

**REPUBLIC OF VANUATU
OFFICE OF THE OMBUDSMAN**

PMB 9081
Port Vila
Vanuatu

**PUBLIC REPORT
ON THE
ALLEGED BRIBERY BY
MR IARRIS NAUNUN TO OBTAIN
RESIDENCY STATUS FOR
MR PATRICK JENNY**

14 October 2002

8516/2002/12

PUBLIC REPORT
ON THE
ALLEGED BRIBERY
BY MR IARRIS NAUNUN
TO OBTAIN RESIDENCY STATUS
FOR MR PATRICK JENNY

SUMMARY

The Ombudsman is issuing this Public Report to illustrate how some leaders could improperly use their positions and status for personal gain. This report has shown one such example of how, Mr Iarris Naunun ("**Mr Naunun**"), who was then Second Secretary in the Ministry of Economic Affairs used his position and office for personal gain.

Mr Patrick Jenny ("**Mr Jenny**") arrived in Vanuatu on 19 March 1997 from Noumea on a Tourist Visa. He met an Australian woman and decided to apply for a residency permit. Mr Jenny sought assistance from Mr. Richard Bondier ("**Mr Bondier**"). Mr Bondier introduced him to Mr Naunun at his residence.

They had two meetings. During the first meeting, Mr Naunun indicated to Mr Jenny that he expected a "gesture" from Mr Jenny if he assisted him to get his residency permit. Mr Naunun gave an Immigration Application form to Mr Jenny to fill. Mr. Bondier proposed the amount of VT100,000. Mr Naunun did not specify the exact amount, but insisted that he be paid an amount of money to assist him with his electoral campaign.

At their second meeting, Messrs Bondier and Naunun pressurized Mr Jenny to pay the amount requested. Mr Naunun insisted that Mr Jenny should give him the entire sum of VT100,000 in cash. Mr Jenny refused this amount and signed a cheque for only VT50,000. Mr Naunun insisted to accompany Mr Jenny to his place where he requested his wife, who had a small business, to hire some friends. Mr Naunun also implied that he would facilitate her business.

Mr Jenny realized that he was making the most serious mistake of his life. Two hours after he signed the cheque, Mr Jenny contacted Mr Bondier and told him that he no longer required their assistance. He would follow the normal procedures to obtain his residency permit. He contacted the Banque d'Hawaii to stop them paying the cheque but Mr Naunun had already cashed it.

Mr Jenny met Mr Naunun the next day and asked him to reimburse the amount. Mr Naunun explained to him that he had already used the money to pay for his election fees, and promised to reimburse the money as soon as possible.

This enquiry found that at that time, Mr Naunun was not authorized by the Principal Immigration Officer to process immigration documents. He may have been illegally in possession of the Residency Permit forms. He was also found to have breached Section 73(1) of the Penal Code by corruptly accepting or attempting to obtain, a bribe for himself in respect of an act done by him in his official capacity as a Political Secretary.

Mr Naunun was also found to have breached section 22 of the Immigration Act. He purposely assisted Mr Jenny so that he may gain for his services. He did this act with an intent to deceive the Immigration Authorities in order for him to gain personally for his services. Mr Naunun tried to interfere with the normal procedure for a person to be granted a Residential Permit when he used his position in the government for personal gain when he asked Mr Jenny to pay him VT50,000.

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1. JURISDICTION

- 1.1 Pursuant to Articles 62(2) of the Constitution and Section 11(1) of the Ombudsman Act, the Ombudsman has jurisdiction to enquire into the conduct of government officers and their alleged corrupt practices. This includes the conduct of former Political Secretary, Mr Naunun (a former Member of Parliament) in attempting to interfere with legal and official Government procedures to acquire residency permit for someone whom he used for personal gain. The Ombudsman also has jurisdiction to investigate actions that are done contrary to the law.

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this Public Report is to present Ombudsman's findings as required by the Constitution and the Ombudsman Act.
- 2.2 The scope of this investigation is to establish the breaches of Laws.
- 2.3 This Office collected information and documents by informal request, summons, letters, interviews and research as may be required.

