

CASE NO :49/2019

**IN THE MATTER OF THE COMMISSION ON HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE ACT, 1993 (ACT 456)**

AND

**IN THE MATTER OF A COMPLAINT OF CONTRAVENTION OF
PROVISIONS OF CHAPTER 24 OF THE 1992 CONSTITUTION AND
CAUSING FINANCIAL LOSS TO THE STATE**

BETWEEN

ARNOLD AGBODOCOMPLAINANT

AND

PROF. FRIMPONG BOATENG.....RESPONDENT



1.0 INTRODUCTION

On 5 February 2019, the Complainant lodged in this Commission a complaint entitled **PETITION AGAINST PROF.FRIMPONG BOATENG ON ISSUES OF CAUSING FINANCIAL LOSS TO THE STATE AND CONFLICT OF INTEREST.**

Prof. Frimpong Boateng (the Respondent herein) was at all times material to these allegations, the Minister for Science, Technology, Environment and Innovation (MSTEI) and Chairman of the Joint Inter-Ministerial Committee on Illegal Mining (JIMCIM). This Committee, as the name suggests, was set up by the government of Ghana to clamp down on illegal mining also known as “galamsey”, a practice that is causing havoc to the country’s water resources and lands. In the course of investigations into this matter, the Committee was dissolved by His Excellency, the President.

The Complainant did not pray for any specific relief apart from the omnibus relief directed at the Commission “to investigate these allegations in line with” its “mandate under the 1992 Constitution and take the necessary action to bring this issue to a logical conclusion.”

2.0 PARTICULARS OF COMPLAINT/ALLEGATIONS

The plaint of the Complainant is contained in eighteen (18) distinct and separate paragraphs of his letter to the Commission dated 4 February 2019 which has been set out in extenso as follows:

4 February 2019

**The Commissioner
Commission on Human Rights and Administrative Justice
Accra**

Dear Madam,



PETITION AGAINST PROF. FRIMPONG BOATENG ON ISSUES OF CAUSING FINANCIAL LOSS TO THE STATE AND CONFLICT OF INTEREST

1.The petitioner is a citizen of Ghana and brings this petition under Chapter 18 of the 1992 Constitution of Ghana.

2. Professor Frimpong-Boateng, is the current Minister of Science, Technology, Environment and Innovation and also doubles as the Chairman of the Joint Inter-Ministerial Committee on illegal mining.

3.Symphony Limited is a limited liability Company incorporated in February 1990, with an authorized business of General Merchants, Trading as Importers and Exporters of General Goods, Manufacturers Representative and Farming. Annexed and marked as Exhibit 1 are the registration documents of the said company.

4.Prof Frimpong Boateng and his wife Agnes Frimpong-Boateng were the first subscribers to the shares of the company with 60,000 and 40,000 shares respectively.

5.Prof Frimpong -Boateng and his wife Agnes Frimpong-Boateng were also the first Directors of the company.

6. Sometime in January 2014, Prof. Frimpong-Boateng transferred 60,000 shares representing 30% of the shareholding of the company to one Yaw Badu and Agnes Frimpong-Boateng also transferred 40,000 shares to the said Yaw Badu representing 20% of the shareholding of the company, thereby making Yaw Badu the majority shareholder in the company. Annexed and marked as Exhibits 2 and 3 respectively are the said deed of assignment of shares.

7. Contrary to the objects of Symphony Limited as stated above, the company was granted 5 prospecting licenses in the Gyapekrom areas; namely Nwenem, Asiri, Gyapekrom, Baabiareneha and Adomesu.



8. By a letter dated 20 November 2014, Prof Frimpong-Boateng in his capacity as Director of Symphony Limited wrote to notify the Minerals Commission that Symphony Limited was shedding three of its five concessions and intended to maintain only Baabiareneha and Adomesu. Annexed and marked as Exhibit 4 is a copy of the said letter.

9. Even though Symphony Limited has indicated above that it was no longer interested in 3 mining concessions; namely Nwenem, Asiri and Gyapekrom, these areas are still being held in the name of Symphony contrary to the rules governing the grant and holding of concessions in Ghana. Annexed and marked as Exhibits 5 and 6 are minerals cadastral maps indicating his companies(sic) continuance(sic) ownership of the said concessions.

10. The said three concessions which have not been released to other applicants but are being held for Symphony Limited is causing the State about \$250,000 annually which is the estimated annual mineral right fees which would have accrued to the State.

11. Further symphony Limited has persistently failed or refused to pay the state the statutory mineral fee for the concessions it holds notwithstanding several demands made on it to do so. Annexed and marked as Exhibits 7 and 8 are demand notices for the payment of the said mineral's rights fees by Minerals Commission.

12. Notwithstanding the above the said concessions are still being held by the Minerals Commission for Symphony Limited.

13. The only logical reason why those concessions are still being held for Symphony Limited is because Prof. Frimpong-Boateng is a Minister of State and heads a Ministry which works hand in hand with the Ministry of Lands and Natural Resources through the Environmental Protection Agency.



14. Again, Prof. Frimpong-Boateng has placed himself in a conflict-of-interest situation as a result of his interest in Symphony Limited. Apart from the licenses giving (sic) by the Ministry of Lands and Natural Resources, every mining company is required to have an Environmental Permit for Mineral Exploration. This permit is granted by the Environmental Protection Agency which is directly under the Ministry of Science, Technology, Environment and Innovation. Clearly there is a conflict of interest as Prof. Frimpong-Boateng will ultimately be issuing the Environmental Permit for Mineral Exploration to his own company.

15. Prof. Frimpong-Boateng is still in control of Symphony Limited even though he and his wife purported to transfer some of their shares in the company and also resigned as Directors on 10 January 2014, Prof. Frimpong-Boateng by exhibit 4 which is a letter dated on 20 November 2014 wrote a letter to the Minerals Commission in which he signed as a director of Symphony Limited.

16. Furthermore, Professor Frimpong -Boateng being the Chairman of the Joint Inter-Ministerial Committee on illegal mining has placed himself in a position of conflict of interest when he as a chairman of the said committee which is to regulate the activities of illegal mining is a shareholder and a director of a company that holds 2 Mining Concessions. Again because of his interest in the concessions, there is no record available to indicate that the task force under the control of the committee he chairs ever visited any of his concessions to ascertain the mining activities going on there.

17. As a constitutional investigative body, we also request you find out from the Auditor-General whether Prof. Frimpong-Boateng declared his interest in Symphony Limited as part of the requirement of assets declaration under the laws of Ghana.



18.I pray your office to investigate these allegations in line with your mandate under the 1992 Constitution and take the necessary action to bring to this issue to a logical conclusion.

SIGNED

ARNOLD AGBODO

**#A582/14
SAMCHESIA STREET
DANSOMAN
ACCRA**

The Complainant exhibited the following documents to his complaint:

- i. Copy of Regulations of Symphony Limited dated 13 February 1990,
- ii. Copy of Returns of Particulars of the Company under section 27(1) of the Companies Code on Incorporation,
- iii. Copy of Notification of Change of Directors or Secretary on in their Particulars of Symphony Ltd dated 22 November 2013,
- iv. Copy of Deed of Transfer of shares by Respondent to Yaw Badu dated 10 January 2014 ,
- v. Copy of Deed of Transfer of shares by Agnes Frimpong Boateng to Yaw Badu dated 10 January 2014,
- vi. Copy of letter with the heading: **APPLICATION TO TAKE TWO OF THE FIVE CONCESSION LOTS** dated 20 November 2014
- vii. Copy of letter from Minerals Commission with the heading **PAYMENT OF ANNUAL MINERAL RIGHT FEE BAABIARANEHA PROSPECTING LICENCE, BA/R** dated 24 October 2017 and addressed to the Managing Director, Symphony Limited,
- viii. Copy of letter from Minerals Commission addressed to the Managing Director, Symphony Limited with the heading **PAYMENT OF**



**MINERAL RIGHT FEE, ADOMESU PROSPECTING LICENSE,
BA/R dated 19 October 2017.**

The Complainant marked these documents respectively as Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7 and Exhibit 8.

3.0 COMMENTS OF RESPONDENT

The allegations in Complainant's letter were reproduced in substance by the Commission in its letter Ref. No. CHRAJ 49/2019/83 of 13 March 2019 requesting for comments from the Respondent.

In order to appreciate the nature and effect of the ensuing comments of the Respondent, we have found it necessary to reproduce the particulars of the complaint as specified by the Commission in its letter supra as follows:

- i. Prof. Frimpong Boateng (the Respondent) is a stakeholder and a Director of Symphony Limited, a company incorporated in February 1990 with authorized business of General Merchants, Trading as Importers and Exporters of General goods, manufactures Representative and Farming**
- ii. Prof. Boateng and his wife (Agnes Frimpong-Boateng) were the first directors and first subscribers of the shares of the company with 60,000 and 40,000 shares respectively.**
- iii. Prof. Boateng transferred 60,000 shares representing 30% of the shareholding of the company sometime in January 2014 to Yaw Badu whilst Agnes Frimpong-Boateng also transferred 40,000 shares representing 20% to the same Yaw Badu thereby making Yaw Badu the majority shareholder in the company;**



- iv. **The Company was granted 5 prospecting licenses in Gyapekrom areas: Nwenem, Asiri, Gyapekrom, Baabiareneha and Adomesu contrary to the objects of the company;**
- v. **Prof. Boateng on 20 November 2014 wrote a letter notifying the Minerals Commission in his capacity as Director of the Company that the company was shedding three of its five Concessions and that it intended to maintain only the concessions in Baabiareneha and Adomesu. This notification notwithstanding, the Company still holds on to all five concessions;**
- vi. **The Company has failed over the years to pay statutory minerals fees (Annual Mineral Right Fees) in respect of the concessions despite several reminders to him as Director of the Company.**

The Environmental Protection Agency (EPA) granted the company a permit for mineral exploration (Permit No.EPA/PR/PN/969) on 14th April 2016, to expire on 18 April 2018. By the permit, “the type of activity permitted” is “Prospecting”

- vii. **The Respondent is still in control of the Company, Symphony Limited**
- viii. **The Respondent, the Chairman of the Inter-Ministerial Committee on Illegal Mining has put himself in a conflict-of-interest position when he as a chairman is to regulate the activities of illegal mining, is a shareholder and a director of the company that holds two mining concessions. Because of his interest in the concessions, there is no available record to indicate that the task force under the control of the Committee he chairs visited any of his concessions to ascertain the mining activities going on there, and**
- ix. **In addition, a request is made to the Commission to find out if the Respondent has declared his assets as required by law.**



The Complainant concludes that:

- i. The respondent has put himself in a conflict-of-interest position as a result of being a director of Symphony Limited, he transacts business related to mining on behalf of the Company when he at the same time, superintends over the regulatory agencies that issues permits related to mining.**
- ii. The respondent has put himself in a conflict of interest position as a result of being a Director of Symphony limited, he transacts business related to mining on behalf of the Company when he at the same time chairs the Inter-Ministerial Committee on illegal mining (the Committee) set up by government to check mining activities and the Committee failed/refused to check the respondent's company activities, and**
- iii. The respondent has abused his position both as Minister and as Chair of the Committee.**

The request for comments was made in accordance with article 287 of the 1992 Constitution as well as section 14(1) of the **Commission on Human Rights and Administrative Justice Act 1993 (Act 456)** which provide as follows:

Article 287(1) provides thus:

Complaints of contravention

287 (1) An allegation that a public officer has contravened or has not complied with a provision of this Chapter shall be made to the Commissioner for Human Rights and Administrative Justice and, in the case of the Commissioner of Human Rights and Administrative Justice, to the Chief Justice who shall, unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.



Section 14(1) of Act 456 provides as follows:

14. Procedure in respect of investigations

(1) Where the Commission decides to conduct an investigation under this Act, it shall give the authority or person concerned and to any other person who is alleged in the complaint to have taken or authorized the act or omission complained of an opportunity to comment on the allegations contained in the complaint

In a two (2) paged letter dated 22 March 2019, Solicitors of the Respondent, M.A.F Ribeiro & Associates admitted some of the allegations but in the main vehemently denied the allegations of conflict of interest and causing financial loss to the state brought against the Respondent.

We have decided to quote in extenso the letter from the said Solicitors as follows:

“Dear Sir,

ALLEGATION OF CAUSING FINANCIAL LOSS TO THE STATE AND CONFLICT OF INTEREST

PROFESSOR KWABENA FRIMPONG-BOATENG the MINISTER OF ENVIRONMENT SCIENCE TECHNOLOGY and INNOVATION responds to the complaints made against him as follows:

Complaint:

- (i) Is admitted**
- (ii) Is admitted**
- (iii) Is admitted**
- (iv) Is admitted**
- (v) Save that Professor Kwabena Frimpong-Boateng on 20th day of December, 2014, wrote a letter notifying the Minerals Commission in his capacity as a Director of the Company that the Company was shedding three of its five concessions and that it intended to**



maintain only the concession in Baabiaraneha and Adomesu, complaint v is denied

- (vi) The Complaint v is denied. The Company has not been able to get into the concession to do prospecting because of problems the company has encountered with the people in the areas some of whom have pelted the Company's workers with stones and prevented them from going into the concessions.**
- (vii) is admitted but the company has not been able to do prospecting due to problems encountered by the company from the people in the areas.**
- (viii) Is vehemently denied**
- (ix) The respondent vehemently denies the said complaint**
- (x) The respondent has declared his assets.**

The respondent vehemently denies I, ii, and iii the conclusion by the petitioner.

DATED IN ACCRA THIS 21ST DAY OF MARCH 2019

Yours faithfully,

Signed

(Lawyer for Respondent)

PROFESSOR KWABENA FRIMPONG-BOATENG”

In essence, the Respondent admitted that he is a stakeholder and Director of Symphony Limited, a company incorporated in February 1990 with authorized business of general merchandise, trading as importers and exporters of General goods, Manufacturers' representative and farming. He also admitted that he and his wife Agnes Frimpong-Boateng were the first directors and first subscribers of the shares of the company with 60,000 and 40,000 shares respectively and that sometime in January 2014, he, the Respondent transferred 60,000 shares representing 30% of the shareholding of the company to one Yaw Badu whilst his wife, Agnes Frimpong-Boateng also transferred 40,000 shares to the said Yaw Badu representing 20% of the shareholding of the company, thereby making Yaw Badu the majority shareholder in the company. He also admitted that Symphony limited was granted



five (5) prospecting licenses in Gyapekrom area: Nwenem,Asiri, Gyapekrom, Baabiaraneha and Adomesu contrary to the object of the object of the company.

Despite this last admission, the current Chief Executive Officer of Symphony Limited, Jojo Frimpong on the 12 February 2021, provided the Commission with a Certified True Copy of a Special Resolution registered pursuant to section 176 of the Companies Code, 1963 from the Register of Companies which indicated that on the 24 March 2009, Symphony Limited at a General Meeting resolved **“THAT THE REGULATION(2) HAS BEEN AMENDED TO INCLUDE: MINING OF MINERALS, GOLD AND DIAMOND WITH EFFECT FROM 26 MARCH 2009”**. The Resolution was filed at the Registrar of Companies on 27 March 2009. It thus appears that as of 2019 when the instant complaint was lodged by the Complainant, the objects of the Respondent’s company included mining of gold and therefore the licenses that were granted to Symphony Limited were not contrary to its stated objects. The pleadings by the Solicitors of the Respondent which indicated otherwise could therefore be said to have been in error.

The Respondent nonetheless denied that Symphony Limited is still holding on to all the five (5) concessions but conceded that he, in his capacity as Director of the Company had written to notify the Minerals Commission that the company was shedding off three (3) of its concessions and maintaining its concession in Baabiaraneha and Adomesu.

The Respondent whilst denying that Symphony Limited has failed to pay its statutory minerals fees indicated that the company has not been able to undertake any prospecting because of resistance from the people in the area. The Respondent admitted that the Environmental Protection Agency granted the company a permit for mineral exploration but reiterated the inability of the Company to do prospecting due to problems encountered by it from the people in the area.

The Respondent denies that he is still in control of the company. He also denies all the allegations of conflict of interest made against him. Respondent asserted that he has declared his assets.



4.0 MANDATE

The Commission is mandated under article 218(a) and Chapter 24 (Articles 284 to 288) of the 1992 Constitution to investigate inter alia allegations of corruption, abuse of power/office and conflict of interest involving public officers. These articles provide as follows:

Article 218(a):

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

Articles 284 and 287 provide as follows:

Conflict of Interest

284.A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.

Complaints of Contravention

287 (1) An allegation that a public officer has contravened or has not complied with a provision of this Chapter shall be made to the Commissioner for Human Rights and Administrative Justice and, in the case of the Commissioner of Human Rights and Administrative Justice, to the Chief Justice who shall, unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.



(2) The Commissioner of Human Rights and Administrative Justice or the Chief Justice as the case may be, may take such action as he considers appropriate in respect of the results of the investigation or the admission.

The position of the law regarding the appropriate forum to seek redress on complaints involving breaches of the Code of Conduct for Public Officers (including conflict of interest) under Chapter 24 of 1992 Constitution has been enunciated in the case of **OKUDZETO ABLAKWA (NO.2) V ATTORNEY-GENERAL & OBETSEBI-LAMPTEY (NO.2) (2012) 2 SCGLR 846 (the Okudzeto Ablakwa Case)**, where the court held that:

The issue of conflict of interest raised here can easily be resolved by recourse to Article 287 of the 1992 Constitution. Article 287 mandates that complaints under Chapter 24 of the 1992 Constitution are to be investigated exclusively by the Commission for Human Rights and Administrative Justice... Since specific remedy has been provided for investigating complaints of conflict of interest, the plaintiffs were clearly in the wrong forum when they applied to this court to investigate complaints relating to conflict of interest involving those public officers.

The procedure for invoking the investigative machinery of the Commission under article 218(a) and Chapter 24 of the 1992 Constitution has been enunciated in the case of **Republic v High Court (Fast Track Division) Ex parte, Commission on Human Rights and Administrative Justice (Interested Party, Richard Anane) [2007-2008] SCGLR 213**. In this case, the Supreme Court held that there must be a complaint lodged by an identifiable Complainant, be it an individual or body of persons or even bodies corporate before the Commission's investigative mandate can be properly invoked. A complaint does not exist in a vacuum; it must be traceable to a source, in a person or persons. The identifiable Complainant, who need not be the victim, must file a complaint, which might be in writing or given orally to a representative in the region or the district.



The mandate of the Commission has been restated under section 7(1)(a) and (e) of the Commission on Human Rights and Administrative Justice Act,1993 (Act 456) as follows:

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 any person by a public officer in the exercise of his official duties...

(e) to investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution

It is the Complainant's allegation that during the service of the Respondent as a Minister of State, a position which is undoubtedly a public office, he put himself in a position where his personal interests conflicted with the performance of his duties and that he failed or refused to pay Annual Mineral rights fees to the Minerals Commission. To wit, the Respondent being a public officer qua former Minister for Science, Technology, Environment and Innovation, put himself in a conflict of interest situation by having an interest in Symphony Limited, a company whose Environmental Protection Permit for Mineral Exploration was granted by the Environmental Protection Agency, an agency which is directly under the Ministry of Science, Technology, Environment and Innovation; and secondly, that the Respondent being the Chairman of the Inter-Ministerial Committee on Illegal Mining committee which regulates activities of illegal mining and at the same time being a shareholder and director of a company that holds mining concessions has put himself in a conflict of interest situation.



