

CHRAJ/HQ 18/ 2023/ 404



24/07/23

**HON. SAMUEL OKUDZETO ABLAKWA**

**c/o THADDEUS SORY**

**SORY @ LAW**

**H/NO 4, 2<sup>ND</sup> CLOSE, BOUNDARY ROAD EXTENSION**

**NEAR UBA BANK, EAST LEGON**

Dear Sir,

**IN A MATTER OF A COMPLAINT OF CORRUPTION, ABUSE OF POWER AND  
CONTRAVENTION OF CHAPTER 24 OF THE 1992 CONSTITUTION**

**HON. SAMUEL OKUDZETO ABLAKWA AND THE MINISTER FOR FINANCE & SIX  
OTHERS**

**RULING**

Please find the Ruling of the Commission on the preliminary objection raised by the 1<sup>st</sup>, 3<sup>rd</sup> to 7<sup>th</sup> Respondents to the jurisdiction of the Commission on the above complaint.

Yours sincerely,

**DANIEL ANANG AFETSI**

**PRINCIPAL REGISTRAR**

*For: Commissioner*



## CATHEDRAL OF GHANA PURSUANT TO ARTICLE 218 OF THE 1992 CONSTITUTION.

According to the Complainant, his petition was invoking “the investigative jurisdiction of the Commission pursuant to Article 218 of the 1992 Constitution and section 7(1) (a), (d) and (f) of the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456)”. The pith of the Complainant’s plaint is contained in paragraphs 11 to 32 of his petition which we have distilled as follows:

1. That contrary to government’s own promise that funds for the building of the National Cathedral would be raised from private entities, the Ministry of Finance released funds for the construction of the said project in three (3) tranches as follows: an initial payment of \$25,000,000.00 described as seed money, followed by another payment of GHS32,070,103.02 for consultancy services and last payment of GHS25,000,000.00 described as additional seed money.
2. That an amount of GHS339,003,064.86, the equivalent of \$58,141,509.52 has been drawn from the consolidated fund without parliamentary approval per documents presented to Parliament by the Ministry of Finance.
3. That the Public Procurement Authority (PPA) in letter dated 5 July 2022 indicated that it had no information relating to the construction of the Cathedral by Ribade Construction Limited which meant that the Procurement procedure has been circumvented.
4. That pursuant to a report submitted to Parliament by the National Cathedral Secretariat upon demand, it was realised that an amount of GHS2,600,000.00 was unjustifiably made to JNS Talent Centre Limited, the 5<sup>th</sup> Respondent

which was incorporated on 14 September 2015 with Johannes Eshun, Sheila Eshun and Kwabena Adu Gyamfi as Directors and or shareholders respectively.

5. That the 4<sup>th</sup> Respondent, Rev. Victor Kusi-Boateng operating on an alias as Kwabena Adu Gyamfi is the third Director of JNS Talent Centre Limited.
6. That the 4<sup>th</sup> Respondent presented, registered, and maintained two different identities with the Registrar General's Department.
7. That the 4<sup>th</sup> Respondent holds two tax identification numbers with the Ghana Revenue Authority.
8. That the 4<sup>th</sup> Respondent holds two different passports each bearing one of his two names with different dates of birth on each document.
9. That 4<sup>th</sup> Respondent acting as Director of JNS Talent Centre Limited under his alias Kwabena Adu Gyamfi at the same time as Director of the National Cathedral under his other name Rev. Victor Kusi Boateng presents a clear conflict between interests of JNS Talent Centre Limited and that of the National Cathedral Company
10. That the conflict-of-interest situation is particularly more so in the unexplained transaction resulting in the payment of a sum of GHS2,600,000.00 to JNS Talent Centre by the said Cathedral Company.
11. That the conflict of interest is deepened by the relationship between Johannes Eshun, director of Talent Centre who is not only a Pastor under 4<sup>th</sup>

Respondent's Ministry but describes himself as 4<sup>th</sup> Respondent's "spiritual godson".

In effect the plaint of the complainant alleges deceit, abuse of power, conflict of interest, corruption and breach of public procurement procedures.

