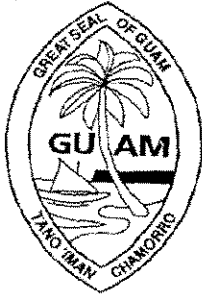


33-15-0724



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



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IN THE MATTER OF:

DONALD SAN AGUSTIN,

Employee,

vs.

DEPARTMENT OF AGRICULTURE,

Management.

GRIEVANCE APPEAL
CASE NO. 15-GRE-01

JUDGMENT OF DISMISSAL

Office of the Legislative Secretary
Senator Ting Rose Milla Yarnes
Date: 8/7/15
Time: 11:20 am
Received by: *Quino, Jim*

The Civil Service Commission hereby dismisses the above captioned case with prejudice pursuant to the attached Stipulation for Settlement signed by both parties, attached hereto.

SO ADJUDGED THIS 6th day of August 2015.

Luis R. Baza
LUIS R. BAZA
Chairman

Priscilla T. Tuncap
PRISCILLA T. TUNCAP
Commissioner

Lourdes Hongyee
LOURDES HONGYEE
Commissioner

Edith C. Pangelinan
EDITH C. PANGELINAN
Commissioner

Not present
MANUEL R. PINA UIN
Vice-Chairman

John Smith
JOHN SMITH
Commissioner

Daniel D. Leon Guerrero
DANIEL D. LEON GUERRERO
Commissioner

Office of the Speaker
Judith F. Won Pat, Ed.D

Date: 8/7/15
Time: 11:26 Am
Received By: *DN*

0724

Judgment of Dismissal

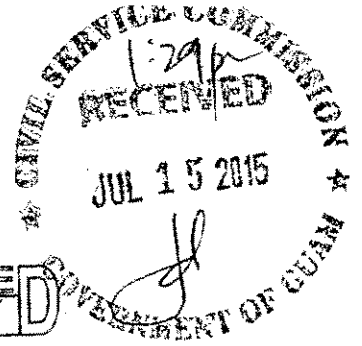
ORIGINAL

2015 AUG - 7 PM 2:19



Guam Federation of Teachers

15-722



RECEIVED
7-15-15

Representative for Employee

In The Matter Of:

DONALD SAN AGUSTIN,

Employee,

vs.

DEPARTMENT OF AGRICULTURE,
Management.

**ADVERSE ACTION APPEAL
CASE NO.: 15-GRE-01**

STIPULATION FOR SETTLEMENT

THIS STIPULATION OF SETTLEMENT is by and between **DONALD SAN AGUSTIN** ("Employee") and **DEPARTMENT OF AGRICULTURE** ("Management") as follows:

RECITALS

- A. The Employee commenced a Grievance Appeal against Management in the Civil Service Commission bearing Grievance Appeal Case No. 15-GRE-01. The employee filed the grievance appeal against management for failure to properly apply Public Law 29-105 which was implemented on October 2008.
- B. The parties desire to enter into this Settlement Agreement (hereinafter "Agreement") to provide for certain arrangements in full settlement and discharge of the Appeal and upon the terms and conditions set forth herein.

1 C. The terms and conditions of this Agreement shall become effective and operative
2 upon the execution by both parties; understanding that the Civil Service
3 Commission shall subsequently act to memorialize this agreement.

4 **NOW THEREFORE**, for and in consideration of the mutual promises set forth
5 herein, the parties agree as follows:

6 **1. Purpose of Agreement.** Employee and Management acknowledge and
7 agree that this Agreement is a settlement and compromise of the
8 referenced matters. It is the intention of the parties by the execution of
9 this Agreement to fully, finally and completely resolve this adverse action
10 appeal, in the manner more specifically set forth in the terms of this
11 Agreement that follow.

12 **2. Employee's Obligation.**

13 2.1 Employee shall withdraw the Grievance Appeal from the Civil
14 Service Commission and request that the Commission dismiss the
15 Appeal.

16 **3. Management's Obligation.**

17 3.1 Management agrees that the Employee's position is encompassed
18 within the positions covered under Public Law 29-105 and shall act in
19 accordance with Public Law 29-105.

