cross-examined. So he asks that these two particular witnesses, their summonses be made returnable again tomorrow. So we are asking for an adjournment to 9.30 am.

COMMISSIONER MIROU: Okay. The Commission notes attendance of Mr Michael Titus. Thank you for your attendance and Mr Hudson Hape. Counsel has disqualified himself from taking you – cross-examining you in your evidence. So we will allow time tomorrow at 9.30 am when Mr Paul Tusais, the

Lead Counsel Technical, will undertake that to examine you tomorrow morning. So I thank you for attending this morning on a summons that was issued to you late on Saturday afternoon and which was returnable this morning. Your attendance has been noted and we will adjourn to tomorrow morning for evidence to be taken. So in the meantime, you are both excused. But before you are excused, Counsel, is there a matter that needs to be ascertained in terms of any probable disruption or cause for concern?

MR BOKOMI: Yes, thank you for bringing back my recollection, Mr Commissioner. It has been brought to my attention that Mr Titus---

COMMISSIONER MIROU: And Mr Hape.

MR BOKOMI: Apparently may have been verbally and almost physically abused in Port Moresby during the openings of this particular Western Province SABLs. For purposes of the integrity and the production of the Commission's work as well as for his personal safety and security, I ask that the Commission make the appropriate direction to ensure that there are no disruptions from any interested persons insofar as the proceedings of the Commission are concerned, as well as the evidences from witnesses that are given before the Commission and also for the Commission's witnesses, particularly Mr Michael Titus.

COMMISSIONER MIROU: Yes, and other the witnesses who are under summons.

MR BOKOMI: And other witnesses as well. It is an offence being contempt of the Commission if you start disrupting the Commission's proceedings as well as taking on matters physically. So for those of you who are present, please bear in mind that the Commission has penal powers to seek police assistance to have you all locked up if you start disrupting the Commission's proceeding, including the Commission's witnesses. These witnesses are not your witnesses. All of you are the Commission's witnesses. Thank you.

COMMISSIONER MIROU: Maybe if I can just interpose here.

MR BOKOMI: Yes.

COMMISSIONER MIROU: For those who are present in this hearing and this is a public inquiry, an inquiry for everyone to be present. Under our powers too, the Commission has the power to summons witnesses and you have seen that there are some who have volunteered information and there are some that have come under summons. That includes Mr Michael Titus, Mr Hudson Hape and the executives of North East West Limited and other persons of interest to

the Commission. This Commission also has powers under the Commissions of Inquiry Act, which in my opening address, I had mentioned that these powers will be enforced if any person interrupts or willfully insults the Commission. That includes the witnesses. The Commission must accord protection to its witnesses who have been summonsed to appear. Despite those concerns that you have with regard to your land, I must insist and enforce that direction that if any of these witnesses are insulted, or assaulted, or intimidated, or harassed and if it comes to the attention of the Commission, this Commission will not hesitate to deal with those persons. These witnesses are of interest to the Commission, and their evidence will assist us to make the necessary recommendations to the Government next year, and therefore, to allow this Commission to work in this manner, it is best that you will refrain from any such actions that you intend to do.

There was an incident, Counsel has alluded me to, in Waigani, when the opening was made in regard to these SABLs. So please refrain. The Commission does not want to go down that path of prosecuting any person for willfully disrupting its work here. We thank you. You are a good public that is here to – you have an interest in the matters, so let the law take its proper course and the Commission’s work so that we can find a better solution to what has happened in the SABLs. So I thank you for your attention and take note of what the Commission’s powers are. Thank you Counsel. Mr Titus and Mr Hape, you can be excused for the day if you so wish to until 9.30 am tomorrow.

MR BOKOMI: There is one more witness, one more person who has opted to give his evidence this morning. He is the company forester for IT&S, Independent Timbers and Stevedoring, Mr Mai Digaba. Come forward.

This particular witness, Commissioner is not under summons but he has voluntarily opted to give evidence, hence I basically seek the Commission’s direction to direct him to appear---

COMMISSIONER MIROU: 9.30.

MR BOKOMI: Together with Mr Hape and Mr Titus in the morning tomorrow at 9.30 a.m.

COMMISSIONER MIROU: Okay, yes.

MR BOKOMI: His name is Mai Digaba. Mai is spelt M-a-i; and Digaba, D-i-g-a-b-a.

COMMISSIONER MIROU: Sorry – yes, okay. Mai, you are excused. Thank you for volunteering your information to the Commission. We will hear from you tomorrow morning at 9.30 a.m. Thank you.

MR BOKOMI: Thank you, Commissioner. I will, as a matter of course, be organizing the witnesses now for Tosigiba. So I would ask for an adjournment of about 10 minutes.

COMMISSIONER MIROU: Yes, okay. We will adjourn proceedings for 10 minutes.

SHORT ADJOURNMENT

[10.24 am] COMMISSIONER MIROU: Mr Bokomi?

MR BOKOMI: Thank you once again, Commissioner. Before we proceed, in light of the evidences that have transpired, I seek consequential directions – further consequential directions from the Commission to be issued to Messrs Imen Ité Papa, the Acting Provincial Lands Advisor, Western Provincial Administration and the District Administrator, Mr Ronald Manise DMonai, to appear before the Commission today in this morning's part of the Commission's session for today and that the police be directed to drive up to their offices and advise them to come down to the Commission's hearing room immediately.

COMMISSIONER MIROU: Any particular reasons?

MR BOKOMI: Yes, because of their involvement in signing of all those Land Investigation Reports and their recommendations as to alienability. We need to determine the motivation behind them signing those---

COMMISSIONER MIROU: So you require them for further evidence?

MR BOKOMI: Yes, for further examination.

COMMISSIONER MIROU: Okay, thank you, Counsel. Upon hearing Counsel's request for the recall of two witnesses who were summonsed at the beginning of this sitting, the Commission will direct the Commission's police officers, Mr Patrick Debessa and Mr Dokta McKenzie to ensure that the witness, Mr Ité Papa, Acting Provincial Lands Officer with the Provincial Administration office here in Kiunga, as well as the District Administrator, Ronald Manise DMonai to be advised to attend the hearings prior to 12.

MR BOKOMI: Yes.

COMMISSIONER MIROU: Prior to our adjournment at 12, lunch time today. If this can be immediately attended to, together with members of our Kiunga Police Force. Thank you, Counsel.

MR BOKOMI: Thank you.

COMMISSIONER MIROU: The recall is basically to ascertain further information with regard to the signing of instruments in relation to the issuance of SABLs to portions 27C---

MR BOKOMI: 1C.

COMMISSIONER MIROU: Portion 1C and portion 14C which is in the name of Togisiba Limited.

MR BOKOMI: And Tumu Timbers Development.

COMMISSIONER MIROU: And Tumu Timbers Limited.

MR BOKOMI: Yes, that is also portion 1C.

COMMISSIONER MIROU: That is part of portion 1C.

MR BOKOMI: No, that is a different portion 1C.

COMMISSIONER MIROU: Oh, I see. So Tumu Timbers which is portion 1C.

MR BOKOMI: It is portion 1C as well, Commissioner.

COMMISSIONER MIROU: Okay, thank you.

MR BOKOMI: Commissioner, I now propose to deal with the first Togisiba witness for this morning, that is Mr Dina Gabo. Mr Dina Gabo has prepared a written statement which he will be reading into the---

COMMISSIONER MIROU: Thank you, that is very useful and quicker.

MR BOKOMI: Yes. So Mr Dina Gabo, please take the witness box.

DINA GABO, Sworn:

XN: MR BOKOMI

COMMISSIONER MIROU: Please be seated, Mr Gabo and Counsel will take you through the introductory aspects of your evidence and then you may read your statement into evidence.

MR BOKOMI: Mr Gabo, for record purposes, could you state your full name and also spell your name into the microphone for our transcript record purposes?

A: Commissioner, my full name is Dina Gabo. The first name spells D-i-n-a; surname Gabo, G-a-b-o. I am the Chairman of Togisiba Timber Group Limited.

Q: Witness, I will stop you there. Where do you come from?

A: I come from Nomad LLG area in the Middle Fly District.

Q: What particular village?

A: I come from Sodiobi village.

COMMISSIONER MIROU: Sorry, spell that.

A: S-o-d-i-o-b-i.

Q: Thank you.

MR BOKOMI: What clan from that village of yours do you come from?

A: I come from Yugri clan but on my ILG because we put three clans together, we pick two initials from those clans to come up to make up to that clan group name or ILG name.

Q: What is your position within that particular clan?

A: My position within that clan, I am the Chairman of that ILG in the clan.

Q: Very well. Do you know anything about this particular portion 14 C, Special Agriculture and Business Lease?

A: Yes.

Q: That is now under consideration by the Commission of Inquiry?

A: Yes.

Q: I note you have prepared a written statement in regard to that. Perhaps, I suggest you read that statement to the Commission for its record purposes and thereafter, I can ask you questions on that. Thank you, Mr Gabo, you may proceed to read your statement. Before you do so, I will seek to tender for the benefit of the Commission, a copy of your statement Mr Gabo, that is dated Friday 18 November 2011. On top it reads, "Tosigiba Timber Group Limited, Kiunga, Western Province, and the title is "Submission to the Commission of Inquiry into the Special Purpose Agriculture and Business Leases."

COMMISSIONER MIROU: This one will be exhibit Tosigiba number 7.

MR BOKOMI: Yes.

COMMISSIONER MIROU: Tosigiba 7, that is under the letterhead of Tosigiba Timber Group Limited, Kiunga, Western Province, is a submission to the Commission of Inquiry, SABL, Friday 18 November 2011, by Mr Dina Gabo, Chairman of Board of Directors of Tosigiba Timber Group Limited.

[EXHIBIT TOSIGIBA 7 – STATEMENT OF MR DINA GABO DATED FRIDAY 18 NOVEMBER 2011 UNDER LETTERHEAD OF TOSIGIBA TIMBER GROUP LIMITED, KIUNGA, WESTERN PROVINCE]

COMMISSIONER MIROU: Thank you, Mr Gabo, you may proceed with your evidence.

MR BOKOMI: Mr Gabo, please speak loudly and clearly into the microphone as you are reading your statement.

A: Thank you, Commissioner. This submission is from Tosigiba Timber Group Limited, Kiunga, Western Province, submission to the Commission of Inquiry into Special Purpose Agriculture and Business Lease dated Friday 18 November 2011, submission in respect of SABL granted to Tosigiba Investment Limited. Overall, that piece of land known as Arwin Puri being portion 14C milinch Carrington Karius Strickland, Bosawi, Campbell, Aiema, Tumu River or Tomu and Sisa;

fourmil Kutubu, Wabag, Blucher and Raggi, Western Province, having an area of 632,538 hectares as registered on the Survey Plan catalogue number 28/126 publicized in the National Gazette No G218 dated Friday 24 September 2010.

[10.34 am] Submission of Dina Gabo, Chairman of Board of Directors, Tosigiba Timber Group Limited. The company number 1-25389, incorporated and registered 27 March 1996.

- “1. I am the Foundation Chairman of the Directors of Tosigiba Timber Group Limited.
2. I tender a copy of the Certificate Incorporation dated 19 August 1996 on change of name of the company from Jindari No 1 Pty Limited to Tosigiba Timber Group Limited. Number of company, number 1-25389, together with the original application for Registration containing the list of directors of the 81 ILG shareholders.
3. The initial and current shareholders are 81 Incorporated Land Groups representing people of the Tomo River, the Siu River, the Girome River and the Baiyer River areas of part of the Nomad District of Western Province.
4. On 26 November 1996, our company was registered as a Forestry Industry Participant registration number F1797.
5. The purpose of forming our company was to encourage a developer of our remote areas in cooperation with a logging company. At that time we, together with other landowner groups, were being assisted by RH.
6. In 1998, we ceased discussing with RH. In 2003, Mr Kala Swokin introduced me to Mr Neville Hussley whom Mr Swokin said was with an humanitarian company which were interested in constructing road from Kiunga to Nomad.
7. The first public meeting was held in the Kiunga Local Level Government chamber and was addressed by Mr Hussley who said that he represented Independent Timber and Stevedoring Limited and a Mr Paul Japhlom who said that he represented PNG Agency International Development PNG Aid.
8. At that time, I advised them of the existence of Tosigiba Timber Group Limited.

9. Subsequently, Mr Max Maiaba of the Damari tribe asked for my assistance in formation of his company Kebogas Investment Limited.
10. My company Tosisiba Timber Group Limited had been deregistered some years earlier for failure to submit annual returns.
11. IT&S or Independent Timber & Stevedoring Limited accountants, Dakon Accountants and Business Consultant assisted in having it re-registered on 4 July 2008.
12. Independent Timber & Stevedoring Limited and their lawyer Michael Titus assisted in preparation of all the documents which I, my fellow Directors of Tosisiba Timber Group Limited had that agent of the 81 ILGs signed.
13. In February 2009, the agent of the 81 ILGs who are shareholders of Tosisiba Timber Group Limited signed an Instrument of Lease for Customary Land Lease - Lease Back Agreement; Land Investigation Report number 1/314 over portion 14, Nomad, Kiunga, North Fly District, Western Province, containing 632,538 hectares Survey Plan card number 128/126. They signed the instrument in my presence as Chairman of Tosisiba Limited and at Nomad government station. Mr Iman Papa, District Lands Officer, and myself signed the certificate in Kiunga when I returned there on 12 February 2009. Unfortunately, I did not question the area of the land 632,538 hectares which has been inserted in all the documents prepared by IT&S, its surveyor and lawyers.
14. The National Department of Lands, if it had ordered proper land investigation to be carried out as required by legislation, we would have quickly realized that the total area of the land customarily owned by our 81 ILGS represented probably less than 1/6 of the 632,538 hectares stated to be contained in the Instrument of Lease which we have signed and would have properly refused to issue a lease over the full 632,538 hectares to Tosisiba Investment Limited or to any other proper registered company.
15. I tender a copy of the map prepared by Mr Hudson Hape, the Surveyor employed by IT&S and accepted by the Lands Department as the registered plan of the boundaries of the lease issued to Tosisiba Investment Limited.

16. I have highlighted in yellow the road of the proposed Trans Papuan Highway as surveyed by Mr Hudson Hape. It was the timber in a corridor area side of alignment which the landowners of our 81 ILGs are negotiating in good faith to say that to IT&S in consideration for them building a road and standard as laid down by the National Department of Works.
17. I have highlighted in pink the names of all the villages in which members of our 81 ILGs reside. Some of our villages have not been inserted by Mr Hudson Hape. I have highlighted that in pink and approximately of the total area of land customary owned by members of our 81 ILG groups.

MR BOKOMI: Can I pause you there, witness. Is this the map in relation to portion 14C that you are making reference to with all your inscriptions as to the road corridor called Trans Papua Highway and the area marked with ink – pink ink basically relating to the portion of land covered by the 81 ILGs? If you can identify that? Is that the map?

A: Yes.

Q: Commissioner, I ask that that particular map with the various---

COMMISSIONER MIROU: Colours.

MR BOKOMI: Lineal markings be admitted into evidence and marked as exhibit Tosigiba number 8.

COMMISSIONER MIROU: Exhibit Tosigiba number 8 is referred to the affidavit of Mr Gabo, paragraph 16; 17, where he makes reference to the yellow marking is the proposed Trans Papuan Highway and pink depicts where the 81 ILGs reside. Would that be correct?

A: Yes.

Q: Okay, and that is under portion 14C.

[EXHIBIT – TOSIGIBA 8 – AFFIDAVIT OF MR DINA GABO, PARAGRAPHS 16 AND 17]

Yes, Counsel?

[9.47 am] MR BOKOMI: Thank you witness, you may proceed with the reading of your statement.

A: Thank you Commissioner. I tender a copy of the map prepared by Mr Hudson Hape, the surveyor employed by IT&S and accepted by Lands Department or Department of Lands as the registered land of the boundary of the lease issued to Tosigiba Investment Limited. I have highlighted yellow remote roads of the proposed Trans Papuan Highway as surveyed by Mr Hudson Hape. It was the timber, a corridor either side of road alignment which the landowners of our 81 ILGs were negotiating in good faith to seek to IT&S in considerations for them building a road to standard and laid down by the National Department of Works. I have highlighted pink in names of villages in which members of our 81 ILGs reside. Some of our villages have not been inserted by Mr Hudson Hape.

18. I have diagonally highlighted in pink and approximation of the total area of land customary owned by members of 81 ILGs. From this, it is apparent that we were only ever negotiating to check a survey, a very small part of our total customary land and in consideration for the construction of the road.
19. I have also highlighted the yellow dots to locations of the lease for mission purpose of which I believe were issued to Evangelical Church of Papua New Guinea in 1970s and 1980s, in accordance with evidence previously given to this Commission by Mr Max Ako, the representative of Evangelical Church of Papua New Guinea. They are Moguru, Honinabi, Swabi, Fuma, Habi, Esalipi and Yehebi. In the schedule of the Instrument for Lease for customary land, Lease - lease Back agreement, land investigation report number 01/314 over portion 14C, Nomad, Kiunga, North Fly District, Western Province, refer to above.
20. Part 2. Term of the lease is for a period of 25 years. (a) In the schedule of the Instrument, part 4, appointed, nominated sub-lessor to is Kebogas Tosigiba Limited. However, the secretary for Lands issued the lease in the name of Tosigiba Investment Limited.
21. To the best of my knowledge, no company by that name has ever registered by the Registrar of Companies. I personally have no

knowledge of any such company. Moreover, the secretary for Lands issued the lease for a term of 99 years whereas the period requested us for a period of only 25 years.

