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26th April 2023

Ms. Sarah Sinanan
Secretary to the Commission
Southern Academy of Performing Arts (SAPA)
Todds Street
San Fernando

Dear Ms. Sinanan

Re: Statement on Surveying Aspects of the Paria Diving Tragedy of February 2022 from Institute of Surveyors of Trinidad and Tobago (ISTT) dated March 9, 2023.
Commission of Enquiry into the Circumstances which led to the tragic incidents which occurred on February 25th 2022 at facilities owned by Paria Fuel Trading Company Limited ("Paria") located at No.36 Sealine Riser on Berth No. 6, Pointe-a-Pierre ("the Commission").

I write in reference to the matter at caption wherein I, along with Messrs. Thane Pierre and Sebastian Peterson, continue to instruct Mr. Jason Mootoo who is led by Mr. Gilbert Peterson S.C.

By correspondence dated 9th March 2023 (disclosed to Paria on 18th April, 2023) the Institute of Surveyors of Trinidad and Tobago ("ISTT") provided its views and/or comments to the Commission in relation to "*the evidence presented by Expert Witness, Engineer Zaid Khan*" at the Commission. The Commission, by email communication of 18th April, 2023, has invited parties interested in commenting on the remarks of ISTT to do so by 26th April, 2023.

Other members of Elidore Chambers: -
Gilbert C. Peterson, S.C.; Amerelle T. S. Francis LL.B.; Kashka Hislop-St. Hillaire LL.B.; Sebastian G. O. Peterson LL.B. 1

Pursuant to the Commission's invitation, Paria contends that the Commission should not admit into evidence the comments and/or views of ISTT contained in its said letter dated 9th March, 2023 by reason of the following facts and matters:

- a) ISTT is not a party to the Commission and has not applied for or obtained standing.
- b) ISTT's comments are in the nature of expert evidence submitted several months after the evidential hearing phase of the Commission has been closed and well after closing submissions of the parties have already been made.
- c) The late delivery of ISTT's expert evidence completely disregards prior directions issued by the Commission for the submission of evidence and/or material in relation to the matters under enquiry.
- d) ISTT has not, in any event, applied for or been granted an extension of time to provide expert evidence to the Commission.
- e) In any event, an extension of time could not properly be granted to ISTT in relation to the provision of expert evidence given the fact that Mr. Khan's evidence on which it now seeks to opine has been available to the public on the Commission's website since the year 2022. ISTT has provided no reason whatsoever for its inordinate delay in addressing such evidence before April, 2023. Indeed, such delay is clearly inexcusable.
- f) The evidential hearings of the Commission are now closed. Accordingly, no opportunity exists for Paria or any other any party to test ISTT's expert evidence by way of cross examination. Allowing ISTT's to provide expert evidence by way of letter would be manifestly unfair and highly prejudicial in those circumstances.

- g) Separate and apart from the above, although ISTT's letter attributes the expert views and/or comments contained therein to "*Surveyors with experience*", it has curiously and for reasons best known to it, failed to provide the Commission with the identity of those surveyors or the nature and extent of their experience. The comments are therefore those of nameless and faceless persons with no information as to their credentials. No weight could or should properly be attributed to material of that nature and such material could have no probative value.
- h) Further, there is no scientific underpinning (whether by reference to tests, academic articles, empirical data, maps or surveys, etc.) to any of the expert opinions advanced in ISTT's letter. By way of example, item 1 at the third paragraph of the letter refers to the topography of the seabed on which the "*network of original pipelines constructed 50-70 years ago*" lay as being "*at best, uncertain given the propensity for soft mud...*". Nothing is provided to substantiate this expert opinion. Similarly, item 4 at the third paragraph of the letter purports to critique and/or opine upon the method utilised for ascertaining levels of fluid in the vertical risers without any supporting analysis or scientific or other expert literature being referenced.
- i) ISTT's letter is also highly speculative in part rendering those parts of no value to the Commission. In this regard, it is to be noted that item 2 at the third paragraph of the letter asserts that "*Historical or legacy data,.....may have been misplaced or lost over time...*". This remark is also reckless in nature given that any person or entity taking a proper interest in the evidential phase of the Enquiry would be aware that Paria voluntarily provided the Commission with a Bathymetric survey dated Nov-Dec 2013 as well as other substantial "*historical or legacy data*" dating back to previous surveys.

In light of the above Paria respectfully submits that ISTT's letter to the Commission dated 9th March 2023 should not be admitted into evidence or relied upon by the Commission and looks forward to the Commission's ruling on this issue in due course.

Yours faithfully



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GRETEL BAIRD
Attorney-at-Law