



*Nature of Case : Constitutional Claim*

Senior Counsel:  
Anand Ramlogan SC  
anandramlogan@outlook.com  
C/o  
RONALD CHARLES AND  
ASSOCIATES  
ATTORNEYS-AT LAW  
7 CROSS ST.  
ROSEAU DOMINICA  
POBOX.2245

Filing Attorney  
Jared Jagroo  
jaredjagroo1@hotmail.com  
c/o  
RONALD CHARLES AND  
ASSOCIATES  
ATTORNEYS-AT LAW  
7 CROSS ST.  
ROSEAU DOMINICA  
POBOX.2245

Junior Counsel  
Vishaal Siewsaan  
vishaalsiew@live.com  
Submitted Date:24/09/2024 15:46  
C/o  
RONALD CHARLES AND  
ASSOCIATES  
ATTORNEYS-AT LAW  
7 CROSS ST.  
ROSEAU DOMINICA  
POBOX.2245  
Filed Date:24/09/2024 15:46  
Fees Paid:52.00

**THE EASTERN CARIBBEAN SUPREME COURT**

**IN THE HIGH COURT OF JUSTICE  
(COMMONWEALTH OF DOMINICA)  
(CIVIL)**

**Claim No.**

**2024 OF DOMHCV**

**Between**

**BURNEY RYAN**

**Claimant**

**And**

**THE ATTORNEY GENERAL OF DOMINICA**

**Defendant**

---

**FIXED DATE CLAIM FORM**

---

The Claimant, **Burney Ryan**, Contractor of the Morne, Parish of St. Joseph, Commonwealth of Dominica, seeks the following relief against the **ATTORNEY GENERAL OF DOMINICA** of the Chambers of the Attorney General 3rd Floor, Government Headquarters Kennedy Avenue, Roseau, Dominica.

**A. THE CLAIMANT SEEKS THE FOLLOWING RELIEF AGAINST THE DEFENDANT:**

1. A determination of the Supreme Court, by way of Declaration or otherwise, of the following issue and questions:
  - a) Whether the contract/agreement between the Government of Dominica and Montreal Management Company Est (“MMCE”) which involves the establishment and operation of a housing programme/project in Dominica is or was in breach of or inconsistent with the Commonwealth of Dominica Citizenship By Investment Regulations, the Constitution, the Finance Administration Act, the Financial Regulations and Procurement and Contract Act;
  - b) Whether the MMCE Contract which allows for the payment of money into and out of private accounts instead of into the Consolidated Fund is or was contrary to the Commonwealth of Dominica Citizenship By Investment Regulations, the Constitution, the Finance Administration Act, the Financial Regulations and Procurement and Contract Act .
2. A declaration that contract/agreement between the Government of Dominica and the MMCE which involves the establishment and operation of a housing programme/project in Dominica was or is and/or continues to be illegal and unconstitutional;
3. A declaration that the payment of money into and out of private accounts instead of into the Consolidated Fund under the MMCE contract was, and continues to be illegal and unlawful because it was/is in breach of and contrary to the Commonwealth of Dominica Citizenship By Investment Regulations, the Constitution, the Finance Administration Act, the Financial Regulations and Procurement and Contract Act .
4. Costs; and

5. Any further declarations, orders, writs or directions as the Court may consider appropriate.

**B. THE FACTS UPON WHICH THE CLAIM FOR RELIEF IS BASED**

1. The Claimant is a long standing social and political activist with a keen interest in the national affairs of the Commonwealth of Dominica.
2. He is a businessman and contractor, well known throughout the island as the principal of Ryan and Son's Construction. He is also an avid cricket fan and regularly promotes cricket tournaments and other sport related activities. He is a longstanding member of the United Workers' Party and is currently serving as chairman of the St Joseph constituency for the past three years.
3. The early 1990s marked a period of economic hardship for many Caribbean nations, including Dominica. The island's small population and limited natural resources made it vulnerable to global economic shifts, particularly in agriculture. The collapse of the banana industry, once the backbone of Dominica's economy, led to widespread unemployment and poverty. The increasing cost of development capital and the scarcity of financing for the economic development of small island states sparked a desire for Dominica and its regional neighbours to source development capital and attract foreign investment in innovative ways. It was in this context that the idea of the Citizenship by Investment (CBI) program emerged.
4. Through the CBI, Dominica now offers an official and legally mandated economic citizenship to those seeking a valid second citizenship. The law authorizes the government to waive the normal requirement of seven years of legal residence to acquire citizenship in exchange for an investment into the country's economy. Citizenship is therefore sold in exchange for this investment in the form of a cash contribution to the country's Economic Diversification Fund or an investment in approved Real Estate projects. The program is administered through Government Approved Economic Citizenship Agents and generates

significant revenue for key infrastructure projects; programmes in education and housing; as well as in the productive sectors – Agriculture, Tourism, Small Business Development, Manufacturing. Applying for Dominican citizenship requires interacting with the official Government Approved Economic Citizenship Agents as the first step in the application process and the CBI accounts for a significant amount of the government’s revenue.

5. The key benefit of Dominica citizenship is a passport or travel document issued by Dominica which allows for freedom of movement within the CARICOM and its affiliates, and access to more than 120 countries.

