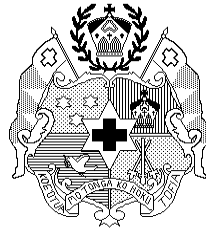


Correspondences to

Acting Attorney General and Director of
Public Prosecutions
Attorney General's Office
First Floor, Taumoepeau Building
Corner of Fatafehi and Salote Roads
Nuku'alofa
KINGDOM OF TONGA



Contact Details

Postal Address PO Box 85, Nuku'alofa,
Kingdom of Tonga
Telephone (676) 24 055 / 24 007
Fax (676) 24 005
Office Hours 8 30 am-4 30 pm, Mon - Fri
Email dpp@crownlaw.gov.to
Website www.crownlaw.gov.to/cms

Our Reference: AK 115/17- c.14

ATTORNEY GENERAL'S OFFICE

MEDIA RELEASE

**CLARIFICATION OF THE SUPREME COURT JUDGMENT REGARDING THE
CIVIL CASE BETWEEN LORD LASIKE AND KINGDOM OF TONGA**

13 February 2017

- 1 The Attorney General's Office wishes to clarify for the public the Supreme Court decision of 2 February 2017, regarding the civil case between Lord Lasike and the Government of the Kingdom of Tonga.
- 2 The Supreme Court had decided to refuse to make a declaration that the Crown had acted unlawfully and in breach of the Constitution in removing Lord Lasike as Speaker and a member of the Legislative Assembly, after he was convicted on 9 July 2012 in the Supreme Court for the criminal offence of possession of ammunition without a license.
- 3 The Supreme Court however declared that Lord Lasike was entitled to his remuneration as Speaker and a member of the Legislative Assembly from 9 July 2012 until his term expired on 24 November 2014.
- 4 Lord Lasike had applied to the Supreme Court to make four declarations to declare the following:
 - (1) That his removal as Speaker and as a member of the Legislative Assembly was unlawful and in breach of the Constitution;

- (2) That he did not resign nor was he dismissed after impeachment as a member of the Legislative Assembly;
- (3) That he remained a member of the Legislative Assembly from 9 July 2012 until the end of his term on 24 November 2014; pea
- (4) That he is entitled to receive payment of his remuneration from 9 July 2012 until 24 November 2014, along with interest.

5 The Supreme Court did not grant the first three declarations that Lord Lasike applied for.

6 The Supreme Court held that the removal and replacement of Lord Lasike in the Legislative Assembly was not unlawful simply because his conviction was subsequently quashed. This was because Court orders must be treated as valid and may be acted upon unless and until they are set aside. Therefore acts done in reliance upon a judicial order are protected in law, because they are acts done in the execution of justice which are compulsive.

7 The Supreme Court also held that once the conviction was quashed Lord Lasike was entitled as far as possible to be restored to all things which by reason of the judgment he had lost.

8 The Supreme Court held that upon Lord Lasike's successful appeal he could not be restored to his psotiiions in the Legisaltive Assembly but he was entitled to the salary and emoluments attaching to those positions of which he was deprived.

9 The Supreme Court therefore granted the fourth declaration that Lord Lasike sought, and declared that Lord Lasike was entitled to receive from the Crown his remuneration he would have received as the Speaker of the Legislative Assembly for the period 9 July 2012 to 24 November 2014 in the sum of TOP\$223,385.

10 This amount was already accepted by the Crown to be correct and to be paid to Lord Lasike, and there were offers to Lord Lasike to pay it to him without going to Court, but he did not accept it, and instead he lodged his claims in Court.

- 11 Lord Lasike had also applied that a charge of interest be applied on top of the remuneration claims but the Supreme Court refused to grant interest. The Court held that “a declaration is not coercive and does not create a judgment debt under Order 30 Rule 2(1) of the Supreme Court Rules and no justification was advanced for the claim to interest”.
- 12 In relation to the legal costs, the Court deferred it to the parties to agree on costs otherwise they would have to apply for costs by filing written submissions within 21 days.
- 13 Either party is entitled to lodge an appeal by 16 March 2017.

