

REGISTRAR
HIGH COURT
ACCRA



WRIT OF SUMMONS

(Order 2 rule 3(1))

WRIT ISSUED FROM Accra 22/8/24 20... SUIT No. GJ/1001/2024

IN THE HIGH COURT OF JUSTICE

GENERAL JURISDICTION DIVISION – ACCRA

SUIT NO.:

BETWEEN

1. AFRICAN CENTRE FOR ENERGY POLICY (ACEP)
AVE. D, HSE. NO. 119 D, NORTH LEGON
ACCRA
2. MEDIA FOUNDATION FOR WEST AFRICA
32 OTELE AVENUE
EAST LEGON-ACCRA
3. CENTER DEMOCRATIC DEVELOPMENT (CDD-GHANA)
NO. 95 NORTEI ABABIO LOOP,
NORTH AIRPORT RESIDENTIAL AREA, ACCRA
4. GHANA ANTI-CORRUPTION COALITION (GACC)
PIG FARM JUNCTION
NEAR TOTAL FILLING STATION
(MAIN OLUSEGUN OBASANJO WAY)
ACCRA
---PLAINTIFFS
5. HUMAN RIGHTS AND GOVERNANCE CENTRE

**24 OTSOKRIKRI STREET, ADABRAKA
ACCRA**

**6. PRISCILLA ENYONAM ABOTSI
ADOWA LOOP- ADENTA COMMANDOS
ACCRA**

AND

**1. STRATEGIC MOBILIZATION GHANA LTD (SML)
NO. 2 MASTER BARNOR ROAD, OSU
ACCRA**

**2. GHANA REVENUE AUTHORITY (GRA)
ACCRA SPORTS STADIUM, STARLETS 91 RD
ACCRA**

**3. KENNETH NANA YAW OFORI-ATTA
40 NDABANINGI SITHOLE ROAD
GPS ADDRESS GL-027-9451
LABONE, ACCRA**

---DEFENDANTS

**4. ATTORNEY-GENERAL
OFFICE OF THE ATTORNEY GENERAL**

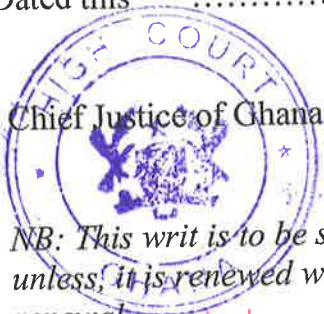
**To: 1. STRATEGIC MOBILIZATION GHANA LTD (SML) 2. GHANA
REVENUE AUTHORITY (GRA) 3. KENNETH NANA YAW OFORI-ATTA
4. THE ATTORNEY-GENERAL**

AN ACTION having been commenced against you by the issue of this writ by the above-named Plaintiffs- **1. AFRICAN CENTRE FOR ENERGY POLICY (ACEP), 2. MEDIA FOUNDATION FOR WEST AFRICA, 3. CENTER DEMOCRATIC DEVELOPMENT (CDD-GHANA), 4. GHANA ANTI-CORRUPTION COALITION (GACC), 5. HUMAN RIGHTS AND GOVERNANCE CENTRE, and 6. PRISCILLA ENYONAM ABOTSI**

YOU ARE HEREBY COMMANDED that within EIGHT DAYS after service of this writ on you inclusive of the day of service you do cause an appearance to be entered for you. 1. STRATEGIC MOBILIZATION GHANA LTD (SML) 2. GHANA REVENUE AUTHORITY (GRA) 3. KENNETH NANA YAW OFORI-ATTA 4. THE ATTORNEY-GENERAL

AND TAKE NOTICE that in default of your so doing, judgment may be given in your absence without further notice to you. 1. STRATEGIC MOBILIZATION GHANA LTD (SML) 2. GHANA REVENUE AUTHORITY (GRA) 3. KENNETH NANA YAW OFORI-ATTA 4. THE ATTORNEY-GENERAL

Dated this ^{22nd}..... day of AUGUST 20²⁴.....



Chief Justice of Ghana

G. SACKY TOBKORNOO (MRS.)

NB: This writ is to be served within twelve calendar months from the date of issue unless, it is renewed within six calendar months from the date of that renewal.

SEALED ^{22-18/24}

The defendant may appear hereto by filing a notice of appearance either personally or by lawyer at Form 5 at the Registry of the Court of issue of the writ at A defendant appearing personally may, if he desires give notice of appearance by post.