The Complainant prays for the following reliefs from the Commission to:

1. investigate the appointment of contractors for the National Cathedral Project which the petitioner believes was done without adherence to the Public Procurement Procedures and laws
2. investigate payment of the sum of Two Million, Six Hundred Thousand Ghana Cedis (GHS2,600,000) and any other payments made to JNS Talent Centre Limited from state resources
3. investigate the conflict of interest complaint against Rev. Victor Kusi-Boateng (4<sup>th</sup> Respondent) in his dual capacity under separate identities as Director of both the National Cathedral and JNS Talent Centre Limited and related matters
4. take appropriate action or steps for the remedying, restraining, correction, or reversal of the offending conduct or actions
5. recommend sanctions for the offending conduct or actions.

Reliefs 1 to 3 appear specific to the allegations themselves whilst 4 to 5 appear as auxiliary or omnibus because the actions being contemplated to be taken by the Commission hinge on the matters to be investigated under reliefs 1 to 3. It is within the context of these reliefs that this decision has to be understood.

In accordance with the **Commission on Human Rights and Administrative Justice (Investigations Procedure) Regulations, 2010(C.I 67)**, and Article 287 of

the 1992 Constitution, the Commission invited comments from the Respondents on the allegations. It is this invitation that triggered the preliminary objections from the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> – 7<sup>th</sup> Respondents (per letters respectively dated 21 February 2023, 31 January 2023 and 25 January 2023) and the response of the Complainant dated 13 June 2023 per his Solicitor, Thaddeus Sory Esq that has occasioned this ruling.

For purposes of clarity, we have set out as far as practicable, relevant portions of the arguments canvassed by the parties (either by themselves or through their lawyers) for or against the jurisdiction of the Commission in the instant matter.

1. 1<sup>st</sup> Respondent's Objection & Response by Complainant

The 1<sup>st</sup> Respondent's objection to the Commission's jurisdiction as contained in paragraph 20 of his comments on the petition is that:

**20.If the gravamen of the Complainant's case against the 1<sup>st</sup> Respondent is that the 1<sup>st</sup> Respondent and Government breached their promise to the people of Ghana that the funds for the construction and maintenance of the National Cathedral *will be raised from private entities and non-governmental sources*, then that is a political issue in respect of which the Commission has no jurisdiction over.**

To this, the Complainant per Counsel responded that in so far as the political question doctrine is concerned, the most recent position of our Supreme Court is that “on the preponderance of the authorities the political question doctrine does not apply within our jurisdiction”. Counsel cited the case of **Justice Abdulai v. Attorney-General**. Writ No.JI/07/2022 dated 9 March 2022 as the authority on this principle.

The Complainant further asserted that in light of this categorical statement made by the Supreme Court of the Republic of Ghana, it is clear that the political question doctrine invoked by the first Respondent affords no succour to the first Respondent.

2. 3<sup>rd</sup> Respondent's objection and Response by the Complainant

Objections to the jurisdiction of the Commission raised by the 3<sup>rd</sup> Respondent are contained under paragraphs labelled as 3,4,5,6,8,9 and 10 of its comments to the Commission per letter Ref. No. NCG/BOD/01/23/i dated 31 January 2023 and signed by its Chairman, Apostle Prof. Opoku Onyinah, which are quoted in extenso as follows:

**3. We note, respectfully, from the reliefs sought that, same are hinged on two primary allegations-alleged breaches of procurement laws of Ghana and alleged conflict of interest situation involving Rev.Victor Kusi-Boateng.**

**4. The functions of the Commission on Human Rights and Administrative Justice (CHRAJ) are as set out in article 218 of the Constitution and the Commission on Human Rights and Administrative Justice Act,1993 (Act 456). Same do not include alleged procurement breaches.**

**5. It is observed that in accordance with section 92 of the Public Procurement Act, 2003 (Act 663), a breach of any provision of Act 663 borders on the commission of a crime, an action in respect of which the powers rest with the Attorney-General and not your esteemed Commission.**

**The Public Procurement Authority is also entrusted with the duty under section 3(d) of Act 663 to “*monitor and supervise public procurement*”**

*compliance with statutory requirements*". It is thus respectfully submitted in light of this, that your esteemed Commission does not have the power to investigate allegations of procurement violations, as requested by the petitioner.

We will thus not respond to any allegation of a breach of Act 663 or the "*procurement rules*" as alleged by the petitioner. Indeed, we note that the thrust of the complaint, which directly affects the Board of the National Cathedral of Ghana, is on alleged conflict of interest.

6. Notwithstanding the above, in order to avoid an impression of an attempt by the National Cathedral of Ghana to avoid an inquiry into its procurement activities, we respectfully proceed to indicate the status of the National Cathedral of Ghana, in order to show that Act 663 does not apply at all to it.

