



Government of the Republic of Trinidad and Tobago
MINISTRY OF FINANCE

For immediate release

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MEDIA RELEASE

AGOJ2021/001 Ellis Richards and Others

v

The State of Trinidad and Tobago
Caribbean Court of Justice

The Minister of Finance, Honourable Colm Imbert, MP, wishes to advise that yesterday the Caribbean Court of Justice (“CCJ”) **dismissed** the claim brought by Ellis Richards and others against Trinidad and Tobago in relation to the CL Financial bailout in 2009, which excluded annuity and investment products issued by British American Insurance Company Limited (a company incorporated in the Bahamas). This decision follows the earlier decision of the CCJ delivered on March 8, 2023 and reported in *Ellis Richards and others (No. 1) v The State of Trinidad and Tobago [2023] CCJ 1*, in which the State **was also successful** (both decisions are enclosed).

The CCJ, in its decision yesterday, ruled that Trinidad and Tobago **did not** breach Articles 184(1)(j) and Article 7 of the Revised Treaty of Chaguaramas, when Government decided to intervene and rescue three of CL Financials’ Trinidad and Tobago insurance and financial subsidiaries [Colonial Life Insurance Company (Trinidad) Limited, Clico Investment Bank and British American Insurance (Trinidad) Limited] and protect the available funds of their policyholders and depositors.

As part of its reasons for dismissing the claim, the CCJ held at paragraphs 154-155 that:

*“....The Court has already recognised that the actions of the [State of Trinidad and Tobago] formed part of a governmental bailout of private commercial entities within the [State of Trinidad and Tobago] jurisdiction to prevent severe economic dislocation to its economy. Further, the rescue and intervention by the [State of Trinidad and Tobago] of the financially troubled CLICO and BAT, provision of liquidity support, injection of public funds and the purchase of the rights of some policyholders of CLICO and BAT, were carried out with the clear aim of containing systemic risks to the economy of Trinidad and Tobago and were part of a decision by the [State of Trinidad and Tobago] to safeguard its economy. The purpose of the bailout and the serious risk posed to the economy of Trinidad and Tobago without the bailout, because of the sheer size and impact of these private companies, must be borne in mind. When these factors are taken into account, **the Court does not agree that the circumstances of the policyholders of CLICO, CIB and BAT were similar to BAICO policyholders.***

*...As to whether there was an objective and reasonable justification for the difference in treatment, it is undisputed that should the [Ellis Richards’ and other arguments] be correct, it would have meant that the [State of Trinidad and Tobago] would have been responsible for bailing out all the policyholders, not only in Antigua and Barbuda and in Grenada, but all those BAICO policyholders from other territories in the Caribbean where BAICO policies were sold...**It could not have been within the contemplation of the framers of the RTC that the Member State, in such circumstances, would be obliged to compensate all BAICO policyholders in all CARICOM states for all their loss and damage.** The Court accepts that this is an objective and reasonable justification for the alleged difference in treatment of the companies.”*

During the course of the proceedings, which were managed by the Ministry of Finance in support of the Defendant, Trinidad and Tobago presented two (2) witnesses in the name of Mr. Murvani Ojah Maharaj (Instructing Attorney) and Ms. Suzette Lee Chee (Permanent Secretary, Ministry of Finance). Significantly, the CCJ determined that “...[Ellis Richards and others] have failed to establish that there was any discrimination based on nationality only,

any such allegation being contrary to the evidence of Suzette Lee Chee...

Finally, given the CCJ's decision, the Government will continue to vigorously defend all legal and other challenges brought against Trinidad and Tobago which threaten the recovery of taxpayers' funds spent in the CL Financial bailout, which recovery the Ministry of Finance continues to manage in the public interest, ensuring that Government obtains from CL Financial, as far as practicable, all money owed to the taxpayers of Trinidad and Tobago.

- END -

The Honourable Colm Imbert M.P.
Minister of Finance