



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

ON THE MAL-ADMINISTRATION IN THE APPOINTMENT OF THE CHIEF EXECUTIVE OFFICER OF THE VANUATU INVESTMENT PROMOTION AUTHORITY

Date: 30 October 2007



REPUBLIC OF VANUATU

PUBLIC REPORT ON THE MALADMINISTRATION IN THE APPOINTMENT OF THE CHIEF EXECUTIVE OFFICER OF THE VANUATU INVESTMENT PROMOTION AUTHORITY

SUMMARY

Outline of events (see further page 4)

Mr Joe Ligo is currently the Chief Executive Officer of the Vanuatu Investment Promotion Authority. His term in office was renewed in June 2006 after it had expired in April 2006. Mr Ligo's contract was renewed by the Minister responsible for Trade, Mr James Bule. In fact, during the recruitment process, the Board of VIPA provided Mr Bule with Mr Howard Aru and Mr Ligo's names. Mr Aru, along with five (5) other applicants, had responded to the Board of VIPA's advertisement for interested applicants for the post, whereas Mr Ligo sought a renewal of his contract. The Ombudsman investigated a complaint that the appointment had not been done on merit and that the appropriate procedures for appointment were defective.

Findings (see further page 12)

- The VIPA Board erred based on facts by considering Mr Ligo's letter requesting renewal of contract as a new application.
- The VIPA Board acted contrary to natural justice by treating request for renewal as a new application
- The VIPA Board breached Section 14(a) of the Leadership Code Act
- The VIPA Board acted improperly based on error of fact and law by signing an agreement to settle out of Court in favour of Mr. Aru

Recommendations (see further page 13)

The Ombudsman recommends:

- The term "chosen" in Section 21(1) and (3) of the Foreign Investment Act No.15 of 1998 must be amended to "recommended".
- The Board of VIPA must apply Public Service recruitment procedures in the appointment of the CEO of VIPA.
- The State Law Office must assist the VIPA Board to stop the payments to Mr Howard Aru and recover the monies that were paid to Mr Aru.
- The VIPA Board must have a lawyer at all times to assist in its Board meetings

TABLE OF CONTENTS

1. JURISDICTION	4
2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED	4
3. RELEVANT LAWS	4
4. OUTLINE OF EVENTS	4
5. RESPONSES BY THOSE WITH FINDINGS AGAINST THEM	11
6. FINDINGS	12
7. RECOMMENDATIONS	13
8. INDEX OF APPENDICES	14

1. JURISDICTION

- 1.1 The Constitution, the Ombudsman Act and the Leadership Code Act allow the Ombudsman to look into the conduct of government, related bodies, and Leaders. This includes the Board of the Vanuatu Investment Promotion Authority. The Ombudsman can also look into defects in laws or administrative practices, including the appointment procedures of the Chief Executive Officer of the Vanuatu Investment Promotion Authority.

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this report is to present the Ombudsman's findings as required by the Constitution, the Ombudsman Act and the Leadership Code Act.
- 2.2 The scope of this investigation was to establish the facts about the process of appointing the Chief Executive Officer ("CEO") of the Vanuatu Investment Promotion Authority ("VIPA"). It was also to determine whether the Board of VIPA's conduct was proper. The purpose of the investigation was also to determine whether the Foreign Investment Act and the procedures of appointment of the CEO were defective in any way.
- 2.3 The Office collected information and documents by informal request, notices, letters, interviews and research.

3. RELEVANT LAWS

Relevant parts of the following laws are reproduced in **Appendix 1**.

- The Constitution of the Republic of Vanuatu
- Foreign Investment Act No.15 of 1998
- Foreign Investment (Amendment) Act No.1 of 1999
- Leadership Code Act No.2 of 1998

4. OUTLINE OF EVENTS

- 4.1 Because the CEO's contract was soon to expire on 17 April 2006, the VIPA Management Team on behalf of the VIPA Board of Directors ("**VIPA Board**"), arranged for the position of the CEO of VIPA to be advertised in the *Vanuatu Daily Post* newspaper on the 4th and the 11th of March 2006. A copy of the advertisement is attached as **Appendix 2**.
- 4.2 On the 5th of March 2006, the Chairman of the VIPA Board, Mr Lionel Kaluat, ("**Mr Kaluat**") invited Ms Nancy Wells from the Statistics Office, Mr John Atkins Aruhuri from the Vanuatu Chamber of Commerce, and Ms Serah Obed from the Vanuatu Financial Services Commission to sit in the panel to screen applications for the post of CEO of VIPA.
- 4.3 Applications were received from Ms Wendy Himford, Ms Alice Sami, Mr Marokon Alilee, Mr Jag Beerbul and Mr Howard Aru ("**Mr Aru**"). Amongst

the applications was a letter from Mr Joe Ligo ("**Mr Ligo**"), the then CEO requesting a renewal of his contract for another three (3) years. Mr Ligo was not applying with the new applicants in response to the advertisement, but he was asking instead for a renewal of his contract as it was soon to expire on 17 April 2006. A copy of Mr Ligo's contract is attached as **Appendix 44**.

- 4.4 On the 5th of April 2006, the Board of VIPA short-listed applicants and commissioned the interview panel to interview the short-listed applicants.
- 4.5 Interviews were then conducted on the 11th of April 2006. There were three short-listed candidates: Mr Ligo, Mr Aru and Mr Marokon Alilee. However, as Mr Alilee withdrew his application, only Mr Ligo and Mr Aru were interviewed. The final scores for the candidates were Mr Aru averaging 84.5 and Mr Ligo 68. A copy of the score sheet is attached as **Appendix 3**.
- 4.6 A letter dated 12th April 2006 and signed by the Chairman of VIPA was remitted by members of the VIPA Management Team to the Minister for Trade, Honourable James Bule ("**Mr Bule**") in the presence of his Director General and his first and second political advisors. In his letter, Mr Kaluat states

...After a lengthy and thorough interview and assessment of the candidates based on a given selection criteria, the Board sees it fit to collectively recommend that the names of the two candidates be recommended to the Hon. Minister for the Investment Promotion Authority with a view that necessary appointment be made by the Hon. Minister in accordance and in conformity to Article 21 of the VIPA Act, Sub-section 1-9...

- 4.7 The two names were of Mr Ligo and Mr Aru (refer to **Appendix 4** for more information). According to the VIPA Management Team, two names had also been submitted in the past due to the candidates' experience, and also because they both passed the average score mark.
- 4.8 Members of the VIPA Management Team informed the Ombudsman that before the letter was handed to Mr Bule, he was quoted to have clearly stated his intension to renew Mr Ligo's contract as CEO of VIPA due to his past performance in the last three years and also what was reported upon in VIPA's Annual Report.
- 4.9 The following day, April 13th 2006, Mr Bule drafted a letter to Mr Kaluat, instructing him to prepare an instrument for him to sign for the appointment of Mr Ligo to the post of CEO of VIPA for another period of 3 years. (A copy of the Minister's letter is attached as **Appendix 5**).
- 4.10 On that same day, Mr Aru wrote to Mr Kaluat to ask them to review the process used to appoint Mr Ligo. He pointed out in his letter that there is a breach of section 21(3) of the Investment Promotion Authority Act (see **Appendix 6**).
- 4.11 On the 18th of April 2006, Mr Ligo addressed a letter to Mr Kaluat to protest about Mr Aru's letter of 13 April and to defend the renewal of his contract.

He also raised other concerns such as the composition of the interview panel which he perceived was improper. A copy of Mr Ligo's letter is referenced as **Appendix 7**.

- 4.12 On the same day, Mr Smith Tebu ("**Mr Tebu**"), an officer of VIPA representing the management team of VIPA wrote to Mr Tom Joe Botleng of the State Law Office seeking his legal opinion on the process of appointing the CEO and its legal implications if the appointment had been done improperly (see copy of Mr Tebu's letter attached as **Appendix 8**).
- 4.13 On the 19th April 2006, Mr Aru reproached Mr Kaluat in response to Mr Ligo's letter of 13th April 2006. He again asked that the Board of VIPA review the selection process, particularly as he had sought legal advice on the matter.
- 4.14 The following day, in a letter to Mr Bule, Mr Kaluat requested that the honourable minister review the appointment of the CEO. He confirmed that the Minister's renewal of Mr Ligo's contract was being challenged. He also advised that after seeking advice from the State Law Office, the Board had two options – to appoint the person with the highest point average, or readvertise the position. The Board's decision was to re-advertise. Therefore, Mr Bule was being informed that the appointment of Mr Ligo was null and void (refer to **Appendix 9**).
- 4.15 On the 20th of April 2006, in a letter to Mr Aru, Mr Kaluat notified him (Mr Aru) that the Board of VIPA had had an urgent meeting and had decided to nullify the procedure it had followed to reappoint Mr Ligo after he had complained to them. Because of this, the post would be readvertised (see **Appendix 10**).
- 4.16 21st April 2006 saw the VIPA Board meeting with the Minister of Trade, Mr Bule where it was agreed that the CEO post would be re-advertised as the Board had agreed to in their meeting the previous day.
- 4.17 Mr Kaluat then issued a letter to the Minister for Trade on the 25th April 2006 reaffirming that following their agreement to re-advertise the CEO post and also that the current appointment was null and void, the Board of VIPA was requesting that the Minister issue a letter to revoke his decision of 13 April 2006 that had seen the appointment of Mr Ligo as CEO (refer to **Appendix 11**).
- 4.18 The VIPA Board met on the 5th of May 2006 and decided to seek further legal advice from the State Law Office following receipt of a letter of complaint from Mr Ligo. In this letter, the VIPA Board had advised him that his appointment had been nullified. Mr Ligo then wanted to claim for damages. (see **Appendix 12**)
- 4.19 On the 8th May 2006, Mr Kaluat sent a letter to the Acting Attorney General seeking legal advice after their meeting of the 5th of May 2006. In his letter,

Mr Kaluat mentions that as the honourable Minister is overseas, he has not dealt with the Board's letter of the 25th of April 2006. Mr Kaluat then requested that the Acting Attorney General provide legal opinions on Mr Ligo's letter and the legal implications of the Minister's decisions (see **Appendix 13**).

- 4.20 In a letter dated 9th of May 2006, the honourable Minister for Trade, Mr Bule wrote a letter to Mr Kaluat (refer to **Appendix 14**). In this letter Mr Bule says,

...After our discussion on the matter, I have however decided that my decision to appoint Mr Joe Ligo is final. I could not comprehend the fact that the two names were sent without prior consultation with the State Law Office. Please inform the Board that I will not change my decision and as you may appreciate, Joe Ligo is a CEO of VIPA. Should Mr Howard Aru wish to challenge the decision then to me, it is his democratic opinion and freedom to do so.

- 4.21 On the 24th May 2006, Mr Kaluat wrote to Mr Ligo, inviting him to resume duties as CEO VIPA after they had considered the legal implications of the issue (see **Appendix 15**).
- 4.22 On the 24th of May 2006, Mr Kaluat wrote to Mr Aru regarding the review of the appointment of the CEO VIPA. He informed him that they (the Board) have 5 options available to them to resolve the matter and that they have opted for a cost effective avenue in order to maintain theirs and VIPA's integrity and reputation. In this letter, Mr Kaluat also suggested that if Mr Aru was not happy, that he approach the Board to settle the matter out of court (for more information, see **Appendix 16**).
- 4.23 Acting on behalf of Mr Aru, Mr James Tari ("**Mr Tari**") from *Trans-Melanesian Lawyers* addressed a letter on the 31st of May 2006 to Mr Kaluat. In this letter, Mr Tari said that they should resolve the issues in accordance with the VIPA Act. He also said that the Minister has had to choose between two people and this was not proper according to the VIPA Act. Mr Tari said that the Board's actions to 'save face' with the Minister are not legal. Mr Tari offered to settle the matter out of court on several conditions and provided a deadline of 14 June 2006 or they would institute court proceedings (see **Appendix 17**).
- 4.24 Mr John Sala ("**Mr Sala**"), the Vice Chair of the VIPA Board then responded to Mr Tari's letter on 31st May 2006 in a letter dated 8th of June 2006. He said that the Board did not accept the conditions proposed by Mr Aru as he was a public servant who is answerable to the Public Service Commission and was expected to abide by the Public Service rules and Act. They proposed that the Board compensate Mr Aru for the loss of being able to secure the post of VIPA CEO for a period of up to 3 years which was equivalent to VT5,363,580. The letter is cc to others that include Minister of Trade and the SLO (refer to **Appendix 18**).

- 4.25 On that same day, (8th of June 2006), Mr Sala, also wrote a letter to the Minister for Trade, Mr Bule informing him of the out of court settlement, Mr Aru's claims and what the Board had decided (see **Appendix 19**). In particular, Mr Sala says,

...With the above briefs on the current state of the matter, the Board hereby requests your assistance to solve the above amount of VT5,363,580 should Howard Aru agree to accept the Board's above proposal or assist the Board to pay 50% (VT2,681,790) of the above costs.

The request is made due to the financial constraints that VIPA and the Board currently are experiencing which may result in VIPA being forced to take drastic measures to operate till the end of this year, 2006.

- 4.26 On June 13th, 2006, Mr Sala responded to Mr Aru's request for a breakdown of the amount of VT5,363,580 and how it was to be paid out. The Board's intention was to pay him a total amount of 1,787,860 every year for a period of 3 years. The amount is for salary and allowances at the public service salary scale of P20.1. In the letter, Mr Sala asked Mr Aru to respond to them before their meeting on 15 June 2006 to deliberate further on the matter (refer to **Appendix 20**).
- 4.27 In a letter dated 20th June 2006, Mr Tari informed Mr Sala that his client accepted the offer but on certain terms (see **Appendix 21**). (Mr Tari attached three copies of the Agreement with the letter).
- 4.28 Mr Sala responded to Mr Tari's letter on 21st June 2006. He said that the Board preferred to pay Mr Aru in instalments rather than their suggestion of a lump sum as payment in lump sum would have serious effects on VIPA (See **Appendix 22**).
- 4.29 On the 7th of August 2006, Mr Tari reminded Mr Kaluat in a letter that a contractual arrangement had already been reached but the first payment which was due on 28 July 2006 had not been made. Mr Tari also advised Mr Kaluat that they would sue the government and VIPA if the payment was not made before 4.30pm Thursday 10th August 2006, where Mr Aru would be claiming VT15 million to VT20 million (see copy of letter attached as **Appendix 23**).
- 4.30 On the same day, Mr Kaluat responded to Mr Tari's letter, explaining to him that there was a delay in paying Mr Aru because the State Law Office had to provide a written advice to the Department of Finance to make the payment but they had not done so yet. They requested until the end of August 2006 to sort out the matter. The letter was copied to the Solicitor General as a reminder (refer to **Appendix 24**).
- 4.31 On the 8th of August 2006, Mr Dudley Aru, the Solicitor General at State Law Office wrote to Mr Kaluat to object to claims that the payment were being held up because State Law Office had not advised the Department of Finance to make the payments (see **Appendix 25**). The Solicitor General said that the VIPA Board had been taking initiatives on its own and the delay

in payments was really because the Ministry of Trade refused to share the costs. He said that he had confirmed this in a phone call with Mr Tebu of VIPA. The Solicitor General said

...We would have thought that VIPA should have come out clearly to be honest in outlining the real reason for this delay rather than blaming this office for causing the delay.

In light of the above, we are of the view that it is appropriate that VIPA honour what it has stated in its two letters to Trans Melanesian Lawyers and settle the amount it has offered to pay Mr. Howard Aru.

- 4.32 Mr Aru reproached Mr Kaluat in a letter dated 28th of August 2006 to settle the matter out of court in the presence of the Board and Mr Aru's lawyer. He requested to hold a meeting by 4.30pm, Thursday 31 August 2006 (refer to **Appendix 26**).
- 4.33 The Solicitor General provided options to the honourable Minister for Trade in a letter dated 30th August 2006 to deal with the matter (see **Appendix 27**). In effect, he said that they had two options:
 - (i) in the event that the matter was taken to court by Mr Aru, that they use in their defence section 3(2) of the Interpretation Act Cap 132. However, the legal costs may be 10 to 20 million vatu if Mr Aru won his case
 - (ii) that VIPA honour their agreement with Mr Aru because the contract is a valid one and it is a straightforward option.
- 4.34 In a letter dated 8th September 2006 (see **Appendix 28**), the honourable Minister for Finance, Mr Willie Jimmy Tapangararua advised the minister responsible for VIPA that the funds will have to be deducted from the Ministry's budget or the VIPA's 2007 budget. He also said to Mr Bule that

...The Solicitor General letter is very clear and mandatory. The process of appointing Mr. Joe Ligo was a bias decision and not in accordance with the law.
- 4.35 On the 22nd September 2006, the honourable Minister James Bule sought the advice of the Solicitor General through a letter regarding the legality of public servants applying for the VIPA CEO post whilst in office.
- 4.36 The Solicitor General responded that it is not necessary for a public servant to resign from his post if he is applying for the post of VIPA CEO (see **Appendix 29 & 30**).
- 4.37 On the 4th of October 2006, the Ombudsman requested that the Board of VIPA and the honourable Minister for Trade respond to allegations and questions about the appointment of Mr Ligo as CEO to Board of VIPA (see **Appendix 31 & 32**).

- 4.38 Mr Bule responded to the Ombudsman in a letter dated 10th of October 2006 stating that he chose Mr Ligo as he thought he was the best candidate (refer to **Appendix 33**). He said that...

This choice was based on his outstanding performance during the first term of his appointment as CEO. During the meeting that was attended by various members of the Board I advised them and followed up with a letter confirming my choice of Mr Ligo as the CEO.

The reason for not reversing my decision on the appointment of the CEO is that I expect advice from technicians to be sound and correct in all its aspects. It is not proper for a state Minister to be seen to be weak, irresponsible and indecisive in matters of the state when it comes to decision making. I therefore assume that all aspects of the matter have been considered before it was brought to me.

The Ministry has since sought the advice of the State Law Office on the matter and their advice is being implemented to correct the unfortunate situation.

- 4.39 Mr Kaluat responded to the Ombudsman's letter on the 11th of October 2006. A copy of his response is attached as **Appendix 34**. Mr Kaluat says that the Board sought the advice of the VIPA management on the standard practices for the appointment of the CEO. They used the selection criteria of the PSC to choose the candidate. Mr Kaluat says that he had issued verbal instructions to have the panel's decision endorsed by the Board before it was forwarded to the Minister. This did not happen and Mr Kaluat says that if it had, then only one name would have been forwarded to the Minister. The VIPA management, however, *personally met, briefed and handed the letter of recommendation for the appointment of a new CEO to Minister.* He reaffirms that the Board in good faith agreed in principle to settle the matter out of court. Mr Kaluat also said that the VIPA management said that following past practice, *whenever both candidates score above the average score, both candidates would be eligible for the post. This is where they prepared a letter for the Chairman to sign and have it sent to the Minister.* Because of the technical error, the Board decided to compensate Mr Aru.

- 4.40 The Ombudsman also queried the VIPA Management on the practice of appointing a CEO in a letter dated 10th November, 2006. A copy of the Ombudsman's letter is attached as **Appendix 35**. The Acting Principal Investment Officer, Mr Smith Tebu's response to the Ombudsman's letter is attached as **Appendix 36**. In particular, Mr Tebu says

Before, we actually delivered the letter, the Minister clearly expressed himself in front of us saying: "thank you for coming but before you came, I have already made up my mind for Joe Ligo to remain as CEO of VIPA because, he has proven himself during his last 3 years contact with VIPA & the VIPA Annual Report has proven that."

- 4.41 The Ombudsman then provided this statement to the Minister of Trade and asked him to respond to the statement (see **Appendix 37**). In his first response, Mr Bule did not respond directly to the Ombudsman but instead asked that the Ombudsman investigate the Acting CEO, the Chairman and all the Board members of VIPA (see **Appendix 38**). The Ombudsman then issued another letter to Mr Bule reminding him to respond to his questions

as set out (refer to **Appendix 39**). Mr Bule responded to say that *"formal decisions by this Ministry are communicated through written statements not verbal communications"* (see **Appendix 40**).

