

REPUBLIC OF VANUATU
OFFICE OF THE OMBUDSMAN

PUBLIC REPORT
ON THE
ILLEGAL TENDER PROCEDURE
ADOPTED
BY FORMER DIRECTOR OF LANDS
ROGER TARY
AND
FORMER MINISTER OF LANDS
PAUL TELUKLUK,
FOR CANAL DU SECOND II
AND PEPSI SUBDIVISION WATER
PROJECTS LUGANVILLE

25 November 1998

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**PUBLIC REPORT ON THE ILLEGAL TENDER PROCEDURE ADOPTED
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PREAMBLE

"By the blessing of the upright, the city is exalted, but it is overthrown by the mouth of the wicked. "

Proverbs 11v11

SUMMARY

In 1996, the Director of the Finance Department complained to the Ombudsman that public funds released for two water installation projects were not used in accordance with the Government of Vanuatu's Finance Regulations. Furthermore, public money appeared to have been wasted.

This report concerns the involvement of the government in 2 subdivisions in Luganville in the island of Santo in 1993-95 and the maladministration and breaches of Leadership code by the then Director of Lands, Mr Roger Tary and the then Minister of Lands, Mr Telukluk, (now Assistant Minister of Trade and Ni-Vanuatu business). They granted contracts for the water installations to a private company, Sowy Leing not on the basis of their ability or pricing but on the basis of their similar party allegiance and their belonging to the same island, Malekula, (Wantok system) without following any procedures.

Sowy Leing Company belongs to the Malere family who was also the beneficiary of the sale of a ship (at a discounted price) by former Minister Bangabiti and Minister Willie Jimmy (now Deputy Prime Minister) in total breach of the tender procedures¹.

The first water installation project at Canal du Second II in 1993 was granted without any tender procedures and costs a total of Vt 10.300.000, Vt1,700,0000 more than the quote of the Public works Departement. The result is unsatisfactory, of very poor standard and only covers half of the land. On the basis of this first bad experience, the government should have ceased all relationship with this private company.

Instead they were granted another project: the Pepsi subdivision water installation project in 1995.

This second project turned to catastrophe and is now uncomplete. Its cost estimate was 19 million vatu, three times higher than that of Public Works Department. Mr Tary and Mr Telukluk still chose Sowy Leing Company to carry out this project in total breach of the Finance Regulations which had by then been put in place after the commencement of the first project in 1993.

¹ Public report on the conduct of Hon Willie Jimmy, Hon Amos Bangabiti and Mr Aimé Maléré in the Sale of the M. V. Savin Fana, 26 June 1997

More specifically there was no tender board to consider the tenders for the Pepsi subdivision, no competitive bidding for either of the two projects as they were never advertised in the press.

The Ombudsman found that:

- (a) The Government paid a total of Vt 19,683,436 to a private company for work that were of very poor standard and 9,600,000 were actually totally wasted. In the course of the 2nd subdivision, the Director paid Vt 7 million more than the worth of the job as estimated by the Public works Department.
- (b) The 2 subdivisions are yet to be completed and the second one has been totally abandoned with a pipe system too small for water pressure.
- (c) political affiliation to UMP and place of origin appeared to be the main reasons for former Minister, Mr Telukluk, and former Director, Mr Tary, granting the contracts to Sowry Leing Company instead of price or technical ability. Their conduct was based on improper motives.
- (d) Mr Tary's conduct contravened ALL the tender rules provided under the Government Finance Regulations and the Public Service Act.
- (e) Following their conducts as mentioned above, Mr Tary and Mr Telukluk also breached the Leadership Code Article 66(1)(a) and 66(2) of the Constitution.
- (f) Sowry Leing Company did not have a proper trading licence and had been operating illegally. Sowry Leing Company also lacked a qualified and experienced manager to supervise its operations.

The Ombudsman made the following recommendations in her report:

- 1 Mr Telukluk should not be considered to hold any ministerial portfolio in any future government, as he has breached the Leadership Code section 66 of the Constitution.
- 2 Mr Tary should not be considered for any position in any future government.
- 3 The current Director of Lands should make sure that his officers both in Port Vila and Luganville have access to and follow the Government of Vanuatu's Finance Regulations; and
- 4 The Department of Lands to follow the tender rules in the Finance Regulations to properly complete the projects. They should not accept Sowry Leing Company to complete the projects as it has proved itself to be incapable.

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1. JURISDICTION

- 1.1 The Constitution and the Ombudsman Act No 14 of 1995 allow me to look into the actions of the government and other organisations in which the government has interests. I can also look into defects in the law or the administration of the law, discrimination and breaches of the Leadership Code. This includes the conduct of Mr Roger Tary, the Director of Lands and Mr Paul Telukluk, the Minister of Lands.
- 1.2 The Ombudsman Act still applies to this case even though it has been repealed recently as the investigation began while the Act was in force. (Interpretation Act [CAP 132] s. 11).

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this report is to present my findings as required by Article 63 of the Constitution and Section 24 of the Ombudsman Act.
- 2.2 The scope of this investigation is to establish the facts and to determine whether;
- the conduct of Mr Roger Tary in awarding a contract to Sowya Leing Company was proper;
 - the conduct of Mr Paul Telukluk in awarding a contract to Sowya Leing Company was proper; and
 - Mr Tary and Mr Telukluk breached the Leadership Code.
- 2.3 This Office collects information and documents by informal request, summons, letters, interviews and research.

3. RELEVANT LAWS AND REGULATIONS

3.1 CONSTITUTION OF THE REPUBLIC OF VANUATU

CONDUCT OF LEADERS

- 66.(1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to-
- (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
 - (b) demean his office or position;
 - (c) allow his integrity to be called into question; or
 - (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.

- (2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by subarticle (1).

DEFINITION OF A LEADER

67. For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

3.2 Financial Regulations (FR)

- 2.2.1 The FRs Chapter 2 provide that Public Officers must be aware of the content of the Financial Regulations. Chapter 20 states that all monies released from the Development Fund must be used in accordance with the Government's FRs and other relevant laws safeguarding the use of public funds. Chapter 22 provides for the tender procedures for specific works to be carried out.
- 2.2.2 F. R. 361(3) says at least three (3) written tenders must be submitted where the cost of a specific work or service is over one (1) million vatu.
- 2.2.3 F R 362 provides that tenders will be called by open competitive bidding and all tenders are to be submitted in sealed envelopes.
- 2.2.4 F. R. 363 specifies that notice of invitation to tender must be given at least two (2) weeks before the closing date. This notice must be advertised. Invitations for tenders over 500,000 vatu must appear in the press and the Government Gazette.
- 2.2.5 F. R. 364(1) provides that tenders will be submitted to the secretary of the Central Tender Board in the Department of Finance.
- 2.2.6 F. R. 365 specifies clearly who are eligible to be the members of a tender board. The required number of the board members is also outlined in this section.
- 2.2.7 F. R. 367 states that a report on all tenders is to be provided by the appropriate technical officer to advise the Board. All written contracts over three (3) million vatu must be approved by the Attorney General before the contract is signed.
- 2.2.8 F. R. 368 states that upon receipt of the technical officer's report the Board shall meet and accept the lowest tender, and that all tenders over 3 million vatu must be approved by the Council of Ministers before they are awarded.
- 2.2.9 F. R. 369 states that where there is a contract for the supply of goods or services the Accounting Officer may authorise variations up to 20% of the original contract sum. Any variation beyond 20% has to be approved by the Minister of Finance.

3.3. Public Finance Act

Section 3 of the PFA explains the duties of accounting officers as follows:

Every accounting officer and other people responsible for the collection, receipt, custody, issue or payment of public or other funds is subject to this Act and any order made and is to perform such duties specified in

this Act or any instructions issued through an order of the Minister regarding matters of accounting or financial procedure in accordance with this Act.

3.4 Public Service Act [Cap 129]

Section 11(i) explains an offence and a disciplinary proceeding as follows:

Every officer commits a disciplinary offence for the purposes of disciplinary proceedings who is guilty of any improper conduct in his official capacity, or of any other improper conduct which is likely to affect adversely the performance of his duties or is likely to bring the Public Service into disrepute.

4. OUTLINE OF EVENTS

Canal du Segond II Subdivision Water Installation Project

- 4.1 On 29.03.93, the Public Works Department (PWD) submitted their estimate for 8,674,000 vt. for water installation at Canal du Segond II subdivision (Refer to Appendix A). There was no mention of any other company submitting estimates and it was assumed that the PWD would carry out the projects.
- 4.2 On 14.06.93, Sowy Leing Company (SLC) submitted its estimate to the Port Vila Department of Lands, bypassing Santo Urban Lands Office ("**Urban Lands Office**") (Refer to Appendix B). The amount was 7,500,000 vatu. There had been no discussion between Urban Lands Office and the Department of Lands in Port Vila even though the project was in Santo, and apparently SLC was awarded the contract and started work on the project. Urban Lands Office only became aware that the contract had been awarded and work commenced on the project in 1995.
- 4.3 In July 1993 the Finance Regulations came into effect.

