

M.G. DALY & PARTNERS
ATTORNEYS-AT-LAW & NOTARIES PUBLIC

FROM: THE PORT OF SPAIN OFFICE

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May 15th 2024

Freedom Law Chambers,
No. 3 Harris Street,
San Fernando
Trinidad

Attention: Ms.Asaha Ramlal

Dear Sir,

Re: Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2023 (1st October 2022 to 30th September 2023)

I act on behalf of the Minister of Finance (“the Minister”) who has passed to me a copy of your letter to him dated 28th April 2024 with instructions that I respond to same on his behalf.

Your letter addresses the circumstances surrounding attempts by public servants attached to the Ministry of Finance and the office of the Comptroller of Accounts to bring to the attention of the Auditor General errors discovered in the public accounts after they were submitted to her on 31st January 2024. It does not appear to be disputed that the Auditor General did not accept the relevant documentation pertaining to those errors until 16th April 2024 and that she submitted her report to the Speaker of the House of Representatives and the President of the Senate on 24th April 2024. On the same day, the Auditor General delivered to the Ministry of Finance a Management Letter dated 23rd April 2024 which, amongst other things, identified certain errors in the accounts and requested certain explanations relating to the errors identified, and invited the Ministry’s comments on the findings, observations, and recommendations contained in the Management Letter.

The Ministry of Finance fully appreciates the importance of the independent and constitutional role which the Auditor General plays in the annual verification of the public accounts and is therefore desirous of satisfying all of the Auditor General's reasonable queries, concerns and criticisms of the public accounts. This is and has always been the Ministry's priority. It is therefore unfortunate that the Ministry was not afforded the opportunity of responding to the Management Letter before the Auditor General's Report was submitted to the Speaker and the President, but the Minister notes the Auditor General's willingness, as expressed in your letter, to consider the preparation of a special report pursuant to section 25(4) of the Exchequer and Audit Act. Accordingly, by separate correspondence and engagement, the Ministry will be making all necessary and reasonable efforts to provide all documents which the Auditor General requires in so far as those documents exist and to allay all of the Auditor General's reasonable concerns.

Further, because of the public disquiet and stark differences of opinion surrounding this issue and the need for Parliament and the public to be properly and accurately informed on the revenue collected and payments made for the service of the Republic of Trinidad and Tobago, it is expected that this special report on the public accounts for the financial year 2023 will be completed and submitted in the shortest possible time, and certainly by 31st August 2024, which is the extended date for reporting on the accounts for financial year 2023.

That having been said, it is also unfortunate that your letter contains many false or misleading statements made with regard to the submission of the accounts at caption by the Ministry of Finance ("MOF") to the Auditor General, and in that regard fails to state a number of relevant facts of which your client ("the Auditor General") is well aware. Despite the Ministry's intention to engage with the Auditor General pursuant to section 25(4) of the Act, it is unavoidable that in this response letter those false and misleading statements have to be dealt with.

In the following paragraphs, therefore, I address those statements and set out certain relevant facts which your letter ignores.

The accounts and financial statements submitted by the Ministry of Finance to the Auditor General

On the 31st January 2024, the Treasury Division of the MOF ("the Treasury Division"), in accordance with section 24(1) of the Exchequer and Audit Act ("the Act"), submitted to the Auditor General certain accounts and statements showing the financial position of Trinidad and

Tobago as at September 30th 2023 (“the Original Treasury Statements”). The Original Treasury Statements included the Statement of Revenue (“the Revenue Statement”) showing the sums estimated to be received into the Exchequer Account and the sums actually so received. The Original Treasury Statements included and were certified by a Statement of Declaration and Certification dated 31st January 2024. A copy of that Statement of Declaration and Certification is attached hereto and marked “A”.

After submitting the Original Treasury Statements to the Auditor General, the MOF collated those accounts with other accounts and statements submitted to the Auditor General by other Ministries, Departments, and receivers of revenue (together referred to as “the Original Collated Public Accounts”). After: (i) discovering that there was a potential understatement of revenue; (ii) confirming that the Revenue Statement had understated revenue by \$2,598,130,761.72, and that the Green Fund Statement was understated by \$1,147,427.01 (a total understatement of \$2,599,278,188.73); and (iii) identifying the errors that caused the total understatement of \$2,599,278,188.73 (“the understatement”), the MOF amended the Revenue Statement and the other accounts/statements included in the Original Collated Public Accounts that were affected by the understatement.

The MOF then collated those amended accounts/statements with the other statements/accounts included in the Original Public Accounts that were unaffected by the understatement. During the period from 9th April 2024 to 15th April 2024 the MOF experienced difficulties in submitting those amended collated public accounts to the Auditor General. Those difficulties are set out in greater detail later in this letter but suffice it to say at this point that although on the 11th April 2024 the Auditor General’s Department refused to accept the said amended collated accounts from the MOF, it did take delivery of the Original Public Accounts from the MOF on that day.

