



## GUYANA NEWS

## Complaint against Finance Minister filed with accountants group -alleges breaches of laws, conflicts

By [Stabroek News](#) July 11, 2012



Robert McRae, one of the partners of the Ram & McRae accounting firm, has lodged a complaint against Minister of Finance Dr. Ashni Singh to the Institute of Chartered Accountants of Guyana (ICAG), alleging that he has continually broken the law while in control of public spending.

In his complaint, McRae noted that one of ICAG's functions is to "regulate the discipline and professional conduct" of its members and its registered students "by maintaining strict professional ethics." "If the Act and the By-Laws apply to students it must surely apply to the conduct of the country's highest ranking chartered accountant," he said in the complaint.

McRae's complaint comes days after Chairman of the National Assembly's Public Accounts Committee (PAC) Carl Greenidge wrote the



the appointment of Chandan Singh, the wife of Minister Singh, to the post of Audit Director at the Audit Office.



Dr. Ashni Singh

Sources close to the ICAG have told Stabroek News that ICAG's Council has met and has considered the complaint, after it had been sent to its investigative committee. On Greenidge's request for guidance, the Council is considering this and it is treating the matter with some measure of urgency.

In the complaint, McRae lists a number of violations of the Constitution, breaches to Section 41 of the Fiscal Management and Accountability Act 2003, conflict of interest, conflict of duties, violations of the audit requirements of the Companies Act 1991, and violations of Sections 158 to 160 of the Companies Act 1991.



Chartered Accountants in Guyana and that the powers and duties of the Minister of Finance are set out principally in the Constitution and the



government company under the Companies Act 1991. "Dr. Singh is the subject Minister of NICIL and under the Public Corporations Act reports to the National Assembly on NICIL," he said.

"It is also my contention that as a Chartered Accountant charged with the management and control of the public purse Dr. Singh has a responsibility to the profession and the country to maintain the highest standards established by the profession for its integrity and reputation. His continuing breach of the law reflects adversely on the entire profession and the Institute and brings the entire membership into disrepute," said McRae.

### **'Unauthorised transfers'**

In pointing out one of the breaches of the Constitution by the Minister of Finance, McRae said that Article 217 (3) of the Constitution of Guyana provides that 'No monies shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those monies have been authorised by or under an Act of Parliament.

He noted that according to the FMAA 2003 public monies means all monies belonging to the State received or collected by officials in their official capacity or by any person authorised to receive or collect such monies and, without limitation, includes a) tax and non-tax revenue collections authorised by law; (b) grants to the Government; (c) budget agency receipts; (d) monies borrowed by the State or received through



and on behalf of the state; and (7) moneys that are paid to or received or collected by an official pursuant to any law, trust or other agreement



McRae noted that the Report of the Auditor General for the year 2010 disclosed a number of transfers made to and from the Consolidated Fund.

"It is respectfully submitted that even if the sums were merely transferred to the Consolidated Fund they would constitute a withdrawal, unless the transfers were authorised by or under an Act of Parliament. I have made diligent enquiries and searches and have seen no authority for the said transfers, nor has the Minister of Finance even acknowledged that the transfers were ever made and the funds utilised. Additionally the records indicate that part of those sums were transferred to the Consolidated Fund and subsequently disbursed," McRae said.

"I further submit that this action or series of action constitute a violation of Article 217 (3) of the Constitution. All members of the Institute have a duty to uphold the laws of Guyana and if the breach continues once it is brought to the member's attention it constitutes a flagrant disregard for the law of the land and must constitute misconduct," McRae said.

In speaking to what he called the Minister's breach of Section 41 of the FMAA 2003, McRae said that Subsection (2) of this section imposes on the Minister sole authority for the release of monies from the Contingencies Fund.



governing the Contingencies Fund, a sub-fund of the Consolidated Fund, as revealed by the Reports of the Auditor General on the Public



### 'Conflicts'

With regard to conflict of interest, McRae noted that since August 2006, Dr. Singh has been serving as the senior Minister of Finance "creating a conflict of interest situation with the Office of the Auditor General at which his wife, Ms. Gitanjali Singh is the senior-most qualified accountant."

"To compound the conflict Dr. Singh is also Chairman of the National Industrial and Commercial Investments Limited which is also audited by the Audit Office of Guyana," he said.

"While it should be noted that the responsibility is usually on the auditor to remove himself or herself from the conflict, it is my contention that Dr. Singh knew or ought to have known that that by accepting the appointment he was being placed in a position of conflict and should have taken steps to prevent such a situation," McRae added.

Additionally, he also contends that there is a conflict of duties, while noting that it is a fundamental precept of the profession that a member must remove himself from any situation which threatens his independence and puts him in a position where he has a conflict of interest which has been defined to include a conflict of duties.

"As Chairman and director of the National Industrial and Commercial Investments Limited, Dr. Singh owes a fiduciary duty to the company. In



collectively, collectively reports to himself under the Public Corporations Act No. 21 of 1988 for which he has parliamentary responsibility and



"I wish to submit the following for your consideration and ruling on whether Dr. Singh's duty as concerned Minister collides with his duties as Chairman and director of NICIL," he said.

McRae also charged that the fact that the acting Auditor General Deodat Sharma is not a member of the Institute of Chartered Accountants of Guyana and nor does he hold a practice certificate from the Institute, renders him unqualified for the post of Auditor General hence violating the Companies Act 1991.

"The directors of NICIL including Dr. Singh have caused the company's financial statements to be signed by Mr. Deodat Sharma who is not a member of the Institute of Chartered Accountants of Guyana and who does not hold a practicing certificate of the Institute.

"While the Constitution of Guyana is the supreme law and the provision of any law, including the Companies Act, which is inconsistent therewith is void, I respectfully submit that reliance on the Constitution is only available if the procedures for the appointment of an Auditor General or acting Auditor General have been complied with. It is my contention that this has not been the case," McRae said.

"I would also urge the Institute to be mindful that in the discharge of its function to 'regulate the practice of accountancy' it must ensure that accounts, and importantly the public accounts of Guyana, are prepared and audited to the highest standards prescribed by the International



Accountants of Guyana, he said.



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