

## **Alleged Fraud of \$860,000 is Basis of Accusation against Portuguese Couple in Dili**

LUSA, 28 Feb 2017 -- An alleged collusion to defraud Timor-Leste of \$860,000 is the basis of the accusation against a Portuguese couple who began their trial in Dili today for crimes of embezzlement, money laundering and document forgery.

According to the Timorese Prosecutor's Office, Tiago and Fong Fong Guerra had arranged the alleged diversion of funds - from taxes levied on oil companies - to US consultant Bobby Boye, currently imprisoned in the United States.

Jacinta Correia, who heads the panel of judges in the case, and judges Ana Paula Jesus and Eusebio Xavier read the indictment together, which was only brought against the two Portuguese at the end of last year, 26 months after they were detained and considered defendants.

The prosecution considers that the three collaborated to divert, through a company of the couple in Macau, the funds from taxes due to the Timorese state and paid by an oil company.

The two defendants preferred to remain silent at the initial stage of the trial, having now answered questions from the court only to confirm their identity, with defense lawyer Alvaro Rodrigues reaffirming to Lusa his confidence in the innocence of the defendants.

Initially, prosecutor Angelina Saldanha included Boye as a co-defendant, eventually removing him from the case. In October 2015 Boye was sentenced by a United States court to six years in prison and ordered to return \$3.51 million to Timor-Leste.

That conviction was recalled at the start of today's trial when the defense filed an application asking the court to ask the Government whether the funds defrauded from Timor-Leste had been returned by the US authorities.

Alvaro Rodrigues said that the Timorese Government considers that these funds were stolen by Boye and presented letters in which the Prime Minister's office asked the US court to return the funds.

"I want to know if this money has already arrived because if it has, the Public Ministry cannot accuse my constituents of having taken over that money because they do not have it. It is in the United States," said the lawyer.

Boye was a consultant under a cooperation protocol from the Government of Norway to support Timor-Leste in order to assist in the recovery of taxes owed by oil companies.

Later, in July 2011, he was hired directly by then Finance Minister Emilia Pires, to work until the end of the year, with a salary of \$250,000, as "legal adviser for the area of petroleum taxes."

Determining Boye's status - and whether or not he was a civil servant - is essential for the entire process, since the crime of embezzlement, of which the defendants were accused, applies exclusively to civil servants and to nobody else.

As money laundering is a subsidiary crime under the Timorese criminal code, it needs a primary crime which, in this case, would be the one of embezzlement.

Rui Hanjam, then Finance Deputy Minister and the first witness to be heard today, admitted to court that the contract was signed with Boye as a consultant or advisor and not as a civil servant.

Hence, the defense argued, civil service rules do not apply to him (Bobby Boye), such as evaluation or the 13<sup>th</sup> month salary, with conflicts to be resolved by arbitration appropriate to a work contract and not to an employee.

The accusation accused the three of them of having prepared a "stratagem" to divert funds obtained by Boye in the negotiations with the oil companies, channeled through the Macau company of Fong Fong Guerra and that eventually they were used by Boye to buy a property in the United States.

According to the prosecution, the three intended to carry out a set of procedures "to conceal the origin, the form of obtaining and the final destination" of this "illicitly appropriated" value, thus diverting "tax money that they knew belonged" to Timor-Leste.

The indictment alleges that BB had issued instructions for the transfer of funds to Olive in Macau, suggesting that "the beginning of the process of appropriation of tax revenues" was intended to circulate these funds through various accounts and companies to conceal them.

The funds were later transferred from Olive's account in Macau to a law firm in the United States that would be an intermediary in the purchase of property for Bobby Boye.

The trial continues on March 14.

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## **Witness in Trial of Two Portuguese Citizens Confirms Flaws in Timorese Fiscal System**

LUSA, 14 Mar 2017 -- The Timor-Leste General Director of Taxes today confirmed flaws in the collection system for petroleum tax revenues that allowed the state to be tricked out of millions of dollars by an international consultant.

Monica Rangel was speaking at the second session of the trial of a Portuguese couple accused of embezzlement, money laundering and document forgery through an alleged collusion to defraud Timor-Leste for \$860,000.

According to the Timorese Prosecutor's Office, Tiago and Fong Fong Guerra had arranged the alleged diversion of funds - from taxes levied on oil companies - to U.S. consultant Bobby Boye.

Today, as had occurred at the start of the trial on February 28th, the witness again confirmed that he knew of no connection between the Portuguese couple and Bobby Boye, with almost all the questions from the prosecutor focusing on the American consultant.

