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IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

_____)	Civil Case No. 2014-067
Eigigu Holdings Corporation,)	
)	
	)	Defendants Leanders' Opposition
Plaintiff	)	Plaintiff's Motion to Disqualify
v.	)	Defense Counsel.
)	
)	
Leander Leander and Lijun Leander,)	
)	
Defendants)	
_____)	

I. INTRODUCTION

Plaintiff's motion to disqualify defendants' counsel, John Masek (hereinafter Masek) is a mishmash of unsupported allegations, suppositions and highly inflammatory speculation regarding possible criminal conduct on the part of defendant's counsel. Indeed the allegations regarding possible criminal conduct on the part of Masek are so inflammatory and so unsupported by any facts or evidence whatsoever that they rise to the level of misconduct on the part of attorney Benjamin.

Plaintiff's Attorney, Gordon Benjamin (hereinafter Benjamin) argues that Masek should be disqualified because Masek allegedly has information regarding the sub-leases between Eigigu Holdings Company (hereinafter EHC or Eigigu) and the Leanders and thus it will be

necessary for EHC to call Masek as a witness. According to Benjamin, Masek obtained documents relating the sub-leases between the Leanders and EHC while representing Rubin Tsitsi (hereinafter Tsitsi), a former employee of EHC, in his action against EHC for unpaid wages. First and foremost, Benjamin ignores the fact that his client Eigigu had all sub-leases since May 2012,¹ and further ignores the fact that all the Leanders' 2010 sub-lease and the receipt for payment on all sub-leases are public record documents on file with the Land Registration Authority.²

Benjamin fails to make his case that there is any reason whatsoever that Masek should be disqualified from representing the Leanders in the instant action. Benjamin's motion is based on speculation and supposition. He offers no actual evidence that Masek actually has any information regarding the lease formation between EHC and the Leanders. He give no plausible explanation as to why Masek would have information about the formation of sub-leases done in 2001, 2002 or 2010. There is no evidence that Masek represented Tsitsi during those time periods. Given the remarkable lack of actual evidence to support the motion, one can only assume that Benjamin is bringing this motion solely for tactical purposes and clearly demonstrating bad faith on his part.

II. STATEMENT OF FACTS

¹ A true and correct copy of a letter dated May 11, 2012 to Rubin Tsitsi from Eigigu Holdings, filed by Eigigu as Plaintiffs' Exhibit 'J' in the matter of Eigigu v. Tsitsi, HC #2013-005, attached hereto as Exhibit "A", states in part "We now have copies of all the [sub] leases allegedly made on behalf of EHC with tenants at the Eastern Gateway."

² See Exhibits "A & B" to Leander Leander's Motion for Relief from Default, wherein Leander's sub-lease and receipt for payment are stamped as Land Registration Authority Instrument 4010, totaling 13 pages, filed on July 9, 2010.

Masek first started representing Tsitsi on two matters involving Tsitsi's application for registration as an RMI citizen,³ and an appeal of a Deportation Order.⁴ Later Masek represented Tsitsi, a former employee of EHC in Tsitsi's wrongful termination action against EHC.⁵ Benjamin represented EHC in Tsitsi's action for unpaid wages against EHC. Masek also represented Tsitsi in Eigigu's case against Tsitsi.⁶ In the present action, Benjamin is alleging that Tsitsi had a cache of business records rightfully belonging to EHC. Benjamin is alleging that Tsitsi had documents relating to the sub-leases and lease negotiations between EHC and the Leanders (defendants in the current case) as well as records of the Leanders rental payments. He further alleges that Masek either has those records in his possession or has knowledge of those records and hence should be called as a witness in the current action.

The cases wherein Masek represented Tsitsi did not involve the sub-lease agreements that are the subject of the current litigation. Masek did not discuss, advise or counsel Tsitsi regarding the Leanders' sub-lease agreements that are the subject of the current litigation. Moreover, while Masek was furnished with documents as Tsitsi's attorney, he was never furnished with any documents relating to Nauru Council's sub-lease⁷ with the Leanders. In addition, all sub-leases for the Eastern Gateway property have been the possession of Eigigu since 2012, and two of the sub-leases for the Leanders were filed in this case by Benjamin, and are now part of the public

³ RMI High Court case #2012-143, filed August 21, 2012.

⁴ RMI High Court case #2012-144, filed August 21, 2012.

⁵ RMI High Court case #2012-202

⁶ RMI High Court case #2013-005

⁷ The current 2010 sub-lease is between the Leander's and the Nauru Council, not Eigigu Holdings.

record. The third sub-lease was filed by Leander Leander as Exhibit “A” to his Motion for Relief from Default.

Benjamin has no proof whatsoever that Tsitsi had a cache of EHC documents in his possession. As set forth above, Benjamin represented EHC in the Tsitsi action. At no time during the discovery process did he request production of any documents from Tsitsi, although Benjamin had several months to do so. Furthermore he never attempted to take Tsitsi’s deposition, and in any way employ any means of legal discovery to determine what documents or other information Tsitsi had in his possession. It is ironic indeed that Benjamin is now alleging that this mythical cache of highly relevant document so crucial to EHC business exists and yet he never bothered to request production of said documents in the actions between Tsitsi and EHC. Any such documents would have been discoverable and would have been provided to EHC if Benjamin had requested them and even more importantly, had they actually existed. Benjamin is now elevating his own negligence of failing to request such documents as an thinly veiled excuse to try and remove the Leanders’ legal counsel of choice. Benjamin’s incompetence is not grounds for now trying to call Masek as a witness to ascertain if documents they could have obtained in discovery from Tsitsi even exist, or are in any way relevant to this case. The sub-leases of for the Leaders are all public documents available at the Land Registration Authority. Furthermore the receipt for the payments made by the Leander’s is also a public record document, and registered along with the 2010 Lease at the Land Registration Authority.

Assuming that there was any merit whatsoever in Benjamin’s argument (which there is not), Benjamin himself should be called to testify on behalf of his client EHC as to why he never bothered to request production of such apparently crucial and important documents in the

possession of Tsitsi. Surely, EHC needs to know why their attorney never propounded a request production of these documents, never took Tsitsi's deposition, and never engaged in any type of discovery. To the extent that Masek should be disqualified, Benjamin should also be disqualified.