22. The secretary for Lands has been negligent in the extreme in that manner in which he has issued this lease. I was and I still is the wish of Tosigiba Timber Group Limited that each 81 ILGs shareholders should be issued with a lease over each customary land.
23. It was never the intention of our company that it should be granted a lease over all of the land in portion 14, and particularly, not over land of Pedamuri and other tribes who are not shareholders of Tosigiba Timber Group Limited. Their land probably makes up more than 5/6 of all the land contained in portion 14.
24. In October 2010, I attended a public meeting at Kiunga Guest House which discussed issuing of the three Western Province SABLs issued on 24 September 2010.
25. On 30 January 2011, at the meeting Mr Warren Dutton of North-Fly Rubber Limited at the Kiunga Guest House attended by Mr Max Maoba, of Kebogas Investment Limited, Aiata and myself, I asked Mr Dutton to give me assistance in having new lease issued in the name of ILGs which represent the true traditional owners of the land covered by each lease. (b) Having the correctly issued lease declared null and void by consent. (c) Having appropriate road development as soon as possible.
26. I authorized him to have discussion with the following authorities: (1) Dr Bob Danaya, Governor of Western Province; (2) Mr Boga Kondra, Member for North-Fly; Mr William Boinao, provincial administrator; Mr Neville Harsley, Independence Timber and Stevedoring Limited; Tom Hawi, Evangelical Church of Papua New Guinea; Mogulu; Ian Ross, ECPNG, Australia; Brian Altris, AKK Associate, Port Moresby; William Frizzell, Warner Shand Lawyers, Port Moresby; David Sode, PNG Sustainable Development Program; the Secretary, Department of Lands; all other people whom Mr Dutton believe will be of assistance.

27. In May 2011, Mr Neville Harsley asked me to attend together with other directors of Tosigiba Timber Group Limited and NEWIL or North East West Investment Limited the signing of the agreement between the State of Papua New Guinea and IT&S. I then wrote a letter to Mr Harsley which was signed by Waiti Kwane of North East West Investment Limited, Mr Max Maiaba of Kebogas Investment Limited, myself as chairman of Tosigiba Timber Group Limited, asking him to send his lawyer Mr Michael Titus with the agreement to Nomad to explain it to us, the Chairmen of three landowner companies and ILG Chairmen. Mr Harsley instructed Mrs Betty Waine to tell me that he refused to do so and that I should just come to Port Moresby to sign the agreement. I refused to sign, I refused to do so.
28. Mr Soki Samsi, a director of Tosigiba Timber Group Limited and three other people were taken to Port Moresby where I am advised that he purported to sign the agreement between the State of PNG and IT&S on behalf of Tosigiba Timber Group Limited or Tosigiba Investment Limited.
29. I have since been advised by shareholders of Tosigiba Timber Group Limited that after the signing, Mr Michael Titus Lawyers, Mr Iafame and others flew from Moresby, Kiunga and then to Honinabi and then walked to Nomad station where they purported to hold a special general meeting of Tosigiba Timber Group Limited at which they purported to appoint Mr Soki Samsi as acting chairman of Tosigiba Timber Group Limited.
- [10.00 am] 30. In doing so they have blatantly breached the provisions of the Company Act. On behalf of the Tosigiba Timber Group Limited all its 81 ILGs, shareholders and all our neighboring customary landowners who were not consulted and did not give their consent to the Instrument of Lease for customary land signed by our 81 ILGs agents on 12 February 2009, I wish to withdraw absolutely that Instrument and ask the Commissioner or the Commission of Inquiry to recommend that the State revoke absolutely the lease over 14C, issued in the name of Tosigiba Investment Limited and publicized in National Gazette number G218, dated Friday 24 September 2010. Dina Gabo, chairman, Tosigiba Timber Group Limited.”

Q: Thank you Mr Gabo. I have a number of questions to ask you in relation to your statement which you have just delivered for the benefit of the Commission. The Lease Instrument that you were talking about, is it dated 12 February 2009?

A: Yes.

Q: Commissioner, I believe there are two different Instrument of Leases. This is the unsigned one that has been negotiated.

COMMISSIONER MIROU: The signed one was on 24 June.

MR BOKOMI: 24 June.

COMMISSIONER MIROU: Yes, 2009.

MR BOKOMI: There are some discrepancies. In the sense that ---

COMMISSIONER MIROU: This one here, Mr Gabo was signed on 24th of, which also has your name as a signatory towards the end of that schedule for agents. It is dated 24 June 2009. Is there another document in existence?

MR BOKOMI: Yes. Could you identify from this where your signature is? This is the Instrument of Lease dated 12 February 2009.

COMMISSIONER MIROU: That is the document that you ---

A: Yes.

Q: You saw.

A: That is right, this is the document that we signed.

MR BOKOMI: Could we ---

COMMISSIONER MIROU: Then we can, yes.

MR BOKOMI: Have this tendered as well?

COMMISSIONER MIROU: Yes.

MR BOKOMI: And have it marked as Tosigiba Exhibit number 9,

COMMISSIONER MIROU: 9, yes.

MR BOKOMI: We have that Instrument of Lease dated 12 February ---

COMMISSIONER MIROU: The Instrument of lease for customary land, Lease - lease Back and this is dated 12 February 2009 is Tosigiba Number 9. That is reference to Mr Gabo's evidence. And this exhibit can be read together with Tosigiba Number, which is the Lease - lease back Agreement signed on the 24 June 2009.

MR BOKOMI: That is correct. Perhaps, for clearance of doubt Commissioner, we also give him exhibit number 4 to identify if he had actually signed the document, that is the Lease - lease Back Agreement dated 24 June 2009.

COMMISSIONER MIROU: I probably highlighted it already so.

Q: Could you confirm if the signature on that particular lease is yours?

A: Yes.

Q: Do you recall ever signing that?

A: Yes, I did sign that.

Q: Why did you have to sign two lease instruments?

A: Commissioner, on 12 February 2009, I remember walking into Mr Imen Papa, who is the Lands officer District service - lands officer at that time - with a lease like this, this document here, and he satisfied and then I signed in front of me. He signed in front of me, I signed in front of him.

Q: Where did you sign the document?

A: Near the ---

Q: At Kiunga?

A: Kiunga head office; Mr Imen Papa's office.

Q: And the Instrument of 24 June 2009, where did you sign it?

A: I have no idea Commissioner. Because after we signed, me and Imen Papa signed, he dated 12 February 2009, here in Kiunga office.

Q: Did he give you a ---

A: That was our copy we ---

Q: Did he give you back a copy from that?

A: Yes, we gave that, this copy to IT&S office. I think Commissioner, what I see inside is correct. Only this date on top, the date that we put in is not there. They put another date in there.

Q: How many landowners were with you at the time you signed the Instrument of Lease dated 12 February 2009?

A: Yes. That was the people who all signed here were the ones who attended the signing at Nomad government station.

Q: Could you read some of their names, just at least about four of five of them?

A: Yes. Commissioner, the first name on this signed document is Kusaiyo Gobeyalom. He is from Obeyabum village. Saga Balet is from Onabi village; Sagami Wia is from Onabi village; Sameo Goya is from Onabi village.

Q: Thank you. What do you say about the date of the other instrument of lease which is dated 24 June 2009? Is that the correct date or is the 12 February 2009 being the date which is borne on the first Instrument of Lease that you signed as being the correct date? Which of the two dates?

A: Commissioner, the correct date of this instrument that we signed is on 12 February 2009.

Q: So if I put to you that 24 June 2009 is a date that has been falsified for reasons only known to the persons who were falsified that date, is that a correct proposition?

A: Yes.

Q: It is a false date?

A: It is a false date.

Q: The 24 June?

A: Yes.

Q: 2009?

A: Yes.

Q: Commissioner, I am asking him this particular question because that is the Instrument of Lease dated 24 June 2009 on which basis the Notice of Direct Grant has been issued on the 24th or 23rd September 2010.

COMMISSIONER MIROU: And Mr Gabo also in initial application seeking your land to be freed up, the application was made on behalf of Tosigiba Investment Limited. This document is attached to this Instrument of Lease - lease Back which is dated 24 June 2009. Are you now aware that when this application was made on this 24 June 2009, it was made on behalf of Tosigiba Investment Limited, a landowner company, not Tosigiba Timbers Limited, of which you are the chair.

A: Commissioner, I have no knowledge. As I have spelt out on my statement that Tosigiba Investment Limited, we have never signed up a document or Lease - lease Back Agreement under that name for our land to be leased to this company. We only know is Tosigiba Timber Group Limited which we signed ---

COMMISSIONER MIROU: Of which you are the chairman.

A: Yes. Which we signed on the 12th of February 2009 at government station, Nomad.

[10.12 am] MR BOKOMI: You stated in your statement that Mr Samisi, is it, who actually signed the – yes, Mr Soki Samisi signed the agreement for and on behalf of Tosigiba Group Limited. That is the agreement which is known as Gre Dringgas Duara Wawoi Falls Trans Highland Highway states two road project agreement. Could you tell the Commission if this is Mr Samisi's signature, to the best your knowledge?

A: Yes, Commissioner, the signature here signed on behalf of Tosigiba Timber Group Limited is Mr Soki Samisi's signature.

Q: Commissioner, a copy of that agreement has been tendered into evidence in the other two proceedings in relation to portions 14 - 27C and 1C. The document at page 44 bears the signature of Mr Soki Samisi.

Mr Samisi, according to company records of Tosigiba Timber Group Limited, held and maintained by the office of the Registrar of Companies, Investment Promotion Authority, Konedobu, National Capital District,

has Mr Samisi as a Director of that company. Is he still a director of the company to this day?

A: Yes, Commissioner, Soki Samisi is still a Director of Tosigiba Timber Group Limited.

COMMISSIONER MIROU: This is the guy who – this is the man who replaced you as Chairman of---

A: Yes.

Q: Okay.

MR BOKOMI: At that time that you signed the agreement that I have just referred to, who was the chairman of the board?

A: I was the Chairman of the Tosigiba Timber Group.

Q: You were the Chairman of the Board?

A: Yes.

Q: Prior to you signing the agreement, were there any shareholders meeting or directors meeting conducted to appoint him as the company director and agent to sign the agreement?

A: No.

Q: I seek to tender---

COMMISSIONER MIROU: It is referred to as Level 27C, number 7. You wish also to?

MR BOKOMI: I seek to tender the current extract for Tosigia Timber Group Limited.

COMMISSIONER MIROU: Yes, okay.

MR BOKOMI: We do not have additional copies. We can take that back from you later on and make copies.

COMMISSIONER MIROU: Yes, Counsel.

MR BOKOMI: But I will have it marked as Tosigiba---

COMMISSIONER MIROU: 10.

MR BOKOMI: Exhibit Tosigiba number 10.

COMMISSIONER MIROU: So this is the, what, the historical extracts and the current---

MR BOKOMI: That is the historical extract.

COMMISSIONER MIROU: From IPA?

MR BOKOMI: Yes.

COMMISSIONER MIROU: Thank you, Mr Bokomi.

MR BOKOMI: There was no meeting at all?

A: No, the meeting was held to – him to be put as acting Chairman after the signing of the agreement. When they returned back from Moresby, they went and had a meeting to put him as acting Chairman.

Q: Where did the meeting take place?

A: In Nomad.

Q: In Nomad.

A: Government station.

Q: What meeting was that? Was it the shareholders meeting?

A: Commissioner, that I would not know because at that time, I was in Balimo.

Q: You were never given notice of that meeting?

A: No.

Q: Who instigated that meeting?

A: I believe it must have been done by Titus Lawyers.

Q: Commissioner, I would like to make an observation here. It appears Mr Max – Mr---

A: Soki.

Q: Yes, Soki Samisi may not have had the authority from the company called Tosigiba Timber Group Limited pursuant to the relevant provisions of the Companies Act 1997, as there being no shareholders meeting or a board of directors meeting appointing and sanctioning him as the company representative and agent to sign this particular agreement which is now called the **Gretringas Duara Wawoi Falls**Trans Highlands Highway Road Project Agreement.

COMMISSIONER MIROU: We will take note of that observation, subject to further evidence.

MR BOKOMI: Yes.

COMMISSIONER MIROU: Is he available?

A: Yes.

Q: He is in the hearing room?

A: Commissioner, he is here; he is in the room.

MR BOKOMI: And further, it is up to Mr Dina Gabo to challenge any changes that have been made in terms of chairman and the directorship of the company he has assisted to form, Tosigiba Timber Group Limited, by seeking appropriate legal representation as he considers appropriate to challenge the validity of the changes pursuant to the Companies Act---

COMMISSIONER MIROU: I mean, he has that authority, so---

MR BOKOMI: In particular, section 102 of the Companies Act which requires giving of notice as a prerequisite to any director who wishes to be changed.

COMMISSIONER MIROU: Yes.

MR BOKOMI: Whom the bulk of the directorship of a company wishes to be changed. He must be put on notice and that must also form the agenda for the meeting.

COMMISSIONER MIROU: So that is a matter for you to consider.

MR BOKOMI: Yes.

COMMISSIONER MIROU: But by taking appropriate legal advice. Thank you.

MR BOKOMI: I will take you back to the Lease Instrument of 12 February 2009. When you and other landowners were signing, at that point in time did you know who actually prepared the instrument.

A: Commissioner, I did not know who prepared the instrument but we were called into Port Moresby by Mr Hussley together with executives of North East West Investment into Moresby. We spent a day there, a night there and then we came back again.

Q: I will stop you there. When you were in Port Moresby, did anybody bring to you a copy – a draft copy of that agreement and explain to you the terms of the agreement so as to gauge your approval or not?

A: Yes, Commissioner, we were all at IT&S office at Pacific View, 2 Mile Hill at 10th floor. Then we were told that we will be coming back with this document for the landowners or ILG's Chairmen to sign, but I was not properly briefed or explained further on this document.

Q: Who prepared the instrument, the Department of Lands or the IT&S?

A: When I saw the letterhead, I knew that it was from the department.

Q: But it was never given to you by a Lands Department officer from the Customary Lands Division?

A: No.

Q: Did you ever have any meeting?

A: No.

Q: When you were in Port Moresby with officers of the Department of Lands in regard to that particular document?

A: No.

COMMISSIONER MIROU: Mr Gabo, you have mentioned that members of the – executives of NEWIL was also there.

A: Yes.

Q: Who was there? Can you name them?

A: Mr Waitik Wane, the Chairman of NEWIL.

Q: Yes.

A: Foxy Asobi, Secretary of NEWIL; and Mr Max Miaba, Chairman of Gebogas Investment Limited and myself.

sabl5 – 21/11/11 – t/7 – s. mai

[10.23 am] MR BOKOMI: When you were given that particular document, the Instrument of Lease by IT&S at their 10th floor office, Pacific View Apartments Port Moresby, did anybody discuss with you in detail, going term by term of that Instrument of Lease, the meaning – the content, meaning and effect of each of those terms of the Instrument of Lease?

A: Commissioner, the answer is no.

Q: Not even any Lands Department officer?

A: No, I was not explained, page by page, explaining the content of this form here.

Q: That is at Waigani?

A: At Waigani, yes.

Q: How about the Provincial Lands Officer, Mr Imen Papa? When you went in to sign, did he go through with you before him? Did he go through with you the content of that document and explain to you in a language that you would understand as a layman what the meaning, content and effect of each of those clauses of the agreement would be?

A: Commissioner, before we went into Nomad to – answer to that question – before we went into Nomad to sign this, what Neville Hussley told me in

Port Moresby that he had contacted Mr Imen Papa to accompany us into Nomad to sign this instrument, but he said he has been committed to other official duties. So I was sent to Nomad with **Max Moeba**, Chairman of Gebogas Investment Limited so two of us went. I got 81 ILG Chairmen from Tosigiba Timber Group Limited sign and then I came back here, then I took into Imen papa's office and then he certified after we signed from Nomad.

Q: I have got another question. Did anybody including Mr Neville Hussley or Imen Papa, for that matter, because he signed on the Land Investigation Reports, that by that agreement alone, you were to lose all your customary land including that of all the other ILGs which would now form portion 14C?

A: Commissioner, I was not explained.

Q: You were never explained?

A: No.

Q: Because of that you also did not explain to your people the representatives of the 81 ILGs that you are talking about the nature and content, and the meaning and the effect of that particular called the Instrument of Lease, no?

A: No.

Q: Did it every occur to you at that particular point in time being a leader – I note you were provincial leader at one stage, a member of the Provincial Assembly here, did it ever occur to you that you should have post – the very obvious question; what is this agreement for? Did you not ask that?

A: Commissioner, that was the only question which I never asked to find out or to know the content of this form if we sign this agreement, what will happen in the future. That question was not asked.

Q: What actually motivated you to sign that agreement?

A: I thought everything was okay. So having signed in this agreement, the project will come; the road will come to our area. So with that thinking, I got my 81 ILGs and we signed.

COMMISSIONER MIROU: That is that – that is the February 2009 meeting? That was when you signed that?

