

**IN THE SUPERIOR COURT OF JUDICATURE,
IN THE HIGH COURT OF JUSTICE,
(FINANCIAL & ECONOMIC CRIME DIVISION),
ACCRA.**

SUIT NO. CR/0198/2022

THE REPUBLIC

v

- 1. CASSEIL ATO FORSON. ... FIRST ACCUSED PERSON.**
- 2. SYLVESTER ANEMANA** *(DISCHARGED)*
- 3. RICHARD JAKPA. ... THIRD ACCUSED PERSON.**

**WITNESS STATEMENT OF THIRD ACCUSED [RICHARD JAKPA]
PURSUANT TO ORDER OF THE COURT DATED 9TH APRIL 2024.**

I. BACKGROUND.

Biodata.

1. My name is Richard Anthounma Jakpa. I reside at unnumbered house, Ashale Botwe, Accra in the Greater Accra Region of the Republic of Ghana. I am the Executive Chairman of Jakpa At Business Limited [JBL or Jakpa].
2. I am the third accused person in the proceedings before the Court. I was arraigned before the court on the 18th day of January 2022 on the charge of having acted in contravention of section 179(2) of the Criminal and Other Offences Act, 1960 (Act 29).
3. On the 19th of March 2024, I opened my defence and started giving my testimony in chief orally. However, on 9th April 2024, the court ordered that I file a witness statement instead of proceeding with oral testimony.

4. My present witness statement is therefore filed pursuant to the order of the court. I intend to rely on it together with the part of my testimony in chief which I started giving orally on 19th March 2024 before the court ordered me to file a witness statement.

JBL.

5. JBL was initially registered under the Registration of Business Names Act, 1962 (Act 151) as a sole proprietorship. I was its sole proprietor. It was registered as sole proprietorship in the year 2005. I have attached to my present statement a copy of one of the renewals of *Jakpa At Business* [then a sole proprietorship] which I have marked as **A3-1**. It is dated the 20th day of April 2006.
6. Subsequently, the sole proprietorship *Jakpa At Business*, was registered as a limited liability company [JBL]. It [JBL] was registered on the 7th day of August 2008 to take over the business of the sole proprietorship as a going concern. This is confirmed by its certificate of incorporation which I have attached hereto and marked as Exhibit **A3-2**. It is numbered CA-48,578.
7. After its registration in the year 2008 the registry of companies directed that all registered companies be re-registered. JBL followed this directive. Certificates of Incorporation and to Commence Business were therefore re-issued to JBL after JBL complied with the directive to re-register. I have attached hereto the reissued Certificates of Incorporation and to Commence Business of JBL dated 29th July 2014 and marked them **A3-3 and A3-4** respectively.
8. Although the documents I have attached and marked **A3-3** and **A3-4** respectively are dated July 2014, a reading of the top right corner of each of the documents will reveal that they each:
 - i. bear the same registration number that JBL had when it was registered in August 2008.
 - ii. reflect the incorporation date of JBL which is August 2008.

9. I refer to the particulars of the company which I have also attached to my present statement and marked **A3-5** it is clear from a reading of JBL's business objects that as a limited liability company, JBL is a successor to JBL the sole proprietorship. It also confirms that as a business, JBL **provides consultancy services in investment and manufacturing** and carries on the business of imports and exports of general goods.

Testimony of PW5 and Attorney-General's submission on JBL.

10. Having regard to the facts I have just stated and the documents I have referred to, PW5's testimony that JBL was registered in the year 2014 is clearly incorrect. It is clear that he [PW5] as an investigator did not properly investigate the history of JBL and examine the registration documents of JBL. Infact [PW5] did not pay attention to details as required of an investigator.
11. It is also clear from my narration so far that the Attorney-General was in error when he relied on the testimony of PW5 that JBL was registered in the year 2014 in his submission to the court that a case had been made out against me and which required me to open my defence.
12. The reason for my statements above made is that at the time JBL started engaging the government regarding the purchase of the ambulances sometime in the year 2010, JBL was a duly and properly registered business entity with capacity to enter into any business transaction as if it were a natural person with capacity to contract.

II. PROCUREMENT OF THE AMBULANCES.

JBL's role.

13. During my testimony in chief on 19th March 2024 I testified that JBL acted on the State of the Nation Address delivered by the late President of the Republic of Ghana His Excellency Prof. Evans Atta Mills in January 2009. In that address the then President announced the government's intention to procure ambulances for Ghana.

14. As a business entity, JBL saw the decision to purchase the ambulances as a business opportunity. JBL, therefore, decided to source the business for the purchase of the ambulances from the government. JBL's efforts to source the ambulance purchase business started with the presentation of a business proposal to the government. This proposal has been tendered in evidence already by the prosecution. It is marked exhibit **K**.

15. JBL's proposal for the purchase of the ambulances was presented to government [through the Ministry of Health (MOH)] with a financial scheme. This scheme explained the method for financing the purchase of the ambulances. It indicated Stanbic Bank [the bank] as the banking institution to provide financing for the purchase of the ambulances.

16. The bank set out the terms for financing the purchase of the ambulances in a term sheet which has also been tendered in evidence and marked **K1**. This was done sometime in September 2010. After receiving the proposal, the MOH [government] commenced its internal engagements in preparation for the purchase of the ambulances. I state here that JBL was not party or privy to, nor involved in, these engagements. JBL also had no way of influencing the said engagements. When exhibit **K1** was sent to MOF the then Chief Director of MOF Mr. Enoch H. Cobbinah requested a legal opinion on the Draft Term Loan Agreement between the government acting through the MOF and Stanbic Bank. The claim by the prosecution in its statement of facts that the **exhibit K1** was a hoax is incorrect because the Attorney General issued a legal opinion paving the way for the loan agreement to proceed to Cabinet and Parliament for approval. I have attached and marked as **exhibit A3-6** a copy of a letter dated the 16th day of August 2011 written by the then Chief Director of MOF Mr. Enoch H. Cobbinah requesting a legal opinion on the Draft Term Loan Agreement.

17. After considering JBL's proposal, the MOH wrote back and expressed interest in purchasing the ambulances. This letter written by the MOH was tendered in evidence by the prosecution. It is marked exhibit **L**. A reading of exhibit **L** will confirm that in exhibit **L**, the MOH stated that:

- i. the Ministry [MOH] would lend its support in accessing funding for the purchase of the ambulances depending on its credibility and Government's acceptance of the terms and the conditions of the offer, and
- ii. that the MOH would be most grateful if the Ministry of Finance could kindly review the proposal and advise if the MOH should proceed to seek other regulatory approvals including Cabinet, Parliamentary and the Public Procurement Board approvals.

18. At this point of the engagement, government [the MOH] was considering the purchase of the ambulances using the financing model contained in the term sheet [**exhibit K1**] on which the bank had proposed to finance the purchase of the ambulances.

19. In the term sheet, the bank required government to satisfy some preliminary compliance requirements before the bank will proceed to finance the purchase of the ambulances. These are referred to as conditions precedent. The conditions precedent required that government obtain three approvals from:

- i. cabinet.
- ii. Parliament and,
- iii. the Public Procurement Authority.

