

In the matter of the Commission of Inquiry appointed pursuant to section 1A of the Commission of Inquiry Act 1935 dated 24 February 2016

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Witness Statement of Anil Chatergoon

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1. I am Anil Chatergoon, born 1974, and I am currently the Financial Controller at the Department of Education. I make this witness statement in response to the request of the Commission of Inquiry duly appointed by the Premier on 24 February 2016 to inquire into the findings of the Auditor General's report on the Consolidated Fund for the Financial Years 2010, 2011 and 2012.
2. By way of background, I initially joined the Civil Service on 23 April 2009 as Financial Controller at the Department of Tourism. I was there until the Department was abolished in March 2014. Subsequently, I spent 3 months at the Ministry of Tourism and Transport Headquarters as the Acting Ministry Controller. After this, I was assigned to the Department of Civil Aviation for 1 month, after which I took up my post at the Department of Education.

Processing of payments

3. I have reviewed the Auditor General's statement and note the observations. I have been asked to set out my response to her concern/criticism that there were large expenditures by Departments in which I was Financial Controller during the fiscal years 2010, 2011 and 2012 which had not been approved by Cabinet and/or were paid without signed contract or agreements and/or had not been tendered. I was Financial Controller in only 1 relevant Department during the relevant period as set out above. Additionally, as far as I am aware, and as far as is supported by the documents in my witness bundle, the only issue regarding the two contracts I have been asked to address is that of tendering. In my capacity as Financial Controller, I would not have been involved in the tendering process and therefore cannot speak to the specific concerns expressed by the Auditor General. As a note, Accounting Officers are responsible for the day-to-day operations of their budgets and departments. Accounting Officers are required to adhere to Financial Instructions.

Set out your understanding of the process followed by those in your department and the Accountant General's department and how payments were apparently made without proper support.

4. My understanding of the payment process followed by those in my department was in accordance with Financial Instructions. There is a distinction between the authorization of payments and the processing of payments. There was a segregation of duties in order to prevent the same person processing and authorizing payments. My role as Financial Controller was to ensure that payment documents were submitted to the Accountant General's Department after being satisfied that the Authorized Officer had certified that work in accordance with the contract had been performed, that there was in fact an executed contract and that the submitted invoices accorded with the work performed. It

- was the responsibility of the Accounting Officer to authorize payments for processing by the Accountant General's staff.
5. I am unable to provide information regarding the processes in the Accountant General's Department as I was not assigned to that department.

### Specific Contracts

#### GlobalHue


6. I have been asked to comment on the Commission's understanding regarding the history of the Global Hue contract. I was not employed by the Bermuda Government at the time the 2006 to 2009 contract was tendered and executed therefore, I cannot comment on the Commission's understanding of the facts they have set out on this matter. I was aware of the 2009 Auditor General's Special Report as this was brought to my attention upon the commencement of my employment. I also recall that I was advised that the contract was renewed for two years and not three (page 7-45 of my witness bundle refers). I do recollect that there was Cabinet approval for the continuation of contract and that it was considered a single source tender. I do recall that I processed payments in respect of the continued contract.
  - (i) Why you (or the relevant Accounting Officer if different) authorized payments in relation to this contract when the requirements in relation to tendering had not been met. The Commission appreciates that Cabinet recorded that this was a single source tender.
7. Not having sight of any invoices or requests for payments or any other supporting documentation, it is difficult for me to provide specific information. Having said that, generally, where there was a signed contract, a Cabinet Conclusion or Cabinet Conclusion reference number, a request for payment or an invoice and certification from the Director of Global Operations in New York that services were rendered, I would have processed those documents for payment and forwarded them to the Accountant General's Department for authorization. I expected input from the Director of Global Operations as she had been assigned the responsibility for the management of this contract by the Bermuda Department of Tourism (see page 7-63 of my witness bundle). In my position as Financial Controller, I would have no involvement in the tender process as this would have been managed by the Director of Global Operations and the Director of Tourism. With respect to this particular contract, this part of the process occurred many years prior to my arrival within the Department of Tourism, thus I am unable to assist the Commission any further.
  - (ii) Whether the Minister of Finance gave an instruction or direction waiving these requirements for this project? (And if so, please identify that instruction or direction.)
8. I repeat my statements at paragraph 6 above that I was not in the employ of the Bermuda Government at the time of the renewal of the contract and therefore I am not aware of such instructions; during my tenure with the Department of Tourism, I did not become aware of any such instructions. In any event, the waiving of the tendering process is not something I would have been involved with in my capacity as Financial Controller.

Ambling Contract

9. I have been asked to comment on the Commission's understanding that Cabinet approved a decision by the Ministry of Tourism and Transport to enter into a contract with Ambling in March 2008 however the only written contract the Commission have provided is dated May 17<sup>th</sup> 2010. As previously stated, I commenced my employment with the Bermuda Government in April of 2009 and therefore cannot comment on any matters which occurred prior to this time. When I joined the Department of Tourism and payments were presented to me to be processed, I would have been provided with an executed contract. Additionally, I do see at page 8-7 of my witness bundle that I in fact witnessed the execution of the contract dated May 17<sup>th</sup>, 2010. I am sure that I have not seen any other contracts with Ambling with earlier dates.
10. I repeat my earlier comments that I would not have been involved in the tender process.
- (i) Why you (or the relevant Accounting Officer, if different) authorized payments in relation to this contract when the requirements in relation to tendering had not been obtained?
11. I would have processed payments once I had received certification by the Regulation and Policy Section within the Department of Tourism that work had been performed. This section was headed by the Assistant Director for Regulation and Policy and was responsible for the management of this contract.
- (ii) What actual services Ambling provided to the Department of Tourism of which you are aware.
12. I am not aware of the actual services.
- (iii) Whether the Minister of Finance gave an instruction or direction waiving these requirements for this contract? (And if so, please identify that instruction or direction.)
13. I am not aware of any such instructions; in any event, any instructions would not have been directed at me, rather to the Accounting Officers. It is important to note that there are Accounting Officers for both the Ministry and for each Department within the Ministry.

Bermuda Emissions Control Ltd.

14. I was never employed at the Department of Transport and my role as Financial Controller for the Department of Tourism did not include any responsibilities with regard to transport, therefore I am not able to comment.
15. I believe that the facts stated in this witness statement are true to the best of my knowledge and belief.

  
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Anil Chatergoon

28.7.2016  
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Date