III. LEGAL ARGUMENT

A. MASEK IS NOT A NECESSARY WITNESS AND OBTAINED NO INFORMATION REGARDING THE LEASE AGREEMENT BETWEEN THE NAURU COUNCIL/EHC AND THE LEADERS FROM TSITSI.

ABA model rule 3.7 provides that:

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:

- (1) the testimony relates to an uncontested issue;
- (2) the testimony relates to the nature and value of legal services rendered in the case; or
- (3) disqualification of the lawyer would work substantial hardship on the client.

The Courts are entrusted with the duty of determining when disqualification under the above rule is actually merited. In *Smaland Beach Ass'n, Inc. v. Genova*, 461 Mass. 214, 220, 959 N.E.2d 955 (2012), the Court declares that disqualification "is not required in every case in which counsel could give testimony on behalf of his client on other than formal or uncontested matters, nor is it automatically granted where a party attempts to call opposing counsel."

Rather, courts are required to conduct "a more searching review to determine whether the lawyer's "continued participation as counsel taints the legal system or the trial of the case before it." *Id at 221*. And in cases where opposing counsel seeks to question the attorney, "judges must guard against the "the Canons of Ethics [being] brandished for tactical advantage, and must

prevent litigants from wielding the rule as a weapon to maneuver opposing counsel's withdrawal and to that degree unsettle the adversary." *Id. at 221*. Likewise, in *Optyl Eyewear Fashion Intern. Corp. v. Style Companies, Ltd.*, 760 F.2d 1045, 1050

(9th Cir. 1985) the court notes:

“the drafters of the ABA Code have cautioned that the ethical rules “[were] not designed to permit a lawyer to call opposing counsel as a witness and thereby disqualify him as counsel.” ABA Code, Canon 5, n. 31. The cost and inconvenience to clients and the judicial system from misuse of the rules for tactical purposes is significant. **Because of this potential for abuse, disqualification motions should be subjected to particularly strict judicial scrutiny.**” (emphasis added, internal citations omitted)

In *Kubin v. Miller*, 801 F.Supp. 1101 (S.D.N.Y.,1992), the Court warns that “courts must be wary of disqualification motions interposed solely for tactical purposes”. It has also been noted that where “the party seeking disqualification is also the one wanting to call the attorney as a witness, **the court must be especially sensitive to the potential for abuse**”. *National Bank of Andover, N.A. v. Aero Standard Tooling, Inc.*, 30 Kan.App.2d 784, 792, 49 P.3d 547, 553 (2002). (emphasis added)

In the instant case, Masek is not a necessary witness because he never discussed the sub-lease agreements between EHC and the Leanders with his former client Tsitsi. Sub-leases were not at issue in any of cases wherein Masek represented Tsitsi. In addition, Masek was never provided with any documents relating to the sub-lease agreements between the Leanders and EHC by Tsitsi. Furthermore, Eigigu has all sub-leases, and in fact filed 2 of the Leanders’ sub-leases in this case. Accordingly, under ABA Rule 3.7, Masek should not be disqualified.

Moreover, since Benjamin represented EHC in two cases against Tsitsi, he had ample opportunity to request discovery of any documents relating to EHC business that would have been in the possession of Tsitsi. Since Benjamin failed to request discovery of any such

documents during that litigation, he should be called as a witness to ascertain why no attempt was made to obtain such allegedly important documents during the Tsitsi lawsuits. Benjamin's negligence in failing to propound any discovery is not grounds for dis-qualifying Masek.

B. THERE IS NO CREDIBLE EVIDENCE SUPPORTING BENJAMIN'S CLAIMS THAT MASEK OBTAINED INFORMATION REGARDING THE SUB-LEASES BETWEEN THE LEANDERS AND NAURU COUNCIL/EIGIGU.

Courts have stressed the importance of credible evidence before disqualifying an attorney. For example, in *Optyl Eyewear Fashion Intern. Corp. v. Style Companies, Ltd.*, 760 F.2d 1045, 1050 (9th Cir. 1985), the Court sanctioned defense counsel for bringing a motion to disqualify the plaintiff's counsel. The Court found that the motion was brought in bad faith because defense counsel failed to make any showing that opposing counsel "ought" to be called as a witness. The Court explains its reasoning in detail:

Style did not point to any evidence to refute Optyl's assertions. In fact, Style did not depose Optyl's counsel prior to moving for disqualification. Style relied entirely upon one interrogatory answer in which Optyl acknowledged that its counsel had participated in drafting the disputed letter. In short, Style offered absolutely no showing that Optyl "ought" to call its counsel to testify or that counsels' testimony might have been prejudicial if Anten had called Optyl's counsel to testify. See *Rosen v. NLRB*, 735 F.2d 564, 575 (D.C.Cir.1984) (mere allegations of impropriety are insufficient to compel withdrawal); cf. *Rhinehart v. Stauffer*, 638 F.2d 1169, 1171 (9th Cir.1979) (per curiam) (before filing an action, attorney has duty to investigate claims to see that they have merit). *Id.*, at p. 1049.

In the instant case, Benjamin has done no investigation to determine whether or not Masek is a necessary witness. As in *Optyl Eyewear*, Benjamin has not taken Masek's deposition or made any other attempt to determine whether Masek has confidential information relating to the Lease between Nauru Council/EHC and the Leanders. If Benjamin had taken Masek's

deposition, Masek would have truthfully testified that he and Tsitsi never discussed the Leanders' sub-lease agreements with the Nauru Council/ECH. He would have also truthfully testified that Tsitsi never gave him any documents relating to the sub-leases between ECH/Nauru Council and the Leanders. In sum, Masek would have testified that he has no information derived from Tsitsi that relates to the current litigation in anyway whatsoever.

As case law makes abundantly clear, because Benjamin is the party proposing to call Masek as a witness, the court must be especially sensitive to the potential for abuse. Benjamin is moving for Masek's disqualification based upon nothing but unsupported allegations. Benjamin's claim is nothing but a series of baseless presumptions. He offers not one single piece of evidence that would tend to suggest that Masek has confidential information of Eigigu obtained from Tsitsi.