**State name, place of residence or business address of plaintiff if known (not P.O. Box number).*

***State name, place of residence or business address of defendant (not P.O. Box number).*

FORM 1

STATEMENT OF CLAIM

1. The plaintiffs claim against the defendants jointly and severally as follows;

i. A declaration that 1st defendant's act of failing to register in the Public Procurement Authority's (PPA) supplier database is contrary to section 40(7) of Public Procurement Regulations, 2022 (L.I. 2466).

ii. A declaration that the execution of the seven (7) service contracts listed below, between 1st and 2nd defendants through single source procurement method, is contrary to section 40 of the Public Procurement Act, 2003 (Act 663) as amended, because none of the conditions under section 40 of Act 663 as amended, was satisfied;

(a) Transaction Audit Services – 1 June 2018

(b) Contract Extension – 1 January 2019

(c) External Price Verification Services – 1 April 2019

(d) Consolidation Services Agreement (Transaction Audit & External Verification Services) – 3 October 2019

(e) Measurement Audit of Downstream Petroleum Products – 3 October 2019

(f) Addendum to Measurement Audit for Downstream Petroleum Products Agreement – 29 July 2020.

(g) Consolidation of the first consolidation contract and downstream petroleum audit contract and extension of the scope of SML's services- 25th October, 2023

iii. A declaration that the execution of the service contracts listed in relief (ii) above between 1st and 2nd defendants through single source procurement method is contrary to section 40 of Act 633 as amended, as a result of the 2nd intended defendant failing to obtain prior approval of the Public Procurement Board and is therefore void.

- iv. A declaration that 2nd defendant's act of failing to prepare a procurement plan regarding the first six (6) contracts listed in relief (ii) above, is in breach of section 21 of Act 663 as amended, which section requires a procuring entity to prepare a procurement plan to support its approved programme.
- v. A declaration that the execution of the consolidation services agreement (3 October 2019), measurement of downstream petroleum products (3 October 2019) and addendum to measurement audit for downstream petroleum product agreement (29 July 2020) between 1st and 2nd intended defendants, for a period of (five) 5 years each, is in breach of section 33 of the Public Financial Management Act, 2016 (Act 921), due to 2nd defendant failing to seek parliamentary approval, and is therefore void.
- vi. A declaration that the execution of the revenue assurance agreement signed on 25 October 2023 between 1st and 2nd defendants, with a five (5) year term, breaches section 33 of the Public Financial Management Act, 2016 (Act 921), due to 2nd defendant failing to seek parliamentary approval, and is therefore void.
- vii. A declaration that the Public Procurement Authority (PPA) does not have the power to retrospectively clear illegalities; and thus, the purported ratification by PPA on 27th August 2020, to cover the first six (6) contracts listed in relief (ii) above is illegal.
- viii. A declaration that the act of 3rd defendant personally and illegally authorizing the Ministry of Finance (MoF) to act as an engaging party in one (1) out of the seven (7) illegal contracts (i.e. the consolidation of the first consolidation contract and downstream petroleum audit contract and extension of the scope of SML's services signed on 25th October, 2023) is void for not seeking the opinion of the 4th defendant, for not conducting needs assessment and also for not seeking parliamentary approval.
- ix. An order for the recovery, back to the state, of the sum of one billion, sixty-one million, fifty-four thousand, seven hundred and seventy-eight Ghana Cedis (GH¢ 1,061,054,778.00) being money paid to 1st intended defendant from 2018 up to the time of the KPMG audit (issued on 27th

March 2024), under the seven contracts which were not approved by parliament.

x. Cost.

xi. Any other order(s) that this Honourable Court deems fit.

This writ was issued by **MARTIN L. KPEBU**

whose address for service is **GT LEGAL, No. 24 OTSOKRIKRI STREET, ADABRAKA ACCRA**

Agent for **1. AFRICAN CENTRE FOR ENERGY POLICY (ACEP), 2. MEDIA FOUNDATION FOR WEST AFRICA, 3. CENTER DEMOCRATIC DEVELOPMENT (CDD-GHANA), 4. GHANA ANTI-CORRUPTION COALITION (GACC), 5. HUMAN RIGHTS AND GOVERNANCE CENTRE, and 6. PRISCILLA ENYONAM ABOTSI**

*Martin L. Kpebu Lawyer
GT Legal
24 Otsokrikri Street,
Adabraka, Accra
GA-074-3440*

Address Number and date of lawyer's current LICENCE NO: **eGAR 01876/24**

Lawyer for the plaintiff **MARTIN L. KPEBU** who resides at **ACCRA**

Indorsement to be made within 3 days after service

This writ was served by me at

on the defendant

on the day of

endorsed the day of
Signed.....