- 4.42 In a meeting with Mr Kaluat, the Office of the Ombudsman was informed that the Chairman of the Board of VIPA had met several times with the Minister for Trade who had made his decision before the Board had made any recommendations to him. (Mr Kaluat said that Mr Bule admitted to him that personally, he did not like Mr Aru and he preferred Mr Ligo). This has been counted as a personal comment by the Ombudsman.
- 4.43 The Ombudsman has received confirmation that Mr Aru was paid VT3,108,942 on 17 November 2006 as part payment for compensation to him (see **Appendix 41**). Another payment was also made on 19 March 2007 for an amount of VT1,127,319 (refer to **Appendix 42**). The Ombudsman is informed that a balance of some VT700,000 is still to be paid to Mr Aru. However, Mr Aru is disputing the accuracy of this figure.

5. RESPONSES BY THOSE WITH FINDINGS AGAINST THEM

- 5.1 Before starting this enquiry, the Ombudsman notified all people or bodies complained of and gave them the right to reply. Also, two (2) working papers were provided prior to preparation of this public report to give the individuals mentioned in this report another opportunity to respond.
- 5.2 Responses were received from the following:
- Honourable Willie Jimmy Tapanga Rarua (Minister of Finance and Economic Management).
- 5.2.1 Mr Tapanga Rarua said that he had no further comments to make on the matter.
- Mr Joe Ligo (CEO of VIPA)
- 5.2.2 Mr Ligo said that he did not wish to comment any further, but instead thanked the Ombudsman for handling the matter in a professional manner, even though he felt that the Board and the Panel had personal feelings against himself during their deliberations over the recruitment process.
- Mr Dudley Aru (Solicitor General)
- 5.2.3 Mr Aru responded on behalf of himself and Mr Tom Joe Botleng of the State Law Office. As there were no adverse findings against the State Law Office, they did not wish to make any further comments. They still maintained their position as reflected in **Appendix 27** and **Appendix 30**.
- Honourable James Bule (Minister of Trade, Commerce, Industry & Tourism)
- 5.2.4 Mr Bule maintained his comments from the first working paper and asked that they be included in this report. Mr Bule's response is therefore attached as **Appendix 43**. Mr Bule also said that as the findings are all against the VIPA

Board, he was currently seeking legal advice as to how to deal with the Board.

- Mr Howard Aru

5.2.5 Mr Aru was not happy with the Ombudsman's findings. He felt that the Ombudsman was biased towards Mr Ligo and he disputes the wordings of the VIPA Act and also that Mr Bule personally favoured Mr Ligo over himself. Mr Aru also says that the Ombudsman is interfering in an agreement between himself and the Board. He says that he will look forward to a public report recommending this matter be dealt with in court.

5.3 The Ombudsman has found that the personal comments in this report are heresay and has not included them in the findings. Rather, the matter has shown that there are two different processes at play here; an application for the position of CEO by Mr Howard Aru and a request for renewal of contract by the CEO, Mr Joe Ligo. Both are two different things that the Board took into consideration when recommending two names to the Minister of Trade to make the appointment. The discretion to recommend rests solely on the Board but the power to appoint rests with the Minister. In making his decision, Mr Bule appointed Mr Ligo based on past performances and this is the appropriate means to do so. Further, Mr Ligo is entitled to a renewal under his first contract. The only error was for the Board to apply the full screening process to Mr Ligo.

6. FINDINGS

6.1 **Finding 1: The VIPA Board erred based on facts by considering Mr Ligo's letter requesting renewal of contract as a new application.**

6.1.2 Mr Ligo is permitted to apply for a renewal of his contract and the Board may consider his request (see clause 1.2 of **Appendix 44**). The VIPA Board should have dealt with his request separately from those who had simply been responding to the advertisement.

6.2 **Finding 2: The VIPA Board acted contrary to natural justice by treating request for renewal as a new application**

6.2.1 Mr. Ligo had a valid contract with VIPA Board and had the right to request a renewal of his contract. His request was treated as a new application and so he was subjected to the selection process again. The Board had a duty to decide whether he should be given a renewed contract or otherwise.

6.3 **Finding 3: The VIPA Board breached Section 14(a) of the Leadership Code Act**

- 6.3.1 The VIPA Board members have breached the Leadership Code in not acting fairly by treating a request for renewal of contract under an existing contract as a new application. There is no evidence of legal advice on Mr Ligo's request for renewal of contract. It is the duty of the Board to ensure that they are performing their duties lawfully and fairly.
- 6.4 **Finding 4: The VIPA Board acted improperly based on error of fact and law by signing an agreement to settle out of Court in favour of Mr. Aru**
- 6.4.1 Mr. Aru was a permanent staff of the VIPA office during the time of the recruitment process. He was employed as a senior officer until he resigned and left the office on 29 September 2006. There was no breach of his legitimate expectation to be appointed CEO because he had an application and his rival had an existing contract and the right to request renewal for another 3 years. Mr Aru did not suffer any loss or damages at all. If he was appointed acting CEO in the past, he was paid acting allowances so the out of court settlement of Vt5,363,580 has no legal basis. All payments must be stopped immediately.

7. RECOMMENDATIONS

- 7.1 The term "**chosen**" in Section 21(1) and (3) of the Foreign Investment Act No.15 of 1998 must be amended to "**recommended**".
- 7.2 The Board of VIPA must apply Public Service recruitment procedures in the appointment of the CEO of VIPA.
- 7.3 The State Law Office must assist the VIPA Board to stop the payments to Mr Howard Aru and recover the monies that were paid to Mr Aru.
- 7.4 The VIPA Board must have a lawyer at all times to assist in its Board meetings.

Dated 30 October 2007

Peter K. TAURAKOTO
OMBUDSMAN OF THE REPUBLIC OF VANUATU

8. INDEX OF APPENDICES

1. Relevant laws
2. Copy of the advertisement for the post of CEO VIPA
3. Copy of the Score Sheet for Mr Aru & Mr Ligo
4. Copy of letter outlining recommended candidates
5. Copy of letter from Mr Bule for appointment of Mr Ligo
6. Copy of Mr Aru's complaint letter to the Board of VIPA
7. Copy of Mr Ligo's response to Mr Aru's complaint letter
8. Copy of Mr Tebu's letter to the State Law Office
9. Copy of Mr Kaluat's letter to Mr Bule that Mr Ligo's appointment was null and void.
10. Copy of Mr Kaluat's letter to Mr Aru to readvertise the post
11. Copy of Mr Kaluat's letter to Mr Bule to revoke his decision to reappoint Mr Ligo
12. Copy of Mr Ligo's Complaint letter to the Board of VIPA
13. Copy of Mr Kaluat's letter to the Acting Attorney General
14. Mr Bule's letter to Mr Kaluat to not revoke his decision
15. Copy of Mr Kaluat's letter to Mr Ligo to resume duties as CEO
16. Copy of Mr Kaluat's letter to Mr Aru suggesting out of court settlement
17. Copy of Mr Tari's letter to Mr Kaluat to settle the matter under conditions
18. Copy of Mr Sala's letter to Mr Tari to settle for a certain amount of money
19. Copy of Mr Sala's letter to the Minister of Trade about the settlement
20. Copy of Mr Sala's letter to Mr Aru on breakdown of settlement amount
21. Copy of Mr Tari's letter to Mr Sala on settlement conditions
22. Copy of Mr Sala's letter to Mr Tari to pay settlement in instalments
23. Copy of Mr Tari's letter to Mr Kaluat re out of court settlement

-
24. Copy of Mr Kaluat's letter to Mr Tari on reason for delay in payment
 25. Copy of the Solicitor General's letter to Mr Kaluat
 26. Copy of Mr Aru's letter to Mr Kaluat to meet by 31/08/06
 27. Copy of the Solicitor General's letter to Mr Bule on two options
 28. Copy of Minister for Finance' Letter to Minister for Trade
 29. Copy of Mr Bule's letter to the Solicitor General for advice
 30. Copy of The Solicitor General's letter in response to Mr Bule
 31. Copy of the Ombudsman's letter to Mr Kaluat
 32. Copy of the Ombudsman's letter to Mr Bule
 33. Copy of Mr Bule's response to the Ombudsman.
 34. Copy of Mr Kaluat's letter to the Ombudsman
 35. Copy of the Ombudsman's letter to VIPA Management
 36. Copy of VIPA Management's Response to the Ombudsman
 37. Copy of the Ombudsman's letter to Mr Bule dated 29/1/07
 38. Copy of Mr Bule's response to the Ombudsman's letter of 29/1/07
 39. Copy of the Ombudsman's letter to Mr Bule dated 19/2/07
 40. Copy of Mr Bule's response to the Ombudsman's letter of 19/2/07
 41. Copy of LPO of first payment to Mr Aru
 42. Copy of LPO of second payment to Mr Aru
 43. Copy of Mr Bule's response to the Ombudsman's working paper
 44. Copy of Mr Ligo's contract ending April 2006

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.
- 66(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

- 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.

FOREIGN INVESTMENT ACT NO. 15 OF 1998

CEO AND OTHER STAFF OF BOARD

21. (1) The CEO is to be chosen by the Selection Committee under subsection (11) and appointed by the Minister for a period of not less than 1 year and not more than 3 years.
21. (2) A person is not entitled to be appointed as CEO unless the person:
- (a) has significant experience and competence in business and investment; and
 - (b) has an understanding of the investment environment; and
 - (c) is fluent in English or French, and has a reasonable command of the other; and
 - (d) has been chosen by the Selection Committee.
21. (3) The Minister must appoint as CEO the person chosen by the Selection Committee.
21. (4) The CEO may be reappointed if he or she is chosen again by the Selection Committee.

FOREIGN INVESTMENT (AMENDMENT) ACT NO. 1 OF 1999

AMENDMENT OF SECTION 21

13. Section 21 of the Principal Act is amended by:
- (a) deleting from subsection (1) "chosen by the Selection Committee under subsection (11)" and substituting "chosen by the members of the Board through an open and competitive selection process based on merit";
 - (b) deleting "; and" from paragraph (2)(c);
 - (c) deleting paragraph (2)(d);
 - (d) deleting "Selection Committee" from subsections (3) and (4) and substituting "members of the Board";
 - (e) deleting subsections (11), (12), (13) and (14).

LEADERSHIP CODE ACT NO. 2 OF 1998

PART 1 - PRELIMINARY

SUMMARY OF OBLIGATIONS IMPOSED ON LEADERS BY CHAPTER 10 OF THE CONSTITUTION

2. (1) In Chapter 10 of the Constitution, Article 66 provides that a leader must 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 interest or in which the fair exercise of his public or official duties might be compromised; or
 - (b) demean his office or position; or
 - (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) Article 66 also provides that, in particular, a leader must 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 66(1).
- (3) Article 68 requires Parliament by law to give effect to the principles of Chapter 10.

LEADER'S BEHAVIOUR

3. A leader holds a position of influence and authority in the community. A leader must behave fairly and honestly in all his or her official dealings with colleagues and other people, avoid personal gain, and avoid behaviour that is likely to bring his or her office into disrepute. A leader must ensure that he or she is familiar with and understands the laws that affect the area or role of his or her leadership.

LEADERS

5. In addition to the leaders referred to in Article 67 of the Constitution, the following are declared to be leaders:
 - (a) members of the National Council of Chiefs;
 - (b) elected and nominated members of local government councils;
 - (c) elected and nominated members of municipal councils;
 - (d) political advisors to a Minister;
 - (e) directors-general of ministries and directors of departments;
 - (f) members and the chief executive officers (however described) of the boards and statutory authorities;**
 - (g) chief executive officers or secretaries-general of local governments;
 - (h) the town clerks (or their equivalent in name) of municipal councils;
 - (i) persons who are:
 - (i) directors of companies or other bodies corporate wholly owned by the Government; and
 - (ii) appointed as directors by the Government;
 - (j) the Attorney General;
 - (k) the Commissioner and Deputy Commissioner of Police;
 - (l) the Solicitor-General;
 - (m) the Public Prosecutor;
 - (n) the Public Solicitor;
 - (o) the Ombudsman;
 - (p) the Clerk of the Parliament;
 - (q) the Principal Electoral Officer;
 - (r) the Auditor-General;

Appendix 1 - Page 3 of 3

- (s) the Chairperson of the Expenditure Review Committee;
- (t) the Chairperson when acting in that capacity of the Tenders Board;
- (u) members of the Public Service Commission;
- (v) members of the Teaching Service Commission;
- (w) members of the Police Service Commission;
- (x) members of the Electoral Commission;
- (y) the Commander of the Vanuatu Mobile Forces.

PART 2 DUTIES OF LEADERS

DUTIES OF LEADERS

13. (1) A leader must:
- (a) comply with and observe the law;
 - (b) comply with and observe the fundamental principles of leadership contained in Article 66 of the Constitution;
 - (c) comply with and observe the duties obligations and responsibilities established by this Code or any other enactment that affects the leader; and
 - (d) not influence or attempt to influence or exert pressure on or threaten or abuse persons carrying out their lawful duty.

APPOINTING PEOPLE ON MERIT

14. A leader must:
- (a) act fairly in appointing people to offices and positions for which he or she has responsibility, so that people are appointed impartially and on merit; and
 - (b) do his or her best to encourage participation in government by men and women according to their abilities; and
 - (c) not interfere or attempt to interfere in the Public Service Commission in breach of the Public Service Act 1998.

PART 3 BREACHES OF LEADERSHIP CODE

BREACH OF LEADERSHIP CODE

19. A person who does not comply with Part 2, 3 or 4 is guilty of a breach of this Code and is liable to punishment in accordance with Part 6.

OBEYING THE LAW

28. A leader acting in his or her capacity as a leader who fails to abide by an enactment that imposes on the leader a duty, obligation, or responsibility is in breach of this Code.



VANUATU INVESTMENT PROMOTION AUTHORITY

VACANCY NOTICE

VIPA has a vacancy to Chief Executive Officer

Responsibilities

The person we are seeking will be leading and directing these important activities of the VIPA:

- Investment Promotion
- Appraisal of Investment Proposals
- Implementation of Investment Project

Qualifications

The CEO should hold a first degree in Business Management, Economics, Public Administration, or other relevant qualification acceptable to the Board and at least 3 years experience in a managerial position and have demonstrated positive leadership qualities. Good communication and negotiation skills are essential, as is a sound appreciation of the local and international environment.

The ideal candidate will have background knowledge of human resources management and corporate planning. Previous experience in the commercial sector or with an investment promotion organization would also be an advantage.

Remuneration

Remuneration will be within the public service salary scale of P19-P21. Apart from this, the post offers the opportunity to travel widely, to participate in training and development programs, to represent Vanuatu in regional and international meetings and to also interact with business community leaders, senior government officials, diplomats and officials of the various overseas agencies located in Vanuatu. The CEO will be appointed for a term not less than one year, and not more than three years, with the option to renew.

Applications

This is a senior position and only those who possess the necessary qualifications will be considered. Applications marked "Chief Executive Officer" must include a detailed curriculum vitae and should be sent to:

The Management
Vanuatu Investment Promotion Authority
Level 1, Pilioko House, PMB 9011, Port Vila

Please contact the VIPA on Tel: 24096 / 24441 or Fax: 25216 to obtain a package containing details of the above vacancy.

All applications must be received by 4.30pm, Friday 31st March 2006.



COMMISSION DE LA PROMOTION DES INVESTISSEMENTS A VANUATU

VACANCE DE POSTE

La CPIV recherche un Administrateur directeur général (ADG)

Responsabilités

La personne recherchée aura la charge de diriger les activités importantes suivantes de la CPIV:

- Promotion des investissements
- Evaluation des propositions d'investissements
- Exécution des projets d'investissement

Qualifications

L'ADG doit être titulaire d'un diplôme de premier cycle en gestion des affaires, économies, administration publique ou avoir des qualifications connexes acceptables devant le Conseil d'administration et posséder au moins 3 années d'expérience à un poste de direction et démontrer des qualités acquises de leadership. Des compétences en communication et négociation sont essentielles ainsi qu'une très bonne connaissance du contexte commercial local et international.

Le candidat idéal doit avoir des connaissances en matière de gestion des ressources humaines et de planification générale. Une expérience antérieure dans le secteur commercial ou au sein d'un organisme de promotion des investissements serait un avantage.

Rémunération

Le salaire sera compris entre les échelons P19-P21 de la grille salariale de la Fonction publique. Le poste offre également la chance de beaucoup voyager, de participer à des programmes de formation et de développement, de représenter Vanuatu à des réunions régionales et internationales et aussi de dialoguer avec les dirigeants du milieu des affaires, les agents diplomatiques et officiels des différentes agences étrangères à Vanuatu. L'ADG est nommé pour un mandat d'un an au moins et de trois ans au plus, renouvelable.

Candidatures

Ce poste est un poste cadre et seuls les candidatures possédant les qualifications requises seront retenus. Les candidatures portant l'inscription d'"Administrateur Directeur Général" doivent être accompagnées d'un curriculum vitae complet et envoyées à:

La Direction
Commission de la Promotion des Investissements à Vanuatu
1er Etage, Immeuble Pilioko, SPR 9011, Port Vila

Pour obtenir une trousse de renseignements avec tous les détails du poste, veuillez contacter la CPIV au 24096 / 24441 ou par fax au 25216.

Toutes les candidatures devront parvenir à l'adresse susmentionnée d'ici **vendredi 31 mars 2006-16h30**.

Vanuatu Daily Post Issue 1672 March 11 2006

Appendix 3

BOARD INTERVIEW PANEL

- Interview Panel met on Tuesday 11th April 2006 to interview the two short listed candidates namely Mr. Howard Aru & Mr. Joe Ligo. The credits points are as follow:

Final score: -----/220

Average score: -----/110

LABOUR:	JOE: 30/55	HOWARD: 43/55
NSO:	JOE: 40/55	HOWARD: 42/55
VFSC:	JOE: 33/55	HOWARD: 44/55
CCI:	JOE: 33/55	HOWARD: 40/55

TOTAL:	136/220	169/220
---------------	----------------	----------------

HOWARD: 169/220	Diff-: 16	AVER: 84.5
JOE: 136/220	Diff-: 33	AVER: 68

* BOTH CANDIDATES HAVE PASSED THE TOTAL AVERAGE SCORE OF 110.

<u>FINAL SCORE:</u>	HOWARD:	AVER- 84.5
	JOE:	AVER- 68

Note: The two applicants have very competitive points.



VANUATU INVESTMENT PROMOTION AUTHORITY

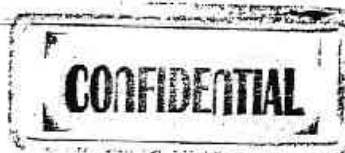
Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

12th April 2006

The Hon. James BULE (MP)
Minister of Trade, Tourism & Investment
Ministry of Trade, Tourism & Investment
PMB 9074
PORT VILA



Dear Hon. Minister James BULE (MP),

Re: APPOINTMENT OF A NEW CEO FOR THE VIPA BOARD

The Vanuatu Investment Promotion Authority (VIPA) is a Government Statutory body and was established in 1998 by an Act of Parliament. The Chief Executive Officer (CEO) is the head of the Authority and is responsible to the Board for the efficient carrying out of the functions of the Authority as outlined in Section 19 (4A) of the VIPA Act.

The signed contract of the current CEO of VIPA Mr. Joe LIGO will be expired on the 17th April 2006, which is next Monday. Following the VIPA Board panel meeting held yesterday, Tuesday 11th April 2006 to interview the two candidates for the above Position, I wish to inform your high Office on the outcome of the panel meeting. The interview panel was comprised of four representatives from various Government institutions.