A: Yes.

MR BOKOMI: That was your understanding?

A: That is my understanding.

Q: But was it based on the negotiations or the meetings that you have had prior that there was going to be a road corridor – economic road corridor constructed?

A: Yes.

Q: Which would be called Trans Papua Highway which eventually will connect to Port Moresby?

A: Yes.

Q: An intention was basically for you to free up land for that particular road construction purpose only and not the entire portion 14C. Is that correct?

A: Yes, only that part of the area and not all of the area.

Q: You said you were going to Port Moresby to Nomad. Who purchased the tickets for you?

A: IT&S.

Q: IT&S?

A: Was purchasing tickets and accommodation for me.

Q: They paid you allowances?

A: Yes, the first trip I went down, I was paid K150.

Q: K150. Did they pay you any money to sign that particular piece of document called the Instrument of Lease?

A: No.

Q: Are you sure?

A: Yes.

Q: Are you telling the truth?

A: Yes.

Q: As a leader, do you understand, from your area, that you cannot sign a document that you do not understand or you have not even read in detail?

A: Commissioner, if I would have been explained by the officers from Lands Department, then I would have understood this document but I was not explained in detail. I thought everything was okay.

Q: I am saying this because by signing that document, you have basically sold your land, completely.

A: Yes.

Q: And that is being very, very negligent.

COMMISSIONER MIROU: Counsel, is that the 2000 February document?

MR BOKOMI: The 12 February 2009 document.

COMMISSIONER MIROU: Yes.

MR BOKOMI: But for the record, there are two competing Instruments of Leases here.

COMMISSIONER MIROU: Yes. The one that was issued is---

MR BOKOMI: The one that was signed by the ILGs is the one that is dated 12 February, and it was dated by Mr Imen Papa, was it?

A: Yes.

Q: In his office here at Kiunga?

COMMISSIONER MIROU: And also at his presence.

MR BOKOMI: We have a competing document there which is dated 24 June 2009.

COMMISSIONER MIROU: Yes, which initially ended up in the direct grant?

MR BOKOMI: Yes.

COMMISSIONER MIROU: This one here.

MR BOKOMI: It was on the basis of that particular document which was signed on 24 June 2009.

COMMISSIONER MIROU: Yes.

MR BOKOMI: Purportedly, the notice of direct grant and subsequently the Special Agriculture and Business Lease was awarded to this particular company which, for all intents and purpose, is not even a registered company at IPA called Tosigiba Investment Limited.

COMMISSIONER MIROU: When you look further down, maybe this is evidence you will get from Mr Ape. Just a month later, he writes seeking an addendum to the Notice of Direct grant under section 102 to change the name Tosigiba Investment to Tosigiba Timber Group Limited.

MR BOKOMI: That is the letter to Lands Department, is it?

COMMISSIONER MIROU: That is a letter to the Lands Department seeking a change.

MR BOKOMI: I will ask you another question. Did you at any point in time hold a shareholders meeting for purposes of changing the name of your company from Tosigiba Timber Group Limited to Tosigiba Investment Limited?

A: Commissioner, there was no decision made in our meetings to change the name of the company from – company name from Tosigiba Timber Group Limited to Tosigiba Investment Limited. There was none.

Q: No shareholders meeting?

A: No.

Q: Would the same apply to a directors meeting to effect any changes as part of the directors meetings and agenda?

A: No.

Q: Of your company?

A: No, never.

Q: You make mention in your statement also of your company incorporation and registration certificates. You have not provided copies of those here. Perhaps you can provide that to the Commission later.

A: I have got one copy here.

Q: You have copies of them there?

sabl5 – 21/11/11 – t/8 – s. mai

[10.33 am] MR BOKOMI: Commissioner, I seek to tender and mark as an exhibit Tosigiba 10, the Certificate of Incorporation of Tosigiba Timber Group Pty Limited, dated 19 August 1996. This company may have – was registered as it appears on the record before the amendments to the Companies Act and the inception of the new Companies Act which is now called Companies Act 1997.

Under the Companies Act 1997, the initials for Pty meaning a proprietary has been omitted. So all the companies registered with IPA are now called Limited Companies, hence the name Tosigiba Timber Group Limited. I seek to tender that into evidence.

COMMISSIONER MIROU: Yes, I will accept that document being a copy of the Certificate of Incorporation as exhibit Tosigiba 10.

EXHIBIT TOSIGIBA 10 – CERTIFICATE OF INCORPORATION OF TOSIGIBA TIMBER GROUP LIMITED

MR BOKOMI: Pursuant to the changes in the Companies Act, the Registrar of Companies has issued a new certificate which now bears the name Tosigiba Timber Group Limited. I ask that that Certificate be marked as Tosigiba 11.

COMMISSIONER MIROU: Dated?

MR BOKOMI: That is dated – it is also dated 19 August – no, it is dated 4 July 2008, sorry. Dated 4 July 2008.

COMMISSIONER MIROU: Yes, I will accept the document titled Certificate of Incorporation issued to Tosigiba Timber.

MR BOKOMI: Certificate of Incorporation on Change of Name.

COMMISSIONER MIROU: Change of name from Tosigiba---

MR BOKOMI: The title of the document is Certificate of Incorporation on Change of Name. Perhaps, I will get the boys to make copies.

COMMISSIONER MIROU: So it is now Tosigiba Timber Group Limited dated 4 June 2008; Tosigiba 11.

EXHIBIT TOSIGIBA 11 – CERTIFICATE OF INCORPORATION ON THE CHANGE OF NAME – TOSIGIBA TIMBER GROUP LIMITED – 4 JUNE 2008

COMMISSIONER MIROU: Yes, proceed.

MR BOKOMI: I note you have basically a compilation of the land investigation reports that actually form the fundamental bases for the grant of this particular SABL called portion 14C. Can you tell the Commission what you basically know about the land investigations? Were there any government officers going into the area to explain to you from Western Provincial Lands Administration, or even the National Lands Department; also officers of PNG Forest Authority and National Agriculture and Livestock Department at Konedobu? Any one of the officers of those three government entities, did they ever go to the Nomad area and conduct an extensive awareness of the major land acquisition exercise which was supposed to culminate in portion 14C? Please tell the Commission.

A: Commissioner, there were no government officers from Lands Department, Forestry Department, Environment and Conservation, Agriculture and Livestock, none went into Nomad.

Q: None whatsoever?

A: None.

Q: Why were you around at that time – I will give you the approximate dates—in December or any time before December or even the whole of 2008, where were you?

A: 2008, I was here in Kiunga.

Q: In Balimo?

A: No, Commissioner, I was here in Kiunga.

Q: Kiunga? But, did you ever frequently go back and forth to the village during that time or over the last three years for that matter?

A: Yes, I went in to Nomad.

Q: Did anyone of your relatives or people that you know from within the Nomad area ever tell you that there were some government patrol or whatever going into the area talking about land acquisition et cetera by the State?

A: Commissioner, no one from my area within Nomad has told me about any government officers visiting our place.

Q: Commissioner, that basically confirms the evidence given by Mr Papa that he was never involved in the land investigations.

COMMISSIONER MIROU: Yes.

MR BOKOMI: Not even from the officers of the company called IT&S?

A: No.

Q: Or even the surveyor cum Lands officer called Hudson Ape?

A: No.

Q: No.

A: Commissioner, I have not sighted anyone in Nomad.

Q: Let us go back to that Instrument of Lease. On the 10th floor at the time when you were given that particular Instrument of Lease, who actually gave you the lease?

A: Neville Hussley.

Q: Neville Hussley. Were there any people present at that time when he gave you the Lease?

A: Commissioner, at that time as I said, the delegation from here combined by NEWIL, North East West Investment, Gebogas and Tosigiba which, myself, I attended. During those times, those executives from North West Investment Limited, Gebogas and Tosigiba, I as the Chairman was there; he gave me this Instrument.

Q: Was Mr Titus present at that time, I mean Mr Michael Titus?

A: Commissioner, yes, that time when we met, I did not see him in the room in that office.

Q: Any time after that, did you have any meeting with Mr Titus after you were given the Instrument of Lease?

A: We only spent a day and the next day, we flew this way with the Instrument.

Q: You never saw Mr Titus?

A: No.

COMMISSIONER MIROU: Would you also indicate in that February 2009, was Mr Demonai also present in a room at – in Port Moresby at that time?

A: No, Commissioner.

Q: Mr Imen Papa?

A: No.

Q: Not in February 2009?

A: No.

Q: Okay. Between February 2009 and June, did you receive any representation - I think counsel has already raised it but I will raise it

again – from these persons as to what was happening to that Agreement that you signed?

A: No.

Q: When did you become aware that your land was portion 14C?

A: When I was given a copy of the Certificate.

Q: When was that?

A: That was around October.

Q: October of 2009?

A: 2009 – 2010.

Tape 9

SABL-09(nnb)

[10.44 am] COMMISSIONER MIROU: October, 2010.

A: 10.

Q: That is almost a year ---

A: Yes.

Q: And a half. So you had no idea that your land was already ---

A: Yes.

Q: Subject of this SABL ---

A: Yes.

Q: Since, sorry, when was the SABL issued? On the 23rd day of September 2010.

A: Yes.

Q: Oh, I see. So you only go to know about it a month later.

A: Yes.

Q: After it was issued.

A: That is right.

Q: Thank you Mr Papa. I have no question to ask.

MR BOKOMI: Commissioner, I have got the copies of the exhibits Tosigiba number 10 and 11 for your benefit.

COMMISSIONER MIROU: I have no questions to ask.

MR BOKOMI: Commissioner, I have no further questions but if there are any evidence that will unfold later on which may require his presence before the Commission again then perhaps you take note of that and then you can come back later. But ---

COMMISSIONER MIROU: Mr Gabo, we might require you if there is a need for you to recall. So just be available on short notice. Counsel and myself, we do not have any questions to ask. So we thank you for coming forward to assist us with our inquiry. You are excused up till where if there is a need to recall you, we will call you. Thank you.

THE WITNESS WITHDREW

MR BOKOMI: I believe there should also be a general direction issued to all the other witnesses for purposes of assisting the Commission as and when required, perhaps for the duration of the hearing. They be here if they possibly can.

THE COMMISSIONER: Just a general notice to those, including the government officials. If you can be, you can avail yourselves, the Commission, this is the last week where we will hear evidence until Friday. So if you have given evidence or you are ready to assist the Commission with any information, please be immediately available in the hearing, precincts of this hearing room so

that you can assist us in a very short notice. We thank you for your willingness to assist the Commission.

MR BOKOMI: I call the next witness. Perhaps I will just make a roll call pursuant to your direction for the two government officers here in Kiunga.

COMMISSIONER MIROU: Yes, if you ---

MR BOKOMI: I made earlier; that is Mr Imen Papa and for the district administrator ---

COMMISSIONER MIROU: Oh, yes. Are they present?

MR BOKOMI: Mr Dmonai, basically to determine whether they are in. Mr Imen Papa and Mr Dmonai is present too.

COMMISSIONER MIROU: Okay. Counsel, do you require them or you require an adjournment?

MR BOKOMI: I will require a short adjournment of about 15 minutes.

COMMISSIONER MIROU: Yes, okay, we will adjourn.

MR BOKOMI: And then we can call them in.

COMMISSIONER MIROU: We adjourn few minutes.

SHORT ADJOURNMENT

SABL-10(nnb)

[11.23 am] COMMISSIONER MIROU: Yes, Mr Bokomi.

MR BOKOMI: There was many years skirmish between certain landowners and Mr Hudson Hape as to who the actual cause of the confrontation is. I am unable to advice the Commission as this point in time because I am not privy to any report. But perhaps, the police can conduct their investigations into the

particular incident and provide a report later to the Commission later in the afternoon or even tomorrow. But such behavior is not tolerated.

COMMISSIONER MIROU: Yes, I think it is the general feeling Mr Hape should have known better not to be – he was excused for the day and we will determine from the report and then, not deal with it. But just a general comment that I made earlier that persons who are within the bounds of this hearing and outside are entitled to be left. But if any provocation or anything that happened then please bring that to the attention of counsel or members of the police force so that it can be dealt with quite efficiently. Such a disruption may cause some concern to the Commission and the work of the Commission here. So we have generally received a good reception in the past six or seven days of our hearing and also of our visits to the villages. So let us hope that we will continue like this until Friday when we complete our work here. Thank you, counsel.

MR BOKOMI: Thank you. We now proceed to the – well, continue with the Tosigiba matter. Commissioner, I have three more witnesses from Tosigiba listed for the morning. That is Mr Hia Fami, Mr Max Mioga and Mr Soki Samisi. Soki Samisi is the person that basically signed the Agreement for and on behalf of Tosigiba Investment Limited in the project agreement relating to Drerimbias and Wawi Falls road corridor, which is otherwise known as the Trans Papua Highway which is supposed to be built to connect Western Province and Kiunga from and with Port Moresby.

These three witnesses, I understand, they just intimated to me that they have got some affidavit statements which they will get their lawyer Mr Michael Titus. So they require sometime too. I asked that this matter with – their appearances in the morning be adjourned to the afternoon today at 1.30 with the consequential directions that they appear as directed by the Commission.

COMMISSIONER MIROU: We also need to deal with the directors of evidence of ---

MR BOKOMI: Those are critical persons; Max Mioga is a director of Tosigiba and the chairman of Kebogas Investments Limited. That is another, a sister company to Tosigiba Timber Group Limited. Those are the two companies in the Kemen-Nomad area that purports to represent the interest of the landowners.

COMMISSIONER MIROU: Their statements will be ready after lunch.

MR BOKOMI: Yes. So they are willing to give their evidence after lunch. So we have the two government officers they are Mr Dmonai and Mr Papa. I am subject to your discretion, we still have 30 minutes. Perhaps, we can still ask them to come back at 1.30 or otherwise we can deal with one of them now. How do you propose? I propose subject to your discretion, if ---

COMMISSIONER MIROU: We can deal with one of that.

MR BOKOMI: One of them now. I propose to start off with Mr Imen Ite Papa. Please, Mr Papa, can you take your witness box.

COMMISSIONER MIROU: Mr Papa, you have been sworn already so you continue your evidence. You have been sworn, you have sworn on the Bible already so we will continue to hear from you. Yes, counsel.

IMEN ITE PAPA; recalled

XN: MR BOKOMI (Cont'd)

Q: Mr Papa, you recall is in relation to and arises from the evidence given by Mr ---

COMMISSIONER MIROU: Mr Gabi.

MR BOKOMI: Ipisa Biyama. Could you recall, about what time where you in Port Moresby?

A: In?

Q: Back in 2008.

A: Around, I think, December, around there.

Q: Around December.

A: Yes. I cannot really recall the date ---

Q: The actual date.

A: Date, exact date, yes. It is quite a long time so, 2008.

Q: Why were you in Port Moresby?

A: I was on other official duty and the district administrator, Mr Dmonai.

Q: What was that official duty for?

A: On our other land requirements.

Q: What are those other land requirements?

A: I cannot really recall now. I was living at Sports Inn.

Q: You were staying at Sports Inn.

A: Yes.

Q: Did you meet Ipisa Biyama?

A: I saw him at Pacific View when I was signing the investigation reports.

Q: Mr Biyama was at the same time there. He was lodged at Sports Inn. Did you ever see him at Sports Inn?

A: No. I did not sighted him at Sports Inn.

Q: Are you sure?

A: Yes. But I only met him at the Pacific View.

Q: How long were you there for?

A: About a week.

Q: About a week?

A: Yes.

Q: That was about the same time as – same period of time Mr Ipisa Biyama was there, he was there for a week. You never saw him anytime within that week.

A: After, my signing at Pacific View, I only saw his face around. But he was not together with me, Commissioner on the table while I was signing the investigation report. After that, what I heard from the ITNS was he was going to sign the Middle Fly part and I am going to sign the North Fly part. So after the signing I left and Mr Biyama was around there. I saw him hanging around in the building, Pacific, 10th floor.

COMMISSIONER MIROU: So as we note.

A: And sorry, Commissioner, one more. I was not on ITNS sponsor of Port Moresby. I was actually sponsored by my administration; district administrator to go and do our land duties, normal, other land requirements.

MR BOKOMI: Yes, what were those land duties? Mr Papa, you should know very well, what those land duties are. You were the one who undertook those duties. We want to know. You tell the truth to the Commission.

A: We were preparing like, land advertisements.

Q: Land advertisements for what?

A: Kiunga town.

Q: Kiunga town?

A: Yes. This town ---

Q: You have draft copies that you can make available.

A: I have not prepared anything yet of those ---

Q: Or at least those land advertisements so that we see that they are dated around December.

A: I have to check my files on the actual, the trip that I took and with evidences of what I travelled for and what was it for.

Q: How about the tickets? Do you still have ticket butts there? Could you retrieve that easily?

A: We have been shifting from place to place. I will try and – it might take quite a while to check through the actual file of my ---

Q: What made you sign those land investigation reports for all these projects, starting from portion 1C, portion 14C and portion 27C? This is a massive area of land. What made you sign those documents?

A: Commissioner, on the first, my first response I have given my – on the intention that because people gave their consent on this trans Papuan Highway road project, I thought the investigations were for the

acquisition of the trans Papuan Highway, for identification of landowners. On that understanding I signed as a lands officer of the District.

