

## PRESS STATEMENT

- A. DISCRIMINATORY PAYMENTS OF ROAD CONTRACTORS FROM THE ROAD FUND BY THE HON. MINISTER FOR ROADS AND HIGHWAYS RESULTING IN FINANCIAL LOSS TO THE STATE.
- B. ARBITRARY CANCELLATION OF MINISTRY OF ROADS AND HIGHWAYS CLASSIFICATION CERTIFICATES FOR ROAD CONTRACTORS

### INTRODUCTION:

At a meeting of the concerned road contractors of Ghana resolved to release this press statement to bring the needed attention to the decay happening at the Ministry of Roads and Highways at the instance of the Minister of Roads and Highways. We write first and foremost as concerned citizens of Ghana and secondly, as hardworking businessmen (contractors) *who do not wish to be just spectators but true citizens (as admonished by the President) and interested in curbing corruption and saving the public purse.* It is our collective desire to bring attention to the irregular manner of payment of Road Fund contractors at the instance of Mr. Kwasi Amoako-Atta, the Hon. Minister for Roads and Highways, contrary to the **1992 Constitution of Ghana** and the **Road Fund Act, 1997 (Act 536)** as amended by **Road Fund (Amendment) Act, 2016 (Act 909)** and the resultant financial loss to the state.

We hereby urgently seek the attention of His Excellency the President of Ghana, Eminent Members of the Council of State, Elders of the New Patriotic Party (NPP), the House of Parliament, the House of Chiefs, Commission for Human Right and Administrative Justice (CHRAJ), All Investigative Journalists and all well-meaning Ghanaians to the matters contain herein.

### IRREGULARITIES:

It is important to start here by mentioning that the Hon. Minister has used his power and influence to single handedly usurp the role of the Road Fund Board with regards to payment of contractors. The Hon. Minister is indulged in paying contractors at his own whims and caprices without any regard for due processes and blatant disregard for the accepted practice of paying certificates in order of first come, first serviced basis. This practice of the minister is hugely inconsistent with the principles of equity which should guard all public officers in their duties.

To be more precise, since the minister took office, he has been engaged in paying contractors on pick and choose basis. In most instances very recent payment certificates which enter the Road Fund are honored to the deliberate neglect of very old payment certificates at the Road Fund. Payments have become based on who can make links with Hon. Kwasi Amoako-Atta. What motivates this mode of payment by the minister are many and varied, corruption (i.e. kickbacks) not excluded. There are instances where for example, two weeks old payment certificates are paid by the minister to the neglect of payment certificates that have been more than three (3) years at the Road Fund without payments for no apparent reasons.

Again, this behavior of the minister has resulted in the phenomenon of middlemen trying to arrange for payments for contractors and by that, ripping desperate contractors of huge sums of monies. There are instances where these middlemen demand 15% of values of payment certificates for payment to be effected and indeed payments are effected for those who comply with these terms. This is a cartel at work for their own interest unconcerned about the sufferings of contractors.

Hitherto, anytime payments were done, payment lists were made available to the agencies as returns and for the viewing of expectant contractors. But because of the nefarious activities of the Hon. Minister, payment lists have become underground or confidential documents. Even staff at the Road Fund have been threatened with been sacked if payment lists are revealed to contractors.

However, the minister is always in the media claiming that he is paying contractors thereby putting undue pressure on contractors by their creditors and this has resulted in the death of some contractors from their misery.

### STIPULATIONS OF THE ROAD FUND ACT, 1997 (ACT 536) AS AMENDED RELEVANT TO PAYMENTS:

- **Section 5 (1) of Act 536** establishes the Road Fund Management Board, now the Board.
- **Section 6(1) of Act 536** provides that the Funds of the Road Fund shall be managed by the Board.
- Again, **Section 6(2)(f)** specifically provides that the Board shall prepare and publish procedures for the disbursement of moneys of the Fund and
- Lastly **Act 909** which amends **Act 536** inserts **Section 18A** which provides that the minister may, by Legislative Instrument, make Regulations for the effective implementation of the Act.

The Hon. Minister's apparent exercise of discretion with respect to payment of contractors is palpably contrary to the stipulations of **Act 536** and **Act 909** outlined above and **Article 17** and **Article 296** of the **1992 Constitution of Ghana**. Article 17 in particular admonished against discrimination which is being exhibited by the minister.

### INHERENT FINANCIAL LOSS TO THE STATE:

Most of the Road Fund contract documents stipulate that the employer (i.e. government of Ghana) is required to honour payments certificates within 91 days of the dates certificates are certified by the project managers of the various contracts. Failure to pay within this time makes government liable for the payment of *Interest on Delayed Payment* for each day for the period beyond the 91 days until payment is eventually effected on the said payment certificates. It is imputed that the minister is well aware of this provision in the contracts. It is interesting to note however, that there are instances whereby the accrued interest on a payment certificates is more than the original certificate value. This situation is also negatively impacting on legitimate businessmen (i.e. contractors) who are at the mercy of the minister and this is not right!!

