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SUPERIOR COURT
OF GUAM

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By: _____



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IN THE SUPERIOR COURT OF GUAM
HAGÁTÑA, GUAM

ATTORNEY GENERAL OF GUAM,) Civil Case No. CV 0177-20

Plaintiff,

vs.

**JOSEPH DUENAS, FRANCIS SANTOS,
GEORGE BAMBA, PEDRO GUERRERO
and SIMON SANCHEZ** in their capacity as
Commissioners of the Consolidated
Commission on Utilities, Guam Power
Authority and Guam Waterworks Authority.

Defendants.

COMPLAINT

JURISDICTION

1. This court has jurisdiction over this matter pursuant to 7 GCA § 3105, 5
GCA §8115 and 5 GCA §§ 30104, 30109.

COPY

1 PARTIES

- 2 2. The Attorney General is the Chief Legal Officer of the government of Guam
3 and is vested with common law and statutory authority to protect the rights
4 and the properties of the government of Guam.
5
6 3. Joseph Duenas was at all relevant times a member and the Chairman of the
7 Consolidated Commission on Utilities (CCU).
8
9 4. Francis Santos was at all relevant times a member and the Vice Chairman
10 of the (CCU).
11
12 5. George Bamba was at all relevant times a member and the Secretary of the
13 CCU.
14
15 6. Pedro Guerrero was at all relevant times a member and the Treasurer of the
16 CCU.
17
18 7. Simon Sanchez was at all relevant times a member of the CCU.

16 OPEN GOVERNMENT LAW

- 17 8. The Open Government Law was enacted so that the government officials
18 would set policy and make decisions in public.
19
20 9. The Open Government Law requires that every meeting of a public agency
21 shall be open and public, except for executive sessions and other meetings
22 expressly authorized by law.
23
24 10. The Open Government Law allows for executive sessions, but provides that
25 “[u]nder no circumstances . . . shall a public agency hold an executive or
closed meeting to discuss salaries, salary levels or salary adjustments of any

1 employee or officer. All such discussions or decisions must be held in a public
2 meeting and minutes shall be kept and open to the public.” 5 GCA § 8111(a).

3 11. The CCU is a public agency under the Open Government Law.

4 BACKGROUND

5 12. Upon information and belief, on or about February 24, 2015, Duenas,
6 Santos, Bamba, Guerrero and Sanchez (collectively “Commissioners”) called
7 a regular meeting of the CCU.
8

9 13. Upon information and belief, the Commissioners went into executive session
10 at that meeting.

11 14. Upon information and belief, the Commissioners discussed and decided on
12 the salary level of the Interim General Manager for Guam Waterworks
13 Authority during executive session.
14

15 15. When the Commissioners reconvened the regular session, there was a
16 motion to adopt the decision setting the salary of the Interim General
17 Manager for GWA at \$140,000 per annum.

18 16. The Commissioners unanimously approved the motion.

19 17. Upon information and belief, the agenda for the meeting did not indicate
20 that the Commissioners would be discussing or deciding the salary level of
21 the Interim General Manager for GWA.
22

23 **COUNT I - Violation of the Open Government Law (5 GCA § 8101 et seq)**

24 18. The allegations contained in each and every preceding paragraph of this
25 Complaint are hereby realleged and incorporated in this Count.

1 19. The Commissioners discussed and decided the salary of the Interim General
2 Manager for GWA in executive session in direct violation of the Open
3 Government Law.

4 20. The action to set the salary of the Interim General Manager for GWA at
5 \$140,000 per annum is void and of no effect.
6

7 **COUNT II - Enforcement of Proper Government Spending (5 GCA § 7101 et seq)**

8 21. The allegations contained in each and every preceding paragraph of this
9 Complaint are hereby realleged and incorporated in this Count.

10 22. The Commissioners were entrusted with ensuring that they would manage
11 public funds in the interest of the people of the territory of Guam.

12 23. The Commissioners were required to fulfill their duties with reasonable
13 care, skill, prudence and diligence.

14 24. The Open Government Law is clear that any discussions concerning salaries
15 or salary adjustments must be held in a public meeting.
16

17 25. The Commissioners violated their fiduciary duty to the people of the Guam
18 to act with reasonable care when spending public money when they
19 discussed and decided the salary of the Interim General Manager of GWA in
20 a closed executive meeting in direct contravention of the Open Government
21 Law.
22

23 26. Upon information and belief, the Commissioners consequently caused public
24 monies to be expended toward the salary of the Interim General Manager in
25 an amount to be determined at trial.

1 27. Upon information and belief, this Court meets the requirement of 5 GCA §
2 7106 because the cumulative amount of public monies unlawfully expended
3 exceeds One Thousand Dollars (\$1,000.00).

4 28. The Enforcement of Proper Government Spending requires the return of
5 public money spent illegally or contrary to law.

6 29. GWA is entitled to personal judgments against the Commissioners in the
7 amount paid to the Interim General Manager for GWA in violation of the
8 Open Government Law.


9 WHEREFORE, The Office of the Attorney General prays for judgment as
10 follows:
11

- 12 1. That the court declare the salary level of the Interim General Manager of
13 GWA void and of no effect because it was done in violation of the Open
14 Government Law;
15
16 2. That the Commissioners return all funds to the government of Guam that
17 was expended contrary to Guam law as alleged in this Complaint in an
18 amount to be proven at trial; and

19 For other such relief that the court finds appropriate.

20 Submitted this 24th day of February 2020.

21 OFFICE OF THE ATTORNEY GENERAL
22 Leevin T. Camacho, Attorney General of Guam

23
24 By: 
25 JAMES L. CANTO
Deputy Attorney General