JBL is not involved in the approval matters.

20. The approvals required by the bank's term sheet [**exhibit K1**] are clearly matters that are in the exclusive domain of government. JBL plays no role whatsoever, necessary or required for obtaining cabinet, parliamentary or Public Procurement approval. JBL is not even required to be consulted in the process. JBL was therefore not involved in the approval process.
21. As a business, JBL only gets to know about the process when government informs the necessary parties that all such approvals have been obtained. In my present statement, I refer to exhibits **N**, **Q** and **U** respectively. These documents confirm that the government procured the cabinet, parliamentary and Public Procurement Authority approvals required by the bank to finance the purchase of the ambulances.

JBL is appointed agent.

22. The Court's attention is drawn to the fact that before the required approvals were obtained, the MOH [government] copied JBL in MOH's correspondence. The reason, as I have already stated is that JBL only provides consultancy services in investment, imports and exports of general goods and manufacturing, among others. JBL, therefore, contacted Big Sea General Trading L.L.C [Big Sea] through a third party and engaged with Big Sea for the supply and delivery of the ambulances.
23. I must say here that before engaging with Big Sea, JBL did its due diligence. JBL satisfied itself that Big Sea is a well-known company in the Middle East, Africa and Middle Asia which provides high quality and cost-effective medical equipment along with efficient after sales services. Big Sea also trades in among others mobile clinics and provides ambulance conversion services. I attach hereto a printed profile to confirm the pedigree of Big Sea as I have stated here. I have marked it as **Exhibit A3-7**.

24. JBL was, therefore, particular about the ability of its partner to deliver on the ambulances to be purchased by government after its proposal found favour with government. In JBL's view, Big Sea satisfied its criteria for selecting a partner to deliver on the purchase of the ambulances.
25. In engaging with Big Sea, its [Big Sea] Chief Executive Hamed Sardashti flew down to Ghana and after holding discussions with JBL, an exclusive agency agreement was signed between Big Sea, as principal and JBL, as an exclusive agent. Under this exclusive agency agreement, JBL was appointed Big Sea's agent for the whole of West Africa in 2011 excluding Nigeria because Big Sea had an Agent in Nigeria already. The agency agreement was tendered in evidence by the prosecution. It is marked exhibit **AN**.
26. I must emphasize the following points. A reading of the agency agreement will reveal three key things:
- i. it is dated 24th May, 2011 when JBL had long been a registered business entity.
 - ii. the parties to the agreement are Big Sea on the one hand, and **JBL** [not me personally] on the other.
 - iii. the representatives of Big Sea and JBL are Hamed Sardashti and **JBL's Acting Managing Director at the time known as Mr. Lawrence Sackey** [not me].
27. The importance of the points I have just made in paragraph 26 above is that contrary to the impression that I am synonymous with JBL, it is clear, at the very least that JBL operated as a business entity and had other officials. It is for this reason that although I played a key role in JBL as one of its directors and only shareholder JBL did not operate as if it was a sole proprietorship. It is also for this reason that Mr. Lawrence Sackey signed for and on behalf of JBL instead of me. JBL transitioned from a sole proprietorship only because it wanted to operate at the higher corporate level. It is, therefore, not right to suggest that there is no difference between JBL and me.

28. It is also important to add that government was not a party to the agency agreement [**exhibit AN**] between Big Sea and JBL. JBL's obligations in exhibit **AN** required JBL among others to secure licenses, approvals and other things relative to Big Sea's operations in the country. These obligations were owed to Big Sea by JBL but not to government.
29. Further, a reading of the agency agreement [**exhibit AN**] between JBL and Big Sea will reveal that it was not specific to the contract for the sale and purchase of the ambulances. JBL's duties in the agency agreement were quite general in nature.
30. **I, therefore, emphasize that a reading of exhibit AN will leave the court in no doubt whatsoever that none of its provisions requires JBL to deliver the ambulances purchased by government, which I will soon show were purchased by government from Big Sea directly but not through JBL.**
31. I further state that nowhere is it stated in the agency agreement that JBL is responsible for arranging for the shipment of ambulances or products from Big Sea to government. Even if there was such a provision in the agency agreement, it will be an obligation owed to Big Sea but not to government. Government cannot therefore, assert any rights under it even if JBL breached it. The reason is that the contract for the supply of the ambulances was between the government of Ghana and Big Sea and not JBL.
32. As agent for Big Sea, JBL dropped out of the transaction for the purchase of the ambulances as soon as its principal [Big Sea] signed the contract with government for the supply and delivery of the ambulances. The court will therefore observe, as I have already stated that before the contract was signed, government involved JBL each time it communicated regarding the ambulances. This is clear from exhibit **L**. This exhibit confirms the government's interest in the purchase of the ambulances. At this time, no contract had been signed between Big Sea and the government, nor between Big Sea and JBL.

Contract for the purchase of the ambulances.

33. By an agreement dated 19th December 2012 made between Big Sea and the government of Ghana, government contracted Big Sea to supply two hundred [200] ambulances and other accessories to government. This contract was tendered in evidence by the prosecution and marked **V**.
34. The court's attention is drawn to the fact that a cursory reading of the said contract will reveal that, JBL was never a party to the contract. JBL, therefore, did not sign as the supplier of the contract. The contract made no provision for JBL to undertake any obligations in respect of the 200 ambulance vehicles delivery arrangement. The contract also did not make any provision for the payment to JBL of any funds arising out of the transaction involving the 200 ambulances by government from Big Sea. These facts are undisputed.
35. As a result of the facts above recounted, JBL owed no responsibility to government regarding the delivery of the ambulances to government by Big Sea whether in terms of quantity or quality. If Big Sea had any obligations related to the contract for the 200 ambulance vehicles, such an obligation will only arise in the context of JBL's obligations to Big Sea as its agent. **Such an obligation will also, only be referable to the agency agreement between Big Sea and JBL but not to the contract for the purchase of the 200 ambulances which is between Big Sea and government.**

Government ceased dealings with JBL after signing the contract with Big Sea.

36. Consistent with the nature of the agreements signed between Big Sea and JBL on the one hand and that signed between Big Sea and government on the other hand and the respective rights and obligations created in the said agreements, government immediately ceased its dealings with JBL right after government signed the contract with Big Sea.

37. It was, therefore, the mutual understanding between Big Sea, JBL and government that after the signing of the contract between Big Sea and government, JBL's relationship with government was spent or exhausted. It is only Big Sea and JBL which had a relationship. As I said earlier in this statement, the court will, therefore, observe from the documentary evidence relied on by the prosecution in this case that, after the parliamentary approval and even before the signing of the agreement between Big Sea and government, no correspondences in connection with the ambulances were addressed by government to JBL nor was JBL even copied in them. The following tendered exhibits attest to this claim; exhibit **S, AG, AK, Z, AE and AA**.
38. For this reason, in July 2013 seven months after the contract between Big Sea and government was signed, Big Sea wrote officially and directly to the MOH [government] and requested that the MOH proceed to Dubai to inspect the first batch of the ambulances. This is evident from exhibit **14** tendered in evidence by the second accused (A2). The request that the MOH visit Dubai to inspect the vehicles was consistent with the terms of the contract between Big Sea and government.
39. Although government did not address its letters, nor copy any of its letters to JBL, I must clarify that JBL was not completely in the dark regarding the transaction for the sale and purchase of the ambulances. As Big Sea's exclusive agent, Big Sea kept JBL informed in almost all of its correspondences on the developments on the transaction relating to the 200 ambulances.