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For further information or clarification, please contact:

Mr ‘Aminiasi Kefu,

Acting Attorney General and Director of Public Prosecutions,

Attorney General’s Office

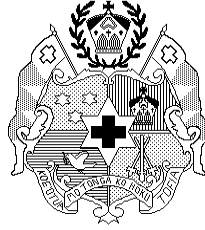
Telephone Numbers: (676) 24055/24007 (Office), (676) 25347 (Direct), (676) 7715314 (Mobile)

Facsimile: (676) 24005

Email: dpp@crownlaw.gov.to, aakefu@gmail.com

Correspondences to

Acting Attorney General and Director of
Public Prosecutions
Attorney General's Office
First Floor, Taumoepeau Building
Corner of Fatafehi and Salote Roads
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**‘OFISI ‘O E ‘ATENI SENIALE
FAKAMATALA FAKA‘ATĀ KI HE MITIA
FAKAMATALA FAKAMA‘ALA‘ALA KI HE TU‘UTU‘UNI ‘A E
FAKAMAAU‘ANGA LAHI ‘I HE HOPO SIVILE ‘I HE VAHA‘A ‘O ‘EIKI NOPELE
LASIKE PEA MO E PULE‘ANGA TONGA
13 Fepueli 2017**

- 1 ‘Oku loto ‘a e ‘Ofisi ‘o e ‘Ateni Seniale ke fakama‘ala‘ala ki he Hou‘eiki mo e Kakai ‘o e Fonua ‘a e tu‘utu‘uni ‘a e Fakamaau‘anga Lahi ‘o Tonga na‘e fakahoko ‘i he 2 ‘o Fepueli 2017 ‘i he hopo sivile ‘i he vaha‘a ‘o ‘Eiki Nopele Lasike pea mo e Pule‘anga Tonga.
- 2 Na‘e tu‘utu‘uni ‘a e Fakamaau‘anga Lahi ‘e ‘ikai tene fakahoko ha tu‘utu‘uni ke fakaha (declaration) na‘e ngaue ta‘efakalao pea maumau‘i ‘a e Konisitutone ‘e he Kalauni (Pule‘anga) ‘i hono fakahifo ‘o ‘Eiki Nopele Lasike mei hono lakanga ko e Sea pea mo e memipa ‘o e Fale Alea, hili hono fakahalaia‘i ia ‘i he Fakamaau‘anga Lahi ‘i he ‘aho 9 ‘o Siulai 2012 ki he hia ko e ma‘u ha mahafu te‘eki ke laiseni.
- 3 Ka na‘e tu‘utu‘uni ‘a e Fakamaau‘anga Lahi ‘o fakaha ‘oku ‘i ai ‘a e totonu ‘a ‘Eiki Nopele Lasike ke ne ma‘u ‘a ‘ene ngaahi vahenga ki he lakanga Sea mo e memipa ‘o e Fale Alea mei he ‘aho 9 ‘o Siulai 2012 ki he ‘aho 24 ‘o Novema 2014.
- 4 Na‘e kole ‘a ‘Eiki Nopele Lasike ‘i he‘ene faka‘ilo ‘a e Pule‘anga, ke hanga ‘e he Fakamaau‘anga Lahi ‘o fakahoko ‘a e tu‘utu‘uni ‘e fa ke fakaha:

- (1) Ko hono fakahifo ia mei hono lakanga ko e Sea mo e memipa ‘o e Fale Alea na’e ta’efakalao pea maumau’i ‘a e Konisitutone;
 - (2) Na’e ‘ikai ke ne fakafisi pe fakahifo ia hili ha hopo faka-Fale Alea mei hono lakanga ko e memipa ‘o e Fale Alea;
 - (3) Na’a ne kei hoko pe ko e memipa ‘o e Fale Alea mei he ‘aho 9 Siulai 2012 ki he ngata’anga hono taimi ‘i Fale Alea ‘i he ‘aho 24 ‘o Novema 2014; pea
 - (4) ‘Oku ‘i ai ‘ene totonu ke ne ma’u ‘a ‘ene ngaahi vahenga mei he ‘aho 9 ‘o Siulai 2012 ki he ‘aho 24 ‘o Novema 2014, fakataha mo e totongi tupu.
- 5 Na’e ‘ikai ke tali ‘e he Fakamaau’anga Lahi ke foaki ‘a e ngaahi tu’utu’uni ‘uluaki ‘e tolu na’e kole ‘e ‘Eiki Nopele Lasike.
- 6 Na’e fakaha ‘e he Fakamaau’anga Lahi ‘o pehe na’e ‘ikai ke ta’efakalao hono fakahifo pea mo hono fetongi ‘o ‘Eiki Nopele Lasike ‘i he Fale Alea koe’uhi pe koe fakata’e’aonga’i kimui hono fakahalaia’i. Ko hono ‘uhinga, kuopau ke tali ‘oku fakalao ‘a e ngaahi tu’utu’uni faka-Fakamaau’anga kotoa pe, pea fakahoko ‘a e ngaahi ngaue kotoa pe ‘oku felave’i pea mo e ngaahi tu’utu’uni koia, tukukehe pe pea kapau kuo fakata’e’aonga’i ‘a e tu’utu’uni koia. Koia ai ko e ngaahi ngaue kotoa pe na’e fakahoko koe’uhi ko ha tu’utu’uni faka-Fakamaau’anga ‘oku malu’i ia ‘e he lao, koe’uhi ko e ngaahi ngaue ia na’e fakahoko ‘i hono fakahoko ‘a e fakamaau totonu, ‘a ia ko e ngaahi ngaue kuopau ke fakahoko koe’uhi ko e tu’utu’uni faka-Fakamaau’anga.
- 7 Na’e to e fakaha foki ‘e he Fakamaau’anga Lahi na’e hili pe hono fakata’e’aonga’i ‘a hono fakahalaia’i ‘o ‘Eiki Nopele Lasike, na’e ‘i ai leva ‘ene totonu ki he founa ‘e malava, ke toe fakafoki kiate ia ‘a e ngaahi me’a na’e mole koe’uhi ko e tu’utu’uni faka-Fakamaau’anga ke fakahalaia’i ia.
- 8 Ka na’e fakaha ‘e he Fakamaau’anga Lahi ‘i he hili ‘a e tali ‘a e tangi ‘a ‘Eiki Nopele Lasike na’e ‘ikai malava ke toe fakafoki ia ki hono ngaahi tu’unga ‘i he Fale Alea ka na’e ‘i ai ‘ene totonu ki he ngaahi vahenga mo e ngaahi monu’ia felave’i pea mo e ngaahi lakanga koia ‘a ia na’e to’o meiate ia.