8. The National Cathedral of Ghana was incorporated under the now repealed Companies Act 1963 (Act 179) as a company limited by guarantee. By virtue of the incorporation of the National Cathedral of Ghana as a company limited by guarantee, it is clearly not an entity to which the Procurement Act applies.

9. It is noted that section 14(2)(e) applies to "state owned enterprises to the extent that they utilise public funds". Even though "state owned enterprises" has not been defined in Act 663, the Public Financial Management Act, 2016 (Act 921) provides a definition of what constitutes a state-owned enterprise. Section 102 of Act 921 defines same as:



**“an entity whether incorporated under the Companies Act, 1963 (Act 179) whose shares are wholly or partially held or controlled by Government.”**

**10. The National Cathedral of Ghana being a company limited by guarantee, is not a company formed with shares or in respect of which the Government has shares. It is a not-for-profit entity and not a company limited by liability and is therefore not an entity stipulated by Act 663 to apply the provisions of the Act. (emphasis supplied).**

A careful reading of the aforementioned paragraphs shows that the gravamen of the 3<sup>rd</sup> Respondents objection appears to be that the Commission per its enabling Act 456 does not have the power to investigate alleged breaches of procurement laws as same amount to a crime which is the preserve of the Attorney General and that the National Cathedral of Ghana being a company limited by guarantee does not constitute a “state owned enterprise” stipulated under section 102 of the Public Financial Management Act, 2016 (Act 921) and thus not covered under section 14(2)(e) of the Public Procurement Act, 2003 (Act 663), warranting the application of the said Act.

In response, Counsel for the Complainant stated that the 3<sup>rd</sup> Respondent’s objection completely overlooked the fact that the Commission’s constitutional and statutory mandate does not relate to institutions or specific statutes but specific matters and that matters of corruption can and do arise from procurement related acts or omissions. Counsel submitted that the undoubted law is that the Commission has the constitutional mandate to investigate private entities and relied on Articles 218(e) and 219(c) of the 1992 Constitution and the case of **Commission on Human Rights and Administrative Justice v Attorney General & Anor [2011] SCGLR 746(Baba Kamara case)** to back his arguments. Counsel stated further that at all

times material, the official position of the Government of the Republic of Ghana was that the National Cathedral of Ghana, even though incorporated as a company limited by guarantee was adopted by the state as state owned to which public funds had been advanced to by the 1<sup>st</sup> Respondent.

3. Objection by 4<sup>th</sup> to 7<sup>th</sup> Respondents and response by the Complainant

Objections by the 4<sup>th</sup> to 7<sup>th</sup> Respondents are contained in paragraphs labelled as 1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.6 and 1.2.7 per the process lodged in this Commission on the 25 January 2023 by their Lawyer Bobby Banson Esq. The said paragraphs are quoted hereto as follows:

**1.1.1 We have noticed that the Petitioner has named the 3<sup>rd</sup> Respondent as “National Cathedral Board”. In paragraph 4 of the petition, the Petitioner has described the 3<sup>rd</sup> Respondent as “.... a board appointed by the President of the Republic of Ghana with oversight responsibility over all matters regarding the construction of a National Cathedral in which the Republic of Ghana has a financial and beneficial interest.”**

**1.1.2 Per the enabling statutes of the Commission, this Commission can only exercise its investigative jurisdiction over “persons” and/or “authorities”. A person has been defined in our jurisdiction to mean a natural person or an artificial person incorporated as such.**

**1.1.3 “A Board” of an artificial entity is not clothed with legal capacity to sue or be sued and by extension, to be subjected to any legal proceedings. The description of the 3<sup>rd</sup> Respondent as a “board” is not a mere misnomer but a procedural lapse, which should**

invalidate the entire petition filed; for the Commission cannot investigate a Party that does not exist. Any form of legal proceedings commenced against a non-existent party is indeed a nullity.

1.1.4 On this ground, we urge the Commission to dismiss the petition as having suffered a still birth.

1.2.1 We have noticed that the petitioner indorsed his petition with a relief

praying the Commission to *“investigate the appointment of contractors for the National Cathedral project which the Petitioner believes [were] done without adherence to the Public Procurement and Laws.”*

1.2.2 However the Petitioner fails to state which of the Respondents should be subjected to this investigation or against which of the Respondents this relief is directed.

