

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

Witness Statement of Curtis Stovell

1. I am Curtis Stovell . I am currently the Accountant General. 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.

Processing of Payments

Understanding of the Payments Process

2. Payments were made based on requests for payment conveyed to the Accountant General's Department ("ACG") that were fully approved at the department/ministry level. It was the department's responsibility to ensure that payments had adequate supporting documentation and were made in accordance with the terms of the relevant contract. As the Financial Comptroller for the Ministry of Tourism and Transport ("MoTT"), it was my role to ensure that payment requests relating to the matters being administered by the MoTT headquarters directly (Heritage Wharf and Port Royal Golf Course) were adequately supported, calculated correctly and provided in line with the terms of reference. In the case of Heritage Wharf, that involved the review of payment applications in consultation with the project manager Entech, who certified the payment certificates. Once satisfied that calculations were correct and appropriate support was present, the request and support would have been passed to the Permanent Secretary for authorization to pay. The relevant transaction was then input into the accounting system by MOTT HQ staff. The ACG actioned the payment request and ensured remittance was made. There may have been questions from ACG if it was deemed support was missing. I cannot refer to specific instances, as this was all quite some time ago, but that is the general process that was in place.

3. Port Royal Golf Course ("PRGC") was a little different, as the individual payments comprised portions of the golf courses grants that were approved in advance, through the Government's budget appropriation process. In that instance, my recollection is that the PRGC management/Board of Trustees approved all items comprising any one payment request. I would review the support package provided and approved by PRGC and request additional information on any items I deemed unclear. Any supplemental information I requested would be provided to me prior to me passing to the Permanent Secretary for authorization to pay. The relevant transaction was then input into the accounting system. The ACG actioned the payment request and ensured remittance was made. There may have been questions from ACG if it was deemed support was missing. I cannot refer to specific instances, as this was all quite some time ago, but that is the general process that was in place.
4. I also had some involvement in the review of payment requests for Bermuda Emissions Control. As the Transport Control Department ("TCD") did not have a departmental Financial Comptroller, I tended to be more hands-on with that department. Any payment applications connected to the project were received and processed by TCD. I would review the progress payment requests that were provided to me and advise the Director on whether the payment applications were calculated consistently and I would discuss the application with the engineering firm Brunel, who certified the payment certificates. Authorization for payment was performed by the Director of TCD. The relevant transaction was then input into the accounting system. The ACG actioned the payment request and ensured remittance was made. There may have been questions from ACG if it was deemed support was missing. I cannot refer to specific instances, as this was all quite some time ago, but that is the general process that was in place.
5. The two matters listed below relating to the Department of Tourism ("BDoT") – GlobalHue and Ambling – were administered within the BDoT, as the department had its own Financial Comptroller. The BDoT Comptroller would have consulted with me on technical issues such as the transmission of payment as they arose, but I do not recall my being involved in those specific contracts. I cannot refer to specific instances, as this was all quite some time ago, but that is the general process that was in place.

6. The responses that follow are based on my duties as the Financial Comptroller for the MoTT. At no time was I the Accounting Officer for the MoTT or any of the departments of the MoTT – namely the departments of Marine and Ports, Airport Operations, Tourism, Transport Control, Public Transportation, Ministry HQ, Civil Aviation and Maritime Administration – and I cannot respond regarding the actions of Accounting Officer(s). As TCD did not have a designated department Financial Comptroller, I performed those duties when need arose. The respective Head of Department was the Accounting Officer for each of the MoTT departments. In the case of the MoTT HQ, the Accounting Officer was the Permanent Secretary.

Heritage Wharf Contract

7. I believe the Commission's general understanding to be correct.
- (i) Why did you (or the relevant Accounting Officer, if different) authorize payments in relation to this contract when the requirements in relation to tendering had not been obtained?
8. When I commenced my role as Ministry Financial Comptroller ("MFC") in November 2007, an executed contract with Correia Construction was already in place. There was no suggestion at that time that an improper tender process had been utilised and I was aware that Cabinet had been consulted and approved of the contract with Correia. As such, the contract was administered (i.e. payments made) according to the terms of the executed contract.
- (ii) Did the Minister of Finance give an instruction or direction waiving these requirements for this project? (And if so, please identify that instruction or direction.)
9. The Correia contract was executed prior to my commencement at the MoTT and I had no direct knowledge about events that preceded the execution of the contract. I should also add that the requirements regarding tendering take place prior to the execution of a contract. I have not seen any documents in my witness bundle that indicate that the Minister of Finance had given specific instructions waiving these requirements, but my recollection is that at the time, it was the view of the Ministry of Finance that the

Explanatory Note was recognized as authority to delegate Capital Development Estimates in respect of the Ministry of Transport matters to that Ministry.

