

**REPUBLIQUE  
DE  
VANUATU**  
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NOTIFICATION OF PUBLICATION

ORDER

MUNICIPALITIES ACT [CAP 126]

- INSTRUMENT OF APPOINTMENT OF PERSON TO INQUIRY INTO CERTAIN MATTER OF THE LUGANVILLE MUNICIPAL COUNCIL ORDER NO. 165 OF 2013
- MUNICIPAL COUNCIL ELECTIONS REGULATIONS (AMENDMENT) ORDER NO. 166 OF 2013

LEGAL NOTICE

IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

LEGAL PRACTITIONERS CASE NO. 1 OF 2013

IN THE MATTER OF: THE LEGAL PRACTITIONERS REGULATION 1980 [CAP. 119] (AS AMENDED)

AND

IN THE MATTER OF: AN APPLICATION BY SEAN OWEN McANALLY OF AUCKLAND, NEW ZEALAND, FOR ADMISSION TO THE SUPREME COURT OF THE REPUBLIC OF VANUATU AND FOR TEMPORARY REGISTRATION AS A LEGAL PRACTITIONER ORDER, NOTICE NO. 546 OF 2013



## REPUBLIC OF VANUATU

### MUNICIPALITIES ACT [CAP 126]

#### Instrument of appointment of person to inquiry into certain matters of the Luganville Municipal Council Order No. 165 of 2013

In exercise of the powers conferred on me by paragraphs 61(1)(a), (b) and (c) of the Municipalities Act [CAP 126], I, the Honourable PATRICK CROWBY MANAREWO, Minister of Internal Affairs, make the following Order.

#### 1 Appointment

Mr. PIERRO WILLIE is appointed to inquire into certain matters of the Luganville Municipal Council.

#### 2 Terms of reference

The Terms of Reference of the Commission are set out in the Schedule.

#### 3 Commencement

This Order is taken to have commenced on 1 November 2013.

Made at Port Vila this 4<sup>th</sup> day of December, 2013.

Honourable PATRICK CROWBY MANAREWO  
Minister of Internal Affairs



## SCHEDULE

### TERMS OF REFERENCE OF PERSONS WHO ARE TO INQUIRE INTO CERTAIN MATTERS OF THE LUGANVILLE MUNICIPAL COUNCIL

#### 1. Objective

To inquire into and report and ascertain whether the financial transactions have been carried out in accordance with:

- (a) sections 42 to 58 of the Municipalities Act [CAP 126] with the Municipal Council's Financial Regulations;
- (b) Ministerial instructions;
- (c) relevant accounting standards.

#### 2. Inquiry Report

The inquirers are to prepare a report of the results of this inquiry to the Minister of Internal Affairs on or before 15<sup>th</sup> November 2013.

#### 3. Extension of inquiry

Where the results of the inquiry indicate that the inquiry should be expanded to areas other than financial transactions, the inquirers may request that the inquiry be extended into such areas.

#### 4. Scope of inquiry

- (1) The inquiry is to be carried out in accordance with the relevant standards of accounting and will include such tests and controls as the inquirers consider necessary under the circumstances.
- (2) The inquiry is to cover the activities carried out in all of the Council's premises.

#### 5. Procedure when conducting inquiry

While conducting the inquiry, special attention must be made to the following:

- (a) whether funds provided by the Government, banks, donors, or other parties as grants or loans have been used in accordance with the conditions as laid down in their respective agreements and have been recorded in the financial records in such manner that will distinguish those grants or loans from other transactions;
- (b) whether expenditure, including procurement of goods and services, have the necessary supporting documentation and have been incurred in accordance within the provisions of the Financial Regulations;