In the face of the Auditor General’s refusal to take delivery of the amended collated public accounts, the MOF sent those accounts (“the 12th April Accounts”) via TTPost to the Auditor General’s Department on the 12th April 2024 and they were delivered to the offices of that Department on the 15th April 2024. The 12th April Accounts included the Exchequer Account and a Statement of Receipts and Disbursements which were each certified. Those certificates were dated with the dates on which the accounts were certified, that is to say the 8th April 2024 and 5th April 2024, respectively. However, a copy of the Statement of Declaration and Certification dated

31st January 2024, which had been included in the Original Treasury Accounts, was inadvertently included in the 12th April Accounts.

By letter dated the 15th April 2024, the Auditor General wrote to the Attorney General stating that the MOF was free to recall the public accounts previously submitted on and dated 31st January 2024 and to provide her with revised Public Accounts. Pursuant to that letter, on the 16th April 2024, the MOF wrote to the Auditor General recalling the Original Treasury Statements and provided to the Auditor General on that date amended collated public accounts (“the Amended Public Accounts”) that included a Statement of Declaration and Certification dated 16th April 2024. The Amended Public Accounts were accepted by the Auditor General as replacing the public accounts previously submitted to her by the MOF.

On the 17th to the 19th April 2024, a team of persons from the Auditor General’s Department (“the Audit Team”) visited the offices of the Inland Revenue Division and the Treasury Division to conduct an audit of the Amended Public Accounts.

The delayed acceptance of the Amended Public Accounts by the Auditor General

Although the Auditor General did eventually accept delivery of the Amended Public Accounts on 16th April 2024, you fail to mention in your letter that prior to that date the Auditor General repeatedly and steadfastly refused for almost a week to accept delivery of or consider those accounts or to discuss the understatement in any meaningful way with personnel from the MOF.

Indeed, it was only after a pre-action letter dated 15th April 2024 was issued to the Auditor General on behalf of the Attorney General of Trinidad and Tobago, warning her that proceedings would be instituted against her if she failed to receive and consider the Amended Public Accounts, that she on the 15th April 2024 eventually agreed to receive same. A copy of that pre-action letter and the Auditor General’s letter in response agreeing to accept amended public accounts are attached to this letter and marked “B” and “C”, respectively. The circumstances leading up to and surrounding the Auditor General’s initial refusal to accept or consider the amended public accounts (which you have not disputed in your letter) are set out in the Attorney General’s pre-action letter as follows:

- “(a) *On the 25th March 2024 the Permanent Secretary in the Ministry of Finance, Ms. Suzette Lee Chee (“the Permanent Secretary”), spoke to you [the Auditor General] via telephone advising that there appeared to be a material misstatement in the Revenue*

Statement. On that occasion you stated you were on your way home and that you would contact the Permanent Secretary the following day;

- (b) *On the 26th March 2024 the Permanent Secretary, not having heard from you, sent a WhatsApp message to you at 10:11 am. indicating that she wished to follow up on your preliminary discussion with her regarding the understatement on the previous day, and in that regard would very much appreciate a further telephone discussion as well as a physical meeting with you to discuss the Revenue Statement. **In response you stated by way of WhatsApp message to the Permanent Secretary that your representative would contact her the following day;***
- (c) *Subsequently the Ministry of Finance was contacted by Mr. Shiva Sinanan (“Mr. Sinanan”), Assistant Auditor General in the Auditor General’s Department, and a meeting to discuss the Revenue Statement was scheduled for 27th March 2024. The meeting was in fact held on that day at the offices of the Ministry of Finance.*
- (d) *At that meeting Mr. Sinanan was advised that there was an apparent material understatement in the Revenue Statement and that a reconciliation process was ongoing for the purpose of assessing the quantum and cause of the understatement. At the meeting the Auditor General’s Department (“the AGD”) was also invited to make recommendations with respect to future steps to be taken in resolving the problems and issues raised in the meeting. Mr. Sinanan requested certain documentation and indicated that he would report the matters discussed at the meeting to the Auditor General and then contact the Ministry of Finance on those matters.*
- (e) *On the 28th March 2024 the Permanent Secretary, having not received any further communication from the AGD, called Mr. Sinanan to discuss the Revenue Statement. **On that occasion Mr. Sinanan informed the Permanent Secretary that the AGD would not be issuing any communication to the Ministry of Finance and that the Ministry should write to the Auditor General with respect to any material misstatement in the Revenue Statement.***
- (f) *On the 28th March 2024 the Permanent Secretary submitted to you via email a Memorandum of the same date which advised amongst other things that:*
- (i) *The Revenue Statement contained an understatement in the amount of \$3,379,777,908.00 which if not reported correctly would have far reaching implications;*
- (ii) *As at that time the Ministry of Finance had reconciled an amount to the value of \$2,598,130,761.72 as follows;*

<i>VAT</i>	<i>\$ 2,262,371,602.00</i>
<i>Individual</i>	<i>\$ 330,050,736.46</i>
<i>Business Levy</i>	<i>\$ 5,708,423.26</i>

(iii) *The Ministry of Finance would continue to liaise with the Central Bank of Trinidad and Tobago to complete the reconciliation process.*

The Memorandum also explained the process by which the understatement was identified and quantified, what caused the understatement to be made, and the reasons why the understatement was not identified earlier.