Port Royal Golf Course Remediation

10. I believe the Commission's general understanding to be correct.
- (i) W&E delegated accounting responsibility for this capital project to the Cabinet Office and then to the Ministry of Transport and Tourism ("MoTT"). Management of the project was delegated by the various Ministries to the Trustees of the Port Royal Golf Course. The decision to delegate was based on an explanatory note in the Approved Estimates of Revenue and Expenditure for the year 2007/2008;
11. It was my understanding and the prevailing view at the time of the project was that the Board of Trustees of the Golf Courses ("BoT") had the authority to award contracts. The basis for this understanding was that the Board was responsible for the general control, management and administration of Golf Courses as well as the maintenance of the Golf Courses in good and proper condition. So funding requests by the BoT to the MoTT were honored on the basis of valid support from the golf courses confirming delivery and provision of goods and services according to the terms of the contracts they had entered into.
- (ii) Did the Minister of Finance give an instruction or direction waiving these requirements for this project? And if so, please identify that instruction or direction.)
12. I have reviewed the witness bundle and see no evidence of a specific instruction or direction by the Minister of Finance to waive these requirements.

GlobalHue

13. I believe the Commission's general understanding to be correct.
- (i) Why did you (or the Accounting Officer if different) authorize 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.
14. To my recollection, I did not authorise any GlobalHue payments and was not involved with the GlobalHue contract. The contract issuance process and contract administration

process were conducted at the department level by the Department of Tourism. This would have included payment authorisation by the Accounting Officer in accordance with the terms of the executed contract.

- (ii) Did the Minister of Finance given an instruction or direction waiving these requirements for this project? (And if so, please identify that instruction or direction.)

15. I have reviewed the witness bundle and see no specific instruction or direction by the Minister of Finance to waive these requirements.

Ambling Contract

- (i) I have no direct knowledge of the details surrounding the engagement of Ambling and I am not in a position to comment on the Commission's understanding of the lack of tendering process in relation to the Ambling contract.

- (ii) Why did you (or the relevant Accounting Officer, if different) authorize payments in relation to this contract when the requirements in relation to tendering had not been obtained.

16. To my recollection, I did not authorise any Ambling payments and was not involved with the Ambling contract.

- (iii) What actual services did Ambling provide to the Department of Tourism of which you are aware?

- (iv) Although I was not involved in any dealings with Ambling, my recollection is that the company provided the Government with professional advice relating to hotel development. I believe one instance was in connection with the old Club Med site. There may be other instances that I was not aware of. I am not able to confirm whether those services were specific to the Department of Tourism or W&E or both

- (v) Did the Minister of Finance give an instruction or direction waiving these requirements for this project? (And if so, please identify that instruction or direction.)

17. I have reviewed the witness bundle and see no specific instruction or direction by the Minister of Finance to waive these requirements.

Bermuda Emissions Control Ltd

18. I believe the Commission's general understanding to be correct.

(vi) Why did you (or the Accounting Officer, if different) authorize payments in relation to these contracts when the requirements in relation to tendering had not been obtained?

19. When I commenced my duties as Ministry Financial Comptroller (MFC) in November 2007, executed contracts were already in place. I was aware that Cabinet had been consulted on the appointment of Bermuda Emissions Control Ltd, and had approved of the appointment. As such, the BECL contract was administered (i.e. payments made) according to the terms of the executed contract. I do not recall any payments being made to Correia Construction by Transport Control.

(iii) Did the Minister of Finance given an instruction or direction waiving these requirements for this project? (And if so, please identify that instruction or direction.)

20. I have reviewed the witness bundle and see no specific instruction or direction by the Minister of Finance to waive these requirements.

L.F. Wade International Airport project

21. On advice of the Attorney General's Chambers, I have been asked to hold on responses to such questions until the Commission and Chambers have resolved any outstanding questions pertaining to the scope of the Commission's terms of reference.

22. I believe that the facts stated in this witness statement are true to the best of my knowledge and belief.



Curtis Stovell

September 16, 2016
Date