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1st October 2020

The President
Sierra Leone Bar Association
Coffee Nicol House
Siaka Stevens Street
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Dear Sir,

RE: THE UNWORTHY ATTACK ON THE PERSONS AND INTEGRITY OF SENIOR
LEGAL PRACTITIONERS IN THE COURSE OF CARRYING OUT THEIR DUTIES;

INTRODUCTION:

We refer to the above-mentioned matter and write to convey our dismay and dissatisfaction with the findings of Honourable Sir Justice Biobele Georgewill against Ajibola Emmanuel Manly-Spaine esq. and the firm of Basma & Macaulay, legal practitioners and members of the Sierra Leone Bar Association, whilst sitting as the Chairman and Sole Commissioner in Commission of Inquiry No. 1 and to call for action against the said findings by the Sierra Leone Bar Association.

ACCOUNTABILITY & THE RULE OF LAW:

Diverse occurrences in Sierra Leone confirm with much frequency the reality that accountability has become a lost principle in the nation, to the extent of becoming in the minds of some, a luxury. We therefore recognise, heartily applaud and support all proper and well-minded efforts at achieving accountability and ensuring that this principle becomes a widespread guiding norm in our society. The setting up of the Commissions of Inquiry was therefore a laudable decision by the current Government. However, we also hold and maintain that such should not involve the subversion of the rule of law or due process and we would not hesitate to express our aversion for the sacrifice of one for the other.

THE SIERRA LEONE BAR ASSOCIATION AND ITS MANDATE:

The Sierra Leone Bar Association has since its inception tasked itself with being a watchdog of the legal profession. Specifically, in Clauses 3(a) and (d) of its Memorandum and Articles of Association it is stated that:

*“3. The objects for which the Company is established are as follows:
(d) **To consider and review all matters affecting the interest of the profession**, and if necessary, to petition Parliament or promote deputation and to procure change of law or practice, and the promotion of improvements in the administration of the law”.*

Echoes of this run throughout the Sierra Leone Bar Association’s website where it is boldly asserted as follows:

***“The Bar Association will promote and protect the interest of its members** and continues to aspire to be what we truly should become – a beacon of light, hope and excellence in this land that we love”.*

Therefore, suffice it to say that the foremost ambition of the Bar Association is to concern itself with the management of the fabric of the legal profession in the best possible form.

In our opinion, the Sierra Leone Bar Association has been presented with an opportunity to live up to its ascribed mandate from the rather startling/puzzling findings in the Commission of Inquiry report against two of its members. As the torchbearer of the Sierra Leone Bar Association, this letter is addressed to your office with the expectation that the Bar Association would stand behind its own especially in the face of gross injustice and reputational damage and in doing so take a stance for the legal profession as a whole.

BACKGROUND:

By Constitutional Instrument No. 64 of 2018 dated 1st August 2018 Justice Biobele Georgewill was appointed to, inter alia, examine the assets and other related matters in respect of persons who were President, Vice President, Ministers, Ministers of State, Deputy Ministers, heads and chairmen of parastatals, departments and agencies within the period from November 2007 to April 2018. In carrying out his mandate, the Judge conducted an investigation into the activities of the office of the Attorney General and Ministry of Justice over the same period of time. More specifically, he investigated the issue of legal fees paid to lawyers that represented the State in the matter of Alhaji Sam Sumana vs. A-G & Anor (S.C. 4/2015) [2015] SLSC 1203 (09 September 2015). Justice Biobele Georgewill’s findings and subsequent recommendation on this particular issue are the following:

On page 165 of his full report, he stated that

“On 21/4/2015, with the approval of the former President, Dr. Ernest Bai Koroma, the Government paid the sum of Le. 1,326,547,800.00 to some lawyers to handle the case filed by Sam Sumana, former Vice President

against the Attorney General and Victor Foe before the Supreme Court of Sierra Leone. The fees were made up as follows: i. USD150, 000. 00 about Le. 736,971,000.00 to Ajibola Emmanuel Manly Spain; ii. USD120,000.00 about Le. 589,576,800.00 to Basma and Macaulay. The sum of Le. 727,651,764.00 could not be traced to the bank account and had remained unaccounted for”.

