

STATE OF YAP

THIRD REGULAR SESSION, 2013

A RESOLUTION

Instructing the Yap State Foreign Investment Board pursuant to 8 YSC 304(c) to cancel the Yap State Foreign Investment Permit issued to the Exhibition and Travel Group (ETG), because the issuance of the Permit by the Director of the Department of Resources and Development violated the State Government Ethics Act and is therefore not valid to allow ETG to engage in business in the State of Yap.

1 WHEREAS, the State Government Ethics Act was created
2 "to prescribe standards of ethical conduct for all
3 government employees, in order that the people of the
4 State of Yap may have complete faith and confidence in
5 the integrity of their government" (8 YSC 302); and

6 WHEREAS, section 304(a) of the Act states that:

7 "(a) Employees shall avoid any action which
8 might result in, or create the appearance of:

- 9 (1) Using public office for private gain;
10 (2) Giving preferential treatment to any
11 organization or person;
12 (3) Impeding government efficiency or
13 economy;
14 (4) Losing complete independence or
15 impartiality of action;
16 (5) Making a government decision outside
17 official channels; or

1 (6) Affecting adversely the confidence
2 of the public in the integrity of
3 the government."; and

4 WHEREAS, section 304(c) of the Act allows the State
5 to void any action taken by a state employee that
6 violates the Act, as well as to hold the employee
7 personally liable for any damages, costs, and other
8 consequences that the State incurs as a result of voiding
9 the employee's unethical actions; and

10 WHEREAS, section 303 of the Act defines employees as
11 "all employees of the State Government, including those
12 persons covered by or exempted from the State Public
13 Service System Act."; and

14 WHEREAS, the Director of the Department of Resources
15 and Development is an employee of the State Government
16 whose actions are subject to the Act pursuant to section
17 303 of the Act; and

18 WHEREAS, the issuance of the Yap State Foreign
19 Investment Permit by the Director of the Department of
20 Resources and Development (hereinafter Director) to the
21 Exhibition and Travel Group (hereinafter ETG) on and
22 received by ETG on April 26, 2012 violates Section 304 of
23 the Act as follows:

- 1 1. Pursuant to subsection (a)(2) on "giving
2 preferential treatment to any
3 organization or person," the following
4 items are evidence of how the issuance of
5 the Permit to ETG represented and
6 continue to represent the Director giving
7 preferential treatment to ETG in
8 violation of subsection (a)(2): the
9 Director approving and issuing the Permit
10 to ETG despite overwhelming public
11 opposition including the adoption of
12 Resolutions by the Legislature; and the
13 Director approving and issuing the Permit
14 to ETG despite ETG proposing to engage in
15 illegal activities in the State of Yap
16 such as gambling as indicated in their
17 investment agreement proposal to the
18 Governor prior to the issuance of the
19 Permit, and as specified in the Strategic
20 Framework Agreement signed by the
21 Governor and ETG;
-  22 2. Pursuant to subsection (a)(3) on
23 "impeding government efficiency or

1 economy," the following items are
2 evidence of how the issuance of the
3 Permit to ETG represented and continue
4 to represent the Director impeding
5 government efficiency or economy in
6 violation of subsection (a)(3): the
7 Director's instructions to his staff not
8 to release information on the status of
9 the ETG application for a Yap State
10 Foreign Investment Permit; the Director's
11 total disregard of the overwhelming
12 public opposition including a petition by
13 more than 1,500 people and residents of
14 Yap State against the ETG proposal; the
15 Director's complete disregard of
16 Resolutions adopted by the Legislature
17 against the ETG proposal; the Director's
18 acceptance of ETG's initial proposal to
19 the Government to engage in business
20 activities including illegal activities
21 such as gaming and casinos; and the
22 Director's preferential treatment for the
23 ETG application for a Permit resulted in



1 the Legislature being kept in the dark
2 while the Governor and the Council of
3 Pilung continued to negotiate with ETG.
4 Such actions adversely affect government
5 efficiency by causing uncertainty and
6 confusion amongst relevant government
7 agencies, undermining continued
8 cooperation and unity in the State
9 Leadership, and preventing a more
10 efficient and a more orderly review of
11 the documents and investment proposal by
12 ETG by the entire Yap State Government
13 exclusive of the Judiciary Branch, and
14 the public; and

15 3. Pursuant subsection (a)(6) on "adversely
16 affecting the confidence of the public in
17 the integrity of the government," the
18 following items are evidence of how the
19 issuance of the Permit to ETG represented
20 and continue to represent the Director
21 adversely affecting the confidence of the
22 public in the integrity of the government
23 in violation of subsection (a)(6): the