Q: Very well. You already told the Commission that. If I put to you that you were paid some monies by ITNS, is that a correct position or not, for you to sign these documentations?

A: No.

Q: No?

A: No.

Q: Are you sure on that?

A: Yes.

Q: Are you sure? You were not paid any allowances, whatsoever at all, additional to what the provincial administration may have paid you for signing these documents; the land investigation reports. Yes or no?

A: No.

Q: Are you sure?

A: Yes.

Q: Are you damn sure? Sorry, are you very, very sure. I retract the ---

A: I was only assisted with fuel, I ran out of fuel and I told them that you people assist me with fuel.

Q: There you go. How much money was given to you for the fuel?

A: That I try and recall actual figure first.

COMMISSIONER MIROU: Hire car?

A: Yes, actually the hire car was our own administration.

Q: Accommodation?

A: Accommodation under our own administration.

Q: And allowances.

A: Allowance under our own administration.

Kiunga5 – 21/11/2011 – t/11 – g.aia

[11.33 am]MR BOKOMI: How much money was paid to you in allowances?

A: I went for one week and then for one week after my mileage was about to reach – I told them that I need fuel so I got the car so you people assist me.

Q: Come on Mr Papa, there must be a certain figure

A: I just recall the figure first. No, not very big figure.

Q: Money does not come from the blue. It is given with certain interest behind. Nobody gives you money free like that. You understand where I am coming from?

A: Yeh, I understand.

Q: How much money was given to you for fuel? Or should we say “fuel” in inverted commas?

A: I think about a K1,000 for fuel.

Q: K1,000 for fuel. Five days, I run my vehicle in the city, it cost me for 7 days for about 300 bucks. K300 for seven days and as a lawyer I run from one end of the city from Port Moresby to Waigani Court House and then back; it cost me K40 a day. And then I need to attend to class, driving in and around the city, it cost me about K40 a day, right. So if you look at that for a week, 40 x 7, that is K280. How about the other excess of K760. Can you explain what that money was for?

A: I requested them for fuel, only fuel assistance so that was what I was assisted to – because the vehicle hire was a dry hire when I went down there.

Q: You will agree with me. What type of vehicle did you hire? Was it a Sedan or ?

A: It was a car. I can not remember the name or the model.

Q: But a small car, something like a taxi where you just sit down? Sit down, you will agree with me will not cost fuel that is it will cost you fuel that will cost K1000 for the week. Is that correct?

What I am trying to put into you is that K1000 is a lot of money for fuel consumption purposes only for the vehicle. You agree with me or not?

A: Yeh, you are right.

Q: It is a lot of money. Now why do you think the access was given. You had the access of K760 right? That is personally my approximate calculations of how much fuel we can consume.K760 in access. Why was that access sum of money given to you.

A: That I do not know but I requested for fuel assistance.

Q: Was it given to you before you signed the Land Investigations Report or after you signed the Lands Investigations Report or after you sign the Land Investigation report?

A: That I can not really recall. Probably after the signing or before the signing. I can not really recall. I can not say – I think it is after the signing. Wait, wait, I can not really recall whether before or after.

Q: But you said you hired the vehicle on dry hire meaning, there was no fuel in the tank when they gave you. So where did the money come from in the first instance for you to pay for the fuel for the vehicle? I am just trying to assist you to recall correctly and tell the Commission a truthful answer as to when exactly the money was given to you? Was it during the start of the week or was it in the middle of the week or was it towards the end of the week? Should I give you sometime to recall or?

A: Yeh, I think so. I will try and –

Q: Mr Papa, could you tell the Commission, whether it is a coincidence or is it a design that yourself and MrBiana and MrDumonai were that about the same time in Port Moresby and one of the things that you did, aside from your official duties, which now you are telling the Commission, you use to deal with Land Advertisements in Kiunga, you push it to the side, it was way outside of your duty at that point in time.

A: Yeh, it was not out of my –

Q: The bottom matters of your duty when you went to Port Moresby, was to deal with land advertisements only. Why at that particular point in time when ... presented you with this documentations which now forms the basis for the grant, the Land Investigation Reports. Why did not you tell them that, but look bro, I did not come to sign these documents. Did you pose that question to them?

A: No. But I should – people were pushing for this road. They wanted land requirements, they wanted all land requirements and I thought having in mind, it was a road trans Papuan Highway road acquisition and the extension for log harvesting, based on that I signed. I said, if I prolong the project, the project might be delayed. So while I was on time there, while attending to other duties, that was put before me. So while I was on time there, while attending to others duties, that was put before me so with that understanding and reading the whole thing, I signed, assuming that it was for the purposes for road acquisition and for log harvesting on both sides. I did not forget the landowners.

Q: Why did you request ITNS for them to give you K1000 fuel allowance?

A: Commissioner, I did not ask for the amount. But I requested for fuel assistance.

Q: Why did you request for fuel assistance? Why did not you request for Provincial Administration to provide that additional fuel money if you like. On the grounds that Mr Papa, ITNS is not your employer. You were on duty travel to serve the people of Western Province through the Western Province Administration. You are not a private consultant, you are the public servant. What should you have done in this circumstances? Give a correct, truthful and an honest answer to the Commission. If you have run out of fuel, what should you have done?

A: Commissioner, I should have trust my authority which is the District Administrator to assist. By then he was in the city at the same time so he can not sign any whatever vouches for fuel and all that. Therefore, I have been assisting these people assuming that investigations was for a road – trans Papuan Highway road acquisition ... if they could assist me with the fuel; that is what I – on that grounds, I asked them. Because at times are – some of our duties here when private, like when Government is run short, we also ask –

COMMISSIONER MIROU: What counsel is asking basically is, how much did ITNLS pay you? How much did they pay you?

A: At least around K1000.

COMMISSIONER MIROU: No, not for that. For everything that you have done for all the SABLs. How much money were you paid?

A: Commissioner, there was nothing paid.

COMMISSIONER MIROU: Not only this Portion 27C, Portion 1C, Portion 14C. These are reports we know you did not do. All came because of the work done by 8 ITLS. How much did they pay you?

A: Commissioner, honestly before you, I will promise that I was not given any money. That was the only money that upon my request for fuel and that was the one that was give, on the understanding that I needed fuel to run. I can not use my allowance because -]

COMMISSIONER MIROU: That is okay. The other thing is, we had evidence from MrBiana and MrDimonLaide, you did not give them the reports to sign. You got parts where the recommendation was it so they could sign it. You did not show this whole report to them - to both of them. Each pages just loose, slipped, whatever. Where there is a title which says Recommendation for Alienability, you gave it to MrDimon Ai, you gave it to MrBiana and they signed at 10th Floor of Hugo's Building in Port Moresby if the evidence is correct, in the presence of Executives of ITLS Mr Michael, the lawyer and presumably the surveyor, MrApe. Is that true?

A: Yeh.

Q: Commissioner, from the evidence, if I can recall correctly, MrImonai signed the Certificate recommending Alienability at Lamana Motel. Is that correct?

And you accompanied MrAitson Ape who only brought that one page document. Is that correct? Or is it the whole document?

A: I think Commissioner, it is not one page. That investigation report, the document was I think –

Q: But the page that was presented for MrDimona had to sign. It was only that page which was supposed to bear his signature. The page where he is suppose to sign. I think the whole – is that correct to say that the whole

thing – the whole ... was opened to the page where he was suppose to sign. MrTomuna, negligently without reading proceeded to sign that Certificate of accommodating Alienability. Yes, only the signature part. He never dated it, he never played, put his hand on the actual place of signature.

A: Commissioner, each investigation report for each Portions, after I sign in Hugo's Building, the surveyor got the documents with him.

COMMISSIONER MIROU: I thought you signed it at the Lands Department.

A: Sorry, Lands Department – not Lands Department, Hugo's Building

COMMISSIONER MIROU: No, no. You said Hugo's Building. Is that the Department of Lands. Is that where the Department of Lands operates.

A: No, I was trying to say, Pacific View.

COMMISSIONER MIROU: So that is where the other office of the Department of Lands is located?

A: No. That was where I was called in to sign. After that the company got the documents.

COMMISSIONER MIROU: So the company is ITNS. So that is part of the Department of Lands is it?

A: No. It is the developer that is trying to build a trans Papuan Highway.

COMMISSIONER MIROU: So who does the Land Investigation Reports?

A: The Investigation reports were done by ITNS.

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[11.47 am]They were only produced to me at Pacific View 10th floor as -

COMMISSIONER MIROU: So why did you become involved in this?

A: On the understanding that people were discussing in Kiunga several meetings that I thought in my response in black and white –

COMMISSIONER MIROU: We have that evidence but I just want to know why. Why do you have to go and sign these three at Hugo's Building and not the Department of Lands at Waigani – Aopi Building? That is where the Department of Lands is?

A: That is right.

COMMISSIONER MIROU: And then, you were in a company of a surveyor who is employed by ITNS.

A: That is right.

COMMISSIONER MIROU: Is that a proper way of doing things?

A: No Commissioner, that is improper, I would say.

COMMISSIONER MIROU: So how much did they pay you? The same question I will ask you again. You do not do services for a company for nothing. You have to get something out of it.

A: Commissioner, if I am paid huge money, the company have to have its own record and reveal it here, but to my own understanding, I am telling the truth today, that before you and before God that I was not given any money apart from the K1000 I requested for fuel. And that is the truth Commissioner.

COMMISSIONER MIROU: Okay.

Q: Mr Papa, in your evidence at the start of this inquiry, you stated that you went to Port Moresby and you were living at Lamana Motel. If I can recall correctly. And then you were at Lamana Motel, when A. Senape went. And you know fully well that MrKimonai was there in one of the rooms at Lamana Motel. You brought him to MrKimonai at Lamana Motel room where he was there. Is that not correct? You disclose in your evidence in the earlier part. Now you are telling the Commission that you were at Sports View. Now, I will put to you; that duty travel, was it a collective duty travel for you and MrKimonai did you go at separate - different times?\

A: Commission, it was for different purpose. I was for my Divisions – it was land requirement for my Division. District Administrator went on his own duty travel under his own –

COMMISSIONER MIROU: That is why counsel is asking, what is your business at Hugo's building and not at Aopi Building where the Lands Department is?

A: Sorry, can you come in again?

COMMISSIONER MIROU: So what is your business when you say you were on a travel fully funded by the Provincial Government, and you go and do your business on the 10th floor of Hugo's Building. The Lands Department is located at Waiganiin what we call the Aopi Building. So what is it now? Is it a private business or a Government funded trip?

A: It was a Government funded trip –

COMMISSIONER MIROU: To do business with ITLS?

A: Commissioner, ITLS was never part of my program.

COMMISSIONER MIROU: But their office space is at 10th floor. They are located at 10th floor at Hugo's Building and Mr Ape is the employee of that company.

A: As I have stated, I went on our own Government business and everybody in Kiunga Town knows my contact number.

COMMISSIONER MIROU: Everybody in Kiunga Town, as you know Mr Papa, is not sophisticated. Because of these reasons why, their sophistications, the lack of sophistication is a result of people like you taking advantage of that lack of sophistication. And that is the result of why we have SABLs being given to people like you who have no regard for their livelihood of their – things that they do. And so you conduct your business not at the Lands Department but you go to Hugo's Building 10th floor. They would not know where the 10th floor is. May be you and I, all of us know where the 10th floor is in Port Moresby. People in Kiunga and Western Province do not know where Hugo's building is. Even where the Department of Lands is at Waigani. Only you and I know where it is. That is why I asked you this question on behalf of the people of Kiunga and Western Province, what is your business on the 10th floor of Hugo's Building? I know where 10th floor of Hugo's Building is. You tell me, why do you have to go and conduct business on behalf of the Provincial Government at the 10th floor at Hugo's Building? Tell the people. They want to hear about what you did there.

A: As I have said earlier on, I went there because the company called me to go and signed the investigation report for the trans Papuan Highway Project so on that arrangement they took me there. They asked me to go there and then I went and I showed the documents and then without fully reading the whole thing, and asking them question, how much area the road will cover and all these, assuming because of the initial discussions in Kiunga. Thinking that Investigation Report was based on the road corridor acquisition purposes I just went ahead and sign.

COMMISSIONER MIROU: But Mr Papa, have you ever visited the grey road and travel up to Trimgondok village? Do you visit that place?

A: Yes.

COMMISSIONER MIROU: We just went up on Saturday. We saw nothing. Virtually nothing. Secondary forests, a few rubber trees and when we arrived at Drimgas, there is nothing. So why do you have to work for the Government, at the same time, you are doing something for the company which has no regard for the development for our people. Virtually there is nothing there.

You still talk about the trans Papuan Highway here. Where is it? You tell the Commission now. Where is it?

I had the people of Drimgas or people who live along that route –

COMMISSIONER MIROU: Fully aware of what you and others have done for them including the company?

A: Commissioner, it is a proposed project.

COMMISSIONER MIROU: It is a propose project but that project has been there for a while. What have you done to make people aware that they have got to put up a electronic bridge across a river that is really non existence. There is big river there but there is nothing there. People still live in traditional houses, still living their livelihood, virtually nothing there. So you can talk about the trans Papuan Highway but where is it. May be on paper it is there but nothing. So if you can give us an explanation as to what was your real purposes to go to Port Moresby, not to go to Waigani, Lands Department but to go to 10th floor of a private company and that is where you made all these deals. Is that the correct –

A: Commissioner, I went for our own administration duty and I was called in by ITLS to go and sign them.

COMMISSIONER MIROU: Mr Papa, I do not think you are really getting the question. What are you doing at 10th floor apart from the Aopi Building which is the Department of Lands where Lands Investigations Reports are normally facilitated. That is where SABLs are issued. What were you doing at the 10th floor? Is that public or private business?

A: Commissioner, I know that is a private office but that was the developer that was pushing for this project with assistance of other stakeholders. That is why I thought the Investigation Report was all incorrect and when they were tabled to me, on that understanding that people needed road for so many years and then I actually sign to – believing the project will progress, the trans Papuan Highway.

COMMISSIONER MIROU: And you continued with that type of behavior and you signed documents in the rooms of hotels – Granville Hotel where you had to bring the Provincial Administrator in and to sign those recommendation which is the result of the issuance of those SABLs. You facilitated most of it.

A: yes, Commissioner, as I have said, on the understanding that the investigation was for road acquisition for the proposed trans Papuan Highway.

COMMISSIONER MIROU: But you are a Lands Officer. You know what an SABL is for?

A: Commissioner, initially there was no discussions about SABL.

COMMISSIONER MIROU: If there is going to be a road, corridor, normally the appropriate Department to go to is the Forestry Department. Because you are require to clear fell some sections of the forest to allow the road line to be. Not to an SABL. An SABL is only for agricultural purposes. Any businesses that you make relate to. If you want to do a great drimgas Papua Highway, you need a FCA, a Forest clearance Authority to actually clear fell so that they create a road link. Were you able to tell the people about those differences between clear felling for the purposes of setting up a road link and SABL which is for agricultural purposes involved with the use of customary land. But not a big section, you only need a certain amount of hectares to do oil palm, rubber, things like that where people become involved.

A: Commissioner, I understand the processes. I have not mentioned to people about SABL. You do this, do that and all that but all I know is the road in exchange of the –

COMMISSIONER MIROU: So you think the road was properly an SABL lease or it required a Forest Clearance Authority for a road line. That is a requirement in law.

A: That is right. Commissioner, in the discussions that I have said in my paper, that the discussions with the people were, the people consented for the road and then they will give so assuming that the road was suppose to be acquired and then later they can on both sides, spare my report, they agree to give their logs in exchange of the construction of the road. So my signature was purposely for the acquisition purposes. So I was not explained by the ITLS the area they covered. Later I also got shocked too and I was – I called, I think the other director, I think Dina Gagui to the office, are you aware that you land has been taken away, I got shocked too. I told him, all we know is about the road, and in exchange for the logs. That is all we know about ---

SABL-13(nnb)

[12.00 pm] A: I mean, our administration and myself and there were series of meetings at Lobida Hotel sites. But SABL was never mentioned that these large parcels of land will be acquired for SABL. I believe Commissioner, if it was mentioned there then there should have been a lot of oppositions. But that thing SABL was never talked about. All people know, even myself too, all I know is road in exchange for logs.

COMMISSIONER MIROU: Yes, that is why I said, you took advantage of peoples' lack of understanding, their lack of sophistication, their lack of things that we do out in the major cities and things, you failed, basically to inform them that an SABL was to take away land for some time to do some tree crop; commercial tree crops like oil palm, rubber, things like that. And even this document here too, even says that you certified for all of them. You agreed to allow those lands to be given because you say that everyone agreed in principle to free up that land. So, now you are saying that you told Mr Gabo that your land has been given away when you yourself has signed off, certifying that they have all agreed to release those land. It is all here. What can you say about

that? You certified for it. And after you certify for it then you go to the provincial administrator or the District administrator to get that recommendation to alienate the land.

A: Yes.

Q: To take that land away from the people and give it to the government so that the government can in the name of a company; a landowner company so that that company can be involved in development that those land for agricultural purposes. So the lack of awareness on your part failed.