As already indicated, it is incontrovertible that at the time of the complaint the Respondent was a public officer. The Commission therefore does not see the need to establish who a public officer is. Suffice it to state that in the case of **Dr Dominic Akuritinga Ayine v The Attorney-General (J1 5 of 2018) [2020] GHASC 21**, the Supreme Court defined a “public officer” as follows:

Reading the Constitution as a whole, we are convinced that the framers contemplated a situation where all persons appointed to serve the nation in one capacity or the other and paid out of public funds charged on the consolidated fund are deemed to be public officers holding public office. Some of these public office holders are engaged in various work within the public services while others function as administrative, political or legal office holders.

From the foregoing, a public officer can be defined as a person appointed to serve the nation in one capacity or the other and is paid out of funds charged on the consolidated fund or directly out of moneys provided by Parliament. The Respondent was appointed by the President as a Minister of State pursuant to Article 78(1) of the 1992 Constitution which provides that:

78.(1) Ministers of State shall be appointed by the President with the prior approval of Parliament from among members of Parliament or persons qualified to be elected as members of Parliament, except that the majority of Ministers of State shall be appointed from among members of Parliament.

It is therefore clear that the Respondent was a public officer at the time of the complaint and as such, to the extent that the allegations in the complaint were made by an identifiable person (Mr. Arnold Agbodo) to the Commission as provided under Article 287 of the 1992 Constitution, and to the extent that the allegations contained therein are in relation to a public officer, the Commission is satisfied that its mandate has been properly invoked.

Another leg of the complaint is that the Respondent has caused financial loss to the state owing to his company’s refusal or failure to pay up statutory Annual Mineral



Right fees for all five concessions held by the Company. The failure to pay the said fees is because the said concessions are being held by the Minerals Commission for Symphony and the alleged justification for the Minerals Commission's action is because the Respondent is a Minister of State. The logical inference being that the non-payment of annual mineral fees lies at the feet of the Respondent.

The Commission finds it necessary to state that it does not have the mandate to investigate a matter bordering on causing financial loss to the State. Such matters are strictly criminal in nature provided under section 179A of the Criminal Offences Act, 1960 (Act 29) and outside the remit of the Commission's mandate.

Section 179A of the Criminal Offences Act, 1960 provides as follows:

Section 179A—Causing Loss, Damage or Injury to Property.

(1) Any person who by a wilful act or omission causes loss, damage or injury to the property of any public body or any agency of the State commits an offence.

(2) Any person who in the course of any transaction or business with a public body or any agency of the State intentionally causes damage or loss whether economic or otherwise to the body or agency commits an offence.

(3) Any person through whose wilful, malicious or fraudulent action or omission—

(a) the State incurs a financial loss; or

(b) the security of the State is endangered, commits an offence.

It is trite law that the mandate to investigate and handle criminal offences under Act 29 inheres in the Attorney-General.

The offence of causing financial loss to the state, a crime, is prosecutable by the Attorney-General and Minister for Justice. However, since the Complainant has tied



the alleged nonpayment of mineral fees to the Respondent, the allegation raises substantially issues bordering on corruption and abuse of power.

The National Anti-Corruption Action Plan (NACAP) adopted the definition of corruption by the Transparency International which states that “corruption” is the “misuse of entrusted power for private gain”.

The World Bank defines corruption “**an abuse of public office for private gain**”. “Abuse of power” on the other hand simply refers to **the misuse of a position of power to take unjust advantage of individuals, organizations, or governments**. The question therefore is whether the Respondent abused his power for private gain relative to the non-payment of Annual Mineral Fees by Symphony Limited.

Per Article 218(a) of the 1992 Constitution and section 7(1)(a) of Act 456 quoted supra, the Commission has the mandate to inter alia, investigate complaints of corruption and abuse of power by a public officer in the exercise of his official duties. Therefore, the Commission is convinced that its mandate has been properly invoked.

5.0 ISSUES FOR DETERMINATION

The issues for determination are as follows:

1. Whether the grant of prospecting Licenses to Symphony Limited in the Gyapekrom areas namely Nwenem, Asiri, Gyapekrom, Baabiareneha and Adomesu if any, is contrary to the stated objects of the Company.
2. Whether the Respondent’s company is holding onto all five (5) mining concessions despite indicating that it is no longer interested in three mining concessions of Nwenem, Asiri and Gyapekrom.
3. Whether the Respondent engaged in corruption or abuse of power by having his company i.e Symphony limited, hold on to the five (5) mining



- concessions despite the company's failure or refusal to pay to the state the necessary annual mineral right fees.
4. Whether the Respondent has caused financial loss to the state owing to his company's refusal or failure to pay up statutory Annual Mineral Right fees.
 5. Whether the Respondent put himself in a conflict-of-interest situation when the Environmental Protection Agency granted to his Company a Permit for Mineral Exploration.
 6. Whether the Respondent put himself in a conflict-of-interest position whilst he was the Chairman of the Inter-Ministerial Committee on Illegal Mining (which regulates activities of illegal mining) and at the same time a shareholder and director of a company that holds two(2) Mining Concessions.
 7. Whether the Respondent has declared his interest in Symphony Ltd in his assets declaration form in accordance with law.

6.0 INVESTIGATIONS

Pursuant to Article 219 (1)(c) and (d) of the 1992 Constitution as well as Section 8(1)(c) and (d) and 15(1)(a) and (b) of Act 456, the Commission obtained and reviewed documents during investigations. It also conducted interviews on key stakeholders including the Complainant and Respondent. These provisions provide as follows:

Article 219(1)(c) and (d)-

219.Special Powers of Investigation



(1) The powers of the Commission shall be defined by Act of Parliament and shall include the power-

(c) to question any person in respect of any subject matter under investigation before the Commission.

(d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.

Section 8(1)(c) and(d) of Act 456-

8. Special powers of investigation

By virtue of article 219 of the Constitution, the Commission may, for the purposes of performing its functions under this Act,

(c) question a person in respect of a subject matter under investigation before the Commission.

(d) require a person to disclose truthfully and frankly an information within the knowledge of that person relevant to an investigation by the Commission.

Section 15(1)(a)(b) of Act 456-

15. Evidence at investigations

(1) Subject to this section the Commission may require a person who is able to give an information relating to a matter being investigated by the Commission

2(a) to furnish the information to it, or

(b) to produce a document, paper or thing that relates to the matter being investigated and which may be in the possession or control of that person.



Information via correspondence was obtained from the following institutions:

- i. Environmental Protection Agency
- i. The Registrar General (now Office of the Registrar of Companies)
- ii. Minerals Commission
- iii. Ghana Audit Service
- iv. Symphony Limited.

The Commission also undertook field investigations at Drobo in the Jaman South Municipality of the Bono Region on the 27 October 2020. The Commission interviewed eighteen (18) persons either individually or through focus group discussions, inspected two (2) official files of the Jaman South Municipality on small scale mining and procured photocopies of some documents.

6.1 SUMMARY OF EVIDENCE

Below is a summary of the evidence gathered from the various institutions and bodies contacted during the investigations.

1. MINERALS COMMISSION

The Minerals Commission per letter dated 23 June 2020 in response to the Commission's request for information to assist in the investigations indicated as follows:

- 1. The Minerals Commission has records of the Adomesu, Asiri, Baabiaraneha, Gyapekrom and Nwenem concessions.**
- 2. According to the records at the Minerals Commission, the Baabiareneha and Adomesu concessions are held by Symphony Limited.**
- 3. According to the records at the Minerals Commission, Symphony Limited applied for prospecting licenses for the Asiri, Gyapekrom and Nwenem concessions but failed to follow through and eventually gave up on them on 20 November 2014.**



4. According to Records at the Minerals Commission, the Directors/Shareholders of Symphony Limited at the time of the application for mineral rights were as follows:
 - a. Dr.Kwabena Frimpong-Boateng - 60%
 - b. Agnes Frimpong-Boateng - 40%
5. The concessions were granted on the following dates:
 - a. Baabiaraneha Prospecting License-23rd March,2016 for two-year period.
 - b. Adomesu Prospecting License-23rd March,2016 for two-year period.
 - c. Asiri,Gyapekrom and Nwenem concessions had no licenses issued over them until the company gave up on them.
6. Symphony Limited first held a reconnaissance licence over a total area of 1,036.44km² in Gyapekrom. The Company applied to convert the reconnaissance licence to five (5) prospecting licenses over Asiri, Adomesu, Nwenem, Gyapekrom and Baabiaraneha concessions on 14th January,2014.
7. Prospecting licences were duly issued over the Baabiaraneha and Adomesu concessions on 23rd March 2016 after the company had paid the appropriate processing fee and annual Mineral Right fees for the two concessions.
8. The Minerals Commission served demand notices on Symphony Limited for payment of Annual Mineral Right fees as follows:
 - i. Asiri: 14 February 2014
 - ii. Gyapekrom: 8 August 2011 and 14 February 2014
 - iii. Baabiaraneha: 14 February 2014 and 24 October 2017
 - iv. Adomesu: 14 February 2014 and 19 October 2017
 - v. Nwenem: 14 February 2014
9. Symphony Limited in a letter dated 26 October 2017 requested the Commission to waive or give it more time to settle the outstanding annual mineral right fees in respect of the Adomesu and Baabiaraneha concessions.



10. The company wrote a letter dated 20th November 2014 to the Minerals Commission to discontinue its interest in the Nwenem, Asiri and Gyapekrom concessions.

11. By a letter dated 15th April 2015, the Minerals Commission accepted the Company's decision to discontinue its interest in the three (3) concessions (Nwenem, Asiri and Gyapekrom).

12. Symphony limited has made payments for some of the mineral right fees issued to the company. Please find details below

COMPANY	LOCATION	MINERAL RIGHT FEE	DATES ISSUED	REMARKS
SYMPHONY LTD	ASIRI	GHS 42,840	14 TH FEBRUARY 2014	NO EVIDENCE OF PAYMENT
SYMPHONY LTD	GYAPEKROM	GHS 500	8 TH FEBRUARY 2014	PAID ON 10 TH AUGUST 2011
SYMPHONY LTD	GYAPEKROM	GHS 59,014	14 TH FEBRUARY 2014	NO EVIDENCE OF PAYMENT
SYMPHONY LTD	BAABIRANEH A	GHS 59,092	14 TH FEBRUARY 2014	PAID ON 21 ST JANUARY 2016
SYMPHONY LTD	BAABIRANEH A	US\$23,968	24 TH OCTOBER 2017	NO EVIDENCE OF PAYMENT

SYMPHONY LTD	ADOMESU	GHS 44,707	14TH FEBRUARY 2014	PAID ON 21ST JANUARY 2016
SYMPHONY LTD	ADOMESU	US\$18,048	19TH OCTOBER 2017	NO EVIDENCE OF PAYMENT
SYMPHONY LTD	NWENEM	GHS 54,893	14TH FEBRUARY 2014	NO EVIDENCE OF PAYMENT

13. Indebtedness of Symphony Ltd to the minerals Commission in respect of Adomesu Prospecting License.

NAME OF COMPANY	LOCATION	YEAR	SIZE (KM²)	NO. OF BLOCKS	FEE PER BLOCK (US\$)	ANNUAL MINERAL RIGHTS FEE (US\$)
SYMPHONY LIMITED	ADOMESU	2017	118.44k m²	564	32	18,048
SYMPHONY LIMITED	ADOMESU	2018	118.44k m²	564	32	18,048
SYMPHONY LIMITED	ADOMESU	2019	118.44k m²	564	32	18,048



SYMPHONY LIMITED	ADOMES U	2020	118.44k m²	564	50	28,200
TOTAL						US\$ 82,344

14. Indebtedness of Symphony Ltd to the minerals Commission in respect of Baabiaraneha Prospecting License

NAME OF COMPANY	LOCATION	YEAR	SIZE (KM²)	NO.OF BLOCKS	FEE PER BLOCK (US\$)	ANNUAL MINERAL RIGHTS FEE (US\$)
SYMPHONY LIMITED	BAABIAN EHA	2017	157.29k m²	749	32	23,968
SYMPHONY LIMITED	BAABIAN EHA	2018	157.29k m²	749	32	23,968
SYMPHONY LIMITED	BAABIAN EHA	2019	157.29k m²	749	32	23,968
SYMPHONY LIMITED	BAABIAN EHA	2020	157.29k m²	749	50	23,968
TOTAL						US\$ 109,354

15. Symphony Limited in a letter dated 26th October, 2017 requested the Commission to waive or give it more time to settle the outstanding annual

mineral right fees in respect of the Adomesu and Baabiaraneha concessions.

16.Symphony Limited has reported to the minerals Commission about the persistent community conflicts which have prevented it from carrying out its prospecting operations on the Adomesu and Baabiaraneha concessions.

17.By a letter dated 22nd November,2019 to the Minerals Commission, the Company indicated its intention to renew the Adomesu and Baabiaraneha prospecting licenses.

We have marked this letter as Exhibit A

2. REGISTRAR-GENERAL'S DEPARTMENT

The Registrar-General's Department per letter to the Commission Ref.No.RGG.1 VOL.13 of 7 September 2020 indicated as follows:

We refer to your letter dated on the 1st day of September 2020 in respect of the above subject matter and wish to hereby furnish you with the required information from the Rgd Pro and E-Register Database.

That, the above company is legally registered under the Companies Act,1963(Act 179) under the laws of Ghana now Act 992.

INFORMATION FROM OUR RECORDS REVEALED AS FOLLOWS:

That the above Company is registered under our old RGD Pro Electronic System.



Information from our data revealed that the company has not complied with the Registrar-General's Directives on the update and Re-registration of companies in our new E-Registrar

This would have helped the Department furnish your reputable outfit with the information requested.

We are currently digitizing our physical files which is an on going project. As a result of that the Department may require some time to enable us furnish your reputable outfit with the necessary manual information.

This letter is marked as Exhibit B

3. ENVIRONMENTAL PROTECTION AGENCY

The Environmental Protection Agency per letter Ref. No. 4568/14 dated 12 August 2020 in response to the Commission's request for information indicated in as follows:

- 1. The Agency wish to indicate that Symphony limited registered with the Agency by completing form ME 1 on 23rd September 2011 requesting for an Environmental Permit after it acquired a Reconnaissance licence from Minerals Commission for a land of 1036.44km² in size.**
- 2. After our review the company was issued with an Environmental Permit to undertake reconnaissance on its Gyapekrom concession in the Jaman North and South Districts of the Brong Ahafo Region for one year (i.e 25th September 2012 to 24th September 2013)**



3. **Then in the year 2016, the Reconnaissance Licence was converted into a Prospecting Licence reducing the land size to 157.29km² which we renewed for two years (i.e 11th April 2016 to 10th April 2018).**
4. **Also their Adomesu concession was issued an Environmental Permit on 19th April 2016 which expired on 18th April 2018.**

We have marked this letter as Exhibit C.

4.GHANA AUDIT SERVICE

The Audit Service per letter Ref.AG/02/24/21 of 21 June 2021 forwarded the Completed Assets and Liabilities Declaration Form in respect of the Respondent to the Commission. The Form has the following information:

The Surname and name of the Respondent as Frimpong-Boateng, Kwabena respectively; Date of Birth, 04-10-49; present appointment, Minister for Environment Science and Technology; and date of appointment, 7 February 2017. Under the Nature of Concessions column, it is written mineral concession situated at Drobo/Japekrom, Brong Ahafo Region and date acquired being 2011. The Company Symphony Limited is not included at the Part sub-headed Other Business Interest as at date of making Declaration. Rather the organisations: Boateng Medical and Specialist Hospital are indicated.

The date 14 March 2017 appeared at the Certificate Part of the Form following which is the signature of the declarant/Respondent indicating that the Form presumably was completed on that date.

Paragraph 2 of the letter from the Audit Service states as follows:



I write to confirm that per our records, Professor Frimpong Boateng declared his assets as a Public officer on 14th March 2017...

The Letter and the Completed Assets and Liabilities Declaration Form are marked as Exhibit D and Exhibit D1 respectively.

5. FIELD INVESTIGATIONS BY THE COMMISSION

As already indicated, the Commission conducted field investigations from 26–29 October 2020 with the aim of gathering evidence to aid in the investigations. Information gathered from the field was as follows:

- a. In 2016, an agreement was executed between the Government of the Republic of Ghana acting by NII OSAH MILLS, then Minister of Lands and Natural Resources and Symphony Limited under which Symphony Limited was granted a licence to prospect for and prove gold in some communities in the Jaman North and South Municipalities. Extracts of the Agreement dated 23 March 2016 was made from the files of the Jaman South Municipal Assembly. We have exhibited same as Exhibit JSM.
- b. There is resistance to the activities of Symphony Limited. A letter by the Nananom and Elders of Komfourkrom Drobo in the Jaman South Municipality and addressed to the President, Japekrom Traditional Council dated 23 February 2017 with the heading **PROSPECTING LICENSE FOR SYMPHONY LIMITED** states as follows:

We refer to the above-named letter dated 7th February 2017 and want to refer you to the attached letter from the Mineral Commission dated 29th November 2016 on the above named subject matter.



Paragraph one (1) of this letter categorically names the two towns affected as Baabianeha and Adomesu.

How come that you gave the Chief/Odikro and Elders of Komfourkrom to inform their people about mining and prospecting activities? This is worthy of note that the Chiefs and elders, Assembly member and the entire citizenry of Komfourkrom are under Drobo Traditional Council but not Japekrom Traditional Council.

This has been the situation our ancestors settled at Komfourkrom to the time we are writing this letter to you.

We cannot therefore comply with the request made in the last paragraph of your letter.

Our people are poised for action against anybody/bodies who wilfully attempts to put them under any strange traditional rule and will be dealt with ruthlessly.

Finally, we want to emphasise that prospecting, drilling, trenching, and pitting for gold on our lands shall not be allowed.

We are ever ready to seriously protect our lands from such activities for the benefit of the future generation.

(emphasis supplied). We have marked this letter as Exhibit JSM 1

- c. This resistance is further demonstrated by a letter from the Chiefs and Elders of Baabianeha addressed to the President Japekrom Traditional Council dated 23 February 2017 and copied to various persons such as the District Chief Executive, Jaman South Assembly, the Brong Ahafo Regional Minister, the Army Commander, 4th Battalion Sunyani, the Inspector General of Police and Symphony Limited etc. The letter states in part as follows:

We the undersigned/thumprinted Chiefs and Elders, Assembly members, Opinion leaders and the entire citizenry of Baabianeha deeply regret to inform you and take note that the town Baabianeha is not under the Japekrom Traditional Council.



We cannot therefore carry out instructions given in the last paragraph of your letter dated 7th February 2017 on the subject matter.

It is worthy of note that since the settlement of our fathers at Baabianeha and up to date the town and her people have been under Drobo Council and Not Japekrom Traditional. From time immemorial, farming activities have been the mainstay of the people of Baabianeha.

We believe that any attempt at interfering with the activities of our farmers on the land will render our people impoverished with its other unpleasant consequences very likely to affect our future generation as being experienced in the country now.

Furthermore, our people have made it clear to us that they are intolerably against the drilling, trenching, pitting and prospecting of gold in the town and its environs.

Any attempt at carrying out any of the above activities will be vehemently resisted by the youth and the entire people.

Please let peace reign (emphasis supplied).