3. RELEVANT LAWS, REGULATIONS AND RULES

CORRUPTION AND BRIBERY OF OFFICIALS

The full text of all relevant laws are attached at the end of this report. (See **Appendix F**)

THE PENAL CODE (CAP 135)

THE IMMIGRATION ACT (CAP 66)

Mr Naunun is also in breach of **Section 73(1) of the Penal Code Cap 135** by committing a criminal offence of "**Corruption and Bribery of Officials**".

4. OUTLINE OF EVENTS

- 4.1 On 19 March 1997, a Swiss national named Patrick Jenny (Mr) arrived in Vanuatu from Noumea on a Tourist Visa and lived here for some time. He met an Australian lady and he decided to extend his visit in Vanuatu.
- 4.2 In November 1997, Mr. Jenny then sought advice for residency permits from Clayton Utz who advised him to see Mr Stan Uren at the Global Management Services for assistance.
- 4.3 In early February 1998, Mr Jenny talked to Mr Bondier about his plans to apply for a residency permit. Mr Bondier told him that he knew someone who could assist him get his residency permit. Mr Bondier introduced Mr Jenny in one of their arranged meetings to Mr Naunun. Mr Naunun was then the Second Secretary in the Ministry of Trade. Mr Naunun indicated to Mr Jenny that he could only assist him if he assisted him with his campaigns for the National Election in March 1998. So Mr Bondier made a proposal that Mr Jenny pay Mr Naunun VT100.000 for his assistance.
- 4.3 On 9 February 1998, another meeting was held at Mr Bondier's house where a letter was prepared and faxed to Dr Henz Egli, Vanuatu Consulate in Switzerland. During this meeting, Mr Naunun and Mr Bondier pressured Mr Jenny to give VT100.000 to Mr Naunun. However, Mr Jenny only signed a cheque for VT50.000. (See **Appendix A**).

- 4.4 After Mr Jenny arrived home, he changed his mind about the arrangement he was making with Mr Naunun for his residency permit. He decided that he would follow the proper procedure to obtain a residency permit. He then phoned the Banque d'Hawaii to stop them from paying Mr Naunun but they advised that they have already given money to Mr Naunun.
- 4.5 On 10 February 1998, Mr Jenny found Mr Naunun and demanded his VT50,000 back. However, Mr Naunun said that he had used the money to pay for his candidate fee for the 1998 national election, and promised to pay him back later.
- 4.6 On 17 February 1998, Mr Jenny applied for permit to enter and reside in Vanuatu. (See **Appendix B**).
- 4.7 On 4 March 1998, Mr Jenny lodged a complaint to the Office of the Ombudsman regarding the matter.
- 4.8 On 9 April 1998, Immigration wrote to Mr Jenny informing him that his application is refused based on the report of the Federal Police authorities in Berne. (See **Appendix C**).

Mr Jenny made an appeal against the PIO's decision to the Minister of Justice through the First Secretary, Peter Taurakoto ("Mr Taurakoto"). Mr Jenny's girlfriend and a former Tour Vanuatu bus driver Sam from Tanna approached Mr Taurakoto regarding the matter. By then Mr. Jenny had traveled out of Vanuatu.

- 4.9 On 5 May 1998, Mr Taurakoto sent a letter to the PIO informing him of the Minister's approval of Mr Jenny's residency permit. In the letter, he requested PIO to make appropriate arrangement for Mr. Jenny to re-enter Vanuatu. (See **Appendix D**).

Later (date not available) the PIO advised the Office of the Ombudsman that Mr Jenny had returned to the country on a visitor's permit. The PIO advised that he would contact the Attorney General's Office for advice.

