

WOYOME SCANDAL - EXPOSING PATHOLOGICAL STRANGERS TO THE TRUTH: BY MARTIN A. B. K. AMIDU

This is my rejoinder to Lithur, Brew & Co's challenge and half-truths contained in the Graphic Online publication of 19th March 2015 under the title: "Woyome Scandal: Tony Lithur dares Amidu."

Lithur, Brew & Co ought to know that the General Legal Council is not the only forum to seek redress, particularly when the conduct and acts complained of includes the abetment of perjury. Why had I refused to go to the police with a complaint of perjury and abetment of perjury because of the relationship of Lithur, Brew & Co to the Government and Mrs. Brew Appiah's position as a member of the General Legal Council nominated by Betty Mould-Iddrisu when she was Attorney General but will now go to the General Legal Council at a time the Attorney General who is from the same firm is an ex officio member of the Council? I am too experienced to take the bait of the line of least resistance favourable to Lithur, Brew & Co being suggested to the innocent public when there are more effective and punitive remedies available to me at an appropriate time and place of my choosing.

Lithur, Brew & Co are so politically deeply married and in bed with the John Dramani Mahama Government that I will be exhibiting crass inexperience and unreasonableness in prosecuting their misconduct and other acts now. The statute of limitation does not apply to certain acts, so I am at liberty to choose how and when to deal with the perjury and abetment of perjury involved in this case. I have eyes and brains to see how Ray Smith has been protected from criminal prosecution just because of having one of his lawyers appointed an Attorney General, to make a complaint affecting that Attorney General, her law firm, and the same Ray Smith while she encumbers the office of the Attorney General. Go and convince mentally exhausted persons to do so!

I answered Mrs. Brew Appiah-Oppong, the Attorney General's denial of my statement to the press of 15th March 2015 by publishing in the media my affidavit of 27th October 2014 in support of the application by Woyome of 26th October 2015 to set aside the Attorney General's entry of judgment in my review application granted by the Supreme Court. I challenged Mrs. Brew Appiah-Oppong, the Attorney General to vindicate her integrity by publishing for public consumption her entry of judgment and Woyome's application to set same aside. She has refused or failed to do so because it will expose her as unfit to hold the office of the Attorney General.

The Attorney General, as my affidavit of 27th October 2014 shows, did not deny any of the very serious allegations of misconduct Woyome and I made to set aside her unconstitutional entry of judgment that sought to protect her former client, Austro-Invest (Ray Smith) and the Betty Mould-Iddrisu the mentor who first appointed her to the General Legal Council during her tenure to represent the Attorney General's office (described as the then Attorney General). Woyome stated in paragraph 11 of his accompanying and supporting affidavit that:

“11. That for my part, I have instructed my Solicitors to demand all moneys paid which I paid to Mpowapak Ghana Limited through its Solicitors Lithur, Brew & Co, Accra, as their share of monies paid me by the Republic of Ghana. The directors of Mpowapak Ghana Limited are the same as that of Austro Invest Limited and both acted at all material times through the same directors and Solicitors.”

The Attorney General, Mrs. Brew Appiah-Oppong, the principal legal advisor to the Government admitted our affidavit evidence by filing no affidavit in opposition. Pursuant to this I succeeded in having the unconstitutional entry of judgment set aside by the Supreme Court.

The Attorney General as the constitutional officer responsible for the Woyome case in the Supreme Court knows after assuming office that on 16th October 2012 I put my complaint against the conduct and actions of Lithur, Brew & Co in issue in my application for prescription of practice and procedure under Rule 5 of the Supreme Court Rules, 1996 (C. I. 16) through my supporting affidavit. Exhibited to my affidavit were documentary evidence from processes filed by Lithur, Brew & Co on behalf of Austro-Invest on the instructions of Ray Smith in the High Court beginning 17th November 2011; searches from the United Kingdom and Switzerland proving that Ray Smith had liquidated Austro-Invest on 26th July 2011, more than three (3) months before Lithur Brew & Co commenced their action on his behalf on 17th November 2011; a search at the Registrar General’s Department which confirmed that Austro-Invest had never been registered in Ghana as an external company; and the results of the Supreme Court’s order for substituted service on Austro-Invest in Zug, Switzerland. The affidavit evidence has been in her custody since she assumed office as Attorney General in early 2013 for her to deny them now. Comments from the Supreme Court at the hearing of my application were published in the media and Lithur Brew & Co will be ridiculous denying reading them now.

I am surprised that Lithur, Brew & Co can in spite of the overwhelming evidence created and filed in the High Court by itself say with a straight face that I am dragging a fellow practitioner’s reputation so publicly into disrepute based on conjectures, and rather impugning my reputation for unethical and irresponsible conduct. I have deposed to two affidavits on 16th October 2012 and 27th October 2014 in the Supreme Court in support of allegations against Lithur, Brew & Co with supporting exhibits which have gone unanswered on oath to date and so how can any truthful and reasonable person contend that my claims are mere conjecture.

