

22nd September 2017

**THE COMMISSIONER
COMMISSION ON HUMAN RIGHTS &
ADMINISTRATIVE JUSTICE (CHRAJ)**

Dear Sir,

**PETITION TO INVESTIGATE MR. ALFRED OBENG, MANAGING DIRECTOR
OF BOST, FOR ABUSE OF POWER.**

Respectfully Sir, the Coalition for Social Justice (CSJ) is a duly registered Civil Society Organization with a prime objective of fighting injustice in all its manifestations and ensuring the judicious use of power by public officers.

In accordance with article 218(a) of the 1992 Constitution of Ghana and section 7(i) of the CHRAJ ACT (ACT 456) of 1993, we invoke the jurisdiction of CHRAJ to investigate Mr. Alfred Obeng, the Managing Director of BOST for ABUSE OF POWER relative to the sale of five (5) million litres of Contaminated Fuel to some businesses in Ghana.

After our careful examination of the dubious circumstances under which five (5) million litres of contaminated fuel was sold by BOST to some unlicensed businesses and the unlawful manner in which Mr. Alfred Obeng conducted himself with respect to the whole matter, we are of the firm opinion that the Managing Director of BOST, Mr. Alfred Obeng, has abused his powers as a Public Officer, for which he must be sanctioned in accordance with law.

Without further ado, we proceed to outline the facts and particulars of our case as follows:

1. On the 18th of January 2017, five (5) million litres of fuel got contaminated at the premises of BOST by the accidental mixture of diesel and petrol. This claim was made by BOST in a press release dated 22nd June 2017, a copy of which is attached as “Exhibit A”.

2. There was no public announcement or newspaper advertisement of the intention of BOST to sell the contaminated fuel. However, an unregistered business, purportedly trading as Movenpinaa Energy heard of the availability of the exact volumes of the contaminated fuel and requested in a letter dated 19th May 2017 and addressed to the Managing Director of BOST, to purchase all the five (5) million litres of contaminated fuel. A copy of the said letter is attached herewith and marked as “Exhibit B”.

3. The May 19th 2017 letter from Movenpinaa Energy was received at BOST on 2nd June 2017. On the same day of the receipt of the letter, Mr. Alfred Obeng the Managing Director of BOST unilaterally accepted the offer of Movenpinaa Energy and directed that the entire five (5) million litres contaminated fuel should be given to Movenpinaa Energy at a unit price of one Ghana cedi (GH¢1.00) on an open credit basis. Evidence of this fact can be found on the face of “Exhibit B”.

4. In spite of the sale of the 5 million litres contaminated fuel to Movenpinaa Energy, the contaminated fuel was kept at the Accra Plains Depot of BOST at a cost to the state. This fact is evident in “Exhibit C” which is herewith attached.

5. Movenpinaa Energy after slapping its profit margin on every litre of the contaminated fuel and without expending or investing a pesewa of its resources, sold and requested BOST to transfer 2 million litres of the contaminated fuel it had illegally acquired from BOST which was still being kept at the Accra Plains Depot (APD) of BOST, to a company called MACWEST. Subsequently, Movenpinaa Energy sold 470,000 litres of the remainder to another company called ZUP OIL. Copies of the letters containing these transactions are attached and marked as “Exhibit D”.

We further aver that:

A. There was no governing Board at BOST at the time of the sale of the contaminated fuel by BOST to Movenpinaa Energy and the Managing Director, Mr. Alfred Obeng acted unilaterally in the sale of the contaminated fuel.

B. Mr. Alfred Obeng unilaterally directed the sale of the contaminated fuel to Movenpinaa Energy without any notification to the National Petroleum Authority (NPA) which is the regulator of the downstream petroleum sector and the Ministry of Energy which is the supervising ministry of the sector.

C. The five (5) million litres of contaminated Fuel was sold to Movenpinaa Energy by BOST under the direction of its MD, Mr. Alfred Obeng without following legally laid down procurement processes thereby contravening Sections 16(2)(c), 40(1), 35, 83 and 84 of the Public Procurement Act (Act 663) of 2003. This fact was corroborated by Mr. Alfred Obeng in an interview with Atinka FM, a private radio station in Accra. An audio recording of the said interview is contained on a CD ROM marked as “Exhibit E” and enclosed in the envelope.