Pepsi Subdivision Water Installation Project

- 4.4 On 10.05.94, in a letter to SLC, Mr Tary stated that he had a discussion with Mr Telukluk about another project, the Pepsi subdivision project. Payment for the works on the Pepsi project was to be in three instalment payments (Refer to Appendix C).
- 4.5 On 16.01.95, PWD was officially requested by Urban Lands Office to submit its estimate for the Pepsi project.
- 4.6 On 09.02.95, the Council of Ministers approved the use of 30 million vatu for these water works from unallocated funds from the two urban lands offices, Port Vila Urban Land Corporation and the Luganville Urban Land Corporation. These funds were raised through payment of urban land rents in Port Vila and Luganville (Refer to Appendix D).
- 4.7 The money was transferred to the control of Mr Tary under project no. 471.101 for the development of the Fresh Wota and Canal du Segond II subdivisions in Port Vila and Luganville. Mr Tary was the project manager and he alone signed all payment vouchers for release of payments to SLC. Mr Willie Jimmy, the Minister of Finance, authorised Mr Tary to expend the fund (Refer to Appendix E).
- 4.8 By this time, the Urban Lands Office had become aware that there were problems with the quality of work being done by SLC on the Canal du Segond II project. On 10.08.95, PWD's engineer, Mr Philip Amos, was requested by Urban Lands Office to inspect the works and to make an inspection report. On 28.08.95 Mr Amos made an inspection report. He discovered: that there appeared to be no working plan for the project and the pipes used did not have the capacity to serve all the

- properties, and that there was no bedding of 100 mm thick sand as was necessary to protect the pipes. It became clear that SLC was not competent to carry out this type of work (Refer to Appendix F).
- 4.9 On 12.09.95 PWD submitted two estimates for the Pepsi subdivision. One estimate was for the construction of roads at 12,323,515 vatu and a working time of 12 weeks. The other estimate was for the installation of the water supply at 7,146,906 vatu with a working time of 11 weeks (Refer to Appendix G).
 - 4.10 On 17.10.95 Urban Lands Office requested Mr Tary to prepare a contract for the Pepsi subdivision water installation project. It was also suggested that a local company, Tukro Plumbing Service, carry out the Pepsi water installation project as that company was involved in a similar project for National Housing Corporation at Chapui subdivision in Luganville, and its quotation was similar to that of PWD (Refer to Appendices H1 and H2).
 - 4.11 On 03.11.95 SLC submitted its estimate for the Pepsi subdivision water installation project. The estimate was 19,206,379 vatu, three times more expensive than PWD and Tukro's estimates and no working time was stated. This estimate was accepted (Refer to Appendix I).
 - 4.12 On 11.12.95, the Director General of Finance informed Mr Tary that Internal Audit was conducting an investigation in the contracts granted to Soway Leing Company to carry out the two water installation projects. The Director further requested the Ombudsman to investigate the irregularities in the tender procedures under the Finance Regulations (Refer to Appendices J and K).
 - 4.13 On 12.12.95, Mr Tary authorised an additional payment of 2,580,746 vatu to SLC on top of the agreed contract price to cover the costs of extra piping in line with PWD's inspection report (Refer to Appendix L). In normal circumstances, any contractor submitting a tender is bound legally to finalise the works for the quoted price. SLC was obliged to carry the additional cost of the extra piping, however in the end, the government paid a total of 10,080,746 vatu for the Canal du Second II subdivision water installation. The original estimate from PWD was 8,674,700 vatu.
 - 4.14 On 16.04.96, the PWD Subdivisionner advised Urban Lands Office that the water pipes that were to be used by SLC for the Pepsi water project were not the proper ones. They would not cope with the pressure of the main water supply. 75mm pipe or more was the correct pipe to be used. This was confirmed by the Regional Engineer for PWD, Mr Amos.
 - 4.15 On 28.08.96, PWD Engineer Mr Calum Murray, submitted a brief report on the Pepsi water project and the works carried out by SLC. It covered the laying of class 10 poly pipes which are inadequate for the water pressure. The trenches had been left open for an extended period of time and represented a serious health and safety risk. Water in the trenches was an ideal breeding place for mosquitos and the soil from the excavation had been dumped onto the road (Refer to Appendix M).
 - 4.16 On 05.09.96, Mr Murray submitted another report on Canal du Second II water project and the work done by SLC. (Refer to Appendix N).
 - 4.17 On 09.09.96 the Principal Lands Officer from Urban Lands Office wrote to the Ombudsman's Office about SLC. He stated his concerns about both projects and explained that it was difficult to check the work of SLC because there was no contract conditions to follow. He also stated that PWD had raised several complaints regarding the quality of services provided by SLC, and that he himself had lodged a formal complaint to the Director. (Refer to Appendix O).
 - 4.18 On 14.10.96, PWD Subdivisionner wrote to the Ombudsman about SLC getting the projects, PWD's estimates and the work done by SLC. He explained that PWD was not aware of any tender board and could not understand how SLC finally got the two contracts. He further confirmed that the works were not fully completed and were badly done (Refer to Appendix P).

Information Obtained Through Ombudsman's Inquiry

- 4.19 The Ombudsman requested that PWD inspect the work of SLC at the Pepsi subdivision water project and supply the Office of their estimation of the costs expended by SLC on the project. PWD reported that in their estimation the actual work done by SLC was valued at 2,694,775 vatu inclusive of materials and labour (Refer to Appendix Q). SLC was paid 9,602,690 vatu for this work, 7 million vatu more than it was apparently worth. Regardless of the massive cost of the project, it was never completed. PWD and Tukro Plumbing Services both estimated that the whole project could have been completed at a cost of approximately 7 million vatu. The amount overpaid was 7 millions. Furthermore the work already done was of very poor quality.
- 4.20 During the investigation the Ombudsman discovered that SLC did not have a licence to undertake construction work. It was not until 9 June 1997 that Mr Aime Malere, chairman of the company applied for a licence from the Department of Finance (Refer to Appendix R). By this time his company had carried out four different water projects without a proper licence. Mr Tary, as project manager was obliged to ensure that the contract was awarded to a properly licensed company and in fact should have been managed by the Urban Water Supply section of PWD. No action has been taken against Mr Malere's company.
- 4.21 The Ombudsman discovered that the manager of SLC, Mr Ernest Malere, has no formal qualifications in either construction or plumbing, and the only experience he has is through working with SLC on two other projects in Vanuatu.
- 4.22 It was also discovered that procedures in place for setting up development projects were bypassed for these two projects. The usual procedure is for projects to be presented to the National Planning Office (NPO). NPO checks the project to ensure that it is in line with current government policy, checks the basis of the project estimates and checks the qualifications of the persons or Company appointed as the project manager to ensure that he or she is capable of managing the project. After NPO approves the project, it is sent to National Development Commission for discussion. It is then forwarded to the Council of Ministers for approval.
- In this particular case the Council of Ministers first approved the funds for the projects and then documentation was sent to NPO for approval. As the Council of Ministers had approved the project documentation, NPO felt powerless to alter the proposals and to check the credentials of the project manager who had been named.
- 4.23 Mr Tary, as project manager, was obliged to ensure that any agreement made between his department and any other company was legal and that the proper tender process was followed. In the case of the Pepsi subdivision water installation project, proper tender procedures outlined in the Finance Regulations were not followed. The project was over 3 million vatu and three written tenders should have been obtained. However, only two were obtained. Tenders should have been advertised in the press, but this was not done. Tenders were not submitted to the secretary of the Tender Board as required by the Finance Regulations, nor was a proper tender board appointed. No written contract was made nor approved by the Attorney General. No tenders were approved by the Council of Ministers.
- 4.24 In interviews with the Ombudsman, Mr Telukluk blamed Mr Tary for the mismanagement of the project, and Mr Tary the former Director blamed Mr Telukluk. Mr Tary stated that it was their joint decision to offer SLC the contracts. It is interesting to note that both Mr Telukluk and Mr Tary are from Malakula and strong UMP supporters. It was also on Mr Telukluk's recommendation that Mr Tary was appointed to head the Department of Lands (Refer to Appendix S). SLC is a company owned by the Malere family who

are also from Malakula and strong UMP Party supporters. Mr Tary was authorised by the Minister of Finance, Mr Willie Jimmy, a member of UMP, to expend the 30 million vatu on the two projects.

Mr Tary told the Ombudsman that Mr Telukluk had instructed him to proceed with these that as 1995 was election year, these projects would be used as political propaganda.

5. RESPONSES TO THE PRELIMINARY REPORT

5.1 The preliminary report in this matter was issued on 27.01.98 to comply with Article 62(4) of the Constitution and Section 16(4) of the Ombudsman Act. These state that the person or body complained about must have an opportunity to reply to the complaints made against them.