- (g) *On the 5th April 2024 the Permanent Secretary submitted to you via email a further Memorandum advising on the understatement. In that Memorandum the Permanent Secretary advised that the continuing reconciliation process established that the understatement in the Revenue Statement was \$2,599,278,188.73, and that it was comprised as follows:*

<i>VAT</i>	<i>\$ 2,262,371,602.00</i>
<i>Individual</i>	<i>\$ 330,050,736.46</i>
<i>Business Levy</i>	<i>\$ 5,708,423.26</i>
<i>Green Fund Levy</i>	<i>\$ 1,147,427.01</i>

The Permanent Secretary also stated in the Memorandum that the understatement was due to posting errors, including double booking of transactions and decimal point transposition errors arising as a result of the new Electronic Cheque Clearing System at the Central Bank of Trinidad and Tobago as well as the Go Anywhere Platform which replaced the presentation of physical cheques for reconciliation.

- (h) *On the 8th April 2028 the Permanent Secretary sent a further Memorandum to you by email. In that memorandum the Permanent Secretary confirmed that the reconciliation process was complete and that the understatement amounted to \$2,599,278,188.93 comprised as follows:*

<i>VAT</i>	<i>\$2,262,371,602.00</i>
<i>Individuals</i>	<i>\$ 330,050,736.46</i>
<i>Business Levy</i>	<i>\$ 5,708,423.26</i>
<i>Green Fund Levy</i>	<i>\$ 1,147,427.01</i>

The Permanent Secretary also indicated in that Memorandum that the Comptroller of Accounts was updating/amending those Statements in the Original Public Accounts affected by the understatement (including the Revenue Statement) so as to correct errors therein arising from the understatement, and that the statements comprising the Public Accounts of Trinidad and Tobago, as amended, ("the Amended Public Accounts") would be provided to the AGD by the morning of 9th April 2024.

- (viii) *On the evening of the 8th April 2024 the Comptroller of Accounts, Ms. Catherine Laban, sent an email to you advising that a CD containing electronic copies of the Amended Public Accounts would be delivered to your office on morning of 9th April 2024. This email was not acknowledged.*
- (ix) *On the morning of the 9th April 2024 Ms. Shola Balliram, Treasury Executive in the Treasury Division, attended the office of the Auditor General to deliver a CD containing electronic copies of the Amended Public Accounts. **On arriving at the Auditor General's office Ms. Balliram was told by personnel in the AGD that they had been instructed by the Assistant Auditor General that he was instructed not to accept the CD containing the Amended Public Accounts.***
- (x) *After being informed of your refusal to receive the Amended Public Accounts the Comptroller of Accounts attempted to call you on your cell phone and on your landline phone on the 9th April 2024 but her calls went unanswered. On the same day the Comptroller also sent a WhatsApp message to you requesting a discussion on the Revenue Statement. You failed to acknowledge that message.*
- (xi) *After being appraised of your refusal to receive the CD containing the Amended Public Accounts the Permanent Secretary drafted and signed a letter to you of the same date again confirming the amount and cause of the understatement, expressly stating that the Revenue Statement was inaccurate, and warning that if the Revenue Statement were presented in the Auditor General's report there would be unnecessary complications as a result. There were two CDs enclosed with that letter one of which contained Original Public Accounts and the other which contained the Amended Public Accounts. Finally in that letter the Permanent Secretary requested that the you use the latter CD, that is to say, the Amended Public Accounts.*
- (xii) *On the afternoon of the 9th April 2024 the Treasury Director, Ms. Dawn Craig, the Senior Treasury Accountant Financial Management Branch, Ms. Sherry Ramshai, and the Treasury Executive I, Ms. Shoba Balliram, went to the Office of the Auditor General to deliver the Permanent Secretary's said letter of 9th April 2024 together with the said CDs. However upon arrival they were told that there was no one there to receive those items and that they should return on the 11th April 2024;*
- (xiii) *On the 11th April 2024 the said officers returned to the Office of the Auditor General to deliver the said letter and CDs and upon arriving there they were met by the Assistant Auditor General, **Mr. Sinanan, who told the officers that he was instructed by you to accept only the CD containing the Public Accounts that were based on the Revenue Statement and not to accept the CD containing the Amended Public Accounts.** The officers advised the Assistant Auditor General of the ramifications and implications of presenting the Public Accounts without making the amendments required as a result of the understatement.*

