

TO: Commissioner Paul Slowe (D.S.M)

SUBMISSIONS BY IAN CHANG (S.C) ON BEHALF OF G.P.F

**WEAKNESSES WHICH APPEARED IN THE STATEMENTS OF
ANDRIFF TAKEN ON 29th MARCH 2017 JUSTIFYING THE GRANT OF
BAIL**

1. Gillard alleged in his statement that the proposal to assassinate President Granger was made as far back as in June 2015. Despite the enormity and seriousness of such a proposal, Gillard did not see it fit to report that unlawful proposal until 29th March 2017 i.e. 21 months later.
It is common knowledge that no attempt was ever made against the life of President Granger since he took office. Every policeman would know this. The Crime Chief so testified as to the absence of any attempt on the President's life.
2. In June 2015, when the proposal was allegedly made, President Granger was in office for only one month and Nizam Khan could not have known of any plan on the part of President Granger to remove therefrom shortly and to relocate. Yet, Gillard stated that the work had to be done before President Granger could remove from his original residence. President Granger indeed removed from his original residence long after June 2015 with no attempt made on his life.
3. Why would Nizam Khan offer Gillard, a barber and taxi service operator, \$7 million to do a job like the assassination of President Granger? Whatever Gillard was, he was certainly not a person to whom anyone would offer \$7 million or any money to do such a job. He was not a gun man or hit man.

4. According to Gillard's statement, it was in 2016 that Stephen Persaud showed him Letters of Administration in his favour and told him that he would have remove from Lot 56. Three months later after a Summons was served on him at the instance of Stephen Persaud.
5. When, three (3) months later, Stephen Persaud served them with a Summons for Possession, he accosted Nizam Khan and accused him of being behind the issue of that summons.
6. According to the statement, Stephen Persaud obtained an Order for Possession from the Providence Court Magistrate and Gillard had to remove from Lot 56 in December 2016. The Magistrate also gave judgement against Gillard for \$300,000. This must have hurt and offended him (Gillard).
7. According to the statement of Gillard in 2016, he was accosted by Nizam Khan who asked for the return of his battery. Nizam Khan then went into his taxi service premises at Lot 56 and took away two radio sets belonging to him and then pulled a gun on him and threatened to cripple him. When he went to the Police to report the matter, the Police did not take the report and he left and went to complain to Mr.Das (Superintendent Das at Brickdam Police Station). According to Gillard, after he had refused the \$7 million offer in June 2015, Nizam Khan would insult him by calling him "stupid".

With all of these terrible things that Nizam Khan had done to him and with all these insults, Gillard goes to Supt. Das and does not report to him that it is the same Nizam Khan who had in June 2015, made him an offer to assassinate President Granger.

This is most incredible. Even the most credulous among us would be severely taxed to accord any credibility to Gillard's story. The police were in the same position.

8. Having failed to get the desired Police response to initiate criminal proceedings against Nizam Khan on that allegation, Gillard has now come up with a much more serious allegation against Nizam Khan an allegation which he could have easily made before to Supt. Das but which he never made.
9. Although Gillard's stated reason for his prolonged delay in reporting the assassination offer was because he feared Nizam Khan, yet sometime around December 2016 or thereafter he moved to Lot 57 which is immediately adjacent to the residence of Nizam Khan. His explanation for his prolonged delay has a very hollow ring.
10. Added to all this, on the 29th March 2017, the Police had the benefit of a statement from Nizam Khan in which he stated that Gillard accused him of causing him to be put out from Lot 56 and of fucking his wife and expressly threatened to keep framing him and lying on him. This was after Gillard would have gone and complained to Supt. Das and lied on Khan.

Gillard then called Nizam's brother Imran on his phone in his presence and told him that he (Nizam) was fucking his wife which caused Imran to have Nizam and Gillard confront each other on that allegation.
11. About two weeks after Gillard cursed Nizam for blocking his, (Nizam's) entrance with a zinc sheet to prevent Gillard's workers from urinating there. Again Nizam called his brother Imran and again Gillard accused him of fucking his wife. [Leon Baldeo's statement and evidence are to the effect that Gillard strongly believed that Khan was having an affair with his wife], (See also the evidence of Luanna Walker).

