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FOURTEENTH CHUUK STATE LEGISLATURE H.R. NO. 14-08

FIRST REGULAR SESSION
THIRD SPECIAL SESSION, FEBRUARY, 2018 COMM. Assembly

A HOUSE RESOLUTION

TO REQUEST THE GOVERNOR OF THE CHUUK STATE TO STEP DOWN FROM OFFICE PURSUANT TO ARTICLE XV, SECTION 19, OF THE CONSTITUTION OF CHUUK, STATE 1990, FOR SERIOUS BREACH OF THE CONSTITUTION AND ALL STATE LAWS, MISFEASANCE AND MALFEASEANCE WHILE IN OFFICE.

WHEREAS, in 2012, Governor Johnson Elimo was elected the ... Governor of the State of Chuuk and was reelected to a second term in 2016; and

WHEREAS, Section 19 of the Constitution of Chuuk State provides that the Governor, Lieutenant Governor and or a Justice of the Supreme Court of this state shall be impeached upon the adoption of conviction of impeachment for not carrying out the duties and responsibilities of the office as mandated by this Constitution or by law, or for misfeasance or malfeasance in office, by this body and upon trial by the Senate, acting as a court of impeachment; and

WHEREAS, the oath of office obligations is also placed on the Governor as the Executive Power of the State to "Faithfully Execute and Implement the Chuuk State Constitution and all state laws;" and

WHEREAS, as the Head of the State of Chuuk, the Governor should not therefore be seen or perceived to unfaithfully act legally or morally and to breach their Constitutional duty to execute and implement the Chuuk State Constitution and all state laws; and

WHEREAS, recent developments and findings relating to the Governor's inappropriate action in breaching Article VI, Section 1 of the Chuuk State Constitution by total disregard of the Constitutional and legislative authority of the Supreme Court and its orders directed to them, demonstrate that they are unfit to serve the State of Chuuk due to the fact that they have failed to faithfully execute and implement the Constitution of Chuuk State of 1990 and all the laws of this state; and

WHEREAS, on 22nd December 2017, the Chuuk State Supreme Court issued an oral order enjoining the Governor Johnson Elimo from interfering with the workings of the CPUC, while on January 8th 2018 Governor Elimo and Lieutenant Governor Marius I.

Akapito issued an Executive Order establishing an Interim Board of Directors for the CPUC; and

WHEREAS, on the 9th February 2018, the Supreme Court declared Governor Johnson Elimo's act of disobeying the 22nd December 2017 Supreme Court Order, and the Executive Order No. 2018-1 that was made against the Supreme Court Order was both criminal and civil contempt; that is for violating the Supreme Court Order of December 22nd 2017; and

WHEREAS, Governor Johnson Elimo's promulgation of executive order 2018-1, was also a clear breach of section 23 of the Executive Branch Organization Act of 1990 (CSL 190-07) which states, "In the absence of a governing statute, and consistent with this Act or the Constitution, the Governor may provide for the operation of the Executive Branch and creation of temporary commissions or task forces, by executive order, administrative directive or regulation;" and

WHEREAS, Governor Johnson Elimo through his act of appointing an Interim CPUC Board contrary to the legislative establishment and role of the current CPUC Board was not only found to be criminal and civil contempt of the Supreme Court order, but also engaged in an act contrary law and to their oath of office and Constitutional duty to faithfully execute or implement the laws of the State; and

WHEREAS, Supreme Court Orders of 22nd December 2017 and 9th February 2018 were constitutionally and legislatively based on the powers vested in the Judiciary under Section 1 of Article VII of the Chuuk State Constitution, and sections 3 and 27 of CSL 190-08; and

WHEREAS, those constitutional and legislatively based powers were also violated by the Governor in not respecting and abiding by those relevant sections; and

WHEREAS, the purpose of the Governor's disobedience to the Supreme Court's Order served no furtherance of his duties as Governor; and

WHEREAS, the Governor's conduct in not supporting the CPUC Board appointments and roles and forming a contrary Interim CPUC Board while misusing his powers under these circumstances constitutes a dereliction of his duties as Governor; and