### **The CBI and MMCE**

6. In or around 2016, the government introduced a citizenship access option which provided an exclusive arrangement for Montreal Management Consultants Est (MMCE) whose principal is Anthony Haiden. The new scheme entailed MMCE collecting money from the sale of citizenship for public housing in Dominica, with MMCE keeping custody and assuming ownership of these public funds in overseas accounts.
7. This exclusive arrangement effectively gives a private individual and his company their own CBI program along with authorization to sell citizenship. It competes with agents selling the Government’s EDF option at the legal price, thus pushing them out of the market. It gives a competitive advantage and edge to MMCE which has since dominated the CBI sales. This, whilst persons and entities that are seeking approval from the government to enter the lucrative CBI market have been excluded as their applications have been either denied or simply delayed for prolonged periods, mired in bureaucratic stonewalling and red tape.
8. The relationship between the government of Dominica and MMCE, and in particular, between Prime Minister Roosevelt Skerrit and Dr. Anthony Haiden, features serious conflicts of interest:

- a. the Prime Minister has overseen the payment of over EC\$32,000.00 per month as rent for a palatial mansion allegedly owned by Anthony Haiden and widely believed to be funded with CBI money as the official residence of the Prime Minister;
  - b. The Prime Minister is building a palatial mansion for himself, his second multi-million-dollar home, with funds that have not and/or cannot be explained whilst calls for public accountability and transparency regarding same have been largely ignored and gone unanswered.
  - c. The Prime Minister claimed he received a gift of land while serving as Prime Minister. This transfer of land was the subject of allegations of undervaluing for the purpose of underpayment of land transfer taxes. The land was later sold for over EC\$700,000.00 to Anthony Haiden and/or his affiliate company Mercury Properties.
  - d. The Prime Minister Skerrit claims that Anthony Haiden as the developer of the International Airport is frontloading EC\$1.6 billion dollars for the construction of the facility and will repay himself from funds collected under the CBI program. As at June 30th, 2024, according to the official revenue and expenditure estimates presented annually to Parliament, over half a billion dollars has been spent on the airport from the national treasury of Dominica. There is no evidence of any cash advance or loan from Haiden and/or MMCE to be repaid from CBI passport sales.
9. The government's management of the CBI and perceived lack of transparency in the management and use of the revenues generated are a frequent topic of heated domestic political controversy. Given the silence of and lack of details from the government on the arrangement between the state and Mr Haiden and/or MMCE, the Claimant has been able to gather information shared in a piecemeal manner based on public statements made in response to urgent public calls for clarification. There have been several public calls for

transparency and accountability for the monies being paid to MMCE which have fallen on deaf ears:

- a. In an articles entitled “ *Skerrit promises report on CBI funds; Linton calls for forensic investigation*” published by Dominica News Online on August 30th, 2019 it was reported that: -

*Prompted by the nagging persistence of an opposition-mounted “Where De Money” campaign, Prime Minister and Minister for Finance, Roosevelt Skerrit has indicated that he has asked accounting officers to prepare a detailed report on the revenue generated under the Dominica Citizenship by Investment (CBI) Programme for the 2018-2019 financial year.*

*The disclosure by the leader of the opposition of a 2019-2020 “budget shortfall” of over \$1 billion in relation to funds generated under the CBI programme, has resulted in much criticism of the prime minister and rising opposition demands for him to give a proper accounting of monies raised by the CBI programme during the 2018-2019 financial year*

- b. The Prime Minister therefore confirmed a difference of \$1.2 billion between what had been collected and what had been received and promised to provide a report on same but to date no such report has been made public. In the course of the article it was reported that the PM was aware that the funds had not been received into the consolidated fund:

*In an interview on Kairi FM radio on Thursday August 8, 2019, Prime minister Skerrit revealed that most of the CBI funds during the 2018-2019 financial year were obtained under another component of the CBI programme called the housing option, which he described as Dominica’s premier CBI option at the moment. This option, which is separate from*

*the Economic Diversification Fund (EDF) option and the Real Estate option, was introduced in 2016 following the devastation caused in Petite Savanne, by Tropical Storm Erika the year before.*

*Skerrit explained that without the specially-dispensed housing programme, which is being undertaken by developer [Montreal Management Consultants], all of the CBI revenue would go to the State's Consolidated Fund and would therefore, form part of the estimates on the Public Sector Investment Programme.*

*“And you do not see provisions made for any of the housing. Had we included this in the estimates, the budget would not be \$1 billion dollars; it would be about 2 billion dollars, 2.2 billion dollars,” the prime minister revealed.*

*However, during his address at the recent launch of the DLP's candidate for St. Joseph, Skerrit indicated that a report from the government's finance accounting officer would be forthcoming ...*

- c. In an articles published on 13 March 2020 by Caribbean News Now! it was reported that:-

*Skerrit also said that 26 homeowners affected by the airport construction have received their keys to their new houses at the Joe Burton Development, with 12 of them living in “terrible housing conditions” before the relocation.*

*The Joe **Burton** housing development is one of the many infrastructure projects spearheaded by MMC Development Ltd., a private developing*

*company that has been working closely with the government of Dominica for many years now.*

*The housing units are “being built by local contractors and all the services are being provided by Dominicans only,” MMC Development said.*

*MMC Development Ltd. is also the developing entity behind Dominica’s airport project, which is fully funded by the country’s Citizenship By Investment (CBI) programme.*

- d. In an article entitled *Opposition calls for revocation of alleged \$32,000 rent payment decision for PM Skerrit; threatens legal action* published by Dominica News Online on July 2nd, 2020 it was reported that:-

*Linton also cites “grave public concern” about the relationship between the CEO of Montreal Management Company, who he says is the sole director of Mercury Properties Development Ltd which owns the Morne Daniel residence, and Prime Minister Skerrit, with regard to over one billion dollars from Dominica’s Citizenship by Investment revenues for the financial year 2018/2019 which he has been calling on Skerrit to account for.*

*“The lack of transparency and accountability in the utilization of these public revenues raises questions about the source of funding for the Morne Daniel residence and your alleged ownership interest in it,” says the leader of the Opposition. “...Mercury Properties Development Ltd is now going to receive from the people of Dominica EC\$768,000.00 on a two-year rent deal arising out of Cabinet’s unlawful exercise of administrative discretion*

- e. In an article published by Q95 News on 7 September 2020 entitled **UWP Executive releases Letter of concern to Prime Minister Skerrit re his Cabinet’s decision to**



**rent a controversial luxury property at EC \$32,000 per month as housing accommodation for the Prime Minister** it was reported:

*It is a matter of grave public concern that the residence in Morne Daniel is in the name of Mercury Properties Development Ltd whose sole director is Anthony Haiden of Montreal Management Company with whom you have associated yourself in the unlawful privatization of over one billion dollars from Dominica's Citizenship by Investment revenues for the financial year 2018/2019. The lack of transparency and accountability in the utilization of these public revenues raises questions about the source of funding for the Morne Daniel residence and your alleged ownership interest in it.*