- 9 Na'e hanga leva 'e he Fakamaau'anga Lahi 'o foaki 'a e tu'utu'uni fakaha na'e kole 'e 'Eiki Nopele Lasike, pea na'e tu'utu'uni 'o fakaha 'oku 'i ai 'a e totonu 'a 'Eiki Nopele Lasike ke ne ma'u mei he Kalauni 'a 'ene ngaahi vahenga na'a ne mei ma'u 'i he lakanga ko e Sea 'o e Fale Alea ki he vaha'a taimi 'aho 9 'o Siulai 2012 ki he 'aho 24 'o Novema 2014 ko e \$223,385.00.
- 10 Ko e lahi 'o e pa'anga ko'eni na'e 'osi tali pe ia 'e he Kalauni 'oku tonu pea 'oku totonu ke totongi kia 'Eiki Nopele Lasike, pea na'e 'osi fai 'a e feinga ke felotoi ke totongi kia 'Eiki Nopele Lasike kae'oua fai ha hopo, ka na'e 'ikai te ne tali, pea ne fai leva 'ene faka'ilo 'i he Fakamaau'anga.
- 11 Na'e toe kole foki 'a 'Eiki Nopele Lasike ke tanaki atu 'a e totongi tupu (interest) kihe ngaahi vahenga na'e tu'utu'uni ka na'e 'ikai ke tali 'e he Fakamaau'anga Lahi ke foaki ha totongi tupu. Na'e fakaha 'e he Fakamaau'anga "ko e tu'utu'uni ke fakaha (declaration) 'oku 'ikai ke fakamalohi pea 'oku 'ikai te ne hoko ko ha tu'utu'uni faka-Fakamaau'anga 'a ia kuopau ke fiema'u totongi 'i he Tu'utu'uni 30 Fekau 2(1) 'o e Ngaahi Tu'utu'uni 'a e Fakamaau'anga Lahi, pea na'e 'ikai ke fakaha ange ha ngaahi 'uhinga lelei ke foaki ha totongi tupu".
- 12 Felave'i pea mo e ngaahi totongi ki he ngaahi fakamole faka-Fakamaau'anga na'e tu'utu'uni 'e he Fakamaau'anga ke tuku kihe ongo fa'ahi kena felotoi ki ai, pea kapau 'e 'ikai ha felotoi, pea faka'ataa ke na fokotu'u faka-malanga tohi ki he Fakamaau'anga 'i loto 'i he 'aho 'e 21 pe ko e ha 'a e tu'utu'uni totonu ke fai fekau'aki mo e ngaahi fakamole faka-Fakamaau'anga.
- 13 'Oku 'ataa ki he taha 'a e ongo fa'ahi ke ne fakahu ha tangi kihe Fakamaau'anga kimu'a 'a e 'aho 16 'o Ma'asi 2017.

----- NGATA'ANGA 'O E FAKA'ATĀ -----

Ki ha toe fakamatala, kātaki ‘o fetu‘utaki kia:

‘Aminiasi Kefu,

‘Ateni Seniale Le‘ole‘o mo e Talekita ki he Ngaahi Talatalaaki Hia ‘a e Pule‘anga,

‘Ofisi ‘o e ‘Ateni Seniale

Fika Telefoni ‘o e ‘Ofisi: (676) 24055/24007 / Laine Hangatonu: (676) 25347 / Fika telefoni
to‘oto‘o: 7715314

‘Imeili: dpp@crownlaw.gov.to