Address.....

NOTE: If the plaintiff's claim is for a liquidated demand only, further proceedings will be stayed if within the time limited for appearance the defendant pays the amount claimed to the plaintiff, his lawyer or his agent or into court as provided for in Order 2 rule 3(2).

22/8/24
Filed on 22/8/24 at 8:00 am
Registrar
ACCRA

**IN THE SUPERIOR COURT OF JUDICATURE
IN THE HIGH COURT OF JUSTICE
GENERAL JURISDICTION
ACCRA AD – 2024**

SUIT NO:

1. AFRICAN CENTRE FOR ENERGY POLICY (ACEP)
AVE. D, HSE. NO. 119 D, NORTH LEGON
ACCRA
2. MEDIA FOUNDATION FOR WEST AFRICA
32 OTELE AVENUE
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---PLAINTIFFS

VRS

1. STRATEGIC MOBILIZATION GHANA LTD (SML)
NO. 2 MASTER BARNOR ROAD, OSU
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**2. GHANA REVENUE AUTHORITY (GRA)
ACCRA SPORTS STADIUM, STARLETS 91 RD
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**3. KENNETH NANA YAW OFORI-ATTA
40 NDABANINGI SITHOLE ROAD
GPS ADDRESS GL-027-9451
LABONE, ACCRA**

---DEFENDANTS

**4. ATTORNEY-GENERAL
OFFICE OF THE ATTORNEY GENERAL
MINISTRIES, ACCRA**

STATEMENT OF CLAIM

1. 1st plaintiff is an organization established in 2010 to contribute to development of alternative and innovative policy interventions through high quality research, analysis and advocacy in the energy and extractives sector in Africa.
2. 2nd plaintiff is a regional independent non-governmental organisation with a network of national partner organisations in all 16 countries in West Africa.
3. 3rd plaintiff is an independent, not-for-profit research and advocacy think tank, working to advance democracy, good governance, and inclusive economic growth.
4. 4th plaintiff was formed in March 13, 2001 with a focus on promoting good governance and fighting corruption in Ghana.
5. The 5th plaintiff is an independent and non-profit think tank that promotes respect for human rights and good democratic governance principles for effective and sustainable development in Ghana.
6. The 6th plaintiff is a lawyer.

7. 1st defendant company was initially incorporated in February 2017 as Strategic Mobilisation Enhancement Limited 'SMEL' and subsequently changed its name to Strategic Mobilisation Limited 'SML' on 22nd November, 2017.
8. The 2nd defendant is a public agency which was established in 2009, in accordance with the Ghana Revenue Act, 2009 (Act791) with a core mandate to: ensure maximum compliance with all relevant tax laws; ensure a sustainable revenue stream for government; and also Facilitate trade and a controlled/safe flow of goods across the country's borders.
9. The 3rd defendant was the minister responsible for finance whose mandate was to formulate, implement, monitor and evaluate macroeconomic, fiscal and financial policies for sustainable development. In this role, he was also to ensure the effective mobilization of domestic and external resources as well as, ensure the efficient and effective allocation and prudent management of resources.
10. The 4th defendant is a Minister of State and the principal legal adviser to the Government.
11. Plaintiffs state that the 1st and 2nd defendants executed seven (7) contracts executed seven (7) illegal contracts during the period 1 June 2018 to 25 October 2023. The 3rd defendant personally and illegally authorized the Ministry of Finance to act as an engaging party in one (1) out of the seven (7) illegal contracts (i.e. the Consolidation of the first consolidation contract and downstream petroleum audit contract and extension of the scope of SML's services signed on 25th October 2023), which contract is illegal as demonstrated below.
12. Plaintiffs state that the 1st defendant company was initially incorporated in February 2017 as Strategic Mobilisation Enhancement Limited 'SMEL' and subsequently changed its name to Strategic Mobilisation Limited 'SML' on 22nd November, 2017.

13. Plaintiffs state that Evans Adusei owns one hundred percent (100%) of 1st defendant's shares (10,000 shares) and is the beneficial owner.
14. Plaintiffs aver that the 1st defendant's current directors are Evans Adusei and Esther Adusei appointed on 14 February 2017 and 21 June 2023 respectively.
15. Plaintiffs state that 1st defendant's primary activities include general trading and services, import and export of general goods, as well as audit services.
16. Plaintiffs state that as at 6th February 2023, 1st defendant was not registered in the Public Procurement Authority's (PPA) supplier database, contrary to section 40(7) of Public Procurement Regulations, 2022 (L.I. 2466) which mandates registration of suppliers on the database.
17. Plaintiffs state that section 40 of the Public Procurement Act, 2003 (Act 663) as amended by the Public Procurement (Amendment) Act, 2016 (Act 914) provides that a procurement entity may, under specified conditions, procure or contract for goods and services under a single source arrangement. The service contracts between 1st and 2nd defendant does not satisfy any of the conditions under section 40 of Act 663 as amended.
18. Plaintiffs state that Act 663 as amended, further provides that a single source arrangement must receive prior approval from Public Procurement Authority (PPA). There was no PPA approval prior to 1st and 2nd defendants entering into the service contracts.
19. Plaintiffs aver that section 21 of Act 663 as amended, requires a procuring entity to prepare a procurement plan to support its approved programme. However, this was not complied with.
20. Plaintiffs state that although Act 663, as amended, does not explicitly require a needs assessment to be performed by the procuring entity, the World Bank Guide to Assessing Needs (2012) and the Chartered Institute of Procurement and Supply's 13-point Procurement Cycle recommends that entities should;
 - a) Conduct a needs assessment, i.e., a systematic study of a problem or innovation, incorporating data and opinions from varied sources, to

- make effective decisions or recommendations about what should happen next and .
- b) Define the problem to be solved, which may be part of an entity's procurement plan or may be a collection of source materials used to build the procurement requirements
21. Plaintiffs further state that there is no value for money assessment or analysis regarding the 2023 contract between the 1st and 2nd defendants.
22. Plaintiffs aver that the 2nd defendant on three (3) separate occasions unsuccessfully sought PPA approval to contract the then SMEL using the single source method, specifically on 16 June 2017, 1 August 2017 and 14 September 2017 for the provision of transaction audit services.
23. Plaintiffs state that the PPA declined all the three (3) separate requests on the grounds of SMEL's lack of capacity and lack of prior experience in providing the subject matter services. SMEL changed its name to SML on 22 November 2017.
24. Plaintiffs aver that West Blue Ghana Limited (West Blue) under a contract with the 2nd defendant dated 4 August 2015, was contracted to provide technical services on the implementation and support of the National Single Window project.
25. Plaintiffs state that on 1 June 2018, the 1st defendant was appointed a subcontractor to West Blue Ghana Ltd, to provide transaction audit services for a seven (7) month period ending 31 December 2018.
26. Plaintiffs state that on 1st January 2019, the 2nd defendant executed without PPA's approval, an extended transaction audit services agreement with 1st defendant, renewable on a monthly basis, following the expiration of West Blue's contract and 1st defendant's subcontract agreement on 31 December 2018.
27. Plaintiffs state that the 2nd defendant engaged 1st defendant to provide transaction audit and external price verification services at the ports. The 2nd defendant also engaged 1st defendant to provide revenue assurance services in

the downstream and upstream petroleum sector, as well as the minerals and metals resources value chain.

28. Plaintiffs further state that these services were effected via seven (7) contracts executed during the period from 1 June 2018 to 25 October 2023. The Ministry of Finance (MoF) is also an engaging party in one (1) out of the seven (7) contracts.

29. Plaintiffs state that the 2nd defendant entered into these seven (7) services contracts with 1st defendant, utilising the single-source method without obtaining approval from the PPA. These are as follows;

- i. Transaction Audit Services – 1 June 2018
- ii. Contract Extension – 1 January 2019
- iii. External Price Verification Services – 1 April 2019
- iv. Consolidation Services Agreement (Transaction Audit & External Verification Services) – 3 October 2019
- v. Measurement Audit of Downstream Petroleum Products – 3 October 2019
- vi. Addendum to Measurement Audit for Downstream Petroleum Products Agreement – 29 July 2020.
- vii. Consolidation of the first consolidation contract and downstream petroleum audit contract and extension of the scope of SML's services- 25th October, 2023.

30. Plaintiffs aver that the evolution of the above contracts between 1st and 2nd defendants is as follows:

31. Plaintiffs state that SMEL was incorporated in February 2017. During the period of 16th June and 14th September 2017, the 2nd defendant made three (3) unsuccessful attempts to obtain PPA's approval to single source SMEL to provide transaction audit services.

32. Plaintiffs further state that on 22nd November 2017, SMEL changed its name to SML (1st defendant). On 1st June 2018, 1st defendant was appointed a subcontractor to West Blue Ghana Ltd. (“West Blue”). West Blue at the time was a service provider to 2nd defendant (GRA).
33. Plaintiffs state that the 2nd defendant extended the transaction audit service with 1st defendant. 1st defendant then transitioned to become the main contractor without PPA approval.
34. Plaintiffs aver that 1st and 2nd defendants entered into the contract for additional services to extend the scope of services under the contract signed on 1st January 2019 to include external verification services to 2nd defendant’s Customs Technical Services Bureau (“CTSB”).
35. Plaintiffs state that the 1st and 2nd defendants entered into the first consolidated contract, merging the initial two (2) transaction audit services and external price verification contracts into one contract, also on 1st January, 2019.
36. Plaintiffs further state that on the same day, 1st and 2nd defendants entered into another contract for the provision of downstream petroleum audit. (DPA – Contract 5)
37. Plaintiffs aver that the 1st and 2nd defendants established an addendum to the downstream petroleum audit contract. The addendum amended the pricing basis from CIF to the volume of petroleum products lifted.
38. Plaintiffs state that on 25th October 2023, the Ministry of Finance (MoF), the 1st and 2nd defendants consolidated the first consolidation contract and downstream petroleum audit contract and extended the scope of 1st defendant’s services, to include upstream petroleum and minerals audits. This has a contract duration of five (5) years subject to renewal and termed the ‘contract for consolidation of revenue assurance services’.

39. Plaintiffs further state that the 2nd defendant executed the above contracts with 1st defendant in breach of Act 663 as amended.

40. Plaintiffs aver that on 28th July 2020, as part of regularising the contracts executed above, the 2nd defendant, under a new leadership, disclosed the above breaches of Act 663 as amended and sought PPA's ratification.

41. Plaintiffs state that on 27th August 2020, the PPA granted ratification to the 2nd defendant to cover the contracts based on the recommendations of an internal investigation commissioned by PPA to understand the circumstances surrounding 2nd defendant contracting 1st defendant without prior PPA approval.

42. Plaintiffs further state that the PPA does not have the power to retrospectively clear illegalities committed by 2nd defendant by ratifying the said contracts.

43. Plaintiffs aver that section 33 of the Public Financial Management Act, 2016 (Act 921) provides that an entity must seek ministerial and parliamentary approval when it is entering into an agreement with financial commitments that binds the Government of Ghana ("GoG") for more than one (1) year.

44. Plaintiffs state that the said section 33 of Act 921 further requires the manner of the prior parliamentary approval to comply with article 181 of the Constitution of Ghana (1992) which sets out provisions of parliamentary approval for long-term loans. Article 181 states that an agreement entered into under this article shall not come into operation unless it is approved by parliament.

45. Plaintiffs state that the consolidation services agreement (3 October 2019), measurement of downstream petroleum products (3 October 2019) and addendum to measurement audit for downstream petroleum product

Agreement (29 July 2020) were executed between 1st and 2nd defendants, for a period of five (5) years each.

46. Plaintiffs aver that the revenue assurance agreement signed on 25 October 2023, with a five (5) year term, identifies GoG as a party to the contract and refers to the Ministry of Finance (“MoF”) (through whom GoG acts) and 2nd defendant jointly and collectively as ‘the client’.
47. Plaintiffs state that all financial obligations stated in the said contract are the responsibility of the client. Consequently, the contract binds the GoG, and according to Act 921, both parliamentary approval and the written approval of the Minister for Finance were necessary in order to enter into this agreement. However, there is no evidence of parliamentary approval for the contract.
48. Plaintiffs state that the Ghana Revenue Authority Act, 2009 (Act 791) provides in section 5 (a) that the Board of Ghana Revenue Authority (GRA) shall ensure the proper and effective performance of the functions of the Authority, and includes the supervision and monitoring of the Authority in the performance of its functions. The functions of the Authority, under sections 3 (a) and 3 (d) include assessing and collecting taxes and combating tax fraud and evasion.
49. Plaintiffs state that the Corporate Governance Manual for Governing Boards/Councils of The Ghana Public Services (Sections 4.1.4 and B (d)) provides among other matters, that GoG’s long- term interests are served and ensure critical review of all proposals and other issues.
50. Plaintiffs state that on the basis of the above, it is expected that the management of 2nd defendant would inform and seek the Board’s approval for key activities including contracts with significant financial

commitments.

51. Plaintiffs aver that there is no evidence that the contracts 2nd defendant signed with 1st defendant in 2018 and 2019 were submitted to the GRA Board for deliberation and approval. However, the projects underlining the contract signed in 2023, were submitted to the Board for approval.
52. Plaintiffs state that there are existing institutions and systems in place that provide similar services as 1st defendant in both sectors. These include the 2nd defendant through Customs and the ICUMS (Integrated Customs Management System), the Petroleum Commission (PC), the National Petroleum Authority (NPA) through the Enterprise Relational Database Management System (ERDMS), and the Precious Minerals Marketing Company (PMMC).
53. Plaintiffs further state that these institutions are already mandated by law to oversee and regulate various aspects of revenue monitoring and assurance within the mining, downstream and upstream petroleum sectors.
54. Plaintiffs state that these existing systems would eventually result in redundancy with 1st defendant's services and this is evident by having regards to the value provided by 1st defendant.
55. Plaintiffs aver that during the period 1 September 2020 to 30 April 2021, a bulk payment to defendant covering invoices for an eight (8) month period, did not have VAT and WHT deductions, amounting to GHC13.38 million. This contradicts 2nd defendant's standard practice of deducting such taxes for payments to defendant between 1 June 2020 and 31 August 2023.
56. Plaintiffs state that the 1st defendant failed to fulfil its statutory obligations by neither filing returns nor remitting these taxes to 2nd defendant.

57. Plaintiffs state that pursuant to section 71(1) Revenue Administration Act, 2016 (Act 915), as amended by the Revenue Administration (Amendment) Act, 2020 (Act 1029), the accrued interest on the tax liability is estimated at eighteen million five hundred thousand Ghana Cedis (GH¢18,500,000.00) owed by 1st defendant to 2nd defendant as of 31 January 2024. Consequently, the total liability incurred by 1st defendant amounts to thirty-one million, and eighty-eight thousand Ghana Cedis (GH¢31, 088,000.00).
58. Plaintiffs aver that in respect of the contracts signed with 1st defendant, the 2nd defendant did not prepare a technical needs assessment report for transaction audit and external price verification as well as measurement audit for downstream petroleum products services.
59. Plaintiffs state that in the case of the revenue assurance services in the Upstream Petroleum and Mineral Sectors, the Ministry of Finance (MoF) and 2nd defendant did not document a needs assessment report for the components of the contract.
60. Plaintiffs also state that the 2nd defendant did not include the procurement of 1st defendant's services in its procurement plans for 2018, 2019 and 2023 (the years in which the contracts were signed).
61. Plaintiffs state that regarding the 'Transaction Audit and External Price Verification' services, the actual payments made to 1st defendant is three hundred and forty million, three hundred and sixty-two thousand, eight hundred and eight Ghana cedis, thirty-two pesewas (GH¢ 340,362,808.32).
62. Plaintiffs state that for the 'Downstream Petroleum' services the actual payments made to 1st defendant is seven hundred and twenty million, six

hundred and ninety-one thousand, nine hundred and sixty-nine Ghana cedis, sixty-eight pesewas (GH¢ 720,691,969.68).

63. The plaintiffs state that the President, His Excellency President Nana Addo Danquah Akufo-Addo in a statement issued by the presidency on Wednesday, 24th April 2024, has also confirmed that the 2nd defendant did not seek parliamentary prior approval for all seven (7) service contracts.

64. Plaintiffs aver that the 2nd defendant has been directed by the presidency to conduct comprehensive technical needs and value-for-money assessments before implementation of the upstream petroleum and minerals audit services. These contracts may be terminated, but they “could prevent revenue losses”, according to the said statement from the presidency.

65. Plaintiffs state that the President has also asked the 2nd defendant to consider terminating the contract for transaction audit and external price verification services, which according to the KPMG report, has only been partially fulfilled by SML.

66. Plaintiffs also aver that a statement from the presidency issued on Wednesday, 24th April 2024 is to the effect that “GRA has introduced external price verification tools as part of ICUMS [Integrated Customs Management System]. This renders the reliance on SML for external price verification redundant...”.

67. Plaintiffs state that the President per the said statement, has also directed a review of the contract for the downstream petroleum audit services, changing in particular, the fee structure “from a variable to a fixed structure.” The 2nd defendant is also required to ensure that renegotiated contracts with SML are in compliance with section 33 of the Public Finance Management Act.

68. The plaintiffs aver that there is however no evidence of compliance by 2nd defendant with these directives from the presidency.

69. **WHEREFORE** the plaintiffs claim against the defendants jointly and severally as follows;

i. A declaration that 1st defendant's act of failing to register in the Public Procurement Authority's (PPA) supplier database is contrary to section 40(7) of Public Procurement Regulations, 2022 (L.I. 2466).

ii. A declaration that the execution of the seven (7) service contracts listed below, between 1st and 2nd defendants through single source procurement method, is contrary to section 40 of the Public Procurement Act, 2003 (Act 663) as amended, because none of the conditions under section 40 of Act 663 as amended, was satisfied;

(a) Transaction Audit Services – 1 June 2018

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(f) Addendum to Measurement Audit for Downstream Petroleum Products Agreement – 29 July 2020.

(g) Consolidation of the first consolidation contract and downstream petroleum audit contract and extension of the scope of SML's services- 25th October, 2023

iii. A declaration that the execution of the service contracts listed in relief (ii) above between 1st and 2nd defendants through single source procurement method is contrary to section 40 of Act 633 as amended,

as a result of the 2nd intended defendant failing to obtain prior approval of the Public Procurement Board and is therefore void.

- iv. A declaration that 2nd defendant's act of failing to prepare a procurement plan regarding the first six (6) contracts listed in relief (ii) above, is in breach of section 21 of Act 663 as amended, which section requires a procuring entity to prepare a procurement plan to support its approved programme.
- v. A declaration that the execution of the consolidation services agreement (3 October 2019), measurement of downstream petroleum products (3 October 2019) and addendum to measurement audit for downstream petroleum product agreement (29 July 2020) between 1st and 2nd intended defendants, for a period of (five) 5 years each, is in breach of section 33 of the Public Financial Management Act, 2016 (Act 921), due to 2nd defendant failing to seek parliamentary approval, and is therefore void.
- vi. A declaration that the execution of the revenue assurance agreement signed on 25 October 2023 between 1st and 2nd defendants, with a five (5) year term, breaches section 33 of the Public Financial Management Act, 2016 (Act 921), due to 2nd defendant failing to seek parliamentary approval, and is therefore void.
- vii. A declaration that the Public Procurement Authority (PPA) does not have the power to retrospectively clear illegalities; and thus, the purported ratification by PPA on 27th August 2020, to cover the first six (6) contracts listed in relief (ii) above is illegal.
- viii. A declaration that the act of 3rd defendant personally and illegally authorizing the Ministry of Finance (MoF) to act as an engaging party in one (1) out of the seven (7) illegal contracts (i.e. the consolidation of the first consolidation contract and downstream petroleum audit contract and extension of the scope of SML's services signed on 25th October, 2023) is void for not seeking the opinion of the 4th defendant, for not conducting needs assessment and also for not seeking parliamentary approval.

- ix. An order for the recovery, back to the state, of the sum of one billion, sixty-one million, fifty-four thousand, seven hundred and seventy-eight Ghana Cedis (GH¢ 1,061,054,778.00) being money paid to 1st intended defendant from 2018 up to the time of the KPMG audit (issued on 27th March 2024), under the seven contracts which were not approved by parliament.
- x. Cost.
- xi. Any other order(s) that this Honourable Court deems fit.

DATED IN ACCRA, THIS 14TH DAY OF AUGUST, 2024.


Martin L. Kpebu Lawyer
GT Legal
24 Otsofrikri Street,
Adabraka, Accra
GA-074-3440
MARTIN L. KPEBU
SOLICITOR FOR PLAINTIFFS
LICENCE NO: eGAR 01876/24

THE REGISTRAR
HIGH COURT
GENERAL JURISDICTION
ACCRA

AND FOR SERVICE ON THE ABOVE-NAMED DEFENDANTS:

1. STRATEGIC MOBILIZATION GHANA LTD (SML)
NO. 2 MASTER BARNOR ROAD, OSU
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2. GHANA REVENUE AUTHORITY (GRA)
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OFFICE OF THE ATTORNEY GENERAL