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PORT MORESBY, WEDNESDAY, 30th JULY

[2014

Commissions of Inquiry Act (Chapter 31)

APPOINTMENT OF ESTABLISHMENT OF COMMISSION OF INQUIRY INTO PAYMENTS TO LAWYERS AND LAW FIRMS BY STATE AGENCIES

I, Peter O'Neill, Prime Minister, by virtue of the powers conferred by Section 4A of the *Commission of Inquiry Act* (Chapter 31) and all other powers me enabling, hereby:

- (a) appoint and establish the Commission of Inquiry into payments to Lawyers and Law Firms by State Agencies; and
- (b) appoint Warwick Andrew to be the sole Commissioner and Chairman of the Commission of Inquiry commencing on and from the date of the signature of this instrument for the period of three (3) months.

Dated this 22nd day of July, 2014.

P. O'NEILL,
Prime Minister.

Commissions of Inquiry Act (Chapter 31)

COMMISSION OF INQUIRY INTO PROCESS AND PROCEDURES USED TO BRIEF OUT MATTERS TO LAW FIRMS AND THE PROCESS AND PROCEDURES FOR PAYING PUBLIC MONIES TO LAW FIRMS

To; Judge Warwick Andrew CBE, CRH

STATEMENT OF CASE

- A. In 2009, the final report of the Commission of Inquiry into the Department of Finance was handed to government. Due to outstanding legal action the findings of the Report were not able to be implemented until late 2013. That Report (among other things) recommended that:
 - a. an Attorney General's Brief Out Tenders Board be established;
 - b. a separate appropriation is made for brief outs; and
 - c. all fee notes for brief outs are issued in taxable form.

Commission of Inquiry into Process and Procedures used to Brief out Matters to Law Firms and the Process and Procedures for Paying Public Monies to Law Firms—continued

- B. Although some new processes have been put into place there continues to be serious allegations that brief outs to law firms have not been in accordance with the *Attorney Generals Act* and has not resulted in value for money and fair representation of the State.
- C. It has also been alleged that large payments have been authorized to law firms in contravention of the *Public Finance (Management) Act* and the *Attorney Generals Act*. It is alleged that these payments were facilitated by public servants and did not represent value for money.
- D. These allegations have been ongoing and have seriously damaged the reputation of government agencies and brought law firms into disrepute. In order for public welfare, the Commission of Inquiry into the processes and procedures for briefing out matters to law firms and the process and procedures for paying public monies to law firms is hereby established pursuant to Section 2(1) of the *Commission of Inquiry Act* (Chapter 31).

TERMS OF REFERENCE

Know you that, I Hon Peter O'Neill, CMG, MP, Prime Minister of Papua New Guinea, reposing confidence in your integrity and ability to do, by virtue of the powers conferred by Section 2 of the *Commission of Inquiry Act* (Chapter 31) and all powers enabling, hereby —

- a) Require the Commissioner and the Commission to enquire into and report on the following matters —
- a. the current practices and procedures used to award brief outs to law firm; and
 - b. the current practices and procedures for processing payments or claims lodged by law firms for work completed.
- b) To **inquire** into cases from the last two (2) years and investigate in detail a sample of such cases to determine whether practices and procedures for brief outs and payments to law firms have been properly followed, such detailed investigation to be generally confined to cases in which the first memorandum of fees in relation to work completed was delivered within the last two years.
- c) To **identify** any weaknesses for avenues for corrupt conduct arising as a result of the practices and procedures for brief outs and payments to law firms.
- d) To make **recommendations** in relation to the practices and procedures for brief outs and payments to law firms that will minimize the opportunity for corruption and ensure value for money for the State.

AND I FURTHER direct that the inquiry be held in the National Capital District, or at such other places in Papua New Guinea or elsewhere as to you may appear necessary and expedient.

AND I FURTHER direct that the inquiry shall be held in public, but I approve that you may permit to be given in private, any evidence that in the course of your inquiry you, in your absolute discretion, consider needs to be given in private in accordance with Section 2(5) of the *Commission of Inquiry Act*.

AND I FURTHER direct that you shall commence with the inquiry without delay and proceed therein with all dispatch and render to me your final report within 3 months from the date of commencement of hearing.

Dated this 22nd day of July, 2014.

Hon. P. O'NEILL, CMG, MP,
Prime Minister.

Commissions of Inquiry Act (Chapter 31)

**APPOINTMENT OF WARWICK JOHN ANDREW AS COMMISSIONER TO THE COMMISSION OF
INQUIRY INTO PAYMENTS TO LAWYERS AND LAW FIRMS BY STATE AGENCIES**

I, Peter O'Neill, Prime Minister, by virtue of the powers conferred by Section 4A of the *Commissions of Inquiry Act* (Chapter 31) and all other powers me enabling, hereby appoint Warwick John Andrew as Commissioner of the Commission of Inquiry into payments to Lawyers and Law Firms by State Agencies.

Dated this 24th day of June, 2014.

P. O'NEILL,
Prime Minister.

Commissions of Inquiry Act (Chapter 31)

**SACTION AND DETERMINATION OF TERMS AND CONDITIONS OF JOHN ANTHONY GRIFFIN QC AS
LEAD COUNSEL ASSISTING THE COMMISSION OF INQUIRY HOLDING INQUIRY INTO THE
PROCESSES AND PROCEDURES OF PAYMENTS OF PUBLIC MONIES TO LAW FIRMS AND
CONDUCT OF MEMBERS OF GOVERNMENT DEPARTMENTS/AGENCIES**

APPOINTMENT OF COUNSEL ASSISTING TO THE COMMISSION OF INQUIRY

I, Peter O'Neill, Prime Minister, by virtue of the powers conferred by Section 4A(1) and (2) of the *Commissions of Inquiry Act* (Chapter 31) and all other powers me enabling, hereby appoint John Anthony Griffin QC as Counsel Assisting to assist the Commission of Inquiry into the processes and procedures of payments of public monies to Law Firms and Conduct of Members of Government Departments/Agencies.

Dated this 22nd day of July, 2014.

P. O'NEILL,
Prime Minister.

Commissions of Inquiry Act (Chapter 31)

**APPOINTMENT OF SENIOR LAWYER ASSISTING TO THE COMMISSION OF INQUIRY INTO
PAYMENTS TO LAWYERS AND LAW FIRMS**

I, Peter O'Neill, Prime Minister, by virtue of the powers conferred by Section 4A of the *Commissions of Inquiry Act* (Chapter 31) and all other powers me enabling, hereby appoint Philip Nicholas Tabuchi as Senior Lawyer Assisting the Commissioner of Inquiry into payments to Lawyers and Law Firms by State Agencies.

Dated this 22nd day of July, 2014.

P. O'NEILL,
Prime Minister.

Commissions of Inquiry Act (Chapter 31)

APPOINTMENT OF SECRETARY OF COMMISSION

I, Peter O'Neill, Prime Minister, by virtue of the powers conferred by Section 4 of the *Commissions of Inquiry Act* (Chapter 31) and all other powers me enabling, hereby appoint Mathew Yuangu to be the Secretary of the Commission of Inquiry into payments to Lawyers and Law Firms by State Agencies, commencing on and from the date of the signature of this instrument.

Dated this 24th day of June, 2014.

P. O'NEILL,
Prime Minister.