

## Supreme Prosecutors Office News Release



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With regards to the criminal case that the former president, Li, Teng-Hui, and Liu, Tai-Ying were involved in crimes against the Anti-Corruption Act, a first-instance judgment has been given on November 15<sup>th</sup>, 2013 (2013Chin-Chung-Zi No. 7, the “Original Judgment”) by the Taiwan Taipei District Court (“TTDC”). After receipt of the original copy of the Original Judgment by the prosecutor of the Taiwan Taipei District Prosecutors Office (“TDPO”) on November 22<sup>th</sup>, 2013, the Special Investigation Division (“SID”) had decided to appeal against the verdict of non-guilty in the Original Judgment, following a discussion between the executive prosecutor of SID and the public-prosecution prosecutor of TDPO. The prosecutor of SID had recently drafted the opinions of appeal, and then forwarded them to the prosecutor of TDPO for appeal today (2nd). The brief on the reasons for the appeal is presented below:

### **1. The defendant Li, Teng-Hui is not guilty**

**Even if the Original Judgment has decided that the defendant Li, Teng-Hui is not-guilty, there are many illegal decisions, such as the offense on the rule of thumb and contradiction of the grounds for reasons, in the judgment. We hereby specify the above statements as follows:**

- (1) Based on the witnesses Ting, ○-Chou, Hsu, ○-Chiang, and Chao, ○-Kuo, and the official document of seal on “○○ Special Project” attached to the case file, it is inevitable that expenditure spending of “○○ Special Project” fund should have been approved by the defendant, Li, Teng-Hui, “in advance”. Therefore, the Original Judgment which said that the defendant Li, Teng-Hui was not aware of each item of expenditure in “○○ Special Project” fund in advance, is obviously contrary to the fact.
- (2) According to witnesses of Hsu, ○-Chiang, Su, ○-Cheng, and Yang, ○-Chi, it is inevitable that the defendant, Li, Teng-Hui, had requested to collect “○Project” advancement from the Minister of Foreign Affairs, through the Director General of the National Security Bureau (“NSB”), Yin, Tsung-Wen. If Li, Teng-Hui had not been involved in the same, the Minister of Foreign Affairs would not have any

intentions to pay. Even if the defendant, Li, Teng-Hui, was clearly aware that the advances only left about NT\$ 89,400,000 which needed to be supplemented, he still approved Yin, Tsung-Wen collecting up to US\$ 10,500,000 of the “○Project” advances from the Minister of Foreign Affairs. The aforementioned statement is contrary to the facts.

- (3) According to the facts and evidences in the case file and the Original Judgment, the payment-in-suit in embezzlement, is confirmed to have been made to the Taiwan Research Institute(“TRI”), not to a subsidiary institute of the NSB, “The Forth Institute”; and, in accordance with the witness given by Liu, Tai-Ying that TRI was planned and funded after approval by the defendant, Li, Teng-Hui, even the appointment of the chief director was made by the defendant, Li, Teng-Hui. The payment-in-suit was spent on the B2 building of “RuenTex-Dun-Ping” bought by TRI, which had been used by the defendant, Li, Teng-Hui. Furthermore, in accordance with the evidences given, such as the minutes made by the TRI’s board of directors, purchase agreements, related account information,etc., the needed expenditures of TRI from 1998 to 2000 was up to more than NT\$ 400,000,000, but the amount of its deposit was only about NT\$ 26,210,000. It shows that the TRI was in the need of a huge amount of expenditure at that time, and it is inevitable that the defendant, Li, Teng-Hui and etc. colluded to support the embezzlement against public payment under the name of “The Forth Institute” for this obvious purpose.
- (4) Several witnesses by Hsu,○-Chiang expressed that the surplus payments of the “○Project” paid to TRI was based on Yin, Tsung-Wen’s actions after approval by the defendant, Li, Teng-Hui. The aforementioned is consistent with the statements by the defendant, Liu, Tai-Ying’s testimony on record. In addition, referring to the witness Hsu,○-Chiang, and the defendant, Liu, Tai-Ying, personally meeting with the defendant, Li, Teng-Hui at at the DaShi “Hung Hsi Mountain Resort” on March 26<sup>th</sup>, 2002. Their witness and statements with regards to the contents of discussion and attitude by the defendant, Li, Teng-Hui are consistent. Supported by the memorandum made by Hsu,○-Chiang, based on the fact of his personally meeting with the defendant, Li, Teng-Hui during the aforementioned situation, and revised and signed by Yin, Tsung-Wen and Liu, Tai-Ying, and the report drafted by Hsu,○-Chiang, it is inevitable that the defendant, Li, Teng-Hui had been aware of the surplus payments that the “○Project” had paid to TRI, and, not until submitting the official document with seal, with the same content aas specified in the above memorandum, to the defendant, Li, Teng-Hui for approval(transfer surplus payments of “○Project” to TRI), Yin, Tsung-Wen surely did not indicate that Hsu,○-Chiang gave surplus payments

from the “○Project” to Liu, Tai-Ying. Otherwise, how could Hsu,○-Chiang request the defendant, Li, Teng-Hui to append his signatures on the official documents two times?