- 4.10 On 13 May 1998, Mr Jenny's girlfriend produced a copy of the cheque issued to Mr Naunun at the Office of the Ombudsman. (See **Appendix A**).
- 4.11 On 15 May 1998, the Office of the Ombudsman followed up with the PIO whether there was any advice received from the Attorney General. There was still no answer.
- 4.12 On 15 July 1998, the Ombudsman's Office followed up the matter again with the PIO.
- 4.13 On 31 July 1998, the PIO advised the Ombudsman that he had tried to convince the Minister of Justice through his First Political Adviser, Mr Taurakoto that Mr Jenny should not be allowed into the country because he has a bad background as reported by the Berne Federal Police. However, the Minister's response was that his decision was final. (See **Appendix E**)

5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM

- 5.1 A Working Paper was issued on 20 June 2002 to those concerned for their responses and/or comments. Article 62(4) of the Constitution states that *"the Ombudsman shall grant the person or body complained of an opportunity to respond to the findings made against them."*

Copies of the Working Paper were sent to five people. Only two responded. The summaries of the responses are as follows:

On 11 July 2002, Mr Naunun phoned to say that he received his Working Paper on 2 July 2002 and requested the Office of the Ombudsman to extend the time/period for him to respond. His reasons being that he lives very far on Tanna and he has been sick.

Another letter was sent to him indicating that the time was extended to 23 August 2002. No response was received from him after this date.

On 26 June 2002, the Ombudsman received a response from Mr Leslie Garae, Principal Immigration Officer which reads:

Thank you for your letter of 20 June 2002 and the working paper on the subject matter.

*However, I do not have any further comment to this report and I would perhaps leave the report as it is. (see **Appendix G**).*

6. FINDINGS

- 6.1 Finding 1:** **The Ombudsman finds that Mr Naunun may have breached s.73(1) of the Penal Code by committing a criminal offence of "Corruption and Bribery of Officials".**

Section 73(1) no public officer shall, whether within the Republic or elsewhere, corruptly accept or attempt to obtain, any bribe for himself or any other person in respect of any act done or omitted, or to be done or omitted, by him in his official capacity.

Mr Naunun was found to have corruptly obtained and accepted a favour for himself in his official capacity as a Political Secretary therefore found to be in breach of Section 73(1) of the Penal Code.

Mr Naunun was also found to have acted illegally by presenting immigration documents to Mr. Jenny when he was not holding any positions of responsibility in the Immigration Department. In doing so, he has deliberately intended to influence Mr Jenny to pay him an amount of money for a service which he knew was illegal.

- 6.2 Finding 2:** **The Ombudsman finds that Mr Naunun may have breached s.22 (1) (a) of the Immigration Act by attempting to assist another person to obtain residency permit without following the legal procedures set out under the Immigration Act.**

Mr Naunun was found to have breached section 22 of the Immigration Act. He intentionally assisted Mr. Jenny so that he may gain personally for his services. He purposely did this with an intent to deceive the immigration authorities in order for him to benefit for his services.

Mr Naunun interfered with the normal procedure of acquiring a Residential Permit. His actions were unjust when he agreed to assist Mr Jenny to obtain a permit with an intention to gain personally for his services.

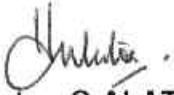
7. RECOMMENDATIONS

The Ombudsman makes the following recommendations based on the above findings to resolve these matters and prevent them from reoccurring in future.

- 7.1 The Ombudsman recommends that the Police, in collaboration with the Immigration Department and the Ministry of Internal Affairs carry out further investigations on this matter lay a criminal charge against Mr Naunun.**
- 7.2 The Ombudsman recommends that the Police complete investigation and provide case file to the Public Prosecutor to lay a criminal charge against M Naunun subject to evidence gathered during Police inquiry.**

- 7.3 The Ombudsman also recommends that both the Police and Immigration officials ensure that such practice is not repeated. Awareness should be brought about to prevent such improper practices.

Dated the 14th day of **October** 2002.



