# BEFORE THE GUAM CIVIL SERVICE COMMISSION

## BOARD OF COMMISSIONERS

**IN THE MATTER OF:**

**ANGELA YOSHIDA, KEN YOSHIDA and DAVID TEIXEIRA,**

**Employee,**

**vs.**

**PORT AUTHORITY OF GUAM,**

**Management.**

**POST AUDIT**
**CASE NO. 13-PA-05**

**DECISION AND JUDGMENT**

Office of the People
Senator Régine Biscoe Lee
Legislative Secretary
Date/Time: 1-25-17 @1145
Initials:

This matter came before the Civil Service Commission on November 7, 2013, January 14, 2014, February 27, 2014 and November 17, 2015 on Employees Angela Yoshida, Ken Yoshida, and David Teixeira's Post Audit Complaint.

Present for Management, Port Authority of Guam was its General Manager, Joanne Brown and its counsel of record Michael F. Phillips, Esq. Also present were Employees, Angela Yoshida, Ken Yoshida, and David Teixeira, and their lay representative David Babauta.

## I.
## JURISDICTION

The Commission has jurisdiction over this matter pursuant to the Organic Act of Guam, Title 4 of the Guam Code Annotated §4401, *et. seq.*, and the Port Authority of Guam's Personnel Rules and Regulations.

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## II.
## FINDINGS OF FACT AND CONCLUSION

1. On or about July 17, 2013, Employees Angela Yoshida, Ken Yoshida, and David Teixeira filed a Post Audit Appeal.

2. Title 4 of the Guam Code Annotated Section 4403(d) provides:

> (d) The Commission may investigate and set aside and declare null and void any personnel action of an employee in the classified service if the Commission finds after conducting the necessary investigation that the personnel action was taken in violation of personnel laws or rules; provided, however, that this Section may not be deemed to permit appeals by employees from adverse actions not covered in Subsection (b) above. The agency head shall cooperate and assist with the Commission's investigation. Prior to declaring any personnel action null and void, the Commission shall provide written notice of the alleged violation to the agency head. The agency head shall respond within ten (10) calendar days after receipt of the notice to the Commission's proposed action. All actions taken by the Commission pursuant to this Section shall be taken within one hundred eighty days (180) after the personnel action or complaint is filed with the Commission. The Civil Service Commission shall submit a copy of its final decision to *I Liheslatura* by the next working day. The Commission shall adopt rules and regulations to effectuate this Section, including the requirement of a written complaint to initiate any investigation. The Commission's decision shall be final but subject to judicial review.

3. This matter came before the Commission in the first instance on February 27, 2014, on Employees' Post Audit appeal. This is 225 days from July 17, 2013, the date Employees filed their appeal. Pursuant to 4 G.C.A. § 4403(d), the Commission shall take action within one hundred eighty days (180) after the personnel action or complaint is filed with the Commission.

WHEREFORE, based upon a unanimous decision of 6-0, the Commission DISMISSES Employees Post Audit Complaint of Angela Yoshida, Ken Yoshida, and David Teixeira.

SO ADJUDGED THIS 24th day of January 2017. *nunc pro tunc* to April 29, 2015.

**EDITH PANGELINAN**
**Chairperson**

**LOURDES HONGYEE**
**Vice Chairperson**

**PRISCILLA T. TUNCAP**
**Commissioner**

**JOHN SMITH**
**Commissioner**

**CATHERINE GAYLE**
**Commissioner**

**MICHAEL G. TOPASNA**
**Commissioner**