



INTEGRITY COMMISSION

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Ref. No.: IC

INTEGRITY IN PUBLIC OFFICE ACT 2003, NO. 6 OF 2003
MEETING OF THE COMMISSION WITH HON. ROOSEVELT SKERRIT PRIME
MINISTER OF DOMINICA, A PERSON IN PUBLIC LIFE
AND THE COMPLAINANT, MR. LENNOX LINTON
ON THE ISSUES RAISED
IN THE LETTER OF 10TH DECEMBER 2012 TO THE COMMISSION

DECISION No.1 of 2013/2014

INTRODUCTION

On the 7th January 2013 the Integrity Commission convened a meeting at the request of Hon. Roosevelt Skerrit, Prime Minister of Dominica, a person in public life who through his attorney-at-law Mr. Lennox Lawrence wrote a letter to the Commission dated 10th December 2012, captioned “The Proposed Hearing of the Integrity Commission on 17th December, 2012”, questioning, inter alia, the jurisdiction of the Commission to hold the Opening hearing of the proposed inquiry under section 33 of the Act.

1. The members of the Integrity Commission present at the meeting held under the provisions of the Integrity in Public Office Act, 2003 were:

Mr. Julian Johnson	-	Chairman
Mr. Alick Lazare	-	Member
Mr. Vanoulst Jno Charles	-	Member
Mr. Anthony La Ronde	-	Member
Mr. Gerald Smith	-	Member
Mr. Henry Dyer	-	Member

THE PARTIES

Mr. Alick Lawrence SC	-	Attorneys-at-law for the person in public life,
and		Hon. Roosevelt Skerrit, Prime Minister
Mr. Lennox Lawrence	-	

Mr. Lennox Linton - Complainant
Mr. David Bruney - Complainant's - Attorney-at-law

3. Also present were the Solicitor to the Commission Miss. Lisa de Freitas, the Secretary to the Commission Ms. Helen Ambo and the Stenotypist Mrs. Maureen Peters.

4. Mr. Davidson A. Bruney, a member of the Commission appointed by the President on the advice of the Leader of the Opposition under section 4(1) (c) and (3) of the Act is taking no part in these proceedings in compliance with the decision of the Court of Appeal of the Eastern Caribbean Supreme Court, dated May 26, 2011 in the matter of Ambrose George v. Hector John, The Attorney General and the Integrity Commission (Civil Appeal No. 15 of 2011). In this matter the Court issued an interlocutory injunction restraining the Commission from holding any meeting with Mr. Davidson Bruney or from divulging any confidential information to him in respect of any matter involving Hon. Ambrose George and any other member of the Cabinet of the Commonwealth of Dominica pending the hearing of the appeals in this matter. In compliance with that order Commissioner Bruney has not attended meetings of the Commission on any matter involving Hon. Ambrose George or any other member of the Cabinet of the Commonwealth of Dominica, including matters relating to the inquiry to be held.

5. In his opening statement the Chairman gave the background and the context of the issues before the meeting.

BACKGROUND

6. On 5th November, 2010, the Commission received a letter from Mr. Linton in which he complained that Hon. Roosevelt Skerit, Prime Minister, a person in public life, had breached section 47(1) of the Integrity in Public Office Act 2003 and the provisions of rules 1(c) and 1(e) of the body of rules known as the Code of Conduct, as contained in the Second Schedule to the Act.

7. After examining the complaint and hearing the complainant as required by section 32 of the Act, the Commission decided:

- a) that the complaint concerning non-compliance with the provision of section 47(1) of the Act must be rejected since it is outwith the Code of Conduct and not within the jurisdiction of the Commission;
- b) that the complaint of breach of the provision of rule 1(c) of the Code of Conduct cannot be proceeded with because it is unparticularized and not supported by the contents of the "Evidence Bundle" submitted by the complainant; and
- c) as regards the complaint that the Prime Minister Roosevelt Skerit as Chairman of the Cabinet used his official influence to secure concessions for a business venture in which

he is alleged to have an ownership interest (i.e. Blaircourt Property Development Ltd.) the Commission is of the view that investigation was necessary in order to ascertain whether Prime Minister Roosevelt Skerrit has committed a breach of the provision of Rule 1(e) of the Code of Conduct and that an inquiry shall be held into the matter.

8. The decision of the Commission dated July 1st 2011 on the Complaint # 1/2010/2011 was sent to Mr. Lennox Linton, the complainant, and Hon. Roosevelt Skerrit, Prime Minister, a person in public life. The document entitled “Evidence Bundle” submitted by Mr. Linton and referred to in the Commission’s decision was also sent to the Hon. Roosevelt Skerrit, Prime Minister.

