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**IN THE SUPERIOR COURT FOR THE  
 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**FENG YU and YOURLAND SAIPAN,  
 INC. a CNMI CORPORATION,**

**Plaintiffs,**

**v.**

**GUI XIANG MA, JUN LI, BIN WANG,  
 JUN WANG, and MAO JING SUN,**

**Defendants.**

**CIVIL ACTION NO. 16-0246**

**ORDER RESERVING A RULING ON  
 PLAINTIFF’S MOTION TO EXCLUDE  
 EVIDENCE OF PRIOR BAD ACTS  
 UNTIL SUCH BAD ACTS ARE  
 OFFERED AS EVIDENCE**

**I. INTRODUCTION**

**THIS MATTER** came before the Court on Plaintiff’s Motion to Exclude Evidence Related to the Alleged Bad Acts of Feng Yu (“Plaintiff Yu”) according to NMI Rules of Evidence 401, 403, and 404(b)(1). Attorney Cong Nie represented Plaintiff Yu. Attorney Stephen J. Nutting represented Gui Xiang Ma, Jun Li, Bin Wang, Jun Wang, and Mao Jing Sun (collectively the “Defendants”).

**II. FACTUAL HISTORY**

1. Plaintiff Yu and the Defendants were either friends or had a prior acquaintance from business ventures, or they became associated as a result of the business ventures that are the subject of this complaint.
2. Sometime before February 2015, Plaintiff Yu and Defendants entered into a joint venture/partnership to invest in real estate in Saipan.

*By order of the Court, Judge Joseph N. Camacho*

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3. The purpose of the joint venture/partnership was to purchase a building and lease the units to collect rent.
4. Plaintiff Yu and Defendants intended to take advantage of the rising real estate prices and sell the property at a substantial profit over the initial purchase price.
5. The members of the joint venture/partnership were to have equal interests in any acquired property.
6. Collection of rent and profits were to be shared by the parties.
7. Plaintiff Yu was designated as the agent of the joint venture and took action on behalf of the venture and other members.
8. Plaintiff Yu entered into an Assignment of Lease for a parcel of real property in Garapan. The total purchase price for the Assignment of Lease was \$750,000.
9. Plaintiff Yu owns and controls a company named Yourland Saipan, Inc. (“YSI”).
10. Acting as an agent of the joint venture, Plaintiff Yu directed YSI to pay \$675,000 to assignors to fulfill the terms of the Assignment.
11. The joint venture and its members were expected to repay the purchase money within a year.
12. The joint venture hired a property manager, leased the building to tenants, and began collecting rent.
13. Sometime in 2016, Plaintiff Yu inquired with Defendants about the repayment of the purchase money. Defendants did not respond.
14. Plaintiff Yu became aware that other joint venture members were negotiating to sell the property for \$1,500,000 and that based on the actions and statements from the other joint venture members, Defendants repudiated the joint venture/partnership agreement.

### III. PROCEDURAL HISTORY

- 1  
2 1. On December 9, 2016, Plaintiffs filed their Complaint alleging Breach of Contract,  
3 Breach of Fiduciary Duties, and Quantum Meruit.
- 4 2. On October 12, 2017, Defendants filed an Amended Answer and Counterclaim for  
5 Slander of Title and Quiet Title.
- 6 3. On November 17, 2017, Plaintiffs filed an Answer to Counterclaim and Affirmative  
7 Defenses.
- 8 4. On February 26, 2021, Plaintiffs filed a Motion for Summary Judgment arguing that  
9 it is undisputed Defendants agreed to have Plaintiff Yu remit the balance of the  
10 purchase price. There was no genuine issue of fact because each member agreed to  
11 reimburse him at \$112,500 per member. Defendants failed to repay Plaintiff Yu in  
12 breach of the agreement. There is no discernible proof that each Defendant repaid their  
13 respective share to Plaintiff Yu. The document that the Defendants claim demonstrates  
14 their payment of \$562,500 to Plaintiff Yu was written in Chinese and has not been  
15 translated into English<sup>1</sup>. Defendants failed to proffer admissible evidence that shows  
16 the existence of a genuine issue of material fact.
- 17 5. On April 30, 2021, Defendants filed an Opposition to Plaintiff's Motion for Summary  
18 Judgment arguing that there are questions of fact regarding the credibility of the parties  
19 and the veracity of the evidence provided. A breach of contract claim requires a  
20 contract. There is no signed written contract for the purchase of the property. Plaintiff  
21 Yu has not provided the terms of the contract that were agreed upon, nor has he  
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26 <sup>1</sup> When necessary, designated documents or electronically stored information requested by a party can be obtained after translation by the responding party into a reasonably usable form. *See* NMI R. Civ. P. 34(a)(1)(A). *See also* *Ada v. Nakamoto*, Civil 08-0029D (NMI Super. Ct. Oct. 26, 2010) (Order Partially Granting Defendant's Motion to Reconsider) (finding that defendants are required to translate titles and subtitles of documents for discovery requests to comply with Rule 34.).