1.2.3 Assuming that this relief is targeted at the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents, the

Investigations of this allegation will not involve the 4<sup>th</sup> to 7<sup>th</sup> Respondents. This is because the allegations made against the 4<sup>th</sup> to 7<sup>th</sup> Respondents in this petition, do not relate to the appointment of the 5<sup>th</sup> Respondent as a contractor and hence no breaches of the Public Procurement Act would arise for investigations by the Commission against the 4<sup>th</sup> to 7<sup>th</sup> Respondents in this petition.

**1.2.4** If the petitioner is not ordered to separate these allegations, the  
4<sup>th</sup> to 7<sup>th</sup>

Respondents would be “tagged” along the investigation of that allegation when their presence will not be necessary for the determination of those allegations.

**1.2.6** Another legal issue is whether or not the Commission has the  
Jurisdiction

to investigate allegations of breaches of the Public Procurement laws. The Public Procurement Act, as amended, which is a specific legislation when juxtaposed with the Act 456, establishes a Public Procurement Authority which has the Jurisdiction to investigate allegations of breaches of the Public Procurement laws. It is trite learning that where the law has set out the procedure to be adopted in respect of a matter and the entity with jurisdiction to entertain a matter, it is only that procedure which must be adopted or the jurisdiction of that entity which must be invoked.

**1.2.7** We therefore pray that the Commission declines jurisdiction to  
entertain

Relief (i) but if it is minded to investigate same, should order the Petitioner to file a separate petition in respect of same against the concerned Respondents.

In effect, in Counsel’s view, the Board of an artificial legal entity such as the National Cathedral is not clothed with legal capacity to sue or be sued and accordingly cannot be subjected to any legal proceedings and since the Commission

can only exercise its investigative jurisdiction over “persons” and/or “authorities”, the Board of the National Cathedral is not amenable to its investigations. Counsel further pontificated that the description of the 3rd Respondent as a “board” is not a mere misnomer but a procedural lapse for which reason this should invalidate the entire petition as the Commission cannot investigate a non-existent entity. With reference to a relief dealing with the appointment of contractors for the National Cathedral Project, counsel forcefully submitted that as the Complainant did not attach liability for this appointment to the 4<sup>th</sup> to 7<sup>th</sup> Respondents, the said Respondents have been improperly joined as their presence is not necessary to the determination of this issue. Counsel also appears to associate himself with arguments advanced by the 3<sup>rd</sup> Respondent against the Commission’s jurisdiction to investigate procurement breaches submitting differently however that the duty to investigate such breaches inheres in the Public Procurement Authority as set up under Act 663. Counsel argued that where the law has set out the procedure to be adopted in respect of a matter and the entity with jurisdiction to entertain a matter, it is only that procedure which must be adopted or the jurisdiction of that entity which must be invoked.

The response of Counsel for the Complainant is that the Commission’s constitutional and statutory mandate relates to areas and or subject matters not entities as made clear from a cursory reading of Article 218 of the Constitution which sets out the broad spectrum of matters which the Commission may investigate. In counsel’s view Article 218 does not make persons the subject of the Commission’s constitutional mandate and thus it is irrelevant that the 3<sup>rd</sup> Respondent is not a legal person in the context of court proceedings adding that the concept of legal personae is relevant only for purposes of court proceedings but not investigations. Counsel concludes by referring to Article 219 (2) of the Commission to show the matters which fall outside

the remit of the Commission's investigative powers. These are matters pending in court or judicial tribunal; involving the relations between the government and other governments or international organisation; or dealing with the exercise of the prerogative of mercy.

### **THE POLITICAL QUESTION DOCTRINE**

It appears that the objections raised to the jurisdiction of the Commission appear to have been taken out of proportion as would be demonstrated shortly. This is because the Complainant has requested the Commission to investigate only 3 matters- **alleged procurement breaches in the appointment of contractors, payment of the sum of GHS2,600,000.00 to JNS Talent Centre Limited from state resources and the conflict of interest involving the 4<sup>th</sup> Respondent.**

The Complainant has not invoked the jurisdiction of the Commission to investigate promises made by government on the funding of the National Cathedral and their breach thereof contrary to the fears of the 1<sup>st</sup> Respondent. The breach of this promise and the subsequent use of state funds to build the National Cathedral Project would seem to suggest that state coffers are being used without Parliamentary approval. The power to determine how the state uses its funds inheres in Parliament pursuant to Article 178 of the 1992 Constitution. Both the Complainant and the 1<sup>st</sup> Respondent are ad idem that proceedings were taken in Parliament in respect monies that had been withdrawn from the consolidated fund for the National Cathedral Project without parliamentary approval. Whether these proceedings were in the nature of political doctrine alluded to by 1<sup>st</sup> Respondent or not, is not material. The crucial position is that the Commission does not see how it can stretch its imagination to exercise jurisdiction in matters relating to promises made by governments and their breach thereof and in any case since the Complainant has not requested the Commission to investigate such a promise, there is no need belabouring this point.