- (c) whether goods and services procured by the Luganville Municipal Council (the 'Council'), are supported by valid orders, receipts and invoices and are recorded correctly in the Books of Account;
- (d) whether invoices, financial contracts and other documents (that may affect the future financial and contingent liabilities of the Council) that impact the financial record-keeping of the Council, are promptly received by the Treasury section of the Council and that they are kept in a safe and secure location in the Treasury section.
- (e) whether payments to suppliers of goods and services are made in accordance with the Financial Regulations and relevant Accounting Standards and that they are recorded promptly and accurately in the books of account;
- (f) whether cheques drawn for payments are fully supported by the relevant documentation and are correctly checked and signed by the appointed signatories in accordance with the Financial Regulations;
- (g) whether payments of cash are fully supported by the relevant documentation and that the recipient has signed for the correct amount of the cash disbursed and that the amounts are promptly and correctly recorded in the Books of Account;
- (h) whether bank accounts opened and kept in the name of the Council are reconciled at least once per month against financial records in the Treasury section;
- (i) whether balance Sheet accounts are reconciled at least once per month;
- (j) whether financial records have been prepared in accordance with consistently applied relevant Accounting Standards and give a true and fair view of the financial position of the Council;
- (k) whether documentation is filed promptly in easily identifiable and accessible locations for accounts verification;
- (l) whether payroll records (which are records that also contain full information on conditions of service, position description, entitlements and leave records), are kept up to date in a safe and secure place that is in a location that affords confidentiality;
- (m) whether payments made to staff are in accordance with their conditions of service and are made against time sheets approved by their authorized manager or supervisor whose responsibility it is to check the entries for accuracy and applicability. Overtime, advances and other emoluments are recorded and calculated and conform to approval;

- (n) whether management accounts are produced for the Town Clerk and the Council Members on a monthly basis and represent a true position of the Council's financial position;
- (o) whether annual accounts are prepared for audit in the timeframe designated by the Finance Regulations;
- (p) whether any payment made to any Councilor is in accordance with the Financial Regulations guidelines and Ministerial instructions.
- (q) whether issuance of council letter heads without clerks approval
- (r) whether approval of certain activities within municipal boundaries in breach of LMC bye laws eg. Kava bars poultry etc
- (s) Whether issuance of temporary building permits on the unregistered land and illegal development in the Luganville physical planning area.
- (t) whether committee meetings are in line with budget and standing order
- (u) Whether the council staff has consistently been abused and threatened by the councilors:
- (v) whether payment and borrowing is in accordance with Financial Regulation guideline (eg) borrowing of 10 million Wong size sing 2.5 million Chuan store and other payment which may be obtained by the investigator
- (x) Whether any payment made to any councilors, staff and suppliers of goods and services is in accordance with the financial instruction guideline and the council's accounting policies

## **6 Coverage**

The inquirers are to have free and uninhibited access to all documents within the Council including areas under the jurisdiction of the Council in order to assist the inquirers in verifying the following:

- (a) whether the necessary supporting documents, records, invoices etc. have been kept with Books of Accounts;
- (b) whether the Standard Books of Accounts such as Cash Book, Bank Book, Journal, Ledger, stock register, fixed assets register etc are Maintained;
- (c) whether the physical verification of Council assets has been carried out and reconciled at least once in each year;

- (d) whether the verification that the valuations of properties on which the Council levies Property Tax are regularly updated and that record keeping and invoicing of the Property Tax is carried out in an efficient and timely manner;
- (e) whether the cash and Bank payments to suppliers, contractors, various institutes etc. and receipt of funds from various sources are properly made and that discounts given are given with the appropriate authority and are correctly recorded;
- (f) whether the adjustment of suppliers part supply against their bills, if any have been correctly controlled and accounted for;
- (g) whether the expenditure limits are documented and adhered to at all times;
- (h) whether the process of tender evaluation and award of work to Contractors, Consultants or other parties are as per prescribed in the procedures.
- (i) whether the supervision of the work awarded to contractors, consultants or other parties is carried out and assessed on a continuing basis, and at the completion of the work an evaluation is carried out and recorded by the person responsible for overseeing the work;
- (j) Whether the recommendations to Treasury for payment of bills are on prescribed documents which clearly define the interim and period to date claims against the total expenditure to be incurred;
- (k) whether the interest accrued on loans and overdrafts received are accurately recorded on a monthly basis in the Accounts;
- (l) whether care is taken to ensure that information used for Financial Budgets, Forecasts, Cash Flow Forecasts or other Financial estimates is compiled after carefully assessing and assembling all of the known and calculated financial information required to produce the best information possible. Future potential or contingent liabilities are included as a notation.

