

**REPUBLIC OF VANUATU
OFFICE OF THE OMBUDSMAN**

PMB 081
Port Vila
Vanuatu

**PUBLIC REPORT
ON THE
FRAUDULENT USE OF
PUBLIC FUNDS
FOR PERSONAL GAIN
IN THE
DEVELOPMENT BANK OF VANUATU
BY
FORMER MANAGING DIRECTOR
MR. AUGUSTINE GARAE**

14/05/2001

8526/2001/02

ERRATA

PLEASE NOTE THAT ANNEXURES "B" "C" AND "D," PRINTED ON CLASSIFIED PAPER ARE NOW IN THE PUBLIC DOMAIN AND ARE INTENDED TO BE PART OF THIS PUBLIC REPORT.

THE OFFICE OF THE OMBUDSMAN APOLOGISES FOR ANY CONFUSION WHICH MAY OCCUR AS A RESULT OF THIS PROCESSING ERROR.

**PUBLIC REPORT
ON THE FRAUDULENT USE OF PUBLIC FUNDS FOR PERSONAL GAIN
IN THE DEVELOPMENT BANK OF VANUATU
BY
FORMER MANAGING DIRECTOR
MR. AUGUSTINE GARAE**

TABLE OF CONTENTS

1.	MAIN ISSUES SIN THIS REPORT	3
2.	SUMMARY	3
3.	JURISDICTION	4
4.	PURPOSE, SCOPE AND METHODS USED IN THE INVESTIGATION	4
5.	OUTLINE OF EVENTS	4
6.	RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM	5
7.	FINDINGS	6
8.	RECOMMENDATIONS	7
9.	CONCLUSIONS	7
10.	INDEX OF APPENDICES	9

1. MAIN ISSUES IN THIS REPORT

1.1 Alleged fraudulent use of public funds to gain an advantage

1.2 The use of public office for personal gain.

2. SUMMARY

The Ombudsman has decided to publish this report as an example of how Heads of Government Institutions should not use their public office, properties and money with which they may be entrusted, for their own or for their family's use and benefit.

Mr. Augustine Garae was the former Managing Director of the Development Bank of Vanuatu (DBV). In January 1997, he was invited to attend a Micro Credit Summit in the USA. For reasons only known to him, Minister of Finance advised Mr. Garae to cancel his trip.

The arrangements for the trip were made by the DBV. The Bank paid Vt520,735 to Mr. Garae for his travel allowance. When the trip was cancelled, Mr. Garae refused to return the amount of money given to him for the trip, even after he was asked to do so. Instead, Mr. Garae instructed the Bank to transfer the Vt520,735 to his personal loan account in the Bank.

In April 1997, Mr. Garae instructed the DBV to pay for the airline tickets for his wife to accompany him to Manila for a seminar. The airline ticket cost Vt143,100. His wife was not an employee of the Development Bank. This amount was later transferred to his loan account upon his instructions.

The Ombudsman found that Mr. Garae did not follow the normal staff lending limit offered to others in the Development Bank. Instead, he used public funds and later applied them to his personal loan accounts. Such questionable transactions have given rise to doubt in the mind of the public of his leadership of the DBV and the use of this office for personal gain.

The Ombudsman has also found that even though technically, there was no theft of the public funds, there was certainly fraudulent use of public funds with an intent of personal gain. The Development Bank had set limits for all loans applicable to the bank employees, including the Managing Director. Mr. Garae deliberately took advantage of the Bank when he converted 520,735Vt issued for allowances and 144,100Vt used for airline tickets to his personal loan account.

Following these findings, the Ombudsman is requesting the Government to ensure that all Heads of Departments and Statutory Institutions, public trustees especially Financial Institutions, do not use their offices for personal gain, and do not misuse or misappropriate government property, assets and public funds entrusted to their care.

Mr. Garae applied for early retirement from the Bank and the Board of Directors accepted and instructed the DBV Management to process legal retirement benefits and statutory entitlements to Mr. Garae in August 1997.

3. JURISDICTION

- 3.1 The Constitution and the Ombudsman Act gives power to the Ombudsman to inquire into the conduct of persons who work in the government statutory institutions. In this report, the Ombudsman inquired into the conduct of Mr. Augustine Garae, former Managing Director of the Development Bank of Vanuatu. The DBV was a government statutory institution and falls directly under the jurisdiction of the Ombudsman.

4. PURPOSE, SCOPE AND METHODS USED IN THE INVESTIGATION

- 4.1 The objective of this enquiry was to establish whether the actions of the former Managing Director of the Development Bank of Vanuatu, Mr. Augustine Garae, to obtain and use VT520,000 and a further Vt143,100 for personal purposes, without following the official loan procedures required by Bank employees, was done in accordance with the regulations and official internal procedures of the Bank.
- 4.2 This Office collected information and documents through informal request, summons, letters, interviews, research and issuing a preliminary report to persons and institutions concerned.
- 4.3 The objective of this public report is to inform current and future heads of public institutions not to use their positions and public office for personal gain which will call into question their leadership.

5. OUTLINE OF EVENTS

- 5.1 Mr. Augustine Garae, was invited to attend a seminar, a Micro Credit Summit in Washington DC, USA at the end of January 1997. The DBV made all the necessary arrangements for the trip. The Bank paid for his air tickets on 22 January 1997 and paid his allowances for the trip with a cheque for 520,735Vt.
- 5.2 However, on 24 January 1997, for reasons only known him, the former Minister of Finance, Shem Nokout advised Mr. Garae to cancel this trip. He was supposed to leave on Saturday, 25 January 1997.
- 5.3 On Monday, 27 January 1997, Mr. Garae was approached by the Bank's financial officers to return the 520,735Vt paid to him for his allowances. He told the Finance Manager of the Bank that he had already used part of the money. He also did not give back the air ticket issued for this trip (**See Annexure B**).
- 5.4 The Bank's finance officers approached him on several occasions after this to reimburse the 520,735Vt. On 31 January 1997, an agreement was reached that the amount given to him for the allowances be posted to his staff advance account. On 1 April 1997, the amount was posted to his loan account in the Bank. This was made to balance the accounts.
- 5.5 Sometime in April 1997, Mr. Garae had approval to attend another seminar in Manila, Philippines. The Bank paid for his air ticket and allowances. Mr. Garae also instructed the Bank to pay for his wife's airline tickets. The airline tickets for his wife cost the Bank 143,100Vt. His wife was not an employee of the Bank (**See Annexure C**).
- 5.6 On 30 April 1997, he requested that this amount of 143,100Vt be transferred to his staff advance account. The amount was later transferred to his loan accounts on 1 July 1997.
- 5.7 In May 1997, the Development Bank laid off some of its employees. This followed recommendations from the report made by Moore Stephen. Following their termination, these employees lodged a complaint against Mr. Garae to the Ministry of Finance.