12. Nizam Khan said that since 2014, Gillard never went back to his yard because since then they were not on speaking terms after he had chased him out of his yard when he sought to borrow money from him after owing him other money.
13. The police also had in their possession on the 29th March a statement from Stephen Persaud in which he spoke about a rent problem with Gillard and eventually taking him to court in respect of Lot 56. A Possession Order was obtained and Gillard was forced to remove in December 2016.
14. The statement also spoke to the report made by him to the Police on the 27th March 2017 against Gillard for taking away his tyres and provides video evidence of this. The Police took action and were abused by Gillard on the same 27th March 2017.
15. Though this was an incident unrelated to Nizam Khan, Gillard in his statement revealed his firm belief that Nizam Khan was at all material times supporting the Persauds against him.
16. The above circumstances revealed in statements taken on the 29th March tended to show that Gillard's report was false and unreliable.

ADDRESS

BAIL

1. With all such statements in their possession on the 29th March 2017, despite the seriousness of Gillard's report, the Police (whoever gave the instruction to put Nizam Khan on station bail) cannot be faulted. The seriousness of the allegation could not be viewed in isolation. Otherwise, all a person would have to do to get a person against whom he has a grouse incarcerated without bail by the Police is to report to the Police that he offered him money to assassinate the President.
2. It must be noted that the Police took urgent action in locating and arresting Nizam Khan. However, arrest and the grant of station bail being granted are two separate issues. If detention without station bail depends solely on the seriousness of the allegations, then persons with grouses against other persons would be empowered to cause such others the deprivation of their liberty by simply making a serious allegation such as an offer to assassinate the President. **Indeed, any such policy or practice in the operations of the Guyana Police Force would be encouraging such allegations by malicious persons using (or rather abusing) the agency of the GPF (as occurred in this case).** Therefore, it is not and cannot and ought not to be the practice or policy of the GPF to deny arrested persons station bail solely or exclusively on the serious nature of the allegation. Arrest is one thing. The refusal of station bail is another thing. The latter issue must depend on what Police investigations have so far revealed. In this case, the circumstances in which the report was made by Gillard pointed overwhelmingly in the direction of a fabricated and malicious allegation

made by Gillard against Nizam Khan on the 29th March. The investigations on the 29th March (when Station bail was granted to Khan) unearthed :

- i. The allegation was made 21 months after the alleged offer was made.
- ii. Gillard was of the belief that Nizam Khan, his former benefactor, was backing or supporting his adversary, Stephen Persaud, ever since early 2016 when Stephen Persaud informed him that he was the owner and wanted him to remove from Lot 56.
- iii. Gillard lost the legal battle with Stephen Persaud and had to vacate Lot 56 in December 2016. He held Nizam Khan responsible for Stephen Persaud's curial actions and success.
- iv. Gillard removed to Lot 57 and problems continued between himself and Nizam Khan as neighbours. Gillard continued to believe that Nizam Khan was supporting his enemy, Stephen Persaud or the Persaud brothers.
- v. Sometime in 2016, Gillard and Nizam Khan had an altercation over a battery which Gillard had borrowed from him. Gillard went to the Grove Police Station and to report the altercation with Khan. But, he also went to make the further allegation that Khan had gone and removed two radio sets from his taxi service premises and had drawn his gun and threatened to cripple him.

Dissatisfied with the police response at Grove Police Station, he went to Brickdam Police Station and reported the allegations to Supt. Das and complained about the Police response at Grove Police Station, **Yet, inexplicably, he did not report to Supt. Das any allegation about any assassination offer made to him by Khan. If, according to Gillard's statement taken on 29th March 2017, since June 2015, his hitherto good relationship with Nizam Khan had come to an end and Nizam Khan was in the habit of calling him "stupid" for rejecting his offer. With all this against Nizam Khan, Gillard did not tell Supt. Das of any assassination offer made by Nizam Khan. This simple omission was conclusive against the credibility of Gillard as early as the 29th March.**

- vi. Gillard's allegation against Nizam Khan came only on the 29th March 2017 when he was facing the likelihood of a charge of Larceny of tyres on the report of Stephen Persaud, whom Gillard believed was being supported by Khan.
- vii. Gillard believed that Nizam Khan was having intimate relations with his wife and accused him of this to his face.