20 **4. Performance Accepted.** The parties each agree and acknowledges: (a)
21 that the party accepts performance of his/her obligations specified in this
22 Agreement as a full and complete compromise of matters involving
23 disputed issues before the Civil Service Commission; (b) that the
24 negotiations for this settlement (including all statements, admissions or
25 communications) by the parties or their attorneys or representatives shall

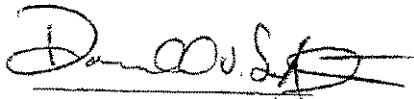
1 not be considered admissions by any of said parties; (c) and that no past or
2 present wrong doing on the part of the parties shall be implied by such
3 negotiations.

4 **5. Additional Documents.** All parties agree to cooperate fully and execute
5 any and all supplementary documents and take all additional actions that
6 may be necessary as appropriate to give full force and effect to the basic
7 terms and intent of this Agreement.

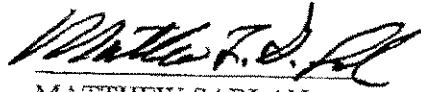
8 **6. Independent Advice of Counsel.** Each party represents and declares that
9 that party has received independent advice from its respective attorneys or
10 representative with respect to the advisability of making the settlement
11 provided for herein and with respect to the advisability of executing this
12 Agreement. Each party further represents and declares that that party has
13 not relied upon any statement or representation by the other party or of
14 any of its partners, agents, employees, or attorneys in executing this
15 Agreement or in making the settlement provided for herein, except as
16 expressly provided for herein.

17 **7. Voluntary Agreement.** Each party represents and declares that that party
18 has carefully read this Agreement, knows the contents of this Agreement,
19 and that each party has signed the same freely and voluntarily.
20
21

22 **IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date
23 written by their respective names:
24
25

1 

2 DONALD SAN AGUSTIN,
3 Employee



MATTHEW SABLAN,
Director Department of Agriculture

4 Date: 7-6-15

Date: 7.13.15

6 

7 DANIEL DEL PRIORE,
8 Lay Representative for Employee

N/A,
Legal Counsel for Management

9 Date: 6 July 2015

Date: _____

LEONARDO M. RAPADAS
Attorney General



PHILLIP J. TYDINGCO
Chief Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

June 30, 2014

VIA HAND-DELIVERY

Office of the Speaker
Judith T. Won Pat, Ed.D.
6/21/2014
3:22 PM
[Signature]

AGENCY COMMUNICATION (CONFIDENTIAL)

Honorable Judith T. Won Pat, Ed.D.
Committee on Education, Public Library and Women's Affairs
I Mfina Brenial Dos Na Likestatusan Guahan
155 Hester St.
Hagåtña, Guam 96910

Re: Letter of March 27, 2014

Dear Speaker Won Pat:

On March 27, 2014, you inquired as to whether security personnel at the Guam Memorial Hospital Authority and animal control officers at the Department of Agriculture are eligible for the forty percent pay raise given to law enforcement officers by P.L. 29-105:2 and 3 (now 10 G.C.A. 55102). We have reviewed the law and the relevant documents and hereby render our opinion.

P.L. 29-105:2 and 3 gave four consecutive annual pay raises of ten percent (10%) per annum to "public safety and law enforcement officers" of the government of Guam beginning October 1, 2008. Policemen, correctional officers, customs officers and other law enforcement personnel have received these raises. On August 27, 2013, we opined that security guards hired by the Guam Behavioral and Wellness Center were also entitled thereto. [See DOA 13-0669].

The position descriptions for Animal Control Officers I and II indicate that these employees' main duties are the capture, maintenance, care and destruction of stray and feral animals. They can also issue citations for violations of the animal control laws.

Security guards, according to their position descriptions, may be armed and may be required to enforce rules and regulations, deal with emergencies, direct traffic, perform routine investigations and to issue citations.

Agency Communication (Confidential)
Letter to Honorable Judith T. Weir, Ed.D.
Ref: LEG 14-0257
Re: letter of March 27, 2014
Page 2 of 2

The term "law enforcement personnel" includes "all security officers employed by the government..." See 10 G.C.A. 75100(a)(7). We believe that both positions come within that definition and that these employees are entitled to the pay raises in question. Both Animal Control Officers and GMHA guards endeavor to provide public safety. The terms "all security officers" and "public safety and law enforcement officers" in 10 G.C.A. 75100(a)(7) and P.L. 29-105:2 and 3 are obviously intended to be very inclusive.

We trust that this response answers your inquiry, but we are available to answer your questions if necessary.

Sincerely,


DAVID J. HIGHSMITH
Assistant Attorney General