9. Notice of the inquiry, was published in the Gazette of 23rd February, 2012. The Integrity Commission (Inquiries) Rules 2012, SRO 21 of 2012, was made by the Commission on June 7th, 2012 and gazetted on July 12th, 2012. On the 30th November, 2012 “Notice of Proceedings” of the inquiry fixing the date of the opening hearing for 17th December, 2012 was given to Mr. Lennox Linton, and Hon. Roosevelt Skerrit, Prime Minister.

TERMS OF REFERENCE OF THE INQUIRY

10. The terms of reference of the inquiry, which was communicated to the parties, is as follows:

to inquire into the complaint made by Lennox Linton in his letter to the Commission dated 5th November 2010 that Prime Minister Roosevelt Skerrit as Chairman of the Cabinet used his official influence to secure concessions for a business venture in which he is alleged to have an ownership interest (that is, Blaircourt Property Development Limited) in order to ascertain whether Prime Minister Roosevelt Skerrit, a person in public life, has committed a breach of Rule 1(e) of the Code of Conduct specified in the Second Schedule to the Act, which provides that “*a person in public life shall not use his official influence in support of any scheme or in furtherance of any contract or proposed contract or other matter in regard to which he has an interest*”.

REQUEST TO POSTPONE OPENING HEARING

11. In the letter of 10th December 2012 the Prime Minister’s attorney-at-law, Mr. Lennox Lawrence stated that the proposed hearing of the Commission set for 17th December 2012 is unlawful. He informed the Commission “that if we do not hear from you by mid day on Thursday, 13th December, 2012 to the effect that the proposed opening hearing has been cancelled, we shall have no alternative but to apply to the court for leave to apply for judicial review for an order quashing the inquiry and for an injunction restraining the inquiry from proceeding in the meantime” [Pages 1-2; para, 4].

12. At page 11, paragraph 3 of the said letter, Mr. Lawrence also informed the Commission as follows: “We require an opportunity to argue, before the opening hearing that there is no jurisdiction to conduct the inquiry; that the procedure to be adopted is unfair and that there is no evidence capable of supporting a valid complaint against the Prime Minister”.

13. The Commission discussed the concerns and issues raised by Mr. Lawrence on Hon. Roosevelt Skerrit’s behalf at its meeting on the 13th and 14th of December 2012 and by “Notice of Proceedings” dated 14th December, 2012, informed him and Mr. Lennox Linton that the opening hearing was “postponed until further notice”.

14. Also, by letter of 14th December, 2012 the parties were informed of the Commission’s decision to hold this meeting on the 7th of January 2013 to deal with issues raised by the person in public life and that both the person in public life (Hon. Roosevelt Skerrit) and the Complainant (Mr. Lennox Linton) will be given an opportunity to make representation at this hearing.

15. On the 19th. December, 2012 the Commission was served with a copy of the Notice of Application for Leave to apply for judicial review (DOMHCV 2012/0399) which was filed at the High Court on 14th. December 2012 at 2.45 pm and amended on 31st. December, 2012 seeking orders, declarations and interim relief in relation to the proposed inquiry and the constitution of the Commission with Messrs. Henry Dyer, Anthony La Ronde and Gerald Smith thereon.

ISSUES BEFORE THE MEETING

16. The issues that have been raised by the person in public life in the letter of 10th December 2012 were:

- I. Jurisdiction – The statutory preconditions for an inquiry have not been met and therefore the Commission has no jurisdiction to enter upon the Section 33 inquiry.
- II. Procedural Fairness - The Prime Minister has not been offered any opportunity to make representation or comment prior to the Commission’s decision to hold the Section 33 inquiry in breach of the rules of procedural fairness.
- III. Predetermination and Bias
 - a) That the Commission’s letter of 4th December 2009 to Prime Minister Roosevelt Skerrit shows predetermination by the Commission.
 - b) That Mr. Henry Dyer, Mr. Anthony La Ronde, and Mr. Gerald Smith should not sit on any investigation and inquiry into this matter on the ground of apparent bias and/or lack of impartiality.

17. In concluding his opening statement the Chairman requested of the person in public life and the complainant to respect the fact that the meeting of the Commission was being held in private. He then called upon Mr. Alick Lawrence S.C to address the Commission.