1 Director's disregard, before issuing the
2 Permit, of the outcry of the people of
3 the State of Yap comprising of more than
4 1,500 petitioners against the ETG
5 proposal, the adoption of Yap State
6 Resolutions No. 8-29 and 8-31 by the
7 Legislature on January 26, 2012 and
8 April 19, 2012, respectively, against the
9 ETG proposal, and the Governor's specific
10 instruction to the Director in a State
11 Leadership meeting not to issue the
12 Permit; and, following the issuance of
13 the Permit, the Director's disregard of
14 the people's continued opposition to the
15 ETG proposal as the people of Yap
16 continued to raise their concerns and
17 oppositions to the State Leadership as
18 follows:

19 (i) May 3, 2012 the State Leadership was
20 petitioned by an additional 172
21 petitioners against the ETG
22 proposal;

23 (ii) May 21, 2012 a meeting designated



1 as a Town Hall Meeting was held at the
2 Colonia Community Center which supposedly
3 to educate the general public on the
4 proposed ETG project was limited to only
5 two hours, and during which meeting the
6 Acting Attorney General in the presence
7 of the Director informed the people that
8 the Permit had not been delivered to ETG
9 when in fact ETG had received the Permit
10 on April 26, 2012 as noted and initialed
11 by ETG agent on the Permit, and further
12 at the conclusion of the meeting there
13 were questions those in attendance still
14 wanted to ask;

15 (iii) July 31, 2012 the Yap Women's
16 Association forwarded to the State
17 Leadership a petition by the "Bpin
18 nu Waab" from the respective
19 municipalities of Yap and members of
20 the general public of the State of
21 Yap, stating their strong opposition
22 to the ETG proposal that "they
23 strongly feel that this investment

1 is not right for the State of Yap.
2 Therefore, we are humbly pleading to
3 your good office to put a stop to
4 this Proposed Development of ETG." ;
5 (iv) August 9, 2012 more people of Yap
6 petitioned the State Leadership "NOT
7 to permit the Exhibition and Travel
8 Group (ETG) to invest in the whole
9 State of Yap. We have listened to
10 all available information on ETG's
11 investment plan in Yap and we know
12 that their investment is not good
13 for Yap and her future
14 generations." ;
15 (v) September 18, 2012, Yap State
16 Resolution No. 8-53 was adopted by
17 the Legislature "calling on the
18 Governor to submit a written notice
19 to Exhibition Travel Group (ETG) to
20 void the Investment Agreement
21 between the State and ETG and to
22  disapprove any and all master plans
23 from ETG for investment in Yap

State.";

1 (vi) October 1, 2012, the Governor of the
2 State of Yap wrote the Chairman of
3 ETG to "reconsider the proposed
4 project, if not to dissolve the
5 Investment Agreement and any legal
6 documents preceding it." and in the
7 letter the Governor made reference
8 to the letter of the Dalip Pi
9 Nguchol "commanding my
10 administration to 'prohibit the
11 Exhibition and Travel Group from
12 proceeding with its intended Project
13 for Yap State'" and Yap State
14 Resolution No. 8-53 requesting him
15 to void the Investment Agreement,
16 and that "It is my belief that the
17 attached letter and resolution,
18 together with other attachments
19 herewith, are indicative of a
20 resistance to your proposed project
21 in the State and I feel that it is
22 my responsibility to approach your
23 organization before you risk any



1 greater financial investment going
2 forward. I fear that the prospects
3 of ETG crafting a profit-making
4 enterprise in Yap may be very low.
5 It seems that ETG, if it decides to
6 go forward with the project, will
7 encounter a huge amount of
8 resistance from the public and by
9 way of laws passed by the
10 Legislature which will all but
11 ensure that ETG cannot do business
12 in the State of Yap."; and

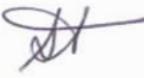
13 WHEREAS, on November 27, 2012, a petition addressed
14 to Speaker Falan was received by the Yap State
15 Legislature from a group calling themselves the Yap
16 Awareness Project (Y.A.P.). This petition has over one
17 thousand signatures, and it stated in relevant parts as
18 follows: "In lieu of recent events aired in the
19 legislative chamber and efforts to cease economic
20 development initiatives spear-headed by our Governor,
21 Council of Pilung and National Government. It is our
22 wish to let it be known that we do not join or embrace
23 the recent resolution that came out of the legislature

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1 that call for the cessation of the current proposed
2 foreign investment initiative and that we do not support
3 the position of others to recall our Governor." It went
4 on to say that "Therefore, we feel it is in the best
5 interest of Yap State and its people to allow all our
6 leaders and their entities to continue their mandated
7 responsibilities of promoting foreign investments
8 according to our laws and policies. Furthermore, for all
9 our leaders to come to a united front to explore and seek
10 all and every possible way that we could benefit from the
11 current proposed investment."; and