C. EVEN IF MASEK HAD CONFIDENTIAL INFORMATION OBTAINED FROM TSITIS, HE COULD NOT THE ATTORNEY CLIENT PRIVILEGE WOULD PRECLUDE HIM FROM TESTIFYING

Under Rule 502(b) of the RMI Rules of Evidence, confidential communications made by a client to an attorney in order to obtain legal advice or assistance are privileged. This privilege survives termination of the relationship and death. The client is the holder of the privilege and only the client or the client's estate has the authority to claim or waive it; provided, however, the attorney may claim the privilege. Thus even if Masek had confidential information or access to documents, he could not testify because that information would be covered by the attorney client privilege. However, Masek does **not** have any information regarding the Leanders or their dealings with EHC that was obtained from Tsitsi. Sub-leases were not at issue in any of the

suits wherein Masek represented Tsitsi. Masek never discussed the Leanders' sub-leases with Tsitsi or did Tsitsi provide Masek with any documents relating to the Leanders' sub-leases.

D. DISQUALIFICATION OF MASEK WOULD IMPOSE A HARDSHIP ON HIS CLIENTS THE LEANDERS

ABA model rule 3.7(a)(3) provides that a “lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless: (3) disqualification of the lawyer would work substantial hardship on the client”. In deciding a motion to disqualify counsel, “the trial court must balance several competing considerations, including the privacy of the attorney-client relationship, the prerogative of a party to choose counsel, and the hardships that disqualification imposes on the parties and the entire judicial process” *National Bank of Andover, N.A. v. Aero Standard Tooling, Inc.* at p. 553. And as the Court explains in *D.J. Investment Group, L.L.C. v. DAE/Westbrook, L.L.C.*, 113 P.3d 1022 1023, (Utah, 2005), “In determining whether an attorney should be disqualified on the grounds contemplated by rule 3.7, the trial court is required to balance the client's interests with those of the opposing party. However, even if there is risk of prejudice to the opposing party, due regard must be given to the effect of disqualification on the lawyer's client”.

In the instant case, Masek is not a necessary witness because he has no information regarding the formation of the sub-leases between the Leanders and EHC/Nauru Council. His current clients, the Leanders, however, will suffer hardship if they are forced to seek new counsel. As noted above, they have the prerogative to choose their counsel. The Leanders sought Masek during an ongoing default hearing, due to the failure of their counsel,

Russel Kun to file an Answer and properly protect their interests. They should not be forced to search for new counsel, delay the litigation and incur additional expense and trouble, when there is absolutely no reason for Masek to be called as a witness by Benjamin. Courts consistently admonish litigants and their counsel that “the purpose of the [r]ules can be subverted when they are invoked by opposing parties as procedural weapons”. *Id. at p. 1023.*

In the instant case there simply is no evidence to support the Benjamin’s allegations regarding Masek’s supposed testimony regarding the lease between the Leanders and Nauru Council/EHC. Given the lack of credible evidence coupled with the highly inflammatory allegations against Masek, one can only conclude that this motion was brought as a tactical weapon to disrupt the proceedings and put the Leanders to the trouble and expense of unnecessarily obtaining new counsel.

E. BENJAMIN’S ALLEGATIONS OF PROFESSIONAL MISCONDUCT AND CRIMINAL ACTS LEVELED AGAINST MASEK VIOLATE THE STANDARD OF CONDUCT FOR ATTORNEYS

Throughout this motion, Benjamin makes highly inflammatory allegations accusing Masek of either committing a crime or engaging in professional misconduct. For example, on page 3 Benjamin states that “Rather, Tsitsi, undoubtedly with the knowledge and/or assistance of his attorney, John Masek, attempted to essentially blackmail EHC into acceding to his demands for additional wages and entitlements by withholding from EHC documents and records that properly belong to EHC until Tsitsi’s demands were met”. On page 6, Benjamin states that “Masek may well be required to provide answers that implicate him in illegal, or at least unprofessional, conduct”. On Page 10, Benjamin states that “There is no question, finally, that Masek either formally or informally approved of the obstruction of EHC’s access to the

documents and records sought”. On page 12, Benjamin states that “Masek may be required to provide answers that implicate *him* in at least unprofessional conduct”. The theory behind Benjamin’s motion seems to be that if you throw enough mud at someone, some of it is bound to stick.

Under ABA Model Rule 8.4(d), it is professional misconduct for a lawyer “to engage in conduct that is prejudicial to the administration of justice”. Case law makes it abundantly clear that recklessly throwing around accusations of criminal conduct against opposing counsel is prejudicial to the administration of justice. For example, in *State v. Turner*, 217 Kan. 574, 576, 538 P.2d 966 (1975), the Court states that: “Public censure is appropriate punishment for verbally abusing and improperly attacking opposing counsel and interjecting improper statements during examination of witnesses”.

In *In re Ross*, 170 Cal.App.4th 1490 1513, 1514 , 88 Cal.Rptr.3d 873 (2009) the Court declares that “ ‘[I]t is vital to the integrity of our adversary legal process that attorneys strive to maintain the highest standards of ethics, civility, and professionalism in the practice of law. Indeed, unwarranted personal attacks on the character or motives of the opposing party, counsel, or witnesses are inappropriate and may constitute misconduct”.

The “illegal” and “unprofessional” conduct on Masek’s part that Benjamin describes basically comes down to representing Tsitsi in his dispute over unpaid wages against EHC and in his immigration hearings. Regardless of what Tsitsi did or did not do, regardless of whether he was an innocent victim of EHC or a con artist (or however else Benjamin wants to characterize Tsitsi who is deceased.), **Tsitsi was entitled to representation by counsel and by representing Tsitsi, Masek did not somehow become part of a criminal conspiracy.** The fact that a

criminal defense attorney represents a criminal does not make him or her a criminal (this point is so obvious, it pains the writer to have to make it). Masek represented Tsitsi as his attorney. Moreover, to claim that Masek encouraged Tsitsi not to release documents belonging to EHC is factually wrong. As noted above, Benjamin never once propounded a request for production of documents during the Tsitsi/EHC litigation. To fabricate allegations that Masek conspired or advised Tsitsi in illegal conduct and offer no credible evidence to support the allegations is highly inappropriate conduct not worthy of an officer of the court.

