



Any reply or subsequent reference to this communication should be addressed to the Contractor-General and the following reference quoted:-

No. :

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**JAMAICA, W.I.**

URGENT

January 17, 2007

Mr. Desmond Thomas  
General Manager  
Petroleum Company of Jamaica Limited (PETCOM)  
695 Spanish Town Road  
P.O. Box 331  
Hagley Park P.O.  
Kingston 11

Dear Mr. Thomas:

Re: Report of Investigation Conducted into the Procurement of Goods, Works and Services by the Petroleum Company of Jamaica (PETCOM)

We are in receipt of your faxed four (4) page letter of even date. The same is purportedly written in response to ours of the 15<sup>th</sup> instant. We are also in receipt of an attachment to your letter which is comprised of a total of ten (10) assorted pages.

Your letter of the 12<sup>th</sup> instant had raised a number of challenges to the captioned OCG Report. In our letter to you of the 15<sup>th</sup> instant, we conveyed to you that you had however failed to present any credible bases or justifications for your challenges. We went further and mandated you to provide to the OCG, before 12.00 Noon today, credible and sustainable evidence to substantiate that which you had asserted.

Having reviewed your 14 page response, it is our considered view that PETCOM has clearly embarked upon a deliberate and obfuscatory campaign to mislead the OCG, the media and the public. By your very own admission, PETCOM is now asking the OCG to accept that the written and unequivocally clear representations which it had previously made to the OCG, and upon which the OCG has founded its Findings, were, *inter alia*, "inaccurate" or were "inelegantly and erroneously presented".

More surprising, is that the counter stories which PETCOM is now seeking to have the OCG and the public accept, in place of the prior written representations which it had made to the OCG, are stories which are constructed upon thin air and which are wholly unsupported by even a shred of any discernable evidence.

We have noted, in particular, the following:

1. You have provided no evidence whatsoever of the contract which you have asserted was entered into between PETCOM and Elegant Traders Ltd. in 1998. We have now received two (2) letters from you in this matter and two (2) from Ms. Clarke's attorneys, all of which have relied substantially upon this alleged contract which no one has been able to produce for the OCG's examination and scrutiny.
2. Contrary to what was previously expressed, in writing, by you, you have now asserted that PETCOM, in 1998, entered into a contract with Barsam Ltd. and not with Elegant Traders Ltd.



(2)

3. More curiously, you have represented that “Barsam Limited is now Elegant Traders Limited”. You might wish to note that a check with the Office of the Companies Registrar lists these two (2) companies as separate and distinct corporate entities having separate and distinct shareholders. (Please see ORC attachments).
4. In the premises, you have therefore provided absolutely no evidence to challenge the OCG’s Findings that the contracts which were entered into between PETCOM and Elegant Traders Ltd., during the period of the OCG’s investigation, are indeed separate and distinct contracts at law. This was a Finding which is supported by written representations which were made on behalf of PETCOM to the OCG. Additionally, you have also failed to substantiate your new and erroneous claim that these contracts are not contracts but are instead “engagements” which are governed by an alleged but yet to be produced “1998” contract between PETCOM and Elegant Traders Ltd.
5. The OCG had directed you to the provisions of Clause 1.5.2.3. of the GPPH regarding the GPPH requirements for the establishment and operation of Procurement Committees by Public Bodies. You were directed to substantiate your counter-claim that “*contrary to the OCG’s Report, PETCOM has a functioning and assertive Procurement Committee which meets regularly to review matters sent out for tender*”.

You were specifically required “*to fully substantiate your statement by providing the OCG with all relevant documentation, inclusive of all PETCOM Procurement Committee Meeting minutes as they pertain to every procurement which was undertaken by PETCOM during the referenced period of January 1, 2003 and August 31, 2006. The documentation which must be provided by you must be in full compliance with the specific and expressed requirements of Section 1.5.2.3. of the GPPH*”.

Despite your pronouncements and the OCG’s demand of you to substantiate same, you have once again failed to do so. We note, in particular, that you have submitted all of nine (9) pieces of letter sized paper as your evidence of PETCOM’s compliance with Section 1.5.2.3 of the GPPH. These 9 sheets of paper are purportedly representative of PETCOM’s Procurement records for a three and one half year period and are represented to include records of all of the deliberations of PETCOM’s Procurement Committee, together with copies of all documentation which you have in your possession which relates to PETCOM’s procurement activities during the referenced period.

On pages 8 and 9 of the OCG’s Investigation Report, reference is made to four (4) contracts which are above \$4,000,000 in value. The Report inadvertently refers to “five (5) contracts”. The stated values of these contracts are the identical values which were provided, in writing, to the OCG by MITEC. On page 9 of the Report it was accurately stated by the OCG that these contracts “*should have been forwarded to the NCC for approval prior to award*”. You have, however, misconstrued the reference to these contracts as one which was directed to the 18 contracts which were awarded to Elegant Traders Ltd. and which are listed on page 5 of the Report as having an aggregated value of \$4,439,935.50.

The OCG must again reiterate, in no uncertain terms, what are its clear and unambiguous positions in this matter. Firstly, the Conclusions in its captioned Report of Investigation are fully supported by its Findings. Secondly, the OCG’s Findings can be adequately and credibly substantiated by the evidence which it has garnered from its investigation and particularly from the unequivocal and written representations which were made to it by MITEC, yourself, Ms. Barbara Clarke and the other PETCOM representatives which are referenced in the Report.

The OCG has provided you with every opportunity to substantiate your most recent claims and challenges to its Report. You have summarily failed to do so. In the premises, the OCG is compelled to unreservedly advise you that its Report stands and that it now regards this matter as closed.



(3)

We wish to be very clear, however, to advise you that the OCG reserves the right to determine if a criminal offence (or offences) has been committed under Section 29 of the Contractor General Act by PETCOM or by any Public Officer or person who has made representations to the OCG herein.

We so respectfully advise.

Very respectfully,

Greg Christie (Signed)

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Greg Christie  
Contractor General

Copy: Senator The Honourable Syringa Marshall-Burnett, CD, President of the Senate  
The Honourable Michael Peart, M.P., Speaker of the House of Representatives  
The Hon. Phillip Paulwell, Minister of Industry, Technology, Energy and Commerce, MITEC  
Dr. Jean A. Dixon, PHD., MBA, Permanent Secretary, MITEC  
Dr. John Cooke, Chairman, PCJ Group  
Dr. Ruth Potopsingh, Group Managing Director, PCJ  
Ms. Barbara Clarke, Chairperson, PETCOM

Enclosure