



**Statement by Premier Hon. Alden McLaughlin
Concerning Kernohan Lawsuit Settlement**

On March 4, 2014, Cabinet gave approval for the settlement of a claim brought by former Commissioner of Police Stuart Kernohan against the Government of the Cayman Islands and Mr Martin Bridger, arising from the Police investigation known as 'Operation Tempura'.

Mr Kernohan served as Commissioner of Police in the Cayman Islands from October 2005 until November 2008 when his contract was terminated.

Mr Kernohan was never charged with any criminal offence. Indeed the Grand Court, in two rulings on applications for a search warrant, ruled that Mr Kernohan had not committed any offence. It should be clearly understood that the termination of Mr Kernohan's contract in November 2008 was not the result of any criminal conduct.

In May 2009, Mr Kernohan issued civil proceedings claiming, amongst other things, breach of contract by the Government. Thereafter there were intermittent attempts to settle the matter, including mediation in 2012, a process that had been recommended by the Grand Court.

The failure to settle meant that the Government and Mr Kernohan were obliged to continue with the necessary steps for trial—preparations that included certain interlocutory proceedings. This resulted in mounting legal expenses.

The Government retained leading UK Counsel to conduct the matter. He was initially instructed by Counsel in the Chambers of the Attorney General, but in more recent times by private Counsel. Mr. Kernohan was also represented by leading overseas and local Counsel.

As may be expected, litigation of this nature can become very costly. Indeed, by the date of settlement, the Government had expended well over one million dollars in legal and related expenses, although the matter had not yet reached the trial stage, when these expenses were expected to increase significantly. It was anticipated that the trial would last as long as five weeks, with all the attendant expenses that those proceedings would involve.

Additionally, there was always the uncertainty of litigation. Had the Government been unsuccessful at trial, it would have been required to pay not just its own legal expenses, but also Mr. Kernohan's costs, which by that time would have been very substantial.

Accordingly, after consultations between the Government's attorneys and Mr Kernohan's representatives, it was agreed that it was in the best interests of the both parties that the matter be settled. It should be understood that the settlement that has been reached is solely between Mr Kernohan and the Government. Aspects of the case between former Commissioner Kernohan and Mr. Bridger are still pending.

These outstanding aspects of the matter mean that there is not much that the Government can say about the case or the terms of the settlement. All I can say is that, after careful deliberation, the Government determined that the wisest course was to avert the mounting legal expenses associated with the case by negotiating a settlement, and that is what we have done.

Madam Speaker, the Government is aware of the calls for the terms of the settlement to be made public. This call is understandable given that public funds have been used to pay the settlement. However, as most

lawyers will be aware, it is not an uncommon for settlements of this type to be subject to confidentiality.

The terms of our Deed of Settlement with Mr Kernohan include a confidentiality clause, and the Deed itself is incorporated into a court order. Therefore the Government is unable at this stage to divulge any more details about the terms of the settlement.

We are however confident in saying that, given the amount that was being claimed against the Government, by settling the matter in the manner we did, and the time we did, we have managed to avoid incurring significantly more legal costs than if the matter had gone to trial.

Finally Madam Speaker, I appreciate that a lot more needs to be said about this sad chapter in Cayman's history known as 'Operation Tempura' and I look forward to the day when a more fulsome statement can be and will be made.