

DIVINE F. WAITI
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FILED

NOV 21 2018

[Signature]
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL

EIGIGU HOLDINGS CORPORATION)	Civil Action no. 2014 – 067
)	
Plaintiff)	
)	PLAINTIFF’S ANSWER TO
-V-)	DEFENDANT’S COUNTERCLAIM
)	
LEANDER LEANDER and LIJUN LEANDER,)	
)	
Defendants)	
)	

Comes now, the Plaintiff/Counterdefenant by and through counsel Divine F. Waiti, and hereby answer Defendant/counterclaimant’s counter-claim and states as follows:

1. Plaintiff/Counterdefendant admit to the allegation set forth in paragraph 1;
2. Plaintiff/Counterdefendant admit to the allegation set forth in paragraph 2;
3. Plaintiff/counterdefendant partly admit to the allegation set forth in paragraph 3, and partly denies any existence of NLGC during the period of execution of the lease, that Nauru Local Government Council (NLGC) was part of the Government of Nauru some years ago and was dissolved in 1996;
4. Plaintiff/Counterdefendant does not agree with the allegation set forth in paragraph 4;
5. Plaintiff/Counterdefendant partly admit and partly deny the allegation set forth in paragraph 5. Plaintiff admits that Mr. Rubin Tsitsi signed to third sublease in 2010, but

denies that Rubin Tsitsi was signed on behalf of the Eigigu Holdings Corporation, but in fact Mr. Rubin Tsitsi knowingly signed on behalf of the Nauru Local Government Council, a defunct entity which was already dissolved in 1996, and he was well aware of such dissolution. See Plaintiff/counterdefendant's *Exhibits P-4, P-5 and P-6 attached*, a fax message sent to Rubin of July 16, 1996. Furthermore, Eigigu Holdings Company was not well aware of what Rubin Tsitsi was doing;

6. Plaintiff/Counterdefendant denies allegation set forth in paragraph 6 and states that landowners themselves have decided to cancel and terminate the 1990 Lease Agreement for non-payment and for nuisance activities of prostitution and wastes on the premises, and had demanded a new lease agreement with a much higher lease payment than the original Lease Agreement. See *Plaintiff's Exhibit P-11 attached*, Notice of Default of the 1990 Lease Agreement by David Strauss, the lawyer for the landowners. Furthermore, the Plaintiff was able to cure non-payment issue with the landowners and paid a total amount of \$182,000, and however, unable to cure the nuisance and wasting on the land. See *Plaintiff's Exhibit P-16 attached*;
7. Plaintiff denies allegation set forth in paragraph 7 and states that Defendant's have not suffered actual eviction in order to claim for breach of warranties of title and quiet possession;
8. Plaintiff denies allegation set forth in paragraph 8, and states that section 6 is conditional on the premise that the Lessee (Defendant) performs the terms and conditions of the lease without any violation. Plaintiff asserts that Defendant has violated Section 10 of the 2001 lease, Section 7 of the 2002 first amended lease, and Section 19 of the 2010 Second Amended lease, by committing waste and moral nuisance on the property. Furthermore,

Defendant breach Section 21 of the 2010 Second Amended lease Agreement by non-compliance with the laws of the Republic of the Marshall Islands;

9. Plaintiff denies the allegation set forth in paragraph 9 of the counter-claim;
10. Plaintiff denies paragraphs 10, 11 and 12 of the counter-claim and states that generally Defendant cannot claim for indemnity or recover in an action for a breach of covenant for quiet enjoyment without showing an actual eviction from the possession under paramount title, and the measure of damages with such cause of which the interests and title was taken away from the Defendants;
11. Plaintiff denies paragraphs 13 of the counter-claim and state that there is no evidence of fraud, deceit or misrepresentation that would tantamount the claim for punitive damages pursuant to Civil Procedures Act of the Marshall Islands;

First Affirmative Defense

FAILURE TO STATE CAUSE OF ACTION

The Defendant/Counterclaimant has failed to show facts sufficient to constitute a cause or claims against the Plaintiff/Counterdefendant. The Defendant has failed to show that it has suffered any loss or damages at all.

Second Affirmative Defense

ILLEGAL, UNLAWFUL ACTIVITIES AND NON-COMPLAINE WITH THE RMI LAWS

The Defendant/Counterclaimant knowingly aware of the moral nuisance of prostitution and other unlawful activities pursuant to the laws of the Marshall Islands and continues to

solicit and facilitates those unlawful business with his subtenants on the premises without lawful recourse of doing business. It obstructs the free use of the premises and essentially interfered with the comfortable enjoyment of life and devalues the premise that is meant to be built for hotel. Furthermore, Defendant breached Section 21 of 2010 lease agreement of non-compliance with the laws of the Republic of the Marshall Islands.