The Hon. Minister's indulgence in paying for say two weeks old certificates which have not started accruing interest to the neglect of payment certificates which are over five (5) years, for instance, is only resulting in the unnecessary accumulation of huge *Interest on Delayed Payment* on the government purse. Without any research, it is estimated that *Interest on Delayed Payment* is currently about 60% (and increasing) of the Road Fund commitments. The sad thing is that, government is bound and would eventually pay for these irresponsibly accrued interests. This could well be minimized to the barest minimum if payments at the Road Fund are well structured based on the inflows into the Fund. One can only conclude that the behavior of the minister amounts to an intentional financial loss to the state in contravention of **Section 179A of the Criminal Offences Act, 1960 (Act 29)**.

Again, as his hallmark, the Hon. Minister has recently issued a fiat cancelling All Road Classification Certificates of Road Contractors for Ministry of Roads and Highways (either current or expired once which are subject for renewal) and requesting for re-registration. This same arbitrariness was exhibited by him in the recent cancellation of road tolls to the detriment of the country.

However, it was this same minister who signed the just cancelled classification certificates which has gone through due process in his office, some even less than a year ago. The re-registration is imposing unreasonable stringent and arduous requirements with the intention of eliminating ordinary Ghanaians from the business of road construction industry. The ultimate intention is to reserve road construction to the elite, his favorite contractors, who are his friends. The rest of us are to be made subservient to the elite contractors to be created by him. This is wickedness and will increase unemployment rate in the country. We toiled for these certificates which have now been cancelled by the Honorable Minister. The behavior of the Hon. Kwasi Amoako-Atta appears that he is against road contractors rather than for their interest.

This minister has become a dictator, terrorizing everyone including the officials of the ministry. It seems there is no one to talk to him and he has become a **law unto himself**. While the previous occupants of the same office have developed the road industry to an appreciable level, Hon. Akwasi Amoako-Atta has come with agenda to collapse the road industry of our dearly beloved country Ghana for his selfish interest. Indeed, we total deliverance from the hands of Hon. Kwasi Amoako-Atta.

The minister has descended into the arena of policy implementation rather than policy formulation. For instance, for the first time in the history of the ministry, the minister has rendered all agency Heads under the ministry redundant. Medium size and small contracts which were signed by agency Heads are now been sign by the minister himself. As a result, when contract documents are delivered to the minister's office for signature, it can take well over six (6) months to get those contracts signed. Interim Payment Certificates (IPCs) that are process through the minister's office sometimes takes seven (7) months just at the minister's office, when in fact, it used to take less than a month in the case of the previous occupants of the same office. This situation is resulting in untold hardship and frustration to road contractors.

Recently, we heard the government was in the process of making payment through Fidelity Bank, but the frustrations we have been through in the hands of Fidelity Bank is unbelievable. Our bank details and all the necessary documents were attached to our IPCs submitted to the road agencies before they got to Road Fund but Fidelity Bank for no any contractual reasons are now validating our documents before payments can be made. Even then, more than three weeks since the exercise started no payments have been received by our members. Where are our already submitted documents? Or is this a strategy to further delay the payments? Someone should talk to us. Our members are going through excruciating pain and suffering for wholeheartedly working for Mother Ghana.

#### **RECOMMENDATION:**

It is humbly suggested that, to confirm the veracity of these accusations leveled against the Hon. Minister, he should be subjected to investigations in the public interest. He should be made to provide records of all payments effected since he took office with relevant dates, such as, dates of certification by project managers on the respective payment certificates and dates of actual payments. He should also provide list of outstanding payment certificates with Road Fund with corresponding dates of project managers' certifications. These pieces of information among others will help reveal the true situation at the Road Fund. Even if government finds money and pay all contractors (i.e. clears all the Road Fund current commitment) say tomorrow, these matters raised will still merit investigations to reveal the harm that has already been caused this our dear nation.

If these accusations are independently verified, the minister should be made to face the law without any favour.

Moving forward, the Ministry should be compelled to in line with the Road Fund Act, come up with Regulations and to comply with same to ensure equitable payment regime for contractors. This system could be automated to avoid human interference to a large extend. This, it is believed, will to a large extend minimize the huge accruals of Interest on Delayed Payment on government purse and thereby free up more funds for implementation of more projects.

We demand that the minister rescinds his decision on the cancellation of MRH Classification Certificates, otherwise, we will be compelled to take legal action on the matter.

**In the spirit of solidarity, we are requesting that all concerned road contractors in all other regions to add their voices to the matters raise herein.**

**CONCLUSION:**

In conclusion, we humbly appeal to His Excellency the President of Ghana, Eminent Members of the Council of State, Elders of the New Patriotic Party (NPP), the House of Parliament, the House of Chiefs, Commission for Human Right and Administrative Justice (CHRAJ), All investigative journalists and all well-meaning Ghanaians to ensure that Hon. Kwasi Amoako-Atta is brought to book. We particularly request CHRAJ to investigate the minister for abuse of public office.

  
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(For and behalf of all members) PRO

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