

Seventeenth Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

Special Session, 2012

H. Res. 17- 106

A HOUSE RESOLUTION

Requesting that Governor Benigno R. Fitial call for the immediate and permanent resignation of Attorney General Edward T. Buckingham.

1 **WHEREAS**, freedom and democracy depend upon a government of laws which
2 are agreed upon by the people and enforced with the highest degree of integrity providing
3 no allowances for prejudice or favoritism; and

4 **WHEREAS**, the pride, honor and continuity of a civilized society is hinged upon
5 the principle that no one is above the law because justice is blind when all are created free
6 and equal and each owes a duty to all others to obey the law; and

7 **WHEREAS**, the people should and must have confidence in those entrusted with
8 the highest responsibility of maintaining peace, law and order; and

9 **WHEREAS**, those extended the privilege of serving the Commonwealth should
10 be of exemplary personal, professional and moral character so that their execution of
11 official duties are carried out with the highest regard for equal justice, transparency and
12 respect for the people and their expectations of honesty, decency and fairness; and

13 **WHEREAS**, the corruption of any of these principles threatens the future of the
14 Commonwealth and the safety and security of the people; and

15 **WHEREAS**, in the name of the Commonwealth of the Northern Mariana

1 Islands and pursuant to 1 CMC 7847(b), the Legal Counsel for the Commonwealth of the
2 Northern Mariana Islands Office of the Public Auditor in his capacity as an Assistant
3 Attorney General filed in the name of the Commonwealth of the Northern Mariana
4 Islands, a criminal penal summons and Information in Criminal Case No. 12-0134B
5 against Edward T. Buckingham who is the Attorney General for the Commonwealth of
6 the Northern Mariana Islands; and

7 **WHEREAS**, COUNT ONE of the Information: USE OF PUBLIC SUPPLIES,
8 SERVICES. TIME AND PERSONNEL FOR CAMPAIGN ACTIVITIES alleges that, “on
9 or about the dates between July 26, 2010 and August 28, 2010, on Saipan, Commonwealth
10 of the Northern Mariana Islands, Edward T. Buckingham, hereinafter also referred to as
11 “the Defendant,” being a public official of the Commonwealth of the Northern Mariana
12 Islands, knowingly and willingly caused public funds, time, personnel and/or equipment
13 to be used for political and/or campaign activity, that use not being authorized by law or
14 properly incidental to another activity required or authorized by law, in violation of 1
15 CMC 8534(b) and made punishable by 1 CMC § 8572 by a fine of no more than five-
16 hundred dollars (\$500.00) and by a prohibition from employment with the government of
17 the Commonwealth of the Northern Mariana Islands for a period often (10) years
18 following conviction”; and

19 **WHEREAS**, COUNT ONE specifically alleges that Defendant, “in his capacity
20 as Attorney General of the Commonwealth of the Northern Mariana Islands, did himself
21 and/or through members of his staff (all of whom were employees of the Commonwealth
22 of the Northern Mariana Islands at all times relevant to this charge and acting pursuant to

1 Defendants direction) plan, organize and disseminate information and invitations
2 regarding a gathering hosted by Defendant, the purpose of which, in whole or in part, was
3 to provide a platform for which a then candidate for public office could address those
4 present regarding his candidacy. These actions were undertaken in whole, or in part, by
5 public employees during their working hours, using publically owned equipment,
6 included, but not limited to, computers, phones and other office equipment of the
7 Commonwealth of the Northern Mariana Islands Office of the Attorney General”; and

8 **WHEREAS, COUNT TWO: USE OF THE NAME OF A GOVERNMENT**
9 **DEPARTMENT OR AGENCY TO CAMPAIGN AND/OR EXPRESS SUPPORT FOR**
10 **A CANDIDATE RUNNING FOR PUBLIC OFFICE** alleges that “on or about the dates
11 between July 26, 2010 and August 28, 2010, on Saipan, Commonwealth of the Northern
12 Mariana Islands, the Defendant, used the name of a government department or agency to
13 campaign for or express support for a candidate running for public office, in violation of
14 1 CMC § 6705(a) and made punishable by 1 CMC § 6705(c) by a fine of no more than
15 five-hundred dollars (\$500.00) and by a prohibition from employment with the
16 government of the Commonwealth of the Northern Mariana Islands for a period of ten
17 (10) years following conviction”; and

18 **WHEREAS, COUNT TWO** specifically alleges that Defendant “used his position
19 as Attorney General and the name of the Office of the Attorney General to plan, organize,
20 host and secure the attendance of persons at a gathering, the purpose of which, in whole
21 or in part, was to provide a platform for which a then candidate for public office could
22 address those present regarding his candidacy”; and

1 **WHEREAS, COUNT THREE: MISCONDUCT IN PUBLIC OFFICE** alleges
2 that “on or about the dates between July 26, 2010 and August -28, 2010, on Saipan,
3 Commonwealth of the Northern Mariana Islands, the Defendant, being a public official of
4 the Commonwealth of the Northern Mariana Islands, performed illegal acts under the
5 color of his office, in violation of 6 CMC § 3202 and made punishable by the same by a
6 fine of no more than one-thousand dollars (\$1000.00) and/or imprisonment for a period of
7 not more than one (1) year and by a prohibition from employment with the government of
8 the Commonwealth of the Northern Mariana Islands for a period of ten (10) years
9 following conviction”; and