**Unaccounted Income:**

10. It is estimated that for the period July 2016 to 30 June 2024, Dominica sold approximately 50,709 passports for EC\$11.6 billion (4.2 billion USD) but only received approximately EC\$3.4 billion (1.2 billion USD) into the treasury – the consolidated fund of Dominica in which, by mandate of the constitution, all public funds must be deposited and from which all public funds must be spent. Therefore, the sum of approximately EC\$ 8.2 billion has been received by MMCE under the CBI but not placed in the consolidated fund. These monies generated from the sales of sale of Dominican passports – have not reached the intended beneficiaries of Dominca, its citizens, yet the Government has refused to account for the balance.
11. The discrepancy between what has been sold and what has been received has been reported internationally in several articles including:-
  - a. Article dated 12 October 2023 published in the Guardian entitled *Dominica may have sold thousands more 'golden passports' than it disclosed, analysis suggests* which reported that:

*The Caribbean island of Dominica may have sold thousands more “golden passports” than its government has publicly disclosed, according to analysis that raises questions about the transparency and governance of its \$1bn (£822m) citizenship by investment scheme..*

*Analysis of government budget data suggests as many as 19,000 individuals may have obtained citizenship between 2016 and 2022. Most passports were sold after 2015, when the EU introduced visa-fee travel for Dominican citizens, sparking a jump in sales from hundreds a year to thousands...*

*By scouring libraries and archives for copies of the government’s Dominica Official Gazette, which is only available on paper and has not been digitised, reporting partners found 7,700 names declared in public records since 2007. New citizens were named in the gazette up to December 2018 and no names have been published since.*

*The documents show nearly 8m East Caribbean dollars (£2.4m) in fees in the 2016/17 and 2017/18 financial years, a figure that suggests 3,961 people naturalised during those two years alone, if the budget figures are correct. This is more than twice the 1,664 names published in the official gazettes for the period*

- b.** Article published 20 October 2023 entitled *EU Concerned About Citizenship Programs; Says Dominica Sold 34,500 Passports*, reported by OCCRP:

*Dominica is reported by the EU to have issued 34,500 passports. The report added that when such high figures are matched with a low rejection rate of between three and six percent across the five countries, as well as a short processing time, clear questions are raised as to “the thoroughness of the security screening.”*

*It remains unclear from the Commission's report within which time period the 34,500 Dominica passports were issued; its CBI program has been open since 1993. However, the figure dwarfs, by a factor of four, the 7,700 names reporters were able to find by sifting through the island's public gazettes for the years 2007 to 2022. The gazettes are meant to serve as the official record of new passport holders.*

*Reporters from OCCRP and the Guardian had also found that naturalization fees listed in Dominica's national budgets, covering mid-2016 to mid-2022, suggested that Dominica had collected enough such fees to account for more than 19,000 new citizens over that period alone. Now, the EU's own numbers appear to confirm that Dominica has failed to report many thousands of passports.*

*The U.K. recently moved to impose visa requirements on Dominican travelers, citing "clear and evident abuse" of the CBI scheme.*

12. The claimant was deeply disturbed by these articles and compiled a breakdown of the figures which he estimated to have been unaccounted for during the period 2016 to present using past and present Budget Statements and Government Estimates. His estimates show that there is approximately EC\$ 8.2 billion in funds from the sales of citizenship unaccounted for.
13. The MMCE Housing Cash Option is not provided for in the CBI regulations and has never been announced or promoted by the Citizenship by Investment Unit on its website or at all.
14. The introduction of a citizenship access option exclusive to a single individual and/or company allows a private entity to take control of the lion's share of a settled revenue stream of the state ostensibly to do housing/infrastructure work for the state (for which government is responsible) with no accountability.

15. Disclosure of the existence of the said fund was only brought to the attention of the general public by the state in response to the public pressure and the exposure of unaccounted CBI funds for the financial year 2018/19 and public outcry regarding the same.
16. Since then, utilizing funds from the said Housing Option, the state has awarded many multimillion-dollar non-bid contracts to companies under the control of Anthony Haiden (MMCE/Mercury Property Development Limited (MERPROD), post Hurricane Maria.

**RECENT DEVELOPMENTS:**

17. The claimant upon reading the aforementioned has researched Montreal Immigration Services (MIS) and noted that it is the consultancy arm of Montreal Management Consultants Est (MMCE), a CBI service provider in Dominica led by its Chief Operating Officer and President Dr. Anthony Haiden.
18. In an article entitled “*Revealed: Thousands who bought “golden passports” through Dominica’s \$1bn scheme*” dated 11 October 2023, it was reported by the Guardian that:

*The Caribbean state of Dominica has sold citizenship to thousands of individuals including a former Afghan spy master, a Turkish millionaire convicted of fraud and a former Libyan colonel under Muammar Gaddafi, the first detailed examination of the country’s controversial “golden passports” scheme has found.*

*The findings are from Dominica: Passports of the Caribbean, an investigation by the Guardian and 14 other international news organisations, in partnership with the Organized Crime and Corruption Reporting Project (OCCRP).*

19. On 6 December 2023 the Government Accountability Project reported in an article entitled *International Criminals Escape Sanctions and Consequences via Citizenship by Investment* that:

*Why is this happening? Why would a nation state willingly accept dangers to public interest into the body politic? While Dominica is in dire straits financially, there may also be public corruption associated with the program. An examination of Dominica's national budget reveals weird anomalies and apparent missing money, all red flags that money from the program is being stolen. Moreover, local whistleblowers and activists are afraid to speak out about program problems, implying a captured state.*

*There are also questions about the government's relationship with private passport brokers. Case in point is the work of Anthony Haiden, an American consultant who helped engineer and perpetuate the Citizenship by Investment strategy. Conflicts of interest abound—his company handled construction projects for the Prime Minister of Dominica, Roosevelt Skerrit, and leveraged financial interests to embark on dozens of further real estate projects. This double-dipping of construction and passports raise serious questions about corruption. And in a country without freedom of information laws, the true depth of Prime Minister and Haiden's "professional relationship" could stay hidden indeterminately.*