1 provided the actual contract. Plaintiff Yu has not explained how Defendants were to  
2 reimburse him or when it would be due. Plaintiff Yu has not provided evidence that  
3 Defendants agreed to reimburse him for paying the purchase price for the property. As  
4 for the Quantum Meruit claim, Plaintiff Yu signed a rescission of the lease in  
5 September 2016 and has failed to explain how Defendants could be unjustly enriched  
6 by his payment of the purchase price balance if Plaintiff Yu acknowledged that he had  
7 no interest in the property.

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9 6. On May 19, 2021, Plaintiffs Yu and YSI filed their Reply arguing the Defendants  
10 admitted to the existence of a contract in the Plaintiffs' First Set of Requests for  
11 Admission, Interrogatories, and Production of Documents. Defendants responded that  
12 they would each contribute \$125,000. It is also undisputed that Defendants agreed to  
13 reimburse Plaintiffs \$112,500 per Defendant. Further, Defendant Bin's Declaration  
14 was not authenticated by an authorized Notary Public in the People's Republic of  
15 China ("China").

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17 7. On May 17, 2024, Plaintiffs filed a Motion to Exclude Evidence Related to Alleged  
18 Bad Acts of Plaintiff Feng Yu ("Plaintiff's Motion to Exclude Evidence") arguing that  
19 the alleged bad acts are not relevant to the factual issues in this case. The alleged bad  
20 acts do not have substantive merit since they are not convictions or judgments. Further,  
21 the alleged bad acts are inadmissible under Rule 404(b)(1) because Defendants are  
22 attempting to portray Plaintiff Yu as a dishonest person. The alleged bad acts have  
23 little probative value and are prejudicial, therefore also inadmissible under Rule 403.

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25 8. On June 21, 2024, Defendants filed an Opposition to the Plaintiffs' Motion to Exclude  
26 Foreign Testimony and Evidence of Prior Bad Acts arguing that Plaintiffs' motion to  
exclude alleged bad acts is premature. Plaintiff Yu does not specify or provide any  
information on what the prior bad acts are or what criminal convictions Plaintiff Yu

1 has. Rule 404(b) provides exceptions that allow the admission of prior bad acts.  
2 However, Plaintiff Yu has not presented information on what prior bad acts need to be  
3 suppressed.

4 9. On July 15, 2024, Plaintiffs filed their Reply to the Defendants' Opposition to Motion  
5 to Exclude Evidence Related to the Alleged Bad Acts of Plaintiff Yu. Plaintiff Yu  
6 argues that Plaintiffs' Motion to Exclude Evidence is not premature because  
7 Defendants have already alleged in their discovery responses that Plaintiff Yu  
8 committed fraud and illegal acts in mainland China. Defendants have not stated  
9 whether they will offer evidence of such acts in trial. Defendants have not explained  
10 the relevancy of those bad acts or any evidence for the bad acts allegedly committed  
11 in mainland China.  
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#### 13 **IV. LEGAL STANDARD**

14 "Evidence is relevant if it has any tendency to make a fact more or less probable than  
15 it would be without the evidence and the fact is of consequence in determining the action."  
16 NMI R. Evid. 401(a)(b). But, "(t)he court may exclude relevant evidence if its probative value  
17 is substantially outweighed by a danger of one or more of the following: unfair prejudice,  
18 confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting  
19 cumulative evidence." NMI R. Evid. 403. "Evidence of a crime, wrong, or other act is not  
20 admissible to prove a person's character in order to show that on a particular occasion, the  
21 person acted in accordance with the character." NMI R. Evid. 404(b)(1).  
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#### 23 **V. DISCUSSION**

##### 24 **Motion to Exclude Prior Bad Acts is Premature**

25 According to Plaintiff Yu, Defendants mentioned in their discovery responses that "Yu  
26 committed 'personal fraud, illegal fund-raising and other illegal and criminal acts in mainland  
China.'" *See* Plaintiff's Mot. to Exclude Evidence at 1. Plaintiff Yu argues that Defendants