On page 171 of his full report, he found that

“The evidence disclosed and clearly identified the following Persons as being responsible for these acts of corruption, abuse of office, maladministration and lack of accountability: i. Franklyn Bai Kargbo, former Attorney General and Minister of Justice; ii. Joseph Fitzgerald Kamara, former Attorney General and Minister of Justice; and iii. Arrow Bockarie, former Deputy Minister of Justice. Other persons mentioned: i. Madam Serray Kallay, Administrator/Registrar General; ii. Miss Marthina Kargbo, former Solicitor General; iii. Hajja Kallah Kamara, former Commissioner General of NRA; iv. Ajibola Emanuel Manly Spain; and v. Basma & Macaulay”.

On page 173 - 174 of the full report, he stated that

“The one - off payment of the huge sum of USD270, 000 about Le1, 326, 547, 800.00 as professional fees for the defense of the case of Sam Sumana V. AG & Victor Foe before the Supreme Court of Sierra Leone when the Attorney General, the Chief Law Officer/Consultant to the Government and the Civil Division is primarily charged with the responsibility of prosecuting or defending court cases involving the Government was not only exorbitant but was a subterfuge to launder money belong to the Government”.

On page 175 of the Report he recommended that:

“4. The following persons shall jointly and severally refund and pay into the Consolidated Revenue Fund of the Government of Sierra Leone two thirds of the sum of USD270, 000 about Le1, 326, 547, 800. 00 laundered under the guise of professional fees for the defense of the case of Sam Sumana V. AG & Victor Foe before the Supreme Court of Sierra Leone when the Attorney General is the Chief Law Officer/Consultant to the Government and they should be referred to the Criminal Jurisdiction and or the Anti - Corruption Commission for investigation and likely prosecution, namely: i. Franklyn Bai Kargbo; ii. Ajibola Emmanuel Manly Spain; and iii. Basma & Macaulay”.

ISSUES WITH THE FINDINGS AND RECOMMENDATIONS:

We find these findings and subsequent recommendations to be outrageous, lacking any support in law, unprecedented and simply vile.

Firstly, paragraph 4 of Constitutional Instrument No. 64 of 2018 is as clear as crystal as to persons who could be investigated by this specific Commission and it provides, inter alia, as follows:

“The purposes for which the Commission is appointed are to –
(a) Examine the assets and other related matters in respect of-

- i. Persons who were President, Vice President, Ministers, Ministers of State and Deputy Ministers; and*
- ii. Heads and Chairmen of Boards of parastatals, Departments and Agencies within the period from November 2007 to April 2018. [Emphasis ours]*
- (b) Inquire into and investigate whether assets were acquired lawfully or unlawfully; -*
- (c) Inquire into-*
 - i. Persons who were President, Vice President, Ministers, Ministers of State and Deputy Ministers; and*
 - ii. Heads and Chairmen of Boards of parastatals, Departments and Agencies; [Emphasis ours]*
- (e) to inquire into and investigate any persons or matters as may from time to time referred to the Commission by his Excellency the President.”*

It was obvious to Justice Biobele Georgewill, to us as members of the legal profession and to the public at large that Ajibola Emmanuel Manly Spaine esq. and Basma & Macaulay were private legal practitioners who did not fall within any of the categories of people to be investigated as per Constitutional Instrument No. 64 of 2018, the document that created the Commission. Therefore rightly, neither A. E. Manly Spaine esq. nor the firm of Basma & Macauley were under investigation by the State as they were not persons of interest.

Even if they were persons of interest, the rudimentary principle of natural justice - *audi alterem partem* - was blatantly disregarded by Justice Biobele Georgewill in so far as these two private legal practitioners were concerned. We spoke to persons in the firm of Basma & Macaulay on the 28th instant and confirmed to us that they were never served with notices to attend hearings, nor informed of any wrongdoing on their parts and neither given an opportunity to inform of their own side of the story, which is unsurprising as notices were only sent out to persons of interest, which they were not. However, for the judge to treat them as such and subsequently make adverse findings against them is a clear manifestation of the fact that either Justice Biobele Georgewill did not appreciate the remit of his mandate or deliberately chose to go on a frolic of his own.