5.2 Responses to our preliminary report:
Only Mr Steven Tahī responded. He stated that:

- (a) he did not know who had instructed that the project be carried out the way it did;
- (b) there was no tender. He could recall that the quotations from the Public Works Department in Luganville was to find out roughly what the cost of the project was;
- (c) he had no idea how Sowry Leing was qualified for the projects because all along he had been making negative remarks on their previous performances on the Canal du Second Il Project following reports from the PWD's Engineer, Mr Philip Amos;
- (d) Mr Roger Tary has to answer on the standard of the works carried out by Sowry Leing since he did not consult the Urban Lands office prior to carrying out the projects.

Mr Tahī went on to state that Mr Tary was negotiating and making arrangements with Sowry Leing through the Department of Lands in Port Vila. The Santo Urban Lands Office did not get any instructions to deal with the projects and this was probably because of Mr Tahī opposing the idea of allowing Sowry Leing to carry out the projects (Refer to Appendix "P").

5.3 Mr Paul Telukluk Minister of Lands and Mr Roger Tary Director of Lands Department declined to respond.

6. FINDINGS

6.1 **Finding 1: The conduct of Mr Paul Telukluk former Minister of Lands, and now Assistant Minister of Trade and Ni-Vanuatu Business was based on improper motives, irrelevant grounds and blatantly unreasonable**

Mr Telukluk instructed Mr Tary to award the two projects to Sowry Leing Company which was owned by Malakula people who were supporters of UMP. Mr Telukluk's electorate was in Malakula. Mr Tary stated that in 1995, he was put under pressure by Mr Telukluk as that was an election year and Mr Telukluk wanted the projects to be used as his own political tool. It was blatantly unreasonable for Mr Tary and Mr Telukluk to accept Sowry Leing Company to do the second project, the Pepsi subdivision water installation project when the work

done on the first project, the Canal du Second Il water installation project was not done to the required standard, lack of qualified manpower, experiences and even lack of a proper licence by Sowly Leing Company.

6.2 Finding 2: Mr Paul Telukluk former Minister of Lands, and now Assistant Minister of Trade and Ni-Vanuatu Business breached the Leadership Code, Article 66(1)(a) and 66(2) of the Constitution.

Mr Telukluk placed himself in a position of a conflict of interest by instructing and pressuring Mr Tary to award the contracts to Sowly Leing Company for his own political benefit, and to favour his own UMP supporters.

6.3 Finding 3: Mr Roger Tary's conduct (former Director of Lands) was contrary to law in that he breached the Finance Regulations and s.3 of the Public Finance Act

- Breach of Finance Regulation 343 and s.3 of Public Finance Act

Mr Tary failed to ensure that the funds released from the Development Fund were spent on the projects in accordance with the Finance Regulations and the Public Finance Act.

- Breach of Finance Regulation No. 361

Mr Tary breached the Finance Regulation No.361 by accepting only two tenders for Pepsi subdivision water installation project. Since the cost of the project was well over 3 million vatu, they should have obtained three (3) written tenders as required by Reg.361.

- Breach of Finance Regulation No. 362

Mr Tary breached the Finance Regulation No. 362 for not calling tenders by open competitive bidding. He simply accepted Sowly Leing Company's estimates and awarded them the contracts.

- Breach of Finance Regulation No. 363

Mr Tary breached Finance Regulation No.363 when he asked for tenders to be sent to the Urban Lands Office. They should have advertised the tenders in the press and the Government Gazette as the amounts were superior to VT 500.000 as required by this regulation. They did not do so.

- Breach of Finance Regulation No. 364

Mr Tary breached the Finance Regulation No.364 when he obtained the tenders from Public Works Department and Sowly Leing Company. He did not submit all tenders to the Secretary of the Tender Board in the Department of Finance as required by this regulation. He instead discussed the matter with Minister Paul Telukluk and they both decided to award the contracts to Sowly Leing Company.

- Breach of Finance Regulation No. 365

Mr Tary breached the Finance Regulation No.365 because he failed to ensure there was a proper tender board appointed. He asked for the tenders and considered the tenders with Minister Paul Telukluk which resulted in Sowly Leing Company getting the contracts. This Regulation also specifies the eligible members of a tender board and Mr Tary and Mr Telukluk were not the appropriate people to approve tenders.

- Breach of Finance Regulation No. 367

Mr Tary breached the Finance Regulation No.367 by not providing written contracts for the projects since the costs of the works were over 3 million vatu. The contracts were supposed to be approved by the Attorney General. No contract was prepared for either project.

- Breach of Finance Regulation No. 368

Mr Tary breached Finance Regulation No.368(1) as he approved and accepted Sowly Leing Company's high tenders for the two projects. It is the responsibility of a tender board to consider and approve the lowest evaluated tender.

- Breach of Finance Regulation No. 368 (2)

Mr Tary breached Finance Regulation No.368(2) for accepting the tenders over 3 million vatu and the payments made to Sowly Leing Company were not approved by the Council of Ministers. It is a requirement under this Regulation that any tender over 3 million vatu has to be approved by the Council of Ministers before they are awarded. Mr Tary approved and awarded the tenders to Sowly Leing Company.

- Breach of Finance Regulation No. 369

Mr Tary breached Finance Regulation No.369 by authorising variation of the original sum of 7,500,000 vatu for Canal du Second Il project when he authorised an extra payment of 2,580,746 vatu to Sowly Leing Company because the Company was short of water pipes following their original quote. Any variation is only allowed up to a maximum of 20%. Anything beyond 20% has to be approved by the Minister of Finance. The above additional payment authorised by Mr Tary was well beyond 20% and it was not approved by the Minister of Finance.

6.4 Finding 4: Mr Roger Tary former Director of Lands breached the Leadership Code, Article 66(1)(a) and 66(2) of the Constitution.

Mr Tary placed himself in a position of a conflict of interest by awarding the contracts to Sowly Leing Company following Mr Telukluk's instruction. He did not follow the proper procedures and demeaned his position by acting for the benefit of his friends instead of the people of Vanuatu which he was representing and supposed to serve as public servant.

7. RECOMMENDATIONS

RECOMMENDATION NO.1: MR TELUKLUK SHOULD NOT BE CONSIDERED TO HOLD ANY MINISTERIAL PORTFOLIO IN ANY FUTURE GOVERNMENT

- 7.1 Mr Telukluk has had previous findings of maladministration and breach of the Leadership code made against him in the following Ombudsman's public report:

(a) Illegal Ex-Gratia Payments to 23 1988 MPs

Mr Paul Telukluk as Acting Minister of finance in 1997 breached Finance Regulation No.176 in authorising his own Payment Voucher as quickly as possible even though the Ex-Gratia payments were not authorised by Parliament.

- (b) Improper Sale of Government houses by the Office of the Prime Minister under Prime Minister Maxime Carlot Korman

Although Mr Telukluk was advised by the Attorney General that the Sale was improper, he took no appropriate steps to stop the transfers and registration of the leases. He did it for his own benefit and the benefit of his political friends in Government then.

- (c) Improper Granting of Land Lease Title 11/OE22/016

Mr Telukluk placed himself in a position of conflict of interest between his official duty and his desire to serve the interest of his relatives when he used his ministerial power to grant the lease to Mr and Mrs Edmond Rory. He also breached the Leadership Code under Art. 66 of the Constitution.

The Ombudsman recommended in the reports that Mr Telukluk not to ever act as Minister of Finance again and not to be appointed to hold any ministerial portfolio in any future governments.

Mr Telukluk has recently been reappointed Assistant Minister of Trade and Ni-Vanuatu Business.

RECOMMENDATION NO.2: MR TARY, FORMER DIRECTOR OF LANDS NOT TO BE CONSIDERED FOR ANY POSITION IN ANY FUTURE GOVERNMENT

- 7.2 Mr Roger Tary has had previous findings of maladministration and breach of Leadership Code made against him in the following reports made public by the Ombudsman's Office:

- (a) Improper Sale of Government Houses by the Office of the Prime Minister under the former Prime Minister Mr Maxime Carlot Korman

Mr Tary committed direct misappropriation when he proceeded to his own transfer of the government house without paying any monies to the Government for the property. He acted contrary to law and for his own gain to acquire the house.

- (b) Improper Granting of Land Lease Title 11/OE22/016

Mr Tary acted contrary to art. 5 of the Constitution by not treating equally the first applicant for the above lease. He instead made sure that the interests of Mr Telukluk's relatives were served when he instructed his officers to process the lease documents for Mr and Mrs Edmond Rory for Mr Telukluk's approval. He also breached the Leadership Code under art. 67 of the Constitution and s.14(12(g) of the Ombudsman Act.

It was recommended that Mr Tary should not be accepted as Director of any government departments or government statutory body in future.

- (c) Former conviction

Mr Tary was convicted and jailed in July 1996 (when he was still the Director of Lands) for misappropriation of public funds.