Third Affirmative Defense

FRAUD AND DECIET

The Defenant/Counterclaimant knowingly, deceitfully and recklessly conducting business on premises and misrepresentations the Plaintiff/counterdefendant, by claiming that there are no moral nuisances or wastes on the premises.

NOW WHEREFORE, Plaintiff/counterdefendant pray that this court:

- (1) Declares the Defendant/counterclaimant's Second/Third Sublease to be invalid and void;
- (2) Denies any award of damages or punitive damages, or award of any costs and expenses sought by the Defendant/Counterclaimant in relation to this action;
- (3) Grant Plaintiff/counterdefendant it's relief and claim as requested in the first amended complaint.

Dated: November 21, 2018



Divine F. Waiti

P1

EIGIGU HOLDINGS CORPORATION

(Owned by Republic of Nauru)
**(Incorporated under the
Nauru Corporation Act 1972)**

Ref No : EHC/fx/1
Date : 16th July, 1996

Room No. 161,
Menen Hotel,
Nauru.

MR. RUBIN TSITSI
NAURU COUNCIL REPRESENTATIVE,
MAJURO
MARSHALL ISLANDS

FAXED
PAGE... DATE 17-7

FAX NO : (692) 6253337

Sub : Eastern Gateway Hotel Site clean - up - Agreement
Re : Your Fax dated 10th July, 1996

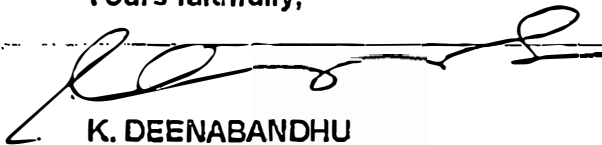
Dear Sir,

EIGIGU HOLDINGS CORPORATION is a Holding Company Incorporated under Section 15(3) of the Nauru Corporation Act 1972 and under Cabinet Order No.1 dated 27th June, 1996 upon the incorporation of the Company the properties of the former NLGC stands transferred to Eigigu.

A copy of the Cabinet order alongwith certificate of incorporation is enclosed for your record.

Thanking You,

Yours faithfully,



K. DEENABANDHU
SECRETARY

Copy to : Hon. Chairman,
Eigigu Holdings Corporation.





NAURU AGENCY CORP.
(Chief Executive)

REPUBLIC OF NAURU
Government Gazette
Published by Authority
EXTRAORDINARY

No 36

27th June 1996

Nauru

G.N.No.239/1996

CABINET ORDER NO. 1
NAURU LOCAL GOVERNMENT COUNCIL
DISSOLUTION ORDER 1996

In exercise of the powers vested in the Cabinet by section 5(9) of the Nauru Local Government Council Dissolution Act 1992, Cabinet hereby orders that all properties of the former Nauru Local Government Council shall vest in the Republic with immediate effect.

Upon the incorporation of Eigigu Holdings Corporation, the Republic transfers to Eigigu Holdings Corporation all the properties of the former Nauru Local Government Council with the exception of the Nauru Insurance Corporation, Nauru Development Fund, Nauru Royalty Fund and such other properties as the Republic may decide.

This Order may be cited as the Nauru Local Government Council Dissolution Order 1996.

DATED this 27th day of June 1996.

LEO D. KEKE
SECRETARY TO CABINET





FORM NO. CORR/12

REPUBLIC OF NAURU

CORPORATION ACT 1972

(SEE THE ACT)

NO. H/1620

FIRST CERTIFICATE OF INCORPORATION

OF

A HOLDING CORPORATION

VALID UNTIL 25.6.1997 ONLY

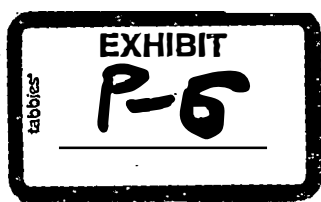
THIS IS TO CERTIFY THAT EIGIGU HOLDINGS CORPORATION IS ON AND FROM THE 26TH DAY OF JUNE 1996 INCORPORATED UNDER THE CORPORATION ACT 1972. THAT THE CORPORATION IS A HOLDING CORPORATION AND THAT THIS CERTIFICATE OF INCORPORATION EXPIRES ON THE 25TH DAY OF JUNE 1997.