This letter is marked as Exhibit JSM 2

- d. In support of this resistance, the Drobo Traditional Council in a letter to the President, Japekrom Traditional Council dated and entitled RE: PROSPECTING LICENSE FOR SYMPHONY LIMITED stated in part as follows:

We refer to the copies of letters submitted to the President of the Drobo Traditional, by the Adikrofo of Baabianeha and Komfourkrom



captioned prospecting licenses for Symphony limited consequently comment as follows:

- 1. The two towns Baabianeha and Komfourkrom do not reside within your traditional administration, but within the Drobo traditional administration**
- 2. You therefore, do not have the right to administratively write, direct or instruct them to do anything. Your approach is considered quite irregular.**
- 3. We strongly support the assertions raised by the chiefs and people of the two towns in their letters to you.**
- 4. You are reminded of the pending case at the Sunyani high court of which you are the plaintiff**
- 5. You are pleased requested to put halt to your unwelcome and provocative approaches.**

We have marked this letter as Exhibit JSM 3

- e. In 2017, the Minerals Commission per letter Ref.No.PL.7/148 of 2 June 2017 addressed to the Chief Executive Officer, Symphony Ltd and widely distributed to Hon. Ministers for Lands and Natural Resources, Local Government and Rural Development and Brong Ahafo the District Chief Executives for Jaman South and North, and the Assembly Members for Adomesu and Baabiaraneha Electoral Areas among others stated in part as follows:

**RE-GOVERNMENT AND MINERALS COMMISSION
INTERVENTION PARAMOUNT**

We acknowledge receipt of your letter dated April 28,2017 on the above subject matter.



The Commission wishes to confirm that Symphony Limited is the holder of two (2) prospecting licenses (with renewal option) located at Baabiaraneha and Adomesu in the Brong Ahafo Region.

From the Commission's records, the Baabiaraneha Prospecting License spans two districts namely, Berekum and Jaman South. The Adomesu Prospecting Licence also spans two districts namely Jaman North and Jaman South.

The 2-year Prospecting Licences which were both granted by the Hon. Minister of Lands and Natural Resources 23rd March 2016 will expire on 22nd March 2018.

In accordance with the law, the terms of the licenses allow your company to search for the specified minerals and to determine their and their economic value of the mineral deposit. The terms also permit your company to carry out physical activities such as pitting, trenching, drilling etc, on the land.

We are by this letter confirming that Symphony Limited is a legitimate large scale Prospecting Licence holder and has every right to conduct exploration on the Prospecting Licences mentioned above.

We count on the support of all stakeholders to enable you to carry out your exploration programme as planned.

Yours faithfully,

Sgn

(EMMANUEL AFREH)

MANAGER, MONITORING AND EVALUATION

FOR: CHIEF EXECUTIVE OFFICER

Page 33 of 117



This letter is marked as Exhibit JSM 4.

- f. The Minerals Commission in a letter Ref. No.PL.7/148 of 19 March 2018 and widely copied to Hon. Ministers for Lands and Natural Resources, Local Government and Rural Development and Brong Ahafo Region, the District Chief Executives for Jaman South and North, and District Police Commanders for Jaman North and Jaman South District etc Assemblies made reference to the resistance posed by communities to the activities of Symphony Limited and requested for assistance for the amicable settlement of the conflict. The letter stated in part as follows:

**SYMPHONY LIMITED
ADOMESU PROSPECTING LICENCES AND
BAABIARANEHA PROSPECTING LICENCE OPERATIONS**

We write in reference to the above subject matter.

Symphony limited (SL) holds two prospecting licences located at Adomesu and Baabiaraneha in the Brong Ahafo Region. Since the grant of these prospecting licences SL has been unable to carry out meaningful exploration on its mineral rights due to agitations by the communities in which they are located.

Due to the persistence of these communities' agitations, the Commission would be grateful for your assistance in the amicable resolution of the conflict on the ground. Please do not hesitate to contact the Commission for any further clarification you may require.

Yours faithfully,

Sgn

**(ADDAE ANTWI-BOASIAKO)
CHIEF EXECUTIVE OFFICER**

We have marked this letter as Exhibit JSM 5.



6.2.THE INTERVIEWS

Summary of interviews conducted on key persons during investigations is as follows:

a. MR. NICHOLAS OFORI AT DWENEM IN JAMAN SOUTH MUNICIPAL ASSEMBLY

Mr. Nicholas Ofori is an opinion leader and Head of the Tweremefie family of Dwenem in Jaman South Municipality. The interview was conducted on him in the presence of eight (8) other elderly persons including two (2) Queen Mothers.

Mr. Ofori said that he has been living in the community for the past 68 years. He is thus, an indigene/native of the community.

On mining activity, Mr. Ofori said that there is no mining activity going in the community. He indicated that in 2004 a team from the Geological Survey Department came to Dwenem and Adjourning communities to prospect for gold and bauxite, but since then nothing has happened. He indicated that the result of the exploration shows that there is gold and bauxite deposits in the communities. Mr. Ofori said that some companies tried to prospect for gold at Bodaa and Atuuna, two (2) adjoining communities, but were resisted by the people.

On Symphony Ltd, Mr. Ofori said they have never heard the name before and could not tell whether it was one of the companies that were driven away at Bodaa and Atuuna.



B. HON. OTI PETER, ASSEMBLY MEMBER, ADAMSU ELECTORAL AREA

Hon. Oti is an indigene/native and the Assembly Member of the Adamsu Electoral Area in the Jaman South Municipality. He is serving his first term as Assembly Member of the community.

On mining in the area, he said that in 2016, a certain company came to prospect in the area, but was fiercely resisted by the community, because they believed it was going to destroy their livelihood which consists of cashew and cocoa farms. He also indicated that the community went to court to secure a restraining order on mining activity in the area, but was asked to follow procedure; so the community led by himself, petitioned the Jaman South Municipal Assembly (JSMA).

Hon. Oti said that they were invited by then MCE of JSMA, Hon. Tamia Dorah who showed them documents to the effect that an agreement had been signed between the said company and the government of Ghana and therefore the Company should be allowed to mine or prospect for gold but members of the community refused.

Hon. Oti could not readily remember the name of said company but indicated that he has some documentation on the company at his house in Sunyani where he sometimes stays and promised to make them available to assist in the investigation.

He also indicated that the community has resolved to protect itself should any person attempting to carry on any mining activity in the area. He added that hunters in the community have been put on alert to gun down anyone found in the area attempting to carry on mining.



According to him, currently there is no mining activity in the area although they have been told that previous prospects have indicated there are gold and bauxite deposits in the area.

On the Task Force on illegal mining, Hon. Oti said that no task force on illegal mining had ever visited the area. He however, lamented the conduct of a CID of the Ghana Police Service who has vowed to deal with him should he continue to lead the community to resist companies from prospecting in the area.

C. HON. ASI AUGUSTINE KWAME, BODAA/BIAME ELECTORAL AREA

Hon. Asi is a native of the Bodaa/Biame Electoral Area of the Jaman South Municipality. He indicated the Bodaa is under Dwenem Traditional Area. He said that he has been an Assembly Member for almost ten (10) years; he was first elected in 2010 and has won subsequent elections.

On the issue of mining, Hon. Asi said that somewhere in 2016 some persons came to prospect in the area but were resisted by the community. In another instance, he received a call that some persons came to damp some items at Adamsu meant for mining and they called on the then Municipal Chief Executive of JSMA; Hon. Tamiah Dorah, who sent security (CID) and they drove them away from the area to Kwasiakrom, the border town between Ghana and Cote D'ivoire.

He also indicated that in 2012, a similar incident happened. There was a publication in the Ghanaian Times, which indicated that a company was given a concession in the area to prospect for gold. He added that as a result of the publication, a Radio Station, Omega FM at Drobo called him on the matter and he had to deny what had been published because the community members were not aware of such arrangement or had not even been engaged on the matter. He indicated that since then, there has never been any attempt to mine.



Hon. Asi indicated that they would not allow any activity related to mining to take place because the community mainly consists of farmers. They depend on farming for their lively hood and allowing mining would destroy their farmlands.

Hon. Asi said that he was informed that a similar thing happened in Atuuna and the Queen Mother and other persons in the area resisted it and so they are resolved to protect themselves against any person who may come to the area to prospect or mine. On the issue of Task Force, he said that he has never seen any task force on illegal mining in the area.

d. HON. MFODWOR BARNABAS, ASIRI ELECTORAL AREA, JAMAN NORTH MUNICIPAL ASSEMBLY

Hon. Mfodjwor was contacted via phone. He said that he is serving his first term as an elected Assembly Member of the Area. He said that prior to his election as an Assembly Member, he was an opinion leader and that he worked with some NGOs helping the community on some developmental issues.

Hon. Mfodwor was initially hesitant in providing information to the Commission and requested that the team should first have sought audience with the Municipal Chief Executive of Jaman North Municipal Assembly on the matter. Nevertheless, he later cooperated and provided some information.

On mining in Asiri, Hon. Mfodwor said that there is no mining activity or prospecting in the area. He also indicated that he had never seen any task force on mining in the community as there is no mining going on in the area.

e. HON. ALHAJ SAEED BIN ISSAHAK, ASSEMBLY MEMBER/ZONGO CHIEF OF THE JAPEKROM AREA



Hon. Issahak is serving as an Assembly Member of the Area for his first term. He indicated that hails from Pru Electoral Area, but he is an Assembly Member of Japekrom.

On Mining, Hon. Issahak said that there is no mining in the area although previous prospects indicated that the area is rich in gold and bauxite. He however said that in 2007/2008 thus, 12 years ago, Professor Frimpong Boateng came to the chiefs with documents to indicate that he had been granted licence and concessions to prospect for gold in the area. According to him, since then, Prof. Boateng has not been to the area again.

Hon. Issahak told the Commission that the Municipality has three (3) Paramountcies which are as: Drobo, Japekrom and Awusua, with several Traditional Areas. He indicated that the Japekrom is predominantly a farming community most of whom are engaged in cashew farming. He added that although gold mining is good, it would affect majority of the community members if allowed to continue.

He indicated that Professor Frimpong Boateng's company has no office in the community and that it has not also brought any equipment to the area for mining. That Prof. Boateng has never engaged with the community members but only the chiefs when visited the area.

Hon. Issahak said that no person at Japekrom has had any issue with any company. He indicated that at Atuuna, a community nearby, the Queen Mother and community members resisted some companies from prospecting and as a result, the Chief of the Community who sided with the companies was destooled and that the matter is currently pending in court.

On Symphony Ltd, he indicated that the name sounds familiar and that he believed it is Professor Boateng's company which was given all the concession in the area to prospect. He added that the details of the said company might be available at the



Japekrom Traditional Council and referred the Team to the acting Chief as the substantive Chief was out of town.

Regarding the task force on illegal mining, he said that no task force on illegal mining has been to the community. He also said that issues of mining or task force had never featured in any deliberation of the Assembly.

f. NANA AMOABENG ASARE KONTIMAAKO ADUNAHENE OF JAPEKROM TRADITIONAL COUNCIL

Nana Amaobeng of the Japekrom Traditional Council confirmed the visit of the Respondent, Professor Frimpong Boateng to the Japekrom Chief's Palace, four (4) years ago on the concession given to him to prospect in some communities within the traditional area. According to Nana Amoabeng, they communicated to the affected communities on the matter, but Professor Boateng has since not returned to them.

Nana Amoabeng indicated that some persons came to the area to prospect for gold but were driven away. He indicated that a similar thing happened in Atuuna resulting in the destoolment of the Chief of the Community who sided with the companies.

Nana Amoabeng observed that mining if allowed in the area would take away the livelihood of the people, which is involved in the cultivation of cashew and cocoa. It would also destroy the future of the youth as most of them would not go to school. Aside it will promote social vices which are prevalent in some affected communities in the country.

He indicated that documents made available to them by Professor Frimpong Boateng indicates that the prospecting licence that he has covers communities such as Atuuna, Kesekrom and Kofuakrom etc. He indicated that all the documents are with the Registrar of the Traditional Council who was out of town at the time of the visit.



Nana Amoabeng said that there is no agreement between the traditional council and Professor Boateng to mine in the traditional area. He also said that no task force on mining has ever visited the area. He asked Hon. Issahak to lace with him to get the Registrar of the Traditional Council make copies of the said documents to assist in the Commission.

g. ARNOLD AGBODO, COMPLAINANT

On the 18 December 2020, Mr. Agbodo, the Complainant appeared before the Commission for interview. Complainant described himself as an Entrepreneur who produces his own products, organic products for sale. He indicated that he works with African Business Centre for Development Education (ABCDE) and that he had ever worked with a private security company dealing with investigations in Ghana.

On the complaint, Mr. Agbodo said that he still stands by the allegations in the complaint and would rather want to hear the responses from the Respondent and evidence gathered by the Commission.

Regarding the term "concessions" as used in the complaint, Mr. Agbodo referred to paragraphs 9 and 10 of his complaint and said that he believed they were concessions. He added that he got to know that the Respondent had concessions when the Respondent was appointed Minister of Environment, Science, Technology and Innovation (MESTI) and later Chairman of the Inter-Ministerial Committee on Illegal Mining (IMCIM). He said that there was a publication in the media about the Respondent and he decided to investigate it.

According to him, in the course of the investigation, he unearthed so many things including information that indicated that Symphony Ltd had concessions at locations provided in the complaint. In addition, he contacted the Minerals Commission, which confirmed that Symphony Ltd had concessions in the said locations.



Referring to two (2) documents that he had labelled as Exhibit 7 and Exhibit 8 in his complaint, he said that his complaint was driven by information contained in these exhibits. Exhibit 7 dated 24/9/2017 is on the payment of Annual Mineral Rights fees in respect of Baabiaraneha Prospecting Licence whilst Exhibit 8 dated 19th October 2017 is on the Payment of Annual Mineral Rights fees for the Adomesu Prospecting Licence.

Concerning the continuous holding of all five (5) concessions by Symphony Ltd as per paragraph 11 of the complaint, Mr. Agbodo said that apart from the evidence on the Cadastral Map, he has never been to Nwenem but rather to Gyapekrom. He said that while attending a funeral at Gyapekrom in 2017/2018, he saw some Chinese engaged in Small Scale Mining at the out skirts of the town, but he is unable to indicate the name of the company involved because he was driving. He said that he believed the company was Chinese company and not Symphony Ltd.

With regards to the financial loss to the State, Mr. Agbodo said that he knows for a fact that other companies applied for the concessions left by Symphony Ltd but were not given same because the concessions per the Cadastral Map were still in the company's name and that it was due to this reason that he decided to pursue the matter.

He promised to provide a list of companies that had applied for the said concessions to assist the Commission in its investigations but till date has failed to do so.

On why he was of the view that Symphony Ltd has to pay annual mineral right fees though the Company has not been able to carry out any work on the concessions, Complainant indicated that since the company continues to hold on to concessions making it not possible for them to be allocated to other companies, such that they cannot be allocated to other companies, Symphony Ltd should be made to pay because the State is losing some money. He added that it is possible that Symphony Ltd might be working with a Chinese company without the knowledge of the State.

On the permit issued by EPA to Symphony Limited, Mr. Agbodo said that a friend of his gave him information on the issuance of this permit. He indicated that he has



no information to the effect that the Respondent directly instructed the EPA to grant Symphony Ltd a permit but that by virtue of the position of the Respondent, it is possible. He added that when the matter became public, one Jojo, CEO of Symphony Ltd and son of the Respondent, sent series of messages which suggest that the Company has concessions.

Regarding possible conflict of interest on the part of the Respondent, Mr. Agbodo said that since the Respondent is the Minister responsible for Environment Science, Technology and Innovation (MESTI) and the EPA is the agency responsible for issuing Environmental Permits to companies including mining companies, conflict of interest is obvious. He however, said that he has not read much about the laws of the EPA governing the granting of licences and the role that the Respondent could play.

In terms of the management of Symphony Ltd by the Respondent and his wife, as per paragraph 15 of the complaint, Complainant indicated that he could assist the Commission with information given time. Till date the said information is yet to be provided despite several reminders via phone calls and whatsApp messages.

Concerning the Respondent's Chairmanship of JIMCIM and failure of the task force on illegal mining to visit concessions being held by Symphony Ltd as per paragraph 16 of the complaint, Mr. Agbodo said that the failure of the task force to visit these concessions could be due to the fact that the Respondent compromised and or prevented the task force from doing so but added that he does not know the operational zone of the task force.

He also indicated that he is not aware of any conflict associated with mining in the Gyapekrom area.

He concluded by reiterating his promise to make available to the Commission particulars of companies which applied for concessions being held by Symphony Ltd but were denied, and evidence to show that the Respondent is still director of



Symphony Ltd by 15th January 2021. Till date, Complainant is yet to supply this information.

h. JOOJO FRIMPONG BOATENG, CEO, SYMPHONY LTD

Joojo Frimpong Boateng is the Chief Executive Officer (CEO) of Symphony Ltd. He appeared before the Commission on 12th January 2021 to assist in the investigation.

In his preliminary remarks, the CEO referred to allegations being peddled against him in the media that he is engaged in illegal mining in the Brong Ahafo or Eastern Regions. He described these allegations as false.

On Symphony Ltd, Joojo said it was registered by the Respondent, his father in 1990 with the initial subscribers being the Respondent and his wife, Jojo's mother. He said that after he had acquired skills in entrepreneurship, bio diesel, C&C Technology, alternative energy, biogas, he took over Symphony Ltd in 2005 and realized that there is a ready market for gold. He therefore decided to invest in the industry.

Consequently, the Regulation of the company was amended in 2009 to include mining. As a result "they" acquired the necessary licence and permits from the Minerals Commission and the EPA. In 2010, they applied for Reconnaissance Licence after which it took him six (6) years to get investors to invest in the company.

In 2016, he got a Prospecting Licence for two years, and during that time there was a major conflict at Gyapekrom resulting in the firing of gun shots. This conflict was in connection with mining activities in the area. He therefore wrote a lot of reports to the Minerals Commission and the Ministry of Lands and Natural Resources on the situation on the ground. He said that these incidents occurred prior to assumption



of the NPP government in 2017 and by which time that the Respondent had already resigned from his position as Director of Symphony Ltd.

He added that five years ago, he could not have predicted that the Respondent (his father) would be appointed as Minister of Environment, Science, Technology and Innovation (MESTI) and subsequently, Chairman of the IMCIM.

He indicated that Symphony Ltd has not been able to get into mining because of the chieftaincy issues in the concession area. He said it has been terrible resulting in curfew in the area. He explained the concessions are under Gyapekromhene, but there is some sort of tribal issues and politics that fuel the tension in the area. He mentioned an Assembly man called Jonah whom he said has been leading the resistance to mining in the area. He said he visited the area in 2016/2017 to try to talk to the people, but to no avail and went to Sampah to get the Police Commander to talk to them but they would not listen.

He stressed that since 2017 he has not visited Gyapekrom although he has investors who are ready to assist in the prospecting. According to him, human life is more important than gold; he therefore prays and hopes that one day cool heads would prevail for him to proceed with his work.

On the concession, he said that he has a large concession in the Gyapekrom area. He said that before one gets a prospecting licence, one has to register a concession with the Mineral Commission. After which he has to obtain a permit and an Environmental Permit to allow him engage in mining. He showed the cadastral Map as evidence of the final stage of registration of the concessions.

He says that he knows Yaw Frimpong Boateng whom he describes as his brother and was one time Secretary of Symphony Ltd.



He said that initially the objects of the Company were trading and farming but later the regulations were amended and same filed at the Registrar-General's Department. Currently, the company's main object is mining.

