

RESOLUTION
OF THE BOARD OF TRUSTEES
OF THE NORTHERN MARIANA ISLANDS RETIREMENT FUND
TO CEASE PAYMENT OF EMPLOYEE CONTRIBUTION REFUNDS
BR 09-003

WHEREAS, the Northern Mariana Islands Retirement Fund ("Retirement Fund") was statutorily created as a pension plan to provide retirement security and other benefits to retired, qualified, prior and present Northern Mariana Island Government ("Government") employees and their eligible dependents; and

WHEREAS, the Retirement Fund Board of Trustees ("Board") are statutorily mandated to direct the management of an actuarially sound pension plan funded by the Government in accord with the constitutional provisions protecting members' rights; and

WHEREAS, the Northern Mariana Island Constitution ("Constitution") protects the accrued benefits of the Retirement Fund's pension system from being diminished and/or impaired; and

WHEREAS, the Board has sought, to no avail, the assistance of the Executive and Legislative Branches in order to address the Retirement Fund's fiscal emergency due to the 2008 world wide decline in investment markets and drastic Retirement Fund drawdowns due to non-payment of employer contributions and other Government obligations; and

WHEREAS, the CNMI continues to be delinquent in employer contributions and various other obligation despite years of Board and Retirement Fund collection efforts; and

WHEREAS, the Retirement Fund was openly criticized on June 30, 2005 for using invested funds to pay for monthly pension checks and for failing to commence litigation in 2002 by the current head of the Executive Branch of the Government; and

WHEREAS, the Retirement Fund has already fallen below a level of forty percent (40%) total funded accrued actuarial liability of the total obligation of the Fund within the last five (5) years; is currently only thirty nine percent (39%) funded; and has consistently failed to reach a level of fifty percent (50%) total funded accrued actuarial liability of the total obligation of the Fund since fiscal year 2000; and

WHEREAS, Employee Retirement Income Security Act ("ERISA") provides that a pension plan may not make lump sum or other accelerated payments and provides for the cessation of benefit accruals under a plan that is less than 60% funded as well as the cessation of certain contingent benefit payments under the plan.

WHEREAS, private pension programs subject to ERISA laws would have ceased lump sum or other accelerated payments and had benefits frozen if their funding level was currently at the Retirement Fund level; and

WHEREAS, the Board and the Retirement Fund, although not subject to ERISA, looks to case laws interpreting ERISA and case laws from other jurisdictions with similar constitutionally protected pension plans as persuasion in interpreting and implementing laws mandating the management of the Retirement Fund; and

WHEREAS, Public Law 15-98 amended 1 CMC §8356 and increased from ten to fifteen (15) years all eligible Class I Retirement Fund members electing to withdraw their contribution from the Fund; and

WHEREAS, the Fund has had to pay \$40,279,146.00 as of May 31, 2009 in order to comply with Public Law 15-98 and 1 CMC §8356; and

WHEREAS, the Board has been for years gravely concerned that the Retirement Fund assets have been and are being severely diminished and/or impaired by the acts and/or omissions of the Government and the Legislature; and

WHEREAS, the CNMI Superior Court issued on June 29, 2009 a judgment that the Fund is owed by the CNMI Government \$231,647,938.27; and

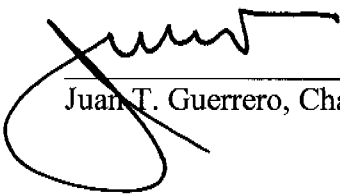
WHEREAS, the Board must protect the Retirement Fund's assets for all Retirement Fund members by any means necessary due to the Executive and Legislative Branches non-response to numerous requests for assistance to address the Retirement Fund's current fiscal emergency.

BE IT THEREFORE RESOLVED that the Retirement Fund Board of Trustees, in upholding their fiduciary duty, hereby directs the Retirement Fund management and staff to cease processing refund of employee contributions pursuant to Public Law 15-98 and 1 CMC §8356 until such time as the Retirement Fund is no longer in a fiscal emergency.

BE IT FURTHER RESOLVED that this directive will take effect on the 1st day of September 1, 2009 after notice has been given to all members by publication in newspapers in general circulation in the Northern Mariana Islands on three (3) different occasions, the first notice to be publicized no later than July 15, 2009.

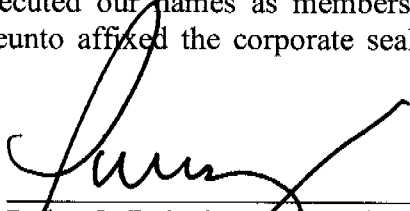
The undersigned duly appointed and authorized representatives of the NMI Retirement Fund, a Public, autonomous agency duly formed pursuant to the laws of the Commonwealth of the Northern Mariana Islands hereby certify that the foregoing is an officially sanctioned resolution duly adopted at a meeting of the Board of Trustees of the NMI Retirement Fund, held in accordance with CNMI laws and procedures on the 7th day of July, 2009, and that said resolution is now in full force and effect.

IN WITNESS WHEREOF, We have executed our names as members of the NMI Retirement Fund Board of Trustees and have hereunto affixed the corporate seal of the NMI Retirement Fund this 7th day of July, 2009.




Juan T. Guerrero, Chairman

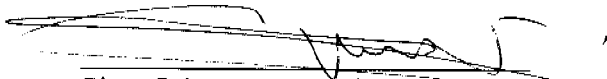
Bernadita Palacios, Member



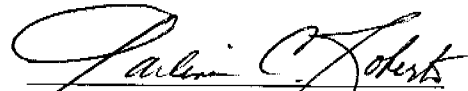
Pedro Q. Dela Cruz, Vice Chair




Marian DLG Tudela, Member



Sixto Igisomar, Member



Adelina C. Roberto, Member



Francisco P. Rosario, Member