The Board by virtue of the Act as outlined in Section 21 Sub-section 1 – 9 (see attached), met and interviewed two respective candidates namely Mr. Howard Ernest ARU and the incumbent CEO Mr. Joe Wilson LIGO.

Following the above process I wish to inform you on behalf of the VIPA Board that Mr. Joe Wilson Ligo scored an average point of 68 and Mr. Howard Ernest Aru scored an average point of 84.5. The results also indicated that there were 3 votes mostly in favour of Mr. Howard Aru, while no vote in favour of Mr. Joe Ligo and 1 abstain.

After a lengthy and thorough interview and assessment of the candidates based on a given selection criteria, the Board sees it fit to collectively recommend that the names of the two candidates be recommended to the Hon. Minister for the Investment Promotion Authority with a view that necessary appointment be made by the Hon. Minister in accordance and in conformity to Article 21 of the VIPA Act, Sub-section 1-9

URGENT

Appendix 4 – Page 2 of 2

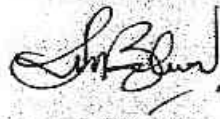
which states that " *The CEO is to be chosen by the members of the Board through an open and competitive selection process based on merit and appointed by the Minister for a period of not less than 1 year and not more than 3 years*" and in Sub-section 3, the Minister must appoint a CEO, the person chosen by the members of the Board".

We are therefore submitting this recommendation on behalf of the Board for your final consideration as the Hon. Minister responsible for VIPA, with the view that your final appointment of the relevant candidate to the Post of CEO to VIPA, would last for a period not less than one year and not more than 3 years as clearly stipulated in the VIPA Act.

With assurances of your highest consideration, we look forward to seeing the final appointment of the CEO of VIPA by the Hon. Minister in due course.

Yours sincerely,

Vanuatu Investment Promotion Authority



Lionel KALUAT
Chairman, VIPA Board.



CC: VIPA File

Appendix 5

GOUVERNEMENT DE
LA REPUBLIQUE DE VANUATU

MINISTÈRE DU COMMERCE
DE L'INDUSTRIE ET
DU TOURISME



GOVERNMENT OF
THE REPUBLIC OF VANUATU

MINISTRY OF COMMERCE,
INDUSTRY AND
TOURISM

MINISTRY OF TRADE, COMMERCE, INDUSTRY AND TOURISM

Mr. Lionel Kaluat
Chairman
Vanuatu Investment Promotion Authority
Private Mail Bag 9011
Port Vila

April 13th 2006

Dear Mr. Kaluat,

Re: Appointment of Chief Executive Officer

Thank you for your letter of 12th April 2006 advising of the situation regarding the appointment of the Chief Executive Officer and the process that the Board has undertaken to fill the position of the CEO for VIPA since the current CEO contract expires on 17th April 2006.

In accordance with Article 21 of the VIPA Act I hereby instruct that you prepare an instrument for me to sign for the appointment of Mr. Joe Ligo to the position of Chief Executive Officer for the Vanuatu Investment Promotion Authority for another period of three (3) years.

Thank you for your support and assistance.

Yours sincerely,

Honourable James Bule
Minister of Trade, Commerce, and Industry



Appendix 6

CONFIDENTIAL

Port Vila, 13 April 2006

Mr. Lionel KALUAT
Chairman
Vanuatu Investment Promotion Authority
Level 1, Pilioko House
PMB 9011
Port Vila

URGENT

Dear Chairman,

Re: Review of Appointment process – VIPA CEO

Further to my discussion at your high office this afternoon, this urgent letter serves to request the VIPA Board of Directors (and others involved) to review the process whereby the incumbent CEO was re-elected to the post.

Under Section 21 of the VIPA Act, sub-section 3 is very clear, and it reads:

"The Minister must appoint as CEO the person chosen by the members of the Board".

Within the spirit with which the Act was designed, this clause vests no decision-making role or powers and gives no room whatsoever to the Minister to engage in any selection process at all other than to ENDORSE the Board's decision on – "the person chosen".

For the sake of transparency, and to save me getting embarrassed for the second time (after the dirty way in which I was voted out in 2003), I want to know the exact scoring granted to me and to Mr. Joe Ligo and on what basis Mr. Ligo's name was also recommended to the Minister when there is no provision in the Act for this.

Unless the Board is prudent and careful about how it has conducted this matter and the decisions taken, I am afraid the VIPA Board is already entertaining POLITICAL INTERFERENCE into the affairs of VIPA, and this is totally outside of the spirit of the VIPA Act as it currently stands.

I would like to give the Board until Wednesday (19th April 2006) next week (at the very latest) to receive a response. It is also my intention to seek legal advice on the matter. I hope this does not become necessary. Finally, in view of the above, until such time that the above issues have been reviewed and reconsidered to my satisfaction, the Minister's letter of appointment of Mr. Joe Ligo remains NULL AND VOID as of the date of this letter.

Thank you for your urgent considerations, understanding and cooperation in this regard.

Yours faithfully,



HOWARD ARU
Principal Investment Officer

Copy: All VIPA Board Members
Mrs. Nancy Wells, Member, Selection Panel
Mrs. Sarah Obed, Member, Selection Panel
Mr. Smith Tebu, VIPA



GOVERN
GOUVERN.

NUATU
ANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

Tuesday 18th April 2006

The Chairman
Mr. Lionel Kaluat
VIPA Board of Directors
Pilioko House
PORT VILA

Dear Chairman,

**RE: COMPLAINT BY MR. HOWARD ARU AGAINST MY APPOINTMENT BY
HONORABLE MINISTER JAMES BULE AS CEO FOR VIPA.**

I am aware that Mr. Howard Aru an applicant for the CEO position is complaining about the process applied resulting in my appoint to the above position. I list below my position on the matter:

1. In my case, my letter to the Board was for a "Renewal of my Contract" that had just expired.
2. It was **not an application** like Mr. Howard Aru's Application. **He was an applicant.** I asked for a Renewal of an Existing Contract well before it expired. These are legally and technically two different things.
3. **I DID NOT NEED to be interviewed by the Panel.** I simply asked for an Existing Contract to be renewed in Good Time before it was expired. See date of my letter to you and the Board. **Mr. Howard Aru needed to be interviewed.**
4. Under my Contract, it clearly states that, the Board "**may renew**" the Contract. **This does not need a Panel and a Selection process and an interview.**
5. Section 21 (2) (4) States and I quote: "**The CEO maybe reappointed if he or she is chosen again by the members of the Board**": un-quote.
6. **The Board is NOT Legally Bound to Must Accept the Panels Recommendation.**
7. The Board I understand chose my name again (Despite whatever the Selection Panel may have said), **to recommend my name** to the Minister. The Minister made the "**re-appointment**" as provide in the above subsection (4). I was not obliged to go before the Selection and Interview Panel.
8. If Mr. Howard Aru wishes to stick to "Points Scored" in the panel interview, then I also need to point out that Members of the Selection Panel, under PSC Policy,



held Positions Well below a Fully Fledged Statutory Corporation CEO position, and should not have interviewed me as existing CEO. Maybe for Mr. Howard Aru as PIO at their own level.

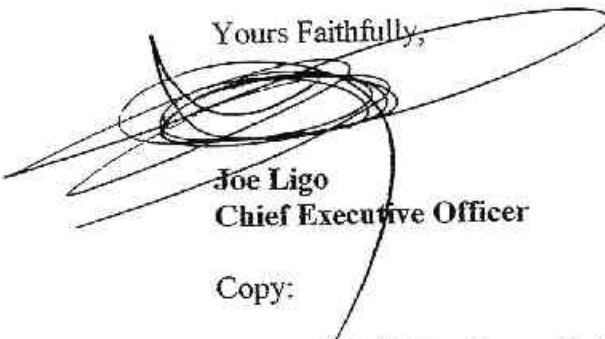
9. Sarah Obed of the VFSC holds a Position Well below the Statutory Corporation CEO Position. The Commissioner of the VFSC should have interviewed me, But not a Junior Staff, interviewing a Higher Position. **What Sense Does this Make in the Professional World?? It in fact is Absurd, and Most Unusual.**
10. Also Nancy Wells of the Statistics Office, a **Director. Technically and Legally,** the CEO of a Statutory Corporation is regarded above a Department Director.
11. **A Department is NOT a FULLY FLEDGED Statutory Corporation,** a Legal entity that can “Sue or be Sued”, in the Words of the VIPA Act of Parliament.
12. My argument is Nancy Wells and Sarah Obed are not suitable with No Experience in the Running of a Statutory Corporation such as VIPA or the AMU where I was before. How come Sarah Obed and Nancy Wells interview a Current CEO when they themselves have NEVER in their Entire Life and Career headed A Statutory Corporation?
13. What experience do they have in Running a Statutory Corporation?
14. **This Argument calls into Question the “Points/Scores” issue raised by Mr. Howard Aru.**
15. **I am also surprised that the Panel DID NOT Ask any Questions at All Regarding Performance, Results and Achievements. I attached Proof of Achievements and Performance and Statistical Results with my request for Renewal. DID the Board make this available to the Panel??**
16. **If Mr. Howard Aru wants to challenge the Boards Recommendation to the Honorable Minister and also my Appointment by the Minister, then I Kindly ask Chairman that,**
 - (a) **That my Request for Renewal of my Contract be Withdrawn from the Panels Process, including the Panels Interview and be Submitted to the VIPA Board of Directors, which the Act says May Renew my Contract and NOT The Panel.**
 - (b) **And that I appear before the VIPA Board of Directors (under my Contract and Under section 21 (2) (4) of the VIPA Act), to State my reasons for Asking for a Renewal which is what should have happened, and let the Board decided independently on my Renewal Application which is Not a New Application like Mr. Howard Aru’s. His Application can remain as it is**

BUT mine be withdrawn and be treated and Considered as A Renewal Application.

- (c) That the Panel was Not properly Constituted and that Nancy Wells and Sarah Obed are Not Suitably Qualified to Interview a Statutory Corporation CEO when they Themselves HAVE NEVER EVER HEADED A STATUTORY CORPORATION. They have NO experience and maybe SHOULD HAVE ONLY Interviewed Mr. Howard Aru as a NEW APPLICANT and Junior Staff to them and NOT MYSELF, as a Two time CEO, first of AMU and Now VIPA, both Statutory Corporations, under their respective Acts of Parliament.

I look forward to your kind urgent responses. Otherwise I suggest to leave things as they are and the Board and Myself Sign the Contract following the Ministers appointment already made.

Yours Faithfully,


Joe Ligo
Chief Executive Officer

Copy:

Honorable Minister James Bule, Minister for VIPA
ALL VIPA Board Members
Director General- Mr. George Borugu –Ministry of Trade
HRO-Ministry of Trade
Mr. Howard Aru
VIPA Staff
Mr. John Aruhuri-GM CCI
Mrs. Nancy Wells-Statistics Department
Mrs. Sarah Obed-VFSC





Appendix 8 – Page 1 of 2

GOVERN
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU

NUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

18th April 2006

Mr. Tom Joe Botleng
State Law Office
PMB 9048
PORT VILA

Dear Mr. Botleng,

Ref: REVIEW APPROVAL PROCESS OF NEW VIPA CEO

The Vanuatu Investment Promotion Authority is a statutory body that was established back in 1998 under an Act of Parliament. The Chief Executive Officer (CEO) is the Head of the Authority and is responsible to the Board for his efficient carrying out of the functions of the Authority as outlined in Section 19 (4A) of the VIPA Act.

For the purpose of fast facilitation of the appointment of the new CEO of VIPA, prior to the expiry date of the current CEO, which has expired, last Monday 17th April 2006, the VIPA Board considered all the applicants who have applied for the Post under the VIPA Act Section 21 (1-9) to make appropriate decision before the expiry date and also to avoid the acting basis, which, VIPA has been experiencing it in the past. The Board considered all the applicants for the Post of CEO on the 5th of April 2006. The Board short-listed the applicants and appointed the Interview panel to conduct the interview of the three short-list applicants. The Interview panel met on the 11th of April 2006 (Tuesday). The names of the two eligible candidates namely Mr. Howard Aru & Mr. Joe Ligo were forwarded to the Minister of Trade for his endorsement under Section 21 (3) of the VIPA Act. However, the third candidate Mr. Marokon Alilee withdrew due to personal reason.

The Minister of Trade has made his appointment on the 12th April 2006 to re-appoint Mr. Joe Ligo to stay on with VIPA. Due to certain reasons or dissatisfaction of one of the short-listed interviewee, we are urgently seeking your legal opinion on the following points:

- Was the procedure pursued by the Board under Section 21 (1-9) of the VIPA Act also mandated that the decisions of the Interview panel should be forwarded to the Board for endorsement before recommending the eligible candidates to the Minister for appointment?
- If the answer of the first question above is yes, which may mean that the appointment procedure may have been violated, then what is your legal opinion on the current situation, eg- should we re-advertise the CEO Post OR ask the Board to reconsider its decision on the panel recommendations?
- What would be the legal implications on the current Minister's decision?
- What would again be the legal implications on the current renewal of CEO Post?

Appendix 8 – Page 2 of 2

We would appreciate your urgent legal opinion on the above queries as soon as possible.

Thank you for your understanding.

Yours sincerely,
VIPA

Smith Tebu
VIPA Management





GOVERNMENT OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU

VANUATU INVESTMENT PROMOTION AUTHORITY



Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

20th April 2006

The Hon. James BULE (MP)
Minister of Trade, Tourism & Investment
Ministry of Trade, Tourism & Investment
PMB 9074
PORT VILA

Dear Hon. Minister James BULE (MP),

Re: REVIEW OF THE APPOINTMENT OF CEO FOR VIPA

The VIPA Board would like to clarify and convey to your highest Office, its decisions on the above subject. The Vanuatu Investment Promotion Authority (VIPA) is a Government Statutory body that was established in 1998 by an Act of Parliament. The Chief Executive Officer (CEO) is the head of the Authority and is responsible to the Board for the efficient carrying out of the functions of the Authority as outlined in Section 19 (4A) of the VIPA Act.

The VIPA Act Section 21 (1), (2) & (3) clearly stated and we quote; "*the CEO is to be chosen by the members of the Board through an open and competitive selection process based on merit and appointed by the Minister for a period of not less than 1 year and not less than 3 years... the Minister must appoint as CEO the person chosen by the members of the Board. The CEO may be reappointed if he or she is chosen again by the members of the Board*". The VIPA Board deliberately considered the procedure in Section 21 (1-9) to recommend the names of the two applicants to the Minister for his final endorsement.

Unfortunately, the Minister's decision is being challenged prior to Section 21 (3) that specifies; *the Minister must appoint as CEO the person chosen by the members of the Board*. This specific Section of the Act allows the Board to choose only **1 person for the Minister to appoint and not 2 persons** as stated in the letter of 12th April 2006 (see attached). Due to the above mentioned appointment being challenged by one of the applicants' of the Board's decision and the Government being in contrary to Section 21 (1), the Board has reconsidered its decisions on the appointment of CEO as advise from the State Law Office and decided on two options as remedies to the situation. The first option is to recommend the candidate who has the highest average point for the Minister to appoint and the second option is to re-advertise the Post of CEO. The Board has

finally decided to pursue the second option to re-advertise the Post of CEO on the following bases;

- The Board or Government will not be accountable for any damages from either of the two candidates if decision is made in favour of the other
- The decision made is fair for both the applicants and the Board members or Government
- The decision made also reserve or protect the Board's integrity
- It is a cost effective decision as it does not cost VIPA or the Board anything in terms of finance
- The Board remains neutral in the situation

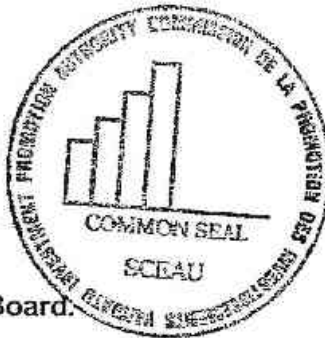
The Board by virtue of the Act as outlined in Section 21 (1 – 9) and with further consultations with the State Law Office, has decided to advise the Minister that the appointment made is null & void prior to the above explanatory reasons and the VIPA Board will re-advertise the CEO Post again in due course.

With assurances of your highest consideration, we would appreciate your common understanding.

Yours sincerely,



Lionel KALUAT
Chairman, VIPA Board.



CC: VIPA File



Appendix 10

GOVERNMENT OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DE VANUATU

VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

April 20, 2006

Dear H. Aru,

Ref: Review of the process to appoint VIPA CEO

The VIPA Board at an urgent meeting made a decision to nullify the procedure it followed to have the new VIPA CEO appointed.

The Board's decision came following your appeal regarding the process in which the appointment of the new VIPA CEO was made, on which you cited that it does not follow the VIPA Act.

It was not an easy decision for the Board to reverse its earlier decision. However, after considering the two options only available to the Board the members present all agreed to take the decision they took.

The Board's decision effectively means that the CEO position for VIPA is vacant and will be re-advertised in due course.

The Board apologizes for any harm that its decision may cause to your personal reputation and integrity. The Board believes that this is the best option to take for the good of everyone involved. It also realizes its failures in the appointment process but hope that it will not be repeated in the future.

Thank you for your understanding and cooperation.

Yours sincerely

Lionel Kalua
Chairman
VIPA Board



Recvd
21/4/06
A

Appendix 11



GOVER
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU

ANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

25th April 2006

The Hon. James BULE (MP)
Minister of Trade, Tourism & Investment
Ministry of Trade, Tourism & Investment
PMB 9074
PORT VILA

Dear Hon. Minister James BULE (MP),

Re: REQUEST TO REVOKE YOUR LETTER OF APPOINTMENT OF CEO FOR VIPA

The VIPA Board members at their meeting with you at your high Office on Friday 21st April 2006 on the issue surrounding the Post of CEO, we had agreed that the Post would be re-advertised as recommended by the VIPA Board meeting of Thursday 20th April 2006.

Prior to our discussions on the matter and common understanding that we had during the round table meeting, we also agreed that the Minister's appointment of 13th April be regarded as null & void. To avoid any future legal implications especially any claim damages that may arise, we would really appreciate that your high Office issue a letter to revoke the Minister's decision of April 13th 2006 that appointed Mr. Joe Ligo for the Post of CEO.

With assurances of your highest consideration, we thank you in advance for your understanding.

Yours sincerely,

Lionel KALUAT
Chairman, VIPA Board.



CC: VIPA File

RE

1

Joe W. Ligo
PO Box 1170, Jifs Nakamal, Nambatu, PORT VILA.
Telephone 26234. Mobile 47319

The Chairman,
Mr. Lionel Kaluat
VIPA Board of Directors
Pilioko House
PORT VILA

Fax 26544

Dear Mr. Kaluat,

**ILLEGAL PREVENTION OF MY RIGHT TO EMPLOYMENT UNDER MY
APPOINTMENT AS VIPA CEO BY THE HONORABLE MINISTER OF TRADE-
CAUSING PERSONAL AND FINANCIAL HARM AND DAMAGES.**

Your:

1. Continuing Refusal to allow me to start work as VIPA CEO since 13th April 2006 according to the Ministers Letter of appointment as well as,
2. Your Revocation of the Ministers letter instructing my Appointment for another three (3) years,
3. Your Removing me from the VIPA CEO's Office
4. Your Declaring Vacant the CEO's Position which the Minister under the VIPA Act has already Appointed me to, and
5. Your Appointing Mr. Smith Tebu as Acting CEO in my place despite the Ministers letter reappointing me,

is causing me Financial Suffering , Harm and Difficulty and Damage to my Name and Integrity as Business Houses in Town, Embassies, Government Ministers, and Departments, Civil Servants, Political Advisors and the Public generally are asking why I am not at VIPA anymore following the Daily Post article on my re-appointment as VIPA CEO in early April 2006. I get phone calls from these people to my house, and my mobile phone asking what is happening, and why I am at home and not in the office. It is causing me substantial embarrassment and questioning my Integrity in the face of the Government and the Public.