20. The effects of the state's poor management of the CBI have both local and international consequences. In an article published 12<sup>th</sup> October 2023 by the Dominca News Online entitled *Investigation reveals people with 'dark pasts' obtained Dominican passports*, it was reported that :-

*Despite this assurance, Dominica's CBI program has drawn the attention of the UK, which had previously granted citizens of the island visa-free access. A visa restriction was subsequently imposed on travelers from Dominica due to what the UK government said was "clear and evident abuse" of the program with British*

*Home Secretary Suella Braverman saying that the island had been granting citizenship to “individuals known to pose a risk to the UK.”*

*The report stated that Dominica’s CBI program has been a success under Skerrit, raising \$775 million between 2009 and 2021 for the island, “helping to fund government programs and keep Skerrit’s party in power.”*

21. The claimant became greatly concerned and upon further investigation has noted the following statements made by government and MMCE which raise more questions than answers

a. In a statement made on Kairi Radio, 8 August 2019, the Prime Minister said this:

*“And one of the things why people say there is a reduction in revenue over the years for government - it is not that the programme is doing worse off this year than the previous year; it is because you have more projects and then you have the Housing Programme. The housing programme is the premier programme. If you do not have the Housing programme and if it only had the Range and the Marriott, you would see a dramatic number in terms of revenue for the government. Now the housing programme is doing better than the Fund Option. Now if you do not have this project and you have these agents selling for Dominica, all this money would have been part of revenue put in the Consolidated Fund. But what you have where the real estate and housing [is] concerned, you have an escrow account. These moneys go into the development, therefore is cannot be part of revenue.....”*

b. In response to a question in Parliament from Hon. Lennox Linton, Leader of Opposition and Parliamentary Representative for Marigot Constituency on Monday 26 October 2020, The Prime Minister said this-

*Mr. Speaker, in Fiscal year 2017-2018 citizenships were approved as follows: 1073 government Cash Option; 285 under MMCE Housing Cash Option. For fiscal Year 2018-2019, there were 579 under the government cash option; 802 under the MMCE Housing Cash Option. For Fiscal Year 2019-2020, there were 396 under government cash option and 1057 under MMCE Cash Option. With respect to Housing, there was a special dispensation; so it is not under the real estate. It is treated somewhat like the Fund Option. So the fees applicable to the .. mmm.. Housing are the fees applicable if you are to invest in the government monetary Option. OK?*

- c. In an interview conducted by Christian Nesheim, editor of “*Investment Migration Insider [IMI]* a publication subtitled “*Investment Migration Knowledge Platform*” (17 October 2018) (<https://www.imidaily.com/editors-picks/montreal-management-speaksout-on-dominica-cip-matter/>) and dedicated to the world-wide CBI market, MMCE’s Chief Executive, Anthony Haiden, gave this account of a contract with the Government for the construction of social housing.:

*“In September 2018, the government signed an agreement with Montreal Management Consultants Establishment, (MMCE) for the construction of the first batch of residential units across the island as part of Skerritt’s Housing Revolution. The large-scale project was entirely financed by Dominica’s citizenship by investment programme – an initiative that enables investors and their immediate family members to acquire second citizenships through **an economic contribution.**” (the words used to describe the oft-referred to CBI option 1)*

*“Under the agreement”, Haiden explains, “the company assumes all costs and responsibilities related to the construction of social housing projects and then proceeds to market the **contribution option of CIP** on the same terms as everyone else. The contribution funds MMCE raises are then transferred to an escrow account. Funds are distributed from this escrow account partly to the State of Dominica, partly to the housing development”*

*“Distribution of funds are regulated by the agreement stipulating the share of the state and the share for the projects. Distribution is provisioned by progress of construction via technical reports overseen by the Ministry of Housing,” writes Haiden.*

*“MMCE stands to benefit from both service fees for its clients and profit margin associated with its role as a developer (construction costs vs generated funds for project).”*

22. The claimant has made inquiries but has not received or been privy to any of the reports referred to by the Prime Minister in August 2019 which the Prime Minister promised to have done to show that all funds had been accounted for. The lack of transparency or reporting in the management of the CBI is contrary to the cardinal principles of a constitutional democracy based on the rule of law. The core features and principles of a democratic society requires adherence to transparency, accountability, good public administration and governance. The mysterious circumstances that surrounds this project is compounded by the absence of any financial statements and financial reporting requirements (via an annual report to be laid in parliament) in consequence of which the public and the claimant has been and continues to be kept in the dark. This lack of accountability and disclosure creates fertile soil for unchecked mismanagement and corruption and undermined the fundamental tenants of the rule of law.
  
23. The government has therefore admitted to the establishment of a Housing Option Fund/Programme utilizing hundreds of millions of dollars from the CBI from 2017, outside the Consolidated Fund, out of State, outside the control/monitoring of state appointed accounting officers, and without approval of Parliament and knowledge of the general public. While promising to provide reports since 2019 to ensure transparency and public accountability, no such reports have been made public.



24. Up until June 30th 2024, the advertised legal price of a Dominica CBI passport was US\$100,000 per passport. The revenue received by Dominica for the sale of 50,709 passports means that Dominica only received US\$ 24,833 per passport.
25. The new legal price for a passport with effect from July 2024 is US\$200,000.00 per passport. According to the approved estimates, 6,433 Dominica passports will be sold for the financial year July 1<sup>st</sup> 2024 to June 30<sup>th</sup> 2025. This is based on dividing the revenue estimated to be earned from the standard fee for certificates of naturalization (CONs) at page 25 of the Estimates for 2024/2025 as against the standard fee of US\$500.00 per CON. Based on the new legal price of US\$200,000.00 (and taking in consideration discounts for family members and real estate investors) the revenue yield from the sale of passports under the CBI should be approximately US\$ 1.048 billion. However, Parliament has approved a plan that reflects an income to the treasury of US\$ 281 million or US\$44,250 per passport. This therefore amounts to an unaccounted CBI revenue shortfall of approximately US\$ 767 million.
26. The US correspondent bank for the National Bank of Dominica has derisked the CBI transactions of Anthony Haiden and MMCE as result of which Dominica's CBI passport money from Dominica's main CBI agent and sole developer of CBI funded infrastructure projects, cannot be transferred to Dominica. The Prime Minister himself at a press conference on 15<sup>th</sup> July 2024 spoke about the correspondent bank issues:

*“it appears that Dominica is having difficulty moving monies from the CBI programme through international banks, to programs like the airport and housing and other CBI funded projects...*

*The bank has rules and everyone has to respect the rules, I do not believe the bank is being unduly unreasonable. They have to deal with corresponding banks and we have been working on the banks with this...*

*The banks has indicated the process to follow and the documentation that they need which are really transparent in my view...*

27. By pre action letter dated 8<sup>th</sup> May 2024 and delivered on 10<sup>th</sup> May 2024, the Claimant forewarned of proceedings and sought a response. Consistent with the government's curious silence on this issue however, there has been no response to this legal letter.