RECOMMENDATION NO.3: THE CURRENT DIRECTOR OF LANDS TO MAKE SURE THAT HIS OFFICERS BOTH IN PORT VILA AND SANTO HAVE ACCESS TO AND FOLLOW THE GOVERNMENT FINANCE REGULATIONS.

RECOMMENDATION NO.4: THE DEPARTMENT OF LANDS TO FOLLOW THE RIGHT PROCEDURES IN ACCORDANCE WITH THE FINANCE REGULATIONS TO PROPERLY COMPLETE THE PROJECTS. THEY SHOULD NOT ACCEPT SOWY LEING COMPANY TO COMPLETE THE PROJECTS AS THEY HAVE PROVED THEMSELVES TO BE INCAPABLE TO DO A PROPER JOB ACCORDING TO EXPORT FROM THE GOVERNMENT.

8. CONCLUSION

- 8.1 To comply with Article 63(2) of the Constitution and Section 22 of the Ombudsman Act, the Ombudsman requests the Prime Minister and the Minister of Lands and the Director of Lands to consider these recommendations and to put them into effect.
- 8.2 The Office of the Ombudsman must be notified of the decision and proposed steps to implement these recommendations within thirty (30) days of the date of this report

Dated the 25th day of November 1998

A handwritten signature in black ink, appearing to read 'Marie-Noëlle', with a long horizontal line extending to the right.

Marie-Noëlle FERRIEUX PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU

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- J** Dept. of Finance's letter to Roger Tary
- K** Dept. of Finance's letter of complaint to the Ombudsman
- L** Additional payment made to Sowy Leing Company authorised by Mr Tary
- M** PWD's inspection report on Pepsi water installation project
- N** PWD's inspection report on Canal du Segond II water installation project
- O** Santo Urban Lands Office's letter to the Ombudsman
- P** PWD Subdivisioner's letter to the Ombudsman
- Q** PWD's estimation of the cost of work done by Sowy Leing Company on Pepsi subdivision water installation project
- R** Sowy Leing Company's proper trading licence obtained in 1997
- S** Appointment of Roger Tary as Director of Lands following Minister Paul Telukluk's recommendation to the Public Service Dept.
- T** Santo Urban Lands Office's response to the Ombudsman's preliminary report.

APPENDIX "A"

RÉPUBLIQUE DE VANUATU

SERVICE DES TERRES
PORT VILA

MINISTÈRE DES AFFAIRES FONCIÈRES



REPUBLIC OF VANUATU

LANDS DEPARTMENT
PORT VILA
MINISTRY OF LANDS

PRIVATE MAIL BAG 907

Telephone : 22692

DATE: 4 th, October, 1991.

N - O / Ref. LDU: 409/3/BJ/cj

V - Y / Ref.

Mr. James Tessa,

Geology Mines & Rural

Water Supply,

EMB 007 Port Vila.


Lands Department had acknowledged your application to Lease Land Title
Part 120 located at Pompiduo area for residential
purposes.

At the ULLSC meeting of 27TH September 1991 committee had grand approval
to your application.

Your Certificate of Registered Negotiator will be send to you in due Course.

Thank you for applying.

Regards.


BILLIAM JEIOCK
Secretary of ULLSC.



APPENDIX "B"

Elizabeth

GOUVERNEMENT
DE LA REPUBLIQUE
DE VANUATU



GOVERNMENT
OF THE REPUBLIC
OF VANUATU

MINISTERE DES AFFAIRES FONCIERES,
DES RESSOURCES MINERALES ET DES PECHEES

MINISTRY OF LANDS, MINERAL
AND FISHERIES

Our Ref: 202/85/1

21st April 1994

Mr. Roger Tary
Directeur des Terres

Objet : Consentement de Bail a Mr. Edmond Rory - Titre
11/OE22/016

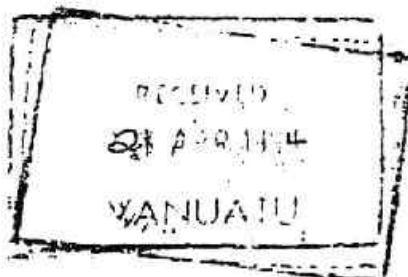
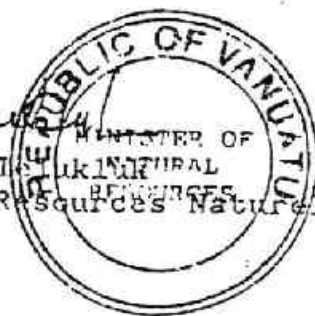
Monsieur le Directeur,

Je tiens à t'informer de ma decision, de consentir un Bail, objet du titre 11/OE22/016 (partie du Titre 120) sis au quartier Stade, à Mr. Rory Edmond.

Ainsi, je demande à ce que ton service fasse le nécessaire, suivent la procédure normale, d'établir ledit bail pour ma signature.

Veuillez agréer Monsieur le Directeur, mes sinceres salutation.

Teletype
Hon. Paul B. T. *Teletype*
Ministre des Ressources Naturelles



APPENDIX "B"

TRANSLATION

Our Ref: 202/85/1

4 September 1997

Mr. Roger Tarry
Director of Lands
Port Vila

**Reference: Consentment of Lease to Mr Edmond Rory -
Title 11/OE22/016**

Sir,

I would like to inform you of my decision, to consent a lease, Title No. 11/OE 22/016 (part of Title 120) located at Stade, to mr. Rory Edmond.

Sir, I request that your office does the necessary, following normal procedures, to prepare the above mentioned lease for my signature.

Yours faithfully.

Hon. Paul B. TELUKLUK
Minister of Natural Resources

APPENDIX "C"

19700 E

19750 E

REPUBLIC OF VANUATU • REPUBLIQUE DE VANUATU



I. EFATE PORT-VILA

Title Titre

11/OE22 /016

Name of Property
Nom de la Propriété

Area Superficie 0 ha. 06 a. 09 ca.



REPUBLIC OF VANUATU
SURVEY DEPARTMENT
PLAN APPROVED
E ARTHUR
DIRECTOR OF SURVEYS

RORy
RORY

26 JUL 1988

DLS
ORIGINAL
PLAN

TM 1977

Survey Department		Service Topographique	
Surveyed by See T089 Lévé par	Computed by See T089 Calculé par	Checked by Vérifié par	S.R.
Drawn by SK 17.88 Dessiné par	Checked by See T089 Vérifié par	Approved by Approuvé par	4637

APPENDIX "C"

L.R. Form 4

REPUBLIC OF VANUATU LAND LEASES ACT CAP 163

LEASE

(Section 31 and 35)

CLASS RESIDENTIAL

TITLE No. 11/OE22/016

(PLEASE READ THE NOTES ON BACK PAGE BEFORE COMPLETING THIS FORM)

Full name(s)
description(s)
and address(es)
in Vanuatu

LESSOR(S) MINISTER OF NATURAL RESOURCES IN
ACCORDANCE WITH SECTIONS 8 & 9 OF
THE LAND REFORM REGULATION OF 1980
(HEREIN AFTER CALLED THE LESSOR)

Full name(s)
description(s)
and address(es)
in Vanuatu

LESSEE(S) MR. EDMOND RORY AND NELLY RORY
STADE STATION
PORT VILA

Delete this paragraph if
inapplicable

1. The Lessor(s) has/have received from the Lessee(s) the sum of
(amount in words and figures) TWO HUNDRED AND FOURTY THREE
THOUSAND VATU (VT 243,000) for the grant of this
Lease.

* Delete whichever
asterisked phrase if inapplicable

2. The Lessor(s) lease(s) to the Lessee(s) the land - *comprised in the
above-mentioned title*

OR

*shown edged green in the attached plan certified by the Director of
Surveys and signed by the persons signing this instrument* for
the term of FIFTY (50) years commencing on the
15th day of September 19 94

3. The Lessee(s) shall pay to the Lessor(s) the *yearly/*quarterly/
*monthly rent of (amount in words and figures) FOUR THOUSAND EIGHT
HUNDRED AND SIXTY VATU

(VT 4.860)

reviewable in accordance with the provisions of the Act and payable
on the 30th day July each year (date(s) rent is to be paid).
in advance.

* Delete as appropriate

4. This Lease is granted subject to the provisions of the Land Leases
Act and of any Rule relating to leases made thereunder and to those
agreements and conditions specified in the Schedule hereto.

Delete if Lessee is a single person or
corporation. If paragraph is not
deleted, delete whichever
asterisked phrase is inapplicable.

The Lessees holds this Lease as *joint proprietors/*proprietors in
common in the following undivided shares :-

APPENDIX "C"

Dated at PORT VILA this 15th
day of September 19 94

SIGNED by the Lessor(s) }

Paul B. Teuluk
HON. PAUL B. TEULUK
MINISTER OF NATURAL RESOURCES



in the presence of

Signature of witness

Name of witness

Address

I certify that the above-named

appeared before me at

this

day of

19

* being identified to me by

of

* or being personally known to me and that *he/ *she/ *they freely and voluntarily signed and appeared fully to understand this instrument.