## **7 Management Letter**

- (1) In addition to the inquiry report provided in clause 2, the inquirers shall prepare a management letter in which they are to:
  - (a) provide comments and observations, if any, on the accounting records, systems and controls that were examined during the course of the inquiry;
  - (b) identify specific deficiencies and areas of weakness, if any, in systems and controls and make recommendations for their improvement;

- (c) report on the degree of compliance with the financial or internal control procedures as documented in the Financial Regulations and Ministerial instructions;
  - (d) communicate matters that have come to attention during the inquiry which might have a significant impact on the financial functions of the Council including:
    - (i) the competency of the current Treasury section in terms of its ability to produce financial reports to the standard required by the Financial Regulations and relevant Accounting Standards; or
    - (ii) the current hardware used by the Treasury section; or
    - (iii) the current software systems used by the Treasury section.
  - (e) bring to attention any other matter that the Investigator considers pertinent.
- (2) The observations in the management letter must be accompanied by suggested recommendations from the inquirers and Management comments on the observations or recommendations from the Management.

#### **8 Access**

The inquirers are to be given access to all legal documents, correspondence, Financial Regulations, Ministerial instructions, notices and any other information deemed necessary by the inquirers.



## REPUBLIC OF VANUATU

### MUNICIPALITIES ACT [CAP 126]

#### Municipal Council Elections Regulations (Amendment) Order No. 166 of 2013

In exercise of the powers conferred on me by paragraph 7(2)(i) of the Municipalities Act [CAP 126], I, the Honourable PATRICK CROWBY MANAREWO Minister of Internal Affairs, make the following Order.

##### 1 Amendments

The Municipal Council Elections Regulations Order No. 60 of 1982 is amended as set out in the Schedule.

##### 2 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 09<sup>th</sup> day of December, 2013.



Honourable PATRICK CROWBY MANAREWO  
Minister of Internal Affairs



## SCHEDULE

### AMENDMENTS OF THE MUNICIPAL COUNCIL ELECTIONS REGULATION ORDER NO. 60 OF 1982

#### 1 After clause 31

Insert

#### **“31A Cut-off date for using any money or donations in kind**

(1) A candidate for election must not spend, allocate or otherwise disburse to the ward in which he or she is a candidate, any money, whether in the form of:

(a) any money obtained from any source of funding, whether in the form of:

(i) cash donations; or

(ii) donations in kind,

from the period commencing at the end of the life of a Council or at the date of the dissolution of a Council, to and including, the polling day.

(2) For the purposes of this section,

**donations in kind** includes, but is not limited to, food or food products, transport, transport fares, machinery, cooking utensils, building materials and furniture.

#### **31B Exception on polling day**

Despite section 31A, a candidate may, without the intention of corruptly influencing any person, provide food, drink, transport and accommodation to any person on the polling day.

#### **31C Exceptions during the campaign period**

(1) Despite section 31A, a candidate may during the campaign period:

(a) present a gift of a custom mat or an amount not exceeding VT1,000, or both, to a chief or any person of similar authority in an area for the purposes of holding a campaign in that chief's or person's area; or

- (b) provide food, drink, entertainment, transport or accommodation only to his or her agents; or
  - (c) provide entertainment to the public for the purposes of entertaining the public during his or her campaign rally.
- (2) For the purposes of this clause, an **agent** of a candidate is a person approved by a candidate as a member of that candidate's campaign team.
  - (3) To avoid doubt, this section applies only during the campaign period declared by the Electoral Commission for the purposes of the Act.”

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

**Temporary Legal Practitioners Case No.01 of 2013**

**IN THE MATTER OF:** THE LEGAL PRACTITIONERS REGULATION  
1980 [CAP. 119] (as amended)

**AND IN THE MATTER OF:** An Application by SEAN OWEN McANALLY  
of Auckland, New Zealand, for admission to the  
Supreme Court of the Republic of Vanuatu and  
for Temporary Registration as a legal  
Practitioner

**ORDER**

**NOTICE NO. 456 OF 2013**

UPON READING the Application and verifying Sworn Statement of SEAN OWEN McANALLY dated 13<sup>th</sup> August 2013 AND UPON HEARING THE APPLICATION dated 14<sup>th</sup> August 2013 filed on behalf of the said SEAN OWEN McANALLY, THIS COURT, being satisfied that the said SEAN OWEN McANALLY is duly qualified for admission as a Barrister and Solicitor of this Court and as a Legal Practitioner and that he has taken the requisite oaths on admission, ORDERS:-

1. THAT, SEAN OWEN McANALLY , of C/- Edward Nalyal & Partners, Port-Vila, be temporarily admitted as a Barrister and Solicitor in Vanuatu, pursuant to the provisions of Section 18 of the Legal Practitioners Act 2006;
2. THAT, such admission be subject to the restrictions imposed by sections 18, 19, 20 and 21 of the Legal Practitioners Act 2006;
3. THAT, this Application is dealt with on a temporary basis in Chambers, pursuant to the provisions of section 13 of the Legal Practitioners (Amendment) Act [CAP.119]; and the inherent power of the Chief Justice of Vanuatu.
4. THAT, the name of SEAN OWEN McANALLY be entered forthwith on the Roll of Barristers and Solicitors kept by the Registrar of the Supreme Court.