Government's breach of the agreement.

40. The contract [**exhibit V**] contained a provision for pre-shipment inspection of the ambulances before their shipment to Ghana. There is, however, no provision in the contract for post-delivery inspection. The two are not the same. The pre-shipment inspection requirement is stated in clause 23 (23.1) of exhibit **V**.

41. By a letter dated 19th July 2013, Big Sea wrote to the then Minister for Health who at the time was the Honourable Sherry Ayitey [May Her Soul Rest In Peace] and notified government that the first twenty [20] ambulances were ready for shipment. Because JBL was Big Sea's agent, JBL was copied in this letter. Big Sea, therefore, requested that as provided for by the contract, government visit Dubai to inspect the ambulances before shipment. This letter as already stated was tendered in evidence and marked exhibit **14**.

42. In the same letter [exhibit **14**] Big Sea also reminded government of its obligation to establish Letters of Credit [LCs] "**upon signing of the Contract**" [that is December 2012] for every fifty [50] ambulances. Government failed to do this. I emphasize here again that the duty to establish LCs and payment were not obligations for which JBL assumed any obligations or responsibility. This was entirely a matter between Big Sea and government.

43. The Honourable Minister for Health [the Honourable Sherry Ayitey] wrote back to Big Sea by a letter dated 1st August 2013. The letter dated the 1st day of August 2013 was tendered in evidence by A2 and was marked exhibit 15 for A2. In her letter, the Minister informed Big Sea that the Ministry was only informed for the first time of the contract as a result of Big Sea's letter [exhibit **14**] to the Minister. The Court's attention is specifically drawn to the fact that the Minister's letter [exhibit **15 for A2**], unlike the letter written by Big Sea [exhibit **14**], was not copied to JBL. This is to emphasize once again that government always knew that having signed the contract with Big Sea, JBL no longer had any relationship with government.

44. Interestingly, however, although the then Minister stated that it was "the first time the Ministry's attention had been drawn to this transaction" she went on to indicate that it was the responsibility of the Ministry of Finance [MOF] to authorize and approve the production of the ambulances because the MOH had "no funds of its own to establish Letters of Credit." The **Minister's letter [exhibit 15 for A2] therefore clearly acknowledged the contract between Big Sea and government. The then Minister only raised an issue regarding the timing of the establishment of the LCs as**

demanded by Big Sea in its letter to the Minister. The Minister further instructed that Big Sea should suspend production of the Ambulances and that the priorities of the new government had changed without any recourse to the terms of exhibit V which is the contract and its dispute resolution and termination clauses. A change of government and its priorities has no effect on an internationally binding agreement because governance is continuum.

45. In any event, I reiterate that in so far as the establishment of LCs and payment for the ambulances are concerned, JBL [and me as its sole shareholder and chairman] had no obligation and assumed no responsibility even as an exclusive agent. Suffice it to say that the contract between Big Sea and government which has been tendered in evidence [**exhibit V**] is clear. The conditions or the instructions stated by the Minister in **exhibit 15 for A2** in respect of suspension of manufacturing of the ambulances are not in exhibit **V**.
46. In response to the then Minister's letter, Big Sea wrote back to the MOH by letter dated 10th October 2013. The court is once again invited to note that in this letter also Big Sea copied JBL. This is because JBL was its agent unlike government which showed clearly that it no longer had anything to do with JBL after it [government] signed the contract with Big Sea. I have attached a copy of this letter in response to the then Minister's letter dated 10th October 2013 and marked same as **A3-8**.
47. In its letter, Big Sea gave a detailed account of the background to the contract. Big Sea then informed the MOH in its letter that contrary to the Minister's demand that Big Sea suspend the production of the ambulances to await the intervention of the MOF, Big Sea "**is not in a position to stop producing the Ambulances...**". Big Sea explained the reasons for which it was unable to suspend the production of the ambulances in its letter. **It is important to state here too that the government did not in any way respond to Big Sea's position on this point and for that matter did not object to Big Sea's communication that it could not suspend the production of the vehicles.**

48. Following Big Sea's letter, Big Sea's lawyers wrote to the Honourable Attorney-General and Minister for Justice by letter dated 28th March 2014. This letter was tendered in evidence and marked Exhibit W. As Big Sea's agent, JBL was once again copied in the letter. In this letter, Big Sea's lawyers not only recounted the history of the transaction, but also gave notice to the government through the Attorney-General of its intention to take legal action against the government to force government to perform its obligations under the contract.
49. In response to the letter **[Exhibit W]** written by Big Sea's lawyers to government, the Attorney-General wrote to Big Sea's lawyers by letter dated 6th May 2014. I have attached a copy of this letter to my present statement and marked it **A3-9**. In this letter, the Attorney-General informed Big Sea's lawyers that upon review of the documents which accompanied the letters written by Big Sea's lawyers, the Attorney-General has "advised the Ministry of Health accordingly."
50. The Attorney-General also wrote to the President through his Executive Secretary by letter dated 9th May 2014 and attached to it the Attorney-General's opinion on the matter. This letter was a cover letter to the Attorney-General's legal opinion on the matter. I have attached both the cover letter and the Attorney-General's legal opinion to my statement and marked them **A3-10 and A3-11** respectively.
51. In the opinion I have attached hereto and marked **A3-11** the Attorney-General stated categorically that the Attorney-General's office "**will be seriously challenged in putting up a defence in court in the event of an action being filed by the lawyers for Big Sea...**" The Attorney-General's office further advised that if the MOH was minded to settle the matter, it could take advantage of the dispute resolution provisions of the agreement [exhibit V]. The AG also forwarded a copy of the legal opinion to the MOF.

52. To wind up this part of my witness statement, I say that the production of the ambulances delayed which affected the specifications and delivery time because the MOH failed carry out the pre shipment inspection and the MOF failed to raise the Letters of Credit on time. Government also refused to respond to at least 26 different correspondences which were sent to the Ghana MOH during the manufacturing process of the first 30 ambulances requesting for pre-delivery inspection by the technical team, but no responses came from Ghana's MOH.
53. The fact I have just stated above was acknowledged in an addendum signed by government and Big Sea officials after round table negotiations to settle their respective differences arising out of the performance of the contract according to the dispute resolution clause in the contract with government. This contract was tendered in evidence by the prosecution and marked exhibit **V**. This is a clear indication of government's deliberate refusal to respect the terms of the agreement despite the legal opinion by the Attorney General to the then Minister of Health Honourable Sherry Ayittey and the then Minister of Finance Honourable Seth Tekper.

Alleged Big Sea's breach of the agreement.