28. Subsequent to the issuance of the Pre Action letter the claimant observed in the local and international media an article published by Ahmad Abbas on 29 July 2024 entitled **“Dominica Revokes 68 CBI Passports, expert warns of consequences for duped investors”** and reported in the regional news stated that:-

*Dominica has issued a Citizenship Deprivation Order, canceling the citizenships of 68 individuals who obtained their status through the country's Citizenship by Investment Program (CIP). The order, signed by Minister for Citizenship Miriam Blanchard and gazetted on June 6th, 2024, states that the scheduled persons obtained registration or certificate of naturalization through fraud, false representation, or concealment of a material fact*

29. The order referred to in the article is the 2024 Commonwealth Of Dominica S.R.O. 4 Citizenship Commonwealth Of Dominica Statutory Rules And Orders No. 4 of 2024. Order made by the Minister under section 10(2) and (5) of the Commonwealth of Dominica Citizenship Act, Chap.1:10. (Gazetted 6th June, 2024.) which identifies a number of persons whose passports have been revoked.

30. It was further reported that the reason for the revocation was due to the conduct of the service providers without approval of Parliament and knowledge of the general public:

*Philippe May, Founder and CEO of EC Holdings, applauds Dominica's action, stating that it's "good that a CBI country is*

*taking action against fraudulent applicants." May explains that these applicants have often been "mishandled by rogue, unlicensed immigration service providers" who entice them with low initial fees. It remains unclear if discounting activities was the main reason for the revocations, especially since the majority of the applicants hail from the same country....*

*Dominica cites fraudulent activity as the reason behind its decision, which could include lying or concealing visa rejections to countries Dominica has visa-free waivers with or other misrepresentations.*

31. The Government has therefore overseen the revocation of citizenships of some persons said to have obtained Dominican citizenship for less than the legal price. But significantly, the agent or agents who marketed and sold the CBI to these persons remain untouched and are continuing with the alleged unlawful practices. There has been no public statement about any investigation to determine the role and culpability of the agent(s), on how this fraud occurred and how the checks and balances in the system failed. There has also been no announcement of any sanction or action against the negligent agent(s) that were involved.
32. There has been no public disclosure of the contract between the Government and MMCE and hence the claimant is left to speculate and does not know whether the grant of citizenship that fraudulently occurred amounts to a breach of the express or implied terms of the contract between the government and MMCE. He is also concerned to ensure that any loss suffered by the state from the agent and/or MMCE under the terms of the contract.
33. The claimant therefore intends to seek an order for disclosure of all contracts, reports, statements and/or documents relative to the arrangement between the Government, the CBI Unit and MMCE and the sale of citizenship by MMCE under the CBI Scheme.
34. The addition of over 50,000.00 passport holders and by extension citizens, also raises a serious potential for voter padding because Dominica is a small island with a population of less than 100,000 of which approximately 60,000 are registered to vote. Persons who

have purchased citizenship from the present government are eligible to vote once resident in the country for a certain period. The situation is made worse by virtue of the fact that it has been over 5 years since the names or identities of successful applicants under the CBI have been published in the Gazette. The continuing failure and/or refusal by the state to continue the established policy, practice and procedure of publishing the names of persons who have acquired citizenship through the CBI for publish knowledge is arbitrary irrational and illegal. The publication of these names serves an important legal, public and practical purpose as it allows citizens to review and scrutinize these new citizens so that they may be able to make representations against them if necessary. This could have reduced or militated against the level of fraud that has occurred under the CBI programme. It also allows the public to monitor the grant of citizenship under the CBI to ensure that the programme is being properly managed and not misused or abused by allowing, for example, undesirable persons or persons who are hostile or inimical to the interest of Dominica to obtain citizenship.

## **C. THE GROUNDS UPON WHICH THE CLAIM FOR RELIEF IS SOUGHT**

### ***(i) The Constitution of Dominica***

35. Section 16 of the Constitution provides for the enforcement of the constitution by the High Court:

*16. (1) If any person alleges that any of the provisions of sections 2 to 15 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to*

*him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress*

36. The Attorney General is, by virtue of section 71 of the Constitution, responsible for the administration of legal affairs in the Commonwealth of Dominica and historically occupies a position as guardian of the public interest. In this capacity the Attorney General is obliged to uphold the provisions of the Constitution and the laws of Dominica and is liable for breaches of same by the government.
37. The Claimant is entitled to bring this matter in the public interest for resolution by the Supreme Court in the form of what was formerly known as an interpretation summons and/or by way of declaration to resolve or correct public law issues.
38. There is a general and well-established jurisdiction for the Courts to grant declaratory relief upon an application for interpretation at the behest of any litigant, and *a fortiori* the Attorney General.
39. The Courts are expressly empowered to grant merely declaratory relief by virtue of section 22 of the Eastern Caribbean Supreme Court (Dominica) Act, Chap 4:02. In respect of matters involving the State there is a further express power to grant declaratory relief under Part 56.1 of the Eastern Caribbean Supreme Court Civil Procedure Rules (revised edition) 2023
40. On the facts and grounds which are set out herein, an important issue of statutory interpretation arises which has profound constitutional and statutory implications as to the compliance with the terms of the Constitution, the Financial Administration Act (and the Financial Regulations), the Procurement and Contract Act and the Commonwealth of Dominica Citizenship By Investment Regulations,.