- 5.8 On 10 June 1997, the former Minister of Finance, Mr. Willie Jimmy appointed a Committee of Enquiry to investigate the allegations made against Mr. Garae. The complaint lodged detailed the amount of 520,735Vt that Mr. Garae, failed to return to the Bank after his trip was cancelled and the 143,100vt that the Bank used to pay for his wife's airline tickets.
- 5.9 On 11 June 1997, the Committee of Enquiry interviewed the Finance Manager of the Bank, Mr. Roy Noel Mariasua. Mr. Mariasua confirmed that 520,735VT was paid to Mr. Garae and he failed to return the amount when his trip was cancelled. He also confirmed that the amount was transferred to his existing loan account.
- 5.10 On 13 June 1997, when the Committee of Enquiry interviewed Mr. Garae, he informed them that he had received legal advice not to release any documents requested by the Committee. He stated that only the Auditor General has the power to appoint any person(s) to carry out such investigation into the Bank. At that time, the former Auditor General was terminated by the Public Service Commission.
- 5.11 On 23 June 1997, the findings of the Committee of Enquiry were forwarded to the Minister of Finance (**See Annexure D for details**). Minister Jimmy then sent a letter to the Chairman of the Development Bank on 27 June 1997 and made recommendations for Mr. Garae to face disciplinary action and be terminated (**See Annexure E**).
- 5.12 On 18 July 1997, The Development Bank Board met to discuss the Minister's letter. The Chairman of the Board, Mr. Dennis Vira, informed the meeting that Mr. Garae was given an opportunity to respond to the allegation which he did. Mr. Willie Korisa, Member of the Board pointed out that ***"the procedure for the payment of the allowance in the first place was proper, but the failure to refund immediately constitute intention to misuse, and such practice from top management cannot be tolerated. ... [if] care is not exercised, bank procedures will be misused for personal gains in future"***. (See Annexure F for details of the Board's Minutes).
- 5.13 The Board Members then were of the view that Mr. Garae would be terminated for alleged misappropriation and mis-management. However, they reversed their decision and granted him an early retirement with all benefits to be paid. (**See Annexure G**).
- 5.14 On 7 August 1997, the Acting Managing Director, Mr. Harry Rambay officially informed Mr. Garae of the payment of his entitlement benefits and the deduction towards his housing loan and other personal loans and advances including the amounts which is the subject of this complaint. The payment was made on 11 August 1997 (**Refer to Annexure H for breakdown of his benefits**).

6. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM

The following responses were received from some of these Board Members.

- 6.1 On 19 June 1999, Mr. Alleh Rantes, former Board Member made a response to this inquiry on their decision to grant Mr. Augustine Garae an early retirement with all benefits instead of termination because he had a loan with the Bank. The decision to give him early retirement with all benefits will assist the Bank to deduct some of the benefits and put them towards his loans in the Bank.
- 6.2 On 20 June 1999, Mr. Willie Korisa, former Board Member responded to this inquiry that they made the decision to give early retirement with all benefits instead of termination because Mr. Garae had a loan in the Bank. His benefits must be deducted towards his loans to assist the Bank in recovering the money.
- 6.3 On 12 July 1999, Mr. Denis Vira, the Chairman of the Board stated in an interview that the Board and the Bank had an advisor called Tonu Neil. Mr. Neil and Coopers & Lybrand assisted the Board with its decision. The decision to give Mr. Garae early retirement with all benefits came from the Bank's Advisor, Mr. Tony Neil and the management of the Bank. He was not, therefore, terminated.
- 6.4 Mr Garae made the following response to the allegations:

6.4 Mr Garae made the following response to the allegations:

- The 11 employees who complained were recruited as a result of a direct order from the Minister of Finance at that time in the UMP led Government. The Bank did not create any positions for them nor budgeted to pay their salaries.
- The employees were made redundant following an audit report from Moore Stephens.
- After another change of Government, the redundant employees complained to the current Minister of Finance, Mr. Willie Jimmy, about their termination. The Minister then instructed Mr. Garae to reinstate them. Mr. Garae did not re-instate them.
- Mr. Garae confirmed that he did not returned the Vt520,735 but instead converted it into his personal loan account. He also admitted that perhaps what he did was not exactly correct in the sense that he did not apply for the money as a loan in the first instance.
- The reason for not giving back the amount was that, by the time the Minister of Finance cancelled his trip to USA, he had already used part of the money so that was the reason why he decided to convert the amount to his personal loan.
- The amount was properly accounted for in the books of the Bank. A ten percent interest rate was charged beginning on Monday 27 January 1997, when Mr. Garae failed to returned the money.
- On the issue of the Bank purchasing air tickets for his wife to accompany him to Manila, Mr. Garae stated that, as General Manager of the DBV, he also held high positions in the Association of Development Financial Institutions in Asia and the Pacific, and there was some merit to have his wife travel with him on such trips. During such meetings organized by these Associations, organizers put together specific programs for spouses to participate in. That was the reason why his wife accompanied him to Manila. The amount was converted to his personal loan account. **(Refer ANNEXURE J for more details on Mr. Garae's response)**

Ombudsman's comment on the response.

- 6.5 An individual holding a high office in a Development Bank or any other public office has a fiduciary duty to the Bank and to the citizens of Vanuatu to be scrupulous in all dealings of a personal financial nature with the Bank. While Mr. Garae claimed that he was repaying the money, the fact remains that he had somehow "converted" the money granted for his travel allowance and air tickets for his wife to his personal loan account. Mr. Garae did not comply with the official lending limits offered to other employees of the Bank. He benefitted directly from this questionable transaction thus giving rise to doubt in the mind of the public about his leadership at the Development Bank.
- 6.6 Even if Mr. Garae is repaying the two different amounts of money through his personal loans, and even if he claimed that he technically did not steal the amount of money, he deliberately used his high office for personal gain at the expense of the citizens of Vanuatu. This action is a direct breach of the Leadership Code under Article 66 of the Constitution.

7. FINDINGS

The Ombudsman has made the following findings in this case:

7.1 Finding 1: Mr. Augustine Garae used his office for personal gain.

Mr. Garae was found to have used his office and position as a Managing Director of the Bank for personal gain. It is a breach of Article 66 (1)(a) & (2) of the Constitution. His actions to engage public funds for personal benefit has given rise to doubt in the public mind as to whether his actions fell within the Bank's established loan procedures and staff lending limits.

7.2 Finding 2: Mr. Garae did not follow loan procedures.

Mr. Garae appears to have had an intention to cheat the established loan procedures of the Bank when he deliberately took advantage of the institution he was heading to obtain for himself and his wife, the sum of Vt520,735 and Vt143,100 from the Bank. Mr. Garae may have breached Article 66 (1) (a) of the Constitution, where the exercise of his official duties placed him in a position where he had a conflict of interest.

7.3 Finding 3: Mr. Garae breached his fiduciary duty to the Bank and to the people of Vanuatu.

As Managing Director of the Bank, Mr. Garae had a fiduciary duty to the Bank and to the citizens of Vanuatu to be scrupulous in all dealings of personal financial nature with the Bank. His actions have given rise to doubt in the mind of the public about his leadership at the Bank

7.4 Finding 4: Mr. Garae allowed his integrity to be called into question

Although Mr. Garae repaid his loans and admitted that he was wrong, it appears that he breached Article 66 (1)(c) of the Constitution. By engaging in and admitting his wrongdoings, he allowed his integrity as the Managing Director of the Bank to be called into question.