(xiv) At the request of the Assistant Auditor General, the three officers then met with the Senior Legal Officer in the AGD, Ms. Anita Mangra, and they asked her if the Amended Public Accounts could be audited before 30th April 2024. The Senior Legal Office then excused herself to consult with the Auditor General and upon her return indicated that she too was instructed by the Auditor General to accept only the CD containing the electronic copy of the Public Accounts that were based on the Revenue Statement and not to accept the CD containing the Amended Public Accounts.” (emphasis added)

The Auditor General’s initial refusal to accept the Amended Public Accounts delayed her consideration of those accounts for what was a significant period of time given the statutory deadline of 30th April 2024 for the submission of her report (“the Auditor General’s Report”) to the Minister, the Speaker of the House of Representatives (“the Speaker”) and the President of the Senate (“the President”) under section 25(1) of the Exchequer and Audit Act (“the Act”).

In the circumstances, the Auditor General’s said refusal, particularly when considered together with her conduct subsequent to her eventual acceptance of those accounts as discussed below, have raised concerns that, whether intentionally or not, the MOF was denied a reasonable and timely opportunity to correct or explain the error made in the Original Treasury Statements and to verify the increase in revenue resulting from the correction of that error, before the Auditor General’s Report was submitted to the Speaker and the President.

Moreover, the Auditor General’s refusal to receive and consider the Amended Public Accounts prior to the 16th April 2024 was unlawful and irrational. It was unlawful because it constituted a failure to fulfil her duties under section 116 of the Constitution and section 9 of the Act, and it was irrational because it is inexplicable that she would refuse to consider such amended accounts in the course of executing her duties to examine and audit the public accounts.

The allegation that the Amended Public Accounts were backdated

The allegations in your letter that the MOF “simply backdated the original accounts” and attempted by way of “administrative sleight of hand to sweep under the rug the fact that an error had occurred and the MOF had not sought the requisite extension of time from Parliament to rectify same”, and other such allegations in similar vein, are patently false.

The first point to be made is that both the Original Public Accounts and the Amended Public Accounts include certain certificates signed by representatives of the MOF that make declarations

and certify certain matters regarding one or more of the accounts/statements that comprise the Public Accounts. The dates on which those certificates have been signed is endorsed on the certificate. Apart from those dates, neither the Original Public Accounts nor the Amended Public Accounts state or indicate the date on which they were prepared. Those accounts represent the financial position of Trinidad and Tobago as at September 30th 2023 irrespective of the date on which they were prepared or certified.

All accounts included in the Amended Public Accounts which contained amendments made after they were originally submitted to the Auditor General as part of the Original Treasury Statements were certified in the Amended Public Accounts by way of certificates that were dated 16th or 15th April 2024.

Thus, at page 3 of the Amended Public Accounts there is a Statement of Declaration and Certification which is signed by the Accounting Officer Permanent Secretary Ministry of Finance, the Comptroller of Accounts, and the Treasury Director (Ag.), and each signature is dated 16th April 2024. This document certifies the accounts and statements to be transmitted to the Auditor General under sections 24(1)(a), 24(1)(b), 24(2)(a), and 24(2)(b) of the Exchequer and Audit Act. Further, the Exchequer Account, and the Receipts and Payments and Bank Reconciliation Statements at pages 7 to 15 of the Amended Public Accounts were signed and dated 15th April 2024 by the officers of the MOF who prepared and checked those statements. Similarly, the Statement of Receipts and Disbursements at pages 370 to 377 were certified by the Commissioner of the Board of Inland Revenue and that certificate is dated the 16th April 2024.

None of the accounts included in the Amended Public Accounts which contained amendments made after they were originally submitted to the Auditor General on 31st January 2024 as part of the Original Treasury Statements, were certified in the Amended Public Accounts by way of certificates dated 31st January 2024. In the circumstances, the Amended Public Accounts correctly identified the date or dates on which the accounts comprised therein were certified. Thus, any suggestion that the Amended Public Accounts were ‘backdated’ in some way is inexplicably false.

In your letter you state that the Auditor General “had two sets of Public Accounts in her possession”, one of which was stated to be amended public accounts that showed a Statement of Revenue figure of \$64,488,503,781.94 with a Statement of Declaration and Certification dated January 31, 2024. In alleging that the MOF backdated the said public accounts the Auditor General

appears to rely on the fact that even though the errors which resulted in the said amended accounts being prepared were discovered in March 2024, the Statement of Declaration and Certification for those amended accounts was dated 31st January 2024.