41. Section 76 of the Constitution provides:-

*76. "All revenues or other moneys raised or received by Dominica (not being revenues or other moneys that are payable, by or under any law for the time being in force in Dominica, into some other fund established for a specific purpose) shall be paid into and from [sic] a Consolidated Fund"*

42. Revenue is defined in the Section 2 of the Finance Administration Act as follows: "*public moneys include: (a) all revenues or other moneys raised or received for the purpose of the government, and (b) any moneys or funds held, whether temporarily or otherwise, by any officer in his official capacity, either alone or jointly with any other person, whether or not that person is an officer*".

43. These provisions of the Constitution are repeated in Sections 7 & 8 of The Finance Administration Act, Dominica Laws, No 4 1994 and in the Financial Regulations that apply to the Act. (see in particular Regulation 34(1).

44. Section 77 of the Constitution provides:-

*77. No moneys shall be withdrawn from the Consolidated Fund except—  
(a) to meet expenditure that is charged upon the Fund by this Constitution or by any law enacted by Parliament; or  
(b) where the issue of those moneys has been authorized by an appropriation law or by a law made in pursuance of section 79 of this constitution (spending in between the period of passage of appropriation law and its coming into force)*

*(2) Where any moneys are charged by this constitution or any law enacted by Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.*

*(3) moneys shall be withdrawn from any public fund other than the consolidated fund unless the issue of those moneys has been authorized by or under any law*

*(4) Parliament may prescribe the manner in which withdrawals may be made from the consolidated fund or any other public fund.*

**ii. Finance (Administration) Act Chapter 63:02**

45. Part III of the Finance Administration Act is concerned with “Public Funds”.

46. Section 7 concerns the establishment of the Consolidated Fund:

*“There shall be one revenue fund which shall be called the Consolidated Fund”.*

47. Section 8 makes provision for payment into the Consolidated Fund:

*“Subject to the Constitution and except as otherwise provided in this Act, all revenues and other moneys raised or received for the purpose of the Government not being revenue or other moneys which are payable by or under any law into some other fund established for a specific purpose, shall be paid into and form part of the Consolidated Fund.”*

48. Section 9 concerns payments out of the Consolidated Fund. The monies received under the scheme in question on behalf of the government are not paid into or out of the consolidated fund.

49. Section 10 concerns the establishment of Special Funds by the House of Assembly:

*“(1) The House of Assembly may–*

- i. make provision in any Appropriation Act for the establishment of a Special Fund; and*
- ii. approve revenue for any Special Fund so established.*

50. Section 10(2) is a deeming provision, that certain funds shall be deemed to be Special Funds:

*“Any fund set out in Schedule 1 shall be deemed to be a Special Fund and to have been established in accordance with the provisions of subsection (1) and the balance standing to the credit of that fund at the close of account on the day of the coming into operation of this Act shall be deemed to have been appropriated by the House of Assembly for the purpose specified in Schedule I in respect of that Special Fund”*

51. The following Special Funds are included at Schedule 1:

- a. The Mechanical Workshop Fund; and
- b. The Housing Fund.

52. Section 11 makes provision for the trust funds to be established:

*“(1) For the purpose of this Act “trust fund” means–*

- i. any fund established by an Act other than an Appropriation Act, or*
- ii. any moneys held by or deposited with or entrusted to the Government pursuant to the terms of a deed of trust, trust instrument, agreement (whether expressed or implied) or any arrangement governing the use of moneys so held”*



53. Section 11 continues, confirming that a trust fund does not form part of the Consolidated Fund and is required to be administered in accordance with the Finance (Administration) Act, at section 11(3). Further, section 11(4) is a deeming provision that states:

*“The funds set out in Schedule II shall be deemed to be trust funds and the balance standing to the credit of each fund at the close of account on the coming into operation of this Act shall be deemed to be held by the Government for the purposes specified in Schedule II in respect of each trust fund”*

54. The trust funds set out in Schedule II are:

- a. The Education Trust Fund; and
- b. The Princess Margaret Hospital Trust Fund.

55. Section 13 of Part IV of the Finance (Administration) Act is concerned with Accounts. Section 13 reads:

*“All public moneys shall be accounted for in the accounts of the Commonwealth of Dominica”*

56. “Public moneys” is a term defined by section 2 of the Act, as including:

*“(a) all revenues or other moneys raised or received for the purpose of the Government; and*

*(b) any moneys or funds held, whether temporarily or otherwise, by any officer in his official capacity, either alone or jointly with any other person, whether or not that person is an officer”*

57. The sale of citizenship by the Government of Dominica by means of a statutory scheme involves the raising and receipt of revenue and money by Dominica. Such moneys are, public moneys as defined at section 13 of the Finance (Administration) Act. The default constitutional position, by operation of section 76 of the Constitution, is that such moneys are required to be paid into the Constitutional Fund. The constitutional exception also established by section 76 is that such funds can be paid into some other fund established for a specific purpose by or under any law for the time being in force in Dominica. For the reasons set out below, there is no other fund established for such a purpose.

### **iii. The Commonwealth of Dominica Citizenship by Investment Regulations**

58. The legal instrument governing the CBI Programme is the **Commonwealth of Dominica Citizenship By Investment Regulations**, issued under 20 of the Citizenship Act, Laws of Dominica, Chap:1.01. These Regulations provide for the management, governance and fee structure, as well as for how all funds raised under the CIB must be handled.

59. Paragraph 3 “established a Citizenship by Investment Unit that shall be responsible for administering the Citizenship by Investment Programme and for reviewing and processing all applications for Citizenship by Investment.”

60. The Regulations provide for the following:

- a. Regulation 4 makes provision for the qualifications, general requirements and procedures for eligibility to the Citizenship by Investment Programme. The criteria are set out at section 4(1):

“Any person who is–

- i. At least eighteen years of age;
- ii. has made an investment;

- iii. has certified in writing that if granted citizenship of Dominica he, within five years of the date of issue to him of a certificate of naturalisation otherwise than by marriage change or seek to change his name; and
  - i. who meets the other application requirements,
- may apply as a main applicant to become a citizen of Dominica pursuant to section 8 of the Act.”

