

Tubbataha Protected Area Management Board
TUBBATAHA ADJUDICATION BOARD
Tubbataha Management Office, Manalo Extension, Bgy. Milagrosa
Puerto Princesa City, Palawan

TUBBATAHA MANAGEMENT OFFICE
Represented by ANGELIQUE SONGCO
Complainant,

TAB ADMIN CASE NO. 23-11

-versus-

MR. ERNESTO T. BATUNGBACAL
(OWNER), MS. VANESSA JESSICA
VALDERAMA (BOAT MANAGER), MR.
MAXIMO CARANDANG (BOAT
CAPTAIN), OF M/Y RESOLUTE
Respondents.

For:

VIOLATION OF CHAPTER 4, RULE 21
(DAMAGE TO THE REEF) OF TPAMB
ADMIN. ORDER NO. 1, SERIES OF 2017

RESOLUTION 23-11-03

CONFIRMING AND ADOPTING THE AMICABLE SETTLEMENT
REACHED BY THE PARTIES IN THE PRELIMINARY CONFERENCE
ON 15 JUNE 2023 AND RECOMMENDING THE SAME TO THE TPAMB
FOR APPROVAL

The Tubbataha Management Office (TMO) filed an administrative complaint before the Tubbataha Adjudication Board (TAB) against Ernesto Batungbacal, Vanessa Jessica Valderama, and Maximo Carandang for violation of Chapter 4, Rule 21 of TPAMB Admin Order No. 01, series of 2017 for causing damage to the reef while operating the vessel M/Y Resolute in the Tubbataha Reefs Natural Park;

During its meeting on 31 May 2023, the TAB created the Technical Working Group, through Resolution 23-11-02, to be composed of Atty. Joanna Sarah T. Diver and Atty. Adelina B. Benavente-Villena, to conduct a preliminary conference pursuant to Section 14, Part II of the TAB Rules of Procedures and directing the same to submit a record of the Conference within five (5) days after its termination;

The Preliminary Conference was held on 15 June 2023 at the PCSDS Conference Room, with the complainant, Angelique Songco, and respondents, Mr. Ernesto Batungbacal together with his business partner Mr. Louie Bernardo, being present. Both parties manifested that they are clothed with sufficient authority from their principals and they are willing to enter into an amicable settlement pursuant to Section 14, paragraph (a) of the TAB Rules of Procedure and other relevant laws.

Quoted below is the agreement reached by the parties, to wit:

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1. After thorough deliberation, both parties arrived at 88.75 square meters as the total area of coral damage caused by the M/V Resolute;

Hence, 88.75 square meters shall be the basis for computing the amount of fine to be imposed pursuant to Rule 21 of Chapter 4 (Prohibited Acts and Penalties) of Tubbataha Protected Area Management Board, Administrative Order No. 1, Series of 2017, to wit:

Damage to the reef shall subject the responsible person or entity to the payment of administrative fines set by the TPAMB based on the current valuation standards, which shall not be less than Twelve Thousand Pesos (Php12,000.00) per square meter. The violators shall also be liable for the payment of the cost of restoration which shall not be less than Twelve Thousand Pesos (PhP12,000.00) per square meter, or as may be determined by the TPAMB.

The imposable fine against the Respondents is Two Million, One Hundred Thirty Thousand Pesos (Php 2,130,000.00).

2. Both parties agreed that the penalty of the fine will be settled through staggered payments. The Respondents agreed to pay the fine in the amount of Two Million One Hundred Thirty Thousand Pesos (P2,130,000.00) in quarterly tranches for three (3) consecutive years. Fifty percent (50%) of the said amount or One Million Sixty-Four Thousand, Nine Hundred Sixty-Four Pesos (P1,064,964.00) will be paid quarterly beginning August 2023 until May 2025. (Both parties agreed to round off the amount to P1,065,000.00). The remaining fifty percent (50%) or One Million Sixty-Four Thousand, Nine Hundred Sixty-Four Pesos (P1,065,000.00) will be paid at the end of the third and last year, more specifically on or before May 2026.

The Respondents are likewise amenable to issuing post-dated checks as security and are fully aware of the criminal and civil liabilities entailed should the subject checks bounce.

The payment plan is shown below:

2023	
MONTH	AMOUNT TO BE PAID
August	P133,125.00
November	133,125.00
2024	
February	133,125.00
May	133,125.00
August	133,125.00
November	133,125.00
2025	
February	133,125.00
May	133,125.00
2026	
May	1,065,000.00
TOTAL	P2,130,000.00

LET this summary report of the proceeding before the TWG be submitted to the Tubbataha Adjudication Board for its confirmation.

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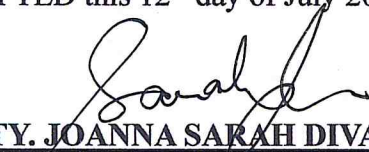
The conduct of the Preliminary Conference is allowed under Section 21 of the TAB Rules of Procedure for numerous purposes, among which is to consider the possibility of an amicable settlement in order to fast-track the resolution of the case, thereby decreasing the cost of adjudication for both parties.


NOW, THEREFORE, finding the above-quoted agreement to be just and reasonable this Board confirms the same, subject to the following additional conditions, that:


- (a) the schedule of payment shall be **on or before the last day of the designated month** of payment;
- (b) in the case of a default in payment, e.g., bouncing check, the Tubbataha Management Office may file criminal charges against the respondents;
- (c) the case shall be considered terminated only after the full payment of the above-quoted penalty of fine;
- (d) in the interim period from the resolution of the case up to the final payment, M/Y Resolute may be issued permit/s to operate in TRNP, as long as no payment is in default, as may be allowed under the existing rules;

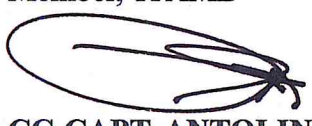
RESOLVED FINALLY, that this Board adopts, as it is hereby ADOPTED, the amicable settlement as its recommendation to the TPAMB for its resolution pursuant to Section 25 of the TAB Rules of Procedure.


SO CONFIRMED AND ADOPTED this 12th day of July 2023 at Puerto Princesa City.


ATTY. JOANNA SARAH DIVA
Presiding Officer, Adjudication Board
Co-Chair, TPAMB



JOSEPH PADUL
Member, Adjudication Board
Member, TPAMB


MARIVEL DYGICO
Member, Adjudication Board
Member, TPAMB


CG CAPT. ANTOLIN R CAYABO
Member, Adjudication Board
Member, TPAMB


MA. ELIZABETH SABANDO
Member, Adjudication Board
Member, TPAMB


LTCOL ISAGANI G NATO (MNSA)
Member, Adjudication Board
Member, TPAMB


CAPT. CHARLES M VILLANUEVA
Member, Adjudication Board
Member, TPAMB