I understand that the Minister of Trade, Honorable James Bule, has just written a second letter to you wherein he made his position Very Clear to you again that he will not be appointing any other person as VIPA's CEO because he has already appointed me as VIPA CEO for another three (3) years. I also understand that the State Law Office will defend the Ministers position if the matter goes to court.

Why are you procrastinating and sitting on this case which is causing me substantial harm to my Integrity and Financial position?? Why??

I have looked for Employment in the Open Market at this CEO level. I have Searched the Newspapers the Last month and up to last Weekend and this morning as well, since you removed me from Office, But there have been No Vacancies in Port Vila and even Vanuatu, at the CEO level. Rather the Common Point people raise is "Oh we thought you were re-appointed to VIPA, following the story in the Daily Post".

Obviously you do not want me as VIPA CEO because you have Removed me from Office, Declared the Position Vacant, and Appointed an Acting CEO.

It is open to me to sue for Loss of Employment and Income for the Next three years, and Damages to my Integrity and Name But I offer again that you pay me my three (3) year contract (Basic Salary and usual allowances) already submitted to you in my letter to you of 25th April 2006, page 3, which is VT 5, 399,000 and I will walk away from VIPA.

I cannot see how we can work together in harmony with me as VIPA CEO and you as VIPA Board Chairman, when you have shown clearly from your actions that you do not want me as VIPA CEO despite the Governments wishes.

As it stands now, legally, under the VIPA Act, the Minister has already appointed me as VIPA's CEO for another three (3) years being 2007, 2008 and 2009. You have traversed my appointment for another three (3) year contract resulting in me already loosing monthly income and salary and continuing to loose monthly income as you continue to refuse to understand and accept the Ministers appointment.

You have:

- 1. Revoked the Ministers Appointment letter,**
- 2. Removed me from Office,**
- 3. Declared the position vacant,**
- 4. Appointed Smith Tebu as Acting CEO.**
- 5. It is not clear from the VIPA Act that you have the Power to Revoke an Appointment which only the Minister has the Power to make under the VIPA Act.**

Further to my letter to you of Tuesday 25th April 2006 which you still have not replied to, I am willing to walk away from VIPA and not fight this in Court if you agree to pay out my three years contract explained above which you have stopped.

I offer that we settle this Dispute without going to Court at VT 5,399,000 million specified in page 3 of my letter to you of 25th April 2006 and I will walk away from VIPA.

The VT\$399,000 million is the Salary and normal entitlements value, (explained in page 3 of my letter to you of Tuesday 25th April 2006), of the three years contract appointment for the lost three (3) years contract at current rate. If you agree to this offer and sort this out of Court, I am willing to walk away from VIPA.

You still have not replied to my letter to you of 25th April 2006.

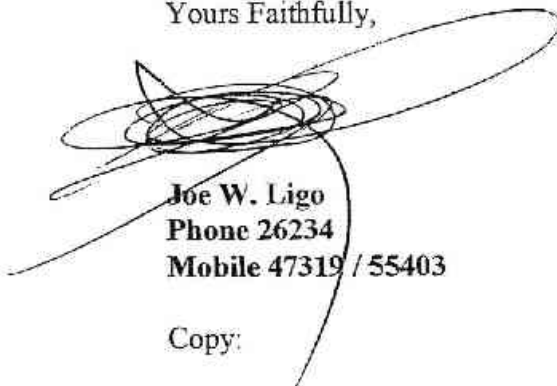
If I do not get a response from you on my offer to settle out of Court by 4.30pm Thursday 25th May 2006, I will ask my Lawyers to take Court Action against you for the VT \$399,000 Million And Not Only that but also for Damages (VT \$50 Million) as Claimed in my letter to you of 25th April 2006.

Your continuing Conduct is causing me Personal and Financial Harm and Damage. Your not replying to my letters is not helping to resolve this problem.

You are holding me to Ransom by your actions and causing me Personal and Financial Suffering for which I will seek Court Action for compensation and damages, if I do not receive your response to my offer by the above date and time.

I look forward too your urgent Response.

Yours Faithfully,



Joe W. Ligo
Phone 26234
Mobile 47319 / 55403

Copy:

Mr. John Malcolm-Geoffrey Gee and Partners-Fax 23710
The Attorney General-State Law Office-Fax 25473
VIPA Board Members-Fax 25216



GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU

VANUATU INVESTMENT PROMOTION AUTHORITY



Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

8th May 2006

From: The Chairman, VIPA Board

To: The Acting Attorney General

Re: VIPA BOARD IS SEEKING YOUR LEGAL ADVISES ON THE CEO POST

The VIPA Board at its meeting on 5th May 2006 considered the issues surrounding the CEO Post and would like to seek your legal advises on various issues mentioned below.

We would like to seek further legal inputs on these matters to assist the Board in its decision-making. The VIPA Board wrote a letter to the Minister of Trade on 25th April 2006 requesting him to revoke his appointment letter of 13th April prior to the discussion and mutual agreement that we had on Friday 21st April 2006 with the Honourable Minister (see letter attached). The letter was self-explanatory and based on the Board's decision to re-advertise the Post of CEO.

Mr. Joe Ligo was also advised on the Board's decision but he has however, written a 3 page letter of complaint and claimed damages to the Chairman of the VIPA Board (see letter attached) requesting the Board to settle his proposed claims quickly. Unfortunately, the Minister of Trade was on official trip overseas and wasn't able to respond to the Board's letter on time. Mr. Ligo's appointment is still valid today and the CEO Post cannot be advertised until such time that the Minister's appointment is revoked, as advised by the State Law Office.

Due to the urgency of Mr. Ligo's letter of claims, the Board resumed its extra-Board meeting last Friday 5th May 2006 and considered the claims thus seeking your legal inputs on the points outlined below before we could proceed any further:

- i) Your legal inputs in reference to Mr. Joe Ligo's claimed damages especially when his appointment by the Minister is still valid
- ii) Your legal advise if possible that the Minister could review his decision of 13th April 2006 under Section 21 of the Interpretation Act
- iii) If the Minister is to review his decision as mentioned in point # (ii) above, what would possibly be the legal implications prior to Mr. Ligo's claimed damages (see letter attached)

Appendix 13 – Page 2 of 2

- iv) If the Minister decides to maintain his first appointment, what would be the better and cost effective option that the Board could pursue in order to maintain its integrity & future reputation

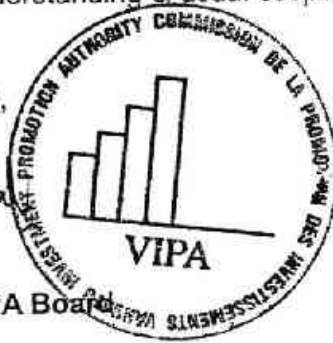
It would be much appreciated if you could attain to these above queries in due course.

Thank you for your understanding & usual cooperation.

Yours sincerely,



Lionel Kaluat
Chairman, VIPA Board



GOUVERNEMENT DE
LA REPUBLIQUE DE VANUATU
MINISTÈRE DU COMMERCE
DE L'INDUSTRIE ET
DU TOURISME



GOVERNMENT OF
THE REPUBLIC OF VANUATU
MINISTRY OF COMMERCE,
INDUSTRY AND
TOURISM

MINISTRY OF TRADE, COMMERCE, INDUSTRY AND TOURISM

MOT/100/15/7/jb/ns

9th May 2006

Chairman of VIPA
Board of Directors
CIPA Office
Vila

Dear Mr Chairman,

RE : APPOINTMENT OF NEW CEO OF VIPA

I write in reference to the above caption matter.

I write to register my disappointment over the issue of the appointment of a CEO VIPA. The decision you made in submitting two names to my office for appointment has call into question the ability and integrity of the Board of which you are a Chairman. The matter became a serious matter and a legal battle between your Board and the two applicants.

The delay will obviously have some negative impact on the investors intending to invest in the country. From what I have gathered from the report, it shows a decline in the investors from the first quarter of 2006.

After our discussion on the matter, I have however decided that my decision to appoint Mr Joe Ligo is final. I could not comprehend the fact that the two names were sent without prior consultation with the State Law Office.

Please inform the Board that I will not change my decision and as you may appreciate, Joe Ligo is a CEO of VIPA. Should Mr Howard Aru wish to challenge the decision then to me, it is his democratic opinion and freedom to do so.


Tel 1678123674
P.O. Postal Confidential 056, Port Vila, Vanuatu

Tel 1678123674
Private Mail Bag 056, Port Vila, Vanuatu



Thank you.

Yours sincerely,



Hon. James BULE (MP)
Minister of Trade, Commerce, Investment, Industry and Tourism
Ministry of Trade, Commerce, Investment, Industry and Tourism
cc: All Board Members - VIPA



GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

24th May 2006

Mr. Joe W LIGO
P. O. Box 1170
Jifs Nakamal, Nambatu
PORT VILA

Tel: (678) 47319

Dear Mr. Ligo,

**RE: REQUEST TO RESUME DUTY AS CHIEF EXECUTIVE OFFICER FOR
VANUATU INVESTMENT PROMOTION AUTHORITY.**

We write with reference to the above captioned.

The VIPA Board met on 24/05/2006 to consider your appointment by the Minister of Trades, Tourism and Investment and the legal implications of the issues surrounding your appointment for which the VIPA Board has been confronted with that it was contrary to Section 21 (3) of the VIPA Act No. 15 of 1998.

Further to the above, the Board considered also the legal implications of such an issue hence the need to maintain the integrity of the Authority and the Board to advance foreign investments in Vanuatu and also to progress further with achieving the goals and objectives of the Authority.

The Board has anonymously agreed that with respect to our previous correspondences to seek legal advice from the State Law Office, the Minister and you that we come to an understanding to solve the issue in a way that is amicable to all parties concerned.

We are happy to inform you that you are hereby requested to resume your normal duties as soon as possible as Chief Executive Officer of Vanuatu Investment Promotion Authority as per your appointment by the Minister of Trades, Tourism & Investment dated the 13/04/2006.

Further to the above, the Board has agreed that your entitlements and allowances will be back dated effective on the date of your appointment.

It was unfortunate that such an incident should have occurred to disturb your good working relationship with the Board and by this letter you are assured of the Board's confidence in you as VIPA CEO and the issues should not be seen to have an effect

to your relationship with the Board nor any member of the Board and VIPA staffs.
Thank you for your support and understanding in this regard.

Yours sincerely,

Lionel KALUA
Chairman, VIPA Board





GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

24th May 2006

Mr. Howard ARU
Principle Investment Officer
Vanuatu Investment Promotion Authority
P M B 9011
PORT VILA

Dear Mr. ARU,

RE: REVIEW OF THE APPOINTMENT FOR VIPA CEO

We write with reference to the above captioned and your letter dated 13/04/2006.

Your request in your above mentioned letter to review the process of the appointment for Mr. Joe Ligo by the Minister of Trades, Tourism & Investment which in your view was in contrary to Section 21 (3) of the VIPA Act was carefully considered by the Board after legal advice was sought from the State Law Office and a further request to the Minister to consider his appointment dated 13/04/2006 to maintain the integrity and transparency within the Authority.

We provide below the options the VIPA Board has undertaken where we (VIPA Board) were mindful also of the legal implications of such reviews by the Board, the Minister and all parties concerned with and based on advice from the State Law Office we conclude our review as follows;

- (a) that the Board has requested the Minister of Trades, Tourism & Investment to re-consider his appointment dated 13/04/2006,
- (b) that the Board has sought legal advice from State Law Office in view of the Minister's decision contrary to Section 21 (3) of the VIPA Act,
- (c) that the Board has sought legal advice from the State Law Office in view of Section 21 of the Interpretation Act [CAP.132] for the Minister to revoke his appointment dated 13/04/2006 to appoint Joe Ligo as Chief Executive Officer for VIPA,
- (d) that the Board has sought legal advice from the State Law Office on the legal implications of Joe Ligo's appointment by the Minister which is still valid and,
- (e) that the Board has also sought legal advice from the State Law Office on the cost effective options for the Board to pursue in order to maintain our integrity and reputation and that of the office of VIPA.

Following the above options taken by the Board to solve the matter, the Board anonymously agreed to adhere to the advice from the State Law Office to pursue a more cost effective option though it may not necessarily satisfy all parties involved. The Minister of Trades has informed the Board that he will not re-consider his appointment nor the Board has the powers to revoke the Ministers appointment as provided for in the Interpretation Act [CAP132] Section 21 and subject to the legal opinion from the State Law Office, the Board was advised to pursue options (d) and (e) as mentioned above since option (b) was made more difficult to be pursued with options (a), (c) and (d). The Board having pursued the options with all limited resources available has finally agreed to pursue option (e) in view of the legal implications of the Minister's appointment that is still valid and the legal damages of such appointment should the Board decide otherwise.

The Board during its meeting with the State Law Office on 24/05/2006, has agreed that we (Board) request Mr. Joe Ligo to immediately resume his normal duty as Chief Executive Officer of VIPA. The decision was taken with an understanding that the Board will not incur any liability in the future or thereafter relating to the matter surrounding the appointment of Mr. Joe Ligo.

Should you have any queries or be dissatisfied with the Board's decision or still the Ministers appointment, we would very much appreciate that you discuss the matter with the Board so we could solve and settle the matter out of court.

Thank you for your understanding in this regard and do not hesitate to contact us should you have any queries.

Yours sincerely,



Lionel KALUAT
Chairman, VIPA Board



Appendix 17 – Page 1 of 3

James Tari, (LLB USP, LLM IMLI)
Steven Tahi (BA USP, LLB USP)

May 31, 2006

Mr. Lionel KALUAT
Chairman
VIPA Board of Directors
Level 1, Pilioko House
PMB 9011
Port Vila

"PRIVATE & CONFIDENTIAL"

Dear Sir,

Re: REVIEW OF THE APPOINTMENT FOR VIPA CEO

We act for Howard Aru in this matter and we are instructed to response to your letter dated May 24 2006 regarding same.

We have peruse the content of your letter and with the instructions we have we appreciate the difficult circumstances under which the Board endeavored to resolve the issue. However, we are mindful also of the legal framework set out under the VFIP Act which in our view the best avenue to resolve the matter. You must also clearly note that your difficult circumstances in resolving this matter is not obligatory and sometimes may be unlawful. The only legal obligation for the Board to resolve this matter is to follow the framework set out the VFIP Act.

Section 21(1) of the Vanuatu Foreign Investment Promotion Act No. 15 of 1998 as amended (the Act) provides "***The CEO is to be chosen by the members of the Board through an open and competitive selection process based on merit and appointed by the Minister for a period of not less than 1 year and not more than 3 years.***"

The wording of Section 21(1) requires one person to be chosen by the Board. Has the Board chosen one person? The other requirement is that the one person must be chosen through an open and competitive selection process based on merit. Has the Board chosen the one person on merit?

We are instructed that the answers to the above two questions are in negative thus rendering the decision of the Board unlawful.

Section 21(3) of the Act provides "***The Minister must appoint as CEO the person chosen by the members of the Board.***"

Subsection 21(3) is mandatory in that the Minister **must** appoint a person chosen by the members of the Board. The content of your letter seems to say that the Minister did not appoint the person chosen by the members of the Board. This is a blatant disregard and ignorance of the Act. Furthermore the wording of section 21(3) emphasized the need for one person to be chosen and not more than one.

In our respective view the members of the Board has messed up the whole process leading to the Minister to act the way he did. You seem to have understood that the whole process was unlawful and yet requested our client Mr. Aru to surrender by requesting the matter to be settled out of court.

In effect, the Board is now asking our client to surrender again and refer to as "CEO" a candidate who had lost (for the second time since 2003) in a supposedly 'merit-focused' job application process.

The latest decision by the Board to accept Mr. Ligo as VIPA CEO was no doubt based primarily on the Board's unwillingness to lose face with the Minister after receiving his letter of refusal to reconsider his appointment of Mr. Ligo. Again the unwillingness of the Board to lose face with the Minister is not legal obligation but just factual circumstances with no basis at law.

The Board must be aware that there is no basis to defend the unlawful decision if the matter proceeds to the Court of Law to decide on the same. However, we are mindful of the circumstances and difficulties the Board is facing. We are instructed to accept the settlement out of Court as requested by the Board provided the following conditions:

1. Our client Howard Aru will not report to Mr. Joe Ligo and will take no instructions from him or from the Minister whatsoever. This is the first condition, and it is not negotiable.
2. Our client requests the increase of his salary from the current salary scale to P19 of the Public Service Salary Scale.
3. Continue to live in Government House for free and the Board to meet the rental requirement for the Public Service.
4. All other employment entitlement to remain.

You are given 14 days from the date of this letter to respond to our letter whether or not you accept the conditions of settling this matter out of Court. Failure to respond to our letter and in particular to the conditions set out herein by 4.30 pm on the 14 day of June 2006, we hold clear instructions to file proceeding in the Court of Law to decide on the matter.

Do not hesitate to contact the undersign for queries regarding this matter.

Respectfully,
TRANS-MELANESIAN LAWYERS

A handwritten signature in black ink, appearing to read 'James TARI', with a large, stylized initial 'J' and 'T'.

James TARI

CC: Howard Aru, Principal Investment Officer, VIPA Port Vila, Vanuatu



Private Mail Bag 9011
PORT VILA, Vanuatu

GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU

VANUATU INVESTMENT PROMOTION AUTHORITY

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com



08th June 2006

Trans-Melanesian Lawyers
Barristers & Solicitors
Second Floor, CNS Building
Private Mail Bag 9073
PORT VILA

Dear Mr. TARI,

RE: REVIEW OF THE APPOINTMENT FOR VIPA CEO

We write with reference to your letter dated 31/05/2006 on behalf of your client Mr. Howard Aru and note the instructions from your client to deal with the issue.

We note also your arguments relating to the issue of the post of CEO of VIPA and the conditions set out in your letter whereby you have been instructed by your client to accept the out of court settlement as suggested by the Board subject to the conditions being approved and granted by the VIPA Board hence we respond as follows;

1. that the first condition would be a direct insubordination and disrespect to the Chief Executive officer who is the Head of the Authority and the Minister who is also the Minister of Trades under whose Ministry that VIPA functions. This is also not in line and inconsistent with the VIPA approved reporting structure of 2002, the provisions of the VIPA Act and Public Service Commission Act. The VIPA Board will hesitate to approve the above and treat one VIPA staff differently from others or even other public servants to have disrespect for a State Minister.
2. that the increase of your client's salary to P19 when he is currently on P17/18 is also the pre-requisite of the Chief Executive Officer to make recommendations to the Public Service Commission for shift in salary. However, the recommendations would only be made by the CEO to shift your client's salary within his current salary range, that, is from P17.1, P17.2 or P17.3 or P18.1, P18.2 or P18.3 when completing a performance report to PSC and P19 is nowhere in his current salary scale. Only PSC can determine and approve such request based on performance and recommendation from the head of a government institution.

3. that for your client to live in a Government House for free and the Board to meet the rental requirement is also beyond the VIPA Board's direct control for which the Board can give a definite answer, though the Board can only make recommendation(s) to the Housing Committee under the PSC for approval.
4. that all other employment entitlement to remain – the Board has not decided to stop any employment entitlement that your client is entitled to while being employed by VIPA.

Further to the above, it is worth taking into account the current status of VIPA which is a semi-statutory body that though VIPA has a Board and a CEO to carry out its functions, all the VIPA staffs are employed and paid by the public service commission. The authority is mandated by its own Act to perform its functions but staffs are obliged to adhere to the PSC staff manual and the PSC Act and having disregard to the above amounts to serious disciplinary matter.

While your client may not be content to accept the above response from the Board, we hereby respond in good faith that the VIPA Board has no direct and complete control under its functions to approve and grant the conditions 1-3 as requested by your client as an out of court settlement and the Board would never at this point of time provide a hint to your client that the conditions mentioned above will be granted should they be requested by the Board from PSC.