A: Commissioner, I am sorry that my understanding was on the acquisition and I failed to explain, because company too, have not come out clear. As I have said earlier, this ITNS was hiding all the documents to itself and not telling us our province exactly where they are supposed to, what type of business they want to do in the area. All we know was the initial consent, initial discussions, concern by people and then the project continue. What happened in Waigani and with the people, we were not aware until I also find out that large sums of land was, I got shocked too. And I said, my goodness, I signed for something else and then my signature has probably must have been used by company to extend the boundary. It was for the road only. That was my initial thinking. Thank you Commissioner.

Q: Let me take you back on that. Mr Papa, you say you did not read the document, that is very negative, right?

A: Yes, yes.

Q: If you had read the document, at least one of those documents then you would have seen the type of land use that was proposed by the land investigations. Can you read this document completely, description of the land and then you look at the type of lease proposed? Can you read that to the Commission?

A: Sorry, the whole thing?

Q: You read the type of lease proposed and you read the land description.

A: Type of lease or proposed used: Special Agriculture and Business Lease, description of land: portion 14C, Nomad, North Fly District.

Q: What is the total area of land proposed to be acquired?

A: 632,538 hectares.

Q: There you go Mr Papa.

COMMISSIONER MIROU: Continue reading. And then at the bottom, what do you do? I, say it.

A: Sorry, wait.

Q: No, at the bottom of that paper. I, your name, read it, read it aloud.

A: Sorry, Commissioner, I am looking for that.

MR BOKOMI: It should be at the back.

COMMISSIONER MIROU: You are now certifying it.

MR BOKOMI: At page 4, you read that.

A: I, Imen Ite Papa, hereby certify that ---

COMMISSIONER MIROU: No.

A: To the best of my knowledge, the above facts, sorry, I will read the comments and recommendation. I fully recommend that the Department of Lands and Physical Planning assist in facilitating the registration of this parcel of land through lease and Lease-lease Back arrangement to allow the commencement of the project. I, Imen Ite Papa, hereby certify that to the best of my knowledge the above facts are true. Commissioner ---

Q: You certified it.

A: Actually, I did not read the whole content as I have said. I, the document was before me and where my signatures are I signed because of too many investigation reports. So I just signed and assuming that it was for the road.

Q: That would not be true now. You knew exactly what you were certifying. That is not true. You know exactly what is here. You certified it, you signed it, it is there. That is exactly what we were trying to tell you. But you keep saying that the road link was the most important thing to you

than any other thing. You certified all these thing. That is why this land has been given away.

MR BOKOMI: Mr Papa, I have one additional question. Following on from there, evidence has been given to the Commission saying that, which says that in relation to Tosigiba in particular, Mr Dira Gabo, in his evidence in the morning, he stated that he was with you when he signed the Instrument of Lease dated the 12th February 2009, that was done at your office. Is that correct?

A: Commissioner, I forgot that. Actually, I just forgot that arrangement. It was not intentionally that I did not mention. But I forgot. All I remembered was I signed at Pacific View.

Q: No, the Instrument of Lease, not the land investigation reports. It was after this land investigations reports were done by you on 15 December 2008, apparently. Because in your evidence the last time you came, you stated that you hold his hand, you did not date the document, you did not even write the place where you signed the land investigation report. Is that correct? They just showed you the signature page for the relevant land investigation reports then you signed. Now, if I put to you that it is too good to be true because there are separate land investigation reports for the respective clans. So all of them were basically, turn to the page where you were to sign and then you were to put your signature, you know. Like, for instance, this is 81 ILGs so you did that 81 times without actually reading the content of the document.

A: That is right.

Q: If I put to you that you are now lying to the Commission, what do you say about that?

A: Commissioner, it is true. I did not read the whole content. What happened was on my section only, that one was, I signed those sections only. I did not read the whole, each investigation reports and the amount of area it is covering. Signing, truly, I signed. But reading the whole document to understand what it was, I think I negligently failed on that part.

Q: Let me put to you now that, the K1000 that you were given was after you signed this documentations. Is that not a correct proposition for the fuel allowance?

A: That Commissioner, I said, I cannot really recall, whether it is after or before. I have to ---

Q: Even if it was before you signed the documentations, it was made as an inducement, if it was not, for you to sign the land investigation reports.

A: It was not on the basis that because I am signing this, you people help me, no. I said, I needed assistance on fuel. So I actually asked the company whether you people can ---

Q: Even if it was given after you had signed the documentations, it would have been made as a favor for you having already signed the land investigation report. Is that not the correct proposition to make, Mr Papa? Answer my question, yes or no.

SABL-14(nnb)

[12.10 pm] MR BOKOMI: Yes, it is, ah?

A: Commissioner, I would not know the intention of the company. But all I requested was an assistance.

Q: You would agree with me that no person gives money to another person if it is not for any favor to be done either before or after. Is that correct? And for that matter K1000, K1000 by PNG standards is a lot of money. A person in the village who is unemployed, his gross per capita income in anyone year would be much, much more less. It could be less than 50 bucks; K50. You will agree with me on that.

A: Yes.

Q: And as I have intimated to you earlier, are you agreeing with me, with my – with that proposition or not. Please, speak into the microphone. Yes, ah?

A: Sorry, can you repeat again.

Q: I am saying K1000 is a lot of money. Will you agree with me?

A: Yes, it is a lot of money.

Q: And for a person in the village who is unemployed, illiterate, you know who is a subsistence farmer or hunter and gatherer, K1000 would be a lot of money to him, yes?

A: That is right.

Q: In anyone year that particular person in that circumstance whether he is a subsistence farmer or a hunter and gatherer may make only about K50 to K100, and that is if he has access to the market to at least sell his produce or whatever meat or fish that he has gathered from the bush or the rivers to come and say, sell at Kiunga. You understand, yes or no?

A: Yes.

Q: Yes. So if I put to you that that K1000 was not given because of your requirement for fuel only. But it was for other fuel requirements for you having put this signature, right? Yes or no?

A: Maybe.

Q: Not maybe. I want a definitive answer yes or no.

A: Maybe, Commissioner, because I requested for fuel probably the company assumed that because I will be signing this, they may have, on that understanding they may have assisted me instead of them saying no or yes.

COMMISSIONER MIROU: That is your explanation.

A: That could be their intention behind assisting me with the fuel money.

Q: But if you are comfortable with that explanation.

MR BOKOMI: Very well. Okay, let me take you to Mr Gabo's evidence. He was with you when he signed the Instrument of Lease on 12 February 2009, right, at your office. He went in there to discuss with you and you actually wrote the date of the Instrument of Lease. Perhaps, Commissioner, could we show him the document which is now in evidence? Could you tell from the writing that is handwritten; the handwritten part dating the lease? Is that your handwriting 12 February 2009?

A: Yes, Commissioner, this is my writing. I forgot earlier on about, just slipped off my mind.

Q: Could we also show him the exhibit marked ---

COMMISSIONER MIROU: This one?

MR BOKOMI: Tosigiba number 4. That is the lease dated 24 June 2009. Is that your handwriting as well? No, it may have been in print.

A: No.

Q: Very well. Are you aware of the existence of that document?

A: No.

Q: The Lease Instrument of the 24th June 2009.

A: No, Commissioner, I do not have any records of all these, even this one too.

Q: But you are aware of having sighted ---

A: Yes.

Q: That document.

A: I am aware of my signature here.

Q: And you have not sighted this particular document, is it? That exhibit marked exhibit number 4, the lease dated 24 June, you have not sighted that.

A: This one?

Q: Before.

A: No.

Q: You have not sighted that. But you are aware that you wrote on that ---

A: Yes, the ---

Q: The Instrument of Lease dated ---

A: This is my handwriting and my signature.

Q: 12 February 2009.

A: That is right.

Q: Because according to Mr Dina Gabo, that is the lease that he signed. This one is not the lease that he signed. He is aware of the lease of the 12th February 2009. That is the one that he was with you when you dated it. You understand?

A: That is right.

Q: Did you at any point in time when Mr Gabo was there with you in your office on the 12 February 2009, read through the contents of document with him and explain to him the nature, content and the legal consequences of that particular document which is now called the Instrument of Lease? Did you or you just asked him to sign and then you dated it?

A: Commissioner, I cannot really recall exactly what words or what ---

Q: Did you read the document to him? I am just putting a question to you.

A: Commissioner, that is the one I am saying. I cannot really recall whether I read it or not, otherwise I might tell lies. I cannot really recall.

Q: If I put to you that you did not read the document, that is the evidence from Mr Bina Gabo. When he was with you, you never read the document, you have no even explain the meaning and content of that document to him.

A: That might have happened. As I have said ---

Q: No, that – do not use probabilities here. That did not happen. That is the evidence that we have.

A: That is right, yes, that is right, yes.

Q: That did not happen. Now, do you think it was part of your responsibility as the lands officer here to have read to him that particular document or at least gone through the document to explain to him in simple and plain language that, look, Mr Dina Gabo, you and your people are actually getting into this kind of arrangement, have the people really consented. These are basic questions that you should have asked. Why did you not do that?

A: Sorry Commissioner, probably I did not intentionally. But probably I may have said somethings but I cannot really recall. That is what I am ---

Q: Now, if I put to you that you may have colluded with ITNS and their surveyors who actually conducted this land investigations and because you were paid, you overlooked your basic responsibility to explain to the people who went in as a government officer on the nature extent and meaning content, effect, the legal consequences of that particular document. Is that not a correct proposition to make?

A: Probably I assumed because I signed as a investigation officer at that time, assuming everything was in order. So when people brought to me the instruments – but the very thing whether I read it to them or I explain to them, I cannot really recall the – but confirming that this is my signature and this is my writing.

Q: And you agree with me that the document called the Instrument of Lease-lease Back or the Lease-lease Back Agreement that was executed on the 12 February 2009, should have for all legal purposes and intent, form the basis for subsequent land appreciation which has now been comprised in portions 14C, 27C or for 14C alone. Is that a correct proposition to make? I am basically telling you, under normal and proper circumstances, that particular document dated 12 February should have formed the basis for the acquisition of and determination and subsequent naming and description of 14C as an SABL, right?

SABL-15(nnb)

[12.21 pm] And not that document dated 24 June.

A: That is right. This is the document that normally use for the SABLs. But my intention was never at SABL.

Q: Let me simplify my question. All I am saying is, there are two documents there, you see that. One is type written, it is typeset, you see that. It is dated 24 June, at the front.

A: Oh, okay, okay, I see that.

Q: The other is hand written.

A: 24 June 2000, 12 day of February.

Q: There is a variation in the dates that is why I am asking you.

A: Oh, okay.

Q: The document that was consented to by the landowners Mr Papa is the document dated – the one that you physically dated.

A: That is right.

Q: With your hand. And that document, where did it come from? Who manufactured that, you do not know?

A: I do not know, Commissioner, this one I do not know. But ---

COMMISSIONER MIROU: Do you know who did it? Lawyers do that work.

MR BOKOMI: Now, I am going to ask you again. Under normal and proper circumstances, if land acquisition were to proceed in respect of portion 14C, which documents should it have proceeded under? From those two leases, which document? Was it the one that you signed, you dated or is it this one?

A: Commissioner, I cannot really recall because I do not have a copies of this, which document they used that went into, whether this one or this one, Department of Lands.

Q: All right, evidence is before the Commission that is the document dated 24 June that formed the basis for this acquisition and subsequent grant as an SABL covering, now described as portion 14C. It is the document dated 24 June. Now, do you think that should be the document or should it be the 12 February document 2009? Mr Papa, I am asking you a simple question.

A: Commissioner, in this document there is a person by the name of Sikabu Maika. He signed as an adviser for lands here. And here I signed probably as a district lands officer, not probably but as a district lands officer here. Probably, because the advisor for lands at that time signs so this document may have superseded this one. That is what that may have happened because the boss ---

Q: You read through the document and tell me whether the document dated 24 June 2009 supersedes, is there a clause in there that talks about a clause relating to that document superseding the document dated 12 February 2009.

A: No, Commissioner. What I am saying is because Sikabu was the advisor and they may have saw that, even Papa is just a district lands officer so that is made – the department may have took it that way, I do not know. But because Sikamu Maipa’s signature is there as an adviser for lands. And they may have done away with this and took on board this one and proceeded.

Q: No. I am asking you a simple question, read through the document and find the clause that talks about supersession.

COMMISSIONER MIROU: Is there a clause that says in that latter document that you know, this document supersedes the previous one issued.

MR BOKOMI: The document dated 24 June.

COMMISSIONER MIROU: Under your signature, is there any clause? No, not that one.

A: Commissioner, there is none.

MR BOKOMI: There is no clause. Very well. According to Dina Gabo, the document that they signed and the landowners gave consent to was the document that you dated. As to the document that was commissioned by or signed off by Mr Sikabu Maika, they are unaware of. So from that basis, according to your experience as a lands officer, you have been working with the lands office ---

A: Yes.

Q: For the last, almost 15 years, right?

A: Yes, 10.

Q: 10 years. Which of those two documents should have been properly put through the division of customary lands to eventually get this title which is now called portion 14C, which of those two documents?

A: Commissioner, I think I am the district lands officer at that time responsible for this section of the district where the parcels of land are covered. I think this document should be considered. Not this because ---

Q: Yes, which document? You state it for the record, document dated what?

A: Dated 12 February 2009, as an officer responsible for the particular area here.

COMMISSIONER MIROU: And that Lease-lease Back is in the name of which owner. If you look at the schedule which is the company; the landowner company that this lease is held in? At the back, if you look at the schedule, there is a schedule. Part 3 or 4.

A: Kebogas, sorry. Kebogas Tosigiba Limited, appointed, nominated, sub-lessor. The landowners in nominating, appointing the persons, landowner, business group or other incorporated body as resolved for the Special Agriculture and Business Lease to be issued to the Kebogas Tosigiba Limited.

Q: Does not say anything about Tosigiba Investment Limited?

A: No.

MR BOKOMI: Now, what happened, sorry, what happened after you dated that document as 12 February 2009? Did you keep the document or you gave it back to Mr Dina Gabo?

A: Mr Dina Gabo got it.

Q: Why did you give it back to him?

A: There was no reason.

Q: There was no reason. You think that Mr Dina Gabo would have had any use for that, in terms of the administrative processing of the portion of land that is now called portion 14C. No?

A: I assumed that because they have come through process so they need this document. So I signed and gave to him and then probably he could take it up with other processes that he wanted to.

Q: Why did you not post to him at that point in time you set foot? All right, I think I am the district lands officer, I should take the responsibility here now. The buck now stops with me. Because the land that I am supposed to advise on and be responsible over for its administration, acquisition, et cetera is within the Western Province and more particularly, within the Nomad area which falls under the district of North-Fly. Is that correct?

A: Commissioner, Nomad area is splitted in half. Part of Mugulu area is part of North-Fly.

Q: Well, very well, but I am just posing to you that question. Did it not dawn on you that you should basically keep the document and then follow it up from there for purposes of carrying out your duties dully?

A: That is right.

Q: No? So you have basically failed in that respect.

A: Yes.

Q: And because the company has paid you that K1000 you failed, is that correct?

A: No.

Q: No?

A: No, not because of K1000, Commissioner.

Q: That maybe too good to be true, Mr Papa, right or wrong.

A: Right.

Q: Thank you Commissioner, I have no further questions.

COMMISSIONER MIROU: Yes, okay, thank you Mr Papa. We thank you for coming at short notice.

A: That is okay.

Q: To answer further queries in regard to – you are excused.

THE WITNESS WITHDREW

COMMISSIONER MIROU: Counsel, I think it is lunch now.

MR BOKOMI: We are well into lunch hour. I will be asking for an adjournment for at least one hour. We resume at 1.30.

COMMISSIONER MIROU: Thank you. Adjourn.

LUNCHEON ADJOURNMENT

Kiunga5 – 21/11/2011 – t/16 – g.aia

[1.52 pm] MR BOKOMI: Thank you. Commissioner, Mr Bako is not here yet, but there are some additional questions that Mr Bako will be asked. In the meantime, perhaps, we will proceed with Mr Dimonai.

COMMISSIONER MIROU: Okay Mr Dimonai, if you can take the witness box, you are still under oath. Counsel when you are ready?

Q: Thank you Mr Dimonai and good afternoon to you. You were recall to give further evidence to the Commission as being anticipated by the fact that there been other evidences which have transpired during the hearing of the Commission that one way or another is related to your involvement. I will be asking you certain questions and speak up please. You have signed off on all recommendations as to Alienability of three large portions of land as you are aware. That is portions 14C, 1C, and 27C.

Mr Papa, as you would know, indicated in his evidence that on or about – rather in or about December of 2008, all of you were in Port Moresby. You as the District Administrator for North Fly, what was the purpose of you going there? There meaning Port Moresby - to Port Moresby?

A: Commissioner, that is 2008, 2008 is about 2½ years away from – so as District Administrator, I went for official duty.

Q: What was the official duty that you went for?

A: I can not recall but I went for official duties. There are other duties that we did, One is the one advertisement of the road line and the other one is the acquisition of the land at Stage 2 where you can see it, I do not know Commissioner, if you have driven in.

Q: Yes, that is Stage 2, portion 1C eh?

A: Yes.

Q: Stage 2 of that project. It was for the acquisition you went?

A: Yes, plus other official duties that we went to.

Q: Okay. That particular activity or thing in relation to that acquisition of Portion 1C that you went for.