**Dated at Port Vila this 16<sup>th</sup> day of August 2013**

**BY THE COURT**

  
**Vincent LUNABEK**  
Chief Justice





# **SUPREME COURT – REPUBLIC OF VANUATU**



## **Legal Practitioners Regulation Act (as amended) CAP 119 (Section 13)**

### **TEMPORARY PRACTICING CERTIFICATE PRACTICING CERTIFICATE NO. 01 OF 2013**

This is to certify that **SEAN OWEN McANALLY** has been granted a Temporary Practicing Certificate for the purpose of appearing in the Courts of the Republic of Vanuatu on behalf of Ridgway Blake Lawyers of Port Vila, Efate in the Republic of Vanuatu.

This certificate is granted subject to the following conditions:

1. That the holder of this Certificate shall only act in the Republic of Vanuatu in conjunction with the Legal representation in Civil Case No. 42 of 2013;
2. That the holder of this Certificate shall not engage in any legal work of any description other than legal work necessarily connected with the above matter;
3. That the holder of this Certificate, shall not hold himself out as a lawyer entitled to practice in Vanuatu other than in respect of the above matter, nor shall he accept any other brief from the said proceedings;
4. That the holder of this Certificate shall, during the subsistence of this Certificate, ensure that he has complied with all relevant laws of Vanuatu relating to the residence and employment of non-citizens;
5. That this Certificate shall cease to have effect upon the conclusion of the abovenamed matter.

DATED at Port Vila, this 16<sup>th</sup> day of August 2013

**VINCENT LUNABEK**  
**CHIEF JUSTICE**  
**Supreme Court of the Republic of Vanuatu**






IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

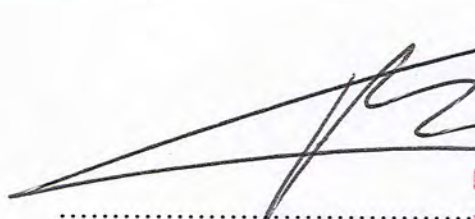
OATH OF SOLICITOR


I, **SEAN OWEN McANALLY** of Auckland, New Zealand, do swear that I will truly and honestly demean myself in the practice of a Solicitor according to the best of my knowledge and ability.

**SUBSCRIBED** by the said SEAN )  
OWEN McANALLY )  
before me, Honourable Justice )  
VINCENT LUNABEK, Chief )  
Justice of the Supreme Court of the )  
Republic of Vanuatu )

  
.....

This 3rd day of December 2013.

  
.....  
**VINCENT LUNABEK**  
**CHIEF JUSTICE**





**IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU**

**OATH OF BARRISTER**

I, **SEAN OWEN McANALLY** of Auckland, New Zealand, do swear that I will truly and honestly demean myself in the practice of a Barrister according to the best of my knowledge and ability.

**SUBSCRIBED** by the said SEAN )  
OWEN McANALLY )  
before me, Honourable Justice )  
VINCENT LUNABEK, Chief )  
Justice of the Supreme Court of the )  
Republic of Vanuatu )

  
.....

This 3rd day of December 2013.

  
.....  
**VINCENT LUNABEK**  
**CHIEF JUSTICE**



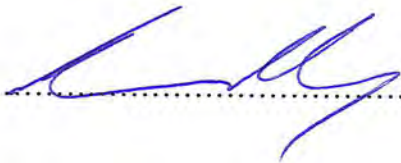


**IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU**

**OATH OF ALLEGIANCE**

I, **SEAN OWEN McANALLY** of Auckland, New Zealand, do swear that I will well and truly serve and bear true allegiance to the Republic of Vanuatu according to law.

**SUBSCRIBED** by the said SEAN )  
OWEN McANALLY )  
before me, Honourable Justice )  
VINCENT LUNABEK, Chief )  
Justice of the Supreme Court of the )  
Republic of Vanuatu )

.....

This 3<sup>rd</sup> day of December 2013.

.....  
**VINCENT LUNABEK**  
**CHIEF JUSTICE**