12 WHEREAS, petitions by the Y.A.P group and others
13 previously clearly showed that the confidence of the
14 public in the government is affected adversely. 8 YSC
15 304 (a) (6) specifically voids any action by a State
16 employee if his action affects adversely the confidence
17 of the public in the government; and

18 WHEREAS, on February 5, 2013, and in response to the
19 Y.A.P. group's petition, the whole membership of the Yap
20 State Legislature met with the group to discuss the
21 wishes expressed in the petition. It was in this meeting
22 that the Y.A.P. group was informed that Yap State
23 Legislature Resolution No. 8-53 was adopted at the



1 request of the Governor to support his letter to the
2 Chairman of ETG dated October 1, 2012. The mandate that
3 the members of the Yap State Legislature understood from
4 this meeting is for the State leaders to come to a united
5 front; and

6 WHEREAS, on March 21, 2013, the Yap State
7 Legislature met with the Governor to discuss the best way
8 forward on the proposed ETG project since we have
9 different groups with different views on the project. It
10 was decided that the Governor should have the Foreign
11 Investment Permit for ETG be voided, and that the
12 Governor should get back to the Legislature on April 16,
13 2013. This meeting did not take place because the
14 Governor was to go off-island on medical purposes on that
15 day; and

16 WHEREAS, the Chief of Rumung on the Council of
17 Pilung has informed the Council that he was given
18 US\$3,000 by Mr. Yang Gang, the ETG agent in Yap, and that
19 as a member of the Council of Pilung it would constitute
20 a bribe which is a state crime under our Yap Penal Code
21 if the Chief were to receive the money as consideration
22 to influence his decision to assist ETG by influencing
23 the people of Yap to lease their lands to ETG; and



1 WHEREAS, Mr. Deng Hong, Chairman/President of ETG
2 has been in world news to be under investigation by the
3 government of China for graft and has been in custody
4 since early March of this year which supports the
5 assumption that the payment of money to the Chief of
6 Rumung was a bribe and consistent with the Chinese
7 Government investigation of Deng Hong; and

8 WHEREAS, the purpose of the Yap State Foreign
9 Investment Act is "to encourage foreign investment within
10 the State of Yap in a manner which serves the economic,
11 social, and cultural interest of the State of Yap"; and

12 WHEREAS, accepting a large sum of money by a
13 government official and traditional Chief from ETG and
14 knowing that ETG is a Chinese entity and that the Chinese
15 Government is investigating the Chairman of ETG for graft
16 and that the Chairman has been in custody for corruption
17 and illegal land grabs are factors that will clearly not
18 serve the economic, social, and cultural interest of the
19 State of Yap; and

20 WHEREAS, the combination therefore of the Director's
21 violation of the State Government Ethics Act together
22 with the criminal activity in which Mr. Deng Hong,
23 Chairman of ETG, is involved in would clearly constitute



1 a lack of confidence of the public in the integrity of
2 the government if the Permit is not cancelled by the Yap
3 State Foreign Investment Board which was created by Yap
4 State Law No. 8-25 to review, approve and issue a Yap
5 State Foreign Investment Permit, among other things, in
6 lieu of the Director; now, therefore,

7 BE IT RESOLVED by the Eighth Legislature of the
8 State of Yap, Third Regular Session, 2013, that on behalf
9 of the people and government of the State of Yap, the
10 Legislature hereby instructs the Yap State Foreign
11 Investment Board pursuant to 8 YSC 304(c) to cancel the
12 Yap State Foreign Investment Permit issued to the
13 Exhibition and Travel Group (ETG), because the issuance
14 of the Permit by the Director of the Department of
15 Resources and Development violates the State Government
16 Ethics Act for the reasons explained in this Resolution
17 and is therefore not valid to allow ETG to engage in
18 business in the State of Yap; and

19 BE IT FURTHER RESOLVED that if the Yap State Foreign
20 Investment Board fails to cancel the Permit within twenty
21 calendar days after receipt of a certified copy of this
22 Resolution for whatever reasons, then this Resolution
23 shall operate to cancel the Permit pursuant to section



1 304(c) of the Act which allows the State to void
2 unethical actions by a State employee; and

3 BE IT FURTHER RESOLVED that certified copies of this
4 Resolution be transmitted to the Chairman and members of
5 the Yap State Foreign Investment Board, the Governor, the
6 Attorney General, the Chief of Commerce and Industries,
7 the Chief of Land Resources, the Chairman of the Council
8 of Pilung, and the Chairman of the Council of Tamol.

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10 **Adopted:** May 02, 2013

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19 **Attested to:**

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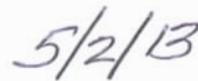
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Henry Falan
Speaker



Date



Dee N. Libian
Chief Clerk