GIVEN UNDER MY HAND AND SEAL AT YAREN THIS 26TH DAY OF JUNE 1996.

W. H. H. H.

REGISTRAR OF CORPORATIONS


~~This certificate is directed to the requirements of Section 15 of the Corporation Act 1972 and to Regulations made under the Act relating to annual renewal of certificates of incorporation and the liabilities incurred by directors of a corporation carrying on business after its certificate of incorporation.~~



P7



**THE TERMINATION OF
THE 1990 EASTERN GATEWAY LEASE
ON REMEJON AND WOTJE WETOS**

Land Registration Authority
Instrument: 4428
Page 1 of 7
Recorded on: 02:47 PM 08-May-12

Registrar

NO TRESPASSING
NO PERSON IS ALLOWED ON THIS PREMISES
AFTER APRIL 20, 2012
WITHOUT THE EXPRESS WRITTEN CONSENT
OF
IROIJ JURELANG ZEDKAIA
ANYONE VIOLATING THIS ORDER
WILL BE PROSECUTED FOR TRESPASS

David M. Strauss, P.C.
Attorney at Law

P.O. Box 534
Majuro, MH 96960 (Marshall Islands)

Phone: (692) 625-3391
Fax: (692) 625-3398
email: dstrauss48@gmail.com

March 20, 2012

Republic of Nauru
Nauru Local Government Council
Eigugu Holdings Corporation
c/o Ruben Tsitsi
Box 106
Majuro, MH 96960

Re: Notice of Termination of Lease Agreement for the Eastern Gateway Hotel

Dear Mr. Tsitsi on behalf of the above:


On behalf of the Lessors/landowners of Remejon and Wotje wetos and pursuant to Section 17(a) of the Lease Agreement for the Eastern Gateway Hotel (the "Lease"), you are hereby notified of the cancellation and termination of the Lease as of April 6, 2012, for the Lessee's failure to cure all of the defaults listed in the notice of February 15, 2012.

Sincerely,



David M. Strauss

cc: Jurelang Zedkaia
Hilda Samuel
Yolanda Lodge

Land Registration Authority
Instrument: 4429
Page 3 of 7
Recorded on: 02:47 PM 08-May-12
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David M. Strauss, P.C.
Attorney at Law

P.O. Box 534
Majuro, MH 96960 (Marshall Islands)

Phone: (692) 625-3391
Fax: (692) 625-3398
email: dstrauss48@gmail.com

February 15, 2012


Republic of Nauru
Nauru Local Government Council
Eigigu Holdings Corporation
c/o Ruben Tsitsi
Box 106
Majuro, MH 96960

Re: Default of Lease Agreement for the Eastern Gateway Hotel

Dear Mr. Tsitsi:

The purpose of this letter is to again inform you, on behalf of the current landowners of Remejon and Wotje wetos, to-wit: Jurelang Zedkaia, Hilda Samuel, Frances Laninbit, and Barbara Laninbit-Lobje, that the lessee is in default of the terms and conditions of the August, 1990, Lease Agreement for the Eastern Gateway Hotel, in that the lessee:

1. Failed to pay the annual rent on the premises on July 15 of each year (from July 15, 2004, to July 15, 2011) as required by Section 3(b) of the lease;
2. Failed to comply with all national and local government statutes, ordinances, and regulations as required by Section 5 of the lease;
3. Failed to prevent the commission of waste or nuisance on the premises as required by Section 6 of the lease;
4. Failed to diligently prosecute to completion the construction of the hotel complex on the premises, keep the hotel open for business, and manage the hotel in an efficient, orderly, and lawful manner as required by Section 12(a) of the lease;
5. Failed to keep and maintain the premises and improvements thereon, including adjacent walkways, in good, tenable, sanitary, and neat order, condition, and repair as required by Section 13(a) of the lease;
6. Failed to promptly repair and restore damage or partial destruction of buildings and improvements on the premises to a condition as good or better than that which existed prior to such damage or partial destruction as required by Section 13(b) of the lease;

Land Registration Authority
Instrument: 4428
Page 4 of 7
Recorded on: 02:47 PM 08-May-12

REGISTERED

7. Failed to keep all improvements on the premises insured for full replacement value against loss or damage due to fire, vandalism, typhoons, and wave damage as required by Section 14(a) of the lease;

8. Failed to maintain personal injury liability insurance covering the premises and the improvements in the amounts of \$500,000 for injury or death to any one person, \$500,000 for injury or death of any number of persons in one occurrence, and \$500,000 property damage liability as required by Section 14(b) of the lease; and

9. Failed to maintain worker's compensation insurance in the form and amounts as is required under the laws of Guam as required by Section 14[c] of the lease.