* Delete the underlined alternatives inapplicable

Signature, name, designation and seal/stamp of office of person completing certificate.

SIGNED by the Lessee(s) }

RORY
MR. EDMOND RORY

RORY
MRS. NELLY RORY

in the presence of

Signature of witness

Name of witness

ANTOINETTE CCULON - Lands Officer

Address

LANDS DEPARTMENT, VILA

I certify that the above-named LESSEES AND THE WITNESS

appeared before me at

PORT VILA

this

19th

day of

September

19 94

* being identified to me by

of

* or being personally known to me and that *he/ *she/ *they freely and voluntarily signed and appeared fully to understand this instrument.

* Delete the underlined alternatives inapplicable



Signature, name, designation and seal/stamp of office of person completing certificate.

ELIZABETH MULIAKI
Lands Officer (Urban)

APPENDIX "D"

ATTORNEY GENERAL'S CHAMBERS

MEMORANDUM

FROM : Attorney General
TO : Acting Director of Lands

OUR REF : AG. 10/1/OAS-1W

YOUR REF :

DATE : 10th December 1996.

SUBJECT

Re: LAND TITLE 11/OE22/016 - JAMES LESSA.

ADOL


Replied
18/12/96
JSC

I refer to your Memorandum of 20th November about the abovementioned.

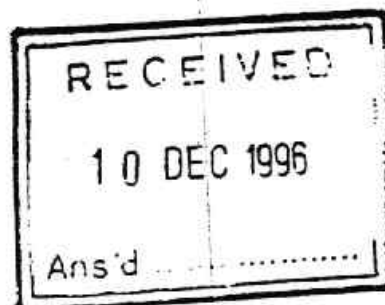
We have two persons involved here. One complied with procedural formalities and was refused. The Other did not comply with any procedures but the lease was granted to him. I find that beyond comprehension.

I think the lease should have been appropriately granted to Mr Lessa. But as it is the only way to undo the matter is to have the register rectified. The matter should be brought to the attention of the Director of Land Records to enable him to hear the matter under Section 99 of the Act. If that fails, I think Mr Lessa should proceed to the Court to order rectification under Section 100 of the Act.

I trust that I have been of assistance.


Oliver A Saksak
Attorney General.

cc: Director of Land Records
: Mrs James Lessa
C/- Geology & Mines.



Attn: Jean Marc Pierre

FAXIN
019-97

RÉPUBLIQUE DU VANUATU

SERVICE DES TERRES
PORT VILA

MINISTÈRE DES RESSOURCES NATURELLES



REI ULES OF VANUATU

LANDS DEPARTMENT
PORT VILA

MINISTRY OF NATURAL RESSOURCES

Private Mail Bag 090, Port Vila, Vanuatu
Telephone: (678) 22892 / 24171 / 24172 / 24820
Fax: (678) 27708

Date: 23rd January, 1997

N-O/Ref: LDU - 11/OE22/016/MM

V-Y/Ref:

Marie Noelle Ferrieux Patterson
Office of the Ombudsman
Po Box 126
PORT VILA.

Dear Madame,

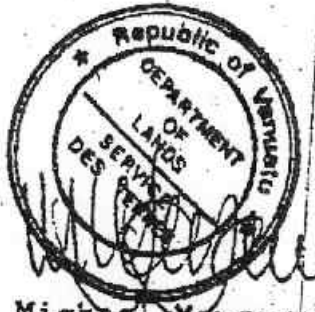
Re: Land title 11/OE22/016 - Stade area,
Port Vila

Refers to your letter of 14th January 1997 your references OMB063/97-13/03, our department would like to advice you as follows: that :-

- 1) The Department of Land proceed Mr. Rory' lease document through an instruction letter from the former Minister of Lands (Paul B. Telukiuk) instructing former Director of Lands (R. Tary) to execute a lease on this property (see copy of instruction letter from former Minister of Lands attached).
- 2) Roger Tary, the former Director of Lands was the person who instructed Mrs. Coulon and Mrs. Muliaki to sign these lease documents. (This was confirmed by Mrs. Muliaki on the 23rd of January, 1997).
- 3) Mr. Rory did not apply for this land therefore there wasn't any Negotiators Certificate been issued and or granted to him.
- 4) Mr. Rory got his valuation of this property through the Department of Lands Survey (see copy of their letter to Mrs. Muliaki on the 23rd of May, 1994).

Thank you for your attention and should you need further information regarding this issue, do not hesitate to contact the signatory herein under.

2/...



Michael Mangawai
Acting Director of Lands
(Urban)

CC: First Secretary
Ministry of Lands

RÉPUBLIQUE DU VANUATU

SERVICE DES TERRES
PORT VILA

MINISTÈRE DES RESSOURCES NATURELLES



REPUBLIC OF VANUATU

LANDS DEPARTMENT
PORT VILA

MINISTRY OF NATURAL RESSOURCES

Private Mail Bag 090, Port Vila, Vanuatu
 Telephone: (678) 22892 / 24171 / 24172 / 24820
 Fax: (678) 27708

Monday
 Date: 7th April 1997

N-O / Ref. LDU - 11/OE22/016/EM:wt

V-Y / Ref.:

Office of the Ombudsman
 P.O. Box 126
 Port Vila
 VANUATU

Attention: Mr. Jean Marc Pierre

Dear Madam,

Re: Land Lease title : 11/OE22/016 (Mr & Mrs Rory Edmond)

You letter dated 27th March 1997 ref: OMB 778/97-13/06,
 concerning the above reference.

I hereby give you the following answers :

1. Yes I was advised verbally by Former Director of Lands, Mr. Roger Tary, to execute the lease documents.
2. No application was made by Mr. Rory Edmond, he didn't follow the normal procedure of the Lands Department.
3. Yes, he has (see copy of receipt attached).
4. I was aware of Mr. James Bambu Lessa's certificate, but former minister of Lands Mr. Paul Barthelemy Telukluk gave us instruction to process the Lease Documents in the name of Mr. Rory Edmond (see copy of instruction letter, dated 21st April 1994).
5. See 4.
6. Yes, see 4.
7. In my opinion, the lease document should have been appropriately granted to Mr. James Bambu Lessa.

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4/96
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L&L

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} ,
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—

Elizabeth Mulaiki
Lands Officer (Urban Unit)
For Director of Lands

THE UNIVERSITY OF CHICAGO

APPENDIX "G"

174

RÉPUBLIQUE DU VANUATU

REPUBLIC OF VANUATU

**SERVICE DES TERRES
PORT VILA**

**LANDS DEPARTMENT
PORT VILA**

MINISTÈRE DES RESSOURCES NATURELLES

MINISTRY OF NATURAL RESSOURCES



Private Mail Bag 090, Port Vila, Vanuatu
Telephone: (678) 22892 / 24171 / 24172 / 24820
Fax: (678) 27708

Date: 5th January, 1998.

N-O / Ref: LDU - 11/OE22/016/AG/ft .

V - Y / Ref:

A: Mme Marie-Noelle FERRIEUX-PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU

RECEIVED
08 JAN 1998
OMBUDSMAN

ATTENTION: Mr. Pasa TOSUSU
Director of Général Complaints.

Re: PRELIMINI RIPOT ABAOT ALLEGED IMPROPER
GRANTING OF LAND LEASE TITLE: 11/OE22/016.

Madame,

J'ai bien reçu votre lettre du 23 Décembre 1997 ainsi que le rapport préliminaire relative au bail du titre de propriété 11/OE22/016.

Comme vous le savez, le département des Terres Foncières a procédé le document " Bail Résidentiel" le 11/OE22/016 suivant une instruction du Ministre des Terres et Ressources Naturelles à l'époque Mr. Paul Barthélemy TELUKLUK. (Ref.202/85/1 - du 21/04/94).

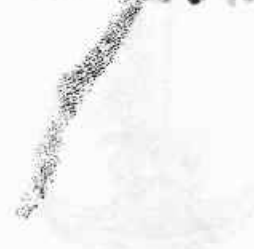
Le directeur à l'époque qui était Mr. Roger Tary a demandé à Mme E. Muliaki de préparer le bail au nom de Edmond Rory pour la signature du Ministre.
Mr. Edmond RORY n'a jamais fais la demande pour le bail.

Par contre, Mr. James Lessa, comme j'ai pu le constaté dans le dossier 11/OE22/016; lui (James Lessa) a fait la demande pour acquérir le titre. La demande a été approuvé le 27/09/97.

Cette demande a bien été confirmée par lettre ref.409/3/BJ/cj à James Lessa le 4/10/91 par le secrétaire du comité à l'époque Mr. Billiam Jeiock en même temps lui confirmant que le Certificat de Négotiateur lui sera envoyé.

Je n'ais pas aussi compris pourquoi le certificat ne lui a pas été délivré. Je pense que le secrétaire du comité à l'époque Mr. Billiam pourrait lui le confirmé.