My exhibit “MAAS11” adduced evidence of Suit No. AC 96/2012 which Lithur, Brew & Co commenced on 17th November 2011 in the High Court, Automated/Fast Track Division, Accra in the name of Austro-Invest Management Limited against Alfred Agbesi Woyome. On 8th December 2011 Lithur, Brew & Co filed an Ex Parte application for leave to serve Writ of Summons, Statement of Claim and Motion for Interlocutory Injunction by substitution. The supporting affidavit filed by them was deposed to by Ray Smith of House Number 16 Wawa Street, Dzorwulu, Accra on 8th December 2011 in which Ray Smith confirmed that he caused the Writ and Statement of Claim to issue on 17th November 2011. In another application on notice for

preservation and/or interlocutory injunction filed by Lithur, Brew & Co again on 8th December 2011 they prayed the Court to compel Woyome “to pay into Court”:

“(a) an amount of GHC5,068,960.08 being the principal sum endorsed on the writ or in the alternative (b) any and all monies that may be paid to him by the Government of Ghana or any of the Ministries or agents to the Defendant/Respondent in connection with, arising from or relating to Suit No RPC 152/2010, titled Alfred Agbesi Woyome v Attorney General, or in connection with or arising from claims by the Defendant/Respondent for compensation from the Government of Ghana; PENDING the hearing and determination of the present suit; or in the alternative an order directing the Government of Ghana and/or any of its Ministries or agencies to pay directly into court within the terms stated above, any such monies; UPON the grounds contained in the accompanying affidavit AND for such further order or orders as the Honourable Court may deem fit”

The application was “dated at Lithur, Brew & Company this 5th day of December 2011”. Accompanying this application was a thirteen paragraph affidavit deposed to by Ray Smith of Austro-Invest. This application was fixed for hearing on Wednesday 21st December 2011.

It should be abundantly clear from the foregoing documentary evidence created and filed as public records by the very Lithur, Brew & Co for Ray Smith on behalf of Austro-Invest Management Limited against Woyome that Lithur, Brew & Co were lawyers for Ray Smith of Austro-Invest when Suit No. RPC 152/2010, Alfred Agbesi Woyome v Attorney General was still pending in the High Court. By 17th November and December 2011 Woyome was still claiming from the Attorney General interest on the amounts allegedly owed Austro-Invest and him in Suit No. RPC 152/2010 above. It was on 7th November 2011 that for the first time Woyome’s claims ever came to my notice in memoranda. Curiously Mrs. Betty Mould-Iddrisu, as the Attorney General, had failed or refused to include this case in her handing over notes to me probably because she thought she had concluded the matter. I refused in writing to endorse Samuel Nerquaye-Tetteh and the Solicitor General’s memoranda and recommendations including a letter to the Ministry of Finance to withdraw the pending claims for compensatory interests from the High Court for settlement and for me to approve a draft letter submitted by the said Samuel Nerquaye-Tetteh instructing the Ministry of finance to pay a further GHC9,405,481.20 as interest and GHC500,000.00 as legal fees for the period 19th July 2010 to 4th October 2011.

But the honourable lawyers of Lithur, Brew & Co still struggle with straw in hiding the truth and telling an unsuspecting public that they were instructed by Austro-Invest only after the monies had been paid to Woyome. Their own Writ, Statement of Claim, applications and affidavits prove beyond any reasonable doubt, if proof be needed, that they are pathological strangers to truth in the rebuttal. But Lithur, Brew & Co wish to be perceived as honourable people and this is how lawyers who also wear masks and act as honourable politicians presumptuously and

arrogantly treat the unsuspecting public as rabble. Fortunately, this time round I am in possession of Lithur, Brew & Co's own documents filed in Court to expose them when they hide the existence of their own handy maid (as they are now doing)- the processes they filed in the High Court on behalf of Ray Smith. Honesty and Integrity where are thou in this NDC Government and Ghanaian politics of today!

I challenge Lithur, Brew & Co to publish the Writ, Statement of Claim, applications and Ray Smith's supporting affidavits if they still insist that they did not act for Ray Smith even when Woyome was still fighting for compensatory interest on their joint claims to the Government at the time they issued the Writ on 17th November 2011. Is Woyome's claim for interest on behalf of Austro-Invest and himself that was pending in November and December 2011 not incontrovertible evidence to link Lithur, Brew & Co to the joint claim of Woyome/Austro-Invest for compensation? The link is also solidly grounded in Lithur, Brew & Co's own action in the High Court at a time when Austro-Invest had ceased to exist as a legal person on 26th July 2011. I cannot be held responsible for Lithur, Brew & Co's greed in representing Ray Smith without diligently finding out first whether or not the company had legal personality.

I say with all my strength, energy and knowledge of the law that it is the basic obligation of every practicing lawyer first and foremost to ensure that his clients have legal personality before commencing any action on their behalf in a Court of law. This is basic and elementary civil procedure and no amount of active or busy practice can excuse it. This is also basic international practice in all common law jurisdictions and it is a shame that a law firm in Ghana which wishes to be perceived as a reputable firm can so disgracefully expose itself by telling the whole world in print and on the world wide web that the requirement of legal persona is only an ideal practice which may not be observed in Ghana under our High Court Civil Procedure Rules, 2005 (L. I. 47). Shame!