8. RECOMMENDATIONS

The Ombudsman makes the following recommendations:

- 8.1 Subject to any outstanding loan still owed by the former Managing Director, Mr. Garae should be requested to repay any money with the Development Bank through the Asset Management Unit (AMU).**
- 8.2 Proper internal safeguards and procedures must be instituted by public authorities and Government for staff loans.**
- 8.3 Heads of Ministries, Departments and public corporations must maintain the highest professional standards without reproach and must not allow their integrity to be called into question by either their own staff, or the general public.**
- 8.4 The Government must ensure that managing directors of the financial institutions and the Government statutory bodies, public trustees and the like, do not use their positions and office for personal gain.**
- 8.5 The Government also should ensure that such persons who use their positions and office for personal gain should be held accountable for their actions and face the full force of Law, as the case may be.**

9. CONCLUSIONS

- 9.1 This report is a point of reference and advice to current and future senior managers of statutory bodies to be scrupulous in their management ethics and behaviour. This is to avoid putting their professional reputation and good character into disrepute, or into question in the eyes of professional colleagues and members of the public.**
- 9.2 The Board gave the appearance of undue influence in their decision making processes. The fact that the Board acted on the advice of the Management of the Bank opting for early retirement instead of termination, made it appear as if there were other influences affecting its decision, which was blatantly unreasonable.**

- 9.3 There seems to be weaknesses and undue consideration in both the Management and the BoD. While the findings might point to mal-administration in the management, and breaches of leadership code on the part Mr. Garae, "political force and pressure and of the day" could well have contributed to the outcome. Appropriate safeguards should be put in place to ensure that Ministers of the Vanuatu government apply their discretionary powers based on the rule of law and without undue political influence and discrimination.
- 9.3 Should Mr. Garae, a professional Chief Executive and experienced public official be called to duty again, public authorities need to make sure that he fully realises his wrongs and it should be a requirement for him to pledge to maintain the code of ethics required by any institution he joins.

Dated the 14th May 2001



Hannington G. ALATOA
OMBUDSMAN OF THE REPUBLIC OF VANUATU

10. INDEX OF APPENDICES

- A Relevant laws, regulations and rules.
- B Statement to affirm Mr. Garae's refusal to reimburse the 520,735Vt.
- C Statement as evidence for the request to the Bank to pay for Mr. Garae's wife airline tickets.
- D The Committee of Enquiry's report and findings on the complaint.
- E Minister Jimmy's letter of instruction to the Board
- F Details of the Board of Directors meeting and their decision on this complaint
- G The Chairman's letter to Mr. Garae to inform him of the Board's decision
- H Details of the breakdown of the retirement benefits
- I Statement as evidence that Mr. Garae influenced the Board in their decision to pay his severance benefits
- J Responses given by Mr. Garae on the Preliminary Report

ANNEXURE A

RELEVANT LAWS, REGULATIONS AND RULES

1. CONSTITUTION OF THE REPUBLIC OF VANUATU

CONDUCT OF LEADERS

Article 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 sub article (1).

DEFINITION OF A LEADER

Article 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.

• PERSONAL AND ADMINISTRATION MANUAL

LOANS TO STAFF

"It must be understood that the maximum number of loans which may be held by a member of staff at one time is two, being one either of a housing loan or personal loan and one small loan. If a person holding staff loan or loans leaves the Bank's service interest on those loans will be charged at a rate to be determined by the Bank"

• THE EMPLOYMENT AGREEMENT

DUTIES AND RESPONSIBILITIES

"It is understood that the Employee in his capacity as the Managing Director of the Bank shall perform his duties and responsibilities in accordance with those described in Schedule 1 of this Agreement and the Development Bank of Vanuatu Act 13 of 1983, of the satisfaction of the Employer"

8 JOB DESCRIPTION

PRINCIPAL DUTIES

(9) "The Managing Director shall cease to hold office if :

8. his appointment is terminated fby the Board with the approval of the Minister for a serious breach of the terms and conditions of service or for other sufficient cause"

(The above provision is enforced in s 18(e) of the Development Bank of Vanuatu Act)

To: Managing Director
From: Acting Manager Finance

Date: 1 September 1998

Re: Former MD's (Mr. Augustine Garae) Related Travelling Expenses

Around January of 1997, former managing director was supposed to attend a seminar on Micro Credit Summit in Washington D.C.

The former minister of Finance approved the trip, therefore we made the payment.

On 22nd of January 97, cheque No. 838807 from Bank of Hawaii was drawn amounted to VT218, 000, this was payable to Air Vanuatu.

On 23rd of the same month, cheque No. 838809 from the same bank was drawn, amounting to Vt520, 735, which were meant to be his allowances.

However, on Friday, the 24th of January, we learnt that the trip has been cancelled. When we approached Mr. Garae to refund the Vt520, 735, he told us that part of the monies has been used and would not be possible for refund.

He even refused to give us the unused ticket, instead he said that he will kept the ticket for future travel.

In April, the same year, he had an approval to attend another seminar in Manila, Philippines. This time it was an ADFIAP meeting. We paid the allowances and the air ticket and then he requested that we paid his wife's ticket. He also instructed our paymaster to transfer these amounts totaling Vt143, 100 (returned ticket) to his staff advance account.

Apparently we had two unused ticket totaling Vt264, 910, so what we did is paid an extra Vt21, 290 to make-up for two returned tickets (Vila-Sydney-Manila-Sydney-Vila: Vt143, 100 for two people = Vt286, 200)

We approached him on couple of occasions, on how these amounts should be till with. Finally, we decided to post the allowances (Vt520, 735) to his staff advance account just to balance off the accounts.

Posting of the Vt520, 735 (representing his allowances to Washington D.C) to Mr. Garae staff advance account was done on the 31/01/97 and this amount was transferred to his loan account on the 01/04/97 four months later.

Posting of the Vt143, 100 (i.e. his wife's airfare to Manila) to Mr. Garae staff advance account was done on 30/04/97 and was transferred to his loan on 01/07/97 four months later.

I think that's about it

Thank you,


Roy NOEL

Acting Manager Finance

8


26/20

Airfares

We have two un-used air-tickets purchased previously which I will use on this trip. My wife will be travelling with me and we will use these un-used air-tickets. But my wife's ticket will be fully refunded by me. The amount is Vt 143,000. I suggest you inform Brigitte of this so that she can charge this to my advance account which she controls. There will be a shortfall of only Vt 21,200 for the airfares which the bank has to pay. Please refer to the attached fax from Air Vanuatu for details.

ADFIP Annual Conference

Details of this conference will be provided at a later date. The conference will be held from 28 June to 1 July. Again I will have to attend this conference because of the important role that ADFIP provides in training of our staff. I am also the Chairman of this Association.


Augustine GARAE
Managing Director

2

1

1

1

1

SERVICE DES FINANCES

Sac Postal Privé No. 031, Port Vila

YOUR REF
OUR REF

IA/253/1997/JS

DEPARTMENT OF FINANCE

Private Mail bag 031, Port Vila

23rd June 1997

Date

To: Honourable Willy Jimmy
Minister of Finance
Government of the Republic of Vanuatu
PORT VILA

**RE: INQUIRY INTO THE CONTENTS OF THE REPORT SECTION(3)
AND (5) PREPARED BY FORMER EMPLOYEES OF THE
DEVELOPMENT BANK OF VANUATU**

The Honourable Minister of Finance Mr Willy Jimmy with provisions of Section 7 on the powers conferred to him as the Minister responsible for the Development Bank of Vanuatu (DBV) on 10th June 1997 appointed Mr Joylee R Seresere of the Internal Audit Section of the Department of Finance and Mr Peter Sali, Third Secretary of the Ministry of Finance to conduct an inquiry into a report submitted to the Minister of Finance by the eleven sacked employees of the DBV.