Hannington G ALATOA
OMBUDSMAN OF THE REPUBLIC OF VANUATU

8. INDEX OF APPENDICES

- A** Copy of cheque issued to MP Naununu
- B** Application for Residency Permit
- C** Reply to Mr Jenny's application for residential permit
- D** Mr Taurakoto's letter to PIO informing him of the Minister's approval
- E** PIO's letter to the Office of the Ombudsman on Minister's approval
- F** Relevant Legislation
 - Penal Code (Cap 135)
 - Immigration Act
- G** PIO's response to the Ombudsman's Working Paper

S^{re} AA N^o 205482
Banque d'Hawaii (Vanuatu) Ltd.
P.O. Box 29 - Kumul Highway - Port Vila - Vanuatu

L VT 50'000
Somme en chiffres - Amount in figures

Payez contre ce chèque
Pay against this cheque

cinquante mille vatu

Somme en lettres - Amount in words

à l'ordre de cash
To

Nom du bénéficiaire - Name of beneficiary

PAYABLE
BANQUE D'HAWAII
(VANUATU) LTD
PORT VILA

MME DE BRUYNE LEANNE
VT 18129 201 06

Port-Vila le 9 février 19 98

Appendix A

REPUBLIQUE DE VANUATU
REPUBLIC OF VANUATU
(R.C. N° 18 de 1971 - J.R. No 18 of 1971)

Demande de permis d'entrée et de séjour
Application for a permit to enter and reside

à adresser aux chefs du Service de l'Immigration
to be sent to the principal Immigration Officers, Vila (Vanuatu)

Je soussigné (Nom et prénoms)
I. (Full Name)

JENNY Patrick Bernard George

demeurant à (Adresse actuelle)
of (Present Address)

chemin des Uffins 2 1350 Mathod / CH Suisse

Sollicite un permis d'entrée et de résidence au Vanuatu. En cas d'octroi de ce permis, je me propose d'embarquer pour le Vanuatu sur le premier (avion/navire) disponible après la date du

13 mars 1998

do hereby make application for a permit to enter and reside in Vanuatu. If I obtain the required permit I intend to leave for the Vanuatu on the first available ship / plane leaving after the

day of 19

1. - Nationalité SUISSE

1. - Nationality (country of which citizen or subject).

2. - Lieu et date de naissance

Genève, le 10 mars 1958

2. - Place and date of birth.

3. - Lieu de naissance et nationalité des parents.

3. - Place of birth and nationality of parents :

Père / Father Alterswil (Fribourg) Suisse
(Lieu/place of birth) (Nationalité/Nationality)

Mère / Mother Genève (Genève) Suisse
(Lieu/place of birth) Nationalité / Nationality

4. - Dernier lieu de résidence permanente et durée

1350 Mathod, 5 ans / Suisse

4. - Last place of permanent residence and period

5. - Précédents séjours au Vanuatu et durée, du

5. - Whether previously in Vanuatu, if so, When? From

au approximativement 6 mois
depuis février 97

6. - Avez-vous déjà été expulsé ou refoulé du Vanuatu?

6. - Have you ever been deported from or refused entry to the Vanuatu? NO

7. - Situation matrimoniale (célibataire, marié, veuf, divorcé)

divorcé

7. - Marital state (Single, Married, or divorced)

8. - Si vous êtes marié

8. - married, state

9. - Nom et prénoms du conjoint

9. - full name of wife / husband:

10. - Nom, prénoms, sexe, date et lieu de naissance des enfants vous accompagnant

10. - full name, age, sex, date and place of birth of children accompanying the applicant

11. - Profession

ingénieur d'application informatique

11. - Occupation

12. - Motifs du séjour

retraite et raisons médicales

12. - Reasons for desiring to enter and reside in the Vanuatu.

13. - Emploi ou profession envisagée au Vanuatu

aucun

13. - Business or occupation proposed to be undertaken in Vanuatu.

14. - Si vous êtes engagé sous contrat, précisez les détails et le nom de l'employeur

14. - If under contract of employment give particulars and name of employer

11 - a) N° de votre passeport 8694350
a) State the number of your passport;

b) Lieu de délivrance Yverdon-les-bains / CH
b) Place of issue;

c) Date de délivrance 27.01.95
c) Date of issue;

d) Lieu et date de renouvellement
d) Place and date renewal; nouveau passeport

e) Renouvelé jusqu'au 27.01.2000
e) Renewed to

12 - Disposez-vous de moyens financiers suffisants pour assurer votre séjour? les préciser:
12 - State financial position or bank references.

oui, rente d'invalidé militaire, environ 400'000 vatu/mois.