He said that he and his brother Yaw Frimpong are now Directors of the company after the amendment of the regulations but was quick to add that the amendment is still pending at the Registrar-General Department. He said that he also doubles as the CEO-Managing Director of Symphony Ltd.

He added that the Respondent resigned as director of the company in 2015/2016 but could not indicate the mode of his resignation. He indicated that the last time a meeting of the company was held was in 2017 but there are no minutes of the said meeting. According to him, issues concerning the company are discussed informally and that most of the decisions are being taken by him. He added that directors of the company have not been meeting and between 2016 and 2019, the Respondent has never been involved in any activity of Symphony Ltd.

He failed to indicate whether the company has been filing returns with the Registrar-General's Department. He indicated that he became CEO in 2014/2015. He also said he holds shares in the company and promised to give the Commission information on his shareholding in the Company. He said that he has another company called the "Whole Adansi" which is involved in mining.

On concessions, he stated that the active ones are Adomesu and Baabiaraneha, whilst the rest are inactive. According to him, the two concessions have not been worked on because he doesn't want to jeopardize his partners' life.

He said that the prospecting licence for the two concessions has elapsed and that since it had not been able to prospect, the company has not renewed the licences and does not see the rationale in paying annual fees. He said that he has communicated the challenges confronting the Company to the Minerals Commission which has understood the situation. He showed the Commission correspondences between



Symphony Ltd and the Minerals Commission from 2016 to 2019 on the matter. He said that in 2020, he did not see the need in writing to the Minerals Commission on the same issue because the Minerals Commission is aware of the situation on the ground. He said he has since visited the Commission several times and spoken to one Alexander Akotiah, an official of the Company.

On the payment of Annual Minerals Fee, Jojo said that Symphony Ltd has not been paying same because it is unable to access the concessions for prospecting. Because of this, he and his partners decided that they cannot continue to invest in nothing. He said that he has informed the Minerals Commission on the inability of the company to pay due to the difficulties being encountered. He said that the Minerals Commission did send him demand notices (reminders) for the payment of Annual Mineral Rights Fee on each of the concessions at the time that one, Joseph Yaw Aboagye “was there”.

He said that he replied to the reminders, but he is yet to receive a response from Minerals Commission. He agreed that the silence on the part of the Minerals Commission to his reply does not mean that it has waived its demand for payment of the fees, pointing out that there is a 30-day deadline for payment in the correspondences. He reiterated that payment of the annual mineral rights fees at a time that the Company is unable to engage in any prospecting is not prudent but indicated that the Company would pay its debts owed the Mineral Commission if it is able to eventually gain access to the concessions to carry out its activities. He added that the Company never anticipated that it would face these challenges at a time that it was granted the licences to prospect.

On Environmental Permit, he indicated that it was granted in 2016 but quickly added that at that time, the Respondent was not a Minister of State. He said the permit has since not been renewed following its expiration. He then submitted several documents to assist in the investigation. Relevant copies of these documents are summarized below:



1. REGULATIONS OF SYMPHONY LIMITED DATED 13 FEBRUARY 1990:

“1.The name of the company is: SYMPHONY LIMITED

2. The nature of the businesses which the company is authorized to carry on are

i. General Merchants; Trading as Importers and exporters of General Goods;

ii. Manufacturers representatives

iii.Farming...

The First Directors of the company are:-

1. DR. KWABENA FRIMPONG-BOATENG

2. MRS. AGNES FRIMPONG BOATENG...

The company is to be registered with 1,000, 000 share of no par value”

Page 2 of the Regulations then indicates the addresses and description of the the subscribers as follows:

Dr. Kwabena Frimpong-Boateng-----60,000 (C60,000)

Agnes Frimpong-Boateng -----40,000 (C40,000)

This document is marked as Exhibit SYM

2. CERTIFICATE TO COMMENCE BUSINESS

This certificate was issued by the Assistant Registrar of Companies on the 9th day of March 2009 and it states in relevant parts that:

“SYMPHONY LIMITED having complied with the provision of section 27 and 28 of the Companies Code,1963 is entitled to commence business from 27 FEBRUARY 1990”.

We have marked this document as Exhibit SYM 1

3. CERTIFICATE OF INCOPORATION

This document is numbered 39305 and registererd on 26/2/1990 and signed by the Registrar of Companies. It states that:

“SYMPHONY LIMITED is this day incorporated under the Companies Code, 1963 (Act 179) and that the liability of its members is limited”



We have marked this document as Exhibit SYM 2.

4. DECLARATION THAT CONDITIONS OF SECTION 28 OF COMPANIES CODE, 1963 HAVE BEEN COMPLIED WITH

This document dated 21 February 1990 states in part as follows:

"We Dr. Kwabena Frimpong Boateng and Agnes Frimpong Boateng of Accra being Directors and Secretary respectively of Symphony Ltd do solemnly and sincerely declare:

That there has been paid to the company for the issue of its share consideration to the value of at least One Thousand Cedis, of which at least two hundred cedis have been paid in cash within the meaning of section 45 of the Companies Code 1963.

And we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, 1835." We have marked this document as Exhibit SYM 3.

**5. CERTIFIED TRUE COPY OF DOCUMENT SIGNED BY REGISTRAR OF COMPANIES ENTITLED: SYMPHONY LIMITED
Copy of a Special Resolution registered pursuant to section 176 of the Companies Code, 1963**

This document states as follows:

At the General Meeting of the above-named Company held at REGISTERED OFFICE, in the District of Accra on the 24TH day of MARCH 2009 of which due notice had been given, the following Special Resolution (s) was/were duly passed:

Resolved THAT THE REGULATION (2) HAS BEEN AMENDED TO INCLUDE MINING OF MINERALS, GOLD AND DIAMOND WITH EFFECT FROM 26TH MARCH, 2009

FILED: 27-03-2009..."



We have marked this document as Exhibit SYM 4

6. LETTER FROM MINERAL'S COMMISSION TO SYMPHONY LIMITED REF.NO.RL 7/81 DATED 8 AUGUST 2011

This letter is headed: **APPLICATION FOR RECONNAISSANCE LICENCE** and provides as follows:

We refer to your application dated 27th April, 2011 for a reconnaissance licence in the Gyapekrom area of the Brong Ahafo and wish to inform you that the Commission has, in accordance with section 100 (2) of the Minerals and Mining Act 2006 (Act 703), favourably recommended to the Minister of Lands and Natural Resources to grant you the licence.

Before the Minister issues the licence, you will be required to pay the following fees:

- 1. Consideration fee of GHS500.00 (five hundred Ghana Cedis) payable by Banker's Draft to the Minerals Commission, and**
- 2. Annual Ground Rent of GHS2018 (two hundred and eight Ghana Cedis) to the Administrator of Stool Lands, Office of the Administrator of Stool Lands, Accra.**

We therefore request that you pay the fees specified above and show evidence of payment by providing us with photocopies of the relevant receipts and arrange for two competent officers of your company (with company's seal/stamp) to call at the offices of the Commission and sign all your related documents.



The terms above remain open for a period of sixty (60) days from the date of this letter. If they are not accepted within the said period, your application for licence shall lapse.

Yours faithfully,

SGN

(JOSEPH YAW ABOAGYE)

DIRECTOR, PLANNING, POLICY, MONITORING & EVALUATION

For: CHIEF EXECUTIVE OFFICER

This letter is marked as Exhibit SYM 5

7. LETTER FROM MINISTRY OF LANDS AND NATURAL RESOURCES REF. NO. DB-47/285/04 DATED 25TH AUGUST, 2011 ENTITLED RE: RECONNAISSANCE LICENCE SYMPHONY LIMITED AND ADDRESSED TO THE MINERALS COMMISSION

This letter states as follows:

Your letter No. RL.781, dated 15th August, 2011 on the above-mentioned subject refers.

We forward, herewith, for your attention and necessary action three (3) copies of duly signed reconnaissance licence agreement between the Government of Ghana and the above named applicant.

Please, acknowledge receipt

Yours faithfully,

Sgn

E.P. ATIGLAH

AG. TECHNICAL DIRECTOR, MINES

For: MINISTER

This letter is marked as Exhibit SYM 6



**8. LETTER FROM MINERALS COMMISSION REF.NOPL.7/146
DATED 19 OCTOBER 2017 HEADED PAYMENT OF ANNUAL
MINERAL RIGHT FEE-ADOMESU PROSPECTING LICENCE,
BA/R**

This letter states in part as follows:

We refer to our letter dated 14 February 2014 on the above matter (copy attached for ease of reference) and wish to inform you that payment of the Annual Mineral Right Fee for the second year subject is due...

Your prospecting licence's first anniversary fell due on 22 March 2017. In the light of the foregoing your company is required to pay an Annual Mineral Right Fee of US\$18,048.00 (Eighteen Thousand and Forty-Eight United States Dollars) or the Cedi equivalent by Bankers Draft to Minerals Commission for the second year.

The above offer remains open for a period of thirty (30) days from the date of this letter. Please, note that if payment is not made within the said period your prospecting license will be recommended for suspension or termination in accordance with Regulation 168(1)(a) of the Minerals and Mining (Licensing) Regulations,2012(L.I 2176).

Yours faithfully,

**(JOSEPH YAW ABOAGYE)
DIRECTOR, POLICY PLANNING MONITORING & EVALUATION
For: CHIEF EXECUTIVE OFFICER**

We have marked this letter as Exhibit SYM 7.



9. LETTER FROM MINERALS COMMISSION REF.PL.7/148 DATED 24 OCTOBER 2017 HEADED PAYMENT OF ANNUAL MINERAL RIGHT FEE-BAABIARANEHA PROSPECTING LICENCE, BA/R

This letter states in part as follows:

We refer to our letter dated 14 February 2014 on the above subject matter (copy attached for ease of reference) and wish to inform you that payment of the Annual Mineral Right Fee for the second year is due...

Your prospecting licence's first anniversary fell due on 22nd March 2017. In the light of the foregoing your company is required to pay an Annual Mineral Right Fee of US\$23,968.00 (Twenty-Three Thousand, Nine Hundred and Sixty-Eight United States Dollars) or the Cedi equivalent by Bankers Draft to Minerals Commission for the second year.

The above offer remains open for a period of thirty (30) days from the date of this letter. Please, note that if payment is not made within the said period your prospecting license will be recommended for suspension or termination in accordance with Regulation 168(1)(a) of the Minerals and Mining (Licensing) Regulations,2012(L.I 2176).

Yours faithfully,

**(JOSEPH YAW ABOAGYE)
DIRECTOR, POLICY PLANNING MONITORING & EVALUATION
For: CHIEF EXECUTIVE OFFICER**

We have marked this document as Exhibit SYM 8.

10.OFFICIAL RECEIPT NO.037010



This official receipt is dated 10th August, 2011. It is in respect of the sum of Five Hundred Ghana Cedis being payment for Consideration fee RL 7/81 by Symphony Ltd to the Minerals Commission. We have marked the receipt as Exhibit SYM 9.

11.OFFICIAL RECEIPT NO.0742720

On top of this receipt is the wording **Gyapekrom area Brong Ahafo**.The receipt from the Administrator of Stool Lands is dated 10 August 2011 in the sum of Two Hundred & Eight Ghana Cedis being stool land Revenue bought by Symphony Limited. We have marked same as Exhibit SYM 10.

12.DOCUMENT WITH THE HEADING NOTIFICATION OF CHANGE OF DIRECTORS OR SECRETARY OR IN THEIR PARTICULARS

This document has the stamp of the Registrar-General's Department on which the date 17 Dec 2013 has been inserted. The name of the Company is Symphony Limited and the document is to the Registrar of Companies. The document provides in part as follows:

That Peter Yaw Badu been appointed as a new director of the above-named company with effect from 22nd November, 2013. That Yaw Frimpong-Boateng has been appointed as a new Secretary to replace Lucy Abitey who has been removed as secretary of above-named company with effect from 22nd November, 2013.

Particulars of new Director or Secretary:

- 1. Peter Yaw Badu, Businessman, Ghanaian, Plot 9B Atwima Maakro Ashanti Region**
- 2. Yaw Frimpong Boateng, Businessman, Ghanaian, Independence Avenue 91, Accra**

Name and Address of Auditors: Denning, Anang and Partners, P. O. Box 12266, Accra North"



This document/form is marked as Exhibit SYM 11

13.COMPLETED FORM FROM REGISTRAR GENERAL'S DEPARTMENT, FORM NO.8

This document is headed **PARTICULARS OF ALTERATION IN THE STATED CAPITAL OF COMPANY UNDER SECTION 66 (2) OF THE COMPANIES CODE**. It provides as follows:

Name of Company: Symphony Ltd
Presented by: The Director
To the Registrar of Companies P .O. Box 118, Accra
Particulars of increased/reduction in the Stated Capital Symphony Ltd, a company registered in Ghana.
Total proceeds of shares issued for cash GHS19, 990.00
New Stated Capital GHS20, 000.00

We have marked this document as Exhibit SYM 12.

14.LETTER FROM SYMPHONY LTD TO MINERALS COMMISSION DATED 14 JANUARY 2014 ENTITLED TERMINAL REPORT AND APPLICATION FOR CONVERSION OF SYMPHONY LIMITED GYAPEKROM RECONNAISSANCE LICENCE INTO PROSPECTING LICENCE

This letter states in relevant part as follows:

Reconnaissance investigating by Symphony Limited on the Gyapekrom concession have resulted in the identification of very promising AU in streams that calls for detail prospecting. A detailed systematic prospecting and thorough testing of targets by geophysics, soil sampling, trenching and probably drilling must be performed to properly evaluate the potential of the property.



A two-year prospecting Licence is therefore humbly requested to properly evaluate and advance the following Symphony Limited concessions:

1. Asiri Concession -Area=113.40 sq.km
2. Adomesu Concession-Area=118.44 sq.km
3. Nwenem concession-Area=145.95 sq. km
4. Gyapekrom concession-Area=157.08 sq. km
5. Baabiaraneha concession-Area=157.29 sq.km

We would therefore be grateful if you could kindly convert our Gyapekrom Reconnaissance Licences into the above five (5) Prospecting Licences...This letter is marked as Exhibit SYM 13.

**15.LETTER FROM MINERALS COMMISSION REF.NO.PL.7/148
DATED 14 FEBRUARY 2014 TO SYMPHONY LIMITED ENTITLED
RE: TERMINAL REPORT AND APPLICATION FOR CONVERSION
OF SYMPHONY LTD GYAPEKROM RECONNAISSANCE TO
PROSPECTING LICENCE**

This letter states in relevant part as follows:

We refer to your application dated January 14, 2014 for a conversion of a portion of the Gyapekrom reconnaissance licence in the Brong Ahafo Region to a two-year prospecting licence covering a land area of 157.29 Km at Baabiaraneha and wish to inform you that the Commission will recommend to the Minister for Lands and Natural Resources to grant you the licence subject to the payment of the following fees:

1. Processing fee of GHS850.00 (Eight Hundred and Fifty Ghana Cedis)
2. Annual Mineral Right Fee (consideration fee) of GHS58, 242.00 (Fifty-Eight thousand, two Hundred and forty-two Ghana Cedis) for the first



year, in accordance with the Minerals and Mining (licensing) Regulations, 2012 (L.I. 2176).

Accordingly, we advise that you pay the above fee by Banker's draft to the Minerals Commission before the conversion of your licence is granted.

The above offer remains open for a period of sixty (60) days from the date of this letter. If it is not accepted within the said period, your application for conversion of the licence shall lapse.

Yours faithfully,

Sgn

(PETER AWUAH)

DEPUTY MANAGER, MINERAL TITLES

For: CHIEF EXECUTIVE OFFICER

We have marked this letter as Exhibit SYM 14.

**16.LETTER FROM MINERALS COMMISSION REF.NO.PL.7/148
DATED 14 FEBRUARY 2014 TO SYMPHONY LIMITED ENTITLED
RE: TERMINAL REPORT AND APPLICATION FOR CONVERSION
OF SYMPHONY LTD GYAPEKROM RECONNAISSANCE TO
PROSPECTING LICENCE**

This letter states as follows:

We refer to your application dated January 14 2014 for the conversion of a portion of the Gyapekrom reconnaissance licence in the Brong Ahafo to a two year prospecting licence covering a land area of 113.40km² at Asiri and wish to inform you that the Commission would recommend to the Minister of Lands and Natural resources to grant you the licence subject to the payment of the following fees:



1. Processing fee of GHS850.00 (Eight Hundred and Fifty Ghana Cedis)

2. Annual Mineral Right Fee (consideration fee) of GHS41, 990.00 (Forty-one thousand, nine hundred and ninety Ghana Cedis) for the first year, in accordance with the Minerals and Mining (licensing) Regulations, 2012 (L.I. 2176).

Accordingly, we advise that you pay the above fee by Banker's draft to the Minerals Commission before the conversion of your licence is granted.

The above offer remains open for a period of sixty (60) days from the date of this letter. If it is not accepted within the said period, your application for conversion of the licence shall lapse.

Yours faithfully,

Sgn

(PETER AWUAH)

DEPUTY MANAGER, MINERAL TITLES

For: CHIEF EXECUTIVE OFFICER

We have marked this letter as Exhibit SYM 15.

**17.LETTER FROM MINERALS COMMISSION REF.NO.PL.7/148
DATED 14 FEBRUARY 2014 TO SYMPHONY LIMITED ENTITLED
RE: TERMINAL REPORT AND APPLICATION FOR CONVERSION
OF SYMPHONY LTD GYAPEKROM RECONNAISSANCE TO
PROSPECTING LICENCE**

This letter states as follows:



We refer to your application dated January 14 2014 for the conversion of a portion of the Gyapekrom reconnaissance licence in the Brong Ahafo to a two year prospecting licence covering a land area of 118.44km² at Adomesu and wish to inform you that the Commission would recommend to the Minister of Lands and Natural resources to grant you the licence subject to the payment of the following fees:

- 1. Processing fee of GHS850.00 (Eight Hundred and Fifty Ghana Cedis)**

- 2. Annual Mineral Right Fee (consideration fee) of GHS43, 857.00 (Forty-three thousand, eight hundred and fifty-seven Ghana Cedis) for the first year, in accordance with the Minerals and Mining (licensing) Regulations, 2012 (L.I. 2176).**

Accordingly, we advise that you pay the above fee by Banker's draft to the Minerals Commission before the conversion of your licence is granted.

The above offer remains open for a period of sixty (60) days from the date of this letter. If it is not accepted within the said period, your application for conversion of the licence shall lapse.

Yours faithfully,

Sgn

(PETER AWUAH)

DEPUTY MANAGER, MINERAL TITLES

For: CHIEF EXECUTIVE OFFICER

We have marked this as Exhibit SYM 16.

**18.LETTER FROM MINERALS COMMISSION REF.NO.PL.7/148
DATED 14 FEBRUARY 2014 TO SYMPHONY LIMITED ENTITLED**



**RE: TERMINAL REPORT AND APPLICATION FOR CONVERSION
OF SYMPHONY LTD GYAPEKROM RECONNAISSANCE TO
PROSPECTING LICENCE**

This letter states as follows:

We refer to your application dated January 14 2014 for the conversion of a portion of the Gyapekrom reconnaissance licence in the Brong Ahafo to a two year prospecting licence covering a land area of 145.95km² at Nwenem and wish to inform you that the Commission would recommend to the Minister of Lands and Natural resources to grant you the licence subject to the payment of the following fees:

- 1. Processing fee of GHS850.00 (Eight Hundred and Fifty Ghana Cedis)**
- 2. Annual Mineral Right Fee (consideration fee) of GHS54, 043.00 (Fifty-four thousand and forty-three Ghana Cedis) for the first year, in accordance with the Minerals and Mining (licensing) Regulations, 2012 (L.I. 2176).**

Accordingly, we advise that you pay the above fee by Banker's draft to the Minerals Commission before the conversion of your licence is granted.