The report in particularly Section (3) and (5) accused the Managing Director of the DBV, Mr Augustine Garae for amalgamating the sum of Vt520,000 with his existing loans. This money was paid to him purposely for his subsistence allowance to attend a Managerial Bank's meeting in Washington D.C, USA.

This report was based on documents requested and provided by the Finance Manager of the DBV, Mr Roy Noel Mariasua. This documents confirm that Mr Augustine Garae was paid the sum of Vt520,735 purposely for his subsistence allowance to attend the Managerial Bank's meeting in Washington D.C, USA. This trip was later cancelled and the money was amalgamated with Mr Garae's existing loan.

BACKGROUND

The Managing Director of the DBV, Mr Augustine Garae was to attend a Managerial Heads of Bank meeting held at Washington D.C, USA on January 1997. The costs to attend this important meeting was to be paid by the Government of the Republic of Vanuatu. However, due to financial constraints affecting the Government, the National Planning Office (NPO) advised the DBV to meet the expenses.

Mr Garae was to depart on 25th January 1997 and was paid on Friday 24th January 1997 the sum of Vt520,735, being his subsistence allowance for twelve nights to be

D
spent in Washington D.C, USA. However, due to some unknown reasons, the former Minister of Finance Mr Shem Nokaut advised Mr Garae to cancel this trip. On the following Monday the Finance Manager asked Mr Garae to return the money only to be told that he had used up all the money.

After two months later on 1st April 1997 Mr Garae advised the Legal Department to amalgamate this money with one of his existing Personal loans A/c 2-3177-6.

SCOPE

The purpose to conduct this inquiry was to provide evidence to the report prepared by the eleven sacked employees' of the DBV and submitted to the Minister of Finance and to whether procedures applied to amalgamate the sum of Vt520,000 with one of Mr Garae's existing Personal loans was in accordance with the Bank's Personnel and Staff Instruction Manual.

INQUIRY

On Wednesday 11th June 1997 at 0830 hours we had a meeting with the DBV Finance Manager Mr Roy Noel Mariasua and Loans Manager Mr Hanington Alatoa. The meeting was held in the Information room of the DBV. At this meeting the Finance Manager admitted that the amount of Vt520,735 was paid to Mr Garae purposely as his subsistence allowance to attend a Managerial Bank's meeting to be held at Washington D.C, USA. However, due to unknown reasons this trip was cancelled by the former Minister of Finance Mr Shem Nokaut and that this money which should be returned was amalgamated with Mr Garae's existing Personal loan.

During our meeting we requested the Finance Manager to provide us with the following information and documents:

- (1) documents containing the payment of the Vt520,735 to Mr Garae
- (2) documents to amalgamate this money with Mr Garae's existing Personal loan
- (3) copy of the Staff Manual
- (4) copy of the Bank's Financial Regulations and
- (5) list of the staff loans.

The Finance Manager assured us that he would provide the information and the documents requested to assist us with our report. Upon receiving this assurance we trusted the Finance Manager for his assistance and into this important matter. However, at about 1330hours we had not received the information and documents requested and rang the Finance Manager only to be told that he had decided not to provide those information and the documents because it contradicts to the Bank's jurisdiction. A letter was received later explaining reasons for not having access to those information and documents.

On Friday 13th June 1997 at about 4pm, we had another meeting with the DBV Managing Director Mr Augustine Garae and his Finance Manager Mr Roy Noel Mariasua. The meeting was held at Mr Garae's office. At this meeting Mr Garae explained that according to the legal advice from the Bank's Legal Officer, the

13/6/97
I was not at that meeting
JL

D

information and documents
conditions and the
person(s) to be
the Auditor
which will be made in relation
is unclear
and pending court decision
This report was delayed and made more difficult due to conflict of legal procedure
the Bank's jurisdiction of the secrecy
Yours sincerely

FINDINGS

On 23rd January 1997 the Acting Deputy General Manager, Mr. Rod
approved the payment of V1520,735 to be paid to Mr. Garza
substance allowance to the Managerial Bank Staff
USA

On 24th January 1997 a cheque no. 838809 of V1520,735 was paid to Mr.
1.3 About two months later on 1st April 1997 the amount of V1520,735
with one of Mr. Garza's existing loans. This loan which the staff
Personal loan under category B of the Personnel and Staff Instruction
outstanding balance remaining was V1,759,347. According to the
the amount of V1520,000 was to refinance this outstanding balance
loan was V1,279,347. The repayment of the principal and interest
V136,100 per month.

1.4 The loan also 2-3177-2 is Mr. Garza's Housing loan under
Personnel and Staff Instruction Manual. According to the Loan
amount was V13,862,747. The repayment of the principal and
V146,000 per month. The outstanding balance remaining was
V1,64,000. This loan was approved on 24th November 1997
1. The loan also 2-3177-7 is Mr. Garza's second Personal
was provided. However, according to the loan statement
remaining as at 31st May 1997 was V188,196. It was also
an additional loan of V195,000 to refinance the outstanding
V100,500 of which the total outstanding balance remaining
V1,05,500. The repayment of the principal and the interest
loan statement is V19,230 per month.

2.0 Personnel and Staff Instruction Manual

2.1 The Personnel and Staff Instruction Manual
General conditions which 11.01 states that "There
available to Eligible Bank Staff:
Category A Staff Housing loan
Category A Staff Vehicle loan

information and documents requested could not be revealed as it contradicts to the Bank's jurisdictions and the Secrecy Act. Only the Auditor General has the authority to appoint any person(s) to carry out such inquiry and investigation in the Bank. However, we conducted the Auditor General and were told that at the moment his position to carry out his duties is uncertain due to the Public Service Commission's letter of termination and pending court decision to challenge the Public Service Commission's decision.

This report was delayed and made more difficult due to conflict of legal procedures of the Bank's jurisdiction and the secrecy Act.

FINDINGS

1.1 On 23rd January 1997 the Acting Deputy General Manager, Mr Rodney Maki approved the payment of Vt520,735 to be paid to Mr Augustine Garae being his subsistence allowance to attend the Managerial Bank's Meeting at Washington D.C, USA.

1.2 On 24th January 1997 a cheque no. 838809 of Vt520,735 was paid to Mr Garae.

1.3 About two months later on 1st April 1997 the amount of Vt520,735 was amalgamated with one of Mr Garae's existing loans. This loan which the a/c no. 2-3177-6 is a Personal loan under category B of the Personnel and Staff Instruction Manual. The outstanding balance remaining was Vt1,759,347. According to the Loan Agreement the amount of Vt520,000 was to refinance this outstanding balance of which the total loan was Vt2,279,347. The repayment of the principal and interest of the loan is Vt36,100 per month.

1.4 The loan a/c 2-3177-2 is Mr Garae's Housing loan under Category A of the Personnel and Staff Instruction Manual. According to the Loan Agreement, the loan amount was Vt3,865,747. The repayment of the principal and interest of the loan is Vt146,169 per month. The outstanding balance remaining as at 31st May 1997 was Vt1,641,661. This loan was approved on 24th November 1997.