- viii. Also after the report which was made to Detective Superintendent Das relating to removing of two radio sets and threat with a gun to cripple, Gillard openly threatened Khan that he would continue to frame him and lie on him.
- ix. Having failed to get the desired Police response to initiate criminal proceedings against Nizam Khan on that allegation, Gillard has now come up with a much more serious allegation against Nizam Khan- an allegation which he could have easily made before to Supt. Das but which he never made.
- x. Although Gillard's stated reason for his prolonged delay in reporting the assassination offer was because he feared Nizam Khan, yet sometime around December 2016 or thereafter he moved to Lot 57 which is immediately adjacent to the residence of Nizam Khan. His explanation for his prolonged delay has a very hollow ring. And, if he was so afraid of Nizam Khan, how can anyone explain his reporting the same Nizam Khan to the Police in 2016 for taking away his radio set and threatening to shoot and kill him?
- xi. What about Lot 56 which Gillard claimed the deceased Nathan Persaud so urgently wanted to sell? Well, just as no attempt was ever made on

President Granger's life, Nathan died with himself as owner and the property devolved to his sons. Gillard was evicted by Stephen Persaud as administrator of his father's estate. The property remains in the family. Gillard's entire story had the appearance of a contrived fabrication

3. Clearly, from day one (29th March, 2017), the Police had enough material which must have told heavily against the reliability of Gillard's allegation of an assassination offer against Nizam Khan. At that juncture, the grant of station bail to Nizam Khan was in order and cannot be faulted as unreasonable or improper.
4. Much has been said as to the meaning of the word "charge" in Standing Order No.74. That Standing Order cannot be interpreted to be inconsistent with the laws relating to liberty of subjects. It has to be interpreted to be consistent with the laws of the land and therefore cannot be interpreted as mandatory detention without bail merely because the allegation involves murder or treason.

The word "charge" therein cannot mean a charge which is intrinsically or extrinsically incredible or unreliable. It must mean on an allegation which has some intrinsic or extrinsic credibility or reliability. On the 29th March 2017, on the statements already taken, the allegation lacked the minimum level of credibility to warrant the deprivation of the liberty of Nizam Khan.

5. Whilst there must be solicitude for the life of the President, the bare allegation of an offer made to assassinate the President cannot without more involve the automatic deprivation of liberty of the subject – without regard

to the circumstances relating to the credibility or reliability of the story. In this case, the circumstances strongly pointed in the direction of a false and malicious allegation by Gillard and the grant of bail was not unreasonable or improper.

6. I would hate to see Mr. Paul Slowe being incarcerated for 72 hours by Acting Commissioner Ramnarine on an allegation by Mr. Christopher Ram that sometime in the distant past he (Paul Slowe) had made him an offer to assassinate the President.
7. It must be remembered that at the time that Nizam Khan was put on bail, not only had Gillard given a lengthy written statement and three (3) further statements but the Police already had a confrontation between Gillard and Nizam Khan (in which Nizam Khan firmly denied the allegations of Gillard) and had obtained a written statement from Nizam Khan. Nizam Khan was fully cooperative with Police investigations. He did not refuse to give a statement or even request legal counsel. He was already questioned by a senior rank from Special Branch when a decision to grant bail was made. It must also be remembered that Gillard in his allegation has stated that only himself and Nizam Khan were present when the alleged assassination offer was made and therefore there were no witnesses to corroborate his story. Gillard had given no date in June 2015 and no time.
8. The fact that the investigations could not have been completed within 72 hours, in such circumstances, spoke loudly in favour of the grant of bail to Nizam Khan. It was the kind of allegation which could easily be made but very difficult to disprove. It was however, a story which was inherently incredible and unreliable. The circumstances warranted the grant of bail.
9. Paragraph (b) to the proviso to section 20 of the Police Act provides

“Provided that any member of the Police Force for the time being in charge of a police station may inquire into the case and

(a)

(b) If it appears to such member of the Force that such inquiry cannot be completed forthwith, he may release such person on his entering into recognisance with or without sureties for a reasonable amount to appear at such police station and at such times as are mentioned in the recognisance...”

From the above paragraph to the proviso of Section 20 of the Police Act, the functional statutory discretionary power to grant bail resides in the officer in charge of the Police Station at the time. In this case, the officer in charge was Det. Inspector Narine and this explains why the C.O.P spoke to Inspector Narine and not to any other person. It is also clear from Inspector Narine himself that the investigations could not have been completed forthwith. Therefore, whether on instruction or suggestion of the C.O.P, the grant of bail was in order.