54. In fulfilment of its obligations under the contract, Big Sea delivered the first batch of thirty [30] ambulances. The ambulances arrived in batches of ten [10]. Government alleged that it [government] discovered after post-delivery inspection of the first ten ambulances carried out by a team from NAS that the ambulances delivered were defective. I wish to state that the issue of post-delivery inspection of the first ten ambulances by NAS is not a term of the contract and that the contract only made a mandatory provision for pre-shipment inspection by the government of which government waived its right.
55. The allegation on the Big Sea breaches are also referred to in the facts narrated by the prosecution to the court. In their narration of the facts to the court, the prosecution stated that a post-delivery inspection of the first ten vehicles which arrived in the country revealed defects relating to absence of medical equipment, body and patient compartment, and that the vehicles were not initially built as ambulances.

56. The main issue of concern to government was the absence of the Medical Equipment that were supposed to be in the ambulances. On this I refer to a letter written by Dr. Anemana dated the 11th day of February 2015. The letter is in evidence marked **as Exhibit AA**. In his letter, Dr. Anemana stated that a post-delivery inspection of the first 10 ambulances revealed that the first 10 were delivered without equipment. In **Exhibit AA** JBL was not copied.

Resolution of the allegations of breaches.

57. Big Sea and government therefore negotiated and signed an addendum to the agreement signed by a joint team comprising Chief Executive Officers of the Ghana Ambulance Service [NAS] and Big Sea, among others the parties agreed on points for the resolution of their respective differences arising out of the performance of the contract. I have already referred to this addendum, which I said was tendered in evidence through PW3 [the Honourable Agyeman Manu] and marked **Z**.

58. A reading of the addendum to the main contract [exhibit **Z**] will confirm that all parties affirmed their commitment to perform their respective obligations under the contract. Before I make any further statements on the contents of the addendum [exhibit **Z**], I must reiterate that a reading of the addendum would confirm that both parties acknowledged that JBL has always been Big Sea's agent. The reason is that the addendum kept referring to JBL as Big Sea's agent. This reiterates the point that Big Sea always regarded JBL as its agent but not that of government. Indeed, the addendum records that it was Big Sea's responsibility to sort out issues with JBL as its agent with regard to some differences which arose between JBL and Big Sea in terms of their relationship as principal and agent.

59. The fact that Big Sea and government affirmed their commitment to performing their respective obligations under the contract is confirmed also by the letter written by Dr. Sylvester Anemana which I earlier referred to. In Dr. Anemana's letter, he confirmed that although the post-delivery inspection of the first 10 ambulances revealed that the first 10 were delivered without equipment, Big Sea had affirmed its commitment to rectifying the issues observed in the ambulances delivered.
60. The fact that Big Sea had committed to rectifying the issues complained about is also acknowledged by the prosecution in their narration of the facts to the court. The prosecution acknowledged in their narration of the facts to the court that the second accused and the MOH drew Big Sea's attention to the defects and Big Sea acknowledged the defects and promised to rectify the defects.
61. It is in the context of the disagreement between government and Big Sea who both alleged breaches of the agreement that both government and Big Sea resolved their respective differences after the joint committee established by the two parties met, discussed their differences and concluded that both parties to proceed with the contract. This is clear from the addendum of the joint committee which has already been tendered in evidence and marked exhibit **Z**. As I speak the contract has not been terminated.

Suit by JBL against Big Sea.

62. In the addendum to the agreement I have referred to, government acknowledged that there was a subsisting legal suit between JBL and Big Sea which affected the timely clearing of the ambulances at the port. The government team therefore advised Big Sea to sort out their differences with JBL.

63. JBL was constrained to institute legal proceedings against Big Sea because, Big Sea had breached several aspects of the agency agreement, a summary of which are as follows:
- i. Big Sea had contrary to the provisions of the agency agreement appointed Mr. Lawrence Sackey who was JBL's Acting Managing Director as one of Big Sea's officials and who was based in Ghana.
 - ii. Big Sea had failed to make payments to JBL of its agency fees after delivery of the first 30 ambulances.
 - iii. Big Sea had breached its obligation to ensure performance of various clauses within the contracts entered into by JBL with Big Sea.
64. JBL's case was clearly supported by provisions of the agency agreement [**exhibit AN**]. Under the agency agreement, Big Sea was required to refrain from appointing any other person, firm or company as Big Sea's agent for the provision of any of the services in Ghana and any of the geographical areas covered by the said agreement. On this point, I refer to clause 1.2 of the agency agreement.
65. Big Sea also undertook to permit JBL to represent Big Sea in all matters regarding sale of Big Sea's products in Ghana. This is stated in clause 3.5 of the agency agreement. Of importance to JBL as Big Sea's agent was Big Sea's undertaking in clause 3.1 of the agency agreement to "honour any contract(s) for the sale of the Products entered into by" JBL on behalf of Big Sea.

66. Although the agreement for the sale and purchase of the ambulances was not signed by JBL for and on behalf of Big Sea, it is common understanding that JBL played an instrumental agency role in procuring the contract for and on behalf of Big Sea. JBL, therefore, sued Big Sea for among others, orders:
- i. Directing Big Sea to make available the equipment/accessories missing in the 30 ambulances delivered to government in compliance with its contractual obligations to government.
 - ii. make payment of its agency fees and also
 - iii. to adhere to the payment terms under the agency agreement.
67. The reliefs JBL sued Big Sea for are set out in the judgment of the High Court in Suit No. OCC/21/15 entitled *Jakpa At Business v Big Sea Trading LLC & Lawrence Sackey*. In the suit referred to, the High Court (Commercial Division) made an order of interim injunction against the clearing of the ten ambulances that had been imported into the country. The MOH could not clear the said Ambulances for which reason the Director of Legal Mr. Hamidu Adakurugu wrote to JBL requesting that the Ambulances be cleared. I have attached a copy of the judgment hereto and a copy of the letter dated the 8th day of June 2016 and marked it as **Exhibit A3-12A and Exhibit A3-12B respectively**.
68. The reliefs sued for were also of interest to government and JBL had the right to sue on them. As JBL's suit also sought reliefs in relation to the 30 ambulances, which was of interest to government of Ghana and in respect of which government had complained of the missing accessories in the 30 ambulances delivered, it is difficult to fathom any case government had against the suit. It is for this reason that when government and Big Sea reached agreement on rectifying the issues in the 30 ambulances, government advised Big Sea to reach settlement with JBL.

II. THE CHARGE AGAINST ME.

The allegations on which the charge against me is founded.

