

Masalai i tokaut

Number Twenty Seven: 14 May 2004

Rimbunan Hijau bribes landowners
to drop Court action

Maxtone-Graham employed by RH as their 'Mr Fixit'

Post Courier intimidated by Warner Shand not to print landowner's story

Startling evidence has emerged of the underhand tactics used by Malaysian logging giant Rimbunan Hijau to halt any legitimate challenge to its logging practices.

Sworn affidavits from landowner's leaders reveal how Rimbunan Hijau is prepared to lie, cheat and bully Papua New Guineans to protect its own selfish interests and to avoid the scrutiny of the Courts.

Using Jamie Maxtone Graham as their ambassador, Rimbunan Hijau last month bribed two landowners to drop a Court action against one of their logging operations in Gulf Province.

RH then used their lawyers, Warner Shand, to write a threatening letter to the Post Courier that not only stopped the landowners story being published but even prevented the landowners revealing the truth in a paid advert which cost them more than K3000.

This causes us to question if the Post Courier is a fearless defender of the truth who stands up for local people, or whether they are just plain scared of RH (who also shamelessly manipulate their own newspaper, The National, to broadcast propaganda for the logging industry)?

Read on!

Background to the case

Rimbunan Hijau is the largest logging company operating in Papua New Guinea. It dominates the forestry sector and has control of more than fifty percent of all log exports.¹

In 2003 Rimbunan Hijau exported from PNG over 240 ships loaded with raw logs worth more than K113 million and an unknown quantity of sawn timber and veneer.

¹ Logging operations controlled by Rimbunan Hijau include Wawoi Guavi (Western Province), Vailala and East Kikori (Gulf Province), Alimbit Andru (West New Britain), Manus South Coast, Manus West Coast and Kali Bay (Manus Island), Cape Orford and Tokai Matong (East New Britain) and Sagarai Gadaisu and Gara Modewa (Milne Bay).

Only last year a government review² called for a Commission of Inquiry into the activities of Rimbunan Hijau after it was discovered that many of its logging operations are illegal and that it has close relationships with key forestry officers.

The appalling environmental damage caused by RH in its logging operations has been documented in numerous reports³ and there has been widespread condemnation of its human rights abuses⁴ including the use of police mobile squads to repress local people.⁵

In the last Masalai we looked at RHs use of illegal foreign labor, its manipulation of immigration laws and the appalling conditions in which it enslaves its local workers.⁶

Now the focus is on Rimbunan Hijau's manipulation of local landowners and the way that the company lies, cheats and bribes in order to avoid the scrutiny of the law.

Vailala Block 2&3

Rimbunan Hijau's logging operations in Vailala Blocks 2 and 3 have been heavily criticized and a recent government review⁷ found that the logging project is totally unlawful as:

- (i) The timber permit has expired.
- (ii) The permit extension granted in 2003 was invalid⁸
- (iii) The timber permit conditions are not being met⁹
- (iv) There is no current approved environmental plan
- (v) The Logging Code of Practice is being routinely ignored
- (vi) There is no sustainability in the log production or maintenance of the forests ecological balance
- (vii) Royalty payments are not distributed fairly to all landowners and many levies are not paid at all
- (viii) There are many other legal breaches including serious human rights abuses, failure to lodge a performance bond, use of foreign labour in restricted positions, general infringements of workers rights, failure to provide any health and safety equipment, and a failure to register vehicles.

These findings came as no surprise to local landowners who have to contend with the appalling consequences of Rimbunan Hijau's logging operation every day for the past twelve years.

So aggrieved are the landowners that they have brought their own Court action against Rimbunan Hijau. In September 2003 the landowners obtained court orders barring RH from entering or logging in the Vailala area.

The Judge roundly criticized Patrick Pruaitch, the Minister for Forests, and the government when he handed down his decision:

The Minister "is not concerned with the interests of the simple village people who own the forest resources...the State and its Ministers turn a

² Review of Disputed Forest Allocations (2003)

³ Erskine P (1999) An environmental impact assessment of logging operations in Block 3 of the Wawoi Guavi TRP. Pwesei C L (2000) Environmental and social impact assessment of logging operations in the West Coast of Manus Area. Melick D (2003) Environmental impact assessment of logging operations in the Wawoi Guavi TRP

⁴ See for example SGS Dateline (2001) Wilderness laid waste

⁵ See for example National Intelligence Organisation Reports

⁶ Masalai Number 25 Rimbunan Hijau abusing local workers and exploiting labor laws, 16 April 2004

⁷ Review of Current Logging Projects. Individual Project Review Report No.8, 2003

⁸ This was also confirmed in the government's 2003 Review of Disputed Forest Allocations

⁹ These include requirements to construct a sawmill and mill 30,000 cubic metres of logs annually, construct roads and bridges, pay all royalties and levies and lodge a performance bond

blind eye to the cries and concerns of ordinary people who are being denied their rights to any reasonable compensation”.¹⁰

The judge also commented that the landowners' losses in terms of inadequate compensation and contractual breaches far exceeded K10 million kina.