10. Many an officer, including Acting Commissioner Ramnarine, have now stated before this C.O.I that they would not have granted bail. In the light of the intervention of the political directorate and in light of the cold room of the C.O.I, I daresay that there can hardly be found any officer of the GPF

who would now say in this inquiry that he or she would have granted bail to Nizam Khan. Expediency and self-interest or preservation so demand.

11. But the issue is not at all whether or not any particular officer or officers would have granted bail to Nizam Khan. Rather, the issue is whether in all the relevant circumstances which obtained on the 29th March 2017, it was plainly unreasonable to grant bail to Nizam Khan. To fault the exercise of the statutory discretionary power to grant bail, this Commission must conclude that such a decision could not reasonably have been, made in the sense that no reasonable officer could have made such a decision.

(Wednesbury unreasonableness). It is submitted that the fact that the investigations could not have been forthwith completed, the weaknesses which were patent in the contents of Gillard's statements, the denial of Nizam Khan both in the confrontation and in his statement, the decision to grant bail cannot be faulted as unreasonable in the "Wednesbury" sense.

12. I have already alluded to the difficulty in seeing how the release of Nizam Khan could have compromised or prejudiced the investigations in the light of the fact that the allegation itself did not open itself to obtaining any material evidence to corroborate Gillard's story. Gillard himself alleged that only he and Nizam Khan were there when the alleged offer was made. He himself admitted having several encounters with the Police. He himself admitted that even though he reported the very Nizam Khan for removing his radio sets and threatening to shoot and cripple him, he made no such allegation to Supt. Das of Brickdam Police Station. Nizam Khan in his statement stated that that report was also a false allegation against him. It was a serious but false allegation. Gillard had to "up the ante" and make an

even more serious allegation – this time not to the Police but to the O.P. He found Travis Chase to be a willing collaborator. Chase was simply used and abused by Gillard for Gillard's personal vendetta against Nizam Khan. Chase was an easy victim for abuse because of his own personal grouses against the Police. He was the perfect recruit for Gillard to promote and further his (Gillard's) objective. Chase was played like a fiddle- perhaps without even becoming aware.

13. A review of the audio-video recordings made and broadcasted by Travis Chase would reveal that Travis Chase was attempting to significantly embellish Gillard's false story. He was attempting to "gild the lily" by alleging a plot involving businessmen and Police Officers and by claiming that the plot was to assassinate the President on one of his public outreaches. It is doubtful whether the President had ever gone on any public outreach in June 2015 or even announced the same. President Granger was sworn in on the 16th May 2015.
14. This Commission must not allow itself to fall victim to this "storm in a teacup" falsity created by Andriff Gillard, aided and abetted by Travis Chase.

EVENTS SUBSEQUENT TO THE 29TH MARCH

Subsequent events would reveal ex post facto that the Police decision (whoever made that decision) to put bail to Nizam Khan was correct. I refer to the later statements taken from Leon Baldeo, Lloyd Adams C/D Anthony and, most recently, Luana Walker on the 19th July, 2017. The statement of Luana Walker is particularly very informative as to the circumstances leading up to the report of an “assassination offer” made by Gillard.

It must be remembered that Gillard, having been pre-informed on the 7th April 2017 by Cpl. Laundry of the statement of Leon Baldeo (friend of Gillard but no friend of Nizam Khan) on the same day was unwilling to attend C.I.D H.Q for a confrontation with Leon Baldeo. Having promised to do so on several occasions, he bluntly refused to do so. It is only on the advice of Travis Chase (see Chase’s statement and evidence) that he attended on the 25th April 2017 for the confrontation – accompanied by Travis Chase.

The police also experienced some problems in arranging a confrontation between Gillard and Lloyd Adams c/d Anthony. On the 27th April 2017, A.S.P Caesar informed Gillard of what Lloyd Adams had stated in his statement on the 25th April 2017. After some difficulty with getting both to attend at the same time, a confrontation was eventually held on the 20th June 2017. At that confrontation, it is significant to note that whilst Gillard eventually admitted

having the cell phone conversation with Lloyd Adams c/d Anthony when he was shown the phone records, he claimed that he was unable to remember that part of the conversation in which he told Anthony that he had to make that kind of story of an assassination offer to get at Nizam Khan who had caused him problems and had caused him to get lock up. Surely, if he could not remember, then he could not positively deny. **Moreover, if his report of an assassination offer was true, then logically Gillard would have positively stated that he could never have told Anthony so.** The negative nature of Gillard's response of not being able to remember speaks loudly against the reliability of his report of an assassination offer.