The only amended accounts which included a Statement of Declaration and Certification dated 31st January 2024 that were submitted by the MOF to the Auditor General were the 12th April Amended Accounts. The allegation that these accounts were intentionally backdated is spurious as there is no factual basis for that allegation and indeed the allegation is inconsistent with the facts surrounding the submission of the 12th April Accounts and the Amended Public Accounts.

As already stated, a copy of the Statement of Declaration and Certification dated 31st January 2024 included in the Original Treasury Statements was inadvertently included in the 12th April Accounts. But the fact that the Statement of Declaration dated 31st January 2024 was included in those accounts in error and not in an attempt to backdate same, is demonstrated by the fact that the Exchequer Account and Statement of Receipts and Disbursements also included in those same accounts, were (in accordance with usual practice) also each endorsed with their own certification clauses. Those clauses were signed and dated 8th April 2024 and 5th April 2024, respectively. If there was an intention to backdate the 12th April Accounts, then one would expect the Exchequer Account and the Statement of Receipts and Disbursements included in those accounts to also be dated 31st January 2024, but they were not.

Further, the Statement of Declaration and Certification included in the Amended Public Accounts that was submitted to the Auditor General on the 16th April 2024 was dated the 16th April 2024. The submission of these accounts essentially amounted to a re-submission of the 12th April Accounts. If the intention was to backdate the latter accounts by including a Statement of Declaration dated 31st January 2024 in those accounts then one would expect the same to be done in the Amended Public Accounts submitted on the day after the 12th April Accounts were delivered to the Auditor General's Department.

In any event although the 12th April Accounts were delivered to the Auditor General's Department on the 15th April 2024, the accounts accepted by the Auditor General in substitution for the Original Public Accounts (and in particular the Original Treasury Statements comprised therein) the following day were the Amended Public Accounts which included a Statement of Declaration dated 16th April 2024.

The allegation that amendments to the Original Treasury Statements were not shown in the Amended Public Accounts

In apparent support of the Auditor General's claim that accounts were backdated, your letter suggests that in preparing the amended public accounts the MOF simply "*replaced the old revenue figure with the new one without showing any amendment to the national accounts*". This is incorrect. Notice of amendments made to revenue figures in the Original Treasury Statements in preparing the Amended Public Accounts was given in the latter accounts by way of Note 24 of the Notes to the Amended Public Accounts. Every such amendment was cross-referenced to Note 24. Further, the Exchequer Account included in the Amended Public Accounts expressly referred to the understatement at page 6,7 and 12 of those accounts.

At page 12 of your letter, you say that the Auditor General had difficulty with the fact that the Amended Public Accounts did not "*show the significant change that occurred after the MOF had submitted the original public accounts on January 31st 2024*". If in fact the Auditor General had such a difficulty, neither she nor any representative of hers informed the MOF of that difficulty. Notably, the Auditor General did not disclose her difficulty in that regard in either the Management Letter dated 23rd April 2024 which she issued to the MOF (and which was delivered to the MOF on the 24th April 2024) ("the Management Letter") or in the Auditor General's Report.

In all of the circumstances, therefore, it is mystifying that you would fail to advise the Auditor General that she would be falling into grave error in accusing her public service colleagues of unethically backdating the accounts in order to cover up errors made and attempting an "administrative sleight of hand to sweep under the rug the fact that an error had occurred." It may be that you might consider it appropriate to advise her that an apology is now in order.

The alleged admission by the MOF that over 700 million dollars cannot be accounted for

The allegation in your letter that the MOF was unable to account for over \$700 million and/or that it admitted that it was unable to account for that sum is also false.

By Memorandum to the Auditor General dated 28th March 2024 Ms. Suzette Lee Chee, Permanent Secretary Ministry of Finance, advised that a "variance" to the value of \$3,379,777,908.00 had been discovered and that "currently" the MOF had "reconciled" an amount to the value of \$2,598,130,761.00. Further, Ms. Lee Chee advised that the MOF would continue to liaise with the

Central Bank to complete the “reconciliation process”. Thus, the MOF made clear in that Memorandum that the reconciliation process by which the MOF sought to reconcile the said variance was ongoing. In light of the statement that the reconciliation process was ongoing it cannot be said that the Memorandum contained an admission by the MOF that it was unable to reconcile the difference of \$780,499,791.27 between a variance of \$3,379,777,908.00 and the sum which as at that date had been reconciled, that is to say, \$2,598,130,761.00 . A copy of that Memorandum dated 28th March 2024 is attached to this letter and marked “**D**”.