Benjamin wrongfully attempts to twist Masek's representation of persons wrongfully arrested in 2011, as some sort of involvement in "illegal activities." Benjamin's claims are inflammatory and baseless. Masek represented 5 female persons whose homes were broken into without search warrants. Masek's clients were all arrested on the charge of overstaying their visas, not gambling or prostitution. All charges were later dropped. (See Exhibits J-N, true and correct copies of Masek's entire file on these cases). None of Masek's clients were "sub-lessees" as falsely claimed by Benjamin. All of them rented apartments at the Eastern Gateway. Leases, and sub-leases were not issues in those cases. Those cases were not related to the Leanders' sub-leases or the issues in this case. In bad faith, Benjamin is somehow trying to imply that Masek's representation at a bail hearing somehow implicates him in some type of illegal activity. This is a falsehood, and further unlawful slander on the part of Benjamin.

In fact the only illegal activity relevant to this case, is that of Eigigu. While being represented by Benjamin, EHC commenced doing business in the Marshall Islands prior to obtaining a Foreign Investment Business License. Under 36 MIRC Chapter 2, Section 203(a) "no non-citizen shall be permitted to do business in the Republic without first obtaining a

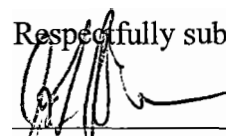
Foreign Investment Business License under this Chapter.” Plaintiff Eigigu Holdings did not obtain a Foreign Investment Business License till October 2014. Hence EHC was engaged in business and represented by Benjamin when it had no Foreign Investment Business License license, hence it is Eigigu Holdings, and not Defendants, or Defense Counsel that is guilty of wrongdoing.

IV. Conclusion.

Based upon the forgoing it is respectfully requested that Plaintiff’s Motion be denied that Benjamin be sanctioned for his bad faith conduct.

Dated: December 8, 2014

Respectfully submitted,



John E. Masek, Attorney for
Defendants.

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IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

Eigigu Holdings Corporation,)	Civil Case No. 2014-067
)	
)	
	)	Affidavit of John E. Masek
	)	in Support of Defendants'
Plaintiff	)	Opposition to Plaintiff's
v.	)	Motion to Disqualify Counsel.
)	
)	
Leander Leander and Lijun Leander,)	
)	
)	
Defendants.)	

I, John E. Masek, declare:

1. I am over 21 years of age and resident of Majuro Atoll, and citizen of the United States of America.
2. I am the attorney of record for Defendants, and I have personal first hand knowledge of the following facts, and if call as a witness could and would testify thereto in a Court of Law.
3. On August 21, I filed a Petition of Citizenship on behalf of Rubin Tsitsi, and I also filed a Notice of Appeal of a Deportation Order on the same day. At issue in these two cases was Mr. Tsitsi's right to register as citizen and conversely, his right to remain in the Marshall Islands with his wife and four kids. These cases did not involve leases or sub-leases in any manner.

4. On November 6, 2012, I filed an action of behalf of Mr. Tsitsi for what he claimed was his entitlements, primarily accrued unpaid sick leave which he claimed was due for the past 19 years while he was stationed in Majuro. Of note is the fact that sub-leases at the Eastern Gateway Property was NOT an issue in the this case. Sub-leases were never discussed in this case, and furthermore, no documentation regarding sub-leases was ever provided to me by Mr. Tsitsi in regards to this case.
5. On or about January 16, 2013, Eigigu Holdings (hereinafter referred to as “Eigigu” or “EHC”), though attorney Gordon Benjamin (Herein after referred to as “Benjamin”) filed a “Petition for an Injunction” seeking to evict Mr. Tsitsi from his home. The Petition further sought “copies of [lease] payments from 15th July onwards to counter Strauss ridiculous claims that the Nauru Government or Eigigu Holdings Corporation did not make lease payments for those years.” Such payments requested in the Petition were limited to those payments made by the Nauru Government or Eigigu Holdings Corporation to the landowners. The Petition did not specify sub-leases.
6. A hearing was scheduled for January 29, 2013, in Eigigu’s case against Tsitsi, the purpose of which was to evict Mr. Tsitsi from his home. I reviewed several documents for that hearing, most all such documents involved a court case filed in Nauru by Eigigu against Tsitsi, and other documents wherein David Aingimea from Eigigu made contradictory statements. I did not received any sub-leases or review any sub-leases in preparation for that hearing.
7. The hearing began in January 29, 2013, and was scheduled to reconvene the next day. However, it was postponed at the request of Benjamin.

8. Subsequently, Benjamin sought a series of continuances in this matter allegedly due to the uncertain political situation in Nauru. This case sat in limbo for eight months, with little or no activity other than a status conference about once a month. (True and correct copies of the Orders for continuances are attached hereto as Exhibits “B-I”).
9. During the time that this case was in limbo, I did no work on it, as by this time, Mr. Tsitsi was falling behind on his bills, and what time I devoted to his matters was spent on defending the active deportation case that was proceeding while the Eigigu cases sat in limbo.
10. The matter of *Eigigu v. Tsitsi* did not resume till October, 2013. By that time, Mr. Tsitsi was no longer paying me for past services. As per my responsibility, I defended him in the hearing to evict him from his home, which had finally resumed on or about October 9, 2013. At the end of that hearing, Benjamin’s motion to evict Mr. Tsitsi was denied. The Court did not grant EHC any relief with regard to documents, rather in chambers Judge Plasman noted Benjamin’s failure to propound discovery or “get his ducks in line.”
11. Shortly after the hearing, I asked to be relieved from representing Mr. Tsitsi on all 4 cases I was involved in. The Court granted my motion in all cases involving Eigigu Holdings, as well as the citizenship case. From that point forward I had no involvement in the two cases between Eigigu and Mr. Tsitsi.
12. Of note is the fact that during the entire time I was involved in the matters of *Tsitsi v Eigigu* and *Eigigu v Tsitsi*, Benjamin never propound any discovery. Benjamin had ample opportunity to request and obtain any documents in the possession of Tsitsi, but

never did so. Benjamin's continued protestations that he and Eigigu were constantly seeking documents is false, as they never sought to obtain any records, or documents through discovery.