10 **WHEREAS, COUNT THREE** specifically alleges that Defendant “used his
11 position as Attorney General of the Commonwealth of the Northern Mariana Islands to
12 plan, organize and secure the attendance of several persons at a political function, the
13 purpose of which, in whole or in part, was to provide a platform for which a then
14 candidate for public office could address those present, using public funds, time,
15 personnel and/or equipment, being on notice that such actions were in violation of the
16 criminal penalty provisions of the Government Ethics Code Act of 1992 (1 CMC § 8501
17 et seq.) and the Northern Mariana Islands Election Law (1 CMC 6101 et seq.) and,
18 therefore, illegal”; and

19 **WHEREAS, COUNT FOUR: FAILURE TO PRODUCE DOCUMENTS OR**
20 **INFORMATION** alleges that “on or about November 17, 2011, on Saipan,
21 Commonwealth of the Northern Mariana Islands, the Defendant, being a nonelected
22 official and/or employee of the Commonwealth of the Northern Mariana Islands,

1 knowingly refused to provide documents and/or information requested by the Public
2 Auditor pursuant to an investigation conducted pursuant to 1 CMC 8561, in violation of
3 1 CMC § 8571(b) and made punishable by 1 CMC 8571(b) and 1 CMC 8572 by a fine of
4 no more than five hundred dollars (\$500.00) and by a prohibition from employment with
5 the government of the Commonwealth of the Northern Mariana Islands for a period of ten
6 (10) years following conviction”; and

7 **WHEREAS**, COUNT FOUR specifically alleges that the Defendant “refused to
8 provide any documents and/or information to the Commonwealth of the Northern
9 Mariana Islands Office of the Public Auditor when requested to do so or otherwise
10 cooperate with the same, pursuant to an investigation of potential violations of the
11 Government Ethics Code Act of 1992 (1 CMC 8501 et seq.)”; and

12 **WHEREAS**, COUNT FIVE: MISCONDUCT IN PUBLIC OFFICE alleges that
13 “on or about October 20, 2010 on Saipan, Commonwealth of the Northern Mariana
14 Islands, the Defendant, being a public official of the Commonwealth of the Northern
15 Mariana Islands, willfully neglected to perform the duties of his office, in violation of 6
16 CMC § 3202 and made punishable by the same by a fine of no more than one-thousand
17 dollars (\$1000.00) and/or imprisonment for a period of not more than one (1) year and by
18 a prohibition from employment with the government of the Commonwealth of the
19 Northern Mariana Islands for a period of ten (10) years following conviction”; and

20 **WHEREAS**, COUNT FIVE specifically alleges that the Defendant, “as the
21 Attorney General for the Commonwealth of the Northern Mariana Islands, had a legal
22 duty to review all proposed contracts with the Commonwealth of the Northern Mariana

1 Islands and certify that the Commonwealth of the Northern Mariana Islands had the legal
2 capacity to enter into the same. Defendant also had a concurrent legal duty to refuse to
3 certify that the Commonwealth had legal capacity to enter into contracts that violated
4 CNMI laws and/or regulations. Despite these duties, Defendant certified that the CNMI
5 had the legal capacity to enter into a specific contract that violated both CNMI law and
6 regulation. Alternatively, Defendant, as the Attorney General for the Commonwealth of
7 the Northern Mariana Islands, had a legal duty to act to prevent the continued
8 performance of a contract that violated CNMI laws and/or regulations upon becoming
9 aware that such a contract violated CNMI laws and/or regulations. Defendant failed to act
10 to halt the performance of a contract entered into by the Commonwealth of the Northern
11 Mariana Islands that violated both CNMI laws and/or regulations”; and

12 **WHEREAS, COUNT SIX: OBSTRUCTING JUSTICE INTERFERENCE WITH**
13 **SERVICE OF PROCESS** alleges that “on or about the dates between August 3, 2012 and
14 August 4, 2012, on Saipan, Commonwealth of the Northern Marianas Islands, the
15 Defendant, knowingly and willfully obstructed, resisted, and/or opposed persons duly
16 authorized to serve process issued by the Superior Court of the Commonwealth of the
17 Northern Marianas Islands, in serving, and/or attempting to serve said process, in
18 violation of 6 CMC § 3303 and made punishable by the same by a fine of no more than
19 one-thousand dollars (\$1000.00) and/or imprisonment of not more than one (1) year and
20 by a prohibition from employment with the government with the government of the
21 Commonwealth of the Northern Mariana Islands for a period of ten (10) years following
22 conviction”; and