On 16th March 2015 Citifm reported that: "The Attorney General and Minister of Justice, Marietta Brew Appiah-Oppong, has insisted that the GHC1.4 million businessman, Alfred Agbesi Woyome claims to have paid to her was a debt owed her client, Ray Smith." But on 19th March 2015 Lithur, Brew & Co in their attempt to deceive the public forgot themselves and contend in the media that: "...the Attorney General neither handled any aspect of it in-house nor did she appear in court in respect of any of these cases. In fact Mr Lithur personally handled all cases against Woyome that came to the firm without involvement of the AG."

Firstly, this denial looks disingenuous on casual scrutiny in the face of Mrs Brew Appiah-Oppong's own admission contained in her interview with Citifm. Secondly the informed public knows that Mrs Brew Appiah-Oppong is not the type who normally does the work of an advocate in the courts. She is the first and only Attorney General in Ghana who accompanies her attorneys to court and sits at the Bar to watch them do the advocacy without any sense of shame. But her limitations as an advocate is no excuse for the implication in the contention by Lithur, Brew & Co that the firm had anticipated by 17th November 2011 that she will one day be

Attorney General and cautiously restrained or excused her from contributing to this particular Ray Smith case in-house so she could have an alibi and deniability in the future. Thirdly, Mrs Brew Appiah-Oppong as a senior partner in the firm of Lithur, Brew & Co need not handle a case personally in Court or in-house to be held responsible with all the other members of the firm for conduct and actions deemed illegal. The suits were commenced and signed in the name of Lithur, Brew & Co and not in any individual's name as they now seek to deceive the public contrary to existing documentary evidence. It is too late in the day to seek by any subterfuge to deny what is obvious and plain in their own court pleadings in law and common sense. Say it to the rabble and not to rational and experienced citizens!

The contention that: "We were not aware Austro-Invest had given Woyome power of attorney to claim monies from government and were not part and did not aid nor advise Austro-Invest or Woyome on any of the proceedings leading to the payment of moneys to Woyome" is demonstrably false in the face of Lithur, Brew & Co's application for preservation and/or interlocutory injunction. In paragraph 3 of the accompanying affidavit deposed to by Ray Smith and filed on his behalf by Lithur, Brew & Co is an Exhibit "A" which annexes thereto the agreement reached between Ray Smith and Woyome empowering the later to pursue the claims and compensation on their joint behalf from the Government dated 16th February 2010.

This is the document variously referred to as the power of attorney and it was filed by Lithur, Brew & Co which they least expected to be in the public domain and so now deny knowing about. Exhibit "B" annexed to the same affidavit is Woyome's Solicitor's letter of 26th January 2011 and Exhibit "C" is the Ministry of Finance and Economic Planning's letter dated 31st July 2011 and other exhibits which are additional proof, if proof be needed, that Lithur, Brew & Co may just be pathological strangers to the truth in their attempts at rebutting my press statement. What type of lawyers are they who file agreements or power of attorney on behalf of their client in the High Court and turn round in times of trouble to deny their own deed?

From the disingenuous way Lithur, Brew & Co have sought to deny the obvious and speak for Mrs Marietta Brew Appiah-Oppong in the teeth of processes they file in the High Court for a non-existing foreign limited liability company on behalf of Ray Smith of Austro-Invest, I am struggling to disbelieve the perception and rumour that the real Attorney General is the collective at Lithur, Brew & Co. I pray that this perception is false in toto. It will help the image of the Attorney General should Lithur Brew & Co accord her respect as an independent intelligent public officer as mandated by the 1992 Constitution and allow her to speak for herself.

I have not since I left public office in January 2012 applied to be licenced to practice as a lawyer in Ghana even though I keep my paid up membership status of the Ghana Bar Association. I decided to follow in the hallowed tradition and foot step of most distinguished former Attorneys General in Ghana. But I will always take a keen interest in legal ethics and particularly condemn the conduct of lawyers who excuses acts of abetment of perjury and serious breaches of law in representing legally non-existing persons. I will always consider such lawyers as engaging in

floppy and underhand legal practice. I have taught this to all attorneys who worked with me during my tenure as Deputy Attorney General from 1988 to January 2001 and later as the Attorney General.

Need I say that it is trite among distinguished and experienced justices and lawyers that “an active and busy practice,” is not necessarily a good and ethical practice: just as a lobbying lawyer and one who sells influence to sustain his practice may be rich but is engaged in sharp practice as a lawyer! I do not need Lithur, Brew & Co to speak to my place in the legal profession. The Law Reports, very senior colleagues and judges who are distinguished in the ethical practice of law and indeed the public are better placed to assess my practice of law when I was in active practice. Let us stop the pathological twisting of the truth now!