Unsurprisingly Rimbunan Hijau has been taking desperate measures to try and stop the landowners' court action. Not only has their logging operation been stopped but they stand to lose millions of kina in damages if the case ever goes to full trial.¹¹

On October 26 the government review team found RH staff including the German national Axel Wilhem, on the ground in Vailala in flagrant breach of the Courts orders. They were trying to bribe landowners to sign an agreement to allow the logging operation to recommence.¹²

Lying, cheating and bullying

Jack Eta and Max Mera are the Chairman and Deputy Chairman of the landowner company, Vailala Purara Investments Limited that has taken Rimbunan Hijau to Court.

This is Max Mera's story in his own words:

On the 24th March 2004 at about 9.00am I was at home when the Chairman of our landowner company, Jack Eta and former Chairman Henry Kaira arrived. They wanted to take me for a drive.

*I got into a motor vehicle Toyota VX Landcruiser color grey driven by **Mr Jamie Maxton-Graham** with Eka and Kaira. They said we were going to have a meeting to discuss the case.*

***Maxtone-Graham** told us we should not bother bringing our case to Court, that RH and Frontier¹³ were big companies and they would make sure we got plenty of money, and that we would be old men before the Court case was ever resolved.*

*We arrived at the headquarters of RH for a meeting with and RH official described as a Project Relations Officer, Mr Alex Teo with Eka, Kairi, **Maxtone-Graham** and myself in attendance. It commenced at around 2.00pm on 24 March 2004 in the offices of Rimbunan Hijau, in a conference room on the third floor.*

***Maxtone-Graham** continued to argue that the legal case was a waste of time, he offered that RH could put me and Eka on their project payroll at K1000.00 per month or K500 per fortnight. Mr Teo said that when RH lawyers and our lawyers reach an out of Court settlement Mr Jack Eka and I would receive a sum of thirty thousand (K30,000.00) kina each from RH*

I was unsure and quite uncomfortable about the whole situation. I just said I wanted to think about it.

Mr Teo produced a number of documents. I can't recall exactly how many but he gave Mr Eka and I the documents to sign which were to the effect that we would

¹⁰ Post Courier newspaper, 23 September 2003

¹¹ The judge described K10 million as a 'mere drop in ocean' when compared to the landowners total losses

¹² Review of Current Logging Projects. Individual Project Review Report No.8, 2003

¹³ Frontier Holdings is the RH subsidiary that holds the Vailala timber permit

agree to withdraw our intention to sue the RH related company, Frontier Holdings.

Mr Jack Eta and I signed the documents to withdraw our case against Frontier

Mr Teo then took us downstairs to accounts where he arranged for them to give K1,500.00 in cash to Mr Jack Eka and K1,500.00 to met

Mr Teo told us to come back to his office at RH Headquarters the next day for us to receive a further sum of K3,500.00 each, making a total of K5000 each to be paid to Mr Eka and myself.

On the 25th March 2004, Mr Jack Eka and I went to RH headquarters to see Mr Teo to receive the further sum of K3,500 each.

Soon after Eka and I arrived at Mr Teo's office, the former Chairman Mr Henry Kairi was brought into that office. Then Messrs. Teo, Kairi, Eka and I walked together downstairs to the accounts office at RH Headquarters where Eka and I were paid a second sum of K1,500.00 each.

They also gave me a copy of the letter on our Company letterhead addressed to our lawyers (see below). This was one of the letters we had signed the day before. They did not give me copies of the other documents and I do not know how they obtained our Company letterhead.

The letter that Eka and Mera signed:

 **VAILALA PURARI INVESTMENT LIMITED**
P. O. BOX 145
HOHOLA
National Capital District

RECEIVED
25 MAR 2004

Your ref: 10763/TD-vpk
Dated: _____ March 2004

Messrs. Pato Lawyers
Ground Floor, Section 37
Allotment 10 and 11
Kunai Street, Hohola (Waigani)
Port Moresby, NCD
Papua New Guinea

Fax: 323 0555

Dear Sir,

Sub: **VAILALA PURARI INVESTMENTS LTD v. PAPUA NEW GUINEA FOREST AUTHORITIES, FRONTIER HOLDINGS LTD AND OTHERS: WS NO. 820 OF 2003 AND OS NO. 566 OF 2003.**

We refer to the above mentioned and please be advised we the following directors has reached an amicable resolution with the developer, namely Jack Eka, and Max Mera

Hence, we have duly executed a Deed of Settlement and Release and copy is enclosed herein for your perusal and further action.