APPENDIX "G"



[The following text is extremely faint and largely illegible due to the quality of the scan. It appears to be a list or index of items, possibly related to the "APPENDIX 'G'" header. The text is organized into columns and rows, but the specific details cannot be discerned.]

APPENDIX "G"

2/...

2/4

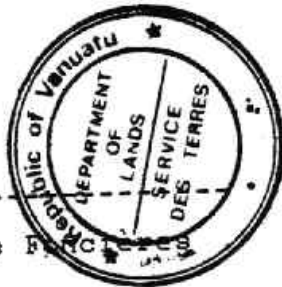
Elizabeth a établi le bail au nom de Edmond Rory sous le conseil de Mr. Roger TARY lui rappelant que c'est une décision du Ministre d'exécuter le bail au nom de Mr. Rory.

Elizabeth m'a remis le document pour le témoigner. Avant de témoigner le document, j'ai comme même pris l'initiative d'aller voir Roger TARY. Celui-ci m'a conseillé encore sur le fait de l'instruction venant du Ministre (P.B. Telukluk) de procédé le document pour sa signature.

Je pense avoir répondu à vos questions apparues dans le rapport préliminaire, je vous prie d'agréer, Madame, l'assurance de mes sentiments les meilleurs.



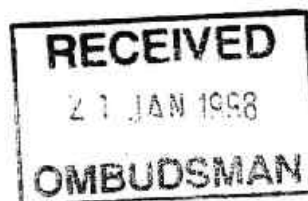
COULON Antoinette
Officier des Terres



APPENDIX "G"

1/3

Lands Department
Private Mailbag 090
Port Vila
Tel. (678) 22892/24171/24172/24820
Fax: (678) 27708



5th January 1998

O / Ref: LDU - 11/OE22/016/AC/ft

Y / Ref:

Mrs Marie-Noelle Ferrieux-Patterson
Ombudsman of the Republic of Vanuatu

Attention: Mr. Pasa Tosusu
Director of General Complaints

Dear Madam,

Re: Preliminary Report on Alleged Improper Granting of
Land Lease Title: 11/OE22/016

Thankyou for your letter dated 23 December 1997 and the preliminary report concerning Land Lease Title 11/OE22/016.

As you know, the Lands Department processed the document "Residential Lease Title" 11/OE22/016 following instructions from the Minister of Lands and Natural Resources at the time, Mr. Paul Barthélemy Telukluk. (Ref. 202/85/1 - of 21/04/94).

The then Director, Mr. Roger Tary, requested Mrs. E. Muliaki to prepare the Lease in Edmond Rory's name for the Minister to sign. Mr. Edmond Rory never applied for the Land Lease Title.

On the other hand, Mr. James Lessa, as I have noted from the 11/OE22/016 file, applied for the Land Lease Title. His application was approved on 27/09/97.

Approval of this application was confirmed by a letter, ref. 409/3/BJ/cj, to James Lessa dated 4/10/91 from the then Secretary of the Committee, Mr Billiam Jeiock. The letter also confirmed that the Registered Negotiator Certificate would be sent to him.

I do not quite understand why the Certificate was not sent to him (James Lessa). I think Mr. Billiam Jeiock would be able to confirm that.

Elizabeth prepared the Lease Title in Edmond Rory's name as advised by Mr. Roger Tary who told her that it was the Minister's decision to have the Lease Title prepared in Mr. Rory's name.

Elizabeth gave me the document for witnessing. Before I signed the document I took the initiative to see Roger Tary. He again reminded me of the fact that the instructions came from the Minister (P.B. Telukluk) to have the document prepared for his signature.

I hope I have answered the questions from your preliminary report.

Yours faithfully,

(Sgd)

Antoinette Coulon
Land Records Officer

APPENDIX "H"

REPLAE BLONG MR EDMOND RORY

12 January 1998

Long 1994 mi stap liv long wan Gavman haus we Gavman emi salem mo wan Minista emi pem mekem se mi mas aot long haus ia. Mi save tu se famili Lessa James istap long lan ia mo stap pem rent blong haus long narafala man.

Mi bin approachem Mr Roger Tary mo emi talem long mi se land ia long Stade ino gat man emi applae from mo sapos mi wantem mi save applae from. Folem toktok ia nao mi bin fulumap wan applikeisen fom mo givim long Mr Tary. Afta, taem mi go blong jekem applikeisen blong mi Mr Tary emi talem long mi se Minista emi appruvum applikeisen blong yu finis. Mi neva go luk Mr Paul Telukluk from lan ia.

Long saed blong politik mi wantem talem se mi mi no wan sapota blong UMP Pati. Emi tru tu se brata blong Mr Telukluk emi maretem kasen sista blong mi be mi no mekem famili bisnis blong karem lan ia, mi folem prosija. Mr Tary emi stap wetem wan gel blong mi tu be emia tu mi no bin usum blong karem lan ia. Maet tufala I usum famili rilesensip ia blong givim lan ia long mi be emia mi mi no save.

Mi wantem talem tu se sapos Mr Tary emi bin talem long mi se wan man emi intres tu long lan ia bambae mi livim mo mi no save applae from blong tekem.

Edmond Rory

APPENDIX "H"

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APPENDIX "H"

TRANSLATION

REPLY FROM MR EDMOND RORY

12 January 1998

In his reply to preliminary findings, Mr Rory made the following comment:

In 1994 I was working at the Vila Central Hospital and occupying a government house which was among those government houses sold. A Government Minister purchased the house I was in occupation so I had to vacate it. I knew Mr James' family was residing there and paying rent to someone else.

I approached Mr Roger Tary and he advised me that the land was free and that I should apply for it. Following his advice I made an application and submitted to Mr Tary. I later on went to check my application with Mr Tary who told me that the Minister has approved my application. I never approached Mr Telukluk about this land title.

On political affiliation, I would like to say that I am not a supporter of the UMP Party. It is true that Mr Telukluk's brother is married to my cousin sister but I did not use this family connection to acquire the land, I followed the proper procedure. Mr Tary was then living with my niece and again I did not use that either, to get the land. I am not sure, maybe they used that family relationship to allocate the land to me but this is something outside my knowledge.

I would also like to mention that if Mr Tary had informed me that someone else was also interested in the land I would have left the land alone and not made any application to acquire the land.

Edmond Rory



SOCIETE SOWILEG
B.P. 331
LUGANVILLE
SANTO VANUATU

TEL : 36171

Port-Vila, le 03 Novembre 1995

PROJET N° 3/95

Objet:

Installation d'une aduction en eau.

SECTEUR : PERST SUDE DIVISION

- FOURNITURE.....	4 355 379 VT
COST OF FURNITURE	
- LOCATION DU MATERIEL.....	6 840 000 VT
HIRE OF MATERIALS/MACHINE	
- MAIN D'OEUVRE.....	3 000 000 VT
COST OF LABOUR	
- AUTRE DEPENSE.....	5 100 000 VT
+ CONTINGENCY	

TOTAL OF PROJECT N°3/95..... 19 205 379 VT

ARRETER LE PRESENT PROJET A LA SOMME DE :

DIX NEUF MILLION DEUX CENT CINQ MILLE TROIS CENT SOIXANTE DIX
NEUF VATU.

NINETEEN MILLION TWO HUNDRED AND FIVE THOUSAND THREE HUNDRED AND
SEVENTY NINE VATU.


LA DIRECTION

J

(a retyped copy of memorandum from Jeffrey Wilfred, Director, Department of Finance)

(C6083)

MEMORANDUM

Our Ref: CP.29/1995

11 December 1995

FROM: Director-General of Finance

TO: Director
Department of Lands

cc: Senior Lands Officer, Department of lands, Santo
Regional Manager, Department of Public Works, Santo

**INQUIRY - WATER INSTALLATION CANAL, II & PEPSI
SUB-DIVISION - LUGANVILLE**

My internal audit office is conducting an investigation into contracts given for the above projects.

Under Regulation 22 (5) of the Financial Regulation you are herewith instructed to provided full documentation of the project and the awarding of contracts. Your information will include copy of the contract, details of tenders. Tender application and tender board Minutes.

Under Regulation 368 (2) Please provide a notice of approval by the Council of Ministers.

Under Regulation 367 (2) you will please provide the authorised approval of the office of the Attorney General.

You were requested to contact my office in regards to the above and which you have chosen to ignore. I therefore have no alternative but to advise that the above information is required by the 15th December 1995, otherwise the matter will be placed with the Office of the Ombudsman.