13 - Langues écrites, et lues couramment: français, anglais, italien, allemand
13 - Languages in which you are able to read and write fluently.

14 - Adresse prévue pour votre séjour au Vanuatu Malapoa, box 1467, Port-Vila, tel: 23916
14 - Intended place of future residence in the Vanuatu

15 - Si vous avez des amis ou relations au Vanuatu, noms et adresses de deux au plus d'entre eux:

15 - Have you any friends or relatives in the Vanuatu? If so, give names and addresses of not more than two:

JOHN SIMBOLO
C/- CUSTOM & TAXES
PORT VILA
P.M.B. 012, VANUATU

Stanley Uvan
Global Management Services
P.O. Box 1515
Port Vila. Tel: 26588.

16 - Renseignements personnels:
Personal particulars:

a) sexe masculin
a) sex

b) taille 176 cm
b) height

c) carrure moyenne
c) build

d) teint clair
d) complexion

e) yeux brun-vert
e) colour of eyes

f) cheveux châtain clair
f) colour of hair

17 - En cas condamnation pénale, préciser la nature du délit et de la peine:

17 - If you have been convicted of a criminal offence give full particulars of conviction/s and sentence/s.

mars 1983, viol

septembre 1996, défaut d'ordonnance pour médicament inscrit au tableau B

18 - Pour les personnes ayant séjourné dans un hôpital psychiatrique, donner toutes précisions:
18 - If you have ever been a patient in a lunatic asylum or mental home, give full particulars.

Non.

Je soussigné certifie l'exactitude de toutes les déclarations effectuées ci-dessus.
I declare that the particulars set out in this application are true and correct in every respect.

Fait à Port-Vila
Dated at

le 17 février 1998
this day of 19

Signé par le demandeur en ma présence à
Signed by the applicant in my presence at

le
on

Le demandeur / Signature of Applicant

Le témoin / Signature of Witness to Declaration

NB a) Une demande séparée doit être présentée pour chaque postulant à l'exception des enfants de moins de seize ans qui peuvent figurer sur la demande de l'un des parents ou de la personne qui en a la garde.

Note a) Separate application must be made in respect of each person provided that application for children under sixteen may be included in the application by the parent or guardian.

Appendix C

Principal Immigration Officer
Immigration Department

Private Mail Bag 0092
Port Vila
Vanuatu

Telephone : (678) 22354
Facsimile : (678) 25492



REPUBLIC OF VANUATU

To

Your Reference

Our Reference

Date 09/04/98

Mr JENNY Patrick Georges
Malapoa Estates
Port-Vila.

Dear Sir

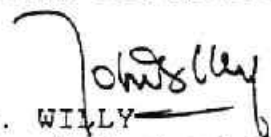
RE: APPLICATION FOR PERMIT TO ENTER AND RESIDE IN VANUATU

I write to acknowledge the receipt of your application.

However, I am regret to advise you that I am unable to approve your application in accordance with your report by the Federal de la Police Office in Berne.

Please make necessary arrangement to leave Vanuatu before 25th April 1998.

Yours faithfully


J. WILLY
For Principal Immigration Officer



cc: Commissioner of Police
cc: Deputy Prime Minister, Minister responsible
for Immigration Matters
cc: Chrono

GOUVERNEMENT
DE LA
REPUBLIQUE DE VANUATU

MINISTÈRE DE L'INTÉRIEUR



GOVERNMENT
OF THE
REPUBLIC OF VANUATU

MINISTRY OF HOME AFFAIRS

MIA/700/5/0012/98//PKT/vb

5th May 1998

Mr. Lesley Garae
Principal Immigration Officer
P.M.B.
PORT VILA


Dear Sir


I have been directed by the Hon. Deputy Prime Minister and the Minister responsible for Internal Affairs Hon. Fr. Walter H. Lini to advise you that he has approved Mr. Patrick Jenny's application for a residency permit.