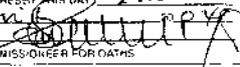
Pursuant thereto, kindly proceed to file the notices of discontinuance of proceedings known as WS No. 820 of 2003 and OS No. 566 of 2003 with immediate effect.

Yours faithfully,

 Jack Eka
 Max Mera

c.c. Mr. Bill Frizzell
Messrs Warner Shand Lawyers
Fax: 321 2079

Mr. Lohia Raik
Registrar of High Court
Fax: 3257732

THIS AND THE SUCCEEDING PAGE(S)
IS THE ANNEXURE MARKED "A" REFERRED TO IN
THE AFFIDAVIT OF MAX MERA
SWORN AT PORT MORESBY THIS DAY 2 nd
OF APRIL
BEFORE ME 
COMMISSIONER FOR OATHS

We realized that they had promised us each a total of K5000.00 each and had only paid us K3,000.00, but we did not want to make an issue so we left.

On the way home after accepting the money and signing away our peoples claim I realized I had been wrong.

*Later that day I met with **Maxtone-Graham**. I told him I was not happy with what had gone on, that I could not agree when my people would still be left with nothing. I told him the case should proceed.*

I took the money because I felt under considerable pressure from the people involved. I was not sure what they might do if I refused openly. I felt I had no choice but to accept the money and sign the documents.

I went back the next day for the same reason. I did not want them to think that I was refusing them as I was scared as to what they might do, how they might react.

I also admit at first I was very tempted to take the money, as I have a family etc, but the more I thought about my people and the trust they had placed in me to represent them I knew to take the money was wrong.

I knew it was wrong to accept the money because it was intended to induce my signature when I had not even consulted my people about settlement. I knew it was not my place to settle without first consulting my people and getting their agreement.

In fact my only proper role is to represent my Clan and people's interests in ensuring Frontier and the State meet their obligations.

Our claim against Frontier will run into millions of Kina in royalties unpaid, failure to commence or complete community related projects required under the project agreement, both to prior its illegal extension and continuation and since, failure to properly account or price logs harvested in our area, environmental damage etc etc. I knew that a mere K30,000 would not satisfy all of our claims, and I knew I had not earned the K3000 funds offered as I signed and met these people.

I have now instructed my Lawyer to proceed with the case against Frontier for the neglect of their contractual obligation for not building the infrastructure in the TRP area.

I also instructed my lawyer to now pay the sum I received of K3000.00 to the Court to be held in trust until it is determined, who, if anyone is entitled to the monies.

This testimony from Max Mera is contained in a sworn and signed affidavit that has been filed with the National Court in Port Moresby.

The Notice confirming the payment into Court:

IN THE NATIONAL COURT)
OF JUSTICE AT WAIGANI)
PAPUA NEW GUINEA)

OS NO. 566 OF 2003

BETWEEN:
VAILALA PURARI INVESTMENTS LTD
Plaintiff

AND:
PNG FOREST AUTHORITY & ORS
Defendant



NOTICE OF DEPOSIT

The Plaintiff has paid into Court without admission of liability three thousand kina (K3000.00).

That sum is subject of further court proceeding and the issues relating to the funds now paid into Court will be raised therein.

Patos

PATO LAWYERS
Lawyers for the Plaintiff

Dated:

2nd

day of April 2004

The silent media

Max Mera was so concerned by the events that had transpired he went personally to the offices of the Post Courier newspaper to tell his story. Although he realized that he had been wrong to accept the K3,000 in the first instance and could be criticized by his own people, he still wanted the world to know about how RH operates by bribing individuals to avoid its legal obligations and defraud innocent landowners.

The Post Courier promised to publish Max's story and they even took a photo of him holding the K3000. But the story NEVER appeared in the newspaper.

The photo taken by the Post Courier but never published:



Max Mera was very disappointed but undeterred. He decided that if the Post Courier wouldn't publish his story as a news item then he would pay to have it published as an advertisement.

Although the cost was K3,356, Max Mera was determined that the advert should be published. "My aim is to expose the malpractices of Frontier Holdings limited through the advertisement and stop future attempts to interfere with landowners".

But, after accepting his money, the Post Courier has refused to run Max Mera's advert.