1 may not offer evidence of Plaintiff Yu's prior bad acts because those acts insinuate "since Yu  
2 was dishonest in China, he must be a dishonest person and therefore was or will be dishonest  
3 in conducting transactions or testifying in Saipan." *See Id.* at 3. The NMI Rules of Evidence  
4 state a person's prior bad acts cannot be admitted to prove a person's character and  
5 demonstrate that the person acted according to that character on a particular occasion. *See*  
6 NMI R. Evid. 404(b)(1). Evidence of prior bad acts "may be admissible for another purpose  
7 such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence  
8 of mistake, or lack of accident." *See* NMI R. Evid. 404(b)(2). Defendants have not given  
9 notice that they intend to offer evidence of Plaintiff Yu's crimes, wrongs, or other acts, no list  
10 of specific prior bad acts, nor have Defendants offered the discovery responses as evidence.  
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12 Rule 403 of the NMI Rules of Evidence states that relevant evidence may be excluded  
13 "if its probative value is substantially outweighed by a danger of one or more of the following:  
14 unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or  
15 needlessly presenting cumulative evidence." In *Bush v. Santoro*, the District Court found it  
16 premature to rule on the plaintiff's motion to exclude hearsay evidence. *See Bush v. Santoro*,  
17 2024 U.S. Dist. LEXIS 16968 at \*18 (E.D. Cal., Jan. 31, 2024). The District Court in *Bush v.*  
18 *Santoro* reserved "ruling until trial where parties may raise hearsay objections when evidence  
19 adduced at trial demonstrates inadmissible hearsay." *Id.*; *See also* Decision and Order at Pg.  
20 4-5, *People v. Atalig*, CF0616-20, Guam Super. Ct. (Apr. 15, 2022) ("Because hearsay  
21 exceptions may apply depending on how testimony develops at trial, any ruling on the matter  
22 at this point is premature."). In *United States v. Woody's Trucking LLC*, the Montana District  
23 Court denied the defendant's motion to exclude audio and video statements because  
24 defendants had not provided the court with those statements. *See United States v. Woody's*  
25 *Trucking LLC*, 2018 U.S. Dist. LEXIS 9749 at \*15 (D. Mont., Feb. 20, 2018). "Without knowing  
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1 the contents of the audio and video files, including who the declarant is and the context of the  
2 declarant's statement, the Court cannot make a hearsay determination.” *Id.*

3 Here, neither party has presented evidence of Plaintiff Yu’s prior bad acts. Plaintiff  
4 Yu points out statements made in Defendants’ discovery responses. However, Defendants  
5 have not offered those statements as evidence for trial. Similar to *Woody’s Trucking LLC*, the  
6 Court cannot rule on the admissibility of Plaintiff Yu’s prior bad acts when evidence of those  
7 bad acts has not been presented to the Court. *See also Feng v. Ma*, Civil Action No. 16-0246  
8 (NMI Super. Ct. Nov. 25, 2024) (Order Reserving a Ruling on Plaintiff’s Motion to Exclude  
9 Remote Testimony Until Such Testimony is Offered as Evidence). The Court finds that  
10 Plaintiff Yu’s motion is premature as evidence of Plaintiff Yu’s prior bad acts is unknown and  
11 not currently before the Court.  
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## 13 VI. CONCLUSION

14 Plaintiff Feng Yu requests that the Court exclude prior bad acts referenced by  
15 Defendants Gui Xiang Ma, Jun Li, Bin Wang, Jun Wang, and Mao Jing Sun in their discovery  
16 responses. The Defendants have not offered evidence of Plaintiff Feng Yu’s prior bad acts.  
17 Neither party has specified what crimes, wrongs, or other acts would be offered as evidence.  
18 Without more information about the prior bad acts, the Court is unable to properly weigh the  
19 probative value of the prior bad acts and determine its admissibility. The Motion to Exclude  
20 Evidence Related to the Alleged Bad Acts of Feng Yu is premature as there are no prior bad  
21 acts presented for the Court to consider.  
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23 **THEREFORE**, the Court **RESERVES** its ruling on Plaintiff Feng Yu’s Motion to  
24 Exclude Evidence Related to the Alleged Bad Acts of Feng Yu until such evidence is  
25 presented to the Court.

26 **SO ORDERED** this 25<sup>th</sup> day November 2024.

/s/  
**JOSEPH N. CAMACHO**, Associate Judge