

IN THE MATTER OF A COMMISSION OF INQUIRY

STATEMENT OF VIC BALL

I, Vic Ball Jr, say as follows:

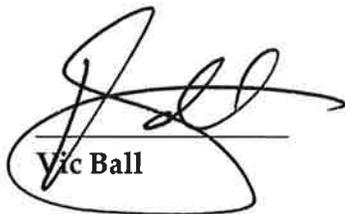
1. I was the Purchasing Officer for the Ministry of public works/Works & Engineering from 2004 until 2011. After 2011, I was assigned to the Office of Project Management and Procurement as Procurement Officer until I left the civil service in 2012.

Procurement of Aggregate

2. Government has its own asphalt plant for making road asphalt. Until I became Purchasing Officer, Government had traditionally bought its aggregate for making asphalt from East End Asphalt. This has been the case for around 40 years.
3. I looked into purchasing direct from suppliers and we carried out testing on the various quarries before deciding upon a particular Canadian quarry, which was called D. M. Rogers. We made one direct purchase of aggregate from D. M. Rogers. While this had been a success, it did lead to complaints and concerns were raised about possible lay-offs at East End Asphalt. Government policy was to use, wherever possible, Bermuda local suppliers and accordingly I decided that the next time the Government asphalt plant needed asphalt we should invite East End Asphalt to quote for the business.
4. The asphalt plant manager monitors its aggregate supplies. Given aggregate needs to be imported, it needs to have several months' supply in stock. In addition, D. M. Rogers cannot produce aggregate during the winter months.

5. In early 2009, I was informed that the asphalt plant required more aggregate and that it was down to two months' supply. This was considered an emergency, since it generally takes about two months to import the aggregate and if the asphalt plant runs out of aggregate, then the asphalt crews would be sitting idle. They are specialist crews and could not be given different tasks.
6. Section 7.4.6 of PFA 2000 provides a process for emergency purchase which we followed. We obtained the approval of the Permanent Secretary and the Minister to make an emergency purchase of aggregate. This meant that we would not need Cabinet approval and we would not need to follow the formal tender process set down in 7.4.4.
7. We knew what it would cost to buy from D. M. Rogers direct but we called East End Asphalt and asked them to quote to bring in the same aggregate. I may have called or asked Shawne Tuzo to call for me.
8. My father had, I believe, spoken at his church to some people who worked at East End Asphalt and they had told him about this government contract. He asked me if his company could bid on it. I told him that I could see no reason why it could not do so and said that Shawne Tuzo could explain the process.
9. Shawne Tuzo ran the process in terms of collection the quotations and putting together a spreadsheet of the options. East End Asphalt's price was lower than the price of importing directly. I remember talking to Shawne Tuzo about this and that we could not understand how the price could be so low. I was very concerned by this: I thought that there was little chance East End Asphalt could carry through on the delivery at such a price. I suspected that they would, after we had signed, insist upon a higher price. This is not unheard of. In any event, I thought it was too high a risk to take. I was also concerned that the delivery date was outside the stipulated delivery date. I cannot now remember the difference in their proposed date and the stipulated one but it was a factor in my decision making. I was also concerned that their price was so much lower than the prices that they had been charging in the past – that this showed that it is possible that they had been overcharging
10. Harmony Holding's quote on the other hand was approximately 10% of the cost of bringing the aggregate in directly. Given the policy considerations of using and developing local suppliers and involving Bermuda businesses, my recommendation was to award the contract to Harmony Holdings.

11. I knew that my father was a shareholder in Harmony Holdings. I felt able to make a professional decision and that my decision was entirely professional and correct based on the information I had at the time.
12. The ultimate decision was the Permanent Secretary's. I did not inform the PS that my father was involved in Harmony Holdings. I did not want this fact to influence him.
13. I understand that the OAG in her report was concerned that there was no written contract and no cabinet approval. There was a written contract. Every purchase order has, on its back, our standard terms and conditions. These are set out at appendix 6 and 7 of PFA 2000. The reason there was no cabinet approval was because this was an emergency purchase. Cabinet approvals are not necessary if the purchase is an emergency purchase.
14. I don't recall any conversations with anyone at East End Asphalt in relation to this decision. I understand it is claimed that I told someone from East End Asphalt that the reason the contract went to Harmony Holdings was due to political pressure. This is not correct. There was no political pressure on me and I would never have claimed that there was such pressure. While as Purchasing Officer at Works & Engineering, I never experienced any political pressure.
15. I believe that the facts stated in this witness statement are true to the best of my knowledge and belief.



Vic Ball

Sept 22, 2016
Dated