It must be noted that Gillard had told Anthony that the assassination offer" on President Granger's life was the kind of allegation he had to make up. It must be remembered that he had already made a serious one in 2016 that Khan had taken away his two radio sets and had drawn his gun on him and had threatened to shoot him. But he did not get the desired response from the Police. Therefore, he devised a plan to make a much more serious report against Khan and to ensure that it got the desired response. This time it was a report of an assassination offer to kill President Granger and the reportee would be not the Police but the O.P.

Clearly, Gillard was up to public mischief motivated by his personal and private vendetta and revenge against Nizam Khan. All in all, what is multiply corroborated is Nizam Khan's emphatic denial, not Gillard's allegation which has always been intrinsically unreliable.

FIREARM RETURN

1. There was absolutely no allegation that any of the Khans had used their licensed firearms in any improper or criminal way. Of course, while under arrest of C.I.D H.Q on the 29th March, 2017, it was the duty of the Police to relieve the Khans of their firearms and they did just that.
2. Similarly, on release of Station bail, it was the duty to return those firearms into their possession which the Police did. On release on bail, there was no legal basis for continued retention of the firearms.
3. I wish to point out to the Commission that the offence of Disorderly Behaviour in a Police Station under Section 136 (b) of the Summary (Jurisdiction) Offences Act, Chapter 8:02, is punishable only with a fine of not less than \$10,000, nor more than \$20,000.
Therefore the Police were mandatorily required to release Imran Khan whether on Station bail or on his own recognisance. Release on bail of Imran Khan was mandatory and not discretionary.

FAILURE OF POLICE TO SEEK TO OBTAIN EVIDENCE TO CORROBORATE GILLARD'S ALLEGATION

1. The report on the 29th March 2017 related to an offer allegedly made in June 2015 – 21 months in the past. Not only did the report relate to an incident which, on the allegation, itself was 21 months old, but in the report itself, Gillard was alleging that only he and Nizam Khan were present. On the report itself, Gillard was saying that there was no one to corroborate his allegation.
2. The statement of Leon Baldeo (and also his evidence) is that on the 26th March 2017 (i.e 3 days before Gillard made his report) was the date when Gillard approached him with him with an offer of \$50,000 to go to the Police and falsely report that he was present when Nizam Khan offered him \$6 million to assassinate President Granger. But, to the credit of Leon Baldeo, he refused such an offer. Travis Chase also stated that it was on the 28th March 2017 when Gillard telephoned him, Gillard told him of a \$6 million not \$7 million offer. (See statement and evidence of Travis Chase). They could have been no collusion between Chase and Baldeo on the offer of \$6 million.
3. On the 26th March 2017, Gillard had not yet reported the assassination offer to the authorities. On the 26th March 2017, Stephen Persaud had not yet reported any removal of his tyres by Gillard. That report was made on the 27th (the following day).
4. Let us therefore try to find out what was going through the cunning and scheming mind of Gillard on the 26th March 2017 when he made the offer to Leon Baldeo.

5. It must be noted that Leon Baldeo had no animosity or motive to make a false allegation against Nizam Khan. Thus, if Leon Baldeo went first and made the allegation it would have been very credible. Moreover, the Police would necessarily have to go to Gillard and ask and ask him (Gillard) if what Baldeo reported was so. **All Gillard would then have to do is to confirm that this was so. A clever scheme or plot devised by a cunning and contriving mind. The original plot envisaged Leon Baldeo as the reporter and Gillard as providing corroboration to Leon Baldeo and not vice versa.** Here is the mind of of Gillard (a good planner as he described himself in this inquiry) at work.
6. But, on the 26th March 2017, Baldeo refused Gillard's offer and on the very next day (27th March 2017) before Gillard could have procured any other person to make a false report to the Police, Stephen Persaud made an allegation to Grove Police Station that Gillard had removed and taken away his three tyres.
7. Baldeo's refusal of the offer on the 26th and the report of Stephen Persaud the following day provoked a variation of the scheme or plan as a matter of urgency.
- Gillard then decided that he had to make the report himself but not to the police but to the press and the political authorities.
8. While he was attempting to induce Baldeo to falsely report to the Police, (which false report he (Gillard) would merely have been to confirm to the Police), Gillard decided as a matter of urgency to solicit the assistance of Travis Chase (media) on the night of the 28th March 2017(Chase confirms this) and to make the report to the O.P on the morning of the 29th.