This is particularly more so because the 1<sup>st</sup> Respondent who raised the objection relating to political question doctrine appear not to be certain about the thrust of the Complainant's plaint as he commences the objection to it with an "if clause".

## **PROCUREMENT BREACHES**

Central to the investigation of this matter as contained poignantly in the reliefs sought is the competency of the Commission to investigate procurement breaches. The 3<sup>rd</sup> to the 7<sup>th</sup> Respondents are in tandem that the Commission has no jurisdiction in matters of this sort whilst the Complainant disagrees.

The Commission recognizes that it has a limited jurisdiction and therefore would not entertain matters outside its mandate. It therefore welcomes objections legitimately taken by parties to the exercise of its mandate as a way of developing its jurisprudence.

It appears however that the objections on procurement breaches raised by the Respondents in the instant matter are erroneous.

The mandate of the Commission as articulated by the 3<sup>rd</sup> Respondent supra is set out under Article 218 of the 1992 Constitution and the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456).

The Commission concedes that nowhere in the enabling law is the power to investigate procurement breaches specifically mentioned as part of its functions.

However, under Article 218(a) and (e) of the Constitution which is in pari materia with section 7(1) (a) and (f) of the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456), the Commission is mandated to investigate inter alia complaints of abuse of power and corruption by public officials among others. On its own motion the Commission can in addition investigate all instances of alleged

or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps including reports to the Attorney-General and the Auditor-General resulting from such investigations.

Article 218(a) and (e) provides thus:

### **Functions of Commission**

**218. The functions of the Commission shall be defined and prescribed by Act of Parliament and shall include the duty-**

**(a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties...**

**(e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General resulting from such investigations**

Section 7(1)(a) and (f) of Act 456 also provides thus:

### **7. Functions of the Commission**

**(1) In accordance with article 218 of the Constitution, the functions of the Commission are,**

**(a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of a person by a public officer in the exercise of official duties...**



**(f) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General resulting from such investigations (emphasis supplied).**

The Black's law Dictionary, 9th ed. at page 11 defines "abuse" to include "to depart from legal or reasonable use in dealing with a thing or person; to misuse". On the other hand, "power" at page 1288 of the same Dictionary is defined to include "the legal right or authorization to act or not act; a person's or organization's ability to alter, by an act of will, the rights, duties, liabilities, or other legal relations either of that person or of another". Succinctly put, abuse of power refers to the misuse or departure from legal or authorised acts which have the effect of altering the rights, duties and liabilities of a person.

In the instant case, it is the allegation of the Complainant that the National Cathedral of Ghana, a public entity failed to adhere to the statutory dictates of the Public Procurement Authority Act, 2003 (Act 663) when it allegedly awarded a contract to Ribade Limited. Surely, such an allegation amounts to an abuse of power on the part of National Cathedral of Ghana, if substantiated.

Aside this, corruption is a multifaceted canker and a generic term which encompasses Public Procurement Breaches. Corruption in public procurement sometimes manifests as bribery, rent-seeking, contractor-client payoffs, kick-backs etc. Indeed, corruption can occur through violations of procurement rules or through legitimate deviations from the rules (see article by Soreide, T "Corruption in Public Procurement, Causes, Consequences and Cures", Chr. Michelben Institute, Bergen, accessed @ [gsdrc.org/documents.library](http://gsdrc.org/documents.library) on 26 April 2023).

Thus, allegations of public procurement breaches invariably also amount to corruption and accordingly amenable to investigations by the Commission. The Commission accordingly disagrees with the Respondents on this issue.