1 **WHEREAS**, COUNT SIX specifically alleges that the Defendant, “being aware
2 that a penal summons commanding him to appear before the Superior Court of the
3 Northern Marianas Islands had been issued, and that he was being sought by persons who
4 intended to effectuate service of such summons upon him, those persons being at least
5 eighteen (18) years of age and not party to this action, did engage in a course of conduct
6 intended to deceive, resist and/or otherwise prevent those persons from effectuating
7 service upon him. This course of action included lying about his whereabouts and/or
8 directing others to lie about his whereabouts, directing subordinates to refuse to accept
9 service of the summons at his usual place of business and/or other actions performed with
10 the express purpose to evade the service of the aforementioned penal summons upon him.
11 This course of action culminated in the Defendant seeking, suggesting and/or accepting
12 an armed escort consisting of members of the Department of Public Safety and/or the
13 Commonwealth Ports Authority, operating publically owned vehicles and being paid with
14 public funds, that escort having the express purpose of taking defendant from his usual
15 place of abode to the Saipan International Airport, through local and federal security
16 checkpoints and ensuring that he boarded his flights away from the Commonwealth
17 without being served a copy of the aforementioned penal summons”; and

18 **WHEREAS**, COUNT SEVEN: MISCONDUCT IN PUBLIC OFFICE alleges
19 that “on or about the dates between August 3, 2012 and August 4, 2012, on Saipan,
20 Commonwealth of the Northern Marianas Islands, the Defendant, being a public official
21 of the Commonwealth of the Northern Marianas Islands, performed illegal acts under the
22 color of his office, in violation of 6 CMC § 3202 and made punishable by the same by a

1 fine of no more than one-thousand dollars (1000.00) and/or imprisonment for a period of
2 not more than one (1) year made punishable and by a prohibition from employment with
3 the government of the Commonwealth of the Northern Marianas Islands for a period of
4 ten (10) years following conviction”; and

5 **WHEREAS**, COUNT SEVEN specifically alleges that the Defendant, “as the
6 Attorney General for the Commonwealth of the Northern Mariana Islands, used his
7 position and/or influence to knowingly and willfully obstruct, resist, and/or oppose
8 persons duly authorized to serve process issued by the Superior Court of the
9 Commonwealth of the Northern Marianas Islands, in serving, and/or attempting to serve
10 said process”; and

11 **WHEREAS**, for “blatant disregard of lawful penal summons,” Superior Court
12 acting Presiding Judge David Wiseman issued a bench warrant against Defendant Edward
13 Buckingham subsequent to Defendant’s decision to fail to appear in court on Monday,
14 August 6, 2012 despite being lawfully served a penal summons to appear, and set bail at
15 \$50,000; and

16 **WHEREAS**, the reason for which Office of the Public Auditor legal counsel
17 George Hasselback filed an amended complaint against the Defendant for obstruction of
18 justice and misconduct in public office, namely the use of CNMI government resources
19 supports the notion that Defendant Buckingham’s culpable conduct was not limited to
20 events from 2010; and

1 **WHEREAS**, Assistant AG Gilbert Birnbrich represented Defendant Buckingham
2 during the hearing on August 6, 2012 thereby demonstrating that Defendant still exercises
3 control and influence over the Office of the Attorney General; and

4 **WHEREAS**, Assistant Attorney General Gilbert Birnbrich knows or should know
5 that the mandate of the Office of the Attorney General in criminal matters is to prosecute
6 alleged criminals as opposed to representing them; and

7 **NOW, THEREFORE, BE IT RESOLVED** by the House of Representatives of
8 the Seventeenth Northern Marianas Commonwealth Legislature that the House hereby
9 requests that Governor Benigno R. Fitial call for the immediate and permanent
10 resignation of Attorney General Edward Buckingham if Mr. Buckingham's resignation
11 and the Governor's acceptance of this resignation have not already achieved this result;
12 and

13 **BE IT FURTHER RESOLVED** that although Defendant is presumed to be
14 innocent in the court of law, he has clearly, through his actions and omissions lost the
15 confidence of the House of Representatives and the People of the CNMI; and

16 **BE IT FURTHER RESOLVED** that because factually and legally, Attorney
17 General Edward Buckingham is now a criminal Defendant who failed to appear in Court
18 despite being duly served with a penal summons Mr. Buckingham must be removed from
19 his position as the highest law enforcement officer of the Commonwealth before any
20 more harm may come to the already tainted reputation and integrity of the Office of the
21 Attorney General; and

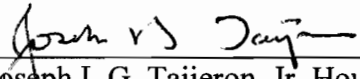
1 **BE IT FURTHER RESOLVED** that the Speaker of the House of
2 Representatives shall certify, and the House Clerk shall attest to the adoption of this
3 resolution and thereafter the House Clerk shall transmit certified copies to the Michael
4 Pail, CNMI Public Auditor, the Honorable Paul A. Manglona, President of the Senate,
5 and the Honorable Benigno R. Fitial, Governor of the Commonwealth of the Northern
6 Mariana Islands.

Prefiled: 8/9/12
Date: 8/9/12

Introduced By:


Rep. Rafael S. Demapan

Reviewed by:


Joseph L.G. Taijeron, Jr, House Legal Counsel