In the Supreme Court of Sierra Leone case of ISATU KAMARA V THE ATTORNEY GENERAL SC. MISC. APP. NO. 4 92 [unreported], a matter that emanated from a decision of Justice Nylander sitting as Chairman in a Commission of Inquiry that was set up by the National Provisional Ruling Council (N. P. R. C.) military Government, the Hon. Justice S. M. F. Kutubu (Chief Justice) in his judgment dated 11th August 1992 opined as follows:

*“This brings me to the principles of natural justice, the violation of which was a ground of complaint. The applicant complained that the procedure adopted by the Chairman of the Commission in refusing to listen to her before sentencing her to imprisonment was an infringement of the principles of natural justice. **Indeed, there are fundamental principles which govern judicial and quasi-judicial inquiries, and one of these is ‘the audi alteram partem’ rule, that is, a party to judicial proceedings should not be condemned unheard. No one who has a case or against whom an***

unfavourable decision is given will believe he has been fairly treated if in the course of his trial in any quasi-judicial proceedings leading to his conviction and sentencing is refused hearing. We have carefully read the records of the proceedings in this matter, and taking all the circumstances into consideration it seems to us that the procedure, unwittingly no doubt, adopted by Chairman Nylander in refusing to hear applicant before sentence, thereby not making it plain and manifest that justice was done, was bad. A judicial or quasi-judicial decision reached by a tribunal in violation of the rules of natural justice may be quashed on certiorari".

THE PRACTICE OF GOVERNMENT HIRING PRIVATE PRACTITIONERS:

It has been a common practice in Sierra Leone spanning decades for successive Governments to outsource legal matters to private practitioners where they deem it necessary. At the very Commissions of Inquiry set up by the current Government, Counsel acting for the State comprised of a host of private legal practitioners – Robert Kowa etc., your good self, Musa Mewa esq. and Oladipo V. Robin-Mason esq. to name a few. Your good self and the many other private legal practitioners were hired by the State to “prosecute” on its behalf and you all were paid, we presume, handsomely from the Consolidated Revenue Fund. We maintain that this decision by the Government should not warrant any adverse claims by anybody against your good self or any of the other private legal practitioners in the future. It is mystifying that the judge would associate Mr. Manly Spaine esq. and Basma & Macauley with “acts of corruption, abuse of office, maladministration and lack of accountability” for receiving what was contractually agreed would be their legal fees. In our opinion it is an affront to the said legal practitioners for Justice Biobele Georgewill to have also concluded that receipt of the contractually agreed legal fees paid to the said practitioners were “a subterfuge to launder money belonging to the Government”. We cannot fathom how money received from the Government of Sierra Leone can be “laundered”. If that is the case, then the said judge has in the same breadth indicted the Government of Sierra Leone of crime. What Justice Biobele Georgewill said, more or less, was that the monies paid to the two legal practitioners from the Consolidated Revenue Fund were “proceeds of crime”.

THE COMPORTMENT OF JUSTICE BIOBELE GEORGEWILL:

You need not have attended more than one session of the proceedings at Commission of Inquiry No. 1 presided over by Justice Biobele Georgewill to conclude that he lacked the demeanour, temperament, professionalism and decorum expected of a judge. He ran proceedings as if it was some circus or comedy show. As his outlandish findings and subsequent recommendations referred to supra show, he was a showman who did not appreciate the remits of his mandate and hardly had time to do the work for which he was paid.

CONCLUSION:

It should be obvious from the above, that Justice Biobele Georgewill exceeded the bounds of his mandate when he made the impugned findings against A. E. Manly Spaine esq. and Basma & Macauley, both legal practitioners and members of the

Sierra Leone Bar Association, who were at no point in time placed before him for investigation. Whilst we do not seek to dictate to the Sierra Leone Bar Association what steps should be taken to remedy this depravity, injustice and perversion we however think it nonetheless appropriate that your executive formulates and disseminates a statement condemning this outrageous overreach by Justice Biobele Georgewill. Alternatively, you can summon a meeting of the Sierra Leone Bar Association at which the matters stated herein would be tabled and potential avenues of redress discussed to relieve these two members of the Bar and the legal profession of this profound injustice. This is a dangerous and unprecedented action taken by Justice Biobele Georgewill against our colleagues. Basma & Macaulay, without a shadow of a doubt, is one of our very best in the legal profession in Sierra Leone in terms of ability, integrity and comportment. If this perversion is not condemned by the Sierra Leone Bar Association there will be no protection for you, Robert Kowa esq., and your other colleagues who were briefed and paid by the Government to “prosecute” in the just concluded Commissions of Inquiry. In the future any errant judge or person presiding in a commission of inquiry could make similar damning and reprehensible conclusions and recommendations against you and the others.

FIAT JUSTITIA RUAT CAELUM!!

Yours faithfully,

Yada Williams & Associates

Yada Williams & Associates.

- C. C. 1. The Attorney-General & Minister of Justice.
2. Sierra Leone Bar Association - members.