The above offer remains open for a period of sixty (60) days from the date of this letter. If it is not accepted within the said period, your application for conversion of the licence shall lapse.

Yours faithfully,

Sgn

(PETER AWUAH)

DEPUTY MANAGER, MINERAL TITLES

Page 60 of 117



For: CHIEF EXECUTIVE OFFICER

This letter is marked as Exhibit SYM 17.

**19.LETTER FROM MINERALS COMMISSION REF.NO.PL.7/148
DATED 14 FEBRUARY 2014 TO SYMPHONY LIMITED ENTITLED
RE: TERMINAL REPORT AND APPLICATION FOR CONVERSION
OF SYMPHONY LTD GYAPEKROM RECONNAISSANCE TO
PROSPECTING LICENCE**

This letter states in part as follows:

We refer to your application dated January 14 2014 for the conversion of a portion of the Gyapekrom reconnaissance licence in the Brong Ahafo to a two year prospecting licence covering a land area of 157.08km² at Gyapekrom and wish to inform you that the Commission would recommend to the Minister of Lands and Natural resources to grant you the licence subject to the payment of the following fees:

- 1. Processing fee of GHS850.00 (Eight Hundred and Fifty Ghana Cedis)**
- 2. Annual Mineral Right Fee (consideration fee) of GHS58, 164.00 (Fifty-Eight thousand, one Hundred and sixty-four Ghana Cedis) for the first year, in accordance with the Minerals and Mining (licensing) Regulations, 2012 (L.I. 2176).**

Accordingly, we advise that you pay the above fee by Banker's draft to the Minerals Commission before the conversion of your licence is granted.



The above offer remains open for a period of sixty (60) days from the date of this letter. If it is not accepted within the said period, your application for conversion of the licence shall lapse."

**Yours faithfully,
Sgn
(PETER AWUAH)
DEPUTY MANAGER, MINERAL TITLES
For: CHIEF EXECUTIVE OFFICER**

We have marked this letter as Exhibit SYM 18.

20.LETTER FROM SYMPHONY LIMITED TO MINERLAS COMMISSION DATED 20 NOVEMBER 2014 WITH THE HEADING APPLICATION TO TAKE TWO OF THE FIVE CONCESSION LOTS

This letter, signed by the Respondent in the instant case states as follows:

I represent Symphony Limited. Our company has five concession lots in Gyapekrom area of the Brong Ahafo Region.

Symphony is facing a few challenges, the most prominent being the withdrawal of two partners from our operation due to prevailing global economic difficulties.

Because of this and other reasons, we are compelled to shed off three of our concessions. We intend to maintain only the Baabiaraneha and Adomesu concessions.

The ones we are releasing to the Minerals Commission are the Gyapekrom, Nwenem, Asiri lots.

On behalf of Symphony limited I humbly request that you effect the necessary changes.



I hope this request will meet your kindest consideration. I am available for further discussions if necessary.

I thank you for your kind assistance.

Yours faithfully,

Sgn

K.Frimpong-Boateng

(Director,Symphony Limited, Tel 0244310049

This letter is marked as Exhibit SYM 19.

**21.LETTER FROM MINERALS COMMISSION TO SYMPHONY LTD
REF.NO.RL.7/81 DATED 15 APRIL 2015 WITH THE HEADING
RE:APPLICATION TO TAKE TWO OF THE FIVE CONCESSION
LOTS**

This letter provides as follows:

We acknowledge receipt of your letter dated November 20, 2014 relating to the above subject and wish to inform you that the Commission has reviewed your application and has accepted your decision to drop three (3) of the applications for prospecting licences.

You are therefore advised to make payment for the Annual Mineral Right Fees in the respect of the Baabiaraneha and Adomesu applications as indicated the date of this letter. If it is of February, 2014.

The offer remains open for a period of thirty (30) days from the date of this letter. If it is not accepted within the said period your applications for the conversion of the reconnaissance licence to 2-year prospecting licences shall lapse.

Yours faithfully,

Page 63 of 117



Sgn
PETER AWUAH
DEPUTY MANAGER, MINERAL TITLES
For: CHIEF EXECUTIVE OFFICER

We have marked this letter as Exhibit SYM 20.

**22.LETTER FROM MINISTRY OF LANDS AND NATURAL
RESOURCES TO THE CHIEF EXECUTIVE OFFICER
REF.NO.DB.47/285/01 DATED 23 MARCH 2016 WITH THE
HEADING RE-APPLICATION FOR CONVERSION OF
RECONNAISSANCE LICENCE TO PROSPECTING LICENCE
SYMPHONY LTD ADOMESU AREA, BA/R**

This letter states as follows:

"Your letter No. PL. 7/146 dated 10th February, 2016 on the above-mentioned subject refers.

We forward, herewith, for your attention and necessary action three (3) copies of duly signed Prospecting Licence agreement between the Government of Ghana and the above-named applicant.

Please acknowledge receipt.

Yours faithfully,
Sgn
SIMON ATEBIYA
TECHNICAL DIRECTOR,MINES
FOR:MINISTER

This is marked as Exhibit SYM 21



23.LETTER FROM MINISTRY OF LANDS AND NATURAL RESOURCES TO THE CHIEF EXECUTIVE OFFICER REF.NO.DB.47/285/01 DATED 23 MARCH 2016 WITH THE HEADING RE-APPLICATION FOR CONVERSION OF RECONNAISSANCE LICENCE TO PROSPECTING LICENCE SYMPHONY LTD BAABIARANEHA AREA, BA/R

This letter states as follows:

Your letter No. PL. 7/146 dated 10th February, 2016 on the above-mentioned subject refers.

2We forward, herewith, for your attention and necessary action three (3) copies of duly signed Prospecting Licence agreement between the Government of Ghana and the above-named applicant

Please acknowledge receipt.

Yours faithfully,

Sgn

SIMON ATEBIYA

TECHNICAL DIRECTOR, MINES

FOR: MINISTER

This letter is marked as Exhibit SYM 22

24.RECEIPT NO.0689187 FROM ADMINISTRATOR OF STOOL LANDS

This receipt is dated 25 January 2016 issued in respect of the amount of Three Thousand, Eight Hundred and Four Ghana Cedis and Eighty pesewas



(GHS3,804.80) being rent paid for the period 1/1/16-31/12/16. On top of the receipt is written ADOMESU AREA. This receipt is marked as Exhibit SYM 23

25.RECEIPT NO.201846 FROM MINERALS COMMISSION

This receipt is dated 21 January 2016 in the sum of One Hundred and Three Thousand, Seven Hundred and Ninety-Nine Ghana Cedis (GHS103,799.00) being processing fees and consideration fees. This is marked as Exhibit SYM 24.

26.LETTER FROM SYMPHONY LTD TO MINERALS COMMISSION DATED 11 NOVEMBER 2016 ENTITLED CHALLENGES WITH PROSPECTING AT ADOMESU AND BAABIARANEHA CONCESSIONS

This letter provides as follows:

Since receiving the prospecting Licence on the 23rd of March this year, we have been unable to start operations due to several factors involving the Chiefs, Assemblies and Communities.

Adomesu:

The District Chief Executive and Chief are in agreement with our activities. When we were about to start our operation, the town folks especially the youth ganged up and drove the team on the ground away from residence after throwing stones in the building; citing they don't want us to come and do Galamsey. Under Police escort, they had to abandon Adomesu and stay in a hotel at Gyapekrom. We called a meeting together with the Chiefs, DCE and Regional Commander and explained our mission to the communities: even going as far as giving them copy of all the documents we obtained from the Minerals Commission and EPA. A couple of months later and being confident they now understood our operations, we were advised to start work with police supervision for the communities to understand we are not illegal miners and the Government



is backing us. We went ahead and called the District Police Commander to assist us.

He personally came with some Policemen for our protection. As soon as we were going to start the prospecting, the townsfolk under the leadership and instigation of the Assemblyman demonstrated, vowing they will never allow us to undertake our prospecting; because we are coming to do Galamsey and our Documents are fake. They even went as far as throwing stones at the Police Commander, unbeknown to them whom they were dealing with. The Commander advised us to have a final meeting with the youth and the various demonstrating communities to clarify our stance once again. We contacted the Assemblyman of Adomesu called Jones to inquire why he was adamantly refusing us to prospect. He admitted on causing the riots and basically narrated to us the chiefs will not share the information we have them with him, thus he has no idea of intended mission. Also when he inquired from the DCE, she had no information regarding us, thus he thought we were illegal miners coming to do Galamsey. We gave him copies of some relevant documents for his study and are currently waiting for him to get back to us with his verdict. We are trying as much as possible to educate them on our mission without any dispute. From our findings; the Chiefs and the Assemblies are at loggerheads with each other, and there is lack of communication between the various authorities and the people of Adomesu.

Baabiaraneha

When we contacted the Traditional Council, we were told the Paramount Chief has travelled to Canada and we should wait from him to come back before they can make a decision. A couple of weeks later we were informed of his return, and we proceeded to see him. After explaining our mission to him, we are still waiting on his feedback. A couple of weeks later again he called us to his office for a meeting. He has spoken to the



sub-chiefs and he just want a letter from the Minerals Commission addressed to him personally before we can start our prospecting. Thus, due to various delays in correspondence and feedback; we still have not been able to start prospecting.

Yours faithfully,

Sgn

Joojo Frimpong Boateng

(Chief Executive Officer, Symphony Limited)

CC: The Hon. Minister, Ministry of Lands and Natural Resources, Accra

We have marked this letter as Exhibit SYM 25

27.LETTER FROM SYMPHONY LTD ADDRESSED TO CHIEF EXECUTIVE OFFICER, MINERALS COMMISSION DATED 3 MARCH 2017 WITH THE HEADING CONTINUAL CHALLENGES WITH PROSPECTING AT ADOMESU AND BAABIARANEHA CONCESSIONS

This letter also copied to the Minister for Lands and Natural Resources, Accra provides as follows:

Since receiving the Prospecting Licence on the 23rd of March last year, we have been unable to start operations due to several factors involving the Chiefs, Assemblies and Communities.

Adamsu

We wrote a letter to the Acting President to convey a meeting(attached). The Youth and Assemblyman have finally understood our mission but they want to meet and hear from Chiefs before we start with our activities. When we tried to contact the Chiefs to get them together,



surprisingly they refused to pick our calls and were peeved with us, thus the reason for the letter. As I'm writing, we are still waiting to hear from them.

Baabiaraneha

We've finally managed to convince the chief with all our documents and having obtained a letter addressing our mission from the Minerals Commission. He sent out a letter(attached) to all the sub chefs to support us with the prospecting. Unfortunately the youth in his jurisdiction went to see him for matters unknown to us, thus we are still waiting to hear the outcome from their discussion and the time frame on which we can proceed with our work.

Thus we are still impatiently waiting to start work; and unfortunately it's now getting a year and we have still been unable to start our prospecting.

Our goal is to resolve their frustrations in a peaceful manner in order to work with mutual respect and no vendetta. I hope you will be able to further help and advise us just in case they proof to be too difficult.

Yours faithfully,

Sgn

Joojo Frimpong-Boateng

This letter is marked as Exhibit SYM 26.

**28.LETTER FROM SYMPHONY LIMITED TO MINERALS
COMMISSION DATED 12 APRIL 2017 WITH THE HEADING:
CONTINUAL CHALLENGES WITH PROSPECTING AT ADOMESU
AND BAABIARANEHA CONCESSIONS**

This letter provides as follows:



Since receiving the Prospecting Licence on the 23rd of March last year, we have been unable to start operations due to several factors involving the Chiefs, Assemblies and Communities. Also due to the Galamsey epidemic occurring throughout the country; it is proving very difficult to communicate with the communities; since they have no clue on prospecting and it is unimaginably difficult explaining prospecting and that there is a difference between legal and illegal even though we have all our documents as proof.

Adamsu

We are still to conduct a meeting with the Youths, Assemblymen and Chiefs. They are supposed to inform us when we come over and explain our project. They keep postponing the meetings or are unable to communicate among themselves, thus most of the times we have to do it for them, yielding in no results. We are impatiently waiting for them to organise themselves.

Baabiaraneha

We've written letters to the communities and Assemblymen in the concessions for a meeting to explain our purpose. Even though the Chiefs have given us the go ahead, some detractors are proving difficult and stubborn, thus they've called for another meeting this coming Thursday to explain to them what we're really coming to do. They are getting mixed messages that we're coming to do Galamsey.

Any support or advice you can grant us will be really appreciated. Thank your.

**Yours faithfully,
Sgn**



**Joojo Frimpong-Boateng
(Chief Executive Officer, Symphony Limited)**

CC:The Hon. Minister, Ministry of Lands and Natural Resources, Accra

We have marked this letter as Exhibit SYM 27.

**29.LETTER FROM SYMPHONY LTD TO MINERALS COMMISSION
DATED 26 APRIL 2017 WITH THE HEADING GOVERNMENT AND
MINERALS COMMISSION INTERVENTION PARAMOUNT**

This letter provides in part as follows:

Since receiving Prospecting Licence on 23rd of March last year, we have been unable to start any task. It is now over a year and the situation is getting more complicated; with Government dire intervention needed.

Adamsu

Major Problem with District Assemblyman Jones Sefa:

I had several meetings with the Chiefs, Assembly man and Youth leaders. I made photocopies of all the documents and presented to the Chiefs, D.C.E, Police Commander and Assemblyman all proving futile in our progress to start work.

The Assemblyman in Adamsu named Jones Sefa went on his Public Announcement System claiming, insisting and announcing to the community that all our papers are fake, forged and invalid.

In one of the meetings with Mr. Jones Sefa, Mr. Kofi Atta-Youth Leader and former Assemblyman of the District; Jones stated that he visited all the villages which are located in the area of the concession and notified to the residents and specifically the youth that Symphony Ltd is coming to do galamsey, and they plan to open a big pit that all the children, women



and hunters will fall in and die, and rape their women as well. They should stop our operation at all cost, even if they have to shed blood to stop us.

He also claimed to be the only person the youth respect and will listen to. Mr. Kofi Atta, the former Assemblyman, claimed that the license given to Symphony Ltd is invalid because 2011 the D.C.E of Sampah did not publicise our application of Symphony Ltd concession in his area.

In the same meeting I explained carefully and comprehensively the procedure of prospecting on large scale concession.

After giving them detailed information, Mr. Jones and the Youth Leader stated that for them to go and tell the truth to the communities after destroying our image would be too dangerous.

Due to the disrespect of Mr. Jones towards the chiefs, they refused to meet and have any discussion concerning our prospecting with him.

The Assemblyman didn't do his due diligence, and made claims out of spite against Symphony Ltd. Because he's at loggerhead with the chiefs. A person representing the Government is flaunting the orders of the DCE, Chiefs and Community elders: does what he wants and nobody seems to be able to control him.

Baabiaraneha

**Janus-faced District Assemblyman-Oppong Martin
Representative from Symphony Ltd have held several meetings with Omanhene of Japekrom to discuss the licence and copies have been sent to the District Assembly and the District Police Headquarters.**



The Omanhene of Japekrom last month upon going through the documents gave Symphony the permission to start the prospecting and letters were sent these two communities namely Baabiaraneha and Komfuorkrom which he the Omanhene claimed to be the custodian of the land to brief them of our coming and to give the Company the necessary assistance and their cooperation before we start the prospecting.

We visited Baabiaraneha to officially introduce ourselves to the chief and elders as representative from Symphony Ltd and to brief them on our intention but to no avail. We wrote a letter to them to have a meeting with the community so that we could discuss the prospecting licence and they accepted to meet us. The meeting was held on Tuesday 18th April 2017 at the Baabiaraneha Chief Palace around 12: 30pm with the chief and elders, the Assemblyman Oppong Martin and some of the youth of Baabiaraneha.

The issues that were discussed and concerns raised by the Chief and elders of Baabiaraneha are:

1. The chief of Baabiaraneha stated that the communities Baabiaraneha and Komfourkrom do not reside within the Traditional Administration of Japekrom so thus they can't comply with the directives of Japekrom Omanhene since there is an impending Case at Sunyani High Court.

2. One of the elders made it known to us that the Government especially the Minister of lands and Natural Resources; Hon. John Peter Amewu has directed all mining activities to cease until further notice thus they will not discuss anything further with us. We tried to explain to them that it is illegal mining/galamsey and small scale mining that the Government is cracking down on not large scale prospecting but our effort prove futile.



3. The Assemblyman Martin Oppong further stressed that the Government and the Minerals Commission do not own any land in the Community so if the Minerals Commission have granted us the permit they would never allow us to work, also he has written to the Ministry of Lands and Natural Resources, minerals Commission, Brong Ahafo Regional Minister, Regional Army Commander to intervene on our coming to prospect.

4. After the chief and elders have abandoned the meeting Martin Oppong explicitly told us that they could have beaten us up to serve as a deterrent to others coming to do galamsey since there is a ban on all mining activities in the country.

Conclusion and Recommendation

To my utter amazement, I just can't comprehend why the Assemblymen just don't do their due diligence and find out from the Minerals Commission if what we're telling them is true or false. They've taken the laws into their own hands, and are the root cause of all our perils in the communities. Instead of representing the Government, they represent themselves with their over inflated egos, disrespecting everyone, masterminding and scheming to derailing our work and progress over the years since 2011.

It is now imperative for the Government and Minerals Commission to intervene and send representatives to the communities and deal with the Assemblymen judiciously and backup our statements of being a rightly registered Large Scale Mining Company with a prospecting Licence. The Assemblymen have tarnished our image to an extent that its next to impossible to tell them we're following the right procedures. Their personal phone numbers are:



1. Jones Sefa-0249542326(Adamsu Assemblyman)
2. Opong Martin-0242688600 (Baabianeha Assemblyman)

I would also like to get some feedback from the Minerals Commission, since all my letters have been unanswered.

Yours faithfully,

Sgn

Joojo Frimpong-Boateng

(Chief Executive Officer, Symphony Limited)

CC: The Hon. Minister, Ministry of Lands and Natural Resources, Accra.

We have marked this letter as Exhibit SYM 28.

**30.LETTER FROM MINERALS COMMISSION TO SYMPHONY LTD
REF.NO.PL.7/148 OF 2 JUNE 2017 WITH THE HEADING: RE-
GOVERNMENT AND MINERALS COMMISSION INTERVENTION
PARAMOUNT**

This letter provides as follows:

We acknowledge receipt of your letter dated April 28th(sic), 2017 on the above subject matter.

The Commission wishes to confirm that Symphony Limited is the holder of two (2) Prospecting Licences (with renewal option) located at Baabiaraneha and Adomesu in the Brong Ahafo Region.

From the Commission's records, the Baabiaraneha Prospecting Licence spans two districts namely, Berekum and Jaman South. The Adomesu



Prospecting Licence also spans two districts, namely Jaman North and Jaman South.

The 2-year Prospecting Licences, which were both granted by the Hon. Minister of Lands and Natural Resources on 23rd March, 2016 will expire on 22nd March, 2018.