The receipt from the Post Courier for the advert that they never published:



ADVERTISING
VAT REG. No. VT - 618

South Pacific Post Limited
P.O. Box 85, Port Moresby
Ph: 309 1000 Fax: 321 2721

No: AD
Date: 07/04/04

Port Moresby Lae Mt. Hagen Rabaul Goroka
Post Courier Post Printing
Received from: VAILALA PURURAI INVESTMENT
The sum of: THREE THOUSAND THREE HUNDRED FIFTY
SIX KIWA 12/100 TOGA
Being for:
Cash Cheque No: Bank: Branch:
Advt. Cost K 3051.02
Add: VAT K 305.12
TOTAL K 3356.12
With Thanks
South Pacific Post
Per: H.
CASHIER

Max Mera is understandably disappointed. "Post Courier has always been at the forefront of the fight against corruption but the company's refusal to run the advertisement paints a totally different picture of its position"

"The advert was prepared with the assistance of my lawyer (it) does not suggest anything criminal nor is it derogatory or defamatory in any way"

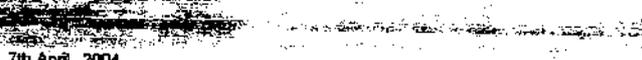
Masalai can reveal the reason behind the Post Couriers decision not to publish Max Mera's advert. A bullying letter from Warner Shand lawyers that threatens 'immediate legal proceedings' against the Post Courier should Max Mera's affidavit be published.

The letter from Warner Shand that ends with the chilling threat of 'immediate legal proceedings':

WARNER SHAND LAWYERS - PORT MORESBY

P.O. Box 1817, Goroka, NCD
Plot 1154, Nagragan Road, Kororua, Port Moresby, NCD, Papua New Guinea
Telephone 321 0034 / 321 8072 Facsimile: 321 8070 Email: warner@warner.com.pg VAT Reg. No. VT 600
Partners: Michael N. Wilson, Bill Fizzell
Associates: Paul Ousi, Nigel Merrick, Kerrie Park, Pauline Slagman,
Elizabeth Searle, Stephen Toppo, Edward White, Thomas Yagori,
Nondara Tardjo, Bertu Ota, Wayne Thomas, Robin Yalou,
Consultants: John S. Reave, David Liggett, J.R. Shook, Ian Pritchard, Sao Gadi, Peter Donip.

OUR REFERENCE: 205-0278ANJF-305 YOUR REFERENCE:



7th April 2004

South Pacific Post Limited
PO Box 85
Port Moresby
NCD

By facsimile: 3201781

For the attention of Mr. Alex Rheenev
Reporter

Dear Sir,

FRONTIER HOLDINGS LIMITED, PAPUA NEW GUINEA FOREST
AUTHORITY AND MICHAEL OGIO, MINISTER FOR FORESTS rts. VAILALA
AND PURARI INVESTMENTS LIMITED - OS No. 566 of 2003

We act for the third defendant in these proceedings and refer to your undated
letter addressed Rimbunan Hijau (PNG) Limited faxed yesterday.

While the Post Couriers decision may be seen by some as justifiable, there next action was wholly reprehensible. Having denied Max Mera his freedom to speak out and put his side of the story, on 8th April the Post Courier did publish a paid advert from Rimbunan Hijau supporters!

RH bully boys

Warner Shand lawyers have a long association with Rimbunan Hijau and are no strangers to controversy themselves.

In November 2002 they were in trouble with the Public Accounts Committee for challenging its authority to issue directives to the National Forest Authority. In a letter Warner Shand accused the Committee of being 'paranoid' and having 'star chamber powers'.¹⁴

The PAC rightly questioned why Warner Shand as lawyers to Rimbunan Hijau was party to letters between the Committee and the National Forest Service and why they were interfering in the matter.¹⁵ That question has never been answered.

There are also other examples of Warner Shand trying to interfere with the due process of Government and stop proper inquires into the logging industry.

Earlier this year Warner Shand went to Court to try and stop a legitimate government review of logging operations in Wawoi Guavi in Western Province.¹⁶ Wawoi Guavi is of course another Rimbunan Hijau logging operation. Warner Shand tried to claim that the government has no right to inspect on-going logging operations to check compliance with the law!

Warner Shand has also been named in another recent scandal. The State solicitor has publicly intervened to warn PNG's Ambassador to the United States, Evan Paki, that he is not there to serve his 'former employer' (Warner Shand).¹⁷

(It is interesting also to note that Mr Paki describes Jamie Maxtone-Graham as a 'key advisor' to former Prime Minister Mekere Morauta, who has, bizarrely for the supposed leader of the opposition, recently declared his support for the Prime Minister. This change of heart has been enthusiastically welcomed by The National. This also points to Morauta himself now being firmly in the clutches of Rimbunan Hijau).

It is a sad day indeed for Papua New Guinea when it becomes so obvious that a foreign tyrant – the multinational Rimbunan Hijau – has such extensive control not only of our forests but also our media and our politicians.

¹⁴ Post Courier newspaper, 27 November 2002

¹⁵ Post Courier, *ibid*

¹⁶ The National (Loggers Times), 23 April 2004

¹⁷ The National (Loggers Times), 7 May 2004