WHEREAS, the Governor's conduct under these circumstances has brought extreme dishonor and shame to the Office of the Governor of Chuuk State and to the

reputation of the State of Chuuk, and furthermore, has caused the Office of the Governor of Chuuk State and the State of Chuuk to suffer ridicule resulting in extreme shame and disgrace both locally and internationally; and

WHEREAS, Governor Johnson Elimo should have known or aught to know from the Attorney General of the Chuuk State Supreme Court's Oral Order of the 22nd December 2017 and therefore adequately informed of the consequences of his act, through the Attorney General and through his counsel, as well as from appeals and warnings addressed directly to him from the Supreme Court; and

WHEREAS, the Governor acting in his capacity interfered with the statutorily created public corporation, Chuuk Public Utility Corporation, by forcing his way through the board of directors to sign an agreement between the CPUC and a foreign company, namely Earth Energy Ltd. which was put in place by him contrary to CPUC Policy (unsolicited Proposal and Accounting procurement policy) as well as Chuuk State Procurement Policy.

WHEREAS, the Governor Johnson Elimo through the Lieutenant Governor Marius I. Akapito acting in his official capacity, along with other individuals, without any legal authority to do so, took substantial steps in attempting to obtain CPUC Financial Statement from the Bank of Guam but refused by the manager which amounts to misconduct in public office, section 801 of the Chuuk State Law 6-66; and

WHEREAS, Governor Johnson Elimo either knew, or should have known, that his action on or about 18th January, 2018, in signing into effect an executive order puts the position of the Governor as a leader, organizer, and instigator in the formulation and execution of a common plan or conspiracy to commit fraud against the CPUC in supporting a $10M guarantee for a loan to an unknown shell company registered in the Cayman Islands; Earth Energy INT'L CO. LTD; and

WHEREAS, the Governor Johnson Elimo through the Lieutenant Governor, Marius I. Akapito's act of writing his memorandum to the newly appointed interim CPUC Board, and directly seeking the attendance of the CPUC Board Members contrary to the Supreme Court Order of 22nd December 2017, is also a clear violation of the Court order and puts Lieutenant Governor Marius I. Akapito as an accessory to the act of disobeying a lawful order of the Supreme Court; and

WHEREAS, the Governor has continually failed to make reports to the Legislature, as requested of the reimbursement status of Local Revenue funds used to subsidize the federal programs, in direct violation of every Appropriation Act passed by the Legislature during his terms of office, which require such reports to be made, and sets deadlines for such reporting; and

WHEREAS the Governor has failed to provide answers in writing to resolutions passed by the Chuuk State Legislature and directed to him, in direct violation of Article VI, Section 4(b) of the Chuuk State Constitution; and

WHEREAS, the Governor refused to report to the Legislature on the status of the decreed fund as pursuant to the State of Emergency proclamation to repair the Cause Way Bridge in Mechitiw and Tunnuk Villages on Weno; and

WHEREAS, CSL 7-04-06 created the Land Commission, its composition, terms of office. CSL 7-04-06 section 18 specifically spells out that the concurrence of at least four members shall be necessary to constitute action by the Commission, however, a purported regulation promulgated by the commission offended that very section by charging only the senior land commissioner and at least one other land commissioner to issue determination of ownership and Certificate of title rendering the Governor's inability to faithfully implement the Constitution and all the state law pursuant to the Constitution of Chuuk State; and

WHEREAS, CSL 7-04-06 charges the State Surveyors to cause an accurate survey to be made of the exterior bounds of the areas and thereafter to make such surveys of plots and place such makers within areas as the commission may direct without any mention of a required fee to be attached while in fact many land owners have been complaining about the State Surveyors charging fees to perform their duties as provided by law exemplifies that the Governor neglects his duty under the Constitution to faithfully implement the Constitution and the laws of Chuuk State;

WHEREAS, Governor Johnson Elimo has failed to properly account and yearly report back to the Legislature the financial status and other reporting requirements under the Budget and Financial Laws of the State; and