1.5 The loan a/c no. 2-3177-7 is Mr Garae's second Personal loan. The loan Agreement was not provided. However, according to the loan statement the outstanding balance remaining as at 31st May 1997 was Vt188,196. It was acknowledged that there was an additional loan of Vt95,000 to refinance the outstanding loan balance of Vt100,500 of which the total outstanding balance remaining at 26th May 1997 was Vt195,500. The repayment of the principal and the interest of this loan as shown in the loan statement is Vt9,230 per month.

2.0 Personnel and Staff Instruction Manual

2.1 The Bank's Personnel and Staff Instruction Manual 11.00 specified Staff loans. The General Conditions which 11.01 states that "There are two categories of Staff loan available to Eligible Bank Staff:
Category A Staff Housing loan
Category A Staff Vehicle loan

Category B Staff Personal loan

Eligible Bank Staff are entitled to have two loans current at one time, being one loan from category A and category B.

In this instance Mr Garae is currently enjoying three loans current at one time. One of these loans is of category A which is Staff Housing loan and two are of category B which is Staff Personal loan with two different loan accounts.

2.2 According to the Personnel and Staff Instruction Manual 11.03 Conditions apply to all Staff Housing loans (j) states that "the Bank Employees total annual debt servicing loan of all staff loans, all non-Bank debt, land rent charges, insurance must not exceed 33.3% (per centum) of the Bank employee's annual salary". However, it was acknowledged that Mr Garae's debt service was about 51%.

SUMMARY

This report was based on documents provided by the DBV Finance Manager. It clearly indicated that proper loan procedures were not applied to amalgamate this sum of Vt520,000 with one of Mr Garae's existing Personal loans. This is a considerable amount of money which should be returned to the Bank after the trip was cancelled. It was unbelievable that Mr Garae could spent such credible amount of money just over three nights.

The nature of this amount of money which was paid to Mr Garae is different to that of acquiring a loan in the Bank. Proper procedures were not being applied and the amalgamation with one of Mr Garae's existing Personal loans after two months should not tolerate the loan procedures.

Mr Garae as the Managing Director should show good professional leadership to his junior staff. Such actions by Mr Garae questioned his credibility in his professionalism. The DBV legal Officer should have advised Mr Garae of the DBV Personnel and Staff Instruction Manual and the DBV Act. This is a clear example of favouritism practised in this public Institution. The Legal Officer and the Finance Manager's professional roles should also be questioned.

Mr Garae is also enjoying three loans current at one time of which his total debt service is about 51%. This is contradicted to the Personnel and Staff Instruction Manual 11.0, which states that "Eligible Bank Staff are entitled to have only two loans at one time; being one loan from category A and one Category B" and 11.03(j) and 11.04(g) states that "the Bank Employees' total annual debt servicing loan of all staff loans, all non-Bank debt, land rent charges, insurance must not exceed 33.33% (per centum) of the Bank employee's annual salary".

This report is compiled and submitted to you for your information. The copy of Mr Garae's contract is also attached.

[Handwritten signature]

Ministry of Finance
Third Secretary
Paris

[Handwritten signature]
Ministry of Finance
Third Secretary
Paris

Ministry of Finance
Third Secretary
Paris

D



Joylee R Seres
Senior Ass. Internal Auditor
Dept of Finance



Peter Sall
Third Secretary
Ministry of Finance

16/68

Cc: Director, DBV
Chairman, DBV

D



Sac Postal Réserve No. 058, Port-Vila

REF: MOF/3/3/6/WJ-jn
DATE: 27th June, 1997

Private Mail Bag 058, Port Vila

Telephone (678) 23032

The Chairman of the Board,
Development Bank of Vanuatu,
Rue De Paris,
PORT VILA.

Dear Mr. Chairman of the Board,

I attached for the Board discussion at the earliest opportunity possible the report based on the findings into the conduct of the Managing Director of DBV for amalgamating the sum of VT.520.735 into his personal loan account which was paid to him as a Subsistence Allowances for Overseas travel.

It is clear from the Inquiry's Report that proper loan procedures had not been fully complied with by Mr. Augustine Garae to have that paid as a loan in his account. That money was not given to him as a loan. The sum of 520.735 Vatu should have been returned to the bank when the Minister cancel his Overseas trip, two days before. His debt service stands at 51% which exceeds the requirements contained in the Personnel and Staff Manual section 11.0 "Eligible Bank Staff" are entitled to two loans at anyone time serviceable at the rate of 33.33% of the Bank employee's Annual salary.

Most of the times, junior staff below were victims of the actions caused by their superiors in the bank, and their actions contributes to the downfall of the bank today. As Minister responsible for the bank, I will not continue to tolerate with people having such irresponsible attitude and behaviour.

Recommendation:

Therefore Mr. Chairman, pursuant to the powers conferred upon me as the Minister responsible for the DBV under Section (7) of the DBV Act (Cap 169) and Section (21) of the Interpretation Act (Cap 132) I hereby consult the Board through you by this letter to exercise the powers of the Board inaccordance with Section 18 (1) and Section 18 (6) (e) to resolve the Managing Directors illegal and improper actions accordingly.

三

E

11/28

- 2 -

I believe that Managing Director had acted in breach of the Banks Internal rules applicable to all banks' employees as stipulated in the report, he should face disciplinary actions and I recommend dismissal by termination of giving him 90 days notice with immediate effect.

Please advise me the outcome of your decision.

Yours faithfully,



Hon. Willie JIMMY
Minister of Finance



cc: To First Secretary - Ministry of Finance

111

F

8/28
Attachment 2

Minutes of meeting 18/7/97

Agenda on other matters

1. Finance Minister's Letter

The Chairman asked the meeting to deliberate on the letter by the Minister of Finance requesting disciplinary action on the Managing Director for alleged misuse. He further informed the meeting that the Managing Director had been given opportunity to respond, to which he did.

The Deputy Managing Director was asked to cite the relevant provisions in the Bank's Act regarding disciplinary offences in the case of the Managing Director.

After various comments from all members, member Willie Korisa pointed out that the procedure for payment of the allowance in the first place was proper, but the failure to refund immediately constitute intention to misuse, and such practise from top management cannot be tolerated. Further that if care is not exercised, bank procedures will be misused for personal gains in future.

All members felt that termination of the employment of the Managing Director was in order, however there may be other options other than outright dismissal as instructed by the Minister's letter.

The meeting was further adjourned to give the Chairman time to consult further with the Managing Director.

On resumption of the meeting at 3.30 pm in the afternoon, the Chairman informed the meeting that, on further consultations, he wishes to recommend early retirement of the Managing Director to the Board as requested by the Managing Director himself.

The meeting resolved unanimously to accept the Managing Directors request for early retirement with all benefits paid, with effect from 18 July, 1997.

The Board further resolved to appoint the Deputy Managing Director, Tele H Rambay as the Acting Managing Director with immediate effect until such time as a new Managing Director is finally appointed.

The Board further resolved that the Chairman issue letters informing Mr. A. Garae of his early retirement and Mr. T H Rambay of his Acting Appointment, and further instructed that the vacant position be advertised locally for a period of one month immediately.

Meeting was adjourned to be resumed in the morning of 19 August, 1997, to give chance for the Chairman to brief the Minister of Finance on development to date.