Submission by attorney-at-law of person in public life

18. The submission by Mr. Alick Lawrence S.C, is reproduced hereunder:-

“Mr. Chairman and members of the Commission, as the Chairman has correctly indicated, the Prime Minister in various correspondence to the Commission has raised a number of very serious, very significant issues which have been mentioned by the Chairman. They include –

- *Apparent bias by some of the Commissioners;*
- *The absence of written complaint as required by Section 31;*
- *Failure to give Mr. Skerrit an opportunity to be heard prior to the decision to inquire;*
- *Unauthorized disclosure of confidential information;*
- *Absence of particulars of the alleged acts of influence or the alleged ownership interest of the Prime Minister in Blaircourt;*
- *Absence of particulars of what has transpired in the Commission since the inquiry began on 1st March.*

There is also the issue of predetermination, as the Chairman referred to, and the purported commencement of the Inquiry since the 1st March without the involvement of the complainee as the Regulations refer to the person in public life.

You will understand, Mr. Chairman, I believe, that as a result of these very significant matters the complainee finds it impossible to participate in the Inquiry until these matters have been resolved. Having failed to receive a satisfactory response from the Commission the matter has been moved to the High Court and we are awaiting a date for the hearing of the application for leave to apply for judicial review. That is where the matter stands and that is the position of the complainee.”

19. The Chairman asked Mr. Lawrence to repeat his client’s position and he responded as follows:

“Having failed to receive a satisfactory response from the Commission to these issues, the complainee has moved to the court for leave to apply for judicial review; the documents have been served on the Commission. The date for the hearing of that application is pending and until these issues, the very substantial issues are resolved, the complainee finds it impossible to participate in the tribunal hearing.”

20. Responding to Mr. Lawrence’s conclusion, the Chairman noted that that was so notwithstanding the fact that the particular meeting was scheduled at the complainee’s specific request as contained in his letter of December 10, 2012. However, Mr. Lawrence said that the application to the court had been filed before receipt of the Commission’s letter of 14th December 2012 indicating that the hearing would be convened today. He said further that in any event one of

the issues raised by the complaine in the letter was ‘apparent bias’ and unless that bias issue, even if the Commission were minded to address the other issues, was resolved they could not make any submissions to the Commission on any of the other issues which had been raised.

21. The Chairman asked if the resolution of the bias issue were to leave the Commission without a quorum, whether there were any doctrines that could be applied to allow the Commission to be properly constituted in order to proceed with the hearing.

22. Mr. Lawrence in response asked that if, for example, all the members of the Commission were members of a secret group committed to the removal of Prime Minister Skerrit from office (that not being the case), whether there would be a doctrine that would allow those members to sit on the matter. He said that if the result of the allegation of bias is that certain members were not permitted to sit and the further result was that there was no quorum to conduct the inquiry then the Commission could not proceed.

23. The Chairman replied that the purposes of the Act would be frustrated in that situation.

24. Mr. Lawrence said that a tribunal which was infected or affected by bias could not sit if there were no quorum of those members who were not tainted by bias. If every member of the tribunal were tainted by bias then how could they sit.

[Mr. David Bruney came in at this point]

Submission by Attorney-at-law of complainant

25. The Chairman briefed Mr. Bruney on what had transpired and then suspended the meeting to allow Mr. David Bruney an opportunity to read through his opening statement.

26. On resumption, Mr. Bruney made the following submission:

“Mr. Henry Dyer, Mr. Gerald Smith and Mr. Anthony La Ronde are being impugned for bias but if the Commission finds today that you don’t have the authority to proceed the question is, how does this Commission survive. Because from the outset the other side was aware of the existence of these three men on the panel; no objection was raised at the time of their appointment by anybody. They have served happily for two years; as the investigation starts they have become hamstrung, if you like, by their bias.

The Commission does not have the power to impose criminal sanctions on the person in private life. The Commission simply conducts the investigation. The question I would like to ask the other side is this, what responsibility do the Prime Minister have to answer legitimate questions about his financial affairs? If we start ducking and diving and

treating the thing like a murder inquiry that has the death penalty sentence where are we going? I see this as a simple inquiry, a simple question and answer session to determine the validity of the allegations of Mr. Linton.

Again, I apologise because I am not really prepared for this, coming today without any knowledge of anything. I am just speaking as a concerned citizen, if you like. What we have is simple allegations and I would have thought the Prime Minister, given all the controversy, would be happy to come and sit and answer simple questions. I feel for Mr. La Ronde, Mr. Smith and Mr. Dyer today and I think his colleagues on the panel should feel extreme sympathy because I know two of the gentlemen, I don't know Mr. Gerald Smith. Mr. Henry Dyer is my representative as a member of the Bar Association and to hear two lawyers impugning one of their colleagues, it is a little difficult for me to brainstorm. Mr. La Ronde is a member of the Bar, a highly educated man, intelligent man, a bright man and I would have thought that if the Commission does not move forward today I would ask that you be disbanded; forget about the Commission because I think that anybody appointed by the other side, UWP or the Bar Association or the Accountants Association would be open to be accused. We are setting a very dangerous standard there.

