Office of the Attorney General of Guam

590 S. Marine Corps Dr., Ste. 901, Tamuning, Guam 96913

Speaker Benjamin J.F. Cruz GL#34-16-2130

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July 24, 2018

John P. Camacho
Director, Department of Revenue and Taxation
P.O. Box 23607
GMF, Guam 96921

RE: Tobacco Tax Lien – Mid-Pacific Distributors, Inc.

Hafa Adai John:

Our Office is writing to express concern regarding enforcement efforts against Mid-Pacific Distributors, Inc. ("Mid-Pac"). On June 17, 2018, your agency filed a tax lien in the District Court of Guam declaring and demanding payment from Mid-Pac on the liability due and owing to the government of Guam for tax years 2014-2017. Although the lien states that it is a demand for "GRT" it was clarified during a public hearing before the 34th Guam Legislature the lien represents unpaid tobacco taxes.

The Department of Revenue & Taxation ("DRT") is required to closely monitor the distribution of all cigarettes released from any bonded warehouse and to collect the taxes in advance of purchase. These taxes are monitored not singularly for tax collection purposes, but to assure that the territory honors the obligations of states and territories pursuant to the 1998 Tobacco Master Settlement Agreement ("MSA"). State signatories to the MSA include 46 states, the District of Columbia, Puerto Rico and four territories. The MSA's basic elements consist of a release of state claims against the Participating Manufacturers in exchange for the Participating Manufacturers agreeing: (1) to pay the states annually and in perpetuity billions of dollars; (2) to restrict permanently their advertising, promotion, and marketing of cigarettes; and (3) to contribute $1.5 Billion Dollars to establish what has become the American Legacy Foundation, an entity dedicated to counter-advertising and public education against cigarette smoking. Guam annually receives approximately $2 Million Dollars from the MSA terms.

We support the efforts of DRT to collect unpaid taxes due. However, the renewal of a business license without payment of outstanding taxes is disturbing, giving cause for further review by our Office. (See Business License Law Title 11 GCA Chapters 6, 70 & 72).

Elizabeth Barrett-Anderson
Attorney General
Phone: (671) 475-3324
ext. 5015/ 5030
Fax: 477-4703
law@guamag.org

Jacqueline Z. Cruz
Chief of Staff
Administration
ext. 5010
jzcruz@guamag.org

Joseph B. McDonald
Chief Prosecutor
Prosecution
ext. 2410
jmcdonald@guamag.org

Karl P. Espaldon
Deputy AG
Solicitors
ext. 3115
kespaldon@guamag.org

Kenneth D. Orcutt
Deputy AG
Litigation
ext. 3225
korcutt@guamag.org

Fred S. Nishihira
Deputy AG
Consumer Protection
ext. 3250
fnishihira@guamag.org

Rebecca M. Perez
Deputy AG
Child Support
ext. 1610
rebecca.perez@guamcse.net

Carol M. Hinkle-Sanchez
Deputy AG
Family
ext. 4040
csanchez@guamag.org

Pauline I. Untalan
Administrator
Victim Service Center & Notary Unit
ext. 5030
puntalan@guamag.org

It is our position that unpaid tobacco taxes should not be compromised through settlement. To do so might negatively impact Guam's position to future tobacco recoveries and demonstrate a lack of serious commitment of our community to fight the health risks of smoking. Moreover, it is not a prudent administrative decision at a time when our government hospital is in dire need of financial help.

Our Office stands ready to assist.

Sincerely,

ELIZABETH BARRETT-ANDERSON
Attorney General of Guam

cc: Governor of Guam
Speaker, 34th Guam Legislature