13. At no point in my representation of Mr, Tsitsi on any case did I receive "receipts," "records of lease negotiations" or other documents Benjamin thinks might exist. Sub-leases were never an issue in either of the cases between Tsitsi and Eigigu. Benjamin's conjecture to the contrary is unsupported statements based upon falsified assumptions lacking in any supporting facts.
14. Of note is the fact that all of Leanders' sub-leases are public record documents available are the Office of the Land Registration Authority.¹ In addition the receipt for payment for Leanders' sub-leases is also a public record document on file with the Office of the Land Registration Authority.²
15. I am unaware of any "records of lease negotiations" which Benjamin wrongfully assumes Tsitsi might have kept. First and foremost the leases were executed in 2001, 2002, and 2010. I did not represent Mr. Tsitsi during any of those time periods, and did not participate in any 'lease negotiations.' Benjamin's claim that I have any records of "lease negotiations" is a fabrication.
16. All three sub-lease agreements with the Leanders' have clauses in them stating that such leases represent to entire agreement of the parties, hence any 'negotiations' are

¹ All the Leanders' sub-leases are before the Court in this matter, the 2001 and 2002 sub-leases were filed by Eigigu as Exhibits P-2 and p-3. The 2010 sub-lease is attached to Leander Leander's Motion for Relief from Default as Exhibit "A".

² A receipt for all of the Leanders' payments is is attached to Leander Leander's Motion for Relief from Default as Exhibit "B".

meaningless as the parties final agreement is contained within the sub-leases. Benjamin has offered no evidence of any kind whatsoever to the contrary.

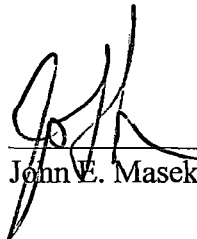
17. Benjamin's claim that I am the "only know potential source"... is false. In fact, Eigigu holdings has had in its possession all sub-leases for the Eastern Gateway Property since May, 2012. (See Exhibit "A" attached hereto). More importantly, Eigigu is already in possession of the Leanders' sub-leases.
18. Benjamin's claim that the Leanders' got a 'sweetheart' deal and that "[i]t must be assumed that Tsitsi got something out of the deal, and that there were improprieties and illegalities involved" is pure unsupported slander invented by Benjamin.
19. In his affidavit, Benjamin has stated under oath that the market value of the area of Leander's sub-lease is approximately \$120,000 - \$170,000 per year. The Leander's sub-lease covers one half the property. By Benjamin's reasoning, the entire property is worth between \$240,000 - \$340,000 per annum. However, Benjamin's client, Eigigu pays only \$60,000 per year to the landowners for the entire property! This is \$180,000 - \$280,000 less than what Benjamin declares under oath is actual value of the property. Using Benjamin's twisted reasoning, Eigigu must have a 'sweet heart deal,' and it must be assumed that Eigigu and Benjamin were involved in improper dealings.
20. The Leanders' first lease was in 2001, then 2002, and later 2010. Benjamin has no evidence as to the value of the property at those times, the condition of the property or what was a fair market price 11 or 12 years ago, or even 4 years ago. Benjamin's statements of value are pure speculation. Furthermore, Benjamin fails to credit the fact that upfront payments are worth more than payments received over several years, and

the value of such up front payments are double or triple that of payments made over a 38 year period.

21. Benjamin's repeated insinuation of illegalities, criminal conduct and wrong doing, is pure slander made in bad faith without any credible supporting evidence. Benjamin fails to set forth a single fact establishing any criminal wrongdoing by myself, or the Leanders.
22. There is nothing illegal about the Leanders' sub-lease(s). Benjamin has no facts to support his claims of criminal wrongdoing. Such mud slinging is done in bad faith.
23. Benjamin's claims regarding my representation of persons wrongfully arrested at the Eastern Gateway is false and mis-leading. I represented no sub-lessees. Rather, I represented 5 female persons whose homes were broken into without search warrants. My clients were all arrested on the charge of over staying their visas, not gambling or prostitution. All charges were later dropped. (Attached as Exhibits "J-N", are true and correct copies of my entire file on these matters which consist of 'Ex Parte Applications for setting Bail"). None of my clients were "sub-lessees" as falsely claimed by Benjamin. All of them rented apartments at the Eastern Gateway. Leases, and sub-leases were not issues in those cases.
24. None of my clients in those cases were ever charged, and no criminal activity was ever proven.
25. The only relevant criminal activity in this matter, is that of Eigigu Holdings doing business in the Marshall Islands without first obtaining a business license.
26. Eigigu was issued Foreign Investment Business License, License #RMI-2014-04, on

October 3, 2014. Prior to that date, Eigigu was engaged in business in the Marshall Islands, and represented by Benjamin, without first obtaining a FIBL. This is the only proven illegal activity in this matter,

I declare under penalty of perjury that the forgoing is true and correct. Executed this 8th day of December, 2014, at Majuro, Marshall Islands.



John V. Masek

COPY

As Ex



**EIGIGU HOLDINGS
CORPORATION
HEAD OFFICE**

11th May 2012

Mr Rubin Tsitsi,
Majuro,
RMI

Dear Rubin,

We now have copies of all the leases allegedly made on behalf of EHC with tenants at the Eastern Gateway. However, we were disappointed to learn that last Monday you conducted a meeting with tenants and advised them and threatening them not to assist us in our enquiries. This actually shows that you have been stringing us along all the time, making out that you were cooperating when in fact behind our backs you were involved in activities that had its aim at denying us as much as possible, information with respects to payments made to you by these tenants. Despite all your promises, no records of transactions from 2006 to date have been handed to us and not one singular lease copy has been given to us. Your continued excuse that records are there somewhere is not good enough and were designed to just string us along.

Given the above, we now direct that you make a full financial report of what monies were received by you from the Eastern Gateway tenants, dating back to the financial year ending 30th June 2006 and what you did with those monies. Your claim for entitlements cannot be worked out until financial reports show what monies were paid to yourself by yourself and how these are justified and authorized.

Based on the lease copies we have, you have obviously received at least US\$500,000 for the period back to 2006. That's without any advances etc taken into account. We require a full accounting of receipts and payments. We also note that records we have, show your pay at US\$16,000 per annum. We will take that into account as far as allowable expenditure is concerned. As previously notified to you, you were given until the 11th of May to vacate the Eastern Gateway house. You subsequently advised us that you had resigned and had no wish to return to Nauru. Your request for us to assist you with a passport from Nauru will be processed but your stay in RMI is subject to the good graces of the RMI government. Given your decision, we have no liability with respects to your stay in Majuro after the 11th of May 2012 as this is your own decision.