By Memorandum dated 5th April 2024 Ms. Lee Chee confirmed that the MOF’s reconciliation process established that the variance in the Revenue Statement was \$2,599,278,188.73 but that the MOF wished to conduct “one final check” in respect of the final remaining balance of \$780,499,791.27. The Memorandum confirms that the MOF’s reconciliation process revealed that the variance in the Revenue Statement was in fact \$2,599,278,188.72 and not \$3,379,777,908.00 as previously stated, but that the MOF wished to make “one final check” in respect of the difference between those sums, that is to say the said amount of \$780,499,791.27. Again, that Memorandum can in no way be construed as an admission that the MOF is unable to account for that sum or any other sum. A copy of that Memorandum dated 5th April 2024 is attached to this letter and marked “**E**”.

Three days later, by Memorandum dated 8th April 2024 Ms. Lee Chee confirmed that the MOF’s reconciliation process was complete and that the total variance in respect of VAT, Individuals, Business Levy, and Green Fund Levy was \$2,599,278,188.73. This was once again confirmed by Ms. Lee Chee by her Memorandum dated 9th April 2024 to the Auditor General. Neither of these memoranda could possibly be construed as admitting that the MOF was unable to account for the sum of \$780,499,791.27. Rather, they confirmed that the variance was \$2,599,278,188.73. Copies of the Memoranda dated 8th April 2024 and 9th April 2024, respectively, are attached to this letter and marked “**F**” and “**G**” respectively.

The said sum of \$780,499,791.27, which was originally thought to be part of a variance in the Revenue Statement, had as early as the 5th April 2024 been identified by the MOF as being tax refunds issued by way of cheques to taxpayers in the financial year 2022 but which were encashed in the financial year 2023. The Audit Team could have gleaned that information from the documents provided to them by the MOF for the purpose of conducting their audit, and in

particular from the credit advices. Further, during the course of their audit, no member of the Audit Team suggested to the MOF that the MOF had failed to account for the said sum, nor did any such member make any enquiry about that sum. Similarly, prior to the issue of the Management Letter, the Auditor General raised no enquiry about the said sum of \$780,499,791.27 with the MOF nor did she suggest to the MOF that that sum had not been accounted for in the accounts and documents submitted to her and/or the Audit Team.

Unfortunately, although the Auditor General did in the Management Letter dated 23rd April 2024 (and delivered to the MOF on 24th April 2024) enquire whether the said sum had been reconciled or needed to be reconciled, she submitted the Auditor General's Report on the 24th April 2024 to the Minister, the Speaker, and the President of the Senate, thereby denying the MOF any opportunity to respond to that enquiry prior to the submission of that report.

The alleged failure to provide any financial records to substantiate and verify the increase in revenue

The allegation at page 11 of your letter that “despite thorough and diligent attempts, the MOF was unable to produce any financial records to substantiate and verify this said sum” is also incorrect as is the allegation made at pages 9 to 10 of your letter that there is no explanation why the MOF was unable to provide the Auditor General with the particular documents she required to verify the amended figures in the Amended Public Accounts.

On the 17th April 2024, Mrs. Michelle Durham Kissoon, Ag. Permanent Secretary Ministry of Finance, received an email from Mrs. Michelle Superville-Craigwell of the Auditor General's Department requesting permission for the Audit Team to gain access to the Inland Revenue Division and the Treasury Division to conduct an audit of the Amended Public Accounts from the 17th April 2024 to 19th April 2024. Pursuant to that request, the Audit Team was granted the access requested and attended the offices of one or both of those Divisions from approximately 2 pm to 3 pm. on the 17th April 2024, from approximately 8am. to around 3pm. on the 18th April 2024, and from approximately 10 am. to midday on the 19th April 2024. The Audit Team was provided with all of the documents which they requested save for Inter Departmental Adjustment reversals showing reversals to the Credit Advices provided by the Central Bank.

The Debit Advices, Credit Advices, and revised Reconciliation Statements provided by the MOF to the Audit Team constituted source documents that substantiated and verified the changes to the

Original Public Accounts effected by the Amended Public Accounts. In the Management Letter and Auditor General's Report, the Auditor General appears to have taken the position that notwithstanding the production of these documents such changes could not be verified for the purposes of her audit because the credit advices supporting such amendments had not been processed by the Board of Inland Revenue. Even assuming that that position is correct, it is not true to say that the MOF was unable to produce any financial records to substantiate and verify this said sum. The said source documents do substantiate those changes.

With regard to the processing of the relevant credit advices by the BIR, and the adjustment of certain of the accounts and records reflecting the amendments to the Original Treasury Statements made in the Amended Public Accounts, the Audit Team was advised by the MOF in the course of conducting their audit that: (i) the processing of the credit advices required that the General Ledger be re-opened to make the necessary adjustments given that at the time the understatement had been identified the accounts had already been consolidated and the General Ledger closed for the financial year; (ii) that the re-opening of the General Ledger, which was an electronic system created and maintained using computer software, in those circumstances was an unprecedented, technical exercise; (iii) that in those circumstances the MOF wanted to receive external expert advice and conduct a simulation adjustment in a test environment before attempting to re-open the General ledger to make adjustments; and (iv) such testing was being arranged by the MOF but until those tests were completed the Board of Inland Revenue was not in a position to process the said credit advices in order for the Treasury Division to make the required adjustments to the said accounts and records.