In accordance with the law, the terms of the licences allow your company to search for the specific minerals, and to determine their extent and economic value of the mineral deposit. The terms also permit your company to carry out physical activities such as pitting, trenching, drilling etc. on the land.

We are by this letter confirming that Symphony Limited is a legitimate large scale Prospecting Licence holder and has every right to conduct exploration on the Prospecting Licences mentioned above.

We count on the support of all stakeholders to enable you to carry out your exploration programme as planned.

Yours faithfully,

Sgn

EMMANUEL AFREH

MANAGER, MONITORING AND EVALUATION

FOR: CHIEF EXECUTIVE OFFICER

This is marked as Exhibit SYM 29.

31.LETTER FROM SYMPHONY LTD ADDRESSED TO THE CHIEF EXECUTIVE OFFICER, MINERALS COMMISSION DATED 31 AUGUST 2017 WITH THE HEADING: PRESS RELEASE AND GOVERNMENT RESPONSE REQUEST



This letter/release provides as follows:

Since receiving the Prospecting Licence on the 23rd of March 2016 we have been unable to start any exploration up to date. Here are the latest setbacks:

Adomesu

We have not received any feedback since the letter explaining our activities was sent June 2, 2017 from the Minerals Commission. Several attempts to contact the opinion leaders has proven futile. And I don't want to send my team out there to risk their lives due to the wrong information that the Assembly-man (Jones) has spread that there are illegal miners. I would be glad if I can be advised on the next line of action to take since there are only four months left in the year with no sign of progress. It seems all the letters and communications are falling on deaf ears. Is it possible for your institution to write a letter to the regional Minister in Sunyani to send a representative to speak to them?. I believe that would be more effective than just writing letters for them to read and ignore. If we take a step forward, there are backlashes. When we complain and try to tell them as kindly as possible our mission; then as usual there is no feedback.

Baabiaraneha:

There has been several Radio and Newspaper Press releases from the Drobo Traditional Council that Symphony, the Minerals Commission and the Chief of Japekrom has been involved with Galamsey activities; tarnishing the image and hard work we have undertaken over the years. The Japekrom Traditional Council responded to these false allegations and the Chief has threatened to take Drobo Traditional Council to court. We are stuck in the middle of their clashes, and we're just wondering how long it will take for them to resolve their issues in order for us to start our explorations. We seriously have no intent to be involved in their



Chieftaincy issues. Any recommendations on how to proceed will be appreciated. Time is ticking and we can never make up for all these years wasted. I seriously wish I can write some progress report for a change. But with the current situation no headway is being made.

The only solution I can foresee is to have the Minister and Regional Minister come out with a statement to the Assembly-men and communities to tell them Symphony is a legitimate company and our prospecting work has nothing to do with Galamsey or destroying their livelihood. Any other suggestion on the way forward will be highly appreciated.

Yours faithfully,

Sgn

Joojo Frimpong Boateng

(Chief Executive Officer, Symphony Limited)

We have marked this letter as Exhibit SYM 30.

32.LETTER FROM SYMPHONY LTD TO CHIEF EXECUTIVE OFFICER, MINERALS COMMISSION DATED 22 NOVEMBER 2019 WITH THE HEADING: RE-PAYMENT OF ANNUAL MINERAL RIGHT FEE ADOMESU PROSPECTING LICENCE, BA/R AND BAABIARANEHA PROSPECTING LICENSE BA/R

This letter states as follows:

I would like thank you for the reminder for the payment of the Annual Mineral Right Fee (AMRF); which was due on the 22nd March 2017. As your institution is already aware (see the attached letters, we have not been able to undertake any prospecting since the licence was granted. The opinion leaders and communities in our area of operations have extremely frustrated myself and our investors to the point of even



threatening their lives. It has been very expensive just to initiate the prospecting thus out of frustration and annoyance with no intervention from the Government, my investors have opted to cut their losses and abandon the project; even though we've received letters from the Minerals Commission stating that we are a legitimate Large Scale Prospecting Licence Holder.

I would like the payment to be waived for now or time given to make payments, since I'm making arrangement with a new group of investors from England who have shown keen interest. I'm now in the balancing act (with abundant headaches) of fulfilling all my Mineral Acts requirements, paying back the initial investors and convincing my new investors for financial assistance for AMRF and further exploring the Large Scale Mining project.

We have marked this letter as Exhibit SYM 31.

**33.LETTER FROM SYMPHONY LTD TO MINERALS COMMISSION
DATED 22 NOVEMBER 2019 WITH THE HEADING: RENEWAL OF
ADOMESU PROSPECTING LICENSE, BA/R AND BAABIARANEHA
PROSPECTING LICENSE BA/R**

This letter provides as follows:

We would like to renew our Prospecting Licenses for an additional three year which has expired. I pray all the fees for the renewal could be waived(sic) or on a worse case discounted, since we've been unable to start any work due to the challenges we encountered with the communities and chieftaincy issues. They are in the process of hopefully being resolved even though there is no sign of the current curfew being lifted. My prior investors abandoned the project because of the threats made to their lives and the infighting between the Chiefs of the communities.



I have attached supporting Documents for verification and your review. I hope my request will be granted expediently. Thank you for our continuous assistance.

Yours faithfully,

Sgn

Jojo Frimpong-Boateng

(Chief Executive Officer, Symphony Limited)

We have marked this letter as Exhibit SYM 32.

34. GHANA NEWS AGENCY(GNA) REPORT ENTITLED CURFEW IMPOSED ON JAMAN COMMUNITIES RENEWED

This publication by the Ghana News Agency is dated Friday, 25 October 2019. It provides that:

The Ministry of Interior has renewed the curfew hours imposed on eight communities in the Jaman South Municipality of the Bono Region from hours to 0500 hours with effect from Thursday, October 24, 2019.

The towns are Drobo, Japekrom, Baabiaraneha, Kwasiourkrom, Mpuasu, Basakrom, Kojokeseekrom and Katakryiekrom...

The Statement urged the people to use the established mechanisms to resolve their conflicts and disputes to ensure peace in the area.

h. PROF. KWABENA FRIMPONG BOATENG, RESPONDENT

On invitation, the Respondent appeared before the Commission on Tuesday, 7 February 2023. He indicated that he instructed his lawyer to respond on his behalf when the Commission invited him for his comments on the allegations brought



against him and associated himself with the answer to the complaint filed by his Solicitors dated 22 March 2019.

He indicated that he did declare his assets prior to his assumption of office as Minister of State in 2017 and identified the copy of the completed Assets and Liabilities Declaration Form made available to the Commission by the Registrar-General's Department which we have marked as Exhibit D1. He identified his handwriting and the signature of himself and that of the Witness on Exhibit D1. He also attested that he listed minerals concessions at Drobo in the Brong Ahafo Region as part of his properties.

On Symphony Limited, he indicated that it was formed about 20 years ago (1990s) by his wife and himself with the main object of buying and exporting certain commodities. However, when his son Joojo completed his National Service, he proposed to form an indigenous company to venture into small scale mining. That he and his wife advised Joojo that instead of forming a new company, he should take Symphony Ltd to the Registrar-General to amend the objects of the company to include mining. That his son went through all the necessary processes required to procure a mining licence but that despite acquiring the licence and concessions, Symphony Ltd has never been allowed to undertake any mining activities in the areas due to stiff resistance.

On the shares of the Company, he indicated that he remembered ceding some of the shares to his cousin: Yaw Badu, who was engaged in mining. He identified the two (2) Deeds of Transfer of Shares executed by him and his wife to Yaw Badu which were exhibited by the Complainant to his complaint as Exhibits 4 and 5 respectively. He indicated that no Deed of Transfer of Shares was executed after this.

On the failure to declare Symphony Limited as part of his business interest in his assets declaration form, exhibit D1, he said that his failure to do so was because Symphony Limited was a liability rather than an asset and that in his thinking the declaration is about assets and not liabilities. He however indicated that he thought



that the declaration of Drobo/Japekrom concessions covered Symphony Limited since the concessions belong to the company.

7.0 DISCUSSION AND ANALYSIS OF ISSUES IN THE LIGHT OF THE EVIDENCE.

ISSUE 1: Whether the grant of prospecting Licenses to Symphony Limited in the Gyapekrom areas namely Nwenem, Asiri, Gyapekrom, Baabiareneha and Adomesu if any is contrary to the stated objects of the Company.

Investigations reveal that Symphony Limited was incorporated under the then Companies Code as a company limited by shares on 26 February 1990 with its registered number as 39305 per Exhibit SYM 2. Its Certificate to Commence Business was issued by the Assistant Registrar of Companies on the 9th day of March 2009 under which it was entitled retrospectively to commence business from 27 February, 1990 as per as Exhibit SYM 1.

The evidence on record suggests that Symphony Limited once held a reconnaissance license in the Gyapekrom areas namely Nwenem, Asiri, Gyapekrom, Baabiareneha and Adomesu. In its letter to the Commission dated 23 June 2020(Exhibit A), the Minerals Commission indicated that:

Symphony limited Symphony Limited first held a reconnaissance licence over a total area of 1,036.44km² in Gyapekrom. The Company applied to convert the reconnaissance licence to five (5) prospecting licenses over Asiri, Adomesu, Nwenem, Gyapekrom and Baabiaraneha concessions on 14th January,2014.

On the 14 of January 2014, the Company by letter, which we have labelled as Exhibit SYM 13, applied to the Minerals Commission for a conversion of the reconnaissance license into a prospecting license. In Exhibit SYM 13, Symphony Limited requested the Mineral Commission in these words for:



A two-year prospecting Licence is therefore humbly requested to properly evaluate and advance the following Symphony Limited concessions:

- 1. Asiri Concession -Area=113.40 sq.km**
- 2. Adomesu Concession-Area=118.44 sq.km**
- 3. Nwenem concession-Area=145.95 sq. km**
- 4. Gyapekrom concession-Area=157.08 sq. km**
- 5. Baabiaraneha concession-Area=157.29 sq.km**

We would therefore be grateful if you could kindly convert our Gyapekrom Reconnaissance Licences into the above five (5) Prospecting Licence.

In response to this application, the Minerals Commission on the 14 February 2014 wrote five (5) separate letters on each of the concessions similarly worded and with the same heading to Symphony Limited; the only difference in the letters related to the amount of processing and annual mineral right fees. We have labelled these letters as Exhibit SYM 14, Exhibit SYM 15, Exhibit SYM 16, Exhibit SYM 17 and Exhibit SYM 18.

It is significant reproducing the relevant parts of one of these letters, Exhibit SYM 14:

RE: TERMINAL REPORT AND APPLICATION FOR CONVERSION OF SYMPHONY LTD GYAPEKROM RECONNAISSANCE TO PROSPECTING LICENCE

We refer to your application dated January 14, 2014 for a conversion of a portion of the Gyapekrom reconnaissance licence in the Brong Ahafo Region to a two-year prospecting licence covering a land area of 157.29 Km at Baabiaraneha and wish to inform you that the Commission will recommend to the Minister for Lands and Natural Resources to grant you the licence subject to the payment of the following fees:



- 1. Processing fee of GHS850.00 (Eight Hundred and Fifty Ghana Cedis)**
- 2. Annual Mineral Right Fee (consideration fee) of GHS58, 242.00 (Fifty-Eight thousand, two Hundred and forty-two Ghana Cedis) for the first year, in accordance with the Minerals and Mining (licensing) Regulations, 2012 (L.I. 2176).**

Accordingly, we advise that you pay the above fee by Banker's draft to the Minerals Commission before the conversion of your licence is granted.

The above offer remains open for a period of sixty (60) days from the date of this letter. If it is not accepted within the said period, your application for conversion of the licence shall lapse.

Yours faithfully,

Sgn

(PETER AWUAH)

DEPUTY MANAGER, MINERAL TITLES

For: CHIEF EXECUTIVE OFFICER

The grant of prospecting licenses on each of these concessions to Symphony Limited was subject to the payment of processing and annual mineral rights fees. It appears that fees were paid in respect of some of the concessions, for on the 23 March 2016, an agreement was executed between the Government of Ghana acting by the Minister for Lands and Natural Resources and Symphony Limited under which Symphony Limited was granted a licence to prospect and prove gold in some communities in the Jaman South and North Municipalities, an extract of which Agreement this Commission accepted into evidence and labelled as Exhibit JSM. In its letter to the Commission dated 23 June 2020, (Exhibit A) the Minerals Commission indicated that although Symphony Limited applied for prospecting licenses for the Nwenem, Asiri, Gyapekrom, Baabiareneha and Adomesu concessions, it failed to follow up on the Asiri, Gyapekrom and Nwenem concessions and eventually gave up on them. In the result, prospecting licenses were only issued over the Baarbiaraneha and



Adomesu concessions after the company had paid the processing and annual mineral right fees. Was the grant of these licenses to Symphony Limited consistent with its stated objects?

It is to be noted that as at 2016, when Symphony Limited was granted these licences, the Companies Code, 1963(Act 179) was in force. Section 25 of Act 179 enjoined companies from engaging in businesses outside their stated objects. It states as follows:

25.(1) A company shall not carry on any business not authorized by its Regulations and shall not exceed the powers conferred upon it by its Regulations or this Code

Where a company acts outside its stated objects, such acts are deemed *ultra vires* and accordingly illegal.

The grounds for the allegation by the Complainant that the grant to Symphony Limited of prospecting licences was ultra vires its stated objects are contained in a copy of the Regulations of the Company dated 13 February 1990, exhibited and marked by the Complainant as Exhibit 1 to his petition. Exhibit 1 is the same as Exhibit SYM which was made available to the Commission by Joojo Frimpong Boateng, the CEO of Symphony Limited on 12 January 2021 during interview. Exhibit 1 partly titled “REGULATIONS OF SYMPHONY LIMITED” states in relevant part as follows:

- “1.The name of the company is: SYMPHONY LIMITED**
- 2. The nature of the businesses which the company is authorized to carry on are**
 - i. General Merchants; Trading as Importers and exporters of General Goods;**
 - ii. Manufacturers representatives**
 - iii.Farming...**



Clearly, dealing in mining or matters related thereto is not mentioned in Exhibit 1. It is trite law however that companies can and do amend their regulations. Thus section 26(1) of Act 179 provides in these terms:

26.(1) A company may by special resolution, alter its Regulations with respect to the businesses which it is authorized to carry on or, in the case of a company not formed for the purpose of carrying on a business, with respect to the objects for which it was established...

As noted supra, the grant of prospecting licenses to Symphony Limited was on the 23 March 2016. The question to ask is whether Symphony Limited amended its regulations to include mining as at the date that it was granted these licenses?

In its comments on the Complaint, the Respondent per his Lawyers **M.A.F. RIBEIRO & ASSOCIATES**, appeared to have admitted that the grant of prospecting licenses to Symphony Limited in the Nwenem, Asiri, Gyapekrom, Baabiareneha and Adomesu was contrary to its stated objects. We have already observed supra that this admission was a drafting error and the evidence before the Commission appear to justify our position.

During investigations, the Commission per letter Ref. No. 49/2019/70 requested Registrar-General's Department to address among others the following issues:

- 1. What were the objects or nature of business of the company at the time of its incorporation?**
- 2. Whether or not the objects of the Company has changed over time and if so what were the objects of the company in 2016**
- 3. If there has been any change to the objects of the company after 1990 by what means were the objects changed? (Please attach the evidence)**
- 4. Has there been any amendment to the Regulations of the company and if so how was this effected? (Please attach a Certified True Copy of the Amended Regulations if any)**



It is trite learning that the Registrar-General's Department now Registrar of Companies is the custodian of all documents on Companies in Ghana. In its response to the Commission per letter Ref.No. RGG1 VOL.13 of 7 September 2020(Exhibit B), the Registrar-General whilst stating that Symphony Limited is legally registered under the Companies Code indicated with reasons, its inability to furnish the Commission with the information requested as follows:

INFORMATION FROM OUR RECORDS REVEALED AS FOLLOWS:

That the above Company is registered under our old RGD Pro Electronic System.

Information from our data revealed that the company has not complied with the Registrar-General's Directives on the update and Re-registration of companies in our new E-Registrar

This would have helped the Department furnish your reputable outfit with the information requested.

We are currently digitizing our physical files which is an on going project. As a result of that the Department may require some time to enable us furnish your reputable outfit with the necessary manual information.

In effect, the non-compliance by Symphony Ltd of registration requirements created this disability.

However, during interview the Chief Executive Officer (CEO) of Symphony Ltd, Joojo Frimpong Boateng whilst admitting that the initial objects of the Company did not include mining indicated that a Special Resolution was passed subsequently by the Company to amend its regulations to include mining and submitted a copy of the said Special Resolution dated 24th March 2009 (Exhibit SYM 4) which was filed with the Registrar-General's Department on 27 March 2009. We have found it necessary to reproduce the salient part of Exhibit SYM 4 as follows:



At the General Meeting of the above-named Company held at REGISTERED OFFICE, in the District of the Accra on the 24TH day of MARCH 2009 of which due notice had been given, the following Special Resolution (s) was/were duly passed:

Resolved THAT THE REGULATION (2) HAS BEEN AMENDED TO INCLUDE MINING OF MINERALS, GOLD AND DIAMOND WITH EFFECT FROM 26TH MARCH, 2009

FILED: 27-03-2009..."

Exhibit SYM 4 was passed 19 years after the initial regulations came into effect. Exhibit SYM 4 is a Completed Form from the Registrar-Generals Department containing the information aforementioned and it has the Stamp and signature of the Registrar of Companies as a "CERTIFIED TRUE COPY". It also contains, at the base of it, the signature of the "Secretary" of the Company. This signature is identical to signatures in documents exhibited by the Complainant to his complaint (See Exhibits 1,2,3,4,5,6,7 and 8).

The Commission therefore has no basis to suspect that Exhibit SYM 4 was fraudulently procured. For that reason, the Commission does not doubt its probative value and would accordingly rely on same.

From the above analysis, the Commission finds that:

- a. Symphony Ltd was incorporated in February 1990 and commenced business in the same period;
- b. At the date of its incorporation, the nature of business of Symphony Ltd was General Merchants, Trading as Exporters and Importers of General Goods, Manufacturer Representatives, and Farming; and
- c. Symphony Ltd subsequently passed a Special Resolution on the 24 March 2009 to amend its regulations to include mining.

On the basis of the aforementioned, the Commission finds as fact that the granting of prospecting licenses to Symphony Ltd was not contrary to its stated objects.



2. Whether the Respondent's company, Symphony Limited is holding onto all five (5) mining concessions despite indicating that it was only holding onto to two (2).

The claim of the Complainant is that even though Symphony Limited has indicated that it is no longer interested in three (3) mining concessions namely Nwenem, Asiri and Gyapekrom, these are still being held for the affected company. The Respondent whilst denying this indicated that it has not been able to do any prospecting even in the Adomesu and Baabiareneha areas where it has interest.

There is overwhelming evidence which points to the fact that Symphony Limited is not in control of the three other concessions. First, in its letter to the Commission dated 23 June 2020 (Exhibit A), the Minerals Commission indicated that though Symphony Ltd applied for prospecting licenses for the impugned three (3) Concessions of Asiri, Gyapekrom and Nwenem, it failed to follow through and eventually gave up on them on 20 November 2014. The Minerals Commission also stated in Exhibit A that Symphony Ltd wrote a letter to it to discontinue its interest in the Nwenem, Asiri and Gyapekrom concessions. In its letter Ref.No.PL.7/148 of 2 June 2017 addressed to key stakeholders such as the Ministers for Lands and Natural Resources, Local Government and Rural Development and Brong Ahafo Region (Exhibit JSM 4), the Minerals Commission indicated as follows:

The Commission wishes to confirm that Symphony Limited is the holder of two (2) prospecting licenses (with renewal option) located at Baabiaraneha) and Adomesu in the Brong Ahafo Region.