A: All Portion 1C or 14C and 27C is the – this Portion of land, we were not involved at the first place of the kind of acquisition of land meaning the Land Investigation to identify landowners along the corridors of this proposed road. Western Administration is not ... for that matter. It was a party to that other land investigation that was conducted around this corridor from

Q: Witness, that evidence you have already given. It is in evidence, you do not have to repeat. My question swiftly put to you was, you said that you went for the purpose of this land acquisition. For what particular purpose in relation to this land acquisition did you go for?

A: That is Provincial ... to do this land purpose to acquire government land

Q: So you indicated earlier that it is for Portion 1C.

A: No, no, it is not for Portion 1C. This is Stage 2 – this portion here in Kiunga. This place where Government houses are now built.

Q: Stage 2?

A: Yeh, Stage 2. And land blocks on the other side.

Q: Valuer.

A: Yes.

Q: So you were there strictly for that Government business.

A: Yes, yes.

Q: All right. Then you signed this Land Investigation Report as the person recommending the Alienability, right.

A: Yes, on the condition that what I anticipated for was to acquire a portion of land for lease here to there. Not what you are driving at. This SABL is a different concept and from the way we understood, even though we were not involved in the Land Investigation, meaning no officers of mine was deployed to do this work.

Q: Very well. Okay, you were there at the same time as Mr Even Papa and Mr Ipisa Biama in port Moresby? Where were you lodged then?

A: Mr Ipisa Biama Commissioner, is the an officer from Middle Fly. I have no authority and power over Ipisa Biama.

Q: I am not asking you about your authority and power over Ipisa Biama. I am asking you a specific question. Where were you lodged at? Witness, you listen to the question attentively and you answer. The question as it is put to you.

A: I was lodged at Lamana Motel.

COMMISSIONER MIROU: You and Mr Biama are very much holding the same positions but looking after different districts.

A: I was lodged at Lamana Hotel. For Biama, he went for the same purpose but he was doing that while I was doing

Q: Where was Biama lodged.

A: We were at Lamana.

Q: Both of you were at Lamana?

A: Yes.

Q: Mr Papa stated in his evidence today that he was lodged at Sport Scene.

A: Sorry no. He was lodged in at Sports Scene but in Port Moresby. I was lodged in at Lamana.

Q: Are you sure?

A: Yes.

Q: Are you very very sure on that?

A: Yes, yes.

Q: Now, you were called to sign this Land Investigation Report, sign the part relating to the Alienability. How was that done?

A: It was Thursday I think, the survey and Mr Papa brought the document over to me. He told the survey of ITLS that I was in town and they brought the document over. I thought everything was verified and certified. It was in order so I signed it.

Q: You simply had to sign, even without reading the last page?

A: Without reading the last page or what, I just signed thinking that you know – my field of profession is different from the field of profession that regarding land matters.

Q: With due respect to this, it is not completed land document that you were suppose to sign. It is a one page document which is in clearest of terms, and I will put it back to you –

A: Commissioner, I did not read the document. I went ahead thinking that everything was in order with the perception that we wanted the road to go from here to where X where, this proposed trans Papuan Highway, uh.

Q: Witness, that is your perception. I am now giving you back the document that you signed to read.

A: Commissioner, I do not – I mean

Q: It is only a document. It is in plain language, it is in very very plain English. It does not have any technical surveyor's language or land valuer or land management graduate language. You read the top part, particularly in relation to the amount of land that was taken away from the landowners.

TAPE 17

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[2.02 pm]MR BOKOMI: Can you state the figure?

A: Look, it is just like something – something in my throat. Whether it is directly or indirected questions, line it up properly. What I am trying to say here is that I –

Q: With due respect, the question is not blindly inappropriate. Can you retract that language? It is not blindly inappropriate. Could you just read –

A: Commissioner, just give me – spare me some time. I am actually not capable of answering these questions. I have other –

COMMISSIONER MIROU: MrDimonai, under the Commissions of Inquiries Act you are required to answer. Unless you want me to read that particular provisions that deals with – if you refuse to do so, then I can apply the provisions of the Act. Are you refusing to answer or you will answer?

A: No, I will answer and I will – thank you – but – okay Counsel, I will read this one –this statement; and then with a comment.

(Paper to be incorporated –Statement of Alienability)

Q: It is noted in evidence that you did not take step to ascertain whether or not there were any dispute as to ownership. Is that correct? - Of the land that was to be acquired; Number 2 you have stated in your evidence also that you did not order this, you were merely given this particular document to sign and you signed. You did not date it and you did not putthe place where you signed. Is that not your handwriting or is that your handwriting?

A: Commissioner no.

Q: That is not your handwriting?

A: No.

Q: Very well, you would agree with me that had you taken time to read this documents, this particular one sheet of paper containing the recommendation as to alienability, you would have understood that the land proposed to be purchased or leased by the State of Papua New Guinea, they do not properly state the legal name of Papua New Guinea which is the Independent State of Papua New Guinea but it merely states, by the State of Papua New Guinea, totals to about 632,538 hectares. What made you not read the document before you signed?

A: ...

Q: I am asking you a specific question, what made you not read the document before you sign?

A: I was told to sign so I signed.

Q: During your normal line of work as the District Administrator, do you sign documents without reading?

A: No.

Q: No. you always in all instances?

A: Yes.

Q: Yes. But then why did you not read this document? If that is your purposes at work.

A: I was told to sign so I just sign.

Q: You were told to sign so you sign.

A: And I did not use the handwriting here – Kiunga and the date and December here – this is not my handwriting. This is a fine small writing, my writing is not like this.

Q: How long were you in Port Moresby for?

A: Seven days.

Q: Seven day just like Mr Papa.

A: Yes.

Q: And MrBiamo?

A: I am not too sure.

Q: MrBiamo also says in his evidence that he was there for about a week. You reckon it would have been proper for you to sign all these documentations within the customary lands Division? It would have been given to you by a Lands Officer and not an officer of or company official who has no interest whatsoever so far as the State matters are concerned

A: Correct.

Q: Yes?

A: Yes.

Q: So why did you overlooked that?

A: I think consultations have been done and that this document was presented to me.

Q: Would it have been proper if this document was presented to you by a Customary Lands Division Officer of the National Department of Lands which is actually responsible for Customary Land Acquisitions.

A: Yes, should have been that way.

Q: Should have been that way. Then why did not you question the officer that went to give you? Why did not you talk or question MrPapa who was together with MrAtson Ape when they gave you the document to sign?

A: Commissioner, I thought former concensus will reach – I tried ringing Mrpapa who was liaising with the Customary Lands Office at Aopi House in Waigani. Consultations were already done so I was there just to sign. So thinking that all these consultation and was done so when they gave me the document I just went ahead and sign.

Q: Did you hire any vehicle while you were there in Port Moresby?

A: Yes, I suppose.

Q: Who funded for the hire of the vehicle?

A: Lufa District Administration.

Q: Lufa District Administration.

A: DIR ...

Q: I believe you have evidence on the kind of travelling allowance and as well as car allowance that they have given you. Can you actually retrieve that from your records? At your office?

A: I will try and get my District Treasurer to retrieve that information.

Q: What sort of vehicle did you use? It is a K3,800. Today it is Herts Rent A Car. So you hired the vehicle from Herts Rent A Car.

A: So the District Administration paid for the car. It is a normal package travel – We get our travelling allowance, airfares and hotel accomodations. So the have hey pay the first fuel so when it finishes you will have to pay for the whole fuel.

Q: Very well, Okay, the amount of fuel that they filled have filled in the first instance. What happened to it? Did it take the whole week or?

A: It depends. Normally because it is a petrol vehicle so petrol vehicle consumes a lot of fuel when you drive around in Port Moresby – the approval of hire is about three days at the most – I had to pay.

Q: So you had to pay. Where did the money come from for the purpose?

A: Not Fly River Administration.

Q: You did not receive any allowances whatsoever, no money from ITNS for signing this document?

A: No.

Q: No, nothing. You have got to give your answer truthfully and honestly to the Commission. Did you receive any allowances whatsoever?

A: Not that I know of.

Q: How long have you been associating with ITNS

A: May be in 2009. Not too much.

Q: Because 2009 and today – Did ITNS give you give you any monies at all?

A: No.

Q: No, you did not receive any allowances whatsoever from them?

A: No, because what they were doing was in consultation with the Western Administration.

Q: Did they offer you any lunches, dinner etcetera that they organized? Did you attend?

A: Only once that I know of.

Q: Only once; when was it?

A: Just between Waigani, there is a restaurant there – Waigani BSP and Westpac and that restaurant in the middle there. From Westpac you come up driving from Boroko, it is on your left hand side.

Q: All right. When was that?

A: Somewhere around 2009.

Q: 2009 - How long were you there for?

A: For about 2 hours.

Q: 2 hours.

A: 1 hour or 2 hours at the most.

Q: Apart from the luncheon, did they pay for any beers, any I would call it beverage to consume.

A: Only food.

Q: Ontop of that, did they not give you any money?

A: No money at all.

Q: Two days you have not receive any single toea from the Independent Timbers and Stevedoring Limited. Then why did you proceed to sign this document that was not for the road project. But it is for the requisition of 632,538 hectares of customary land, it is not for the road corridor as you assume ably presupposing. Why did you do that?

A: My answer to the first question and the same question. I have answered that already. Thinking that all the papers were done correctly and all that and that it was in order for land acquisition so I went ahead and sign.

Q: You went for a Government business for a specific purpose to Port Moresby not to sign these documents.

A: That is correct.

Q: All right, then why did you overstepped your line of duty to sign off that document which you were not suppose to sign?

TAPE 18

Kiunga5 – 21/11/2011 – t/18 – g.aia

[2.17 pm]MR BOKOMI: Does that amount to a clear breach of some of Public Service Rules and Regulations that govern your conduct, operations and activity as a Public Servant? I am talking about General Orders.

A: Yes.

Q: A duty to serve and a duty to protect the interest of the State and State means the people of Papua New Guinea. And with particular application too the people of Western Province and for that matter the people of North Fly District.

A: Correct.

Q: You would agree with me on that, right?

A: Totally agree.

Q: You have not side stepped, you have breached and you have exercised no duty of care at all in your conduct. Right

A: Yes.

Q: Yes, as a Government Officer.

: Yes. Commissioner, I had to sign, I was given the document and I thought everything was okay so –

Q: You have already said that. I have not finish with my questions. There is another question that I would like to put to you. I am just interested to find out about the fleet of vehicles that you have at the District Administration. ... or a used government allocated vehicle or?

A: Correct, yes.

Q: So I take it that the Toyota Landcruiser 10 seater is used by Mr Papa. It is a government owned vehicle but bearing a private number plate?

A: That is correct, yes.

Q: Yes?

A: Yes.

Q: Can you produce those documentations tomorrow to the Commission.

A: Yes, but he is at the provincial level, he is a Principal Advisor Lands.

Q: Very well.

A: So you can liaise with the Provincial Administration.

Q: Or we will probably get Mr Papa himself to provide.

A: I am not at his level so all fleets of vehicles that are within the District is under my responsibility.

COMMISSIONER MIROU: Under your jurisdiction.

A: That is right.

THE COMMISSIONER: May be we will ask Mr Papa.

MR BOKOMI: Yes we will put him back ... I have no further questions.

COMMISSIONER MIROU: I have no questions to ask MrDimonai except to thank you for being patient and assisting us further with the Inquiry.

MR DIMONAI: Commissioner, I would like to thank you. Counsel, any information that you require in regard to this, do not hesitate to call me back. I am going to stay here until Friday and we will close everything up.

COMMISSIONER MIROU: Yes.

MR DIMONAI: Direct accommodations are all precise and clear. You know some of these things; today is a computer world. These people have got other intentions behind to lead to us to do SABL and they scan documents on signatures to offload for the purpose they want, that is supposed to be not uncalled for.

MR BOKOMI: Before you go, I just make a statement that the Special Agricultural and Business Leases have no room for reservations. So once you give up customary land, you forfeit all the customary land rights and that includes the right to hunt and gather or even the right to do gardening. Unless it is stated in the reservation part of the Land Investigations. Names of the leases that we have gone through with copies of the SABLs, the Special Agricultural and Business Leases granted under Section 102, two things become very very apparent;

1. Grant is not payable to the landowners. Landowners do not even get one single toea for the land that they give away. To what might, at the end of the day become very very unscrupulous developers. They do not get one single kina in rental for the entire 99 year period of the lease and that is the law refer to Section 102 of the Land Act. Grant is not applicable where Special Agricultural and Business Lease is granted under Section 102 is concerned.
2. That is why, you see the important of all these, that is why we brought you and Mr Papa here to at least assist the Commission and any evidence that you give, you must at the end of the day, give to us truthfully because it will go down with your conscious.

Thank you very much.

COMMISSIONER MIROU: Thank you MrDimonai.

MR BOKOMI: I will have to call back Mr Papa.

COMMISSIONER MIROU: You are on your previous oath so you will continue.

Q: Mr Papa, I am just going to ask you about the vehicle you are using. The further 10-Seater Landcruiser brown in colour. What is the Registration Number?

A: CAX765.

Q: Is that a Government owned vehicle?

A: Yes.

It is Divisional car?

A: Yes.

Q: Very well.

A: Just a few months ago, budgeted under the normal provincial Administration budget.

Q: You do not have any other vehicle apart from that?

A: Nothing. I do not have a private vehicle too.

Q: You do not have any other vehicle part from that.

A: I have nothing. Nothing good in my house too.

Q: Very well. I specifically ask for Commission's satisfaction to provide copies of the registration documents so that we will keep it on file. Thank you Mr Papa, I have no further questions.

COMMISSIONER MIROU: Thank you Mr Papa, if you can provide us the registration papers for the vehicle, we will be much obliged to receive it. You

are excused.

MR BOKOMI: Commissioner, I seek a brief ... adjournment. I do not know whether this particular IamaFami, Max Iomba and SokiSamisi, whether they are here or not.

COMMISSIONER MIROU: We will adjourn.

BRIEF ADJOURNMENT

sabl5 – 21/11/11 – t/19 – s. mai

[2.36 pm] COMMISSIONER MIROU: Yes, Mr Bokomi?

MR BOKOMI: Commissioner, as it appears, the three persons whom you directed to give evidence on Tosigiba Investment Limited this afternoon, namely Pia Fami, Max Mioba and Soki Samisi, despite your directions, are not here. So I basically instructed the police to go and look for them.

COMMISSIONER MIROU: We will have to get those witnesses from notice first.

MR BOKOMI: So we will proceed with notice first.

COMMISSIONER MIROU: Yes.

MR BOKOMI: Investment Limited Directors, who are witnesses under summons. I will call firstly Mr Waidi Kwani.

COMMISSIONER MIROU: Thank you.

MR BOKOMI: To come forward to the witness box to give evidence.

COMMISSIONER MIROU: What, sworn evidence in English or Pidgin?

MR BOKOMI: English.

COMMISSIONER MIROU: Okay, please take the Bible.

WAIDI KWANI, sworn:

XN: MR BOKOMI

COMMISSIONER MIROU: Mr Bokomi?

MR BOKOMI: Commissioner, this particular witness comes before the Commission under summons number 224 issued by the Commission. Witness, can you tell the Commission your full name?

A: Commissioner, my name is Waiti Kwani, W-a-i-t-i K-w-a-n-i, surname.

COMMISSIONER MIROU: Yes?

MR BOKOMI: Where do you come from?

A: I come from Dringas village in the portion 27C, Awin Pari.

Q: Where is Awin Pari? In Kiunga, is it?

A: In Kiunga.

Q: Kiunga, and Kiunga is in North Fly District?

A: Kiunga is in North Fly District, correct.

Q: Very well. What clan do you come from in that village of yours which is called Dringas village?

A: I come from Gase clan.

Q: Gase clan. How do you spell your clan name?

A: G-a-s-e.

Q: G-a-s-e. Commissioner, this particular witness has prepared---

COMMISSIONER MIROU: A written statement or affidavit?

MR BOKOMI: He has prepared his affidavit to which he has attached an incomplete Statutory Declaration attaching the various signatures, I believe,

whom they had sought earlier this month seeking to support the SABL. Witness, could you indicate to the Commission if that is your affidavit?

A: Yes, Commissioner, it is my affidavit.

Q: When is it sworn? When is it sworn?

A: The affidavit was sworn after the summons issued to me.

Q: Yes, but when?

A: On---

Q: 17 September 2011?

A: Yes.

Q: You read the first line of your affidavit on the first page.

A: It is on 17, Thursday 17.

Q: Okay. That signature there on page 7 above your name, can you confirm whose signature that is?

A: That is my signature, Commissioner.

Q: Commissioner, because this particular evidence that the witness is going to give just as much as, perhaps, all the other witnesses under summons, cover portions – two portions, 27C and 1C, I would ask that their exhibits be marked in their respective initials in block capitals.

COMMISSIONER MIROU: Yes.

MR BOKOMI: I seek to tender the original of the affidavit containing all the signatures of the various landowners into evidence and mark it as exhibit---

COMMISSIONER MIROU: M.

MR BOKOMI: Exhibit NEWIL.

COMMISSIONER MIROU: Okay.

MR BOKOMI: Exhibit NEWIL WK.

COMMISSIONER MIROU: WK1 or just WK?