70. It is clear from the facts filed by the prosecution on 23rd December 2021 that the bare facts on which the prosecution has grounded this case against me are that
- “...as the local representative of Big Sea, knowing that Big Sea has not shipped, still arranged with his principal to supply the purported ambulances and contracted with Big Sea to charge a commission of 28.5% on the proceeds of the supply of these vehicles purported to be ambulances to the Government of Ghana.”
72. The prosecution recounted the same facts to the Court on the 18th of January 2022 when I was arraigned before the court for trial. The facts above quoted encapsulate in totality, the facts relied on by the prosecution to continue with the proceedings against me before this court. Throughout the proceedings, the court has almost *verbatim*, adopted the same allegation made by the prosecution against me in its ruling dated 30th March 2023 at page 13.
73. I have quoted the whole of the allegations on which the prosecution has founded its case against me for two main reasons. First of all, it is even difficult to appreciate the point made in the facts as recounted by the prosecution.
74. Secondly, I fail to see how the offence I have been charged with, can be grounded on JBL’s role, as Big Sea’s “**local representative... [in arranging] with his principal to supply the purported ambulances**” The reason is that if JBL knew and Big Sea indeed [assuming] had not shipped any ambulances as it is required to do, then it is completely unthinkable that government which is the beneficiary of the shipment, will take issue with JBL ensuring shipment of the ambulances to Ghana for the benefit of government. In such a situation, JBL should even be given credit for such an effort.

75. Assuming JBL then ensured the shipment of the ambulances to Ghana in discharge of Big Sea's contractual obligations to Ghana, such an effort will be consistent with JBL's role under the agency agreement to ensure that its principal performs its obligations in all contracts JBL enters into on behalf of its principal Big Sea. As already explained, although JBL did not sign the contract for the sale and supply of the ambulances for and on behalf of Big Sea, JBL thinks this is irrelevant because in this case, JBL played a significant role in procuring the contract for Big Sea.
76. In this regard, there can also be no offence committed by JBL for insisting that its principal [Big Sea] pay it commission for its agency duties to its principal. I immediately add that although the prosecution desperately tries to make me personally liable for matters, the evidence so far adduced confirm without a shred of doubt that JBL was involved in the business of the sale and purchase of the ambulances as a corporate entity. It is, therefore, completely irrelevant that JBL charged "commission of 28.5% on the proceeds of the supply of these vehicles purported to be ambulances to the Government of Ghana." Big Sea as the Principal of JBL on two separate occasions wrote to the Stanbic Bank and irrevocably instructed Stanbic Bank that in opening each irrevocable Letter of Credit Big Sea's agent (JBL) be paid a total of 28.7% of the value of each Letter of Credit into any account designated by JBL. This instruction by Big Sea to Stanbic bank was in line with the terms of the Agency agreement which required that JBL deducts from the sale price and retain all commissions, fees remuneration and discounts and any other amounts due and owing to JBL prior to transferring the balance of the sale price to Big Sea as captured in clause 5.3 of the Agency agreement. I have attached the two letters dated the 28th day of February 2013 and the 14th day of March 2013 written by Big Sea to Stanbic bank and marked same as **Exhibit A3-12C and Exhibit A3-12D respectively.**
76. Further, in all the evidence adduced by the prosecution in the court, the prosecution did not adduce any scintilla of evidence to support its contention that JBL caused the shipment of the ambulances to Ghana by Big Sea which was already bound by contract to deliver the ambulances to government by ensuring their shipment to Ghana.

77. Secondly, the prosecution has also not adduced any evidence to show that JBL owed a duty either under the agency agreement or the contract between Big Sea and government to ensure the shipment of the ambulances to Ghana. I have attached and marked as **exhibit A3-12E a** letter which was written by Big Sea and addressed to the Honourable Minister of Health Dr. Kweku Agyeman Mensah in which letter Big Sea brought to the attention of the MOH that the first batch of the shipment of ten Ambulances will arrive at the Tema Port on the 15th day of December 2014. It was upon receipt of this letter that JBL for the first time got to know that the first batch of the Ambulances had been arranged and shipped as far back as the 18th day of October 2014 which is the sailing date, and the insurance date was 19th October 2014 as captured on the insurance policy and the shipping conditions.

Purported Ambulances.

78. In the facts on which my charge is grounded, the prosecution refers to the ambulances as “purported ambulances.” In his testimony in chief on the 31st of May 2022 the prosecution’s first witness [Dr. Forster Angsong Bridjan] confirmed the process for purchasing ambulances by the government.

79. PW1 testified that the first step in the process is for a team to visit the factory where the ambulances are manufactured. There is a second visit during the manufacturing process and there is pre-delivery inspection before the ambulances are shipped. Then there is post-delivery inspection. The addendum of the agreement confirmed that government refused even after 26 notices to it [government] to do the pre-inspection prior to the delivery of the ambulances. It is obvious that all the steps referred to by PW1 were not captured in the contract between Big Sea and government [**Exhibit V**] except only the pre- delivery inspection. Exhibit V was drafted by government. This is referred to in the contract as pre-shipment delivery and testified to by PW3 [Hon. Agyemang-Manu] during cross-examination by counsel for first accused on 1st September 2022. PW3 admitted that this was not done.

80. It is in this context that during my testimony in chief which I started by giving oral evidence I testified that Big Sea cannot be held accountable for the omissions of government which decided not to do the pre-inspection prior to the shipment of the vehicles.
81. It is, therefore, inconceivable that JBL is now being held accountable by way of my prosecution for government's deliberate refusal to live up to its obligations under the contract with Big Sea. There is nothing in the contract between Big Sea and government which places an obligation on JBL to ensure that the ambulances are in any shape or form before they are shipped to the purchaser which is the GOG.
82. In the contract between government and Big Sea [exhibit V], there is provision in clause 8 for pre-shipment inspection. Failure to inspect means the purchaser which is government has accepted the ambulances. At this point in time this issue about purported ambulances and the post-delivery inspection are simply an afterthought. I have already informed the court that even after government pointed out the so-called defects, government still committed itself to the contract for the purchase of the ambulances. This is clear from the addendum [**Exhibit Z**] to the agreement which I have already referred to.
83. In that addendum to the contract [exhibit Z], the court will observe that some of the so-called defects that government complained about resulted from government's own breaches. During cross-examination of PW3 on 1st September 2022 by counsel for first accused, he [PW3] admitted that there were efforts to resolve the post-delivery issues. PW3 also admitted that Big Sea shipped all the medical equipment/accessories to the Ministry of Health but that he [PW3] wanted JBL to pay and clear them from the port because government did not have a budget for it. From the testimony of PW3 it is obvious that PW3 was misinformed and misled by exhibit AF clause 3 which is contrary to clause 3 under the obligation of Ghana Ministry of Health in the addendum [Exhibit Z]. Furthermore clauses 9 and 10 of Exhibit Z under the heading OBLIGATION BY BIG SEA were deliberately expunged from exhibit AF from the CEO of NAS to the MOH thereby sabotaging the outcome of Exhibit Z of which he led that dispute resolution delegation to Dubai. This testimony of

PW3 can be found in pages 9 and 10 of the record of proceedings of 1st September 2022. I have attached and marked as Exhibit **A3-13** a copy of the bill of lading on the medical equipment and accessories.

84. The government itself admitted this fact because its representative from the NAS was part of the dispute resolution team. As I speak, government itself knows that this claim of purported defects in the ambulances is of no merit. This is because, government has not taken any steps to terminate the contract. It is rather Big Sea which has initiated legal proceedings against government to enforce its obligations against government.
85. In a civil proceeding that, Big Sea has instituted against government, government got the court to order that the government and Big Sea resort to the dispute resolution clause (clause 11) provided for in the agreement to resolve the matter. As it stands now Big Sea and government have been ordered by the High Court (Commercial Division) to proceed to Alternative Dispute Resolution (ADR) to resolve any technical issue that might have arisen during the implementation of exhibit V since that is the mechanism provided for in solving disagreements between both parties.