This letter was written in the wake of community resistance to the attempts by Symphony Limited to engage in prospecting in the area and the purpose of the letter was to solicit the assistance of the stakeholders to address the issue to enable the Company carry out its activities. Significantly, the Complaints by Symphony Ltd on community resistance related only to its concessions in Adomesu and Baabireneha. See Exhibits SYM 25, SYM 26, SYM 27, SYM 28 and SYM 30. The Commission is at pains to understand why communications from Symphony Limited relate to



only the Adomesu and Baabiareneha Concessions if it had any interest in the remaining concessions of Nwenem, Asiri and Baabiareneha. It is certainly most likely that after 2014, Symphony's interest in these three (3) other concessions lapsed. That, this is so, is due to the fact as at November 2019, long after the instant complaint was lodged, Symphony Limited in a letter titled "**RENEWAL OF ADOMESU PROSPECTING LICENSE AND BAABIARANEHA PROSPECTYING LICENSE BA/R** (Exhibit SYM 32) applied to the Minerals Commission for renewal only of its concessions in the Adomesu and Baabiareneha concessions.

Our investigations did not uncover any evidence- documentary or verbal to suggest remotely or directly that Symphony Limited is still holding onto these three other concessions. Indeed, Exhibit A indicates that from 2017 to 2020 Annual Mineral Right Bills from the Mineral Commission to Symphony Limited related only to the Baabiaraneha and Adomesu concessions. Conclusively therefore, the Commission finds based on the evidence before the Commission that it does not support the complainant's assertion that Symphony Limited is holding onto all the five concessions. Issue 2 can therefore be answered in the negative.

3. Whether the Respondent engaged in corruption and or abuse of power by having his company i.e Symphony limited, hold on to the five mining concessions irrespective of the company's failure or refusal to pay to the state the necessary mining right fees.

Ordinarily, under corporate governance, a company's acts are its own acts because a company is a distinct legal entity from its members or owners, per the case of **Salomon v Salomon** [1897] AC 22. As such, members or shareholders of a company are not personally liable for the acts of their companies hence a corporate veil shields them. There are however exceptions to this general rule. In the case of **Morkor v Kuma (East Coast Fisheries case) [1998-99] SCGLR** the Supreme Court of Ghana held that:



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

In the instant case, it is quite clear that the allegations that the Respondent who was a public officer has by his influence enabled his company to hold on to mining concessions without paying the necessary mining rights fees falls under the exception of public policy justifying the lifting of the corporate veil to enable the Commission determine whether the actions of the company can be attached to that of the members or shareholders (i.e. the Respondent) hiding behind the corporate veil.

There is however a contention as to whether the Respondent still had control of the Company at the time of the complaint. The Complainant alleges so whereas the Respondent contends otherwise. The incontrovertible fact as per the complaint and response of the Respondent is that the Respondent was among the first subscribers and directors of the company with 60,000 shares to his name as of 1990. It is also not in dispute that sometime in January 2014, the Respondent transferred 60,000 shares representing 30% of the shareholding of the company to one Yaw Badu. In the Deed of Transfer attached to the complaint (Exhibit 4) and whose authenticity was not disputed by the Respondent, the 60,000 shares were not the only shares possessed of the Respondent. The recitals to the Deed of Transfer dated 14 January 2014 between the Respondent (transferor) and Yaw Badu(transferee) reads:

“WHEREAS “THE TRANSFEROR” is the beneficial owner of One Hundred and Twenty thousand (120,000) Shares representing (60%) of the total shares in the undertaking known as SYMPHONY LIMITED, a limited liability Company incorporated in Ghana under the Companies Code,1963, (Act 179) and having its registered office at independence Avenue,Accra.



AND WHEREAS “THE TRANSFEROR” as Beneficial Owner for One Hundred and Twenty Thousand (120,000) shares valued at twelve thousand Ghana cedis (GHS 12,000) is desirous of transferring Sixty thousand (60,000) of these shares representing thirty percent (30%) of the Total shares of the Company to “THE TRANSFEREE”.

NOW THEREFORE THIS DEED OF TRANSFER WITNESSETH: that I, THE TRANSFEROR” as Beneficial Owner of the above-mentioned Shares have transferred the said shares of sixty thousand (60,000) to YAW BADU.”

By simple arithmetic therefore, the Commission finds as a fact that as of 14 January 2014, the Respondent still had some form of control over Symphony Limited (albeit in the minority). Did this control lapse after 14 January 2014 or as of 4 February 2019 when the instant complaint was brought against the Respondent?

Investigations reveal that on 20 November 2014, the Respondent signed a letter to the Minerals Commission titled **“APPLICATION TO TAKE TWO OF THE FIVE CONCESSION LOTS”** in his capacity as **“Director, Symphony Limited, Tel 0244310049”**.

However, in his Completed Assets and Liabilities Declaration Form (Exhibit D1) made available to the Commission by the Audit Service, the Respondent did not include Symphony Limited as one of his business interests. Rather under the Part sub-titled **“Other Business Interest as at date of making Declaration”**, the business interest listed are Boateng Medical Centre and Specialist Hospital. What this might suggest is that the Respondent no longer had any interest in Symphony Limited. However, in the same Exhibit D1, the Respondent indicated that he has a mineral “concession at Drobo/Japekrom”.

The evidence before the Commission indicates that the mineral concessions at Drobo/Japekrom, sometimes spelt “Gyapekrom” belong to Symphony Limited. It was Symphony Limited that applied for the reconnaissance license and later the prospecting licenses which were granted by the Minerals Commission only in



respect of the Adomesu and Baabiaraneha concessions. All requests for payment of Fees are also being directed at Symphony Limited and not the Respondent (See the letter from the Mineral Commission to the Commission on Human Rights and Administrative Justice dated 23 June 2020, Exhibit A). During interview before the Commission on 12 January 2021, Jojo Frimpong Boateng, current CEO of Symphony Limited indicated that the Respondent resigned as director of the Company in 2015/2016 and added that although Directors of the Company have been meeting, between 2016 and 2019, the Respondent has never been involved in any activity of Symphony Limited. However, he did not indicate that the Respondent is no longer a shareholder of the Company and no information was made available to suggest that the Respondent is no longer a shareholder. Indeed, on the 7 February 2023 when the Respondent appeared before the Commission for interview, he told the Commission that he did transfer 60, 000 of his shares to Yaw Badu per Exhibit 4, the “Deed of Transfer” but has not executed any other deed to transfer his remaining shares.

It stands to reason that as of 2017 when the Respondent filed his assets declaration form with the Audit Service, he was still a shareholder of Symphony Limited. Being a shareholder, the Respondent had an interest in Assets of the Company. The Drobo/Jakpekrom concession therefore mentioned in the Asset Declaration Form belong to Symphony Limited, a fact attested to by the Respondent. The Respondent could only have mentioned it because he has an interest in the Company. That being the case, it cannot be said that the Respondent divested himself of any control of the Company.

Having found that the Respondent was still in control of Symphony Limited, the question is whether or not the company held on to all five (5) concessions or just the two (2).

The Commission has already found in the discussion of issue 2 supra that Symphony Limited is only holding on to two (2) concessions in the Adomesu and Baabiaraneha Areas and there is no need rehashing this point. Suffice it to state that by its letter to the Mineral Commission dated 20 November 2014 Symphony Limited sought to



shed three (3) of its five concessions. The concessions sought to be shed were the ones at Gyapekrom, Nwenem and Asiri. By a letter dated 15th April 2015, the Minerals Commission accepted the Company's decision to discontinue its interest in the three (3) concessions thereby relinquishing the Symphony Limited's in respect of those areas. No evidence was found by the Commission indicative of the Company still exercising any covert or overt act of ownership over the concessions after 2014. As a matter of fact, the Minerals Commission stopped demanding mineral right fees from the company in relation to the three(3) concessions as opposed to the two(2) retained by the company; the last demand notice by the Minerals Commission in respect of the three(3) concessions was dated 14 February 2014 whereas the last demand notice (as at the date of the complaint) in respect of the two(2) retained Adomesu and Baabiaraneha concessions, were on 19 and 24 October 2017 respectively.

It is the Commission's finding therefore that Symphony Limited did not continue to hold on to all five (5) concessions to the detriment of government and or other applicants after the 20 November 2014 letter seeking to release the three(3) concessions. For the avoidance of doubt, Symphony Limited after the Minerals Commission's acceptance letter dated 15 April 2015 had no interests in Gyapekrom, Nwenem and Asiri concessions. Since Symphony Limited is not holding unto the three (3) concessions, the claim by the Complainant at paragraph 10 of the Petition that:

10.The said three concessions which have not been released to other applicants but are being held for Symphony Limited is causing the State about \$250,000 annually which is the estimated annual mineral right fees which would have accrued to the State

cannot be said to be tenable.

The final question to resolve this issue is why the two prospecting licenses owned by Symphony Limited were not revoked by the Minerals Commission even though



they were in arrears and whether it was as a result of corruption or abuse of power by the Respondent.

In its letter to the Commission dated 23 June 2020 (Exhibit A), the Minerals Commission indicated that the indebtedness of Symphony limited was US\$ 82,344 in respect of its Adomesu concession, and US\$ 109,354 in respect of the Baabiaraneha concession. The last demand notices in respect of the two (2) concessions were in October 2017. The incontrovertible evidence remains that Symphony Limited is still holding on to these concessions.

It is this continued hold onto the concessions that has prompted the Complainant to allege at paragraph 13 of the Petition that:

13. That the only logical reason why those concessions are still being held for symphony limited is because the Respondent is a Minister of State and heads a Ministry which works hand in hand with the Ministry of lands and Natural Resources through the Environmental Protection Agency

This allegation if substantiated would mean that the Respondent is engaged in corruption and abuse of power.

However, there is proof per Exhibit SYM 24 that some mineral rights fees were paid by Symphony limited in respect of the two retained concessions on the 21 day of January 2016 to the Minerals Commission. The Company paid GHS59,092.00 for the Baabiaraneha concession and GHS44,707.00 for the Adomesu concession on the aforementioned date.

During the Commission's investigations, it found as fact that, after the Respondent's company was granted the prospecting licenses in respect of the two(2) concessions, it has never been able to undertake its prospecting duties owing to stiff opposition by the people and traditional councils of the communities concerned. See letters to the Minerals Commission dated 11 November 2016, 3 March 2017, 12 April 2017 and 26 April 2017 which we have marked as Exhibit SYM 25, Exhibit SYM26,



Exhibit SYM 27 and Exhibit SYM 28 respectively. The opening paragraphs of all these letters have always been as follows:

Since receiving the prospecting Licence on the 23rd of March this year, we have been unable to start operations due to several factors involving the Chiefs, Assemblies and Communities.

This state of affairs has not been denied by the Minerals Commission. Thus in its letter Ref. No.PL.7/148 of 19 March 2018 (Exhibit JSM 5) and widely copied to Hon. Ministers for Lands and Natural Resources, Local Government and Rural Development and Brong Ahafo Region, the District Chief Executives for Jaman South and North, and District Police Commanders for Jaman North and Jaman South District Assemblies etc, the Minerals Commission made reference to the resistance posed by communities to the activities of Symphony Limited and requested for assistance for the amicable settlement of the conflict. The letter stated in part as follows:

**SYMPHONY LIMITED
ADOMESU PROSPECTING LICENCES AND
BAABIARANEHA PROSPECTING LICENCE OPERATIONS**

We write in reference to the above subject matter.

Symphony limited (SL) holds two prospecting licences located at Adomesu and Baabiaraneha in the Brong Ahafo Region. Since the grant of these prospecting licences SL has been unable to carry out meaningful exploration on its mineral rights due to agitations by the communities in which they are located.

Due to the persistence of these communities' agitations, the Commission would be grateful for your assistance in the amicable resolution of the conflict on the ground. Please do not hesitate to contact the Commission for any further clarification you may require.



Yours faithfully,
Sgn
(ADDAE ANTWI-BOASIAKO)
CHIEF EXECUTIVE OFFICER

Also, in its letter to this Commission dated 23 June 2020, the Minerals Commission had this to say:

Symphony limited has reported to the Minerals Commission about the persistent community conflicts which have prevented it from carrying out its prospecting operations on the Adomesu and Baabiaraneha concessions.

By elementary contract law, one can say that the Agreement executed between the Government of Ghana acting per the then Minister for Lands and Natural Resources and Symphony Limited on 23 March 2016(Exhibit JSM) for prospecting in the two (2) areas has been frustrated. However, there is no evidence indicative of the parties treating the contract/agreement at an end as of 2 February 2019 when the instant complaint was lodged in this Commission. Indeed, by letter dated 22 November 2019, Symphony Limited applied to the Minerals Commission for the renewal of its prospecting licences in the Adomesu and Baabiaraneha concessions (see Exhibit SYM 32).

The inability or delay of Symphony limited in paying its mineral rights fee can also be attributed to the harshness and unfairness of the continual payment of fees for something that is not being enjoyed; this is especially so when the company had shown goodwill by paying for some of the mineral rights fees to the Minerals Commission. To buttress the point that the non-payment of the mineral right fees by Symphony limited has not been out of wanton disregard, corruption and abuse of power, is the letter dated 26th October 2017 written by the company to the Minerals Commission requesting the Commission to waive or give it more time to settle the outstanding annual mineral right fees in respect of the Adomesu and Baabiaraneha concessions (See Exhibit A)



In its letter to the Minerals Commission dated 22 November 2019 requesting for renewal of the prospecting licences, Symphony Limited prayed in these terms:

We would like to renew our Prospecting Licenses for an additional three year which has expired. I pray all the fees for the renewal could be waives(sic) or on a worse case discounted, since we've been unable to start any work due to the challenges we encountered with the communities and chieftaincy issues. They are in the process of hopefully being resolved even though there is no sign of the current curfew being lifted. My prior investors abandoned the project because of the threats made to their lives and the infighting between the Chiefs of the communities.

A plea of waiver was logically borne out of the appreciation of the unfairness of having to pay for something not yet enjoyed.

Accordingly, in the absence of any evidence of corruption and or abuse of power on the part of the Respondent's Company, the Commission finds that the retention of the two prospecting licences by Symphony Limited despite its ability to pay up in full its mineral rights fees, is not as a result of corruption or abuse of power by the Respondent but as a result of aforementioned matters on the ground which have made the revocation of the licences by the Minerals Commission in such circumstances harsh and unfair.

Issue 4

Whether or not the Respondent put himself in or was likely to put himself in a conflict-of-interest situation when the Environmental Protection Agency granted his Company a Permit for Mineral Exploration.

It is the contention of the Complainant that the Respondent has placed himself in a conflict of interest situation as a result of his interest in Symphony Limited because apart from the licenses given by the Ministry of Lands and Natural resources, every mining company is required to have an Environmental permit for Mineral Exploration and this permit is granted by the Environmental Protection Agency



which is directly under the Ministry of Science, Technology, Environment and Innovation and that it is conflict of interest as the Respondent will “**ultimately be issuing the Environmental Permit for Mineral Exploration to his own company**”.

Article 284 of the 1992 Constitution prohibits public officers from putting themselves in conflict-of-interest situations where their personal interest conflict with or is likely to conflict with the performance of the functions of their office.

Article 284 which forms part of the Chapter 24 of the Constitution provides that:

A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.

Article 287 also provides:

An allegation that a public officer has contravened or has not complied with a provision of this Chapter [Chapter 24] shall be made to the Commissioner for Human Rights and Administrative Justice and, in the case of the Commissioner of Human Rights and Administrative Justice, to the Chief Justice who shall, unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

(2) The Commissioner for Human Rights and Administrative Justice or the Chief Justice as the case may be, may take such action as he considers appropriate in respect of the results of the investigation or the admission.

Pursuant to its mandate under Articles 284 and 287 of the Constitution, the Commission in 2006 issued Guidelines on Conflict of Interest to assist public officials to whom Article 284 applies to identify, manage, and resolve conflicts of interest. In addition, the Commission, pursuant to its mandate under Chapter 24 of



the Constitution, issued a generic Code of Conduct for Public Officers to guide public officials on compliance with Chapter 24 of the Constitution.

Thus, the Code of Conduct for Public Officers in chapter 24 of the 1992 Constitution and as elaborated in the Code of Conduct for public officers of Ghana, 2009, (the Code) developed and issued by the Commission, contains minimum standards of conduct applicable to all public officers, including elected, non-elected or appointed, who are to ensure that the basic values and principles provided in the Constitution and the Code are adhered to. The Code seeks to promote integrity, probity, and accountability, dedicated and faithful service to the Republic of Ghana. These standards include “Guidelines on Conflict of Interest to Assist Public Officials Identify, Manage and Resolve Conflicts of Interest” (the Guidelines). The Code and the Guidelines were issued as administrative and operational framework for implementing the Constitutional intendment underpinning Chapter 24 of the Constitution.

The Guidelines define conflict of interest as:

“a situation where a public official’s personal interest conflicts with or is likely to conflict with the performance of the functions of his/her office.”

The Guidelines also provides that:

Conflict of interest occurs when a public official attempts to promote or promotes a private or personal interest for himself/herself or for some other person, and the promotion of the private interest then results or is intended to result or appears to be or has the potential to result in the following:

- i. An interference with the objective exercise of the person’s duties;
and
- ii. An improper benefit or an advantage by virtue of his/her position



The Guidelines provides a guide on Conflicting Financial Interest and Self-dealing as follows:

3.1. Conflicting Financial Interest

This section covers financial interests of a public official, which may conflict with his/her official duties. It provides for conflict of interest situations in the award of contracts for goods and services, procurement of goods and services, self-dealing and other related matters.

General Rule: A public official shall not participate in an official capacity in any particular matter which to his knowledge:

- i. he/she has a financial interest; and
- ii. any person whose interests are imputed to him in any way has a financial interest;

if the particular matter will have a direct effect on that interest.

3.2. Self-dealing: A public official shall not take an action in an official capacity which involves dealing with him/herself in a private capacity and which confers a benefit on himself/herself.

Similarly, the Organisation for Economic Co-operation and Development (OECD) has defined conflict of interest in the public sector as:

“A conflict between the public duties and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities.”¹

¹ <https://www.dgaep.gov.pt/media/0602010000/Paperguidelinesconflitsofinterest.pdf-27/07/2020>



Black's Law Dictionary (9th ed.) also defines conflict of interest as

“a real or seeming incompatibility between one's private interests and one's public or fiduciary duties”.

“Private interest” is defined in the Guidelines to include:

A financial or other interests of the public officer and those of:

- i. Family members, relatives
- ii. Personal friends
- iii. Clubs and associations
- iv. Persons to whom the public officer owes a favour or is obligated

This is also buttressed by some of the renowned best practices, among them, Australian Public Service (APS) guidelines on conflict of interest. Among others, the guidelines provide that:

5.1.3 A real conflict of interest occurs where there is a conflict between the public duty and personal interests of an employee that improperly influences the employee in the performance of his or her duties.

5.1.4 An apparent conflict of interest occurs where it appears that an employee's personal interests could improperly influence the performance of his or her duties, but this is not in fact the case.