MR BOKOMI: WK. I do not think he has any other evidences.

EXHIBIT NEWIL WK – ORIGINAL AFFIDAVIT – ALL SIGNATURES OF THE VARIOUS LANDOWNERS

COMMISSIONER MIROU: Yes, you may proceed.

MR BOKOMI: Witness, I am basically going to ask you to read into for the records of the Commission, your affidavit. You may please proceed and speak loudly and clearly, please.

A: Commissioner, my affidavit. “On Thursday, 17th day of September” – it should be November 2011, I, Waiti Kwani, care of North East West Investment Limited, N-E-W-I-L, Kiunga, say on oath as follows.

I am the Chairman of NEWIL or North East West Investment Limited. I come from Dringgas village portion 27C, Awin Pari. There are a lot of facts I will have to share with the Commission of Inquiry, COI, Sam Wingen, Kala Swokin and then ourselves who now lead the NEWIL as directors, joined the long eight years to bring the integrated Trans Papuan Highway, selective logging and **upper** cultural project to the point where it is now ready to begin. I shall only present the facts which I believe the call is concerned about in its Inquiry.

Landowners and IT&S.

On 16 March 2003, I, together with Max **Mirava** and **Foxy Asibi**, **Samson Ubri**, called out meeting at **Sarekona** and more than 300 landowners from portions 1C, 27C and 14C attended the meeting and advised that IT&S had heard our cry for development and was interested in constructing a road, selective logging and agriculture project from Dringgas, Duwawi Falls and all landowners must form ILGs to participate in the project.

On 23 March 2003, Neville Hussley of IT&S came and met more than 500 people at the old Kiunga Rural LLG Council chamber and Mr Hussley advised everyone he was prepared to partner them by carrying out the developments in exchange for forest resources.

Awareness and Incorporation of Landowner Groups.

I then organized landowners into teams and then sent them out to all the villages where the proposed developments would take place to give awareness about the proposed development and help them complete their ILG forms.

SABL-20(nnb)

[2.47 pm]A: All the landowners along the proposed road corridor from Gre-gringas, Diabi, Tegena, surrounding villages were all aware of the project. The awareness teams also went to Tipanzuwi village, along the Fly River, Jemskai village along the Fly River, Smifen village along the Palmer, Kana village, Kana Komnai village, Pipina village, Wakena village, Tegena village, Timnaz village, Monaia village, Koaru village, Timnaz Gringas village, Gre village, Gesome village and Waringre.

The landowners cried for the proposed development and earnestly began completing the applications to form their ILGs. Max Miaba went to all of the Nomad villages, Juha, Behami villages, Wawoi Falls and Lake Kembal for the awareness.

The awareness and ILG registration. ILG registration work took us up to 2006 when all ILGs were finally registered. Other villagers and landowners were aware of the proposal, developments and agreed but had other issues like land disputes to be solved. They described that they would join in later.

Changes NWS shareholding. In 2006 changes were made to NWIA to make the registered ILGs owners of NWIL because NEWIL would now be the umbrella company to drive the project on their behalf.

Project feasibility studies. ITNS then began feasibility studies on all the components of the project. Approval for development by road line timber authorities refused by the government because of changes to Forestry Act. In 2007, the National Forestry Authority refused to grant us road line TAs for proposed road because, roads more than 12.5 kilometers had to now be constructed through an FCA.

Decision to apply for SBL. In order to apply, get the FCA for the construction of the proposed road, it was necessary to get the consent of the landowners. And since NEWAR represented the landowners now given all of the awareness programs, the landowners has consented for the project, a next half activities to be undertaken in the project based on Department of Land's advice. It was agreed the appropriate way forward was by way of an SBL. Through the SBL the customary lands would be secured for the project fundamentally, because aside from main Trans Papuan Highway, the potential request for feeder roads by the landowners would see feeder roads closing the entire project area.

Through the SBL they would need to spend further millions of kina to go through the process of securing the other customary lands and compliance requirements for the feeder roads. That also apply to selected areas where landowners wanted selective logging for agricultural projects away from the highway corridor and road side developments.

Aside from securing the customary lands for the principal development of the trans Papuan Highway and roadsides development, airstrips and base camps and provision to allow for the feeder roads and selective logging, agricultural projects away from the corridor of the trans Papuan Highway, the size of the highway, the customary lands who would be protected from exploitation by any other collatory or falsity claiming on such customary land such as what is happening in Juha by the Tari people and at the PNG LNG Project at about this time.

Apart from the trans Papuan Highway, corridor and the developments alongside the corridor of the highway, airstrips, base camps, all other parts of the project area would not be utilized unless the landowners wanted feeder roads, selective logging for agriculture projects on their customary lands.

Awareness of SBL. After learning the need to secure the land by way of an SBL in November 2008, we had a meeting with all the Paoli, Waitu, Awin, Nomad, Biyami tribes at Sarekona and then form teams and we went to advise them of what we understood and described to the landowners was the agricultural lease, timber over their land for the road and agricultural forest project. We went to all the same villages along the proposed road corridor and up the Fly and Palmer River.

The land investigation report. After returning from the awareness of the agriculture lease title, we went to see Sigava Maika, who was the then provincial lands adviser but he was always absent. And we learnt the lands division was short staffed and did not have any budgeted funds to carry out land investigation. We advised ITS of this predicament and it agreed to help us its surveyor, Hudson Hape to assist us. For the purpose of land investigation report, we confirm the ILGs and membership of the ILG owners of portion 1C, portion 27C. The respected chairman, agents,ILGs who can confirm the boundaries of the ILGs, chairman, agent who knows their boundaries and then pass the confirmed information to surveyor Hudson Hape of ITNS.

Instrument of Lease for customary land. In March and April 2009, the Instrument of Lease for customary land was delivered to us to go and give final awareness about the agriculture lease title and to obtain the signatures of ILG chairmen's, agents for that purpose.

On 24 June 2009, the Instrument of Lease for customary land after being signed by all the chairman and agent was finally signed by Simon Malu of the Department of Lands at Lombiro Hotel, after he explained the SBL scheme further and asked all chairmen to confirm their consent on behalf of the ILGs and members again, for the SBL, proposing 1C and 27C. And they all said that they consented.

Title. After September 2009, the title over portion 1C and 27C was granted to NEWI or North East West Investment Limited.

Landowners support for the project. Annexed and marked with the letter 'A' is a true copy of statutory declarations shown in the support of the landowners back in the villagers and not the Kiunga landowners.

Allegations of fraud, falsities and malpractices, et cetera. Imen Papa's statement is false. He was flown by ITS to Port Moresby to give his and advice on the land investigation report, stayed at Port Moresby for almost four weeks for that purpose.

Steven Koani also lied to the Col. He was not present at the time of awareness on the agriculture lease titles but he was present at the time of the signing of the Instrument of Lease and he heard what Simon Malu said in explaining the SBL scheme and then complaining that he should

sign instead of his brother, Julius Manguman an ILG chairman. And he signed next to his brother signature.

Jack Kwari also lied to the Col. He does not represent any 12 ILGs for purpose of the project at all. He is my brother and he eats and wakes up with me at Sarekona and at Dringgas village and knows about my explanation to him about the agriculture lease title.

Seiwol Kebukena also lied. He was always a director of NWI and aware of what we were doing. He lost to Kare Supe in the JV direction elections in 2000 and then lost to Foxy Asobi in the 2010 JV director elections. He became angry and then start opposing them.

Monford Evatari also lied to the Col. June our awareness of the agriculture lease titles. Samsu Ubre looked for him and found him at his bus camp, three kilometers from Dringgas village and spent three hours explain it to him and then he signed.

Patoro Akwas customary land inside portion 27 is in dispute. The way forward is there was been any further various or irregularities in the acquisition of the SBL over portion 1 and 20C. If the failures and irregularities complained about by our oppositions have any merit then if they can be fixed, they must be fixed.

[3.00p.m]A: The project must commence for the benefit of the majority of the landowners who have cried for this development since Independence. Those who do not want to withdraw their customary lands from Portion 1C, 27C can simply excise their customary lands from Portion 1C and 27C and no longer be subject to SABL. Thank you Commissioner.

COMMISSIONER MIROU: Your last request cannot be done because under law, that lease cannot be revoked. 29, where you say, “those who now want to withdraw their customary lands from Portion 1C, 27C can simply exercise their customary lands from Portion 1C and no longer be subject to the SABL.” There is a direct grant, a lease in your company’s name, under law, we cannot revoke that lease.

A: Commissioner, if it is just the landowners, as I have said, do not want to be – if the landowners themselves if they want to be excised from the SABL, I said, they can, if the law permits.

COMMISSIONER MIROU: Counsel.

MR BOKOMI: Mr Kwani, what the Commissioner is basically telling you is that the law does not permit. If certain landowners from within a SABL area do not give their consent, irrespective of whether or not, that SABL covers areas where landowners have given their consent that

Tape 22 - missing

Tape 23

SABL-23(nnb)

[3.24 pm] COMMISSIONER MIROU: You can tell them to pack up and move out? If you want to do that tomorrow or this afternoon.

A: No.

Q: That is what is going to happen. Do you realize how serious that is and to come here and insult your own people about them not being aware of it. What is the truth?

A: Commissioner, the truth is that looking at these people on this side here, on the north corridor LDs. We are in the dark, black with no projects no nothing since Independence. This is the landowners initiative that we all tried, put our efforts together to put it in a way that we could get development and services through the means of road linking to our areas, through the means ofactivities so that we benefited. And it was all the community plus the company executive, we all made a team effort with the assistance of the developer to get this project on; off the ground so that we will be benefited. Now that they said that they do not know, I disagree with it because everybody has asked us or put an interest for us to do means, look for means to ways to get through for development services on that particular portion even this area.

Q: Okay, we can take that. But they are not fully aware that their land is now under an SABL which they do not own anymore.

A: Commissioner, as I have said, the main SBL came in but agricultural title lease or lease title was explained to them. And they are aware of it.

Q: What was the explanation that you gave showing that you seem to know very much about Special Agriculture and Business Lease as you have stated in your affidavit? You have conducted extensive awareness as I have alluded to earlier on. What was the kind of explanation that you gave to the people that you went to see?

A: Simple explanation that I gave, Commissioner, was while the road project is on because road project, forestry and agriculture is a component. This is myopportunity that why we get a load of it along this 5 kilometer side, side. We might want to practice these agricultural activities, like planting rubbers, all these sort. This title help us or will help us when we get the agriculturalit will help us to get the agricultural projects along the road side.

Q: Sorry, can you repeat that?

A: I said the title, agriculture title – lease title, if we had as the load got through that enable us to do agricultural activities along the north corridor.

Q: Who did these land investigation reports; land investigations?

A: The land investigation reports were done by Mr Hudson ---

Q: Hape.

A: Hape.

Q: Is he an employee of North East West Investment Limited?

A: No. He is an employee of the Independence Timber and Stevedoring.

Q: Why was the land investigation done by Mr Hudson Hape?

A: Commissioner, the land investigation was done by him. We requested him to do it for us because in our province here, our lands officers have limited staff and that they have no finance to do it. We requested, I think he has to do it because he was interested.

Q: Did you ever approach the lands officers to do the land investigations?

- A: Commissioner, we did a couple of times to Mr Sigabu.
- Q: Where is the evidence of that? Did you write to them?
- A: I did not write Commissioner. But I approach with my directors several times for them to come out along with us.
- Q: Did you talk with Mr Imen Papa to do the land investigations at the time he was the dispute lands officer for North-Fly?
- A: I did mention to him that we have this project going on in Eresi, he is aware. Couple of our meetings are conducted. He was aware.
- Q: And what did he say?
- A: He said he has got his stuff he said. His office is down staffed so he cannot do much. Some of the things that he can, he can come in.
- Q: How extensive did you go to conduct your awareness? I will give you back the map and you tell me which particular areas that you went to conduct your awareness on what this SABL is all about? And in fact, what villages and how many villages in all that you covered in conducting your awareness for your so called extensive awareness that you are talking about? That is the map of the two portions. This is where Kiunga is. Your village is somewhere up there, Dringas is somewhere here, all right. Okay, you tell me exactly which particular areas that you and your company officials visited insofar as these two portions are concerned?
- A: From Kiunga up the river we have covered Gibaratamin, Gibune, Kipinwantok, Dinska, Smifern, that is on the 27C. And up the great investment now is Gre, Moreya, Womb, Chindumasup, up the Kibia Tabian island is Drengas, Gii, Bereina itself, go up to Yasumi, Waraingre, then to Sisimakami and then across to Pineng.
- Q: What was the kind of awareness you were conducting? Was it for the acquisition of their customary land or what?
- A: That awareness was for the ILGs and the agricultural TA list title. And then all these villages to ---
- Q: What did you explain to the people? What did you actually tell them?

A: I actually told them about the agricultural TA title.

Q: Yes, what in particular about that TA title or agriculture lease or whatever?

A: Okay, Commissioner ---

Q: Did you explain to them the consequences of title being issued to your company?

A: Yes ---

Q: And the fact that they will lose all their land, did you explain to them?

A: Yes, I did. When I explained to them I told them that the title at the meantime, from my understanding, I said, the title at the meantime is landowner company. But as the development proceeds what we will do lands – we will do lands isparticular landowners and then sublease the land title back to them so that everyone can have their title.

Q: Mr Kwani, I will put a pause for you, on you there and tell you that you are now lying to the Commission. Because in your earlier statement you did say that the consent was basically for the road corridor construction not for the acquisition of all these land, is that correct?

A: Yes.

Q: Yes, so why are you now lying to the Commission by saying that you did explain everything and that they are going to lose their rights to customary land in respect of all the portions.

A: Commissioner, I mentioned that from the road corridor I mentioned to them. And these areas they have expressed interest to come in so I have to explain the same thing to them.

Q: But how will that be affected by the road corridor? The road corridor does not run through them. The road corridor will only cross from Dregrimgas into portion 141C. It not go further north.

A: Commissioner, from my understanding, I want to make sure that these projects are and the benefits is received by the people along the road corridor. And that people from outside will also come in with expression

to or express their interest to come in and join in the company to their ILGs. So we had a plan in advance that we could extend if we start off and they see what we doing is good. They come in we can extend and or we can extend it to where they want. Because everybody in this area, particular area they also want road linked to their areas. Looking at the situation we are here is that all of these areas are, we still need development and services to these areas, sir.

COMMISSIONER MIROU: Before counsel ask you, look at this document, it is an application or a tender form. This application or tender form actually results in an SABL been issued. It says the applicant is the North East West Investment Limited of which you are the chairman, care of P.O. Box 154, Kiunga, Western Province. Type of lease applied for: Special Agriculture and Business, see in your application form to the Lands Department in Port Moresby for forestry, reforestation, sawmilling, agriculture, major road infrastructure construction. So you, as the chairman together with your board knew that you said road construction but here, in this SABL application, it says forestry, reforestation, sawmilling, agriculture. So did you tell that to the people when this application on their behalf?

[3.35 pm] A: Yes, Commissioner, I did, with the directions that these things would come in when we had a title of all land with us.

Q: So now you seem to say – you seem to agree that, yes, your whole intention for the company was to obtain all these land, because you used the road construction as a means of getting the people’s consent basically to get a SABL over all these portions of land. That is what you are saying now.

A: Commissioner, yes---

Q: And that is the application form.

A: Yes, Commissioner.

Q: Now you look---

MR BOKOMI: Perhaps, Commissioner, I suggest we put it to him the document.

COMMISSIONER MIROU: You look at this document and you tell me whose signature is right down at the bottom and tell me whose signature is that? I want to know about that signature. Whose signature is that?

A: This one, I do not know, Commissioner.

Q: I mean, that is in the name of your company. You are the applicant. How you do not know who is signing for you? Who signed that document?

A: I do not know.

Q: This is the actual document that starts off the process on all investigations to be conducted and then the issuance of SABL. That is the very form that is submitted to the Department of Lands. It is in the name of your company or am I reading it wrongly - correctly? Just tell me who is the applicant on that tender form?

A: The applicant is the North East West Limited but the signature, I would not know whose signature it is.

Q: It says something like an agent there.

A: Yes, Sir.

Q: So who was acting on your behalf?

A: I do not know anybody, but the Lands office from our end was the company's---

Q: No, I am asking you, who signed that?

A: So I do not know who the agent is.

Q: Normally, you as the Chairman would sign that application and submit it to the Lands Department and say, look, I am trying to free up my land. That is how you start the process for SABL. That is the process. That is the starting. The first document that the Department of Lands receives is that document. It has the name of your company there and you do not know who signed it.

A: Yes, Commissioner.

Q: So whose signature is that?

A: I do not know.

Q: Thank you, bring the document back.

MR BOKOMI: Mr Kwani, before that application for lease that you have just read, certain parts of, was made by your company or purportedly by your company. Did you ever conduct any meeting, board meeting, for instance, that you were going to apply for a lease?

A: Yes, we have conducted board meetings; mentioned in our board meetings and---

Q: I will stop you. You are saying, yes. Can you provide copies of the board meeting minutes?

A: The copies, Commissioner, I will make sure I will provide that.

Q: We do not want any fabrication between now and tomorrow; we want actual board minutes. You understand that?

A: Yes.

Q: Can you provide that by 9.30 am tomorrow?

A: Yes.