Your request for tickets to be paid by us covering your children's travel to USA is on hold pending a full financial report from you as above.

Page 2....

Exhibit "A-1"



**EIGIGU HOLDINGS,
CORPORATION
HEAD OFFICE**

11th May 2012

Mr Rubin Tsitsi,
Majuro,
RMI

Page 2...

Failure to comply with the above will necessitate us referring this matter to Marshall Islands Police and to the RMI Attorney General's department.

We did not wish to take this course but considering the actions you have taken, we are left with no alternative.

Yours Truly,


David Aingimea
Executive Chairman


Dexter Brechtefeld
Director

COPY: MINISTER FOR EIGIGU HOLDINGS CORPORATION, BOARD DIRECTORS, RMI AG OFFICE.

FILED

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

JAN 30 2013
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

EIGIGU HOLDINGS CORPORATION,	)	CIVIL ACTION NO. 2013-005
)	
Petitioner,)	
v.)	
	)	ORDER
RUBIN TSITSI,)	
)	
Respondent.)	
_____)	

To : Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

The hearing on petitioner's motion was held January 29, 2013 and continued to January 30, 2013. At the request of petitioner and with the consent of defendant, the matter is continued to February 18, 2013 at 2:00 p.m.

Dated this 30 day of January, 2013.

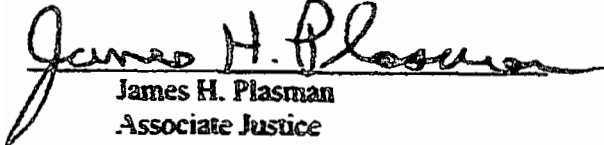

James H. Plasman
Associate Justice

Exhibit "B"

FILED

FEB 18 2013

ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

EIGIGU HOLDINGS CORPORATION,

CIVIL ACTION NO. 2013-005

Petitioner,

v.

ORDER

RUBIN TSITSI,

Respondent.

To : Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

The hearing on petitioner's motion was held January 29, 2013 and continued to February 18, 2013. Because of changes in the political leadership in Nauru affecting personnel involved in this case, plaintiff requested the hearing be taken off calendar to be continued once matters have stabilized politically in Nauru. Without objection from the defendant, it is hereby ORDERED that a status conference is set for April 12, 2013 at 2:00 p.m. at the Majuro Court house to review the status of the case. Plaintiff's attorney may appear telephonically.

Dated this 18 day of February, 2013.

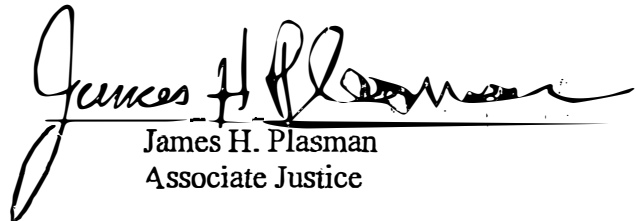

James H. Plasman
Associate Justice

Exhibit 11c4

FILED

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

APR 12 2013
Sauer
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

EIGIGU HOLDINGS CORPORATION,) CIVIL ACTION NO. 2013-005
)
Petitioner,)
v.)
) ORDER
RUBIN TSITSI,)
)
Respondent.)
_____)

To : Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

A status conference was set for April 12, 2013. Defense counsel appeared; plaintiff's attorney, though given leave to appear telephonically, did not call in. The purpose of the conference was to clarify plaintiff's intentions in light of the political situation in Nauru. It is the understanding of the court that the situation has not stabilized and that new elections are to be scheduled in the near future.

, Based upon the forgoing, it is ORDERED that the status conference is confirmed to May 13, 2013 at 2:00 p.m. at the Majuro Court house.

Dated this 12 day of April, 2013.

James H. Plesman
James H. Plesman
Associate Justice

Exhibit "D"

FILED

MAY 13 2013

ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

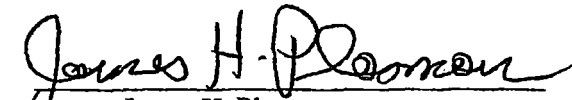
EIGIGU HOLDINGS CORPORATION,	)	CIVIL ACTION NO. 2013-005
)	
Petitioner,)	
v.)	
	)	ORDER
RUBIN TSITSI,)	
)	
Respondent.)	
_____)	

To : Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

A status conference was held on May 13, 2013 to clarify plaintiff's intentions in light of the political situation in Nauru. Elections have not been held and parliament is waiting to be dissolved. Counsel agreed to continue the matter for one month.

Based upon the forgoing, it is ORDERED that the status conference is continued to June 14, 2013 at 10:00 a.m. at the Majuro Court house. Counsel may participate telephonically or by Skype.

Dated this 13 day of May, 2013.



 James H. Plasman
 Associate Justice

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

EIGIGU HOLDINGS CORPORATION,)
)
 Petitioner,)
 v.)
)
 RUBIN TSITSI,)
)
 Respondent.)
 _____)

CIVIL ACTION NO. 2013-005

ORDER

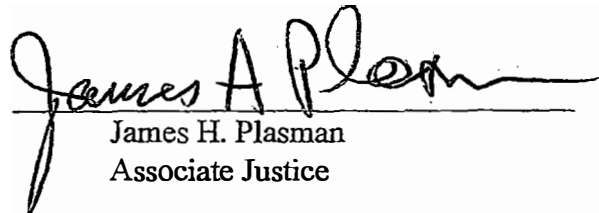
FILED
JUN 14 2013
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

To : Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

A status conference was held on June 14, 2013 to clarify plaintiff's intentions in light of the political situation in Nauru. Elections have been held, but counsel had not yet received instructions from his client. Both counsel agreed to continue the matter.

Based upon the forgoing, it is ORDERED that the status conference is continued to July 12, 2013 at 10:00 a.m. at the Majuro Court house. Counsel may participate telephonically or by Skype.

Dated this 14 day of June, 2013.