9. The point is that the original plan was to let someone like Leon Baldeo who had no motive to make a false allegation to the Police. The Police would necessarily have to go to him (Gillard) for a confirmatory statement and he would simply confirm. But he had to urgently vary his plan when Baldeo refused his offer on the 26th March 2017 and Stephen Persaud on the following day (27th March 2017) reported him for Larceny of tyres. Stephen Persaud was 21 years old and Gillard felt that Nizam Khan was the strength behind Stephen Persaud and he therefore saw the need to destroy Nizam Khan. Moreover, he believed that Nizam Khan was having an affair with his wife and he had unhonoured monetary debts to Nizam Khan.
10. In Gillard's original plan, he was to corroborate Leon Baldeo and not vice versa, but things did not go according to the original plan. The report of Stephen Persaud called for an instant game change – which Gillard effected. He had to go it himself. He chose the media and the political authorities- not the Police to whom he should make the report to achieve his objective.
11. Baldeo's own distrust of Gillard when he saw on the television that Nizam Khan and Gillard were arrested and his desire to clear his name in case Gillard had falsely implicated him in any way to the Police proved to be a fortuitous blessing to Nizam Khan.
12. Baldeo's statement of Gillard's malicious scheme against Nizam Khan was supported by later statements from Lloyd Adams C/D Anthony and Luana Walker, who were associates of Gillard and not of Nizam Khan.

13. In the present state of the investigation the P.L.A would now be hard – pressed not to charge Gillard with Perjury under the C.O.I Act and not only with Giving false information to the police.
14. The investigators at C.I.D H.Q went where the investigations led them and they took no sides.
15. Not only was the grant of station bail to Nizam Khan reasonable and proper having regard to the contents of the statement taken on the 29th March 2017, but it could not and did not prejudice or compromise subsequent investigations.
16. Even if Nizam Khan was kept in custody for the maximum 72 hours, his detention would have come to an end on the 1st April 2017 when his release would have been mandatory. [Thereafter, the only thing that the Police could have done was monitor him or kept him under surveillance]. There is nothing to suggest that this was not done since Special Branch was called in on the very 29th. (Acting Commissioner Ramnarine and Nizam Khan so stated in evidence). Indeed, there is every reason to believe that Nizam Khan was kept under surveillance after being released on bail.
17. Baldeo gave his statement on the 7th April 2017 i.e 6 days after the 1st April 2017, (when Khan would have had to be released even if not granted station bail). Lloyd Adams C/D Anthony gave his statement on the 25th April 2017 and Luana Walker gave her statement on the 19th July 2017. **A 72 hour incarceration of Khan could not have prevented those persons coming forward and providing statements. None is an associate of Nizam Khan. Rather, they are all associates of Gillard.**

AUTHORITY OF COMMISSIONER OF POLICE SEELALL

PERSAUD

Article 210 (2) of the Constitution provides: “If the office of the Commissioner of Police is

Vacant or the holder thereof is unable to

Perform the functions of his or her office, a

Person may be appointed to act in that office...”

It is submitted that, since in March- April 2017 or thereafter, the office of Commissioner of Police was not vacant and Commissioner Seelall Persaud was not disabled from performing the functions of Commissioner of Police, Deputy Commissioner could not have been appointed to act in that office. The power and authority of Commissioner at all material times therefore remain vested in Seelall Persaud.

Article 228 (2) of the Constitution provides clarity. It reads:

“Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding some other person may be holding that office when that other person is on leave of absence **pending the relinquishment of that’s office**; and where two or more persons are holding the same office by reason of an

appointment made under this paragraph, then for the purposes of function conferred upon the holder of that office, the last person appointed shall be deemed to be the sole holder thereof.”

Since Commissioner Seelall Persaud **was not on leave of absence pending relinquishment of the office of Commissioner**, Deputy Commissioner David Ramnarine could not have been appointed under Article 228 (2) to the office of Commissioner of Police. Therefore, he was never Commissioner of Police while Seelall Persaud was on annual or vacation leave and the power and authority of Commissioner remained vested in Seelall Persaud at all material times.