Q: Do you understand the enormity of your undertakings now to the Commission, the seriousness of what you have just stated? If the board minutes are not there, then you need to also tell the Commission that sorry, I do not have the – no meeting was conducted; no minutes were taken, right? So you need to appreciate that. I am only trying to help you here. Which is the actual correct position? Did you ever hold any board meeting to discuss all those issues of SABL, including lodgment of an application as you have just now seen a copy of?

A: Commissioner, that is why I said I will try and check but if I – our meetings have been conducted but I said because whether it is in the meeting or not, I will – I think I do not have a meeting basically based on this SABL; but other meetings or directors meetings, we verbally mentioned all these; I can provide, but on this SABL, that I do not have.

Q: Did the IT&S Surveyor, Mr Hudson Hape, at any point in time, explain to you and say that your company is going to acquire very, very major tract of land to the value of several hundreds of thousands of hectares?

A: Commissioner, yes, he did mention based on the interest of the landowners and the situation where he said he will – I mean, the landowner company has to apply for the SABL to get the land so that in time when it is subleased to the landowners, it can then make a sub – lease - lease back later when the operation is on and they will be in close contact to check through and make sure that all of what we do is correct.

Q: In the process of that explanation, did Mr Hudson Hape also explain to you the effect of having a big area like this under a SABL in that, one, rent was not even payable to the landowners, did he? Landowners will never get their land rent for having given the land to your company. Did he explain that?

A: He did not explain that. He explained that we will all be paid for our land and all these other things as well.

Q: Paid what? Paid for what? What sort of payment would that be?

A: Like, Commissioner, if we are given or if we are doing agricultural activities or if we are doing other things when the logs are harvested the same similar will apply to all these feeder roads so they said, we will pay it; pay royalty for our land.

Q: How about the effect that a SABL would have over customary land rights in that once now that your company has leases over two major tracts of land, all those villages - perhaps we will call back the District Administrator, he will tell us basically how many villages there are within these two portions of land. Then you will tell me whether you have actually walked the length and breadth of these particular portions of land. You understand, Mr Kwani, the enormity of what you are basically telling the Commission now?

A: Yes, I understand.

Q: You see, did Hudson Hape ever tell you that once the land is taken away and granted as a SABL, then there been no reservations made in the Land Investigation Reports, no rights of landowners will be retained by them insofar as their hunting and gathering, the right to go fishing, gardening et cetera on their land and whatever their rivers and streams et cetera, they will lose it all. Did he ever tell you that?

A: No. Commissioner, what he did tell me was that while we get the projects on, we will pay when the load or logs harvested along the road, to every individual landowner.

Q: So if I put to you that not all the landowners, in fact majority of the landowners did not give their consent for this SABL from the evidence that you have basically stated. What do you say? Yes?

[3.46 pm] A: Commissioner, I also know because I am only based – the company was only based on those landowners who came through ILGs who expressed interest. For that land mass that we put, it was just a plan that we had for them if they want to come in.

Q: Why do you say no? Your judgment is only based on, as you have just now stated, is only based on those landowners that came to you, not the entire population. Is that correct?

A: Yes, Commissioner, that is what I mean.

Q: Not the entire population?

A: Not the entire population but the landowners that came to me with their concerns or expressing interest and the others who will be coming in later.

Q: Those landowners, are they from basically the areas that will be covered by the road corridor?

A: Yes, Commissioner, these landowners will be – those ones will be covered by the road corridor.

Q: That is what you have started saying when you opened your statement. You said, our whole intention – the overall intention was for us to allow for the road corridor landowners and the acquisition of their land within the road corridor to proceed, not the entire SABL. You have basically blatantly lied to the Commission, yes? You have lied to the Commission.

A: Commissioner, no.

Q: You have lied to the Commission?

A: If I have lied---

Q: Why then are you contradicting yourself? If such contradiction is not a lie, then what is it? What is the contradiction? You answer my question. I do not need any explanations from you. You answer my question, witness. You have contradicted yourself. How can you now be believed?

A: Commissioner---

Q: You have contradicted yourself; yes or no?

A: I said yes on the road corridor.

Q: There you go.

A: And further from the land corridor and those who are interested who will be coming in.

COMMISSIONER MIROU: So that road corridor is just from Gre village off – when we turn off after a drive of 20 kilometres from here from Gre to Dringas?

A: And then - yes – and then close over Fly River from 27, you continue to 127 to Strickland.

Q: So how did your company end up getting this whole area? It is not a road corridor any more.

A: Commissioner, perhaps we were based on the road corridor but this SABL or agricultural project, we think that in future other interested landowners from outside of the land corridor who express in it will fall in line with what we are doing, and we might all benefit from the projects that we have proposed there.

Q: I want to ask you about this attachment here, the ILG attachment. When did you conduct this ILG and when did you obtain those signatures?

A: When we physically worked in teams after our second hearing in Port Moresby.

Q: Okay, you worked in teams. Gre village, when you got all these signatures here, that is 2 November 2007?

A: Yes, Commissioner, that was when we came back from the second hearing.

Q: But the SABL has been issued. This should have come even before the SABL was issued. Why has it taken now on 2 November 2011, and from the way I read it, the same biro was used; even the signature too is very, very funny.

A: Commissioner, that signatory---

Q: Did they sign it or is it the same person that is putting his---

A: Some of the signatories some of them are in ILGs, those are children or those are kids.

Q: Look at your document - look at document. I am beginning to suspect that somebody else was forging. There seems to be forgery here. You put names up there and the same biro is used right across. “Before me”; who is that “before me”? Whose signature is that “before me”? Look at that first document where you say Gre village, ILG number 5: Nema Sika; Gre Gruman Rangia, ILG number 1245. Did this same person who did this write up sign all these – put all these signatures here?

A: Commissioner---

Q: Yes, the first document.

A: First document.

Q: Look at the first document. Who is it before? Who is it signed before, that first one?

A: This is portion 27.

Q: No, the first page when you come to the attachment, this one here; the first page. Whose signature is this?

A: Commissioner, 27C or 20---

Q: 2 November 2011, two weeks ago; two or three weeks ago.

A: Commissioner, that was Neme Sika.

Q: Who is Neme Sika?

A: The Chairman of Gre Sumra clan in Gre village.

Q: Who wrote this – who put all these names in here? Who wrote these things? Whose handwriting is this?

A: It is me and the other escorting team whom we walked together.

Q: Can you see any similarities in the way it is written down here, the signature part? It does not indicate to me that any of these persons signed it. It must have been you.

A: But they were there. They signed it themselves there.

Q: How? You look at this writing. How is it done?

A: The writings were done by us, Commissioner, but the signings were done by them. We went around getting them to sign.

Q: But the way it is written suggests to me that you put these signatures. Counsel – if I may give Counsel this. If I may give counsel this document to look at.

MR BOKOMI: Yes.

COMMISSIONER MIROU: They all have very – it is used by the same biro, the same handwriting. Second one, Gimson village. That was conducted on 1 November 2011. Here, we have fingerprints here. I think so, Mr – he can probably tell me better. I am probably looking at the wrong place.

A: Yes, mine is a mix up here. Commissioner, this is of of Dringas village; Chairman of

Q: Look at the thumb prints there. They all seem to be the same.

A: Yes.

Q: Same thumb prints.

A: These same thumb prints was done by the Chairman himself and his elder children; the grown up children.

Q: So you produced this document to the Commission to do what; to mislead us? Is that what you are trying to do with this affidavit and the ILG forms? You are misleading this Commission?

A: Commissioner, no. It is basically---

Q: Why did you attach all these documents here?

A: This is how we were advised to let the Commissioner know that we all supported the project.

Q: Counsel?

MR BOKOMI: Mr Kwani, what the Commissioner basically is telling you is that you would have done better by getting all these signatures before the grant. You cannot put – you cannot jump the band wagon now because it is already gone. You understand? The train has left. You cannot pull it back with all these signatures.

COMMISSIONER MIROU: So you are misleading the Commission.

MR BOKOMI: They may be genuine, they may not be genuine but that is already after the event, you understand?

A: Yes.

Q: And besides, it seems to me that all these---

COMMISSIONER MIROU: ILGs.

MR BOKOMI: Signatures were obtained and the person signed before your Lawyer Mr Michael Titus. Was he present at all those villages that you went to? You will see the last column there. It says "before me".

A: Commissioner---

Q: No?

A: No.

Q: No. Thank you. The Statutory Declaration that you attached also is incomplete. There is no second page to it, the signature page is incomplete. You see that, or is it an omission? Where is the other page that should go that says that "sworn at before me" et cetera, et cetera and then the relevant caution that normally goes with the Statutory Declaration that says that if you make a false declaration, then you will be liable to a certain fine, penalty or 6 months imprisonment. Where is that clause there? Can you tell me?

A: Commissioner, I was only given one page, this one here.

Q: I am asking you. You tell the Commission. You sit at the table as well.

A: Commissioner, I am only given this page.

COMMISSIONER MIROU: But you should be fully aware of what a Statutory Declaration form looks like since you are Chairman of a company. Do you know what a Statutory Declaration looks like?

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[3.32 pm] A: That is my understanding. So for example, if people at the top of 27C, well, the road starts to be constructed, people right at the top of Olsobib will want to access that road. So they will want the feeder road going all the way to them and then people at Olsobib will probably want a bit of selective ---

Q: Yes, but did your company ask them? Did you talk to them?

A: I am not aware of ---

Q: You are not aware so do not speak for them.

A: No, I am ---

Q: They have come and emphatically said do not want to be part of this SABL.

A: Yes, Mr Tusais, I agree with you. I am just explaining the, my understanding of why the decision was made for an SABL.

Q: Well, that is why ---

A: But I agree with ---

Q: I am stepping in, okay.

A: Yes. I, but I agree with you.

Q: You are saying you are doing it for the landowners up in Olsobib but you never talked to them.

A: That is right.

Q: That is my point.

A: Yes.

Q: You tell the Commission, how do you reply to that.

A: And I am saying Commissioner, I agree that they should be consulted, they should give their consent before the SABL can cover their customary land. But insofar as this project is concerned and how I understood the Business and Agriculture plan was that when the road was

started to be built, there would be requests for people for feeder roads, especially, to go right up to Olsobib. And to have to go through the process of getting permits and licenses for – to build a road again would take time and money. So through the SABL there would be permits and license already granted for the agriculture and feeder roads and so on so that it would be quicker to build those roads and do those projects. I am not saying that those ---

Q: What you are saying is that you are doing it for their own good.

A: That is the ---

Q: Whether they give consent or not does not matter. What you are doing it, you are doing it for their benefit.

A: No. No, I am saying that that was the intention. But the landowners have to be consulted and they have to give their consent. That is what I am saying. But I am saying that the intention of the project was there to accommodate that interest.

Q: Where are your principals, sorry, your clients, Mr Neville Harsley, where is he now?

A: I understand he is in Moresby now, Port Moresby now.

Q: He is in Moresby. Cliff Frazer?

A: I understand he is in Australia.

Q: Noah Vicar.

A: I understand he is in Australia.

Q: And Don MulCaehey.

A: In the United States.

Q: You think Neville Harsley will come anytime to Western Province and explain to the people of Western Province what he really intends to do.

A: Yes, I have spoken to---

Q: Could you speak to him, bring him over?

A: Yes. I have spoken to Mr Harsley. He is unable to come but he is ready in Port Moresby to help the Commission of Inquiry. So ---

Q: Perhaps, you should strongly urge him to come here. In Port Moresby he will be speaking to foreigners, he should come here and talk while these people are listening. Can you make that undertaking to this Commission that he come here before the end of the week?

A: Yes, I shall undertake to put that request to him.

COMMISSIONER MIROU: You can tell him get on a plane on Thursday and come here.

A: I undertake to inform him of that.

MR TUSAIS: Sorry, Commissioner, if that could be put in a form of a direction to Mr Titus to get Mr Harsley.

COMMISSIONER MIROU: Mr Titus, it has become necessary for the Commission to inquire further into the activities of IT&SL and therefore, I am directing you to inform Messers Neville Harsley, Cliff Frazer, Noah Vicar and John MulCaehey.

A: Mr Harsley is the only one in PNG.

MR TUSAIS: Perhaps, the first witness, sorry for missing out Neville Harsley who was in Port Moresby.

COMMISSIONER MIROU: Neville Harsley, if you can ensure that Neville Harsley make arrangements to come to Kiunga before the Commission of Inquiry.

MR TUSAIS: To arrive by at least Friday this week.

COMMISSIONER MIROU: Before Friday of this week.

MR TUSAIS: Or sorry Thursday again to give evidence by Friday this week.

COMMISSIONER MIROU: So that the people of Kiunga will see him and hear him as to what his dreams are about helping the people of the Western Province.

A: Yes, Commissioner, I undertake to do that.

MR TUSAIS: Further, Commissioner, Mr Tusais is to appear before the Commission at 11 o'clock tomorrow and advise the Commission of what his clients tell him.

COMMISSIONER MIROU: Yes. And if you can come in at 11 tomorrow morning just to give us a progress on your communication between yourself and Mr Neville Harsley and Independent Timbers & Stevedoring Limited in Port Moresby.

A: Yes, Commissioner.

Q: Thank you.

MR TUSAIS: Just finally, Mr Titus. The Commission will be recalling Mr Iman Papa to give evidence in relation to the variance between your evidence.

A: Yes.

Q: You still maintain that you did not have or in any shape or form put papers before Mr Papa to sign as provincial lands officer.

A: Yes, I maintain that, that is the truth.

Q: Do you deny also that you went physically in your vehicle to Able Computing to pick Mr Iman Papa up and to bring him to Pacific View Apartments for the signing of this voluminous papers for three SABLs?

A: That is correct, Mr Tusais.

Q: You realize that we will be taking his evidence and from that evidence we maybe basing possible future prosecutions against yourself or Mr Papa, depending on which side the police believe.

A: Yes, I understand that Mr Tusais. And I maintain my position.

Q: Thank you. I have no further questions.

COMMISSIONER MIROU: Thank you Mr Tusais. I have no questions to ask Mr Tusais, except to inform you that on those directions that I have issued and that you are still on oath. And a word of caution that you do not discuss your evidence with anyone until the sittings here are closed on Friday or thereafter. But in the meantime we will excuse you from the hearing now.

A: Okay, thank you.

Q: Until 11 o'clock tomorrow just to let us know on the progress between your communication here and Moresby.

A: Thank you Commissioner.

Q: Thank you. You may stand down.

THE WITNESS WITHDREW

MR TUSAIS: Commissioner, I have no other business, perhaps if Mr Bokomi could advise whether he is calling witnesses that - they have come since the morning and are waiting to give evidence.

COMMISSIONER MIROU: Yes.

MR TUSAIS: Sorry, Commissioner, could I just call Mr Iman Papa.

COMMISSIONER MIROU: Yes. Mr Iman Papa, please come to the witness box. You are still on your previous oath so we will hear from you. Counsel requires to make some inquiries. Mr Tusais.

IMAN PAPA; recalled

XN: MR TUSAIS

Q: Mr Papa, just briefly, I called you because of evidence this afternoon from Mr Michael Titus. He denies on oath and he is saying he stands by that oath or sworn on the Bible. He says you are not telling the truth. He says that he did not give you those land investigations report for portions 27C held by NEWIL, portion 1C held by NEWIL and portion 14C, held by Tosigiba. You gave evidence previously that you signed those documents without having conducted land investigation report. Do you still stand by your story?

A: Commissioner, my statement is the same. I have no conducted any field patrols. I have said the documents were before me. Because of plenty documents so I signed where it is supposed to be signed where my name was.

Q: Who showed you those documents and told you to sign?

A: It was at Pacific View. I stated in my response. In my previous statement I mentioned that I have not heard of Michael Titus, that is what I have correctly stated at my earlier, I have not known him even I have not known his name until last week. That is what I said. In my initial statements. So that was, I am just trying to make a correction in my statements with my previous statements about Michael Titus. But the documents were before me Mr Hudson Hape as we have already in my report indicated.

Q: Was Mr Titus present when you signed these papers?

A: I saw him around the building, but no conversation or sitting close to me what. But he was in the building, in the floor. I saw him around, hanging around.

Q: How far away from you was he when you signed?

A: Pacific View, 10 floor as I have stated. In the conference ---

Q: Was he close to you when you were signing these many papers?

A: He was like going into their own office, I mean, office at the back and then coming to the main conference room while I heard these documents before me on the table sitting down and just signing where I supposed to be signing.

Q: So you could see him, he could see you ---

A: But about his, sorry, Commissioner, knowing about his company, his name and all these, I only see him by appearance. I mean, as a human being walking around in that building. But actually from that whatever time to date I have not actually talked with Michael Titus. And he would confirm that, or even a normal conversation.

Q: This is on 15 December, is it or?

A: Yes, around December.

Q: Were you picked up to go to Pacific View to sign the land investigations reports?

A: I was asked to come. I had a government vehicle, I mean, government hired vehicle as I have said in my earlier report. I was on official duty in other purposes and I was called in to sign.

Q: You said earlier after you swore on the Bible that Michael Titus picked you up at Able Computing and took you to 10 floor, Pacific View to sign these land investigation reports.

A: No, Commissioner, I think that was not my statement. It could be another officer Mr Biyama's statement.

Q: Sorry? I think we stand corrected.

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