**JEFFREY WILFRED
DIRECTOR GENERAL OF FINANCE**

- 1
- K**
- (376)
- (v) Five payments were made to Societe Souileg for work done on the project and totalling 19,983,436 vatu.
 - (vi) Please find enclosed several memo's with reference to the quality of work done as reported by Public Works Department, Santo.
 - (vii) The payment of 9,602,690 vatu on the 27th November 1995 refers to Water Installation at Pepsi. However advice from Public Works at Santo is that no work has been done on Water Installation at that sub-division. Such payments are contrary to the Financial Regulations.
 - (viii) The Director of Lands has been requested to provide details of Tender process including advertisement, minutes, and approval by Council of Ministers' as requested by Financial Regulations. The Director of Lands has not been able to provide any documentation or information on a tender process being undertaken. Public Works Department -Santo are unaware of any Tender procedures being carried out.
 - (ix) The Director of Lands was also requested to provide information on any contract between the Government of Vanuatu and Societe Souileg. He cannot produce any such contract. Under Section 367(2) of the Financial Regulations any contract greater than 3,000,000 vatu must have the approval of the Attorney General. No contract was submitted for approval.

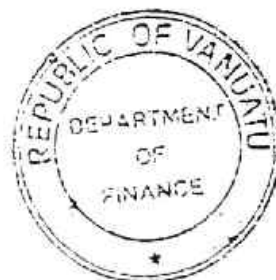
The conduct of this contracted project has been faulty in every instance and must be considered with great suspicion as to the intentions of the Director of Lands who refuses to comply with any request either written or verbal to help with the investigation and to provide documentation for it.

I therefore submit all information available from this office and respectfully hand over any further enquiries to your office.



JEFFERY WILFRED

DIRECTOR GENERAL OF FINANCE



**VANUATU GOVERNMENT
GENERAL PAYMENT VOUCHER**

17.11.065
ORIGINAL : TO TREASURY FOR COMPTROLLER

NAME
ADDRESS
OF
PAYEE

SOCIETE SOULEG

PO Box 331

MUHANVILLE SANTO

COMPUTER INPUT DETAILS

ENTRY
TYPE

VOUCHER NUMBER TREASURY USE ONLY

235342

DEPT DOCUMENT REFERENCE

DETAILS OF PAYMENT

PAYMENT FOR WATER INSTALLATION CANAL II

BEING PAYMENT FOR INSTALLATION
OF AN EXTRA WATER PIPE INTO
THE CANAL IN SECOND II
SUBDIVISION AMOUNTING TO :-

V. 2,580,746-

(TWO MILLION FIVE HUNDRED X EIGHTY
THOUSAND SEVEN HUNDRED X FOUR
SIX VATU).

ACCOUNT NUMBER JOB
NUMBER
471101150

GROSS AMOUNT VT
2,580,746

LESS DEDUCTIONS VT

NET AMOUNT VT
2,580,746

NUMBER OF PERIODS

COPY OF CERTIFICATE ATTACHED

AMOUNT ENTERED IN VOTE BOOK

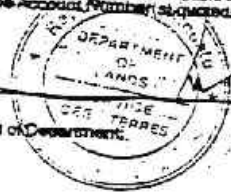
Vote Book Page No. Line No.

Signature

Date

CERTIFICATION BY HEAD OF DEPT. OR AUTHORISED OFFICER

certify that the above particulars are correct; that the
notes charged are fair and reasonable and are in accor-
dance with quotation or contract; that the expenditure
incurred has been properly incurred against the budget
and or project indicated by the account number(s) shown
and is in accordance with government regulations and
instructions; that the account is available to meet the
expenditure under the Account Number(s) indicated.



Signature of Head of Department
Official Stamp

20/11/06 1 TAD

DEDUCTIONS - CREDITS

ACCOUNT NUMBER	JOB NUMBER	CREDIT AMOUNT

MULTIPLE ALLOCATIONS - DEBITS

ACCOUNT NUMBER	JOB NUMBER	DEBIT AMOUNT VT	VT PERIOD

ACCOUNTANT GENERAL DEPARTMENT USE

Check No.	Approved	Cheque Number	Cheque Date
20/11/06	[Signature]	5056841	16.12.06

M

REPORT ON WORK CARRIED OUT ON THE WATER SUPPLY SYSTEM FOR THE PEPSI SUB-DIVISION BY SOWILEG

Work Carried Out to Date

The original quotation from the Public Works Department calls for the laying of 2.935 metres of mainline pipe, and the provision of 83 standpipe connections. To date only the trench excavations have been carried out and the laying of about 500 metres of class 10 poly pipe, which is inadequate for the water pressure, as stated in our letter dated 16/4/96.

These trenches have been left open for an extended period of time and represent a serious health and safety risk. Standing water in the trenches is an ideal place for mosquitos to breed, access to houses is mostly by way of wooden planks which get slippery during rains, and the open trenches cut off some roads which represents a hazard to drivers not used to driving in the area. Also the spoil from the excavation has just been dumped onto the road and when the trenches are backfilled the road will require regrading once the water main has been laid.

Work Remaining

Due to the time the trenches have been left open the sides have collapsed in some areas, this will require the re-excavation of some sections. The section of pipe previously laid will have to be removed and replaced with class 12 poly pipes, and the remaining mainline pipe will also have to be laid, with a sand surround. 83 connections have also to be carried out, as well as the backfilling of the trenches with a suitable material and regrading of the road.



Calvin Murray
Regional Engineer
P.W.D. Santo

N

REPORT ON WORK CARRIED OUT ON THE WATER SUPPLY SYSTEM FOR THE CANAL DU SEGOND II SUB-DIVISION

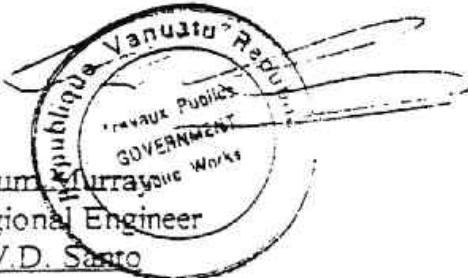
Work Carried Out

Have come across letters which are related to the Canal du Segond work, but refer to it as work carried out in the Hospital area, these are enclosed.

By reading through the letters it is apparent the contractor was not following any standard as set by the Public Works Department. But this may be due to a lack of information from the Department of Urban Lands stating the necessary standard of work. From the original specification and contract, we would be able to see if the contractor was at fault or if he was carrying out work as specified by the Department of Urban Lands.

As we cannot find any letters from the Department of Urban Lands it is unknown what steps they took regarding the points raised by Phil Amos, the regional engineer at the time. As far as I am aware after consulting Public Works staff who were here at the time, the works were not altered as per the proposed changes.

The supply is at present functional and is giving no problems, but covers only half the land, as the main water pipe is on one side only and no crossings were installed across the road.


Calum Murray
Regional Engineer
P.W.D. Santo

Encl. letter 250/95/pa/lis. 28/3/95
memo 158/95/pa/lis. 4/9/95
memo 281/95/pa/lis. 18/9/96

REPUBLIQUE DE VANUATU

REPUBLIC OF VANUATU

SERVICE DES TERRES
SANTO
MINISTERE DES RESSOURCES NATURELLES



LANDS DEPARTMENT
SANTO
MINISTRY OF NATURAL
RESOURCES

O. Box 140
Telephone : 36459 & 36164

DATE : 9th September, 1996.

-O/Ref. : LDU : 33/4/1/ST/cd

-Y/Ref. :

The Ombudsman's Office
P.O. Box 1644
Port Vila.

Attention : Mr Jean Marc PIERRE.

Dear Sir,

SOWILEG COMPANY.

Referring to our conversation concerning the above, this Company has construct works at Canal du Segond and Pepsi sub-division.

On my return to Luganville last year from Vila, work has already commenced on the Canal du Segond Sub-division. I have requested a copy of the contract which sets up the condition concerning this work. Unfortunately, no respond has been made. My Office found it difficult to check their work because there is no contract condition to go by. The Public Work Engineers have raised a lot of complaints regarding the quality of service SOWILEG is providing. These complaints seem to fall on deaf ears.

I have made a formal complaint to the Director about these complaints and stated that any future Company who wishes to engage themselves with Public Projects should go through the right procedure. For example, tender, tender board meetings and written contracts. No notice seem to have been taken because, the above requirements were not followed when once again SOWILEG Company was given this Job.

Therefore, I suggest that should there be any information concerning the above, do contact the Department of Lands in Vila and the Minister of Natural Resources. Hopefully they have some of the documents in their file which this Department does not possess.

TAHI Steven



TRANSLATION OF THE ORIGINAL

P

FROM : NOAH BIHU, Subdivisioner
SANMA PROVINCE

TO : OMBUDSMAN, M.N FERRIEUX-PATTERSON
B.P 126
PORT-VILA

Ref : 358/96/nb/lis

DATE : 14/10/97

RE: SECOND CANAL II - PEPSI SUBDIVISION WATER SUPPLY
PROJECTS

Dear Madam,

Following your letter dated 4 October 1996 on the above-mentioned subject, I can clarify the following :

1. The Public Works Department does not know about any tender board ;
2. I do not know how Sowileg company finally got the contracts;
3. It is true that the quotation submitted by the Government was lower than Sowileg's because it was based on the Government rates. I do not understand why the Public Works did not get the contracts;
4. The works are not fully completed and badly done; it is not the first time this is happening. I enclose the letter written by the engineer of the Santo Public Works, concerning the water supply installation by Sowileg next to the hospital.
5. This is all I have to say for now, but I remain available should you wish further information.