The submission of the Auditor General's Report

In your letter, you state that on the 24th April 2024 the Auditor General completed the Auditor General's Report and delivered it to the Speaker and the President. However, you fail to mention that on the same day the Auditor General caused the Management Letter to be delivered to the MOF. In that letter the Auditor General, amongst other things, referred to certain errors in the Amended Public Accounts, noted that certain documents should have been provided to her, requested an explanation as to whether the figure of \$780,499,719.27 had been reconciled or needed to be reconciled, and finally, requested that the Ministry let the Auditor General

Department have written comments on the findings, observations, and recommendations contained in the Management Letter.

As the Auditor General is aware, historically it has been the practice of the office of the Auditor General to hold an Exit Interview with MOF staff before submitting his/her report to the said Officials pursuant to the Act, so that the MOF has an opportunity to address any concerns he or she may have with respect to the public accounts submitted to him/her before the Auditor General's Report is submitted to the Speaker and the President. However, the Auditor General failed to hold any such Exit Interview prior to issuing the Management Letter and although the Management Letter requested information and comments from the MOF, in submitting the Auditor General's Report to the Speaker and the President at or around the same time that she issued the Management Letter to the MOF, the Auditor General effectively denied the MOF any opportunity to address her concerns, observations, or requests stated in the Management Letter before the submission of the Report.

With regard to the submission of the Auditor General's Report to the Speaker and the President on the 24th April 2024, you say she could not possibly have done anything else without compromising the integrity and independence of her office. However, given that the deadline for the submission of that report to the Speaker and the President was the 30th April 2024 there is no good reason why after issuing the Management Letter the Auditor General could not have delayed submission of the Auditor General's Report to the Speaker and the President until the 30th April 2024 so as to give the MOF an opportunity to either address the matters raised in the Management Letter or to respond with a proposed course of action that would have allowed the MOF additional time to address the concerns of the Auditor General, including those expressed in the Management Letter, prior to issuing of the Auditor General's Report to the Speaker and the President.

Further, had the Auditor General followed the prior practice of giving the MOF the opportunity to respond to her queries and concerns before submitting the Report, and in the event that the MOF officials felt themselves unable to do so before the 30th April 2024, Parliament could then have been moved to extend time for the submission of the Auditor General's Report in order to permit sufficient time for the process to be completed. Instead, the Auditor General's hasty and premature submission of the Auditor General's Report to the Speaker and the President deprived the Auditor General's colleagues of any reasonable opportunity to address her concerns.

Indeed, in submitting the Auditor General's Report at the same time as issuing the Management Letter, the Auditor General exposed herself to the criticism that she recklessly if not intentionally ensured that the MOF was denied any opportunity to address the concerns observations and requests in the Management Letter before that report was submitted.

Such criticism is supported by the fact that contrary to what you say in your letter it has not been the practice for the office of the Auditor General to submit the Auditor General's Report to the Speaker and the President as early as 6 days prior to the statutory deadline for doing so. In that regard the Auditor General's Report for the years 2020,2021, 2022, and are dated the 29th April 2021, the 28th April 2022, and the 27th April 2023, respectively, and therefore were submitted to the said Officials on or after those dates. Unfortunately, when viewed against that history, the Auditor General's inexplicable rush to submit the Auditor General's Report to the Speaker and the President at the same time as seeking comments and answers from the MOF with respect to that report and the Amended Public Accounts, is even more alarming and makes the case for questioning the motivation of the Auditor General in choosing to submit that report when she did that much stronger.

In the circumstances, the Auditor General's decision to submit the Auditor General's Report to the said Officials without giving the MOF any opportunity to address the matters raised therein and in the Management Letter prior to that submission, was unlawful in that in making that decision the Auditor General acted unfairly, in breach of the principles of natural justice, in bad faith, in breach of the Ministry officials' legitimate expectation that they would be given that opportunity, and in a manner that was so unreasonable that no reasonable Auditor General would have taken such a decision.

The contention in your letter that the Government attempted to sweep the error made in the Original Public Accounts under the carpet is spurious. As already stated, the allegation in support of that contention, namely that the MOF attempted to backdate the accounts to hide the error, is patently false. What the facts strongly suggest is that having been informed by the MOF that there was an error in the Original Treasury Statements, the Auditor General was steadfast in denying the MOF an opportunity to identify, explain and correct that error and to address her concerns regarding the Amended Public Accounts. It is difficult to see how the Auditor General's motivation in that regard could have been the performance of her statutory and constitutional duties.