Statement of offence.

86. A reading of the statement of offence will reveal that it charges me under the provisions of section **179A (2)** of the Criminal and Other Offences Act, 1960 (Act 29).
87. Although the statement of offence specifically mentions section 179A(2) of Act 29, the description of the offence in the statement of offence and also the particulars of the offence stated are provided for rather under section 179A(3) (a) which is the offence for which the first accused is charged or a combination/hybrid of both elements.
88. Unlike section 179A(2) of Act 29 which deals with intentionally causing damage or loss whether economic or otherwise, section 179A(3)(a) deals with financial loss [**not economic**] caused to the Republic by any person through their **wilful, malicious** or **fraudulent** actions or omissions.

89. Unfortunately, as at this moment, although the charge read to me by the court specifically stated that I have been charged under section 179(A)(2) of Act 29 and in respect of which I pleaded NOT GUILTY, the prosecution and the court has proceeded as if I was charged with causing financial loss to the Republic under section 179(A)(3)(a) of Act 29.
90. In its submission to the court at the close of its case that the prosecution had made out a prima facie case against the third accused the prosecution addresses count three in respect of which I am charged under the heading: **Financial loss caused through the action of A3**. The prosecution, however, did not directly address the charge under section 179(A)(2) in its submission that it had made out a prima facie case against the third accused person. The court has also always proceeded as if I have been charged with the said section. I have not pleaded guilty to any charge of causing financial loss to the Republic.
91. It has made preparing my defence in this case very difficult and embarrassing because I am groping from a charge which has been preferred against me and which forms the subject of the present proceedings and in respect of which I have pleaded not guilty, to general allegations of financial loss which is not the foundation of any charge against me in the charge sheet but on which the prosecution and the court are proceeding.

Section 179(A)(2) of Act 29.

92. I have read the provisions of section 179(A)(2) of Act 29. I have sought advice from my lawyers in connection with its meaning. The section criminalizes transactions or businesses with a public body or an agency the result of which causes damage or loss whether economic or otherwise to that body or agency.

93. A reading of this section will reveal that it provides for **intentionally causing damage or loss whether economic or otherwise** to a body or agency of the Republic arising from a transaction with any agency of the Republic. The various components of the offence are that:
- i. there should be a person who has engaged in a transaction/business with a public body/agency (state), and
 - ii. the transaction/business must cause damage or loss either economic or otherwise to the state, and
 - iii. the damage or loss caused must have been caused intentionally.
94. In this case, neither JBL nor me entered into any transaction or business with government. None of the engagements JBL had with the government leading to the transaction between government and Big Sea **caused** or was capable of causing any damage or loss whether economic or otherwise to any public body or agency of the Republic.
95. I say that by no strain of the facts or of the meaning of this offence can it be said that by just presenting a proposal to the government to consider, JBL caused loss to any public body or agency. In so far as the presentation of the proposal to the MOH is concerned, it was for government to decide whether it will purchase the ambulances on the basis of JBL's proposal or not. The proposal by itself is not a contract and as such cannot cause any loss or damage to any body or agency of the Republic even remotely or directly.

Section 179(A)(3)(a) of Act 29.

96. **Although I have not been charged with causing financial loss to the Republic and have not pleaded guilty to it, I am constrained to make a statement on it because the prosecution and the court itself have treated my prosecution as if it is based on the provisions of section 179(A)(3)(a) of Act 29. I am addressing it only because the prosecution and the court have addressed but not because I accept that I have been charged under it.**

97. In the prosecution's submission to the court that at the close of its case, the prosecution had made out a prima facie case against me requiring me to open my defence, the prosecution made its submission to the court with regard to count three in respect of which I have been charged under the heading: **Financial loss caused through the action of A3.**
98. I refer the court in particular to the prosecution's submission filed on 16/03/2023 at pages 43 to 46. The prosecution's submission was focused on section 179(A)(3)(a) which it never charged me with and in respect of which I did not plead. The prosecution, however, did not address the charge under section 179(A)(2) in its submission that it had made out a prima facie case against me.
99. More serious is the fact that in overruling my submission of no case, the court set out the charge against me and the First accused as one charged under section 179A(3)(a) of Act 29 rather than section 179A(2) of the said Act in respect of me. On this point, I refer especially to pages 6 to 7 of the court's ruling on my submission of no case.
100. The fact that the court treated the case against me as if I was facing the same charge as the first accused A1 that is causing financial loss to the Republic under section 179A(3)(a) is evident from the fact that the court discussed the case made out against A1 and me together. I refer to pages 33 to 49 of the court's ruling especially page 47 on this point.
101. As I earlier stated, the prosecution's case against me is grounded on my having allegedly caused financial loss to the Republic. I crave the indulgence of the court to repeat the facts as stated. The facts say as follows:

“...as the local representative of Big Sea, knowing that Big Sea has not shipped, still arranged with his principal to supply the purported ambulances and contracted with Big Sea to charge a commission of 28.5% on the proceeds of the supply of these vehicles purported to be ambulances to the Government of Ghana.”

102. In all of the rulings of the court, the court repeats the same facts recounted by the prosecution. In this regard, the court's ruling on my submission of no case is important. The court repeats the same facts that the prosecution relies on. I have already discussed the facts on which prosecution has instituted the present proceedings against me, I will incorporate them here by reference regarding my answer to the allegations stated in the facts.

No financial loss.

103. In so far as causing financial loss to the Republic is concerned, two main facts are evident:

- i. there is no fact stated by the prosecution from which it can be inferred even remotely that JBL **caused** any loss to the Republic.
- ii. the evidence is also clear that the Republic has not suffered any loss especially that the government still stands to benefit [**and indeed has taken the benefit of**] the transaction because the government retains possession of the ambulances **without any form of protest whatsoever.**

104. Once again, I state that although I was not charged with wilfully causing financial loss to the Republic, it is stated in the particulars of the offence against me that I wilfully caused financial loss to the Republic in the same sum of two million, three hundred and seventy thousand euros [2,370,000.00] by "**intentionally causing vehicles purported to be supplied to the Republic of Ghana by Big Sea General Trading Ltd.**"

105. It is clear from the particulars of the offence charged against me that the government has itself admitted that the ambulances were supplied to Ghana. The point here I make is that since it is admitted that the ambulances were indeed supplied to the government of Ghana, it cannot be honestly said that the government sustained financial loss when government:

- i. has accepted or taken possession of the ambulances.
- ii. indicated no intention whatsoever of terminating the contract.
- iii. actually committed itself to performing the contract by paying for the ambulances as confirmed in the negotiated addendum to the contract.

106. I say that since government has accepted the vehicles and has not terminated the contract, the only type of loss government can be talking about is the cost of rectifying the so-called defects if any. In this case, however, it is clear that Big Sea is ready and willing to install the medical equipment in the ambulances subject to the government clearing the medical accessories or equipment from the Tema Port. Where then is the loss government is complaining about in these proceedings.