The Board is of the view that the conditions set by your client to be able to agree to an out of court settlement are not negotiable due to the above mentioned reasons.

However, the Board has considered that while we are not able to approve the conditions as requested from your client, we have agreed in principle that the Board compensate your client for the loss of being able to secure the post for VIPA CEO for a period of up to three (3) years which is equivalent to VT5, 363, 580 being the Board's option to settle the matter out of court.

Should your client decline to accept the above proposal to settle the matter out of court, we will have no other options other than the above proposal.

Thank you for your understanding in this regard and do not hesitate to contact us should you have any queries.

Yours sincerely,

John SAVA
Vice - Chairman



Cc: Hon. Minister of Trades

State Law Office

Mr. Howard Aru

VIPA File



GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

08th June 2006

The Hon. James BULE (MP)
Minister of Trades, Tourism & Investment
Ministry of Trades, Tourism & Investment
P M B 9074
PORT VILA

Dear Hon. Minister James BULE (MP),

RE: REVIEW OF APPOINTMENT OF MR. JOE W LIGO AS CEO FOR VIPA

We write with reference to the above subject matter and Howard Aru's ongoing intention to challenge the appointment of Mr. Joe W Ligo as VIPA CEO in a court of law. We make reference also to the VIPA Board's previous correspondences to your high office and the State Law Office to address and solve the issues surrounding the re-appointment of Mr. Joe W LIGO and our letter dated 24/05/2006 where the Board agreed to request Joe W Ligo to resume duties as VIPA CEO and consider other options to deal with Howard Aru's claim for Board to review the appointment of Joe W Ligo.

While the Board has considered options to solve the matter with Howard Aru as advised by the State Law Office, the Board is mindful of the cost to be accumulated at the end of the hearing of this matter should his lawyers are instructed to proceed with the matter in a court of law. As advised by the State Law Office, the Board has agreed to an out of court settlement and Howard Aru has been informed of this proposal on 24/05/2006 which Mr. Aru has agreed and his lawyers (Trans-Melanesian Lawyers) provided the Board approve the following conditions;

1. that Howard Aru will not report to Mr. Joe Ligo and will take no instructions from him or from the Minister whatsoever. This is the first condition and it is negotiable
2. that Howard Aru's salary be increased from the current salary scale to 19 of the Public Service Salary (he is currently on salary scale P.17/18).
3. that Howard Aru continue to live in Government House for free and the Board to meet the rental requirement for the Public Service and
4. that all his employment entitlement to remain.

In considering the above conditions, the Board has refused to approve any of the conditions because VIPA Board has no direct and complete control under its functions to approve and grant the conditions 1 – 3 above. The above conditions are under the discretionary powers of the Public Service Commission to approve and can only be done upon recommendation by the Chief Executive Officer or the Board, but not under special circumstances for special treatment or privileges to be enjoyed by some public servants.

The Board has been given 14 days to respond to his lawyers whether or not the Board accept the above conditions to settle this matter out of court and failure to respond, his lawyers hold clear instructions to file proceeding in the court of law to decide on the matter.

Given the above, the Board has agreed to make a proposal to his lawyers to compensate Mr. Howard Aru for the loss of not being able to secure the post of VIPA CEO for a period of up to three years which is equivalent to VT5, 363, 580 being the Board's option to settle the matter out of court.

With the above briefs on the current state of the matter, the Board hereby requests your assistance to solve the above amount of VT5, 363, 580 should Howard Aru agree to accept the Board's above proposal or assist the Board to pay 50% (VT2, 681, 790) of the above costs.

The request is made due to the financial constraints that VIPA and the Board currently are experiencing which may result in VIPA being forced to take drastic measures to operate till the end of this year, 2006.

Should you have any queries regarding the above, please do not hesitate to consult us or the State Law Office.

Thank you for your usual support and understanding in this regard.

Yours sincerely,


John SALA
Vice-Chairman, VIPA Board





GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

13th June 2006

Mr. Howard ARU
Principal Investment Officer
VIPA
P M B 9011
PORT VILA

Dear Mr. ARU,

RE: REVIEW OF THE APPOINTMENT FOR VIPA CEO

We write in response to your letter dated 13th June 2006 in which you further requested the break down of the amount of VT5, 363, 580 being the Board's offer for an out of court settlement.

For clarification purposes, the amount of VT5, 363, 580 is the total remuneration for three (3) years at the Public Service Salary Scale of P20.1 including Housing Allowance, Rental Allowance, Family Allowance and VNPF contributions.

Below is the specific breakdown showing the actual figures for the above mentioned salary and allowances;


Salary + Allowances @P20.1	Year 1 (VATU)	Year 2 (VATU)	Year 3 (VATU)	TOTAL (VATU)
Salary Costs	1, 470, 096	1, 470, 096	1, 470, 096	4, 410, 288
COLA	51, 000	51, 000	51, 000	153, 000
Family Allowance	18, 000	18, 000	18, 000	54, 000
Housing Allowance	180, 000	180, 000	180, 000	540, 000
VNPF	68, 764	68, 764	68, 764	206, 292
TOTAL	1,787, 860	1, 787, 860	1, 787, 860	<u>VATU5, 363, 580</u>

Please note that the above has been calculated using the approved PSC standard format for calculating all salaries and allowances for all public servants where only home island travel and acting allowances plus other allowances have been excluded in the above calculation.

The VIPA Board would very much appreciate receiving your response before our meeting on Thursday 15th June 2006 to deliberate further on the matter.

Thank you for your understanding.

Yours sincerely,


John SALA
Vice - Chairman, VIPA Board



Cc: Hon. Minister of Trades

State Law Office

Mr. Howard Arn

VIPA File

TRANS-MELANESIAN LAWYERS

Barristers and Solicitors

Felix Laumae Taloinao Kabini, (LLB USP)
James Tari, (LLB USP, LL.M IMLI)
Steven Tahi (BA USP, LLB USP)

June 20, 2006

John SALA
Vice Chairman
VIPA Board of Directors
Level 1, Pilioko House
PMB 9011
Port Vila

Dear Sir,

Re: REVIEW OF THE APPOINTMENT FOR VIPA CEO

Thank you for your letter dated 8th June 2006 and we regret for the delay in responding to your letter. The undersign was overseas before last week and beginning of last week

We received instructions to respond to your counter-offer in relation to our client's offer in relation to the process of out of court settlement in the above matter.

We have received instructions to accept the counter-offer proposed by the Vanuatu Investment Promotion Authority.

We enclose also herein three copies of the Agreement for the acknowledgement and acceptance of your counter-offer in an attempt to have this matter settled out of Court.

Considering the circumstances surrounding the whole matter, our client has been a victim to the unlawful action of the Vanuatu Investment Promotion Authority and the Minister. Thus we would like to bring to your attention the following issues which VIPA must comply with:

- 1 Vice Chairman of VIPA must sign the agreement on behalf of VIPA before 4.30 pm on Friday 23 June 2006.

2. That the payment of Five Million, Three Hundred and Sixty Three Thousand Five Hundred and Eighty Vatu must be made in one lump sum and no installment payment shall be accepted.
3. The lump sum payment must be made within fourteen (14) days from the date of signing of the agreement with our client.

Do not hesitate to contact the undersign for further queries regarding the above matter.

Respectfully,
TRANS-MELANESIAN LAWYERS



James TARI

CC: ✓ Howard Aru, Principal Investment Officer, VIPA Port Vila, Vanuatu



GOVERNMENT OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInVanuatu.com

21st June 2006

Trans-Melanesian Lawyers
Barristers & Solicitors
Second Floor, CNS Building
Private Mail Bag 9073
PORT VILA

Dear Mr. TARI,

RE: REVIEW OF THE APPOINTMENT FOR VIPA CEO

We write in response to your letter dated 20/06/2006 relating to the above matter.

We note the content of your letter where you have been instructed to accept the counter-offer we (VIPA Board) have proposed to you and your client for an out court settlement and note also the Agreement for the acknowledgment and acceptance of the counter-offer which we agree to its clauses and the overall content.

Though we were hopeful that this matter will be settled out of court as indicated by your client in his letter to the Vice-Chairman dated 13/06/2006, we also note your conditions for the out of court settlement hence we respond as follows;

- (1) that the Vice-Chairman sign the Agreement on behalf of the VIPA Board before 4.30 pm on Friday 23/06/2006. The VIPA Board do not have any objection that the Agreement be signed as soon as possible. However, this is pending conditions 2 and 3 below.
- (2) that the VIPA Board will not accept this condition (condition 2) for the payment of Five Million, Three Hundred and Sixty Three Thousand Five Hundred and Eighty Vatu to be made in one lump sum. We believe that it is only reasonable that as soon as your client accept the offer to settle the matter out of court, hence the above amount, that we negotiate for the best mode of payment to be made to your client and hereby provide our reasons as follows;
 - (a) that there is no urgency on your client's part that may warrant the payment to be made in one lump sum by the VIPA Board and the Government of Vanuatu since he is currently employed by VIPA under the Public Service Commission where his normal salary are currently being paid by the Government of Vanuatu.
 - (b) that it would seem that your client demands the payment to be made in one lump sum to halt the normal VIPA functions, to hold in

Recd
21/6/06

ransom the VIPA Board and the Government of Vanuatu for the payment the VIPA Board have willingly proposed to offer to your client hence to disturb VIPA to continue to perform its functions until the end of this year 2006 which your client is aware of. Your client is aware of the drastic consequences should the VIPA Board agree to make the payment in one lump sum and this mode of payment can be seen as a retaliatory measure towards the VIPA Board and VIPA for what we have willingly proposed to offer to your client in good faith.

- (3) that the lump sum payment be made within fourteen (14) days from the date of the signing of the agreement. The VIPA Board again will not accept the above condition partly due to reasons stated in response to condition 2 above.

While the VIPA Board have made the proposal to your client who has now accepted the offer which it seems is subject to the above conditions being met by the VIPA Board and the Government of Vanuatu, we are of the opinion that the payment be made to your client by way of instalments. We believe that this is the only best mode of payment which may not in fact affect the normal functions of the Authority and its contributions towards the economic development of this country through foreign direct investments that the Authority plays a major role in attracting them to the country.

Having proposed that the payment be made by way of instalment, we hereby attached a schedule of payment (*annex 1*) and further propose that the payment be made in four (4) instalments for One Million, Three Hundred and Forty Thousand Eight Hundred and Ninety Five Vatu (VT 1, 340, 895) at the end of each month commencing 28th July 2006.

Should your client decline to accept the above proposal to settle the payment by way of four (4) instalments as per the attached schedule, we will have no other options other than the above proposal to settle the above payment given the current VIPA budget constraints which your client is fully aware of.

Thank you for your understanding and do not hesitate to contact us should you have any queries regarding the above matter.

Yours sincerely,

John SALA
Vice-Chairman,



cc: Hon. James Bule, Minister of Trades, Tourism & Investment

Appendix 22 – Page 3 of 4

Howard Aru – Principle Investment Officer, VIPA

John Stephan Tougon, State Law Office



GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

21st June 2006


**RE: REVIEW OF THE APPOINTMENT FOR VIPA CEO – SCHEDULE OF
PAYMENT BY VIPA BOARD TO HOWARD ARU.**

The Vanuatu Investment Promotion Authority (VIPA) Board having agreed to settle the above matter out of court and the claimant (Howard Aru) having agreed to accept the offer hereby propose a schedule of payment for the VIPA Board to settle the payment in four (4) instalment at VT1, 340, 895 in each instalment commencing on the 28th of July 2006 as follows;

Date	Instalments	Amount (VT)
28/07/2006	1 st	1, 340, 895
01/09/2006	2 nd	1, 340, 895
29/09/2006	3 rd	1, 340, 895
27/10/2006	4 th	1, 340, 895
TOTAL		5, 363, 580

The above Schedule is as mentioned in our letter dated 21/06/2006 with further clarifications.

Yours Sincerely


John SALA
Vice-Chairman, VIPA Board



Felix Laumae Taloinao Kabini, (LLB USP)
James Tari, (LLB USP, LLM IMLI)
Steven Tahi (BA USP, LLB USP)

August 7, 2006

Lionel Kaluat
Chairman
VIPA
Private Mail Bag 9011
Port Vila

Dear Sir,

Re: Out of Court settlement - Howard Aru ats VIPA Board and the Government.

We refer to the above matter and reiterate we continue to act for Mr. Howard Aru in this matter. We are concerned on how VIPA and the Government are handling this matter. Initially it was the intention of the VIPA Board to deal with this matter with uttermost urgency to avoid potential litigation of the matter in Court.

VIPA offered to pay our client VT 5,363,580 and that offered was promptly accepted by our client thus having a legally binding contractual effect. The contract is on foot and there are substantial repercussions for VIPA if the matter is brought to Court. VIPA and the Government blatantly failed to comply with the first payment which was due on the 28th of July 2006. We are instructed not to accept any more installment payment but a lump sum payment of the aforesaid amount for failing to meet the first installment payment.

We put VIPA and the Government on notice that ~~if~~ the payment of the above amount must be made before 4.30 pm on Thursday 10th August 2006. Failure to make payment within the stipulated period of time we are instructed to file Court proceedings against VIPA and the Government on Friday 11th August 2006.

Our client's claim is within the range of VT 15 million to VT 20 million. We will also be claiming legal costs which I anticipate will be around VT 1.5 million to VT 2 million.


Respectfully,

TRANS-MELANESIAN LAWYERS



James TARI

CC: ✓ Howard Aru, Principal Investment Officer, VIPA, Port Vila.
John Stephens, State Law Office, Port Vila

Rec'd
07.08.06


Appendix 24



GOVERNMENT OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU

ANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

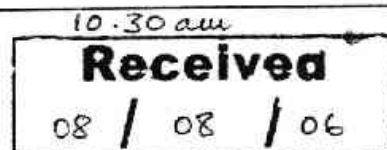
Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

Monday 7th August 2006

Mr. James Tari,
Trans-Melanesian Lawyers
PMB 9073
PORT VILA

"Without Prejudice"



Dear Sir,

RE: AGREEMENT TO SETTLE HOWARD ARU'S CLAIM

We acknowledge receipt of your letter in regard to the above matter.

The reason for the delay in organising finance is because the Department of Finance has asked to see the Written Advice from the State Law Office advising out of Court Settlement and payment of the VT 5 million.

The State Law Office as at this date, still has not provided that written advice. The Finance Department needs this to justify pay-out of public funds. **By copy of this letter, the State Law Office is again Urgently asked to put its advice in writing so the Department of Finance can act on VIPA's request to organize funds.**

We ask you to understand this and give the Board until end of August 2006 to sort this out. We reserve our right seek further legal advice in the event you refuse to give further time as requested depending on above request from the State Law Office.

Action to organize funds depends entirely on the written advice from the State Law Office to us and the Finance Department so funds can be organized from Public Funds.

We await your responses and the State Law Offices Responses.

Yours Faithfully,

Vanuatu Investment Promotion Authority

Lionel Kaluat
Chairman
VIPA Board of Directors



Copy: State Law Office-Solicitor General

Private Mail Bag 9048
Port Vila
Vanuatu
South West Pacific

Telephone: (678) 22362
Facsimile: (678) 25473
E-mail: att.gen@vanuatu.gov.vu



Our Ref: AG. / / /jxs

STATE LAW OFFICE

8th August 2006

Lionel Kaluat
Chairman
VIPA Board
Port Vila

Dear Chairman,

Re: Agreement to settle Howard Aru's Claim

We refer to your letter dated 7th of August 2006 in this matter. You specifically stated in your letter that the delay in organising finance to settle Mr. Aru's Claim was because the Department of Finance has requested to see a written advice from this Office advising for an out of court settlement of 5 million vatu to Mr. Howard Aru. You further stated that this Office still has not provided a written advice on this.

In response to your letter, we confirm that we have raised in a meeting with VIPA this year that due to VIPA's conduct in dealing with the appointment of the new VIPA CEO by forwarding two successful candidates to the Minister of Trades for appointment, it was proper to negotiate a settlement with Mr. Howard Aru who scored the highest points during the interview panel but was not considered for CEO the post.

It was VIPA who agreed in principle to settle for an amount of 5,363,550 vatu. This amount was stated in a letter dated 8th June 2006 from VIPA to Trans-Melanesian lawyers representing Mr. Howard Aru and the offer was accepted. VIPA never informed this Office that the department of Finance needed to see a written advice on this amount. Even if there was any attempt from VIPA or Finance to seek an advice from this Office on the agreed amount, it was VIPA's instructions to settle for that amount.

There was another letter dated 21st June 2006 from VIPA to Trans-Melanesian Lawyers in this matter whereby VIPA informed Trans-Melanesian Lawyers that the above sum will be paid by instalments and that the first instalment in the amount of 1,340,895 vatu would be paid on the 28th of June 2006 after the signing of the Deed of Release between VIPA and Mr. Howard ARU.

We were of the view that VIPA had things under control as it was clear from its correspondences with Trans-Melanesian Lawyers that it was ready to pay out the amount to Mr. Howard Aru by way of instalments.

Our follow up calls on this matter with Mr. Smith Tebu of VIPA shows that the only delay in this matter was that it was hard to reach an agreement between VIPA and the Ministry of Trade as to how much each should contribute to Mr. Howard Aru's Claim as the Ministry of Trade refused to share the cost of settling this matter. We were not informed by VIPA or Finance Department that the Finance Department required a letter from this Office.

We would have thought that VIPA should have come out clearly to be honest in outlining the real reason for this delay rather than blaming this office for causing the delay.

In light of the above, we are of the view that it is appropriate that VIPA honour what it has stated in its two letters to Trans Melanesian Lawyers and settle the amount it has offered to pay Mr. Howard Aru.

We enclose copies of correspondences for your information.

Please do not hesitate to contact John Stephens of this Office with any further queries that you may have in this matter.

Yours faithfully,



Dudley ARU
Solicitor General



Cc: Director of Finance

Appendix 26



GOVERN
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU

NUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

Port Vila, 28 August 2006

URGENT

COPY

Mr. Lionel KALUAT
Chairman
VIPA Board
C/o Dept of Labour
Port Vila

Dear Mr. Kaluat,

Re: Out-of-Court Settlement Issue – VIPA CEO Post

Today marks exactly a month since the date (28th July 2006) the VIPA Board had officially committed itself to making its first installment of the above case. The Board failed to comply with its own decision. Since then the VIPA Board seems to have only acted in a dilatory manner for reasons only the Board leadership can explain.

The unnecessary lengthy delay that the Board has taken to resolve this issue has reached a stage where I am left with no further option but to take the VIPA Board and the Government to court – unless of course the Board takes immediate decisive action to rectify the matter once and for all this week.

On this note, I wish to request an urgent VIPA Board meeting for my lawyer and I (and your solicitor) to sit down and discuss the issue at hand as a final attempt to resolving this matter outside of Court.

Appreciate if you could confirm to us an appropriate time for this meeting. We would like the meeting to take place before 4.30pm Thursday this week (31st August 2006).

Thank you in advance.

Yours faithfully,

Howard ARU
Principal Investment Officer

Copy : All VIPA Board Members
: Mr. James Tari, Trans-Melanesian Lawyers
: Mr. John Steven, State Law Office

Private Mail Bag 9048
Port Vila
Vanuatu
South West Pacific

Telephone: (678) 22362
Facsimile: (678) 25473
E-mail: att.gen@vanuatu.gov.vu



Our Ref: AG. / / /jxs

STATE LAW OFFICE

30th August 2006

Honorable James Bule
Minister of Trade
Port Vila
Vanuatu

Dear Sir,

Re: **Proposal to settle Howard Aru's Claim**

We refer to our letter dated 8th August 2006 and earlier advices and to the e-mail from the Director General of the Ministry of Finance dated 27th August 2006.