Please would you on receipt of this advice proceed to make appropriate arrangements to facilitate Mr. Patrick Jenny's reentry to the Republic of Vanuatu.

Mr. Patrick Jenny is advised of this decision by copy of this letter.

Yours sincerely


Peter K. Tausakoto
First Political Adviser
Ministry of Internal Adviser

A circular official stamp of the Ministry of Home Affairs, Republic of Vanuatu. The outer ring contains the text 'REPUBLIC OF VANUATU' at the top and 'REPUBLIQUE DE VANUATU' at the bottom, separated by two stars. The inner circle contains the text 'MINISTRY OF HOME AFFAIRS' at the top and 'MINISTÈRE DES AFFAIRES INTÉRIEURES' at the bottom, separated by a horizontal line.

Cc: Mr. Patrick Jenny & Leanne De Bruyne

Principal Immigration Officer
Immigration DepartmentTelephone : (678) 22354
Facsimile : (678) 25492Private Mail Bag 0092
Port Vila
Vanuatu

REPUBLIC OF VANUATU

To

Your Reference

Our Reference Imm/03/01

Date 31/07/98

Marie Noelle FERRIEUX PATTERSON
Ombudsman of the Republic of Vanuatu
P.M.B. 081
Port-Vila.

Dear Sir/Madam

RE: RESIDENCY PERMIT TO PATRICK JENNY

I refer to your letter of 15 May 1998 as your ref
2965/8516/L18/1g on the above.

Firstly I would like to say that, Mr Patrick Jenny's
application was refused at the first place and he was
ordered to leave the country by a letter dated 9 April 1998,
with the time period of departure given not later than 25
April 1998.

Mr Patrick Jenny, however, left the country but same time he
made an appeal directly to the Minister responsible for
Immigration Hon. Fr.W.Hadye Lini where the Minister approved
his application.

On 1 June 1998, I tried to convince the Minister through his
first Secretary Mr Peter TARAKOTO by explaining my decision
regarding Mr Patrick Jenny's application. I have asked
whether the Minister is aware of Mr Patrick's criminal
records and also if he has seek legal advise before his
decision.

But I was replied that, since the Minister made his decision
the Principal Immigration Officer or the Secretary has no
power to question the Minister's decision.

Therefore, Mr Patrick Jenny's Residency Permit was granted
upon the directive of the Minister to the Principal
Immigration Officer.

Yours faithfully

Leslie GARAE
Principal Immigration Officer



Appendix F

PENAL CODE (CAP 135)

CORRUPTION AND BRIBERY OF OFFICIALS

- s.73 (1) "No public officer shall, whether within the Republic or elsewhere, corruptly accept or obtain or agree or offer to accept or attempt to obtain, any bribe for himself or any other person in respect of any act done or omitted, or to be done or omitted, by him in his official capacity".

Appendix F

THE IMMIGRATION ACT (CAP 66)

OFFENCES AND PENALTIES

- s.22 (1) (a) Any person who for the purpose of obtaining for himself or for any other person or of assisting any other person to obtain any permit shall be guilty of an offence against this Act.

Telephone: (678) 22354
Facsimile: (678) 25492
E-mail: bravei@vanuatu.gov.vu

Vanuatu Immigration Service
Department of Immigration
Private Mail Bag 092
Lini Highway
Port Vila



Our Ref: IMM/01/11
Date 26th June 2002

Mr Hannington G ALATO
Ombudsman of the Republic of Vanuatu
PMB 081
Port Vila
Vanuatu

Dear Sir,

**RE: WORKING PAPER ON THE ALLEGED BRIBERY BY MR IARRIS NAUNUN TO
OBTAIN RESIDENCY PERMIT STATUS FOR MR PATRICK JENNY**

Thank you for your letter of 20 June 2002 and the working paper, which outlined as on the above subject.

However, I do not have any further comment to this report and I would perhaps leave the report as it is, but if your office still need further clarification from my office then you may do call at this office as usual or Tel: 22354.

Yours faithfully,


Leslie GARAE
Principal Immigration Officer