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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF GUAM**

**HANA BANK, IN ITS CAPACITY AS  
TRUSTEE OF PLUS PRIVATE  
OVERSEAS ASSET BALANCED  
INVESTMENT TRUST #1,**

Plaintiff,

vs.

**SOUTH PACIFIC PETROLEUM CORP.  
AND ACCESS YPAO INC.,**

Defendants.

Civil Case No. 09-00012

**ORDER**

**MIRAE ASSET SECURITIES CO., LTD.  
AND BYUCKSAN ENGINEERING &  
CONSTRUCTION CO., LTD.,**

Plaintiffs,

vs.

**SOUTH PACIFIC PETROLEUM CORP.  
AND HANOM INVESTMENTS, INC.,**

Defendants.

Civil Case No. 09-00013

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2 **MIRAE ASSET SECURITIES CO., LTD.**  
3 **AND BYUCKSAN ENGINEERING &**  
4 **CONSTRUCTION CO., LTD.,**

Civil Case No. 09-00014

5 Plaintiffs,

6 vs.

7 **SOUTH PACIFIC PETROLEUM CORP.**  
8 **AND ACCESS YPAO, INC.,**

9 Defendants,

10 **AND DERIVATIVE AND OTHERWISE**  
11 **RELATED LITIGANTS.**

12 On December 10, 2010, the court heard Blair Sterling Johnson & Martinez's Motion to  
13 Withdraw as Counsel of Record for Plaintiffs (Docket No. 148) and Defendant South Pacific  
14 Petroleum Corporation's (SPPC) Motion for an Order to Shorten Time to Hear Defendant  
15 SPPC's Motion for Summary Judgment (Docket No. 145) and issues the following order.

16 Blair Sterling Johnson & Martinez's Motion to Withdraw as Counsel of Record for  
17 Plaintiffs is **GRANTED**. The court finds that there is an irreconcilable conflict, and as a result  
18 counsel cannot represent the interest of one client without taking action that is adverse to the  
19 interests of his other clients. Withdrawal shall be effective upon service of this order. HANA  
20 BANK, in its Capacity as Trustee of PLUS PRIVATE OVERSEAS ASSET BALANCED  
21 INVESTMENT TRUST NO. 1, MIRAE ASSET SECURITIES CO., LTD., and BYUCKSAN  
22 ENGINEERING & CONSTRUCTION CO., LTD. shall obtain independent counsel and appear  
23 before the court as directed in this order.

24 In light of the withdrawal of Plaintiffs' counsel, the court **DEFERS** its decision on  
25 Defendant SPPC's Motion to Shorten Time. A continued hearing on the matter is scheduled for  
26 December 15, 2010 at 9:30 a.m. **IT IS ORDERED** that Plaintiffs HANA BANK, in its Capacity  
27 as Trustee of PLUS PRIVATE OVERSEAS ASSET BALANCED INVESTMENT TRUST NO.  
28 1, MIRAE ASSET SECURITIES CO., LTD., and BYUCKSAN ENGINEERING &

1 CONSTRUCTION CO., LTD —through a person who can make decisions on behalf of the  
2 respective corporations—appear at the hearing with counsel. **IT IS FURTHER ORDERED**  
3 that Plaintiffs appear before Magistrate Judge Manibusan for a Settlement Conference with  
4 Defendant SPPC on December 17, 2010 at 10:30 a.m.

5 Although the court is deferring its decision concerning Defendant SPPC’s Motion to  
6 Shorten Time, it recognizes that SPPC believes that resolving this matter is urgent. In the event  
7 that the court rules in favor of SPPC in the Motion for Summary Judgment (Docket No. 143) it  
8 will consider awarding attorney’s fees and costs associated with the proceedings to the  
9 Defendants. To that end, **IT IS ORDERED** that HANA BANK, in its Capacity as Trustee of  
10 PLUS PRIVATE OVERSEAS ASSET BALANCED INVESTMENT TRUST NO. 1, MIRAE  
11 ASSET SECURITIES CO., LTD., and BYUCKSAN ENGINEERING & CONSTRUCTION  
12 CO., LTD. post \$201,762.99<sup>1</sup> for security of such costs<sup>2</sup> by 5:00 p.m. on December 14, 2010.  
13 Each Plaintiff shall issue a check in the amount of \$67,254.33 to the Clerk of Court for the  
14 District Court of Guam, and the Clerk of Court shall deposit the total amount of \$201,762.99 in  
15 an interest-bearing account. The funds shall remain on deposit pending further order from the  
16 court.<sup>3</sup>

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20 <sup>1</sup> This amount is based on the Declarations of Attorneys Mark S. Smith, Joseph C. Razzano,  
21 Kevin J. Fowler, F. Randall Cunliffe, and Peter C. Perez regarding the fees and costs incurred in  
22 relation to the Motion to Shorten Time to Hear the Motion for Summary Judgment (Docket No. 145)  
23 and the continuance of the motion. *See* Docket Nos. 149–151, 153, and 154. To determine each  
24 Plaintiff’s share of costs, the total amount of \$201,762.98 was divided by three and rounded up to  
25 \$67,254.33, thus bringing the total amount to be posted up to \$201,762.99.

26 <sup>2</sup> *See Simulnet E. Assocs. v. Ramada Hotel Operating Co.*, 37 F.3d 573, 574 (9th Cir. 1994)  
27 (“There is no specific provision in the Federal Rules of Civil Procedure relating to security for costs.  
28 However, the federal district courts have inherent power to require plaintiffs to post security for  
costs.”) (citing *In re Merrill Lynch Relocation Mgmt., Inc.*, 812 F.2d 1116, 1121 (9th Cir.1987)).

<sup>3</sup> In the event that the court finds in favor of the Plaintiffs, the monies and interest will be  
returned to the Plaintiffs and the court will consider awarding fees and costs to Plaintiffs.

1           **IT IS FURTHER ORDERED** that counsel presenting this order shall personally serve a  
2 copy thereof on the Clerk of Court or Chief Deputy Clerk. Absent the aforesaid service, the  
3 Clerk of Court is hereby relieved from any personal liability relative to compliance with this  
4 order.

5           **SO ORDERED.**



6 /s/ **Frances M. Tydingco-Gatewood**  
7 **Chief Judge**

8 **Dated: Dec 10, 2010**

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