We have an effective Commission; we want an Integrity Commission; we agreed that integrity in public life is important but when it comes down to the nitty-gritty, when you are asked to do your job, and the most dangerous part of this in a democratic society is that every Minister of Government, every person uses the precedent for not answering questions of the Commission.

So, gentlemen, today you have an important role to play in the future of our country. Every civilized democratic State has an Integrity Commission. If you today decide that you are going to follow the whims of the Prime Minister you are really saying that you have no place in our society and it would be an indictment on our society that none of us would really want. So you have a pivotal role to play in our future, in the preservation of our democracy, in the principle of accountability.”

27. The Chairman reminded Mr. Bruney that he had been given a copy of the opening statement which gave the background and the purpose of the meeting and asked that he focus on it rather than making broadsides. He said that the issue which also needs to be focused on is the position taken by the lawyer for the person in public life at this meeting.

28. Mr. Bruney responded as follows:

“The issues before the meeting were procedural fairness, bias on the part of three members on the panel. Isn't that the crux of the matter? The other side is saying, look, we do not

believe the Prime Minister will get a fair share with these three men on the panel. If that is the point why digress beyond that? Are these men fit to serve on the IPO? If they are not that is what you have to decide today. If you can move forward because there is no court order preventing you so to do, what you have is a matter before the court. You have a wide discretion to be able to make a decision today. You can move forward and if you don't move forward you will be agreeing that you are not in a position, procedurally, to be able to deal with this matter. It is a matter for you and your consciences. Thank you."

CONCLUSION:

29. The opening hearing set for the 17th December, 2012 was postponed indefinitely and this meeting was held at the request of the person in public life made by his attorney-at-law. Mr. Alick Lawrence SC, for the reasons he stated at paras 18 – 24 (supra), did not address the meeting on the other issues raised in the letter to the Commission dated 10th December, 2012.

30. The Commission, however, is of the view that it must necessarily give its decision on the jurisdictional question and the other issues raised by the person in public life. The Commission has therefore decided as follows:

- (i) that it has jurisdiction to proceed with the inquiry on the grounds that it has complied with the statutory preconditions for embarking on the statutory requirement to hold an inquiry under section 33 of the Act;
- (ii) that there is no statutory requirement that a person in public life must be given a hearing before the Commission forms the view, upon the examination of a complaint under section 32 or otherwise, that an investigation is necessary to ascertain whether the provisions of the Code of Conduct have been breached and to hold an inquiry under section 33 of the Act;
- (iii) that the common law does not appear to require that a person in public life be heard at the preliminary stage of the proceedings when the Commission is forming the view, upon the examination of a complaint under section 32 or otherwise, that an investigation is necessary to ascertain whether the provisions of the Code of Conduct have been breached by a person in public life and to hold an inquiry into the matter under section 33 of the Act;
- (iv) that the Commission applied its mind properly when the predetermination question was disputed before it in the letter of 6th January, 2010 from attorney-at-law Mr Alick Lawrence (as he then was) in which he informed that Hon. Roosevelt Skerit, Prime Minister had “no interest whatsoever as alleged or at all” in the property named in the anonymous email from forumcitizens@yahoo.com and objected to the Commission’s questions posed to his client in its letter of 4th December, 2009. The Commission decided and informed Hon. Roosevelt Skerit, Prime Minister by letter dated 4th March, 2010 “that it would not be treating the communication from forumcitizens@yahoo.com as a complaint which triggers those of the Commission’s functions under the Act which require a complaint”

(emphasis added). Subsequent to this decision the Commission has taken no further proceedings whatsoever on this anonymous communication; and

- (v) that there is no real danger of bias by the three members of the Commission being impugned or any of them and that the Commission as presently appointed under section 4 of the Act is able to bring an independent and impartial mind to the proceedings of the inquiry into this matter.

31. In the premises, the Commission has further decided that the opening hearing of the inquiry which was postponed indefinitely shall now be fixed for Monday 25th February, 2013 at 9.00am at the Public Service Training Centre.

32. The Commission wishes to thank counsels for both parties for their submissions at the meeting held on the 7th January, 2013.

Dated this 24th day of January, 2013

(Signed: Julian N. Johnson)
Julian N. Johnson, Chairman

(Signed: Alick Lazare)
Alick Lazare, Member

(Signed: Anthony La Ronde)
Anthony La Ronde, Member

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Vanoulst Jno Charles, Member

(Signed: Gerald Smith)
Gerald Smith, Member

(Signed: Henry Dyer)
Henry Dyer, Member

Commissioner Vanoulst Jno. Charles participated in and agreed with the decision of the Commission in the matter but was unavailable to execute the document because of ill-health.