Additionally, the landowners have received a copy of the October 12, 2010, letter from the Honorable Nauru Minister of Foreign Affairs Dr. Kieren Keke to the Honorable Marshall Islands Minister of Foreign Affairs John Silk relinquishing the land lease on the Eastern Gateway Hotel site.

Please be advised that the landowners demand that all of the above defaults be cured no later than Monday, March 19, 2012. If you have any questions, do not hesitate to contact me.

Sincerely,


David M. Strauss

cc: Jurelang Zedkaia
Hilda Samuel
Yolanda Lodge

Land Registration Authority	
Instrument:	4429
Page	5 of 7
Recorded on:	07:47 AM 09-May-12
	
Registrar	

**2013 AGREEMENT BETWEEN EIGIGU HOLDINGS CORPORATION
AND
THE LANDOWNERS OF THE EASTERN GATEWAY PREMISES**

This agreement is made and entered into or or about May, 2013, by and between Eigu Holdings Corporation ("EHC") and the owners and holders of the rights, titles, and interests according to Marshallese custom and tradition in Wotje and Remejon (Remjon) wetos, Delap, Majuro Atoll (hereinafter the "Landowners").

Witness that in consideration of the covenants hereinafter set forth and the benefits to be derived therefrom, the parties mutually agree as follows:

1. EHC shall pay Landowners \$182,320.20 ("damages") over a 12-month period beginning September 1, 2013, as follows: \$17,320.20 on or before September 15, 2013; and \$15,000 on or before the 15th day of the following 11 months; provided that if EHC can prove to the satisfaction of Iroj Jurelang Zedkaia actual and legal receipt of previous rental payments by Leroij Atama Zedkaia or Francis Langinbit, such sums shall be deducted from the damages or the future quarterly rent payments to be made by EHC to the Landowners.

2. The Landowners and Iroj Jurelang Zedkaia shall cause the removal of Rubin Tsitsi from the Eastern Gateway premises within 60 days.

3. The parties shall concurrently with this agreement execute the 2013 Amendment to the 1990 Lease Agreement for the Eastern Gateway Hotel.

4. Upon receipt of the full payment of damages, as referenced above, the Landowners will file with the Land Registration Authority a revocation of The Termination of the 1990 Eastern Gateway Lease on Remejon and Wotje Wetos.

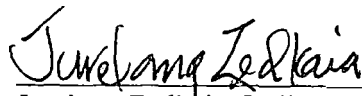
In witness whereof, the parties hereto have signed this amended lease agreement on the dates shown with respect to each of the signatures below.

Landowners:

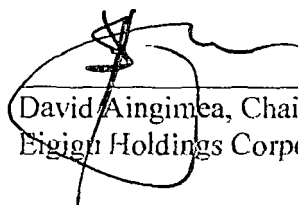
Tenant:

Dated: May 20, 2013.

Dated: May 20th, 2013.




Jurelang Zedkaia, Iroj
Remejon and Wotje Wetos



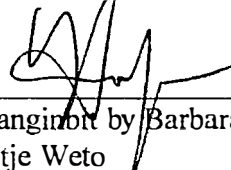
David Aingimea, Chairman
Eigu Holdings Corporation



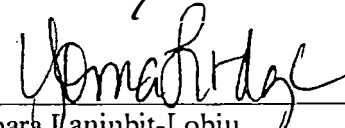
Dated: ~~May~~ ^{June} 07, 2013.

for 
Hilda Samuel by Emina M. Joran
Alap and Senior Dri-Jerbal, Remejon Weto


Dated: May ^{Aug.} 27, 2013.

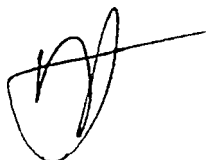
for 
Francis Langinbit by Barbara Laninbit-Lobju
Alap, Wotje Weto

Dated: May ^{Aug. 27}, 2013.

for 
Barbara Laninbit-Lobju
Senior Dri-Jerbal, Wotje Weto

Dated: May , 2013.


Riddel Akua
Minister for Eigigu Holdings Corporation


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