107. I must repeat that in this case government has not complained that the ambulances were not supplied. Government admits that the vehicles were supplied but complains that what was supplied were without accessories. Government has not rejected the goods, already paid for them and has further actually committed in principle to continue paying for subsequent productions till all the 200 ambulances are supplied. Government and Big Sea have agreed that Big Sea should supply the accessories of which Big Sea has supplied since 2016, but government has since and still without terminating the contract refused to co-operate to enable Big Sea to install the supplied accessories agreed in the addendum to the contract by clearing the accessories and notifying Big Sea to proceed to fly down to Ghana and fix the accessories as stated in the addendum. For the past Seven (7) years government has reneged on implementing the addendum negotiated for by both parties.

108. From my statement on the allegation of causing financial loss, the claim that I caused financial loss to the Republic is not honestly made. It is even more unsustainable when the loss is assessed at two million, three hundred and seventy thousand euros [2,370,000.00] when the government has in its custody the ambulances which clearly value more than that. **In exhibit AV** which is a report prepared by the Economic and Organised Crimes Office [EOCO], it is stated that the ambulances were delivered in good shape except that the accessories were missing.

Assuming [without admitting] any financial loss to have occurred, I did not CAUSE it.

109. In the first place, the facts on which the prosecution has proceeded have confirmed that all that JBL did was to present a proposal to government regarding the purchase of the ambulances. This is confirmed by PW3 [the honourable Agyeman Manu].

110. I say that just presenting a proposal to government cannot by itself cause any loss to government. JBL was not the party contracted by government to supply the vehicles. JBL was also not assigned any role by government to play in the supply of the vehicles. It is important to add that JBL had no responsibility even under the agency agreement to do anything to cause the supply of the ambulances under the supply contract agreement. JBL, therefore, did nothing to cause the ambulances to be supplied to the government of Ghana.

111. For the reason above stated, the allegation against me that I [instead of JBL] **knew Big Sea had not shipped the ambulances but still arranged for the supply of the ambulances**, as I have already explained is even difficult to understand. The fact is stated as if government had no interest in receiving the vehicles it had accepted and committed itself to pay. Even if JBL [not me] arranged for the supply of the ambulances, the supply of the ambulances, by itself, cannot **CAUSE** any payment to be made as stated in **Exhibit 2 for A1**. Government could have rejected the ambulances but did not and has even committed to perform the contract under the negotiated addendum.

112. I say that neither JBL as a corporate entity nor me can cause any payment to be made by government in any way. The prosecution has not adduced a scintilla of evidence to prove how JBL [or even me] **caused** any funds to be paid by government resulting in the supposed financial loss to the Republic. The then Chief Director of the MOH Dr. Sylvester Anemana in a letter dated the 29th day of January 2015 to the Chief Director of the MOF raised the issue of some discrepancies on the Letter of Credit established in favour of Big Sea. In a follow up letter dated the 20th day of February 2015 which has already been tendered in evidence and marked as **Exhibit 2 for A1** the Chief Director of MOH authorized the Chief Director of Finance to proceed with the honouring of the LC because the MOH and Big Sea had resolved the issue of the discrepancies and had come into an agreement. I have attached the letter dated 29th day of January 2015 and marked same as **exhibit A3-14**.

Payment for the ambulances.

113. The payment process is initiated by a separate process. This is done by the government of Ghana. **JBL is not in any way involved in the process.**

114. Regarding payment, PW3, continuing his evidence in chief on 21st of July 2022 testified that Big Sea gave notice of Intention to sue government because the LCs were not being established. PW3 was clear. It was Big Sea, not JBL which gave this notice of intention to sue. This notice of intention to sue was tendered in evidence and marked exhibit **W**. The Attorney-General wrote to the MOH by way of exhibit **X**. This elicited a response from the MOH by way of exhibit **Y**.

115. Exhibit **Y** was followed by a letter from the Attorney-General to the MOH explaining the consequences of government's failure to perform its obligations under the agreement with Big Sea. The letter from the Attorney General explaining the consequences of government's failure to perform is dated the 9th day of June 2014 by the Deputy Attorney-General I have just referred to and the response by Honourable Sherry Ayithey has already been tendered and marked as page **2 and 3 of Exhibit AK** respectively. The then Honourable Minister Sherry Ayithey wrote back to the Attorney General which

letter is dated the 10th day of June 2014 imploring the Attorney General to invoke the dispute resolution clause in the Agreement to resolve the dispute between Big Sea and the Government. The letter dated the 10th day of June 2014 is already in evidence and is marked as **exhibit 18** for A2.

116. It is after the documents marked as page **2 and 3 of Exhibit AK** that the Former Minister for Finance [Hon. Seth Terkpe] wrote to Big Sea assuring and informed it that he was in the process of finalizing the establishment of the Letter of Credit. Thereafter, the Bank of Ghana [BOG] was requested to open the LC with the authentication seal of the Minister for Finance. This is confirmed by exhibit **A**. Later the Deputy Controller and Accountant's General finally **authorized** the BOG to establish the LC by exhibit B.
117. PW3 testified that it is after all of this that the first accused then wrote to the Governor of the BOG to establish LC “for the supply of the first batch of 50 ambulances out of the total contract of 200 ambulances”. This letter has already been tendered in evidence by the prosecution and marked as Exhibit A. This is the requirement that the Big Sea Letter spoke about in its letter of 28th March 2014 which letter is marked as **exhibit W**.
118. From PW3’s evidence, the court will note that JBL played no role in the establishment of this LC. This was as a direct result of AG's legal opinion which is legally binding on all state institutions in the resolution of the alleged breaches of the contract by government and not JBL.

Payments to JBL not the same as JBL causing payment.

119. During cross-examination of PW3 by my lawyer on 16/6/2022 PW3 testified that there was communication between me and the BOG on payment. I refer to page 3, of the record of proceedings of the said date.

120. I say that JBL is only entitled to payment as Big Sea's agent, when Big Sea is paid. The payment made by Big Sea to JBL is not that which caused the payment to Big Sea from which JBL is made. Paying JBL for its services to Big Sea, therefore, cannot be basis for charging me with the offence for which I am facing prosecution even though the offence is unclear. When Big Sea is paid as a result of whoever caused it to be paid, the money becomes Big Sea's money. It is money belonging to Big Sea from which a Commercial High Court of competent jurisdiction after a full trial, ordered Big Sea to pay JBL which was honoured.

121. Finally, I must emphasize the fact that JBL was paid pursuant to a court order. This is clear from paragraphs 23 and 24 of the witness statement of PW2. A court's order cannot be a basis to charge any citizen if it was never proven to have been procured through fraud and the order or ruling set aside by a court. Government was not party to the civil suit between JBL and its principal because government had no contractual obligation to pay JBL/agent for any service rendered or contracted.

IV. CONCLUSION.

122. I say that JBL has no business relationship with the government of Ghana. JBL only presented a proposal to government which government could have rejected. When government decided to procure the ambulances, GOVERNMENT COULD HAVE CONTRACTED JBL as its agent to procure the ambulances, but government contracted Big Sea which chose to retain JBL as its agent.