5.1.7 Where there is credible evidence that a personal interest has compromised the decision made by an employee, that situation should be handled as suspected misconduct. See Section 9: *Reporting suspected misconduct* for further information.

5.2.1 The Code requires that where a material personal interest cannot be avoided, the employee must disclose that interest so that it can be managed.



5.2.2 To be 'material' a personal interest needs to be of a type that can give rise to a real or apparent conflict of interest. Personal interests do not give rise to a conflict of interest unless there is a real or sensible possibility of conflict and not simply a remote or theoretical possibility of conflict. If no reasonable person could draw a connection between the employee's personal interest and their duties, then the personal interest is not 'material'.

On the subject of conflict of interest, the Commission held on page 20 of its decision in the Hon. Richard Anane Case (Case No. 5117/2005) as follows:

In the Commission's view, a conflict of interest is,

- i. Any interest or benefit, financial or otherwise, direct or indirect;*
- ii. Participation in any business transaction, or professional activity;*
- iii. An incurring of any obligation of any nature; or*
- iv. An act or omission;*

which is or appears or has the potential to be in conflict with the proper discharge of a public official's duties in the public interest.

It is also the view of the Commission that conflict of interest occurs when a public official attempts to promote a private or personal interest for himself/herself or for some other person, the promotion of the private interest then results or is intended to result or appears to be or has the potential to result in the following:

- i. An interference with the objective exercise of the person's duties; and*
- ii. An improper benefit or an advantage by virtue of his/ her position.*

The Commission also held in the SSNIT Case involving Multimedia Ltd and Charles Kwame Asare, that:



"A public official breaches this provision not only where there is actual conflict of interest but also where there is a likelihood of conflict of interest. Where there is already in existence a personal relationship between a public officer and another person or between their respective institutions or companies, there is an onerous responsibility on the public officer to ensure that all future transactions between the two persons or institutions are conducted with utmost transparency and in such a manner as to avoid suspicion of any improper motive or conduct"

In sum, the law on conflict of interest is not a blanket one but operates within context. In other words, having financial or relational interest simpliciter does not necessarily place you in a conflict of interest situation. You must have put yourself **in a position where that private capacity interest conflicts or is likely to conflict with the performance of your official duties.**

The Supreme Court put it more succinctly in the case of **Okudzeto Ablakwa (N02) & Another v Attorney General & Obetsebi-Lamphey** as follows:

"a conflict of interest allegation must be examined in the light of clear facts which support a conclusion that a public officer's personal interest conflicts with or is likely to conflict with the performance of the functions of his or her office. The interest ought to be financial or otherwise, direct or indirect, which must ultimately be clearly proven". [**Okudzeto Ablakwa (N02) & Another v Attorney General & Obetsebi-Lamphey (No2) (2012) 2 SCGLR 845**].

The resolution of this issue would therefore require first the ascertainment of whether the Environmental Protection Agency (EPA) was directly under the Ministry of Science, Technology, Environment and Innovation during the tenure of office of the Respondent. Second, whether the Respondent promoted a private interest for himself in the grant of the licenses assuming that he had any role. Third, did the promotion of the private interest result or appeared to have the potential to result in the interference of the objective exercise of the Respondent's duties or an improper benefit or advantage and fourth, did the Respondent take any action that



involves dealing with himself in a private capacity and which conferred a benefit on himself in the grant of the permits.

For starters it is worth noting that the EPA was set up under the **ENVIRONMENTAL PROTECTION AGENCY ACT, 1994 (ACT 490)**. Section 1 of Act 490 provides for the establishment of the agency whilst under section 2 the Agency is given several functions including under section 2(f) the issuance of environmental permits. Section 2(f) provides thus:

Section 2—Functions of the Agency.

The functions of the Agency are—

(f) to issue environmental permits and pollution abatement notices for controlling the volume, types, constituents and effects of waste discharges, emissions, deposits, or other source of pollutants and of substances which are hazardous or potentially dangerous to the quality of the environment or any segment of the environment

But the functions of the Agency are to be performed by the Governing Board established under section 4 of Act 490 which provides that:

Section 4—Governing Body of Agency.

(1) The governing body of the Agency shall be a Board which shall be responsible for the discharge of the functions of the Agency.

(2) The Board shall consist of the following members appointed by the President in consultation with the Council of State —

(a) one person knowledgeable in environmental matters as chairman,

(b) the executive director,



- (c) **one representative of the Council for Scientific and Industrial Research, not below the rank of Principal Research Officer,**
 - (d) **one representative of the Ghana Standards Board, not below the rank of Principal Scientific Officer,**
 - (e) **one representative each, not below the rank of director, from the Ministries responsible for the Environment, Local Government, Finance, Health and Education,**
 - (f) **one representative of the Association of Ghana industries, and**
 - (g) **three other persons knowledgeable in finance or commerce at least one of whom is a woman.**
- (2) **The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.**
- (3) **The President shall, in making the appointments under this section have regard to the knowledge, expertise and experience of the persons in matters relating to the environment.**

However, section 3 of Act 490 provides for Ministerial directions as follows:

Section 3—Ministerial Directions.

The Minister may give to the Agency such directives of a general nature as to the policy to be followed by the Agency in the performance of its functions as appear to the Minister to be necessary in the public interest

The interpretation section of Act 490, section 63 defines “the Minister” as the **“Minister responsible for the Environment”**

From the foregoing, the Commission finds that the EPA is an Agency of the Ministry but not directly under the Ministry of Environment, Science, Technology and Innovation as asserted by the Complainant. Per section 4 of Act 490, there is a



separate governing board which exercises the functions of the Agency. This Board does not have the Minister of Environment as a member and as such the specific mandates/functions of the Agency are exercised by the Board of the Agency.

Per section 3, the Minister can only, in the public interest, give directives of a general nature regarding matters of policy to the Agency in the performance of its functions. Surely specific matters such as the granting of Environmental Permits to a company do not fall under the powers given to the Minister under section 3 of Act 490.

The Commission therefore finds that to the extent the Respondent was not part of the Governing Board of the EPA which granted the Environmental Permit to Symphony Limited, he did not put himself in a position where his personal interests conflicted or was likely to conflict with the performance of the functions of his office.

More specifically, the Respondent did not promote a private interest for himself in the grant to the Symphony Limited of the environmental permits, he was not even in position to do so. It will also be farfetched to imagine that the promotion of the private interest resulted or appeared to have the potential to result in the interference of the objective exercise of the Respondent's duties or an improper benefit or advantage. The Respondent too did not take any action that involved dealing with himself in a private capacity and which conferred a benefit on himself in the grant of the permit.

In any event, the Environmental Permit of the Company was granted by the Agency on 19 April 2016 at a time that the Respondent was not even a public officer qua Minister for Science, Technology, Environment and Innovation. He was so appointed sometime in February 2017.

To put the icing on the cake, when the Complainant appeared before the Commission on the 18 December 2020 for interview, he indicated that he has no information to the effect that the Respondent directly instructed the EPA to grant Symphony Limited a permit, but that by virtue of his position it is possible. In other words, the Complainant has no facts to back his claims much against the admonishment given



by the Supreme Court in the case of **Okudzeto Ablakwa (N02) & Another v Attorney General & Obetsebi-Lampitey** as follows:

The plaintiffs, like other Ghanaians, were entitled to believe that public actions had been tainted with all manner of illegalities and improprieties. Where the plaintiffs would want those illegalities and improprieties to be tagged on to specific public officers, they should be in a position to establish the facts which would support that belief and the basis of that belief in the illegalities and improprieties on the one hand, and the nexus or connection with the specific public officers on the other hand. It was the facts, basis and nexus which would amount to proof and justification for the accusations. The necessity to adduce proof would become even more imperative where, as in instant case, the accusers had invited the court to declare that action as tainted with cronyism, arbitrariness, capriciousness, conflict of interest and abuse of discretionary power vested in a public officer.

Issue 4 therefore is answered in the negative.

Issue 5

Whether or not the Respondent put himself in a conflict of interest position when he as chairman of the Inter-Ministerial Committee on Illegal Mining which regulates activities of illegal mining, had shareholdings and directorship of a company that holds 2 Mining Concessions and has consequently failed to visit his concessions with his Task force

The Inter-ministerial Committee on Illegal Mining was set up by Government to clamp down on illegal small-scale mining also known as Galamsey which is causing havoc to the country's water resources and land. The evidence before the Commission indicates that Symphony Limited once had a reconnaissance licence which was later converted into a prospective licence. The holder of a Prospecting licence is only authorized to search for specified minerals to determine their extent and economic value of the mineral deposit and therefore has no business engaging



in mining. Logically, therefore, the Inter-ministerial Committee on Illegal Mining did not visit the Concessions of Symphony Limited simply because it had no cause to do so because there is simply no mining activities being undertaken there as per our discussion on issue 3 above.

Indeed, the Traditional Authorities of the Jaman South and Jaman North Municipalities all spoke with one voice when they stated categorically that they would not permit any mining activity in the area where the concessions are situate. For instance in their letter dated 23 February 2017 (Exhibit JSM 1) Nananom and Elders of Komfourkrom Drobo in the Jaman South Municipality issued this warning

Our people are poised for action against anybody/bodies who wilfully attempts to put them under any strange traditional rule and will be dealt with ruthlessly.

Finally, we want to emphasise that prospecting, drilling, trenching, and pitting for gold on our lands shall not be allowed.

We are ever ready to seriously protect our lands from such activities for the benefit of the future generation.

The Chiefs and Elders of Baabianeha in their letter to the President of Japekrom Traditional Council dated 23 February 2017 and copied to various persons such as the District Chief Executive, Jaman South Assembly, the Brong Ahafo Regional Minister, the Army Commander, 4th Battalion Sunyani, the Inspector General of Police and Symphony Limited(Exhibit JSM 2) issued a similar warning when they said:

Furthermore, our people have made it clear to us that they are intolerably against the drilling, trenching,pitting and prospecting of gold in the town and its environs.

Any attempt at carrying out any of the above activities will be vehemently resisted by the youth and the entire people.

Please let peace reign (emphasis supplied).



Not surprisingly field investigations by the Commission portrayed that there are no mining activities going on in the affected areas. All the persons interviewed decried mining as it would affect farming activities.

Applying our reasoning in the discussion of issue 4 above, the Commission therefore finds that the Respondent did not put himself in a conflict of interest position when as Chairman of the Inter-Ministerial Committee on Illegal Mining which regulates activities of illegal mining, had shareholding and directorship of a company that holds 2 Mining Concessions and consequently failed to visit his concessions with his task force, simply because there was no mining activities (both legal and illegal) being undertaken at the two concessions.

Issue 6

Whether or not the Respondent failed to declare or inaccurately declared assets owned by him in his assets declaration form submitted to the Auditor General.

By way of request, the Complainant insinuated that the Respondent failed to disclose his interest in Symphony limited in his declaration of Assets and Liabilities form submitted to the Auditor-General. He said,

As a constitutional investigative body, we also request you to find out from the Auditor-General whether Prof Frimpong-Boateng declared his interest in Symphony limited as part of the requirement of assets declaration under the laws of Ghana

Article 286(1) & (2) provides that:

286.(1) A person who holds a public office mentioned in clause (5) of this article shall submit to the Auditor-General a written declaration of all property or assets owned by, or liabilities owed by, him whether directly or indirectly.



(a) within three months after the coming into force of this Constitution or before taking office, as the case may be,

(b) at the end of every four years; and

(c) at the end of his term of office.

(2) Failure to declare or knowingly making false declaration shall be a contravention of this Constitution and shall be dealt with in accordance with article 287 of this Constitution.

“Minister of State or Deputy Minister” per article 284(5) are part of persons required by law to declare their assets and liabilities to the Auditor-General. As indicated above in article 284(5), failure to declare or knowingly making false declarations constitutes a contravention of the Constitution and is to be dealt with in accordance with Article 287.

Sections 7 and 8 of the PUBLIC OFFICE HOLDERS (DECLARATION OF ASSETS AND DISQUALIFICATION) ACT, 1998 (ACT 550) provides as follows:.,

7. Failure to declare

An officer required to declare the assets and liabilities, of that officer under this Act contravenes this Act and shall be dealt with in accordance with section 8, if that officer,

(a) without reasonable excuse fails to declare the assets and liabilities, or

(b) knowingly makes a false declaration.

8. Complaints in respect of contravention

(1) In accordance with article 287 of the Constitution, an allegation that a public officer has contravened or has not complied with a provision of this Act shall be made to the Commissioner for Human Rights and Administrative Justice and, in the case of the Commissioner for Human Rights and Administrative Justice, to



the Chief Justice who shall unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

(2) The Commissioner for Human Rights and Administrative Justice or the Chief Justice shall take appropriate action in respect of the results of the investigation or the admission

Pursuant to the foregoing, the Commission requested and obtained from the Auditor-General, the assets declaration form of the Respondent filed on the 14 day of March 2017.

A careful reading of the Asset Declaration form filed by the Respondent revealed that ‘Symphony Limited’ was not listed or provided for as an asset or business interest in the forms. However, as has already been espoused in the preceding paragraphs, the Respondent as at the date of the Complaint had 60,000 shares in Symphony Limited at the time he filed his asset declaration form in 2017. Is the failure by the Respondent to mention Symphony Limited as part of business interest fatal?

We have already found in our discussion on issue 3 above, that in Exhibit D1, i.e. the Asset Declaration Form, the Respondent indicated that he has a mineral “concession at Drobo/Japekrom”. We have also found that this mineral concession belongs to Symphony Limited. The Respondent also indicated during interview that his failure to mention Symphony Limited as part of his business interest was because he thought that the indication of his interest in the concessions would cater for that of Symphony Limited.

The purpose of declaration of assets and liabilities is to prevent illegal acquisition of wealth by public officers. That is why under article 286(4) of the 1992 Constitution, it is provided that:

(4) Any property or assets acquired by a public officer after the initial declaration required by clause (1) of this article and which is not reasonably attributable to income, gift, loan, inheritance or any other



reasonable source shall be deemed to have been acquired in contravention of this Constitution (emphasis supplied).

Our respectful view is that where a declarant states properties or assets belonging to a business qua company in which he has interests without stating the name of the business, the failure could be deemed as not being fatal. This is not to suggest that public servants ought not to indicate their business interests when completing asset declaration forms.

The Commission accordingly finds that the Respondent did not wholly breach article 286 of the Constitution when he failed to indicate his interests in Symphony Limited in his assets declaration form because the defect in stating so has been cured by the mentioning of the assets of the company.

8.0 SUMMARY OF KEY FINDINGS

1. Symphony Limited is not holding on to all the five concessions but only the Adomesu and Baarbiaraneha concessions.
2. The Respondent did not engage in any act of corruption or abuse of power by having his company hold on to the two (2) concessions despite the failure by Symphony Limited to pay to the state annual mineral rights.
3. The Respondent has not caused any financial loss to the state of about \$250,000 annually.
4. As of 2020, Symphony Limited was in arrears of \$ 82,344 and \$109,354 in respect of annual mineral rights fees for the Adomesu and Baabiaraneha respectively to be paid to the Minerals Commission.
4. To the extent the Respondent was not part of the governing Board of the EPA which granted the Environmental Permit to Symphony Limited, he did not put himself in a position where his personal interests conflicted or was likely to conflict with the performance of the functions of his office.



5. There is no mining activity going on at the place where the concessions are situated.

6. The Respondent did not put himself in a conflict of interest position when the task force of the Inter-Ministerial Committee on Illegal Mining of which he was the Chairman, failed to visit the concessions in which Respondent has an interest simply because there was no mining activity (both legal and illegal) being undertaken at the two (2) concessions.

7. The Respondent did not fully declare his interests in Symphony Limited in his asset's declaration form but the failure to do so is not fatal.

9.0 DECISION

Article 287 of the Constitution supra guides the Commission on what to do following the conduct of investigations under Chapter 24 of the Constitution. It provides as follows:

287.(1) An allegation that a public officer has contravened or has not complied with a provision of this Chapter shall be to the Commissioner for Human Rights and Administrative Justice who shall unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated

(2) The Commissioner for human Rights and Administrative Justice as the case may be may take such action as he considers appropriate in respect of the results of the investigation or admission.

Once again, we agree with the holding of the Supreme Court in the case of **Okudzeto Ablakwa (No.2) vs. Attorney-General & Obetsebi Lamptey (No.2)**, 2 SCGLR 845 at pg. 852, that:



The plaintiffs, like other Ghanaians, were entitled to believe that public actions had been tainted with all manner of illegalities and improprieties. Where the plaintiffs would want those illegalities and improprieties to be tagged on to specific public officers, they should be in a position to establish the facts which would support that belief and the basis of that belief in the illegalities and improprieties on the one hand, and the nexus or connection with the specific public officers on the other hand. It was the facts, basis and nexus which would amount to proof and justification for the accusations. The necessity to adduce proof would become even more imperative where, as in instant case, the accusers had invited the court to declare that action as tainted with cronyism, arbitrariness, capriciousness, conflict of interest and abuse of discretionary power vested in a public officer.

As has become abundantly clear, the evidence does not support the allegations of conflict of interest brought against the Respondent by Complainant. Accordingly, the Complaint bordering on conflict of interest against the Respondent is hereby dismissed for lack of merit.

However, there is evidence that the Respondent did not fully declare his interest in Symphony Limited but this failure is not fatal and cannot be said to be in contravention of Article 286 of the Constitution. The Commission however demands that the Respondent should be more meticulous when the need arises for him to declare his assets next time round.

With respect to allegations outside the code of conduct, section 18 of Act 456 guides the Commission on action to take after its investigations. Section 18 of the Commission on Human Rights and Administrative Justice, 1993(Act 456) provides as follows:

18. Procedure after investigation



- (1) Where after making an investigation under this Act, the Commission is of the view that the decision, recommendation, act or omission that was the subject matter of the investigation**
- (a) amounts to a breach of any of the fundamental rights and freedoms provided on the Constitution, or**
 - (b) appears to have been contrary to law, or**
 - (c) was unreasonable, unjust, oppressive, discriminatory or was in accordance with a rule of law or a provision of an Act or practice that is unreasonable, unjust, oppressive, or discriminatory, or**
 - (d) was based wholly or partly on a mistake of law or fact, or**
 - (e) was based on irrelevant grounds or made for an improper purpose, or**
 - (f) was given in exercise of a discretionary power and reasons should have been given for the decisions**

the Commission shall report its decision and the reasons for it to the appropriate person, Minister, department or authority concerned and shall make the recommendation that it thinks fit.

Section 18 is clear and needs no interpretation. The findings by this Commission indicate Symphony Limited owes the state in excess of \$191,698 (i.e. \$82,344 + \$109,354). The failure to pay is obviously in breach of law.

Although the Commission recognizes the harshness of the accrued mineral rights fees, they still have to be paid to the state. It is therefore recommended that the Minerals Commission should hold discussions with Symphony Limited to agree on a flexible payment plan within which the total debt which stands at \$191,698 is to be paid. The Commission further recommends that the payment of the arrears should be a condition precedent to the renewal of any licence by the Minerals Commission to the Company.

The Commission commends the Complainant for showing public spiritedness in lodging this Complaint and is grateful to all witnesses and institutions that assisted it in this investigation.



DATED AT COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE (CHRAJ), OLD PARLIAMENT HOUSE, JOHN EVANS ATTA MILLS HIGH STREET, ACCRA THIS.....DAY OF MARCH 2023.



JOSEPH WHITTAL
COMMISSIONER