Rangel said that she knew the company Olive Unipessoal, owned by Tiago Guerra, which was registered in Timor-Leste and paid "a few taxes", and that no tax irregularities had been detected in the company.

She confirmed the circumstances in which Boye was linked to Timor-Leste, repeating that the American was not a civil servant and was hired as a consultant under a cooperation protocol from the Government of Norway to support Timor-Leste in recovering taxes owed by the oil companies.

Later, in July 2011, he was hired directly by the then Finance Minister, Emilia Pires, to work until the end of the year, with a monthly salary plus an incentive of \$250,000.

Determining Boye's status - and whether or not he was a civil servant - is essential to the process, since the offense of embezzlement of which the defendants are accused of is exclusive to civil servants.

Monica Rangel's testimony was marked by some contradictions, particularly as regards the value of taxes in arrears from AS Geoconsulting (later absorbed by DOF Subsea Norway SA), which Boye had diverted.

In her statement during the investigation phase, Rangel had said that the amount owed was \$1.2 million, but at today's hearing she said it was \$975,000, of which \$145,000 was paid into the Petroleum Fund account.

The defense questioned the witness about the contradiction - stating they did not understand how this calculation of the \$860,000 allegedly diverted by Boye, had been done, and Monica Rangel admitted to having corrected the amount due after "verifying the data in the system".

Repeatedly stating she was unaware of various aspects of legal processes regarding Boye and the companies, Rangel was confronted with emails addressed to her by Boye, emails which she admitted had not read.

One of them, quoted by the defense, refers to the company Olive Consultancy, owned by Fong Fong Guerra in Macao, but which is said to have a postal address in Timor-Leste.

The defense questioned the witness as to whether she had thought was "strange" for a Macau-based company to have a Timor-Leste address, "even more when this address is the same as Boye's home address in Timor-Leste," something Rangel admitted not having checked.

Monica Rangel admitted that in a normal situation, companies pay petroleum taxes directly to the Petroleum Fund account in the Federal Reserve in the United States, explaining that she did not know what happened to the rest of the diverted money.

The panel of judges wanted to know about the failures of the tax system that for six years, between 2004 and 2010, did not make any settlement with the companies AS Geoconsulting and DOF Subsea Norway SA.

"How can this happen," asked the judge. The witness stated that she was unaware of the situation.

Rangel also admitted that it is necessary to review the procedure by which oil companies negotiate with the consultants, as in the case of Boye, adding that there was direct correspondence between the parties without the knowledge of their Timorese superiors.

"They do this direct communication without informing us. It is a failure of communication and a procedure that we have to improve," she said.

The trial will continue with the testimony of Cãncio Oliveira, who was director general of revenue and customs between 2009 and 2012.

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## **Defense of Portuguese couple detained in Timor-Leste waives witnesses**

Dili, 14 March (Lusa) - The defense of a Portuguese couple currently being tried in Dili has today dismissed all of its witnesses, considering that the prosecution has not provided any witnesses who presented evidence of the accusation.

Álvaro Rodrigues, one of three defense attorneys for Tiago and Fong Fong Guerra, said in the second session of the trial, which began on 28 February, that the defense was prepared to move to final arguments.

In response, prosecutor Angelina Saldanha said the evidence is in the documents that are part of the case, with the court holding its next hearing on March 28, giving time for additional documentation to be filed within 10 days.

It is recalled that Tiago and Fong Fong Guerra are being tried in Dili for crimes of embezzlement, money laundering and document forgery, being alleged by the Public Prosecutor that they had colluded to defraud Timor-Leste of \$860,000.

According to the Timorese public prosecutor, Tiago and Fong Fong Guerra had arranged the alleged diversion of funds - from taxes levied on oil companies - to US consultant Bobby Boye.

In the second part of today's session, the court heard the third and final witness to the allegation, Cândio Oliveira, who was director general of revenue and customs between 2009 and 2012, who confirmed almost everything that had been said by previous witnesses .

Almost all of the questions come back to Boyle's relationship with the Ministry of Finance and information that the adviser - Oliveira confirmed again that he was not a civil servant – had taken part in negotiations with the oil companies without authorization from his Timorese superiors,.

The session was marked by some tension at a time when Cândio Oliveira was questioned about the amount of taxes in arrears paid by AS Geoconsulting (later absorbed by DOF Subsea Norway SA) that Boye has diverted.

Oliveira said he thought it was about \$975,000 but could not say how he knew that value by saying that the information was provided to him by a Finance Ministry official whom he did not want to identify.

The defense questioned this part of the statement requiring that, as an indirect one, it should be removed from the record.