- (5) Based on several witnesses of Ting,○-Chou, and the witness by Hsu,○-Chiang, it is inevitable that the expenditures for in the “○○ Special Project” should be approved by the defendant, Li, Teng-Hui in advance, and could only be spent within the amount of the “interests” and not including the capital; contrary to the aforementioned, because surplus payments of the “○Project” was the capital in the “○○ Special Project” fund with enormous amounts, provided that spending the interests of the “○○ Special Project” fund owned by “The Forth Institute” should be approved by the defendant, Li, Teng-Hui. What kind of incentives did Yin, Tsung-Wen receive to illegally transfer such enormous public payments to TRI for its use? Furthermore, in the witness by Liu,○-Sheng accepted by the Original Judgment, it is inevitable that there were plenty of discrepancies between Yin, Tsung-Wen and the internal personnel of NSB in fact, and “suppressing” information practically existed. But for lack of the defendant, Li, Teng-Hui’s indication, Yin, Tsung-Wen would have had no incentive or purpose and would have borne the risk of committing material corruption to illegally transfer the “○Project” surplus advancement to TRI for its use.
- (6) In the previous case that the witness Hsu,○-Chiang was prosecuted pursuant to the Anti-Corruption Act, the judgment at the final instance for trial on matters of fact, the Taiwan High Court 2004 Chu-Shang-Chung-Su No. 1, also decided that the core decision makers for the illegal transfer of public payments to TRI should be the defendants, Li, Teng-Hui, Liu, Tai-Ying and Yin, Tsung-Wen.
- (7) In sum, as to the Original Judgment deciding that the defendant, Li, Teng-Hui didn’t collude to embezzle the “○Project” surplus advances, the reasons for the judgment are contradicted, and obviously offend the rule of thumb and the rule of logic.

## **2. The section needless for the Announcement of Not-guilty for the defendant Liu, Tai-Ying in the Original Judgment**

- (1) **The decision of the Original Judgment that Liu, Tai-Ying didn’t embezzle the cash, which amounted to US\$ 297,000.** According to the fact that the witness, Hsu,○-Chian, had been confirmed to give the cash US\$ 297,000 to the defendant, Liu, Tai-Ying, which continuously has not been altered in the previous statements, and the enormous amount of such payments, how could he take the risk of being accused of embezzlement, not

fearing for his supervisor's inquiry afterward. In addition, referring to the receipt on April 12<sup>th</sup>, 1999, attached to the case file, the specified amount was about US\$ 7,990,000, including the following items: US\$ 7,500,000 traveling checks, US\$ 200,000 in ○○○○Project, and cash of more than US\$ 290,000. If the defendant, Liu, Tai-Ying, had not rejected the non-receipt of the cash, how would he personally have not sign his name?

**(2) The decision of the Original Judgment that Liu, Tai-Ying didn't embezzle the traveller's check, which amounted to US\$ 150,000.** In accordance with the witnesses Yin,○-Liang and Chen,○-Fang, who stated that the defendant-in-suit surely gave only 7,350 pieces of traveller's checks to the witness Yin,○-Liang, and, as to the difference, Yin,○-Liang and Chen, ○-Fang had supplemented them as a donation. Thus, it is misunderstood that the Original Judgment decided that the defendant, Liu, Tai-Ying didn't withhold 150 pieces of traveller's checks among those ones. Furthermore, embezzlement is a discontinuing offense, which means the crime is committed as the possessor changes its will from processing another's property to owning such property. The Original Judgment has decided that the defendants Liu, Tai-Ying and Yin, Tsung-Wen colluded to embezzle public property, 7,500 traveller's check, so that the section that the defendant, Liu, Tai-Ying, embezzling such 150 pieces US-dollar traveller's checks, a non-punishable rear act after the embezzlement of public property, shall not fall under the scope of this prosecution, which needs not to be announced as not-guilty.

**(3) The section that the Original Judgment decided the defendants Liu, Tai-Ying didn't commit fraud on professional documents in his own occupation.** The defendants, Liu, Tai-Ying, clearly knew that the payment NT\$ 250,000,000 given by the witness, Yin,○-Liang, was transferred by Tsai,○-Pin of the ○○ urological clinic, Ping○construction co., ltd., Ruen ○construction co., ltd., and Hsing○construction co., ltd., to TRI, so that such payment was not substantially given by Yin,○-Liang and etc.. However, he had still indicated the innocence of the manager in the administrative department of TRI, Liu,○-Jung, to issue receipts of donation, without the substantial nature of the "donation", to Yin,○-Liang, Tsai,○-Pin of the ○○ urological clinic, Ping○ construction co., ltd., Ruen ○ construction co., ltd., and Hsing○construction co., ltd., which had already done harm to the correctness of the accounting and record management by TRI and related authorities. The aforementioned is consistent with the conditions of fraud on professional documents pursuant to Article 215, the

Criminal Law.