The following represents our summarised view of the matter:

Background

As instructed, the post of VIPA Chief Executive Officer (VIPA CEO) was vacant on the 17th of April 2006. The VIPA board ("The Board") met on the 11th of April 2006 to interview Mr. Howard Aru and Mr. Joe Ligo as short listed applicants for the post. This was after the post was advertised and three applicants applied for the post.

The Board selected four members to form the interview panel for the interview. As further instructed, the interview took place after which the Board nominated two names, namely Joe Ligo and Howard Aru to the Minister of Trade for appointment.

We are further instructed by VIPA that following the process of the interview, Joe Ligo scored an average of 68 and Mr. Howard Aru scored an average of 84.5. The results showed that there were three votes mostly in favour of Mr. Howard Aru, while no vote in favour of Joe Ligo and one member of the selection committee abstained.

Issues

1. What does the Vanuatu Foreign Investment Promotion Act No.15 of 1998 as amended (VIPA Act) say about who should be appointed as VIPA CEO?
2. Does the correspondences between VIPA and Trans-Melanesian Lawyers representing Mr. Howard Aru amount to a binding contract for VIPA to pay VT 5,363,580?

1. What does the Vanuatu Foreign Investment Promotion Act No.15 of 1998 as amended (VIPA Act) say about who should be appointed as VIPA CEO?

Section 21(1) of the VIPA Act as amended states that:

"The CEO is to be chosen by the Board through an open and competitive selection process based on merit and appointed by the Minister for a period of not less than 1 year and not more than 3 years."

Furthermore, section 21(3) of the Act states:

"The Minister must appoint as CEO the person chosen by the members of the Board."

Given that Mr. Howard Aru scored the highest point during the interview, one would think that by the wording of the above section of the Act, the Board should have recommended his name to the Minister of Trades for appointment as new VIPA CEO. It may also be implied from the above provisions of the Act that the Board ought to have recommended **only one** name, being Mr. Howard Aru to the Minister for appointment as the new CEO of VIPA.

However, section 3(2) of the Interpretation Act Cap 132 states that:

"Words and expressions in singular, shall include the plural and vice versa"

In our view, subsections 21(1) and 21(3) of the VIPA Act must be read with section 3(2) of the Interpretation Act to give its full meaning. The effect of this provision would be that in interpreting subsections section 21(1) and 21 (3) of the VIPA Act, the Board cannot be restricted to forwarding only one name to the Minister of Trades as clearly it can forward more than one name to the Minister for appointment.

Such an interpretation is arguable but is not certain because it is also arguable that the above provisions of VIPA Act are drawn so as to exclude the possibility of multiple nominations by the board.

2. Does the correspondences between VIPA and Trans-Melanesian Lawyers representing Mr. Howard Aru amount to a binding contract for VIPA to pay VT 5,363,580?

You will note that that there have been several letters between Trans-Melanesian Lawyers and VIPA with regards to settlement of the matter. In fact VIPA had on two occasions wrote two letters to Trans-Melanesian Lawyers offering to pay VT 5,363,580. These letters have been referred to and enclosed in our letter of advice dated 8th August 2006. The issue is whether or not these letters amount to a binding contract independent of the merits of Mr. Aru's Claim. The letter from VIPA dated 8th June 2006 to Trans-Melanesian Lawyers clearly amounted to an offer by VIPA to settle the matter for VT 5, 63,580. The letter did not state that the offer was made on a without prejudice basis, the consequence of which Mr. Aru could easily rely on that letter in Court.

The letter of 8th June 2006 was responded to by Trans-Melanesian Lawyers in its letter dated 20th June 2006, whereby Trans-Melanesian Lawyers purported to accept the offer made by VIPA and further demanded three conditions on how the money is to be paid to Mr. Howard Aru. The inclusion of the three conditions probably means that the letter did not amount to an acceptance of the offer but merely to a counter offer.

Subsequently, VIPA in its letter dated 21st June 2006 responded to Trans-Melanesian Lawyers clearly indicating that VIPA proposed to settle the matter by way of instalment payments and enclosed with that letter was a schedule of payment which the first payment should have commenced on the 28th of July 2006. Again the letter from VIPA did not state that the proposal of payments was made on a without prejudice basis, the consequence of which Mr. Aru could easily rely on that letter in Court.

Subsequent correspondence from Mr. Aru strongly suggests that there was not yet sufficient consensus for a binding contract

Conclusion

While there could be a possibility of relying on section 3(2) of the Interpretation Act, it is important to consider the circumstances of the matter, particularly the fact that VIPA had Mr. Howard Aru undergo the whole interview process and score the highest points and yet denied him the post of CEO. Furthermore, the fact that there arguably a valid contract been entered between VIPA and Trans-Melanesian Lawyers to settle the matter

Therefore the Government could be left with two options:

- (i) That the Government rely on section 3(2) of the Interpretation Act Cap 132 in the event that Mr. Howard Aru take the matter to Court.
- (ii) That due to the arguably valid contract entered between VIPA and Trans-Melanesian Lawyers, VIPA should immediately

honour that agreement and commence settlement with Mr. Howard Aru.

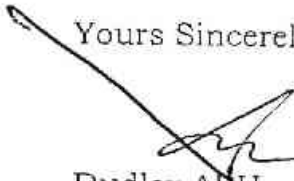
Option (i) above is a matter of argument and it is for the Court to decide. We should also bear in mind the legal costs associated with Court proceedings as it may be in the vicinity of 10 to 20 million vatu, should Mr. Howard Aru win his case.

Option (ii) is a straight forward matter, and should VIPA and the Government wish to proceed with option (ii) then we are of the view that negotiations can be made with Mr. Howard Aru again as to the manner of payments to be made to him.

We hope we have fully provided the necessary information that you need on this matter. Please provide your instructions as to which option you prefer.

Please do not hesitate to contact John Stephens of this Office with any further queries that you may have in this matter.

Yours Sincerely,


Dudley ARU
Solicitor General



George Borugu, Director General, Ministry of Trades.

~~Lionel Kaluat, Chairman VIPA~~

Willy Jimmy Tapangararua, Minister of Finance.

Simeon Athy Malachi, Director General, Minsitry of Finance

Appendix 28

GOUVERNEMENT DE
LA REPUBLIQUE DE
VANUATU

MINISTERE DES FINANCES
ET DE LA GESTION
ECONOMIQUE

SAC POSTAL PRIVE 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937



GOVERNMENT OF THE
REPUBLIC OF VANUATU

MINISTRY OF FINANCE AND
ECONOMIC MANAGEMENT

PRIVATE MAIL BAG 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937

Le Ministre/The Minister

Our/Notre ref:

8th September, 2006

Hon. James BULE,
Minister of Trade,
Port Vila,
Vanuatu.

Dear Minister,

Re: Proposed to settle Howard Aru's claim

I am in receipt of the copy of the letter addressed to you by Solicitor General, Dudley Aru concerning Mr. Howard Aru's claim, dated 30th August, 2006.

For your information, whatever option the Government may wish to adopt in resolving this claim and if payments is to be made, it will have to be deducted of your Ministrys budget or the VIPA's 2007 budget.

The Solicitor General letter is very clear and mandatory. The process of appointing Mr. Joe Ligo was a bias decision and not in accordance with the law.

Thank you for your understanding in this regard.

Yours faithfully,

Hon. Willie JIMMY TAPANGA RARUA
Minister of Finance and Economic Management



Cc: To Solicitor General
: To Acting Director General – Ministry of Trade
: To Director General – MFEM
: To CEO - VIPA

: To Mr. Howard Aru ✓

Appendix 29

GOUVERNEMENT DE
LA REPUBLIQUE DE
VANUATU
MINISTERE DU
COMMERCE DE
L'INDUSTRIE ET DU
TOURISME



GOVERNMENT OF THE
REPUBLIC OF VANUATU
MINISTRY OF
COMMERCE, INDUSTRY
AND TOURISM

MINISTRY OF TRADE, COMMERCE, INDUSTRY AND TOURISM

Our/nos ref
Your/vos ref

Date: 22nd September 2006

Mr. Dudley Aru
Acting Attorney General
State Law Office
Port Vila

Dear Mr. Aru,

Re: Your advice on the payment of Mr. Howard Aru's claim

I thank you for the advice and wish to request your assistance in clarifying the situation and the legality of civil servants applying for posts while they are still in service.

It is my view that they should resign before they lodge applications for positions such as the CEO for VIPA which Mr. Aru applied for while in office.

Thank you for the continued support and assistance to the Ministry of Trade.

Yours sincerely,

James Bule
Minister of Trade, Tourism, Commerce and Industry



Private Mail Bag 9048
Port Vila
Vanuatu
South West Pacific

Telephone: (678) 22362
Facsimile: (678) 25473
E-mail: att.gen@vanuatu.gov.vu



Our Ref: AG / / /jxs

STATE LAW OFFICE

4 October

Honourable James Bule
Minister of Trade, Tourism, Commerce & Industry
Ministry of Trade, Tourism, Commerce & Industry
Port Vila

Dear Honourable Minister,

Re: **Howard Aru's Claim**

We refer to your letter dated 22nd September 2006 in this matter.

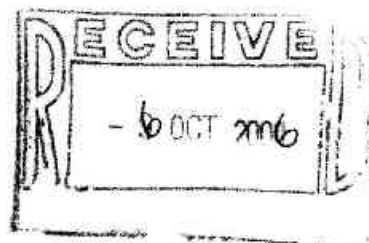
The Public Service Act No.11 of 1998 does not say that public servants applying for a post within or outside the Public Service should resign while they are still in service.

In Mr. Howard Aru's case, he need not resign when applying for the post of VIPA CEO.

Please do not hesitate to contact John Stephens of this Office with any further queries that you may have on this matter.

Yours faithfully,

Dudley ARU
Solicitor General





**Office of the Ombudsman
Bureau du Médiateur
Ofis blong Ombudsman**



Our Ref: 2430-6095-L25-lk (Please quote this reference in all correspondence)

4 October 2006

Mr Lionel KALUAT
Chairman
VIPA Board of Directors
Level 1, Pilioko House
PMB 9011
Port Vila

Dear Mr Kaluat

**ALLEGED IMPROPER APPOINTMENT OF THE CEO, VANUATU
INVESTMENT PROMOTION AUTHORITY**

This Office has received a complaint against the Board of Directors of Vanuatu Investment Promotion Authority. We intend to start an enquiry into the matter. The complaint alleges that the appointment of the current Chief Executive Officer of VIPA, Mr Joe Ligo was done improperly. The complaint further alleges that the Board bungled up the process and did not provide the Minister responsible for Trade with sufficient information to choose the right person. Never-the-less, it is alleged that when the Board asked the Minister to reverse his decision, he declined to do so.

It is also alleged that as this matter was not resolved, the VIPA Board has been asked to meet an out of court settlement with one of the applicants of the position, amounting to some VT5million.

Mr Kaluat, if these allegations are proven to be true, then the VIPA Board could be implicated in an adverse way of breaching laws such as the VIPA Act and consequently, the Leadership Code Act. The decision to compensate one of the applicants may also be deemed inappropriate and costly.

As you are the chairman of the VIPA Board and also a member of the selection panel, you have a right to reply to this complaint. We are also copying this letter to other members of the Board and the selection panel for their information and or action. Please provide your response before **19th October, 2006**. If we do not hear from you, we will assume that you have no comments to make.

To assist this office in this enquiry, we request that you forward the following documents and information along with your response:

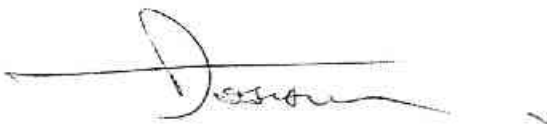
1. Was the position of the CEO advertised?

2. If so, when and where? (Please provide a copy of the advertisement)
3. Please confirm if you were a member of the selection panel that sat to assess applications.
4. If so, who were the applicants for the post? Please provide copies of the applications.
5. How did the panel choose the successful candidate? Please provide information about the process used and also documentation of assessment of applicants.
6. Whose name was recommended to the Minister? Please provide a copy of the PSC Form 3-4.
7. Did you recommend any other candidates? Please submit a copy of the PSC Form 3-4.
8. Please confirm if the Minister declined to reverse the appointment of the current CEO. If so,
9. Please explain why he did not reverse his decision.
10. What options were available to the Board to resolve the matter?
11. Did the Board seek any legal advice and
12. If so, what were the contents of the advice (please provide any documents to support your answer)
13. Did the Board consider readvertising the position?
14. If not, why not?
15. Any other documents or information that you consider relevant to this matter would also be greatly appreciated.

Warning: Inquiries by the Ombudsman are confidential until a public report is made. ***The Act says that you cannot discuss this investigation, this letter, or any other information that comes from the Office of the Ombudsman, except with your lawyer or as required by law. The penalty for breaking this law is 6 months in jail or a fine of Vt 100,000 or both.***

Please contact us if you have any questions. Thank you in advance for your assistance in this matter and we look forward to hearing from you soon.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. Simon", is written over a horizontal line.

 **Peter K. TAURAKOTO**

OMBUDSMAN OF THE REPUBLIC OF VANUATU

cc: VIPA Board: Mr John Sala, Customs Department
Mr Peter Mawa, Ministry of Trade & Business Development
Mr Simeon Athy, Ministry of Finance
Mr Timothy Sisi, Department of Trade
Mr John Aruhuri, Vanuatu Chamber of Commerce (Selection Panel member)
Mr James Narwayen, Department of Immigration
Mr Michael Mangawai, Department of Lands
Mr Joe Ligo, Ex Officio Member, VIPA

Selection Panel: Mrs Serah Obed, Vanuatu Financial Services Commission
Ms. Nancy Wells, Department of Statistics



Office
Bu
Ofis blong Ombudsman



Our Ref: 2428-6095-L25-jb (Please quote this reference in all correspondence)

4 October 2006

Hon. James BULE MP
Minister for Trade & Business Development
Ministry of Trade & Business Development
PMB 9056
Port Vila

Dear Honourable Minister

**ALLEGED IMPROPER APPOINTMENT OF THE CEO, VANUATU
INVESTMENT PROMOTION AUTHORITY**

This Office has received a complaint against the Board of Vanuatu Investment Promotion Authority. We intend to start an enquiry into the matter. The complaint alleges that the appointment of the current Chief Executive Officer of VIPA, Mr Joe Ligo was done improperly. The complaint further alleges that the Board bungled up the process and did not provide you with sufficient information to choose the right person. Never-the-less, it is alleged that when asked by the Board to reverse your decision, you declined to do so.

It is also alleged that as this matter was not resolved, the VIPA Board has been asked to meet an out of court settlement with one of the applicants of the position, amounting to some VT5million.

As you are the person in charge, you have a right to reply to this complaint. Please provide your response before **19th October, 2006**. If we do not hear from you, we will assume that you have no comments to make.

To assist this office in this enquiry, we request that you forward the following documents and information along with your response:

1. What was the content of the information supplied to you to choose the right person for the position? Please provide documents to support your response.
2. Please confirm if you did decline to reverse the appointment of the current CEO. If so,
3. Please explain why you did not reverse your decision.
4. What options were available to you to resolve the matter?

5. Did you seek any legal advice and
6. If so, what were the contents of the advice (please provide any documents to support your answer)
7. Any other documents or information that you consider relevant to this matter would also be greatly appreciated.

Warning: Inquiries by the Ombudsman are confidential until a public report is made. *The Act says that you cannot discuss this investigation, this letter, or any other information that comes from the Office of the Ombudsman, except with your lawyer or as required by law. The penalty for breaking this law is 6 months in jail or a fine of Vt 100,000 or both.*

Please contact us if you have any questions. Thank you in advance for your assistance in this matter and we look forward to hearing from you soon.

Yours sincerely



for - Peter K. TAURAKOTO

OMBUDSMAN OF THE REPUBLIC OF VANUATU

Appendix 33

GOUVERNEMENT DE
LA REPUBLIQUE DE
VANUATU
MINISTRE DU
COMMERCE DE
L'INDUSTRIE ET DU
TOURISME



GOVERNMENT OF THE
REPUBLIC OF VANUATU
MINISTRY OF
COMMERCE, INDUSTRY
AND TOURISM

MINISTRY OF TRADE, COMMERCE, INDUSTRY AND TOURISM

Our/nos ref
Your/ vos ref

Date: 10th October, 2006

Mr. Peter Taurakoto
Ombudsman
Private Mail Bag 9081
Port Vila



Dear Ombudsman,

Re: Alleged improper appointment of the CEO for VIPA

Thank you for your letter of 4th October 2006 inquiring about the appointment of the CEO for VIPA. For your information the VIPA Act requires the Board to submit one name to me for appointment. However during the process of selection the Board submitted (in person) two names for me to decide so I chose Mr. Joe Ligo. This choice was based on his outstanding performance during the first term of his appointment as CEO. During the meeting that was attended by various members of the Board I advised them and followed up with a letter confirming my choice of Mr. Ligo as the CEO.

The reason for not reversing my decision on the appointment of the CEO is that I expect advice from technicians to be sound and correct in all its aspects. It is not proper for a state Minister to be seen to weak, irresponsible and indecisive in matters of the state when it comes to decision making. I therefore assume that all aspects of the matter have been considered before it was brought to me.

The Ministry has since sought the advice of the State Law Office on the matter and their advice is being implemented to correct the unfortunate situation.

I hope the above is sufficient for your purpose.

Yours sincerely,

James Bula
Minister of Trade, Commerce and Industry





VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

VIPA/14/06/lnk

11th October 2006

Mr. Peter Taurakoto
Ombudsman of the Republic of Vanuatu
Office of the Ombudsman
PMB 9081
PORT VILA.



Attention : Mr. Pasa Tosusu

Dear Sir,

RE : ALLEGED IMPROPER APPOINTMENT OF CEO, VIPA

Thank you for your letter of the 4th October 2006 regarding the above subject.

Following the complaint made against the VIPA Board of Directors on the allegation that the appointment of the current CEO of VIPA, Mr. Joe Ligo, was done improperly, I wish to respond as follows;

1. Having been elected as the VIPA Board's new Chairman, I was not been briefed by the outgoing Chairman on the whole affairs of VIPA with regards to outstanding cases to do with the management and the administration matters that need sorting out. One of which was the existing internal conflict between the current PIO and the current CEO of which the Board was not aware of nor being informed of by management (i.e. The VIPA Staff).
2. When it came to the end of the current CEO's contract and assuming that all the necessary documents were in order, the Board sought the advice of the management on what the standard practices were with regards to the appointment of a CEO in accordance with the provisions of the VIPA Act.
3. The Board had carefully considered its role under Section 21 of the VIPA Act and could have applied Section 21 (4) of the VIPA Act to re-appoint the current CEO but then decided after consultation with management to advertise the position to allow natural justice for all interested parties to apply for the post.
4. After the post was being advertised, six (6) applications were received and after going through the screening process, the three (3) best candidates were being short listed for interview.
5. Before the candidates were interviewed by a Panel set up by the Board, one of the candidates withdrew his application which left only two candidates to be interviewed. These two (2) candidates were the current CEO, Joe Ligo and the then PIO, Howard Aru.

14. **Question:** If not, why?

Answer: N/A

15. **Question:** Any other documents or information that you consider relevant to this matter would be greatly appreciated.

Answer: Attached are all relevant documents that we believe may assist you with your queries.