The alleged refusal of the Minister to lay the report as required by law

The Minister is required by the Exchequer and Audit Act to lay the Auditor General's Report in Parliament within 30 days of his receiving it and he will do so in due time, despite the legal flaws just identified.

However, it is incorrect to say that the Minister was under a statutory duty or was required by law to lay the Auditor General's Report in Parliament on 26th April 2024. Section 116(5) of the Constitution provides that the President of the Senate and the Speaker shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively. Ord 22(2) of the Standing Orders of the House of Representatives provides that the Speaker shall cause to be presented all papers required in law to be laid from bodies and authorities that do not fall within the purview of a Minister's responsibility. Ord 21(4) of the Standing Orders of the Senate imposes a similar duty on the President of the Senate. The Auditor General is not an authority that falls within the purview of the Minister's responsibility, and therefore it is not the Minister but rather the Speaker and the President of the Senate that are required by law to lay/present the Auditor General's Report in the House and the Senate, respectively.

In your letter, you suggest that in refusing to lay the Auditor General's Report in Parliament the Minister was arrogating unto himself the right to review and "correct" the Auditor General's work. However, the premise of that allegation, namely, that the Minister had a statutory duty to lay that report in Parliament on 26th April 2024, is false. Further, the allegation that the Minister sought to act as the Auditor General's supervisor or to correct "her work" is spurious. Of course, the Minister along with every citizen, is free to critique the Auditor General's performance of her duties, but that is another matter altogether.

The Auditor General could not lawfully consider the Amended Public Accounts

In your letter, you contend that the Auditor General could not lawfully consider the Amended Public Accounts because they were submitted after the "deadline" of 31st January 2024 imposed

by section 24(1) of the Act. The MOF complied with that deadline in submitting the Original Treasury Statements. It was the Auditor General's statutory duty under section 25(1) of the Act to examine and audit those accounts. The performance of that duty would necessarily have included the consideration and investigation of any errors or alleged errors in the Original Treasury Statements drawn to her attention by the MOF and the amendments to those accounts made by the MOF, howsoever such errors and amendments might be drawn to her attention. By way of a comparison with the Original Treasury Statements, the Amended Public Accounts served to identify errors in the Original Treasury Statements and the amendments to those accounts necessary to correct those errors. Accordingly, not only was it lawful for the Auditor General to accept and consider the Amended Public Accounts in auditing the Original Treasury Statements, it was her statutory duty to do so.

Alleged attempted coercion of the Auditor General by the Government

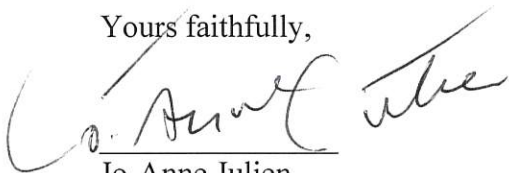
Finally, in your letter you allege that the Government attempted to coerce and intimidate the Auditor General into quietly amending her report without alerting the public to the understatement. This is yet another false allegation. The Government, and the MOF in particular, have never requested that the Auditor General change the Auditor General's Report. Indeed, you have not in your letter referred to any such request made by the Government. What the MOF has attempted to do is to ensure that the Auditor General bases the Auditor General's Report on accounts and financial information that are accurate, and in that regard the MOF, after notifying the Auditor General that there was an error in the Original Treasury Statements and the Revenue Statement in particular, repeatedly asked the Auditor General to accept and consider the amended public accounts. Unfortunately, those attempts were met with stiff resistance from the Auditor General, who only belatedly agreed to accept and consider the Amended Public Accounts, and only after being threatened with legal proceedings. Having accepted those accounts, she elected to break with the long standing practice of previous Auditors General in submitting the Auditor General's Report to the Speaker and the President without providing the MOF any opportunity to satisfy/respond to her concerns and questions regarding the Amended Public Accounts raised in her Management letter.

The way forward

As noted, the Minister intends to lay the Auditor General's Report in Parliament within 30 days of the receipt of same, or as catered for in the standing orders and as is prescribed, at the next sitting of the House of Representatives that is closest to that date, in accordance with his statutory duty. The Minister has decided to do so despite the legal flaws identified in the Auditor General's decision to submit the Auditor General's Report to the said Officials when she did, and having regard to the Auditor General's expressed willingness to consider a special report under section 25(4) of the Exchequer and Audit Act and the understanding and expectation that the special report will be submitted by the Auditor General to the Parliament and the Minister no later than August 31, 2024. As such the Minister will be foregoing for the time being any legal proceedings to challenge the Auditor General's decision to prematurely submit the Auditor General's Report.

The next step therefore will be a response to the Management Letter along with a request for a special report pursuant to section 25(4) of the Act.

Yours faithfully,



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cc Minister of Finance

