

PORT OF SPAIN

Activist threatens legal action...

CAL fails to submit annual reports for 9 years

BY RIA TAITT Political Editor

CARIBBEAN Airlines Ltd has not submitted annual reports to the Minister of Finance for the past nine years- from 2016 to 2024.

This admission was made by CAL in its response to a Freedom of Information (FOI) request filed by Ravi Balgobin Maharaj.

As a result of this, Maharaj, through his attorneys, Freedom Law Chambers, has sent the State enterprise a pre-action protocol letter dated December 18, 2024, challenging its 'ongoing failure...to comply with its obligations' under Section 3.2.5 of the State Enterprises Performance Monitoring Manual 2011, established by the Ministry of Finance, which mandates the company by law to lay an annual report in Parliament via the responsible minister.

Freedom Law Chambers is calling on CAL to prepare and submit the outstanding reports for the financial years 2016 to 2024 to the Minister of Finance, to be laid before Parliament within 30 days of the date of the letter.

The State Enterprise Performance Monitoring Manual says: State enterprises are required to submit...a) Audited financial statements to the Minister of Finance within four months of their financial year end, and that these reports are to be laid in Parliament and subsequently submitted to the Public Accounts and Enterprises Committee for consideration. The manual also requires that management letters be issued by statutory auditors.

In his initial letter to CAL, dated November 11, 2024, Maharaj's attorney, Aasha Ramlal (of Freedom Law Chambers), stated he had searched the Parliament website and found no listing of the annual reports of CAL.

She said Maharaj found that the last audited financial statement from CAL that was laid in Parliament was for the financial year ending December 31, 2015, which was brought to the House of Representatives by the Minister of Finance on October 18, 2021.

In light of this, Maharaj requested from CAL:

1. Copies of the annual reports of CAL for the period January 2016 to June 2024 and the dates when CAL submitted its annual reports to the Minister of Finance for the said period, as required by Section 3.2.5 of the State Enterprises Performance Monitoring Manual.
2. Copies of the exchange of any correspondence between CAL and the Ministry of Finance regarding the submission and laying of annual reports in Parliament for the period January 2016 to June 2024.
3. Copies of any letters whereby CAL submitted the annual reports to the Minister of Finance for the period January 2016 to June 2024.

CAL: No annual reports for 2016-2024

In a response dated December 3, 2024, CAL said it had reviewed its records, and with respect to the request for copies of the annual reports of CAL for the period January 2016 to June 2024 and the dates when CAL submitted

its annual reports to the Minister of Finance, 'we wish to advise that no such documentation exists. CAL is currently engaged in the external audit of its accounts for the years 2016 to present and as such has not submitted annual reports to the Minister of Finance for the requested period January 2016 to June 2024. These reports will be prepared and submitted to the Minister of Finance once the audits are completed'.

With respect to Maharaj's request for copies of the exchange of any correspondence between CAL and the Ministry of Finance, CAL submitted the following:

1. A redacted letter dated September 27, 2024, providing an update on the completion date for the 2016 financial statements and enclosing an update on CAL's 2023 strategic plan.
2. A redacted letter dated April 18, 2024, providing an update on CAL's audited financial statements for the period 2016-2022 and enclosing an update on CAL's 2018-2022 and 2023-2027 strategic plans.
3. A redacted letter dated March 14, 2024, from the Minister of Finance to the chairman of CAL requesting an update on CAL's audited financial statements for the period 2016-2022 and CAL's 2023 strategic plans.
4. A letter dated January 27 from CAL's CEO to the Ministry of Finance, submitting its annual administrative reports and providing an update on CAL's management accounts.
5. A letter dated January 21, 2019, from the Ministry of Finance to CAL's CEO, advising of the timelines for compliance reporting and requesting an update on CAL's audited financial statements.
6. A letter dated November 30, 2017, from the Ministry of Finance to CAL's corporate secretary, requesting publication of up-to-date financial statements.
7. A redacted letter dated October 31, 2017, from the Ministry of Finance to CAL's CEO, advising of the timelines for compliance reporting and requesting an update on CAL's audited financial statements.
8. A letter dated December 23, 2026, from the Minister of Finance to the chair-man, requesting an update on CAL's audited financial statements as at October 31, 2016.

CAL said it had redacted information detailing its strategic plans as they do not form the subject of Maharaj's request. It said in any event, this information was exempt information under Section 31 (1) and Section 31 (4) as this information is of a business, commercial or financial nature, commercially sensitive information.

It added that disclosure of this information would likely expose CAL to disadvantage as such information is not generally available to competitors and cannot be disclosed without causing substantial harm to the competitive position of CAL.

Not in the public interest

In the pre-action protocol letter, Ramlal said the prolonged failure of CAL to produce and submit annual reports constituted:

i) a breach of the duty under Section 3.2.5 of the State Enterprises Performance Monitoring Manual **ii)** an unreasonable delay in the performance of a public function, contrary to administrative law principles **iii)** a failure to uphold transparency and accountability in the management of public resources **iv)** a breach of Maharaj's legitimate expectation that CAL would comply with its duties and submit its report.

Ramlal said CAL was a vital State enterprise and in recent years, there had been significant public concern regarding its financial viability and management, 'further emphasising the necessity for its accounts to be scrutinised by Parliament and the public'.

The letter cited several newspaper editorials addressing CAL's indebtedness to NP (National Petroleum Marketing Company Ltd) and its general indebtedness.

'These issues not only damage CAL's corporate image but also highlight the critical need for transparency and accountability in its management. Our client seeks to ensure that CAL operates in a manner that upholds public trust, particularly given its reliance on public funds,' Ramlal said.

She stated it was trite law that where a public body/official breaches and/or fails to perform certain duties, a court of law may compel compliance of that duty.

Ramlal said should CAL fail to comply with its duties, Freedom Law Chambers will initiate judicial review proceedings seeking several reliefs, including 'a declaration that the failure and/or continuing failure of CAL to comply with Section 3.2.5 of the State Enterprises Performance Monitoring Manual is unlawful, illegal, in breach of Section 3.2.5 of the State Enterprises Performance Monitoring Manual and contrary to the public interest'.

These issues not only damage CAL's corporate image but also highlight the critical need for transparency and accountability in its management