None of the three witnesses presented by the prosecution at the trial proved any of the crimes that the Portuguese couple are accused of, and all confirmed that they did not know the two defendants.

The three witnesses further confirmed that Boye was not a civil servant but an international adviser.

Determining Boye's status - and whether he was a civil servant or not - can be decisive for the whole process, since the offense of embezzlement of which the defendants are accused can only be committed by civil servants.

It is recalled that the Portuguese couple have been held in Dili and prevented from leaving the country for more than two years, with Tiago Guerra having spent eight months in Becora jail.

The trial continues on March 28.

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## **Timorese Authorities Knew about the Bank Transfer that Involved the Portuguese Couple**

Dili, 28 March 28 (Lusa) - According to judicial records, the Timorese Public Ministry was aware of the bank transfer that is at the center of the case of accused Portuguese couple.

Tiago and Fong Fong Guerra have been on trial in Dili District Court since January, accused of crimes of embezzlement, money laundering and document forgery. One of the accusations consists of a \$859,706.30 bank transfer made in 2011 to the defendant's company account by an American consultant who has since been convicted in the United States for defrauding Timor-Leste.

The consultant, Bobby Boye - who is currently imprisoned in the United States for defrauding Timor-Leste of \$3.5 million - was working as an advisor and helping the Timor-Leste Government to recover taxes owed to the country.

Documents included by the Public Prosecutor's Office, which Lusa had access to today, show that Bobby Boye had informed both the Director-General of Taxes, Mónica Rangel, and the Director-General of Revenues, Cância Oliveira, of the transfer instructions.

E-mail messages containing this information were referred to in today's trial session, which was supposed to address final claims. Instead, in today's session, a new witness was heard and new data was presented.

The file documents show that the amount in question forms part of arrears since 2004, which the Timorese Government demanded from AS Geoconsult, and that in September 2011 amounted to \$1,009,332 - corresponding to taxes totaling \$318,074.15, a fine equal to the amount owed, plus \$ 357,180 in interest.

According to emails in the record - all sent with the knowledge of the two government officials -- Boye explained to his lawyer, who mediated in the case of Geoconsult's debts, that the debtor company "disputed the total amount of taxes."

In one of the emails, Boye explains that the company will transfer the non-disputed debt to the Petroleum Fund - an amount of about \$145,000 - while "the balance (less fees of \$4,172.31) will be kept by an Escrow agent [a third party who is responsible for keeping this sum until the conclusion of the dispute] here in Timor-Leste."

Accordingly, Boye ordered the lawyers to deposit \$145,441.23 in the Petroleum Fund account and the remaining \$859,706.30 dollars to the escrow account of the Macau-based Olive Consultancy Company Limited, headed by Fong Fong Guerra.

At today's session, Maria Angela da Costa Soares, Central Bank's settlement manager, was asked how payments to the Petroleum Fund are processed.

She explained that all of these revenues are deposited directly by taxpayers, not through any intermediary. She said they were unaware of any situation where a payment had involved an escrow account, a method used to reduce risk between two parties involved in a transaction.

The file also includes a June 2015 letter from the Timorese Finance Minister, Santana Cardoso, to the court in New Jersey where Boye was convicted, in which the government official asks that the various funds stolen by the consultant be returned to Timor-Leste.

In the letter, the Minister refers to five amounts illicitly obtained by Boye, including "\$859,706.30 obtained by the defendant through abuse of his position of trust."

Today the court heard the contents of another letter, dated March 22, in which the Timorese Prime Minister, Rui Maria de Araújo, informs the judge presiding over the panel of judges in this case that "this amount of \$859,706.30 was never returned to the Timorese Government nor was its refund requested."

In the document, the Timorese official alleges that the alleged crime related to this money "did not occur in American territory nor involve American banks", having occurred in Macao, in reference to the use of the escrow company of Fong Fong Guerra.

Therefore, the U.S. court separated this case from the main judicial process through which Boye was convicted. In 2015, the former legal advisor to the Government of Timor-Leste pleaded guilty in a public trial to having defrauded the State of Timor-Leste of \$3.5 million and was sentenced to six years in prison in the United States.

So Boye covertly created a fictitious law and accounting firm in New York that recommended that the Government of Timor-Leste award it consulting contracts in the petroleum extraction and management area.

Today's session in Dili ended with the Public Prosecutor's Office agreeing to return to Tiago and Fong Fong Guerra several electronic devices that were confiscated at the time of their arrest more than two years ago. These items had been requested by the couple's defense lawyers since 2014, as they contain important information needed to prepare for the case.

The next session will take place on April 11<sup>th</sup>.

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