James H. Plasman
Associate Justice

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

EIGIGU HOLDINGS CORPORATION,)
)
 Petitioner,)
 v.)
)
 RUBIN TSITSI,)
)
 Respondent.)
 _____)

CIVIL ACTION NO. 2013-005

ORDER

FILED

JUL 12 2013

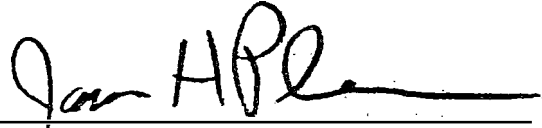
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

To : Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

A status conference was held on July 12, 2013 to clarify plaintiff's ~~intentions~~ in light of the political situation in Nauru. The political situation has ~~stablized~~, but counsel had not yet received instructions from his client. Both counsel agreed to ~~continue the matter~~.

Based upon the forgoing, it is ORDERED that the status conference is ~~continued~~ to August 30, 2013 at 10:00 a.m. at the Majuro Court house. Counsel may ~~participate~~ telephonically or by Skype.

Dated this 12 day of July, 2013.



James H. Plasman
Associate Justice

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

EIGIGU HOLDINGS CORPORATION,)
)
 Petitioner,)
 v.)
)
 RUBIN TSITSI,)
)
 Respondent.)
 _____)

CIVIL ACTION NO. 2013-005

ORDER

FILED

OC 01 2013

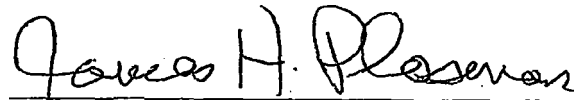
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

To Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

This matter was set for hearing on September 30, 2013. At a conference with both counsel, plaintiff's counsel advised that plaintiff's witness was due to arrive on Our Airline on this date, but the flight was reportedly delayed for at least 24 hours.

Based upon the forgoing and the recommendations of counsel, it is ORDERED the hearing on plaintiff's motion is continued to October 10, 2013 at 2:00 p.m. at the Majuro Court house.

Dated: September 30, 2013.


James H. Plasman
Associate Justice

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

OCT 08 2013


ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

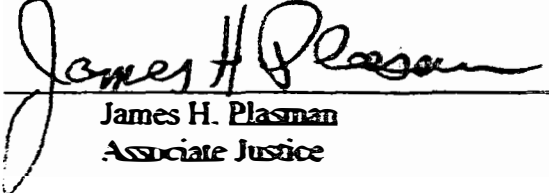
EIGIGU HOLDINGS CORPORATION,) CIVIL ACTION NO. 2013-005
)
Petitioner,)
v.)
) ORDER
RUBIN TSITSI,)
)
Respondent.)
_____)

To : Gordon Benjamin, counsel for petitioner Eigigu Holding Corporation
John Masek, counsel for defendant

This matter was set for hearing on October 10, 2013. Counsel for defendant approached the court to reschedule the hearing based upon his representation of the Rongelap Local Government. Opposing counsel did not oppose the proposed rescheduling.

Based upon the forgoing and the recommendations of counsel, it is ORDERED the hearing on plaintiff's motion is rescheduled to October 9, 2013 at 10:00 a.m. at the Majuro Court house.

Dated: October 8, 2013.


James H. Plasman
Associate Justice

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FILED

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL

JUL 03 2011
[Signature]
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

IN THE MATTER OF
Peng Xun

PETITIONER

Action No. 2011-~~129~~ 133 ^{wh}

Ex Parte Application for
setting Bail

Petitioner Peng Xun respectfully requests that the High Court order bail set in the amount of \$300.00 and that she be released upon the posting of said bail with the National Police, whom are custodians of the jail where she is being held. Under Article II, section 4(3) of the Constitution "Bail shall not be required in an amount greater than needed to ensure that the accused will appear for trial, nor may any person be detained before trial when other means are available to provide reasonable assurance that he will not flee or gravely endanger the public." Article II, Section 4(10) states: No Person shall be preventively detained, involuntarily committed, or otherwise deprived of liberty outside the criminal process, except pursuant to Act, subject to fair procedures, and upon a clear showing that the person's release would gravely endanger his own health or safety or the health, safety or property of others. In the instant case, Petitioner is being charged with a non-violent offense. There is no evidence that her release is a danger to the health or safety of anyone. Accordingly under the above Section of the Constitution her detention is unlawful.

Petitioner was arrested on Saturday, July 2, 2011, at approximately 10:30 p.m. for allegedly over staying her visa. Police and Immigration Officers broke into the building where she resided without a Search Warrant. At the time of arrest, she has a valid Entry Permit application on file with Immigration, and no response has yet been forthcoming from the Division of Immigration. This is not a felony offense, and petitioner has not been shown to otherwise endanger the public, or flee the jurisdiction.

At the time of her arrest, she was before the Court in Civil Action #2010-160. and represented by legal counsel. She has disclosed her address and telephone number to immigration authorities. At no time has she ever attempted to flee, evade government officials, or conceal her whereabouts. Accordingly it is hereby requested that she be permitted to post bail and released on her own recognizance.

Dated: July 3, 2011



John E. Masek
Attorney for Petitioner

John E. Masek, Esq.
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FILED

**IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL**

JUL 03 2011
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

IN THE MATTER OF)
Xiangxiu Shen)
)
)
PETITIONER)
)
)
)
)
)
)

Action No. 2011-129


Ex Parte Application for
setting Bail

Petitioner Xiangxiu Shen respectfully requests that the High Court order bail set in the amount of \$300.00 and that she be released upon the posting of said bail with the National Police, whom are custodians of the jail where she is being held. Under Article II, section 4(3) of the Constitution "Bail shall not be required in an amount greater than needed to ensure that the accused will appear for trial, nor may any person be detained before trial when other means are available, to provide reasonable assurance that he will not flee or gravely endanger the public." Article II, Section 4(10) states: No Person shall be preventively detained, involuntarily committed, or otherwise deprived of liberty outside the criminal process, except pursuant to Act, subject to fair procedures, and upon a clear showing that the person's release would gravely endanger his own health or safety or the health, safety or property of others. In the instant case, Petitioner is being charged with a non-violent offense. There is no evidence that her release is a danger to the health or safety of anyone. Accordingly under the above Section of the Constitution her detention is unlawful.

Petitioner was arrested on Saturday, July 2, 2011, at approximately 10:30 p.m. for allegedly over staying her visa. Police and Immigration Officers broke into the building where she resided without a Search Warrant. At the time of arrest, she has a valid Entry Permit application on file with Immigration, and no response has yet been forthcoming from the Division of Immigration. This is not a felony offense, and petitioner has not been shown to otherwise endanger the public, or flee the jurisdiction.