It would have been different if Commissioner Seelall Persaud was on pre-retirement leave. In such a case, Deputy Commissioner could have been appointed to be or to act as Commissioner. Seelall Persaud was never on pre-retirement leave.

It therefore follows that, at all material times, Commissioner Seelall Persaud, even though on annual or vacation leave, had the administrative power and authority to instruct the grant of station bail to Nizam Khan and / or Imran Khan and/or Andriff Gillard. But, did he so instruct? Even if he did, there was more than sufficient factual basis for him to exercise his administrative discretionary power to instruct the grant of station bail.

TREASON

Much has been mentioned as to whether the report of Gillard was, in effect, report of Treason.

If the report were one of Treason then Gillard by his own belated report was in effect reporting on himself of the offence of Misprision of Treason (Section 316 of the Criminal Law Offences Act, Chapter 8:01)

Section 316 reads:

“Everyone who within Guyana knows of any treason, and also does not forthwith reveal it to the President, a minister or a magistrate or Justice of the peace shall be guilty of misprision of treason and on conviction thereof shall be liable to imprisonment for five years.”

Clearly Gillard was exposing himself to a charge of Misprision of Treason when he made the belated report.

But the Police did not see it fit to detain Gillard for this offence. Why? The answer is obvious. If Gillard’s report lacked credibility, then there was no treason and therefore there was no basis for detaining Gillard for Misprision of Treason. If the Police took the view that his story lacked credibility, it was right and proper that both he and Nizam Khan be released.

If the Police did not take the view that Gillard’s report realistically exposed Gillard himself to the offence of Misprision of Treason, then the Police could not take the view that it realistically exposed Nizam Khan to Treason. The decision to send both on bail was not only reasonable but also correct.

OATH

Gillard has committed a fundamental fraud on this commission before its very eyes.

Gillard is a convert to Islam for years now. He is proudly and unashamedly Muslim and subscribes to the Muslim tenet that that there is no God but Allah. He is bringing up his young son in the Muslim faith. The holy book for Muslims is the Quran and not the Bible. But he twice took the oath on the Bible not the Quran.

At the time he took the Oath, it was the Quran and not the Bible that was binding on his conscience. He therefore deliberately elected to take an oath on a Holy Book which was not binding on his conscience.

No one can testify before the courts or a C.O.I without taking an oath or making an affirmation. (See Section 10 of the C.O.I Act, Cap 19:03). Gillard in effect has done neither. He took no oath which was binding on his conscience nor did he affirm. Therefore, he made statements before this C.O.I which were not testimony and therefore before the C.O.I has no evidential value. It is irrelevant whether or not he is prepared to undergo a polygraph test. In a court of law or a C.O.I, it is the sanctity of the oath or affirmation which is relevant to truth not polygraph tests. A polygraph test relates to truth in out-of-court investigations and not in courts or a C.O.I. This is precisely why both the Evidence Act and the C.O.I Act both require the taking of an oath or affirmation as a pre-requisite for testifying.

Gillard falsely swore on the Bible which did not bind his conscience and did not affirm. What he stated before this this tribunal is therefore of no evidential value. He has committed a fraud on this Commission. His falsities know no bounds

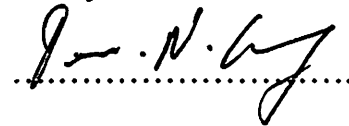
or limits. Gillard is indeed a true descendant of the Biblical Ananias – a con artist of no mean order – a good schemer rather than a good planner (as he proudly described himself in this inquiry).

CONCLUSION

The Major Crime Unit of the G.P.F should be complimented for uncovering the falsity of Gillard's mischievous allegations rather than being castigated for any investigative cover-up. Their investigations were done with all due diligence and uncovered rather than covered-up. Whatever minor omissions or infractions that might have occurred during the investigations did not and cannot impact on the results of the investigations. Truth was unearthed at the expense of falsity and truth is the foundation of justice.

Gillard's propensity to make wild, irrelevant and scurrilous allegations against members of the G.P.F (particularly members of the C.I.D) could not have escaped the attention of this Commission.

Submitted on behalf of the Guyana Police Force.

A handwritten signature in black ink, appearing to read 'I. N. Chang', written over a dotted line.

Ian N. Chang S.C

Counsel for the G.P.F

Dated this ^{18th} day of August 2017.