Sincerely yours,

Noah Bihu

.....
Subdivisioner
Sanma Province

MEMORANDUM

Date: 20th October 1997

Our Ref: 346/97
N/Ref:

From: PWD Water Supply
du:

to: The Director
a: PWD Vila

Re: PEPSI SUBDIVISION WATER SUPPLY PROJECT REPORT

The estimation of works been carried out with sowileg construction at pepsi area santo.

1. 2,935 mtrs main pipe
2,935 mtrs ply pipe @ 615 = 1,805.025 VT
 2. Hire of Plant estimated of 10 days
JCB x 5500 vt per hours @ 10 days = 440,000 VT
Truck x 2,310 vt @ 25 days = 57,750 VT
 3. Labour cost estimated x 25 days
1 foreman x 2000 vt @ 25 days = 50,000 VT
4 labours x 1500 vt @ 25 days = 150,000 VT
 4. Sand estimated of 128 m3
128 m3 sand @ 12,000 / 8m³ = 192,000 VT
- The total amount = 2,694,775 VT



11/06/97

(09/06/97)

Receipt No - 7111 3796

VT100,000 operator - J. Joshua.

RÉPUBLIQUE DE VANUATU
REPUBLIC OF VANUATU



**PATENTE DE COMMERCE
BUSINESS LICENCE**

N° 007465

\$2839

AS PRESCRIBED UNDER THE BUSINESS LICENCE ACT

Autorité habilitée à délivrer la patente :

Licensing Authority :

Adresse :

Address :

Ministry of Finance
P. M. Bag 258

Durée de validité :

Year or Period of Licence :

1997 (June - Dec)

Nom du (des) commerçant(s) patenté(s)

(Propriétaire du Commerce)

Name of Licensee(s)

Proprietor of Business

Dénomination du Commerce

(si différente de ci-dessus)

Name of Business

(if different from above)

Société Savileing.

Local concerné :

(chaque local doit faire l'objet d'une patente)

Premises Licensed :

(A separate licence is required for each premises)

24/06

Catégorie et type de la patente :

Business Class and Category Licensed :

Membership Services

(Description)

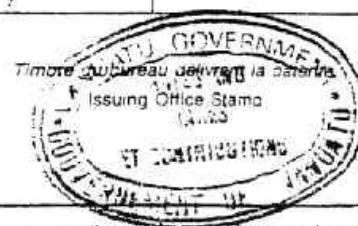
Conditions applicables : Conditions of issue of this Licence :

Ref. de Catégorie
Category Ref

Up to five (5) employees only.

C

DUE DATES	VAT & FEE AMOUNT	RECEIPT NUMBER	RECEIPT DATE
31 JANUARY	100 000	7111-96	09/06
30 APRIL			
31 JULY			
31 OCTOBER			
TOTAL FEE PAYABLE	100 000		
Patente délivrée le :	09/06	97	
Date of issue :			
Par / Issued by :			



AVIS : Conformément au paragraphe 5 de l'article 13 de la loi, les titulaires d'une patente apportant en cours d'année une modification à la nature ou à l'étendue de leur commerce ayant pour effet de les soumettre à une nouvelle catégorie de patente doivent en informer l'autorité compétente. Les commerçants sont donc invités à consigner les données (valeur des importations et nombre de personnes employées dans le commerce notamment et le chiffre d'affaire annuel) qui leur permettront de satisfaire à cette obligation légale.

NOTICE : Section 13 (5) of the Act requires proprietors of businesses to notify the Licensing Authority of any change occurring during the licensing year, in the nature or extent of the business which would render the proprietor liable to a different licence fee. Proprietors should therefore keep adequate records including import and export values, numbers of persons employed in the business and annual turnover in order to be able to fulfill this statutory duty.

GOUVERNEMENT

RÉPUBLIQUE DE VANUATU

SERVICE DE LA
FONCTION PUBLIQUE

Sac Postal Privé No.
Port Vila



S

GOVERNMENT

REPUBLIC OF VANUATU

DEPARTMENT OF
PUBLIC SERVICE

Private Mail Bag
Port Vila

Ref: PF. No. 1-10721/02/92

Date: 13 March 1992

Monsieur Roger TARI
C/- Lands Records Office
PORT VILA

Dear Mr Tari,

I am pleased to be able to advise you that following a recommendation from the Honourable Minister of Lands and under the powers of the Public Service Commission delegated to the Director Public Service Department under the law the Director of Public Service has now officially approved your appointment to the post of a Director of Lands Department of the Vanuatu Government Public Service.

Your appointment is effective from 16th March 1992.

The post is in grade P.19 of the Public salary scale.

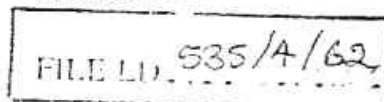
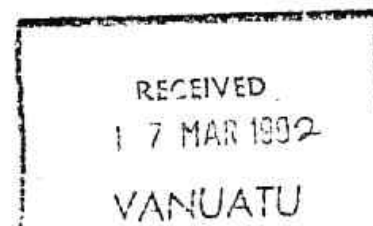
You will enter that grade at the salary point one which is VT:1.233.552 per annum plus a supplement of VT:30.000 per annum with effect from the above date.

Your other terms & conditions of service contained in your letter of appointment remain unchanged.

We are certain that you are well aware of the important responsibilities attached to your post and we are confident that you will do your utmost to discharge those duties.

I take this chance of congratulating you upon your promotion.

Would you please confirm your acceptance in writing if you accept this offer of appointment.



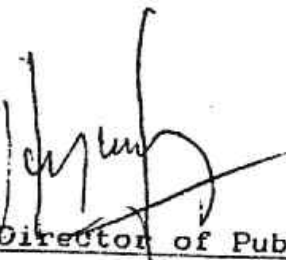
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- 2 -

13 March 1992

Mr Roger TARI
C/- Lands Records Office
PORT VILA

Yours sincerely,



J THYNA
Acting Director of Public Service Department

C : Ministry of Lands
: Lands Department
: Land Records
: Salary Section
: Audit
: DPL (2)
: Management
: Chrono

RÉPUBLIQUE DU VANUATU

SERVICE DES TERRES
LUGANVILLE SANTO

MINISTÈRE DES RESSOURCES NATURELLES



REPUBLIC OF VANUATU 1/2

LANDS DEPARTMENT
LUGANVILLE SANTO

MINISTRY OF NATURAL RESOURCES

P.O. BOX 140, LUGANVILLE, SANTO

TELEPHONE: (678) 36459 / 36314

Date: 04th February, 1998.

N-O / Ref. LDU 33/4/64 & 33/5/1/ST/mm

V-Y / Ref.

The Ombudswoman,
Ombudsman Office,
P.O. Box 126,
PORT VILA.

RECEIVED

09 FEB 1998

OMBUDSMAN

Dear Mrs Patterson,

RE : RECOMMENDATIONS NO.9, CANAL DU SEGOND AND PEPSI
SUBDIVISION WATER PROJECT.

- (a) I did not know whoever had instructed the Project to commence the way it did.
- (b) Infact Urban Lands Section in Santo had not made any Tender. If I can recall this quote expecially from the Public Works was to find out roughly how much was the cost of this Project. For some reason, the other quote from Tukao came in also which I suspect because they noticed a request for quotation was to be made. These quotes have been submitted to Vila as a Government quotation produced by the Government Department to form the bases on roughly how much this Project can be carried on a reasonable price. Unfortunately the Tender has not been made as expected by Urban Lands Section in Vila. As you are aware there was no Tender Notices.
- (c) I have no idea how Soweleg have been qualified for this Project because all along I have made negative statement on their previous performance on Canal Du Segond following reports from Public Works' Engineer, Philip Amos.
- (d) Roger Tary has to answer this since he carried out this without any consultation from Urban Lands Section in Santo.

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- (e) Urban Lands Section in Santo has not accepted the highest Tender because we were not made aware of any approval of Company to carry out this Project. I have seen no Tender Notices, no Contracts, no price until I received the copy of the G.P.V. which bears that part payment has been made. I went to Noah Bihu to discuss this issue on the same date. I rang Finance Department through David Schupp to withheld the payment, unfortunately the money has been paid out.

Note that the Director of Lands had been negotiating the arrangement between Soweleg and the Department through his Office in Vila I suppose. This Office do not have any instruction to deal in this matter which I presume is due to my request not to let Soweleg carry out this future Project after Philip Amos' report was received. I was in Australia when the whole issue of Canal Du Second was processed.

Yours faithfully,



STEVEN TAHI
Principal Lands Officer, Urban Unit, Santo.