It is the Board's opinion that the powers of the Board under the Act is quite independent and whatever the Board sees fit to decide on, provided that prior legal advice is sought and prior relevant consultations are made, the Board may do so independently. With regards to implicating the VIPA Board of breaching laws such as the VIPA Act would not really have any effect on the VIPA Board since the VIPA Board is well protected under the VIPA Act which states as follows;

Part 5

PROTECTION FOR ACTION TAKEN UNDER THIS ACT

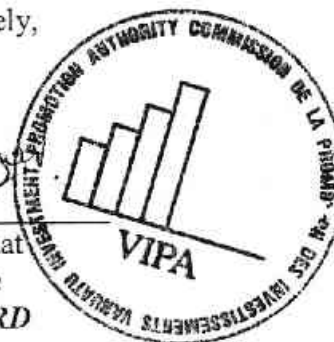
25. (1) *No suit or prosecution lies:*

- (a) *Against the Board for anything done in good faith by the Board under this Act or regulations; or*
- (b) *Against any member, officer, servant or agent of the Board for anything done by him or her in good faith in the performance of his or her duties under this Act or the regulations.*

Yours sincerely,



Lionel Kaluat
Chairman
VIPA BOARD



Copies : All VIPA Board Members
Selection Panel

6. **Question:** Whose name was recommended to the Minister? Please provide a copy of the PSC For 3-4.

Answer: The two names of Mr. Joe Ligo and Mr. Howard Aru were recommended to the Minister for the Minister to appoint one of the two following the VIPA management's practice.
7. **Question:** Did you recommend any other candidates? Please submit a copy of the PSC Form 3-4

Answer: No, we did not recommend any other candidate to the Minister.
8. **Question:** Please confirm if the Minister declined to reverse the appointment of the Current CEO. If so,
9. **Question:** Please explain why he did not reverse his decision.

Answers: We had requested the Minister in writing to reverse his decision but he refused to withdraw his appointment. A copy of the letter is attached for your information.

Answers: The Minister did not reverse his decision because he deemed it appropriate for Joe Ligo to continue with his contract with VIPA as he has attracted a lot of foreign investors to the country during his 3 years contract with VIPA. The Minister made his comment to the management team that Joe has created a vision for his organization and should be given another chance to continue to implement his work plan with VIPA. He claimed that the VIPA 2005 Annual Report has proven it which is why he has decided to re-appoint Joe to the post of CEO.
10. **Question:** What options were available to the Board to resolve the matter?

Answer: After the Board found out that the process in which the VIPA management pursued had resulted in a technical error, the Board decided in good faith to have the matter resolved through an out of court settlement due to the fact that Mr. Howard Aru was already demanding for a claim against the Board over the Minister's appointment of the CEO.
11. **Question:** Did the Board seek any legal advice and,
12. **Question:** If so, what were the contents of the advice (please provide any documents to Support your answer)

Answer: Yes, the Board sought legal advice from the State Law Office right from day one after learning that the Minister had made an appointment that was contrary to Panel's scores.

Answer: Attached are copies of the correspondences in relation to the legal advice sought from the State Law Office.
13. **Question:** Did the Board consider re-advertising the position?

Answer: Yes, the Board did consider the option of re-advertising the post at the very first instant but was advised by the State Law Office that the Board had to make a written request to the Minister of Trade to revoke his appointment in accordance with the Interpretation Act before any re-advertising could be pursued.

the rest of his claim paid out in installments. It should be made clear here that the amount of VT5.363.580 agreed by the Board for an out of court settlement payment is in fact based on the calculation of his entitlement benefits such as severance pay and others for the years he has been employed by VIPA.

In responding to your questions, I wish to provide the following answers;

1. **Question:** Was the position of the CEO advertised?

Answer: *Yes. The CEO position was advertised for 3 weeks in both the Daily Post newspaper and the Independent and the closing date was at 4.30p.m. of Friday 31st March 2006.*

2. **Question:** If so, when and where? (Please provide a copy of the advertisement)

Answer: *The copies of the advertisement are attached herewith for your ease of reference.*

3. **Question:** Please confirm if you were a member of the selection pane that sat to assess the applications.

Answer: *Yes. I was also a member of the selection panel, that sat to assess the applications.*

4. **Question:** If so, who were the applicants for the post? Please provide copies of the applications.

Answer: *There were six (6) applicants and their names are as follows; Mr. Joe Ligo, Mr. Howard Aru, Mr. Marokon Alilee, Ms. Wendy Himford, Ms. Alice Sami and Mr. Jag Nrand Beerbul. Copies of the applications are attached as requested.*

5. **Question:** How did the panel choose the successful candidate? Please provide information about the process used and also documentation of assessment of candidates.

Answers: *The six (6) applicants went through the screening process and the best three (3) candidates were sort listed for the interview. The interview panel comprised of representatives from private sector, women's group, government and the VIPA Board. The PSC Form 3-3 was used to assess the applicants against the selection criteria outlined under the VIPA Act. The three (3) successful applicants were notified to attend the interview on a specific date. Unfortunately, one of the candidates withdrew due to personal reasons and left the other two candidates to go ahead with the interview. The interview was carried out and both applicants were assessed through scoring process. After, the panel had completed its task, the Chairman verbally advised management to have the Panel's scores endorsed by the Board and to declare the eligible candidate in accordance with Section 21 (3) of the VIPA Act for the Minister to make the appointment. However, management advised that following past practice, whenever both candidates score above the average score, both candidates would be eligible for the post. This is where they prepared a letter for the Chairman to sign and have it sent to the Minister. Attached is a copy of the letter for your information.*

6. The Board then appointed a Selection Panel who conducted the interview by using the PSC Form 3-3 and strictly applied the selection criteria set out following the PSC model.
7. The Panel then submitted its scores to management to complete the final process in accordance with Section 21 (1) and (3) of the VIPA Act with a verbal instruction from the Chairman to get the Panel's decision endorsed by the Board before involving the Minister for the appointment process.
8. The management decided otherwise to prepare a letter for the Chairman and advised that there was no need to have the Board's endorsement since following past practice, where both candidates score past the average score, both names were submitted to the Minister to decide on one of the names. This is where I believe the confusion or mistake is because there was no recommended name for the Minister to make an appointment in accordance with Section 21 (3) and had the Selection Panel's decision being referred back to the Board for its endorsement as advised by the Chairman, I believe the Board would have come out clear with only one recommendation as provided for under Section 21 (3) of the VIPA Act based on the scores of the interview Selection Panel which was done on a merit basis.
9. The VIPA Act clearly states as follows;

CEO AND OTHER STAFF OF BOARD

- 21. (1) The CEO is to be chosen by the members of the Board through an open and competitive selection process based on merit and appointment by the Minister for a period of not less than 1 year and not more than 3 years.*
- (3) The Minister must appoint as CEO the person chosen by the members of the Board.*
10. The management personally met, briefed and handed the letter of recommendation for the appointment of a new CEO to Minister. The Minister then decided to appoint Mr. Joe Ligo contrary to the information and briefing provided by the management team. The Minister then instructed the Chairman to prepare appointment instruments for him to appoint Mr. Joe Ligo as the ongoing CEO for VIPA.
 11. The Board then sought legal advice from the State Law Office regarding the Minister's decision. The State Law Office advised that a written request be made to the Minister to reverse his decision of which the Minister declined. Because of the Minister's consistent refusal to revoke his appointment upon the legal advice from the State Law Office, the Board then considered the option of re-advertising the post. The Board then sought legal advice from the State Law Office regarding the option to re-advertise the post and was advised by the State Law Office that before any re-advertisement option is considered, the Minister must revoke his decision on the appointment in accordance with the Interpretation Act.
 12. At this time Howard Aru had obtained all the relevant information that should have been treated as "strictly confidential" and began questioning the CEO's appointment. Because of the Minister's continued delay in considering the State Law Office's advice and the Board being pressurized by Howard Aru on claims made against the Board through his solicitor following the Minister's decision, the Board then considered in good faith and agreed in principle to settle the matter out of court.
 13. The Board has resolved that Management allocate available funds within its operational budget or that of the Ministry of Trade. When funds are allocated then negotiations must be made with Howard's solicitor on any possible down payment to Howard Aru and have the remainder of



Office of the Ombudsman
Bureau du Médiateur
Ofis blong Ombudsman



Our Ref: 2699-6095-L25-st (Please quote this reference in all correspondence)

10 November 2006

Mr Smith Tebu
VIPA Office
Level 1, Pilioko House
PMB 9011
Port Vila

PRIVATE & CONFIDENTIAL

Dear Mr Tebu

**ALLEGED IMPROPER APPOINTMENT OF THE CEO, VANUATU
INVESTMENT PROMOTION AUTHORITY**

This Office has received a complaint against the Board of Directors of Vanuatu Investment Promotion Authority. We intend to start an enquiry into the matter. The complaint alleges that the appointment of the current Chief Executive Officer of VIPA, Mr Joe Ligo was done improperly. The complaint further alleges that the Board bungled up the process and did not provide the Minister responsible for Trade with sufficient information to choose the right person. Never-the-less, it is alleged that when the Board asked the Honourable Minister of Trade to reverse his decision, he declined to do so.

It is also alleged that as this matter was not resolved, the VIPA Board has been asked to meet an out of court settlement with one of the applicants of the position, amounting to some VT5million.

We have received information that following the completion of the interview of two candidates for the post, VIPA Management then forwarded its recommendation directly to the Honourable Minister of Trade without the Board's knowledge.

As the officer who was responsible for the CEO applications, you have a right to respond to the allegations above. *Please also provide any information or documentation you may have to support your response, correct the facts, or resolve the matter at this stage.*

We would appreciate that you respond **before or by 24th November, 2006**. If we do not hear from you, we will assume that you have no comments to make. On the other hand, we do require your assistance in the inquiry. We request that you forward the following documents and information along with your response:

1. Please inform us as to who makes the decision to advertise the post and to recruit a CEO
2. What is the procedure for the appointment of a CEO?

Appendix 35 – Page 2 of 2

3. Was this procedure followed in regard to the appointment of the current CEO?
4. Please name the short-listed candidates
5. Please confirm who was interviewed and
6. When he or she was interviewed
7. Who interviewed the candidates?
8. Who prepared the interview questions?
9. Please provide a copy of the interview questions.
10. What is management's duty in the recruitment process of the CEO?
11. How does management relate to the Board in terms of
 - (i) decision making and
 - (ii) the running of the VIPA Office?
12. Whose responsibility is it to submit such decisions as the recommended candidates for the post of CEO VIPA to the Minister of Trade?
13. Please confirm who submitted the recommended candidates to the Minister of Trade and
14. How this was done. If you have any documents to support your response in this regard, please provide them.
15. To your knowledge, please explain to us why two names were submitted and not one – and
16. If it is proper to do so.

Warning: Inquiries of the Ombudsman remain strictly confidential under Article 62 (5) of the Constitution and Section 28 of the Ombudsman Act until the public report stage. **This correspondence is directed only to you and anyone with whom it is necessary to communicate in order to provide the information requested. If you have any questions about the extent of confidentiality in this matter, please contact the Ombudsman's Office to discuss it. *The penalty for breaking this law is 6 months in jail or a fine of Vt 100,000 or both.***

Thank you in advance for your assistance and we look forward to hearing from you soon.

Yours sincerely



Peter K. TAURAKOTO

OMBUDSMAN OF THE REPUBLIC OF VANUATU



GOVERNMENT OF THE REPUBLIC OF VANUATU
GOUVERNEMENT DE LA REPUBLIQUE DU VANUATU



VANUATU INVESTMENT PROMOTION AUTHORITY

Private Mail Bag 9011
PORT VILA, Vanuatu

Telephone: (678) 24096 / 24441
Facsimile: (678) 25216

Email: investment@vanuatu.com.vu
Website: www.InvestInvanuatu.com

23rd November 2006

Mr. Peter Taurakoto
Ombudsman of the Republic of Vanuatu
Office of the Ombudsman
Private Mail Bag 9081
Pilioko House, Kumul highway
PORT VILA



Dear Mr. Taurakoto,

Re: ALLEGED IMPROPER APPOINTMENT OF THE CEO, VANUATU INVESTMENT PROMOTION AUTHORITY

We acknowledge the receipt of your letter dated 10th November 2006 in regard to the above subject matter. In relation to the complaint made against the VIPA Board on the alleged appointment of the current CEO of VIPA claiming it has been done improperly, I now respond to your questions raised in your letter. I must admit that the appointment process was done according to the relevant VIPA requirements as specified under the VIPA Act of parliament. Let me explain the detail information requested in your letter:

- 1) The VIPA Management Team considered the time period that was left before the actual expiry date of the then CEO contract and informed the VIPA Board accordingly. In the past, the appointment process of the new CEO has taken so much time that has disrupted the normal VIPA operations. Due to these reasons, the Board endorsed the proposed CEO Post to be advertised. The VIPA Management on behalf of the Board processed the advert.
- 2) There are provisions under the VIPA Act that provide criteria in which, a CEO Post must be considered. The Board reserves the right either to advertise the Post or renew the contract of the CEO. When the Post is advertised, all applications must be submitted to the Board for screening & short-list purposes. The Board would then choose the Interview panel. After the Interview, the successful candidate would be recommended to the Minister of Trade for appointment.
- 3) Yes, the procedure was followed during the appointment of the CEO, except that there were two names submitted to the Minister for appointment instead of one name, as required under Section 21 (3) of the VIPA Act. This process was done base on the past practices. In the past, there were two competitive

candidates submitted to the Minister because of the proven expertise & wide experiences that the candidates possessed in terms of investment

- 4) The short-listed candidates were the current CEO, Joe Ligo, the then PIO Howard Aru & Mr. Marokon Allilee
- 5) Mr. Howard Aru & the current CEO, Mr. Joe Ligo went through the Interview process while Mr. Marokon Allilee has decided to withdraw
- 6) The two (2) candidates were interviewed on the 11th of April 2006
- 7) The selected panel by the Board interviewed the two candidates
- 8) The VIPA Management prepared the interview questions based on the provisions provided in the VIPA Act
- 9) The copies of the Interview questions are attached for your perusal
- 10) The Management duty is to carry out what is being considered & approved by the VIPA Board. The VIPA Management prepared & advertised the Post on behalf of the Board. It also collected all the applications & forwarded to the Board for appraisal purposes. The Management also prepared the letters of the short-listed candidates as recommended by the Board. The Management advised the panel members of the interview date including the interviewees
- 11) The Management has all the powers necessary to perform its functions as specified under Section 14C of the VIPA Act and it includes:
 - i) Providing the Board with sufficient information before the Board could make a decision that is suitable for the organization
 - ii) Giving and updating the Board on the affairs or development of the VIPA operations including the VIPA budget, human resources & any other information that the Board needs to know about the daily operations of VIPA
- 12) As soon as the Board makes decision, it is the duty of the VIPA Management to ensure that the decision is implemented. In this case, the VIPA Management went & submitted the Board's decision to the Minister of Trade for his appointment
- 13) There were three Senior members of the VIPA Management Team namely Smith Tebu, Reginald Tabi & Willie Saksak who actually went & submitted the letter of recommendations to the Minister of Trade
- 14) The Management called & secured an appointment with the Minister of Trade. We met the Minister together with the DG and the 1st & 2nd Political Advisors of the Ministry of Trade. Before, we actually delivered the letter, the Minister clearly expressed himself in front of us saying; "thank you for

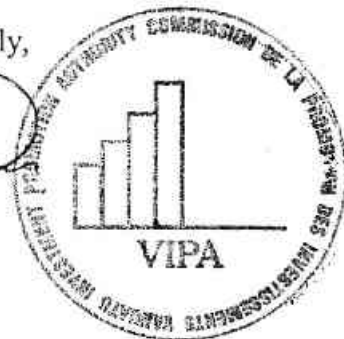
coming but before you came, I have already made up my mind for Joe Ligo to remain as CEO of VIPA because, he has proven himself during his last 3 years contract with VIPA & the VIPA Annual Report has proven that". This is exactly what the Minister of Trade has told us. We submitted the letter to him in front of the Officials

- 15) The two names were submitted based on the past practice. We had similar experiences in the past, where the two candidates were very competitive with wealth of experiences & expertise in the field of investment. Though, the scoring differences may be wide but they had both passed the average score mark. The two names were then submitted for the Minister to appoint base on experiences
- 16) Though, it may have been done in ignorant to Section 21 (3) of the Act, yet the Board saw it fit to follow that process. It would still be unfair to submit only one name to the Minister, when both names have passed the average score line. So, it was best to have the Minister decision base on the performance outcomes since both of the candidates were former CEO of the VIPA.

Thank you for your understanding.

Yours sincerely,
VIPA

Smith Tebu
Acting PIO





**Office of the Ombudsman
Bureau du Médiateur
Ofis blong Ombudsman**



Our Ref: 0431-6095-L25-jb (Please quote this reference in all correspondence)

29 January 2007

Hon. James BULE MP
Minister for Trade & Business Development
Ministry of Trade & Business Development
PMB 9056
Port Vila

Dear Honourable Minister

**ALLEGED IMPROPER APPOINTMENT OF THE CEO, VANUATU
INVESTMENT PROMOTION AUTHORITY**

We refer to the above inquiry to which you are aware. We have received information that prior to your receipt of a letter by the Chairman VIPA Board recommending names for the post of CEO, that in the presence of VIPA officials who had presented the letter, you had said words to the effect : *"thank you for coming but before you came, I have already made up my mind for Joe Ligo to remain as CEO of VIPA because, he has proven himself during his last 3 years contract with VIPA & VIPA Annual Report has proven that..."*

To assist this office in this enquiry, we request that you forward the following documents and information **by February 13th, 2007**:

1. Please confirm if you did say what you said to the VIPA officials.
2. If so, on what legal basis did you base your decision?
3. Please provide documents or information to confirm your response to the questions above and also if you believe that they should be remitted to assist this inquiry.

Warning: Inquiries by the Ombudsman are confidential until a public report is made. *The Act says that you cannot discuss this investigation, this letter, or any other information that comes from the Office of the Ombudsman, except with your lawyer or as required by law. The penalty for breaking this law is 6 months in jail or a fine of Vt 100,000 or both.*

Please contact us if you have any questions. Thank you in advance for your assistance in this matter and we look forward to hearing from you soon.

Yours sincerely



Peter K. TAURAKOTO

OMBUDSMAN OF THE REPUBLIC OF VANUATU

GOUVERNEMENT DE
LA REPUBLIQUE DE VANUATU
MINISTÈRE DU COMMERCE
DE L'INDUSTRIE ET
DU TOURISME



GOVERNMENT OF
THE REPUBLIC OF VANUATU
MINISTRY OF COMMERCE,
INDUSTRY AND
TOURISM

MINISTRY OF TRADE, COMMERCE, INDUSTRY AND TOURISM

MOT/MP/100/15/jb/ns

5th February 2007

Peter K. TAURAKOTO
Ombudsman of the Republic of Vanuatu
Ombudsman Office
Vila



Dear Ombudsman,

Thank you for your letter of 29th January 2007 of which you require information on the alleged improper appointment of the Chief Executive Officer of VIPA.

The Act of VIPA section 21 subsection 3 gave me powers to appoint the CEO of VIPA a recommendation from the Board of Director.

The Board of Directors met and consider applications for the post. After the meeting two persons were selected.

The two persons names were then submitted to me for me to choose from the two names, following the powers given to me by the Act, I therefore appoint Joe Ligo to the position of the CEO. After I appointed Joe Ligo to be a new CEO of VIPA, I was then approached by the Board of Directors appealing for a change of the appointment. I was told to appoint Howard Aru because he was threatening the Board of Directors to lodge an application to the court because he was not appointed.

I told them I am really confused because at that time I assume Joe Ligo had already knew of his appointment. If I revoke my decision then the consequence would be even bigger.

The questions I would raise here are :-

1. Why were two names given to me for me to choose ?
2. How did Howard Aru know of the outcome of the panel meeting ?
3. Was it a confidential meeting ? If so then who gave informations to Howard Aru ?
4. Who assured Howard Aru that he would be paid a compensation of five million vatu

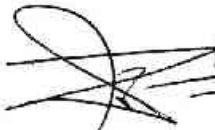
Appendix 38 – Page 2 of 2

because he was not appointed by the Honourable Minister.

Following my questions raise to you, I hereby request an investigation into the Acting CEO, the Chairman and all Board members over this matter.