61. Regulation 2 defines the following terms:

*“Act” means the Commonwealth of Dominica Citizenship Act;*

*“applicant” means a person who applies for Citizenship by Investment*

*[...]*

*direct monetary investment” means an investment made directly to the Government of the Commonwealth of Dominica for the purpose of citizenship by investment of an amount not less than the thresholds established in paragraph 1(3)(b) of Schedule 1*

*“*

*“Unit” means the Government office established by regulation 3 to administer the Citizenship by Investment Programme and process all applications submitted for Citizenship by Investment”*

62. Paragraph 1(3)(b) of the Schedule to the Regulations provides:

*“(3) The following shall be payable to the Government of the Commonwealth of Dominica on an application for Citizenship by Investment or other approved project (:*

*[...]*

*(b) to qualify persons through a direct monetary investment an amount of-*

*[there then follow various amounts for payment ranging from US\$100,000 to US\$200,000 depending on whether the applicant is applying alone or with a spouse / dependents / children under 18.]*

63. Regulation 7 makes provision for the notification of certain outcomes to citizenship by investment programme applicants:

“Within three months of the submission of an application for Citizenship by Investment the Unit shall notify the Authorised Agent on behalf of the main applicant whether the application has been -

- (a) approved in principle;*
- (b) delayed for cause and is still being processed; or*
- (c) denied.*

64. Regulation 7(2) continues, relevant to applications by way of direct monetary investments:

*“(2) Not later than thirty days after the date of a notification of approval in principle pursuant to subregulation (1) and before the grant of citizenship can occur, the main applicant shall be required to show that –*

*...*

*(c) in the case of a direct monetary investment that the full investment has been deposited with the Government of the Commonwealth of Dominica;*  
*and*

*(d) that all prescribed government fees have been paid.*

65. The scheme provides that individual applicants can obtain Dominican Citizenship by making an investment (i.e. a direct monetary payment) in a certain amount to the Citizenship by Investment Unit, which is a government office.

66. The Regulations also provide for citizenship to be granted in connection with real estate investment. Section 6(1) reads:

“1) Where a person makes an investment or executes a binding purchase and sale agreement for real estate or an investment agreement with the developer of an Approved Project, an application for Citizenship by Investment may be submitted on his or her behalf through an Authorised Agent”

67. Regulation 2 defines the following terms relevant to the foregoing:

*“Approved Project” means a real estate development or other development project that has been approved by Cabinet as a qualified project for Citizenship by Investment;*

*[...]*

*“Authorised Agent” means a person –*

*(a) licensed by the Citizenship by Investment Unit who has paid the Authorised Agent’s fee under paragraph 1(1) of Schedule 1; and*

*(b) is authorised to act on behalf of the main applicant in relation to a Citizenship by Investment application;*

68. Regulation 6(1) establishes the only pathway options to citizenship available under the CBI scheme:

*Regulation 6(1) “Where a person makes an investment or executes a binding purchase and sale agreement for real estate or an investment agreement with the developer of an Approved Project, an application for citizenship by investment may be submitted on his or her behalf through an authorised agent.*

69. The three lawful investment “options” to qualify for citizenship under the CBI are therefore (a) an investment in the government development Fund (Option 1) or (b) An investment in real estate (Option 2) which can either be:

- A binding purchase or sale agreement for real estate; or
- an investment agreement with a developer of an approved project.

70. These are the only “Options” that are provided for in the Regulations. There was no amendment to include a “MMCE Cash Option” and therefore no legal basis for the implementation of such a scheme under the CBI programme by the government. The only legal options provided for in law are an investment into the development fund, an investment by way binding purchase or sale agreement for real estate or investment agreement for an approved project. The MMCE Cash option is neither of these.

71. Regulation 6 continues and provides as follows at regulation 6(5):

- “5) An application for Citizenship by Investment shall be considered only after –*
- a) all monies have been placed in an irrevocable escrow account with an authorised agent, a registered trust company or with an entity whose business is the provision of trust or custodial services; and*
  - b) an Approved Project has been deemed to have commenced, which determination shall be made in accordance with guidelines published by the Unit.*

72. Regulation 7(1) provides for notification (as set out above) and defines the only method of payment for the three options at regulation 7(2):

- (2) Not later than thirty days after the date of a notification of approval in principle pursuant to subregulation (1) and before the grant of citizenship can occur, the main applicant shall be required to show that -*
- (a) in the case of the investment in real estate that the full and unencumbered title to the relevant property has been transferred to him or her, directly or indirectly through a local company, foundation or other approved entity;*
  - (b) in the case of another Approved Project, that the minimum investment has been deposited into a designated escrow account;*

*(c) in the case of a direct monetary investment that the full investment has been deposited with the Government of the Commonwealth of Dominica;*

*and*

*(d) that all prescribed government fees have been paid.*

73. There is no provision for an MMCE Cash Option being paid into a private escrow account in the Regulations. **It sanctions** two methods or systems of payment, through payment to an escrow account for **an approved project**, or to the CBI Unit for deposit in the Consolidated Fund for the government development option. A private company and an agent cannot deposit moneys raised under the government development option into their private escrow account.

74. Therefore there is no legal basis for the payment of public moneys into a the private company's (MMCE's) account instead of the Consolidated Fund.

75. Section 7(3) continues:

*“(3) Beneficial ownership of the relevant property through a company is permissible only where the company -*

*(a) has issued all of its authorised shares to the main applicant;*

*(b) is established and maintained under the laws of Dominica;*

*(c) is not an exempt or offshore entity; and*

*(d) submits through the main applicant irrefutable evidence certified by the Registrar of Companies as to its beneficial ownership.*

76. Part 3(a)(i) – (iv) of Schedule 1 makes provision for varying sums to be payable to the Unit “on approval in principle of an application through a real estate investment or other approved project”. The sums range up to US\$50,000.

77. Section 13 empowers the Minister to issue guidelines and authorise forms, as appropriate, to facilitate the better implementation of the Citizenship by Investment Programme as set out in the Regulations.