The 3<sup>rd</sup> Respondent has also posited that the provisions of the Public Procurement Act, 2003(Act 663) as amended does not apply to the National Cathedral of Ghana because it is not a “state owned enterprise” as defined by section 102 of the Public Financial Management Act, 2016 (Act 921). The Public Procurement Act, 2016 (Act 914) which amended Act 663 is applicable to the procurement of goods, works and services financed in whole or part from public funds. Section 14(1) (a) and (b) under Part Two of Act 914 provides as follows:

**PART TWO**  
**PROCUREMENT STRUCTURES**  
**SCOPE AND APPLICATION**

**14(1). This Act applies to**

- (a) the procurement of goods, works and services financed in whole or in part from public funds;**
- (b) functions that pertain to the procurement of goods, works and services including the description of requirements and sources of supply, selection and award of contracts and the phases of contract administration;**

The claim by the Complainant, as admitted by the Respondents, is that funds were donated by the Ministry of Finance to the National Cathedral of Ghana. These funds are public funds or monies within the meaning of Section 14(1)(a) of Act 914 and Section 102 of the Public Financial Management, 2016 (Act 921). That being the

case, it cannot be said that Act 663 as amended is not applicable to the National Cathedral of Ghana.

## COMPETENCY OF COMMISSION TO INVESTIGATE BOARD OF NATIONAL CATHEDRAL

As already articulated above, the Commission has the mandate to investigate all instances of alleged or suspected acts of corruption and the misappropriation of public moneys by officials pursuant Article 218(a) and (e) of the 1992 Constitution and section 7(1)(a) and (f) of Act 456.

The 3<sup>rd</sup> Respondent, National Cathedral Board acting per its Chairman, Apostle Prof. Opoku Onyinah did not challenge the jurisdiction of the Commission in this respect. The objection to jurisdiction has rather been raised interestingly by Counsel for 4<sup>th</sup> to 7<sup>th</sup> Respondents. According to Counsel, a Board of an artificial entity is not clothed with legal capacity to sue or be sued and by extension, cannot be subjected to any legal proceedings. Counsel for Complainant as indicated disagreed with this view and contended that the Commission's constitutional and statutory mandate relates to areas and or subject matter and not entities and further that the concept of legal personae is relevant only for purposes of court proceedings.

The latter point of the Complainant's contention is the much-preferred approach. As an investigative body tasked with the duty to unravel the truth in any given situation, the rules of court do not apply *stricto sensu* to the activities of the Commission in all instances. Furthermore, the Respondents' assertion that "*A Board of an artificial entity is not clothed with legal capacity to sue or be sued and by extension, to be subjected to any legal proceedings*" cannot be a true and accurate representation of the law. It is trite learning that there is always an exception to the rule.

It is trite learning that the Board of a company is made up of Directors. These Directors are the controlling mind of the Company. In the case of the National Cathedral Company of Ghana, these Directors are twelve in number flowing from the allegations of the Complainant. Although, the Complainant did not mention that he was lodging his plaint against the Directors per se, in built in the Complaint are allegations of selection of contractors in breach of procurement processes which could only have been committed by the Directors *all be it* on behalf of the National Cathedral Company.

It is trite learning that a company is a separate legal entity from its members and its directors. For that reason, suits would normally be brought against the company to the extent as if it were a natural person.

However, there are situations where suits can be instituted against the Directors.

In the case of MORKOR v KUMA (NO 1) [1999-2000] 1 GLR 721, the Supreme court held thus:


**The corporate barrier between a company and the persons who constitute or run it may be breached only under certain circumstances. These circumstances may be generally characterised as those situations where, in the light of the evidence, the dictates of justice, public policy or Act 179 itself so require. It is impossible to formulate an exhaustive list of the circumstances that would justify the lifting of the corporate veil.**

It is therefore clear that although a company is a separate legal entity from its members and officers, there are instances under which the corporate veil will be pierced. This is to enable one to go behind the mere status of the company as a separate legal entity distinct from its shareholders/members and to allow one to consider who are the persons, shareholders or even as agents, directing and

controlling the activities of the company. It is the case of the Complainant that the National Cathedral of Ghana has by its board, indulged in procurement breaches and as such, it is only right that in the interest of public policy, the Board be made a party to this investigation so as to ensure an efficient and expeditious exercise.

For the above enunciated reasons, the preliminary objections raised by the Respondents are overruled and the Commission will thus continue with its investigations in the matter.

**DATED AT COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE(CHRAJ), OLD PARLIAMENT HOUSE ACCRA THIS <sup>24<sup>th</sup></sup>.....OF JULY 2023.**



**JOSEPH WHITTAL  
COMMISSIONER**