Thank you.

Yours sincerely,



Hon. James BULE
Minister of Trade, Commerce, Investment and Tourism
Ministry of Trade, Commerce, Investment and Tourism



Off an
**Bureau du Médiateur
Ofis blong Ombudsman**



Our Ref: 0530-6095-L25-jb

(Please quote this reference in all correspondence)

19 February 2007

Hon. James BULE MP
Minister for Trade & Business Development
Ministry of Trade & Business Development
PMB 9056
Port Vila

Dear Honourable Minister

**ALLEGED IMPROPER APPOINTMENT OF THE CEO, VANUATU
INVESTMENT PROMOTION AUTHORITY**

Thank you for your letter of February 5th, 2007 on the above which we received on February 12th, 2007. After perusing your letter, we realise that you have not provided precise answers to the questions we raise in our letter of 29th January 2007 (copy attached). We are again requesting your response to the questions stated therein to be submitted to this Office by **Tuesday 6th March, 2007**.

Reminder: This Office can issue a Notice compelling you to come to the Office to give evidence and to provide the required information and documents, however we prefer to work co-operatively wherever possible.

Please note that under the Ombudsman Act, inquiries by the Ombudsman are confidential until a public report is made. You are legally obliged to comply with this confidentiality requirement. This means that you are not permitted to discuss this investigation, this letter, or any other information that comes from the Office of the Ombudsman, except with your lawyer or anyone with whom it is necessary to communicate in order to provide the information and documents requested. There are penalties for breaking this law.

Thank you for your assistance in this matter and we look forward to hearing from you again.

Yours sincerely


for **Peter K. TAURAKOTO**

OMBUDSMAN OF THE REPUBLIC OF VANUATU

Encl.

Appendix 40

GOUVERNEMENT DE
LA REPUBLIQUE DE
VANUATU
MINISTRE DU
COMMERCE DE
L'INDUSTRIE ET DU
TOURISME



GOVERNMENT OF THE
REPUBLIC OF VANUATU
MINISTRY OF
COMMERCE, INDUSTRY
AND TOURISM

MINISTRY OF TRADE, COMMERCE, INDUSTRY AND TOURISM

Our/nos ref
Your/ vos ref

Date: 23rd February 2007

Mr. Peter Taurakoto
Ombudsman
Office of the Ombudsman
Port Vila

Dear Mr. Taurakoto,

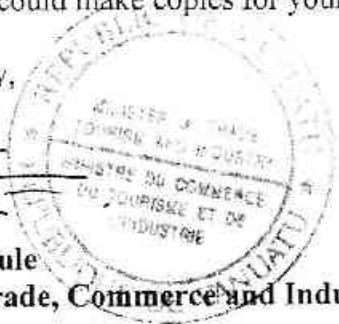
Re: Alleged improper appointment of CEO of VIPA

My letter to you of 5th February 2007 provides my response to your letter of 29th January 2007. My response to the submission of the VIPA Board dated 12th April 2006, requesting my decision on the names of the two candidates that were submitted to my office is contained in a formal letter addressed to the Chairman of the Board dated April 13th 2006.

For your information formal decisions by this Ministry are communicated through written statements not verbal communications. I understand that my office has submitted copies of formal decisions by me to your office, however if copies are not available then please let me know so that I could make copies for your office.

Yours sincerely,

Hon. James Bule
Minister of Trade, Commerce and Industry





LOCAL PURCHASE ORDER / ORDRE D'ACHAT LOCAL

L.P.O. No.
320-001041
Change Order No.
0

Appendix 41 – Page 1 of 2

TO (Supplier) / A (Fournisseur)

HOWARD ARU

Please supply to the / Prière de fournir au Service

Vanuatu Investment Prom. Authority
PMB 9011
1st Floor, Pilioko House
Port Vila

Order Date	Date Required	Ship Via	Vendor ID
17/11/2006	17/11/2006	Collect	0594093

Payment Terms
Payment 14 days after invoice date

Line	Description of goods or services Description des fournitures ou services	Quantity Quantite	Unit Price Prix Unitaire	Total Cost/VT Cout Total/VT
1	Claim against the Appointmen of CEO	1	3,108,942.00	3,108,942
TOTAL COST VT TOTAL en VT				3,108,942

NOTES

REFER ALL ENQUIRIES TO:

Purchase Order contains 1 pages

Name	Telephone:
Anna Tarivile	24096

NOTE TO SUPPLIER: This document must be sent with your invoice to the ordering ministry or department after the goods or services have been supplied.

NOTE AU FOURNISSEUR: Ce document doit être adressé avec votre facture au ministère ou service acheteur après livraison des biens ou services.

Local Purchase Order approved by authorised officer. Signature	Order d'Achat approuvé par l'agent habilité Print Name / Nom en majuscule
	Joe W Lico

Not Valid Without Official Stamp Imprint

Goods or Services Satisfactorily Received Fournitures ou Services conformes



cher No:

(Dept of Finance Use)

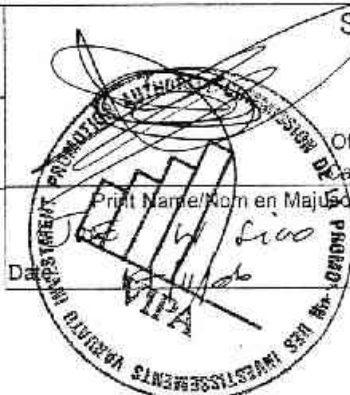
LPO Payment Confirmation

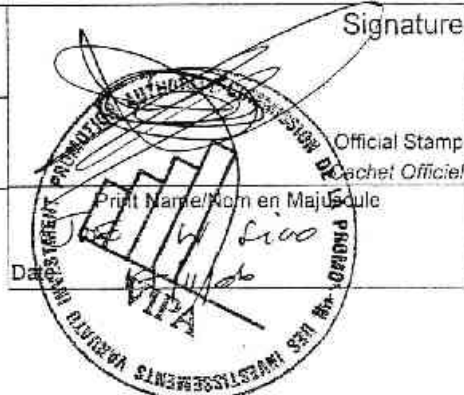
LPO Number 320-001041

Line No	Order Date	Date Required	Short Description					Qty	Unit Price	LineTotal
Fund	Dept	Activity	Account	Job	Project	Location	Proj ID	Comp	Cost Elmnt	
Write any changes to the account code to be charged in this section										
1		17/11/2006		17/11/2006	Claim against the Appointmen of CEO			1	3,108,942	VT3,108,942
2	32AE	MTEA	8COC							

Complete Sections Below on Receipt of Invoice / Completer les Cadres Ci-Dessous a la Reception de la Facture

Vendor:	0594093	HOWARD ARU	
Invoice No:		Description to be printed on cheque / Description des fournitures	Claim against the Appointment of VIPA CEO - out of Court Settlement
Invoice Date:			
Due Date:		Complete Due Date if different from normal 14 day payment terms	

Certification by Head of Dept. or authorised officer	I certify that the above sum is due for payment in accordance with the Government of Vanuatu Financial Regulations		Signature
Attestation du Chef de Service ou de l'agent habilité	Je certifie que la somme indiquée ci-dessus est due pour paiement conformément aux Régulations Financières du Gouvernement de Vanuatu		Official Stamp Cachet Officiel





LOCAL PURCHASE ORDER LOCAL

L.P.O. No.
320-001101
Change Order No.
0

TO (Supplier) / A (Fournisseur)

HOWARD ARU

Please supply to the / Prière de fournir au Service

Vanuatu Investment Prom. Authority
PMB 9011
1st Floor, Pilioko House
Port Vila

Order Date	Date Required	Ship Via	Vendor ID
19/03/2007	19/03/2007	Collect	0594093

Payment Terms
Payment 14 days after invoice date

Line	Description of goods or services Description des fournitures ou services	Quantity Quantité	Unit Price Prix Unitaire	Total Cost/VT Cout Total/VT
1	Out of Court Settlement	1	1,127,319.00	1,127,319
TOTAL COST VT TOTAL en VT				1,127,319

NOTES

REFER ALL ENQUIRIES TO:

Purchase Order contains 1 pages

Name	Telephone:
Anna Tarivile	24096

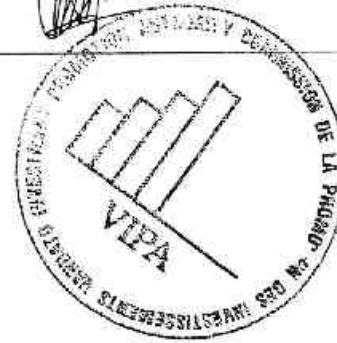
NOTE TO SUPPLIER: This document must be sent with your invoice to the ordering ministry or department after the goods or services have been supplied.

NOTE AU FOURNISSEUR: Ce document doit être adressé avec votre facture au ministère ou service acheteur après livraison des biens ou services.

Local Purchase Order approved by authorised officer. Signature	Order d'Achat approuvé par l'agent habilité Print Name / Nom en majuscule
	JOE W LICO

Not Valid Without Official Stamp Imprint

Goods or Services Satisfactorily Received Fournitures ou Services conformes



Delivered to Doreen A
Delivered Section 2.30 pm 20/03/07

Invoice No:

(Dept of Finance Use)


LPO Payment Confirmation

LPO Number 320-001101

Line No	Order Date	Date Required	Short Description					Qty	Unit Price	LineTotal
Fund	Dept	Activity	Account	Job	Project	Location	Proj ID	Comp	Cost Elmnt	
Write any changes to the account code to be charged in this section										
1	19/03/2007	19/03/2007	Out of Court Settlement					1	1,127,319	VT1,127,319
2	32AE	MTEA	8COI							

Complete Sections Below on Receipt of Invoice / Completer les Cadres Ci-Dessous a la Reception de la Facture

Vendor:	0594093	HOWARD ARU	
Invoice No:		Description to be printed on cheque / Description des fournitures	Out of Court Settlement - Vila Board -vs- Howard Aru.
Invoice Date:			
Due Date:		Complete Due Date if different from normal 14 day payment terms	

Certification by Head of Dept. or authorised officer	I certify that the above sum is due for payment in accordance with the Government of Vanuatu Financial Regulations.	 Signature Official Stamp Cachet Officiel
Attestation du Chef de Service ou de l'agent habilité	Je certifie que la somme indiquée ci-dessus est due pour paiement conformément aux Régulations Financières du Gouvernement de Vanuatu	
		Print Name/Nom en Majuscule JOE W Lino Date 19/03/07



GOUVERNEMENT DE
LA REPUBLIQUE DE VANUATU

MINISTÈRE DU COMMERCE
DE L'INDUSTRIE ET
DU TOURISME



GOVERNMENT OF
THE REPUBLIC OF VANUATU

MINISTRY OF COMMERCE,
INDUSTRY AND
TOURISM

MINISTRY OF TRADE, COMMERCE, INDUSTRY AND TOURISM

15 May 2007

Peter Taurakoto
Ombudsman of the Republic of Vanuatu
Top Floor, Pilioko House
Lihi Highway
PMB 9081
Port Vila

Dear Ombudsman,

Re: **Working Paper on the Alleged Improper Appointment of the CEO, VIPA.**

I refer to your letter of 3 May 2007 regarding the above captioned matter. Enclosed with your letter was a working paper that outlines the alleged facts, relevant laws and your preliminary findings on the above enquiry.

You further requested if I have any comments on your preliminary findings.

I have perused your preliminary findings and have the following observations to make;

1. I have responded to you in my letter of 10 October 2006 (referred to as *Appendix 33* in your preliminary findings) and my letter of 5 February 2007 (referred to as *Appendix 38* in your preliminary findings) regarding this matter. My latest letter is very clear on how and why I took the decision to appoint Mr. Joe Ligo as new CEO of VIPA. The VIPA Board of Directors in their letter of 12 April 2006 selected two persons namely Joe Ligo and Howard Aru and recommended their names to me for appointment. The VIPA Board saw it fit to recommend the two names before me for my appointment. Without doubt, there cannot be two CEO's of VIPA, therefore I appointed Mr. Joe Ligo as new CEO of VIPA based on my own discretion which I believe was done in good faith owing to his outstanding performance during the first term of his appointment as VIPA CEO.
2. I do not admit the allegations raised in 4.40 and 4.42 of your preliminary findings as I did not say those alleged words which Mr. Smith Tebu and Mr.


Lionel Kaluat referred to. Such allegations are unfounded and I would have thought that the Ombudsman ought to rely on sound evidence rather than mere hearsay. Had the VIPA Board recommended one candidate to my Office, then I would appoint that candidate accordingly, be it Mr. Howard Aru or Mr Joe Ligo.

3. Based on the above, I do not agree with your finding (Finding 3) that as Minister of Trades I breached section 21(3) of the VIPA Act. The reason is simple, Mr Joe Ligo was one of the two candidates chosen by the Board, and so I appointed him. I refer to the letter of 12 April 2006 from the Chairman of VIPA Board and my letter of response dated 13 April 2007 to the VIPA Board. ***Had I appointed someone other than a person chosen by the Board, then I would be in breach of section 21(3) of the Act.***
4. I do not agree with your finding (Finding 4) that my refusal not to revoke Mr. Ligo's appointment was grossly improper. My response to you in my letter of 10 October 2006 was very clear as to why I did not revoke the appointment of Joe Ligo. It was clear Mr. Joe Ligo, after his appointment was ready to take up his office and any adverse decisions to revoke his appointment would cause the Government to be susceptible to law suits.

In summary, I believe I was acting in good faith when I appointed Joe Ligo as new CEO of VIPA out of the two candidates chosen by the board.

Thank you and I hope I am of assistance to you.

Yours Sincerely,



Hon. James Bule
Minister of Trade, Commerce, Investment and Tourism

EMPLOYMENT CONTRACT BETWEEN

VANUATU INVESTMENT PROMOTION AUTHORITY (VIPA)
PMB 9011
PILIOKO BUILDING
PORT VILA, VANUATU

AND

JOE WILSON LIGO

Whereas the Employer is expected to carry out business as BOARD OF VANUATU INVESTMENT PROMOTION AUTHORITY (herein after called "The BOARD") in a Government Institution of the Republic of Vanuatu and has agreed to employ Mr. Joe LIGO as the CHIEF EXECUTIVE OFFICER (CEO) of VIPA, both parties agree as follows:-

1. APPOINTMENT

- 1.1 This contract shall be for a period of 3 years and shall commence on the 17th April 2003 to 17th April 2006.
- 1.2 Upon the expiring of this contract, the Board may renew this Contract for another period of not more than 3 years.

2. DUTIES

- 2.1 The CEO shall report directly to the Board at all times on all matters relating to VIPA.
- 2.2 The CEO shall carry out his duties professionally and impartially pursuant to Section 21, subsection 5 (a) to (f) of the VIPA Act and as outlined below;
 - a) Manage the Authority in accordance with the policies and directions of the Board; and
 - b) Advise the Board on any matter concerning the Authority referred to him or her by a member of the Board; and
 - c) Cause the proceedings of the Board meetings to be recorded; and
 - d) Manage the staff of the Authority; and
 - e) Generally assist the Board in the performance of its functions; and
 - f) Carry out other functions conferred on him or her by this Act or delegated to him or her by the Board

3. REMUNERATION

- 3.1 The CEO shall receive an annual remuneration of VT 1,470,096, which is equivalent of Public Service Commission Salary Scale of P. 20.1

4. HOURS OF WORK AND OVERTIME/ PUBLIC HOLIDAYS

- 4.1 The standard hours of work per week shall be 36 ½
- 4.2 Any other matters related to hours of work or overtime and public holidays shall be referred to PSC Staff Manual.

5. OTHER ALLOWANCE

- 5.1 The CEO shall receive a supplement of VT 51,000 annually as a cost of living allowance
- 5.2 The CEO shall receive a monthly child allowance of VT 1,500 per Child covering children under 18 years of age
- 5.3 The CEO shall receive a housing allowance as follows:-
 - (a). If living in privately rented houses or apartments he shall be entitled to receive a housing allowance of up to 15,000 per month and/or
 - (b). If living in his own house he shall be entitled to receive a housing allowance of up to VT 7,500 a month.
- 5.4 The CEO shall receive a subsistence allowance equivalent to other Government officers when traveling out to other provinces and overseas:
 - (a). **For domestic travel:** an allowance of 1,700 VT per day OR 50 % of receipted meal costs for first 30 continuous calendar days. Allowances reduced by 50 % after the expiry of 30 continuous calendar days i.e. 850 VT per day OR 25 % of receipted meal costs and
 - (b). **For Overseas travel:** In the Pacific an allowance of 8,500 VT. per day and 13,300 VT per day subsistence for Other regions.

6. VNPF

- 6.1 The Board shall be responsible to cover 6% of the CEO's VNPF contribution and other 6% shall be deducted from the CEO's remuneration.

7. ANNUAL LEAVE

- 7.1 The CEO shall be entitle to 21 working days annual leave on full pay upon completion of 12 consecutive months of service.
- 7.2 The CEO shall be entitled to be reimbursed of 75% of the cost of transport for his immediate family (with a limit of up to 4 children) once every year to and from their home island. Tickets and receipts must be produced prior to reimbursement.

8. SICK LEAVE

- 8.1 The CEO shall be entitle to 21 working days sick leave on full remuneration.
- 8.2 A further nine (9) working days on full remuneration shall be included upon prove of medical advice.

9. COMPASSIONATE LEAVE

9.1 The CEO shall be entitled to Compassionate leave on full salary for:

- (i) 10 calendar days on the death of parent, child, brother or sister and husband or wife.
- (ii) 1 calendar day of other close relatives.

10. MEDICAL EXPENSES

- 10.1 Subject to the approval of the Board, the CEO shall be entitle to full reimbursement of reasonable medical cost incurred at a public health facility for himself and his immediate family. Receipts must be produced prior to any reimbursement and application for reimbursement shall be made using the form approved by the Board.
- 10.2 Subject to the approval of the Board, the CEO shall be entitle to full reimbursement of reasonable medical cost incurred at a private health facility for himself and his immediate family. Receipts must be produced prior to any reimbursement and application for reimbursement shall be made using the form approved by the Board.
- 10.3 Subject to the approval of the Board, the cost of medically necessary items such as glasses and other medical appliances certified as necessary by a registered medical practitioner or registered optometrist shall also be reimbursed to the CEO.
- 10.4 Subject to the approval of the Board, the CEO and his immediate family shall be eligible for full payment of any overseas medical treatment, subject to a registered medical practitioner certifying that the treatment is necessary and unavailable in Vanuatu at a reasonable cost.
- 10.5 The cost of medical treatment under clause 10.4 shall include the cost of return airfares to and from the place of medical treatment.

11. OFFICIAL VEHICLE

- 11.1 The Board shall provide the CEO with a vehicle to carry out his official duties and the vehicle shall be kept under the responsibility of the CEO.

12. SEVERANCE ALLOWANCE

- 12.1 The CEO shall be entitle to severance allowance on the completion of this contract.
- 12.2 The severance allowance shall be one (1) month salary for every year worked.

13. NOTICE OF TERMINATION

- 13.1 The CEO may terminate this contract by giving not less than 60 days written notice to the Board and the Minister.

14. DISCIPLINARY MATTERS

- 14.1 Any disciplinary matter which may arise will be dealt with by the Board.

15. DISPUTE

15.1 Any dispute arising out of this contract shall be dealt with amicably by both parties, failure of which an independent arbitrator shall be agreed upon by both parties to consider the matter. The decision of the independent arbitrator shall be final.

GOVERNING LAW

This contract shall be governed by the laws of the Republic of Vanuatu.

On behalf of the Board:



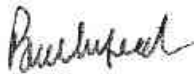
Roy Mickey JOY
Chairman
Board of Vanuatu Investment
Promotion Authority



The Contract Employee:



Joe Wilson LIGO
Chief Executive Officer



Witness



Witness

Dated this 3rd day of September 2003.