At the time of her arrest, she was before the Court in Civil Action #2010-159, and represented by legal counsel. She has disclosed her address and telephone number to immigration authorities. At no time has she ever attempted to flee, evade government officials, or conceal her whereabouts. Accordingly it is hereby requested that she be permitted to post bail and released on her own recognizance.

Dated: July 3, 2011



John E. Masek,
Attorney for Petitioner

Exhibit "K-2"

John E. Masek, Esq.
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FILED

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL

JUL 03, 2011
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

IN THE MATTER OF)
Hongxia Zhao)
)
)
PETITIONER)
)
)
)
_____)

Action No. 2011-129 132 ^{hr}

Ex Parte Application for
setting Bail


Petitioner Hongxia Zhao respectfully requests that the High Court order bail set in the amount of \$300.00 and that she be released upon the posting of said bail with the National Police, whom are custodians of the jail where she is being held. Under Article II, section 4(3) of the Constitution "Bail shall not be required in an amount greater than needed to ensure that the accused will appear for trial, nor may any person be detained before trial when other means are available to provide reasonable assurance that he will not flee or gravely endanger the public." Article II, Section 4(10) states: No Person shall be preventively detained, involuntarily committed, or otherwise deprived of liberty outside the criminal process, except pursuant to Act, subject to fair procedures, and upon a clear showing that the person's release would gravely endanger his own health or safety or the health, safety or property of others. In the instant case, Petitioner is being charged with a non-violent offense. There is no evidence that her release is a danger to the health or safety of anyone. Accordingly under the above Section of the Constitution her detention is unlawful.

Exhibit "L-1"

Petitioner was arrested on Saturday, July 2, 2011, at approximately 10:30 p.m. for allegedly over staying her visa. Police and Immigration Officers broke into the building she resided in without a Search Warrant. At the time of arrest, she has a valid Entry Permit application on file with Immigration, and no response has yet been forthcoming from the Division of Immigration. ~~This is not a felony offense, and petitioner has not been shown to otherwise endanger the public, or flee the jurisdiction. Accordingly it is hereby requested that she be permitted to post bail and released on her own recognizance.~~

~~At the time of her arrest, she was represented by legal counsel, and had disclosed her address and telephone number to immigration authorities. At no time has she ever attempted to flee, evade government officials, or conceal her whereabouts.~~

Dated: July 3, 2011



John E. Masek,
Attorney for Petitioner

John E. Masek, Esq.
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FILED

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL

JUL 03 2011
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

Action No. 2011 - 130

IN THE MATTER OF)
Yonghua Cai)
)
)
PETITIONER)
)
)
)
_____)

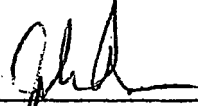
Ex Parte Application for
setting Bail

Petitioner Yonghua Cai respectfully requests that the High Court order bail set in the amount of \$300.00 and that she be released upon the posting of said bail with the National Police, whom are custodians of the jail where she is being held. Under Article II, section 4(3) of the Constitution "Bail shall not be required in an amount greater than needed to ensure that the accused will appear for trial, nor may any person be detained before trial when other means are available to provide reasonable assurance that he will not flee or gravely endanger the public." Article II, Section 4(10) states: No Person shall be preventively detained, involuntarily committed, or otherwise deprived of liberty outside the criminal process, except pursuant to Act, subject to fair procedures, and upon a clear showing that the person's release would gravely endanger his own health or safety or the health, safety or property of others. In the instant case, Petitioner is being charged with a non-violent offense. There is no evidence that her release is a danger to the health or safety of anyone. Accordingly under the above Section of the Constitution her detention is unlawful.

Exhib: H'M-11

Petitioner was arrested on Saturday, July 2, 2011, at approximately 10:30 p.m. for allegedly over staying her visa. Police and Immigration Officers broke into the building where she resided without a Search Warrant. At the time of arrest, she had been a resident for of the Republic of the past 5 years. This is not a felony offense, and petitioner has not been shown to otherwise endanger the public, or flee the jurisdiction. Accordingly it is hereby requested that she be permitted to post bail and released on her own recognizance.

Dated: July 3, 2011



John E. Masek,
Attorney for Petitioner

Exhibit "A-2"

John E. Masek, Esq.
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FILED

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL

JUL 03 2011
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

IN THE MATTER OF)
Wang Xiumei)

PETITIONER)

Action No. 2011-129 131

Ex Parte Application for
setting Bail


Petitioner Wang Xiumei respectfully requests that the High Court order bail set in the amount of \$300.00 and that she be released upon the posting of said bail with the National Police, whom are custodians of the jail where she is being held. Under Article II, section 4(3) of the Constitution "Bail shall not be required in an amount greater than needed to ensure that the accused will appear for trial, nor may any person be detained before trial when other means are available to provide reasonable assurance that he will not flee or gravely endanger the public." Article II, Section 4(10) states: No Person shall be preventively detained, involuntarily committed, or otherwise deprived of liberty outside the criminal process, except pursuant to Act, subject to fair procedures, and upon a clear showing that the person's release would gravely endanger his own health or safety or the health, safety or property of others. In the instant case, Petitioner is being charged with a non-violent offense. There is no evidence that her release is a danger to the health or safety of anyone. Accordingly under the above Section of the Constitution her detention is unlawful.

Exhibit "N-1"

Petitioner was arrested on Saturday, July 2, 2011, at approximately 10:30 p.m. for allegedly overstaying her visa. Police and Immigration Officers broke into her home without a Search Warrant. At the time of arrest, she has a valid Entry Permit application on file with Immigration, and no response has yet been forthcoming from the Division of Immigration. This is not a felony offense, and petitioner has not been shown to otherwise endanger the public, or flee the jurisdiction. Accordingly it is hereby requested that she be permitted to post bail and released on her own recognizance.

At the time of her arrest, she was represented by legal counsel, and had disclosed her address and telephone number to immigration authorities. At no time has she ever attempted to flee, evade government officials, or conceal her whereabouts..

Dated: July 3, 2011



John E. Masek,
Attorney for Petitioner

Exhibit 4N-2