



Government of the Republic of Trinidad and Tobago
Office of the Attorney General and Ministry of Legal Affairs

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ATTORNEY GENERAL & MINISTER OF LEGAL AFFAIRS

For Immediate Release

October 30, 2024

Media Statement by the Honourable
Attorney General and Minister of Legal Affairs

Two recent judgments have been delivered by the Judicial Committee of the Privy Council concerning the Estate Management Business Development Company Ltd (EMBD) and various contractors and individuals which have attracted a considerable amount of media attention and have been the subject of comment by Mr. Ramesh Lawrence Maharaj SC, and by Member of Parliament and former line minister for the EMBD, the Honourable Dr. Roodal Moonilal.

The first matter, High Court Action No. 01415 of 2017, involves a claim between the EMBD and different contractor companies and individuals, in which the EMBD is seeking to recover in excess of \$300 million which were paid out by the EMBD in the months immediately preceding the September 7th 2015 General Election (which I shall hereafter refer to as the Cartel Claim).

The second matter involves a claim by the company Junior Sammy Contractors Limited against the EMBD with respect to monies allegedly due by the EMBD to the Junior Sammy Company under a contract awarded to that company by the EMBD in February of 2015 (the Junior Sammy Company matter). This Claim has now been successfully affirmed by the Privy Council yesterday 29th October 2024.

I issued a media statement on the 22nd October 2024 with respect to the order of the Privy Council of the 8th of October 2024 in the Cartel Claim, which now allows the trial of EMBD's claim to commence.

The significance of the order of the Privy Council in the Cartel Claim is that the defendant contractors and individuals must now put in their defences by the 6th of November (on hold since December 2017) and the trial can now proceed.

Respecting as I do that the Cartel Claim is a trial which is about to start, I have so far restrained myself from commenting on the claim and the facts in support of the EMBD's claim in that matter, given sub judice principles.

However, in the context of the comments which have been made on the two matters and particularly since yesterday and the ensuing media coverage I consider it prudent today to make this further statement to have the record stated correctly.

Context is always important. The context which is relevant and common to both matters is that on 7 September 2015 the Government of the Republic of Trinidad and Tobago changed from that of a People's Partnership to that of the People's National Movement, now in its 10th year in Office and in which I have the privilege to serve as Attorney General. The contextual significance of that election date, 7 September 2015 is that in large measure all of the very lucrative contracts which were awarded by the EMBD in these two (2) matters were awarded in the months leading up to that election.

The line Minister of the EMBD in that period of awards was the Honourable Dr. Roodal Moonilal. I am constrained today to make the statements that I now do with respect to these two matters particularly for the reason that, since the delivery of the Order of the Privy Council on the 8th of October under which he now contemplates the Witness Box for his trial the Honourable Dr. Moonilal has been issuing statements in the public. In particular, since the judgment yesterday he has been conflating the two matters in a condemnation of the legitimate and justifiable attempts by this Government to recover monies in excess of \$300 million which were paid out by the EMBD allegedly wrongly and fraudulently in the cartel claim when he was EMBD's line minister.

It is important that the public understands that because of the vast expenditure of money paid out by the EMBD prior to the General Election, on the change of Government on the 7th September 2015, the EMBD commissioned a significant process of audits and expert investigation and reports to verify the legitimacy of the expenditure of taxpayers' money.

In the Cartel Claim I do not propose to discuss nor comment on the alleged facts which are still to be interrogated at the trial which will now, finally, commence after being on hold since 2017. I will however read from paragraphs 6, 7, 8, 13 and 14 of the judgment of Mr. Justice Aboud.

I will say nothing further on that and allow the trial to proceed and, allow our courts to make their determinations in due course with respect to the Claim of EMBD to recover over \$300 million of Taxpayers money.

It is very important to distinguish the Cartel Claim from the second matter/judgment that was delivered yesterday also involving the EMBD. I should make it clear that nothing pronounced on by the Privy Council in the matter involved in the EMBD and Mr. Junior Sammy's Company affect

the merits of the case that the EMBD is going to trial on the cartel claim against the defendants in that matter.

Mr. Ramesh Lawrence Maharaj SC a former respected Attorney General appeared for Mr. Junior Sammy and his group of companies in that matter. He has held a press conference which I have listened to. I congratulate Mr. Maharaj and Mr. Junior Sammy on their victory in the courts. Due process has taken its course. I take the trouble to highlight three points which were not sufficiently addressed by Mr. Maharaj in his Press Conference yesterday with reference to the 29th October PC Judgement:

- 1) Paragraph 9: fraud conceded - that it was prudent for the EMBD against the background of the rushed to award contracts leading up to the general election of September 2015 to have thoroughly audited all claims at the point at which the audit revealed that there was insufficient evidence the allegation of fraud was properly conceded
- 2) My learned friend Ramesh Lawrence Maharaj SC correctly pointed out that this Privy Council judgment is important for its pronouncements with respect to FIDIC contracts; it is however equally important to appreciate the significant part of the judgment which had nothing to do with FIDIC contracts but with a difficult point of law: Paragraphs 53-89 concerning a very significant and difficult point which was taken by the EMBD and which the Privy Council dealt with comprehensively from paragraphs 53 to 89, on a proper construction of section 23 (7) of the Supreme Court of Judicature Act of Trinidad and Tobago and documents which the Privy Council opined on: [paragraph 63] the relevant instruments in this case which required to be construed as a rule or the factoring agreement the assignment of receivables and the notice of assignment the true construction of the documents is not straightforward as they lack coherence and are not well drafted there are several indicators that the assignment was intended to take effect as an absolute assignment but there are also several indicators that the assignment was by way of charge only. It was entirely legitimate for the EMBD to pursue this case all the way to the Privy Council as it did
- 3) Even appreciating the strength of that part of its defense, it is significant in the context of allegations of waste of tax-payers money in the EMBD defending this case – which I reject- for the public to understand that as early as 17 August 2020, the attorneys representing the EMBD (a) paid part of the disputed sums of money that were in contention between Junior Sammy and the EMBD to his Attorneys (\$87,324,469.86) to Mr. Sammy’s Attorneys and, b) the further sum of (\$37,424,772.80) into court to be invested in an interest bearing account pending the determination of these appeals.

The EMBD has been prudent and responsible and has wasted no taxpayers’ money in pursuing these matters.

Rather in the continued pursuit of the Cartel Claim in which the Defendants, Dr. Moonilal included are now ordered to put in their defenses the EMBD will be pursuing its claim to recover in excess of \$300 million for the taxpayers of this country. I thank the Chairman, Mr. Ronnie Mohammed and all Attorneys who have laboured long and hard and will continue so to do.

I will now take questions.

END

Reginald T.A. Armour S.C.
Attorney General and Minister of Legal Affairs