78. The Regulations **do not establish any other fund** established for the specific purpose of facilitating the Citizenship by Investment Programme. Accordingly, the funds generated by the sale of citizenship by reference to the Regulations are required to be paid into the Consolidated Fund (with all the implications such process entails, namely, the observance of special legislative procedures as set out in the Constitution and the Finance (Administration) Act regarding appropriation of such funds for public use and such-like).

***(iv) The Procurement and Contract Act:***

79. The Procurement and Contract Act 2012 came in force in 2014. This Act created a legal regime for the control of all government procurements of goods and services, although Regulations empowered under Section 107 of the Act were never made.

80. The Act applies to the procurement of all goods and services by government, including of course the construction of public housing by private parties, unless such expenditure is below a certain threshold in cost or are exempted for reasons detailed in the Act or where emergency situations, also defined in the Act, arise.

81. Section 26 of the provides that –

*26(1) Save and except as provided otherwise, every procuring entity shall procure goods, services and works in accordance*

*(a) this Act and the Regulations; and*

*(b) the Public Procurement Manual and directions issued by the Board*

82. Section 21 defines the exceptions. The Construction of public housing is clearly not exempted under the Act.

83. Section 33(1) a procuring entity can procure goods services or works by



- (a) the open competitive bidding procedure, or
- (b) any restrictive bidding procedure.

84. There was clearly no competitive tendering with respect to the MMCE Contract. That was revealed in the interview given by Mr. Anthony Hayden. None of the criteria for restrictive bidding under section 33(3) apply.

85. The awarding of the Contract to MMCE in September 2018, a full year after hurricane Maria, even if it qualified as an emergency under section 38, is qualified by subsections (4) and (5) which require the period of emergency to be strictly defined so as to return to the competitive tendering as quickly as possible.

86. The MMCE Contract is therefore illegal, and in breach of the Constitution and the Finance and Contract Act because:

- a. It allows for the payment of public moneys into private accounts instead of into the Consolidated Fund contrary to the Constitution and the Finance Administration Act and Regulations
- b. It provides for and spends public money without parliamentary authority.
- c. It does not comply with the procedure laid down in the law for spending any public money, and
- d. It violates the provisions of the Procurement and Contract Act 2012.

**Certificate of Truth:**

I, **BURNEY RYAN** , certify that the contents of this claim form are true and correct and I am entitled to the remedies claimed.

Dated the 24 September 2024



**Notice to the Defendant —**

The first hearing of this claim will take place at \_\_\_\_\_ on day the \_\_\_\_\_ day of 2024 , at am/p.m.

If you do not attend at that hearing, judgment may be entered against you in accordance with the claim. If you do attend, the judge may —

- (a)deal with the claim, or
- (b)give directions for the preparation of the case for a further hearing.

A statement of claim or an affidavit giving full details of the claimant’s claim should be served on you with this claim form. If not and there is no order permitting the claimant not to serve the statement of claim or affidavit you should contact the court office immediately.

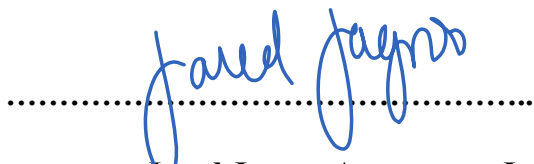
You should complete the form of acknowledgment of service served on you with this claim form and deliver or send it to the court office (address below) so that they receive it within 14/28 days of service of this claim form on you. The form of acknowledgment of service may be completed by you or a legal practitioner acting for you.

You should consider obtaining legal advice with regard to this claim. See the notes on the back of this form or on the next page.

This claim form has no validity if it is not served within 6 months of the date below unless it is accompanied by an order extending that time

**Dated: 24 September 2024**

**Signed: -**



**Jared Jagroo Attorney-at-Law**

The court office is at Dame Eugenia Charles Blvd., Roseau Telephone Number 1 (767) 448 2401 ext. 3129, 3144, 3110 and 3388 FAX 1 (767) 448 4700. The email address is registrar@cwdom.dm.

The office is open between [8:00 a.m.] and [4:00 p.m.] Mondays to Fridays except Public Holidays and Court Holidays.

This claim form was filed by **JARED JAGROO, Attorney at Law** whose address for service is **C/o RONALD CHARLES, RONALD CHARLES AND ASSOCIATES, ATTORNEYS-AT LAW 7 CROSS ST. ROSEAU DOMINICA POBOX.2245.** Email: [jaredjagroo1@hotmail.com](mailto:jaredjagroo1@hotmail.com)

## **NOTES FOR DEFENDANT (FIXED DATE CLAIM)**

The claimant is seeking an order from the court as set out in the claim form on the basis of the facts or evidence set out in the statement of claim or affidavit served with it. The claimant will not be entitled to enter judgment against you without a hearing.

You may:

### **A. Admit the claim**

If so, you should complete and return the form of acknowledgment of service to the court office within 14/28 eight days stating this. You may attend the first hearing if you wish to do so.

### **B. Dispute the claim**

If so, you should complete and return the form of acknowledgment of service as under A. You should also file at the court office and serve on the claimant's legal practitioner (or the claimant if the claimant has no legal practitioner):

- (a) a defence if the claim form was accompanied by the claimant's statement of claim, OR
- (b) an affidavit in answer if the claim form is accompanied by an affidavit sworn by or on

behalf of the claimant

within 28/42 days of the day on which the claim form was served on you. Your defence or affidavit must set out briefly ALL the facts on which you will rely to dispute the claim made against you.

You should also attend the first hearing. If you do not the judge may deal with the claim in your absence.

### **C. Make a claim against the claimant**

If so, you should complete and return the form of acknowledgment of service as under A. You must file a statement of claim (a counterclaim) setting out full details of what you claim against the claimant and the facts on which you will rely. This must be done within 28/42 days of the date on which the claim form was served on you. The statement of claim should set out ALL the facts on which you rely in disputing any part of the claimant's claim against you.

You should also attend the first hearing. If you do not the judge may deal with the claim in your absence.