D. The MD of BOST, Mr. Alfred Obeng, was not fair and candid in the way and manner he unilaterally sold all the 5 million litres of contaminated fuel to Movenpinaa Energy. His flagrant disregard of public procurement processes in the sale of the contaminated fuel was not only unlawful but discriminatory, biased, arbitrary and capricious thereby contravening article 296 of 1992 constitution of Ghana.

E. That at all times material to the sale of the contaminated fuel by BOST, Movenpinaa Energy had not been licensed by the NPA to trade in petroleum products in the downstream petroleum sector of Ghana. The sale of the contaminated fuel to Movenpinaa Energy by BOST under the direction of its MD, Mr Alfred Obeng was therefore unlawful and breached sections 11 and 32 of the NPA Act (ACT 691) of 2005. The fact of this illegality was confirmed by the NPA in a press statement dated 27th June 2017 a copy of which is attached and marked as “Exhibit F”.

F. That at all times material to the sale of volumes of contaminated fuel by Movenpinaa Energy to ZUP OIL and MACWEST, neither companies had been duly licensed by the NPA to engage in any commercial activity in the downstream petroleum sector. Therefore, the sale of 470,000 and 2 million litres of contaminated fuel to ZUP OIL and MACWEST respectively breached sections 11 and 32 of the NPA Act (ACT 691) of 2005 rendering the transactions unlawful. The tacit involvement of the BOST MD, Mr. Alfred Obeng in those transactions was unlawful and irresponsible.

G. It was bad governance practice for Mr. Alfred Obeng to have dealt with Movenpinaa Energy at a time it was not duly registered and incorporated under the laws of Ghana. This is because documents available from the Registrar General's Department show that Movenpinaa Energy was registered as a sole proprietorship business under the

Registration of Business Names Act (ACT 151) 1962, on 1st June 2017. However, records show that Movenpinaa Energy fraudulently came by a letter head and requested to buy the contaminated fuel from BOST in a letter dated 19th May 2017, eleven clear days before its incorporation as evident in "Exhibit B". Copies of the incorporation documents of Movenpinaa Energy are attached and marked as "Exhibit G".

It is also instructive to point out that, Mr. Alfred as a Public Officer is required to act in accordance with the laws of Ghana at all times. His conduct in this saga flies in the face of the Code of Conduct for Public Officers which provides that:

Principle 1.1 – Public Officers shall honour and abide by the Constitution and laws of Ghana in the performance of their official duties with dignity, integrity and professionalism.

1.1.1. Pubic Officers in the performance of their official duties shall act with professionalism and integrity.

1.1.2. Public Officers shall serve the State with honesty, fairness, integrity, neutrality and impartiality.

CONCLUSION

It is the contention of the Coalition for Social Justice that the Managing Director of BOST, Mr. Alfred Obeng, abused his powers when he acted unlawfully in the sale of five (5) million litres of contaminated fuel to Movenpinaa Energy by violating the National Petroleum Authority Act (ACT 691) 2005, the Public Procurement Act (ACT 663) 2003 and the Code of Conduct for Public Officers as outlined above.

We hereby request the Commission on Human Rights & Administrative Justice (CHRAJ) to launch a full-scale investigation into this matter in line with its mandate under article 218(a) of the 1992 Constitution and section 7(I) of the CHRAJ Act (Act 456) of 1993.

We further wish to indicate our preparedness to co-operate with the Commission to investigate the matters raised in this petition in order to unearth the truth.

We believe that the unlawful and arbitrary manner in which Mr. Alfred Obeng conducted himself in this matter amounts to ABUSE OF POWER.

It is our prayer that the Commission recommends the removal from office of Mr. Alfred Obeng to the appropriate authorities and deals with him in accordance with law if found culpable.

“EHIBIT H” are copies of other documents which will aid your investigation into this matter.

Respectfully submitted.

Yours faithfully,

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