11

Development Bank of
Vanuatu



3/4
Banque de Développement
de Vanuatu

RUE DE PARIS
P.O. BOX 241,
PORT VILA,
REPUBLIC OF VANUATU

Date : 18 July 1997

Our Ref : DV/jb/99

Mr. Augustine Garae
Managing Director
Development Bank of Vanuatu
P.O. Box 241
PORT VILA

Dear Mr. Garae,

I refer to our recent discussions and I write to advise you that pursuant to a Board Resolution passed by the Board of Directors at their meeting today, it has been agreed that you may take early retirement from the Bank with immediate effect.

Arrangements will of course be made for you to receive all the benefits due to you as a result of your early retirement.

You are currently occupying a house at the Bank's expense, and in order to allow you sufficient time to make alternative domestic arrangements, you may continue to occupy the property until 31st August, 1997. The Bank motor vehicle (Reg. 2125) must be made available to the Acting Managing Director, together with any other Bank property in your possession.

On behalf of the Board of Directors, I would like to thank you most sincerely for all the work you have done for the Development Bank of Vanuatu during the past nine years, and I wish you the best of good fortune for the future.

Yours sincerely,

Denis VIRA
Chairman, Board of Directors

2

11/14
H

Date : 6/08/97

RETIREMENT BENEFITS - AUGUSTINE GARAE

1. (a) Personal Loans
Personal Advances 2,653,790 VT

(b) Housing Loans 1,411,413 VT

OPTION A: Repay Housing Loan in full

Total Benefits	6,292,584
Less H/Loan	1,411,413

Net Payable	4,881,171
	=====

(Less VT 500,000 paid) = 4,381,171 VT

OPTION B: Repay Personal Loans & Advances in full

Total Benefits	6,292,584
Less Personal Loans & Adv.	2,653,790

Net Payable	3,638,794

(Less VT 500,000 already paid = VT 3,138,794)

2,014,000

1,098,794.

H

13/14

"I"

e

roy.
This request by AG was discussed with SV
and during that meeting AG spoke to SV over the
phone and both agreed to full payment of
instalments after application of 6.8.97.
to finalize the housing loan as in option A.

Note to Tele

I met Augustine Garae informally today.

YHR
7/8/97

I passed on your message that the Chairman's view was that all his loans should be repaid from his benefits, and that the Chairman had confirmed that in writing.

Augustine is not happy with this decision.

He draws attention to the following matters :

The Bank has no right to change the existing Loan Agreements covering his loans, because he has not defaulted.

Previous members of staff who have left the bank have not been required to repay their loans from their benefits.

He has already offered a compromise, by offering to repay his housing loan 12 months in advance of the maturity date, but wishes to retain his right to repay the personal loan by the agreed instalments.

He requests you to reconsider the matter, and recommend to the Chairman that he be permitted to repay the personal loan (approx. Vt.2.2.million) under the conditions of the Loan Agreement. He feels that a compromise on his part deserves a similar gesture from the Bank, but, if necessary he would pay a further Vt.200,000 to reduce the personal loan balance to Vt. 2 million. He asks that account is taken of the considerable expenses involved as a result of the situation in which he has been placed.

Considering the matters which he raises, he clearly has a point.

I would suggest that you discuss this with the Chairman urgently, and if necessary I would add my support to his request.

dm.

"I" III

FAXIN
4900

FAX TRANSMISSION

Augustine Garae

P.O. Box 2277

KOLONIA, POHNPEI FM 96941 - FSM

PHONE: (691) 320-3398

FAX: (691) 320-4236

To: Mr. Hannington G. Alatoa
Ombudsman of the Republic of
Vanuatu
P.M.B. 081
Port-Vila
Republic of Vanuatu

Date: September 4, 2000

Fax #: 678-27140

Pages: 11, including this cover sheet.

From: Augustine Garae

Dear Mr. Alatoa

RE: WORKING PAPER ON THE ALLEGED MALADMINISTRATION IN THE FORMER DEVELOPMENT BANK OF VANUATU

I am writing in response to your letter dated August 4, 2000 concerning the above subject matter. I realise today is your deadline to receive my comments but as I advised you in my fax last Friday (September 1, 2000) I only received your letter the day before on Thursday, August 31.

Thank you for giving me the opportunity to comment on the report your office sent me. I will fax my comments today but then I will also send the original by mail which should reach your office in three or four weeks time. If the fax is not clear then let me know and I will e-mail the message. But I want to make my submission in time to meet your deadline.

My comments on the report will only be brief. To start with it is now well over three years since I left the DBV and my memory may have slipped on the events surrounding the allegations. The comments I have prepared are not necessarily in the sequential order of the findings in the report (i.e. Finding No. 1, 2, etc) but I just picked on the main issues and then try and provide my views on them to the best of my ability. Below then are my comments:

1. Background Information

I think the report was written in such a way as though I did something really wrong. I want to say that the allegations were initiated initially by those staff whom the Bank decided to make redundant at that time. I do not remember but there were probably ten or twelve of them. Most of these staff

2

1000

5

were recruited as a direct order from the Minister of Finance at that time. We did not have positions for them in the Bank nor did we have any budget to pay their salaries. The redundancies were decided on by the Board, I think at its meeting on 22 and 23 May, 1997. The decision of the Board on the redundancies came about as a result of a report prepared by Moore Stephens on the operations of the Bank. Moore Stephens who were the Bank's external auditors at that time were commissioned by the Minister of Finance to prepare the report. The purpose of the report was to see how DBV could improve in its operations. I think there were something like fifteen recommendations made in that report to improve the operations of the Bank. One of these recommendations was to do with staff redundancies. The former Minister of Finance, Mr. Shem Naukaut gave his support on the redundancy proposal when I discussed the matter with him way back in December 1996. Please see the Minister's letter of support in Appendix 4 as attached.

To cut the story short what I did to make those ten or twelve staff redundant was not appreciated by the new Minister of Finance at that time when the Government changed. He instructed me to reinstate them. Please refer to the attached letter dated 26 May, 1997 from Peter Sali (Third Secretary) giving me this instruction. I have marked this letter as Appendix 1. Point no. 3 of Mr. Sali's letter refers to the appointment of a new Board of Directors. It was this Board with Denis Vira as Chairman that got me out of the Bank.

Mr. Ombudsman, while all this may be out from your report findings I want to make sure that the report is not biased. The enquiry which Joel Seresere and Peter Sali did came about as a result of the report with the allegations made by those staff whom the Bank made redundant. I am of the view that the staff concerned acted in a vindictive manner and hence, providing misleading allegations to disrupt the business of the Bank and unnecessarily damage my good reputation. The obvious thing at that time was for the new Government administration to find every possible excuse to get me out. I was under a lot of pressure from the politics and administration of the Government of the day. I found it hard to perform my duties as a professional in the interest of the Bank and the Nation as a whole.

2. Use of Vt 520,735

It is true that I did not return this money but instead converted it into a personal loan under my name. Perhaps what I did was not exactly correct in the sense that I did not apply for the money as a loan in the first instance. But by the time the Minister of Finance cancelled my trip I had already spent part of the money. I then decided to convert it into my personal loan. I realise all those allegations in the report but as a matter of fact the Bank was kept fully informed about the money. It was not that I lost it or stole it for that matter. I made sure that the money was properly accounted for in the books of the Bank. As I can recall the Bank started charging interest on it at 10 percent on Monday, 27 January, 1997. I received the money on Friday, 24 January, 1997. So in effect there was no loss of income through interest payments on the loan. I can also recall that the external auditors of the Bank at that time took note of the fact that interest payments were charged immediately, being on Monday, 27 January, 1997. So there was no loss of income from disbursement of the money.

