



COMMISSION OF ENQUIRY
appointed to enquire into the tragic incidents which occurred
on 25th February 2022 at facilities owned by Paria Fuel Trading Co. Ltd located
at No. 36 Sealine Riser on Berth No. 6, Pointe-à-Pierre

Secretariat Office:
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MEDIA RELEASE

14th July 2023

FINAL REPORT- UPDATE

FOR IMMEDIATE RELEASE

The Media will be concerned to know when the Report will be finalised given that the Commission's Chairman said that he hoped to have the Report concluded sometime in July and that the Commissioners are working hard to make that happen. However, there has recently been a number of decisions dealing with the importance of the proper procedure to be adopted in Commissions of Enquiry. From the United Kingdom, **R (Hexpress Healthcare Ltd) –v- Care Quality Commission [2023] EWCA Civ 238** and from Trinidad and Tobago, **Civil Appeal P 286 of 2020 between Hart –v- The Commission of Enquiry-La Alturas Housing and Others.**

These cases deal with a range of issues to ensure fairness to everyone and that the parties have a fair opportunity to make their case in particular where there are to be criticisms of individuals that may affect their careers and lead to recommendations as to criminal conduct or a potential for the breach of a duty of care. This Commission of Enquiry has sought to ensure that very outcome and everything it has done has been to ensure that no one is shut out.

Mr. Jerome Lynch KC: Chairman of the Commission
Mr. Gregory Wilson: Commissioner

These cases provide valuable guidance to ensure the Commission's findings will not be made the subject of a successful judicial review application which may have the effect of further delaying or nullifying portions of the Report. To that end the Commission has and continues to permit those involved the widest possible latitude to make representations whilst at the same time bearing in mind that this Report needs to be concluded as swiftly as justice can provide. To that end the Commission has given the parties extra time to provide their written responses where they have asked and the Commission still awaits some.

At present the Commission is in receipt of circa 400 pages of detailed responses to its provisional findings and a number of legal arguments which we will need to address. This process generates delay but it is a price worth paying to ensure a robust Report insulated from unfairness. We continue to work to have this report completed within the timetable provided and we are confident we will, albeit marginally later, than hoped.

For your convenience, attached is the latest letter (which is on the Commission's website- www.coe2022.com) that we have sent to all the parties.

END



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14th July 2023

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

Re: Commission of Enquiry into the tragic incidents which occurred on 25th February 2022 at facilities owned by Paria Fuel Trading Co. Ltd (“Paria”) located at No. 36 Sealine Riser on Berth No. 6, Pointe-à-Pierre

1. Reference is made to the matter at caption in which you act [REDACTED]
[REDACTED]
2. Since the Commission of Enquiry (“CoE”) was established on 22nd April 2022, we have sought to provide every opportunity for those involved or affected by it to make their contributions. The touchstone of this CoE was to ensure procedural fairness. There is little point in conducting an enquiry if those most affected by it have little, or no, fair chance to make their case, where they might be open to criticism. As the Chairman, I have absolutely no experience of the nature of the business that claimed the lives of four (4) men. As such I approached the task together with my very experienced co-commissioner with a completely open mind. Consequently, there could be no question of approaching the Terms of Reference from a potentially accusatory position and providing early Salmon letters making any number of allegations about people’s roles and responsibilities.

Mr. Jerome Lynch KC: Chairman of the Commission
Mr. Gregory Wilson: Commissioner

3. In **Civil Appeal No. P-286 of 2020 between Hart-v- Commission of Enquiry – Las Alturas Housing and Others** Rajkumar JA giving the judgment of the Court of Appeal cited **R (Hexpress Healthcare Ltd) –v- Care Quality Commission [2023] EWCA Civ 238** and said:-

“What fairness in general, and procedural fairness in particular, requires will depend on the circumstances of the particular case...it is impossible to lay down rules of universal application...the requirements of procedural fairness are variable and case specific”.

4. To that end we devised a scheme which was tailor made, albeit somewhat organic, for this enquiry as follows:-

- (i) We set out the Rules on notices regarding alleged misconduct at Rules 53 and 54 of the Procedural Rules;
- (ii) All the material was to be placed on the CoE web site for everyone to consider (save for those expressly excluded by the Commissioners);
- (iii) All the proceedings would be videoed and streamed live (save for in camera hearings);
- (iv) On the 7th July 2022, I held a press conference and invited all those who could make a contribution to contact the Secretary to the CoE and provide their details;
- (v) On 7th September 2022, we held the first and only preparatory hearing of the CoE further inviting contributions and setting out the way in which we were going to proceed;
- (vi) On the receipt of statements from various people involved, where we thought it appropriate, we invited them to be interviewed by the legal team, with or without their own lawyers, to be asked questions that seemed pertinent to us. Some chose to be interviewed, some not. For the most part people cooperated with the enquiry by at least providing a statement for which we remain grateful;

- (vii) All persons whether interviewed or not were then assessed as to whether we would wish them to give evidence. Those who were required to give evidence were notified;
- (viii) Every witness was called by the CoE save one, and everyone who had standing (and one who did not) were permitted to cross examine them. No one was prevented from seeking to call or adduce any evidence they wished to rely upon;
- (ix) The report was then provisionally drafted and the Commission's legal team provided assistance in identifying material, the relevant parts the Commissioners considered against the draft report to ensure accuracy. These relevant parts were summarised in a schedule form identifying any and all areas where there were criticisms of the particular individuals for them to then reply with any observations and submissions they wished. This was the case irrespective of whether they were witnesses or not. We have loosely described these as "Salmon letters";
- (x) In a novel approach consistent with our desire to provide every opportunity to the parties to make representations, we have offered to permit anyone to make those representations, to the CoE *in camera* and in private, orally, to seek to persuade the Commissioners to adopt a different view of the evidence hitherto identified. That has not been taken up by anyone;
- (xi) We now have the task of considering the responses carefully and making such adjustments to the preliminary findings as we think appropriate; and
- (xii) We have in mind to provide our provisionally finalised criticisms once again for your comments in a *Maxwell* type approach, in a very short time frame, to permit your clients one last opportunity to submit we have it wrong and to persuade us to make other recommendations and findings.

5. If your clients think that they have not been accorded a proper opportunity to make their case to the Commission of Enquiry, we will invite you, on their behalf, to say so now setting out why, and we will consider if there is anything more we can do to accommodate you clients.

Mr. Jerome Lynch KC: Chairman of the Commission
Mr. Gregory Wilson: Commissioner

6. We also take this opportunity to enclose the Commission's latest press release dated 14th July 2023.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Jerome Lynch', with a long horizontal line extending to the right.

Jerome Lynch KC
Chairman to the Commission

Encl: