



**THE COMMISSION OF ENQUIRY
INTO
THE FAILURE OF CL FINANCIAL LIMITED, COLONIAL LIFE INSURANCE COMPANY (TRINIDAD) LIMITED,
CLICO INVESTMENT BANK LIMITED, BRITISH AMERICAN INSURANCE COMPANY (TRINIDAD) LIMITED,
CARIBBEAN MONEY MARKET BROKERS LIMITED AND THE HINDU CREDIT UNION CO-OPERATIVE
SOCIETY LIMITED**

The Hon. Sir Anthony David Colman: Commissioner

PUBLIC STATEMENT – 17 NOVEMBER, 2011

A year has now passed since I was sworn in as the only Commissioner of this Enquiry charged with the duty to enquire into those matters relating to the causes, reasons and circumstances leading to the financial deterioration of the CL Financial Group and the Hindu Credit Union.

Although when I agreed to undertake this duty I knew very little indeed about any of the institutions included albeit I was given to understand that financial transactions of some complexity were involved I had no real idea of the extent of the investigation that would be necessary. I had assumed that the bulk of work could be completed in about a year leading to a preliminary report followed some time soon after by a full report which completed my Terms of Reference, including making recommendations for steps to be taken to avoid a repetition of the problems which have caused so much misery to so many people and such great losses to the financial resources of the whole country.

As I am no stranger to the conduct of public enquiries I am extremely conscious of two pervasive characteristics:

- (1) The general public and the government that appoints the enquiry always expect a rapid answer to the questions asked in the terms of reference. This is hardly surprising for such enquiries are only set up where it is seen to be necessary that the causes of damage to the state or of loss of life or personal hardship should be investigated in public and explained in public without delay by an entirely independent commissioner with no connection whatever with any of the relevant events.
- (2) The more complicated the circumstances under investigation and the more far-flung the events and the more numerous those who took part in them the more difficult it is to

stand back and to project forward the amount of time, the demands on administrative support and the ultimate cost of achieving publication of the final report. Where the terms of reference require, as they do in this case, the Commission to find whether there are grounds for criminal or civil proceedings against individuals or companies or institutions that have been involved, it is inevitable that the proceedings must be conducted in such a way as to respect the rights of those who are under threat of adverse publicity and findings. Such persons need, for example, to be given the opportunity, not only to have access to all the evidence available to the Enquiry, but to cross-examine witnesses who may give evidence potentially damaging to such persons. This consumes a great deal of time but it is a vital and unavoidable feature of the fair and just conduct of the proceedings.

The process of objective investigation has to be tempered by procedures which give all those directly concerned a fair chance to be heard. It is against this background that it is important I should explain what has so far been done and what remains to be done.

So far there has been one procedural hearing (in March) and there have been three evidence hearings, the last of which is still under way.

Why did it take from November last year until now for such limited work in public?

To begin with there are eighteen (18) Parties to this Enquiry – that is those individuals or institutions who will give evidence and disclose documents if they comply with the requirements of the Commission. Each is entitled to be represented by Counsel and Attorneys. In addition there are three (3) individuals who, although not Parties, are entitled to be represented by Counsel and Attorneys. In all some forty-nine (49) such Counsel and Attorneys are appearing before this Enquiry. There are also five (5) counsel and instructing attorneys who act on behalf of the Commission.

The Commission's work requires it to obtain and receive, investigate and categorise and index and file all the relevant documents in the possession of each of the eighteen (18) Parties. The Secretary to the Commission and her staff of thirteen (13) non-lawyers have to bear the huge administrative responsibility of handling this documentation and preparing so much of it as is needed for each day's hearing.

If you go behind the scenes here you will find a not very small room lined from floor to ceiling with lever arch files and boxes containing the vast documentation produced by the Parties and

this documentation is growing day by day. So far eight hundred thousand (800,000) documents have been disclosed.

Is this all out of control? Not a bit of it. But in order to keep control over the material the Enquiry cannot be run at a gallop. If it were, there would be administrative chaos and the time and costs of the Parties as well as the public would be repeatedly wasted.

So it is necessary to strike a balance. Hearings of evidence have to be spread out and very carefully prepared in advance to avoid wasting time and costs and everything has to be readily at hand so that as far as possible we achieve a smooth-running operation without unexpected adjournments of hearings.

In this exercise I have to say that a high degree of co-operation has to be achieved between the Commission and those representing the Parties and witnesses. So far counsel appearing for the Parties have shown an admirable willingness to co-operate with the Commission in the interests of adhering to the schedule of witnesses. However, the late tendering of bundles of documents for examination and cross-examination on behalf of witnesses who are **not** Parties has presented an occasional problem.

So far twenty-two (22) witnesses have given evidence.

The first evidence hearing was mainly devoted to the evidence of those who have suffered – often heart-breaking losses - as a result of the loss of their deposits and investments in the Hindu Credit Union Co-operative Society Limited (HCU).

The second and third evidence hearings have been exclusively devoted to witnesses as to the operation and governance of Clico, CLF, CIB and BA. That brings me to mention what has proved to be a very difficult and reluctant decision.

I had at one stage hoped that it would be possible to run the Commission's investigations and hearings into the events at the Hindu Credit Union in parallel with its investigations and hearings relating to Clico. But as these three evidence hearings have proceeded I have come to the conclusion that such a course would be quite impossible. The amount of evidence and documents relating to the Clico collapse is so vast that the Commission simply does not have the legal or administrative resources to run both investigations simultaneously. The demands on those resources imposed by the size and complexity of the Clico investigation are such that there is simply no available surplus legal expertise or administrative manpower to get on with

the Hindu Credit Union. Indeed the Commission would need to have nearly twice as many lawyers and staff if that were to be done alongside Clico. And the office space and copying facilities would have to be much greater.

Accordingly, I have decided to complete the taking of evidence in Clico before hearing any more evidence in the Hindu Credit Union. I am sorry to have to take this course because I know how much the conduct of this investigation and the production of its report means to the Hindu Credit Union investors. But I am afraid that I cannot disrupt the Clico work now well under way, by any diversion of concentration on to what is an area of investigation **completely** unconnected to it.

Well, it might be said, why could not this likely delay have been foreseen in the first place when the Commission was first set up? The answer is quite simple: that kind of political decision would **not** normally be taken **after** investigation of the magnitude of the likely documentation or of the likely number of witnesses that might be called or of the number of counsel likely to be involved. The primary political imperative is to get an Enquiry started and to get the appointment of a Commissioner organized. I can say without hesitation that the extent of the work involved could not reasonably have been foreseen by those whose decision it was to set this up and who had to consider the professional and physical resources that would be needed.

So when will the Commission complete its work? And when will its report be completed?

Further evidence hearings are scheduled for January and February and others will be needed in the following months. Although it is always hazardous to predict how much time will be needed for all the future witnesses who are to be called and possibly recalled. I believe it would be surprising if preparation of the report on the Clico collapse could start before September. As for the Hindu Credit Union, it is too early to say how long the relevant evidence will take or when work on preparation of the report will commence. As I have said, I am reluctantly satisfied that such work will not commence until at least the Clico evidence has been completed.

I have invited written questions from the Press as to the conduct of the Commission's work as I believe such Enquiries ought to be conducted as transparently as possible.

Questions have been received from:

Joel Julien of Express

Andre Bagoo of Newsday

Asha Javeed of the Guardian.

I shall read out these questions which my Statement has not already answered and then give my answers.

Finally,

I am sorry if what I have said will be received with disappointment as I am sure it will. However, all those concerned can be assured that the Commission and its staff are working at full capacity to complete the reports. There is no surplus capacity and everybody concerned has constantly in mind the public expectation that the reports should be issued as early as possible.

That completes my Statement.