My memory may be lacking but as I can recall the money was amalgamated with another personal loan I had at that time. Loan amalgamation is a common practice provided that the original loan

2

conditions do not change. In my case the loan conditions did not change. The Bank was still charging 10 percent interest and I believe the amortisation period was not extended. As a matter of fact I think the amortisation period was reduced because I wanted to make a higher monthly repayment amount than was necessary.

Summary:

My knowledge in understanding law is limited. But on this issue I really do not see how I could have abused my power as the Chief Executive at that time to act in the way I did. The circumstance surrounding the cancellation of my trip to Washington D.C. put me into this unfortunate situation. To suggest that I intensionally wanted to do things the way they happened is not correct.

3. Having Three (3) Loans: Findings No 1&2

The report makes mention of me having had three loans instead of two as per the Bank's Personnel and Staff Administration Manual. Staff loans were kept under control at all times, certainly when I was the Chief Executive of the Bank. Overall the guideline was that the total amount of funds borrowed by the entire staff at any one time must not exceed 5 percent of the Bank's total loan portfolio. The Manager of Administration would keep Top Management informed on the status on a regular basis. As an example I attach a memo as Appendix 2 which shows this kind of information. We observed this rule on a strict basis at all times.

But on the issue of how many loans a staff can have at one time the important factor that we always looked out for at that time was the debt-service ratio limit of 33.3%. We were somewhat flexible on this policy, depending on the needs and justification provided by the staff concerned. We would not allow a staff to borrow additional funds if he or she had already reached the 33.3% of the debt-service ratio limit unless in exceptional cases like in the case of death in an immediate family. Again, I cannot trust my memory now after three years but my third loan could have been the one I borrowed when my nephew died in Santo in March or April, 1997. (I stand to be corrected on this). I borrowed the money to help me charter a plane to fly his body back to Ambae. Several other staff who borrowed for emergency cases (mainly in the case of death), their debt-service ratio exceeded the limit of 33.3%.

Summary

I do not think I have violated any rules of the Bank in a strict sense by giving myself a third loan. In fact I never decided at any time to give myself a staff loan just because I was the Chief Executive. I always applied through the normal channel just like any other staff to make sure my requests were in compliance with the Bank's procedures.

4. Debt-Service Ratio

The report quotes a debt-service ratio of 51% for my three loans at that time. In other words this was 17.7% higher than the maximum requirement of 33.3% as allowed for in the Personnel and Staff Administration Manual. I explained the reason to the Board that got me out of the Bank but let me



explain this again. I had a housing loan at that time. I think the initial loan amount was something in the order of Vt 3,865,747. My monthly payment for this loan was Vt 146,169 and it was being repaid over a period of 3 ½ years up to end June, 1998. I decided to have this particular loan of mine to be paid off during this period of time (3 ½ years), hence this high monthly payment amount (at 10% interest rate). But under the Bank's Personnel and Staff Administration Manual I was entitled to repay the loan over 15 years which meant that my normal monthly repayment at 10% interest rate (over 15 years) would have only been something like Vt 41,542. With my monthly salary at that time of Vt 378,000 if I had decided to pay off the housing loan in 15 years then I think my total monthly payments for all my three loans would only have been equivalent to something like 23%, which would have been well below the 33.3% limit. The high monthly payment amount for my housing loan was of my own choosing. It was not a requirement under the Bank's Personnel and Staff Administration Manual.

If the repayment period for the housing loan was say 10 years then my debt-service ratio for the three loans would have been something like 26%. Even at 6 years my debt-service ratio for the three loans would have been about 31%, still below the 33.3% limit.

What I have decided to do was out of the three loans I had I wanted to pay off the housing loan first in just 3 ½ years and because of that my monthly payment of Vt 146,169 was much higher than necessary. I decided to do this so that by the time my contract came to an end in July, 1998 my housing loan would have been paid off. Below is what my debt-service ratio would have looked like if I had decided to maintain a longer amortization period as I was allowed to:

I had three (3) loans as follows:

	<u>Type of Loan</u>	<u>A/C No.</u>	<u>Monthly Payment</u>
1.	Personal	2-3177-6	Vt36,100
2.	Housing	2-3177-2	Vt146,169
3.	Personal	2-3177-7	Vt9,230
	Total		<u>Vt191,499</u>

1. As shown below, I decided to pay-off the housing loan in just 3 ½ years instead of say 15 years as I was allowed to:

Monthly Repayment for Three Loans

	Vt36,100	
	Vt146,169	(over 3 ½ years)
	Vt9,230	
Total	<u>Vt191,499</u>	This was 51% of my monthly salary of Vt 378,000

2. If I had decided to pay the housing loan over 15 years as allowed for under the Bank's procedures:

2

Mont

iv Repayment for Three Loans

Vt36,100

Vt41,502 (over 15 years as allowed)

Vt9,230

Total Vt86,872 This would have been only 23% of my monthly salary of Vt378,000

3. If I had decided to pay the housing loan over 10 years as allowed for under the Bank's procedures:

Monthly Repayment for Three Loans

Vt36,100

Vt51,086 (over 10 years as allowed)

Vt9,230

Total Vt96,416 This would have been only 26% of my monthly salary of Vt378,000.

4. If I had decided to pay-off the housing loan over 6 years as allowed for under the Bank's procedures:

Monthly Repayment for Three Loans

Vt36,100

Vt72,000 (over 6 years as allowed)

Vt9,230

Total Vt117,330 This would have been only 31% of my monthly salary of Vt378,000

Summary

I think the reasons I have given are clear. Assuming the figures I have used are correct then I do not think I have breached the Personnel and Staff Administration Manual in any way on this matter. It was my own choosing to pay more than what was necessary.

5. Early Retirement

The report suggests that I influenced the Board to give me early retirement rather than being terminated for allegedly breaching the internal procedures of the Bank. I feel sad about this baseless statement. As far as I know I have not influenced the Board Directors in anyway whatsoever for them to give me early retirement. It was true, the Chairman, Denis Vira came and spoke with me. At that time I informed him of my willingness to leave the employment of the Bank if his Board would not work with me as the Chief Executive. I think I did suggest the possibility for early retirement, or whatever else as the Board felt was appropriate but the final decision was really up to them. It was purely their discretion.

Today I have a clear conscience that the Board weighed the pros and cons as well as considered the allegations and facts carefully in a professional manner before making its decision on my early retirement. True, Denis Vira (Board Chairman) is from Ambae as stated in the report but he is from the West of the island. I come from the Eastern part of the island and we speak two different

2

languages. To tell the truth I do not think he was interested in anything I said at that time. The decision to give me early retirement was made in good faith by him and his other board members.

Summary

I did not influence the Board to make a decision in my favour. The Board Directors at that time had the responsibility to make their best judgement and decide accordingly on my case. To suggest that I influenced their decision is not true.