WHEREAS, Governor Johnson Elimo through the Public Auditor's Report on Public Safety, Payroll and Transportation have failed to lead and manage the state and its

expenses of state funds by ensuring proper accounting accountabilities, discipline or reform departments and its officers in their financial management in accordance with the appropriate laws of the State; and

WHEREAS Article V, Section 19 of the Constitution of the Chuuk State specifies that, "The Governor, Lieutenant Governor, or a Justice of the Supreme Court shall be removed from office upon conviction of impeachment for not carrying out the duties and responsibilities of the office as mandated by this Constitution or by law or for misfeasance and malfeasance in office; and

WHEREAS, the Governor's conduct and actions under these circumstances constitute serious misconduct in office pursuant to and for the purposes of Article VI, Section 1, of the Constitution of this State; and

WHEREAS, pursuant to Article VI, Section 1, of the Constitution of State Chuuk, 1990, the Governor of the State of Chuuk, the Honorable Johnson Elimo is requested to step down as the Governor of the State of Chuuk for serious constitutional and legislative, breaches and malfeasance and misfeasance while in office; and

WHEREAS, in recognition of the gravity of the adoption of these articles of request to step down from office, and upon findings that Governor Johnson Elimo has violated the public trust, the House of Representatives concludes that Governor Johnson Elimo be requested to step down for cause; Now Therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE CHUUK STATE LEGISLATURE, that Governor Johnson Elimo is requested to step down from office for cause and that the following articles for the request are based upon the findings in this resolution, this resolution be transmitted to the Governor, Lieutenant Governor and President of the Senate:

ARTICLE I. Willful Neglect of Duty.

There is credible evidence from which to infer that, in his conduct while Governor of Chuuk State, he has willfully neglected his duty as Governor by failing to faithfully execute and implement the Constitution and laws of this state and by refusing to perform their constitutional and statutory duties and have consistently acted in violation of laws to promote their own personal agenda.

ARTICLE II. Corruption in Office.

There is credible evidence from which to infer that, in his conduct while Governor of the Chuuk State, has unlawfully used state property in furtherance or concealment of inappropriate relationship with a company and has made administrative decisions, based solely upon the furtherance of that inappropriate relationship. Furthermore, the lack of transparency of the company's financial and compensation arrangement and status further demonstrate corrupt motives and suggest circumvention of state code of ethics or laws. Governor Johnson Elimo has betrayed his trust as Governor and has undermined the integrity of his office.

ARTICLE III. Incompetency.

There is credible evidence from which to infer that, in his conduct while Governor of the Chuuk State, he has exhibited poor judgment and continue to make decisions that are detrimental to the people of this state and have proven to be wholly ineffective as Governor. Governor Johnson Elimo's abuse of their official duties and powers consistently demonstrates diminished competency, honesty, principles, and morality.

ARTICLE IV. Failure to faithfully execute and implement Constitution and all state laws.

There is credible evidence from which to infer that, in his conduct he has failed to faithfully execute and implement the Constitution and laws of the Chuuk State and his acts and conducts are inherently unconstitutional and contrary to laws and renders him unfit to serve in the highest office in this state.

Date: Signed by: All members

Rep. Innocente I. Oneisom, Spkr

Rep. Karson Billy, V. Spkr

Rep. Kenruo Nero, Flr. Ldr

Rep. Asaichy Sana

Rep. Lester Danny Mersai

Rep. Wisney Nakayama

Rep. Bino Raphael

Rep. Inos Walter

Rep. Serino Sinem

Rep. Enepo Mokut

Rep. ~~Jeff Irons~~ JEFFREY J. IRONS

Rep. Andrew May

Rep. Hadley Ampon Francis

Rep. Rerat William

Rep. Happy Refit

Rep. Celes Kaliga

Rep. Tar Francis Theodore

Rep. Jessy Petewen William

Rep. Baplo Martin

Rep. Sephet William

Rep. Narciso Sebastian

Rep. McCarter Maka Sananap

Rep. Richiosy Chipen

Rep. Kapier Kaminanga

Rep. Berly Peter Killion

Rep. Zorro Otto

Rep. Keswick Matus