

## **Press statement – 6 September 2023**

On the 28 August 2023 I applied to the President for an extension to the deadline for producing the report and made that application public. On 30 August 2023 some of the family members of Yussuf Henry, Rishi Nagassar and Fyzal Kurban together with Christopher Boodram and no doubt keenly felt by Kazim Ali Jnr's family issued a statement which in part said the following (I have edited out the more emotive language aimed at Paria):

*Th[e] darkness still exists, even after more than a year. Our families struggle to deal with the murder of our loved ones, the permanent disruption of our livelihoods, the flashbacks, sleepless nights and haunting images of what happened - or may have happened - in that pipeline as a result of the..actions of the management of Paria Fuel Trading Company Limited.*

*It is, therefore, an angering, irksome, unwelcome, insulting and unjust development for the Commission of Enquiry to request a further extension for the submission of the report.*

*The Commissioners, staff and other involved agencies would have been well aware of their initial deadline of August 31, and should have been working in such fashion to ensure the meeting of this deadline.*

*The undertaking of responsibilities associated with this Commission report cannot be seen as simply a job, but rather viewed as a critical component in the delivery of justice.*

Whilst we do not accept that their criticism is entirely fair, we can and do understand their deep sense of frustration at this further delay and I therefore apologise to them, first. That apology is extended to everyone awaiting the final outcome of this report.

It is clear from the families and others that they have already formed the view that they hold Paria responsible. We do not have the luxury of pre-judging.

We must approach this in an unbiased, objective way, examining all the evidence before reaching our view of the facts and what that means for the people involved. Whilst we have a very considerable degree of flexibility in how we approach that task we are bound by the law. The procedure for our Commission of Enquiry is derived from the Commission of Enquiry Act 1892, our Procedural Rules as Gazetted on the 22 July 2022 and the Common Law Rules of Natural Justice.

It is exactly a year and a day since I opened this CoE. You will recall that I told everyone we hoped to have the report ready by Easter 2023. That was ambitious but I believed achievable.

At that time I did not know that we would have 78 witnesses generating circa 3350 pages of detailed evidence and circa 13,500 pages of exhibits. I leave aside videos, audios, pictures, transcripts, letters and other correspondence. In truth, at the time, I knew little of the material we would have to work through but I was, and remained optimistic of an expeditious timetable, in the interests of those most affected by this tragedy and was not prepared to brook delay.

In drafting the report it became clear that this would take longer than planned and I made an application to the President to extend the time needed on 4 May 2023, to August 2023. On the 9 June 2023 the Court of Appeal in Trinidad handed down a judgement in the **Las Alturas Housing** matter. Unusually they issued guidelines that went well beyond the judgement needed to determine that case. They set out how a CoE should conduct themselves so as to achieve procedural fairness, acting prudently to ensure

that all parties had every opportunity to make their case and deal with any criticisms that may arise. We have been much assisted by that judgement. We have determined that the procedural fairness we have strived to achieve from the outset can properly be augmented by taking into account the learning from the Court of Appeal. That we will do, albeit it will generate some further delay as they recognised.

At this stage of the Enquiry the proceedings have to be in private. You know that we have sought to be as open as good practice, good conscience and the law permit, by placing all correspondence and every document on the web-site; live-streaming the evidence called; and then making the transcripts of the evidence available to all. But after that and prior to the report being concluded it has to be in private. That is where we are now.

This is how it works:

- We draft a preliminary report – that is detailed and analytical work – it necessarily involves make a number of preliminary findings. It is currently in the 200 page range.

That has been done.

- Where those findings may adversely affect any particular party, be it company or individual, we must identify the issue, tell them what the preliminary finding is and upon what it is based.

Whilst I cannot tell you to who or whom letters have been sent it is a significant number.

That has been done.

- Next, we must then give them a proper opportunity to respond, that takes time, especially where the criticisms are lengthy and detailed. It

would be unwise to curtail a reasonable request for time to provide those responses. We are in receipt of 100's of pages of detailed responses, which themselves reference many other documents and evidence.

That has been done.

- Now that we have received all the responses we must collate the material, cross reference it and consider whether the response ought properly to affect our preliminary views.

That is in the process of being done.

- We have determined that once complete we ought to provide a further opportunity to any of those whom we may seek to criticise, to make any further submissions as to why that should not happen. This also takes time. It is this additional layer of consultation that has played a part in dictating our request of the President for further time. We will provide each party where appropriate, with a summary or extract of the proposed report for them to respond.

Clearly that has yet to be done.

Before I open the floor to any questions there are a couple of other observations I would like to make.

There has been some media speculation that the cause of the delay has been as a result of either political or Company (Paria) interference, in some way. I can state categorically that is not the case. If there were even a whiff of such an approach, I would make that very public indeed.

After our initial hiccups with the necessary facilities the government and in particular Hon Stuart Young MP have done all they can to facilitate and expedite this report and I am confident they will wish to publish it in short order once concluded.

Similarly, we place no blame at anyone else's door for this delay.

The delay, such as it is, is mine, I have decided that we will take a little more time and add additional safeguards so as to ensure fairness to all and limit the potential for further litigation aimed at thwarting the legitimate aims of this Enquiry.

**But**, it would be remiss of us, and not in keeping with the purpose of this press conference not to tell you that we have received letters from lawyers representing Kenson's employees on 2 August (and previously) and from lawyers representing Heritage and Paria yesterday. Both suggest they have been unfairly treated and that the Commissioners, I suspect primarily me, have displayed an apparent bias and that we should be recused.

I do not deal with the merits of those complaints now as they have yet to be fully articulated and a Press Conference is not the right forum. But, whilst I wholeheartedly reject those allegations, I would have thought that if there was to be an application for recusal on the grounds of apparent bias it is normal, in the first instance, for that to be made before the tribunal engaged in the process. As yet, no request has been made for the CoE to resume sitting to hear such an application.