6. My Wife's Air tickets

I cannot quite recall the issues surrounding the events leading to the Bank having to purchase air tickets for my wife to the Philippines to accompany me on my official trip. Whatever it was I just want to mention that I held high positions in two of the Associations that DBV was a member of at that time. For the Association of Development Financing Institutions in the Pacific (ADFIP) I was the Chairman for about six years before I left DBV. For the Association of Development Financing Institutions in Asia and the Pacific (ADFIAP) I served on the Board of Directors.

My view is we should look at this in a positive way rather than being negative about it. In a way I think there was some merit to have my wife travel with me on that occasion because of my position in that Association. As many of us would know usually at big meetings such as the ones organised by these two Associations, the organisers put together a specific program for the spouses alone to participate in. So by having my wife there was appropriate, especially with me holding a high position in this Association.

Summary

I believe I have accounted fully for the money used. I am paying this off through my personal loan.

7. Not Releasing Information To The Committee Of Enquiry

At first Top Management at the Bank was caught by surprise that all of a sudden Joel Seresere and Peter Sali would do an enquiry at the Bank. We did not know the details of the enquiry and we did not know that the Minister of Finance at that time had actually set up a Commission of Enquiry as called for in the Bank's Act. I had to call an external legal counsel to advise us at the Bank just to make sure we complied with the legal requirements. I even sent a letter to the Minister of Finance on the matter. Please see Appendix 3.

Summary

I did not want to release any information just because I wanted to be difficult and unco-operative. I only wanted to be sure that we did not engage ourselves into any legal battle with anyone by releasing any confidential information without keeping in compliance with the laws covering the Bank.

2


8. Overall Comments

The events that led to my leaving the Bank were unfortunate. In all honesty I really do not share the view that I had committed any serious wrong doing that was justified enough to have me leave the Bank. I think the events I referred to in my introductory remarks influenced a lot on the decision to have me leave the Bank. And whether the Board made the right decision or not was another matter. I was not a party to that decision making. I am a man of integrity, loyalty and indeed a trustful person. I do not feel I have abused my power in any real sense just to get things for my own benefit. The allegations were blown out of proportion with one aim; to get me out of the Bank without any real reason.

Thank you again Mr. Ombudsman for giving me the opportunity to share my own views on the report. I hope that where appropriate your office will include my views as you see fit.

Please acknowledge receipt of this letter.

Yours sincerely



Augustine Garae

2

■
GOUVERNEMENT DE LA
REPUBLIQUE DE VANUATU

MINISTERE DES FINANCES

Sac Postal Privé No. 058, Port Vila

■
YOUR REF:
V/REF

OUR REF:
N/REF

FROM: Peter Sali
DU: Third Secretary Ministry of Finance

TO: General Manager
A: Development Bank of Vanuatu

DATE: 26th May, 1997

■
GOVERNMENT OF THE
REPUBLIC OF VANUATU

MINISTRY OF FINANCE

Private Mail Bag 058, Port Vila

■
MEMORANDUM

APPENDIX 1

RE: REDUCTION OF STAFF

Follow-up from our telephone conversation today (Peter/Garae) 26th May 1997 regarding the above subject.

I have been instructed by my Minister to advise you the following:-

1. As the comprehensive Reform Programme is still on progress and has not finalised its report to the government for implementation, the Honourable Minister has given instruction that you reinstate all the staff members this week that the previous Board has terminated.
2. Take note that the present Government was formed on 21st May 1997 and the Honourable Minister has not given any instruction to you to implement the above subject.
3. Follow-up from point 2, the Honourable Minister will be appointing the new Board of Directors shortly.
4. To conclude please proceed with instruction No. 1 immediately.

Peter SALI
Third Secretary
Minister of Finance



Amended by DAN 924

26.5.97

2

APPENDIX 2

NOTE TO : - MANAGING DIRECTOR
- DEPUTY MANAGING DIRECTOR

FROM: Manager Pers/Training & Admin. Division

Date : 12 July 1997

SUBJECT : STAFF LOANS PORTFOLIO

As at 30 June 1997, total Bank Portfolio equals to :	Vt 877,885,492
Total entitlement for Staff Loans Portfolio (ie 5 % of DBV Total Loan Portfolio) equals to :	Vt 43,894,274
Actual Staff Loan Portfolio equals :	Vt 48,997,398
less : Ex-Staff loans	(Vt 10,896,668)
	<u>Vt 38,100,730</u>
Add : Undisbursed loans	<u>Vt 895,000</u>
Total Staff Loan Portfolio	<u>Vt 38,995,730</u>

Staff loans portfolio currently make up 4.4 % of the total Bank loan Portfolio.


Rodney Bunga
Manager Pers/Training & Adm.

2

**Development Bank of
Vanuatu**



**Banque de Développement
de Vanuatu**

RUE DE PARIS
P.O. BOX 241,
PORT VILA,
REPUBLIC OF VANUATU

Date : 11 June 1997

Our Ref : AG/jb/700/2/4/1

APPENDIX 3

Honourable Willie Jimmy
Minister of Finance
Government of the Republic of Vanuatu
PORT VILA

Dear Minister,

**RE : APPOINTMENT TO CONDUCT AUDIT AND INQUIRY INTO THE
CONTENTS OF THE REPORT RECENTLY PREPARED BY FORMER
EMPLOYEES OF THE BANK**

We refer to your letter dated 10th June, 1997 addressed to Mr. Joel Seresere of the Internal Audit department of the Department of Finance.

It was our belief, in terms of your letter dated 9th June, 1997, that a Commission of Inquiry would be established, whereas it now appears that this is not the case.

In this event, and with the greatest respect, we are advised that the proposed audit and inquiry is outside, and contrary to, the provisions of Section 7 of the Development Bank Act.

Yours sincerely,

Augustine GARAE
Managing Director

Copy : DBV Board Chairman
Joel Seresere
Mr. Peter Sali

GOVERNEMENT DE LA
RÉPUBLIQUE DE VANUATU
MINISTÈRE DES FINANCES

Sac Postal Réserve No. 058, Port-Vila

REF:

DATE: MOF3/3/26/SN/mrj
10th December 1996



GOVERNMENT OF THE
REPUBLIC OF VANUATU
MINISTRY OF FINANCE

Private Mail Bag 058, Port Vila

Telephone (678) 23032

APPENDIX 4

Mr Augustine Garae
Managing Director
Development Bank of Vanuatu
PO Box 241
PORT VILA

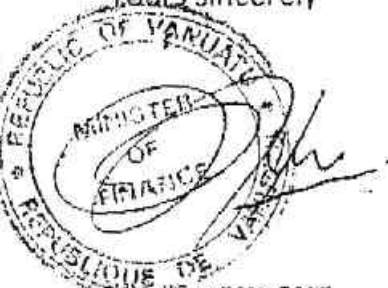
Dear Mr Garae

Re : Reduction in the number of employees

I refer to our meeting on the 6th November, 1996, in which you explained the difficulties being faced by the Bank. I will revert to you in more detail on this subject in due course, but in the meantime I would like to address one of the matters we discussed.

Considering the level of costs faced by the Bank, and the likelihood that revenue will again be insufficient to cover these in 1997, I was encouraged to note that among other measures, you have considered reducing the number of employees by around 15% in order to cut those costs. This action is prudent business practice, and accordingly has my support

Yours Sincerely



Shem NAUKAUT
Hon. Minister of Finance

APPROVED BY: [Signature] DATE: 5/1/97

2



1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