123. I say also that the claim by the prosecution's witnesses that JBL and me should be treated as one and the same is completely untenable. There is no allegation let alone evidence to prove that I used JBL as a *façade* to defraud government which had nothing to do with me or JBL in so far as the transaction which is the reason for which I am being prosecuted is concerned.

124. The impression created by the prosecution that JBL was not in existence when the contract to supply the 200 ambulances was signed has been exposed as erroneous. Having established this fact, I say that it is not proper to treat JBL and me as synonymous.
125. It is also clear that the testimony by PW5 that I told him that even without prior reference to Big Sea, JBL had authority to sell and distribute Big Sea's products including ambulances is completely irrelevant to this case. The ambulances the prosecution is dealing with in this case are direct and specific. These ambulances were supplied by Big Sea itself directly to government attested to by the Bills of Lading of the ambulances and not through JBL or by JBL.
126. I also say that PW5's testimony that it is Mr. Lawrence Sackey who was agent for Big Sea in Africa is completely false. This is clear from the ruling of the court in the suit JBL instituted against Big Sea and Lawrence Sackey. Granted without admitting that the allegation by PW5 that Mr. Lawrence Sackey was the Agent of Big Sea the question that baffles me is why Mr. Lawrence Sackey is not the one being charged with the offence that I am in this court for. Big Sea on the 4th day of September 2015 in responding to an earlier letter by the MOH to clarify the responsibility of Mr. Lawrence Sackey affirmed that Mr. Lawrence Sackey had been assigned the responsibility to engage and collaborate with all of Big Sea's customers and agents on all issues on behalf of Big Sea within the sub region. The reason for this as stated by Big Sea was because JBL had instituted the suit against Big Sea in the High Court (Commercial Division). I have attached and marked as **exhibit A3-15** a copy of the letter dated the 4th day of September 2015. Prior to **exhibit A3-15** Mr. Lawrence Sackey was already dealing with MOH on behalf of Big Sea as can be seen in **Exhibit AC** and **AB**.
127. If PW5 had properly conducted his investigations and diligently these glaring facts would have been obvious to him especially in respect of his emphatic claim that JBL concluded the contract with government even before JBL was incorporated. I note that the Attorney-General counted heavily on this factually inaccurate testimony of PW5 when he submitted to the court that a case had been made out against me. PW5 clearly testified only to support the charge against me without any factual evidence to back it.

128. I further note that in his submission of no case the Attorney-General referred to the fact that it was JBL who approached the MOH and represented Big Sea and negotiated on behalf of Big Sea and that at the time JBL was not a registered business entity. I have already demonstrated that JBL was already a business entity.
129. In any event, even if JBL was not a registered entity, it is completely irrelevant because JBL did not contract with government in this matter. It is also irrelevant as the Attorney-General submitted to the court that I knew much about the contract specifications and received a commission from Big Sea.
130. In so far as the submission by the Attorney-General that I connived with Big Sea to unilaterally change the vehicle specifications and that Big Sea admitted this in exhibit AC the least said about it the better. The circumstances under which the specifications agreed upon were changed have been well explained in the addendum to the main contract negotiated by both parties in Dubai.
131. The addendum was signed by a government official who is the CEO of National Ambulance Service [NAS] as the head and leader of the government's negotiating team that culminated in the addendum signed by both parties in compliance with clause 23.1 of the supply agreement. Reference to exhibits **Z, AG, C, B, X, V and 1-4 for A1**, expose the Attorney-General's contention to this effect as incorrect.
132. Government accepted the changes and expressly signed to them. It is the reason for which government, as I have already stated has not terminated the contract even at the moment. Furthermore, this was the same reason why the then Minister for Health, Hon. Alex Segbefia wrote his final letter to the MOF on this matter indicating that all implementation and technical problems with the contract had been resolved by both parties and as such the project should continue with the full establishment of LCs for the remaining 170 ambulances. Upon receipt of Hon. Alex Segbefia's letter the then Chief Director of MOF Mr. Patrick Nomo wrote to the Attorney General on the 23rd of December 2016 for the opinion of the Attorney General in order to bring effect to the letter of Hon. Alex Segbefia. The legal opinion which was sought for by MOF is still outstanding over the past 7

years thus stalling the project and the implementation of the Addendum. At all times material to my present statement therefore, all that is required is for the government to accept its obligations under the contract. This fact makes the Attorney-General's argument on this point most untenable, empty and unfortunate. I have attached and marked as **exhibit A3-16 and exhibit A3-17** a copy of the letter written by Hon. Alex Segbefia which letter is dated the 14th day of December 2016 and the letter written by the then Chief Director of MOF Mr. Patrick Nomo dated the 23rd of December 2016 respectively.

133. Finally, I say that the charge made against me in the present proceedings is not proper for the following reasons:

- i. personally, I had no business/transaction with the state or even Big Sea.
- ii. government or Big Sea also did not contract me to play any role whatsoever in the transaction from which the present proceedings result.
- iii. I am also not an officer of Big Sea or government.
- iv. it is JBL which has relationship with Big Sea [not government].
- v. I am just a director and shareholder of JBL and unless there is a special reason for making me personally the accused person in this case, and the prosecution has established none, my prosecution is not proceeded with in good faith.
- vi. even with JBL, it [JBL] is merely a commissioned agent of the said Big Sea company which acted as an agent for Big Sea for a fee.
- vii. neither me nor JBL had any responsibility/obligation under the contract between GOG and Big Sea in the delivery of the ambulances.

- viii. all payments made were made directly to Big Sea through an Irrevocable Transferable Letter of Credit (LC). Payments made to JBL were made pursuant to court orders which are still valid and not set aside.
- ix. the ambulances have been duly supplied and an agreement reached to rectify all defects if any.
- x. the accessories to rectify all defects have since the year 2016 been shipped to government.
- xi. government has accepted the ambulances because government has not rejected them.

134. On the basis of the facts I have stated in my present statement, I say that it is clearly not proper to contend that government has suffered financial loss when government still has the benefit of the ambulances which are in government's possession.

.....
RICHARD A. JAKPA.

STATEMENT OF TRUTH.

I, **RICHARD A. JAKPA** do hereby verify the contents of my present statement as true to the best of my knowledge and honest belief.

.....
RICHARD A. JAKPA.

DATED AT SORY @ LAW, ACCRA THIS 25TH DAY OF APRIL 2024.

THE REGISTRAR,
HIGH COURT,
(FINANCIAL DIVISION)
ACCRA.

AND FOR SERVICE ON:

1. THE ATTORNEY-GENERAL,
ATTORNEY GENERAL'S DEPARTMENT,
MINISTRIES, ACCRA.

2. THE FIRST ACCUSED OR HIS LAWYERS, DR. ABDUL BAASIT AZIZ
BAMBA whose address for service is; AZIZBAMBA & ASSOCIATES,
NO. 5 NII TORGBOR AVENUE LINK, NEAR PEKAN HOTEL, EAST
LEGON, ACCRA.