



BEFORE THE  
GUAM CIVIL SERVICE COMMISSION  
BOARD OF COMMISSIONERS



**IN THE MATTER OF:**

**MICHAEL ANGELO CRUZ, PETER B. CASTRO, RANDY S. MUNOZ, JERRY P. LEAL, JOSEPH A. DIMAPAN, MELCHOR M. BLAS, JAKE T. QUINATA, STUART L. ABAY, JONATHAN LUJAN, LUUCAS J. CRUZ, RONALD SAN NICOLAS, CURTIS JEROME LUNOD, JASON PANGELINAN, and VINCE PANGELINAN,**

**Employee,**

**vs.**

**GUAM WATERWORKS AUTHORITY,**

**Management.**

**ADVERSE ACTION APPEAL  
CASE NOS.**

**16-AA03D, 16-AA04D, 16-AA05D,  
16-AA06D, 16-AA07D, 16-AA08D,  
16-AA09D, 16-AA10D, 16-AA11D,  
16-AA12D, 16-AA13D, 16-AA14D,  
16-AA15D, 16-AA16D**

**DECISION AND ORDER**

**I.**

**INTRODUCTION**

This case came before the Civil Service Commission on April 14, 2016 on Guam Waterworks Authority's ("Management") Motion to Dismiss for Lack of Jurisdiction. The Commission took no oral argument on the Motion. Upon review of the papers filed, and following deliberation in open session, the Commission finds that the employees were demoted from their prior positions, and were thus subjected to an adverse action. As employees in the classified service who were subjected to adverse actions, the Commission has jurisdiction over

1 any appeals of those adverse actions that the employees seek to raise with the Commission.  
2 Therefore, the Commission hereby issues its Decision and Order DENYING Management's  
3 Motion to Dismiss.  
4

## 5 II.

### 6 BACKGROUND

7 On January 14, 2016 Guam Waterworks Authority employees Michael Cruz, Peter Castro,  
8 Randy Munoz, Jerry Leal, Joseph Dimapan, Melchor M. Blas, Jake T. Quinata, Stuart L. Abay,  
9 Jonathan Lujan, Lucas J. Cruz, Ronald San Nicolas, Curtis Lunod, Jason Pangelinan, and Vince  
10 Pangelinan ("employees") initiated before the Civil Service Commission Adverse Action  
11 Appeals of their demotions by Management. Management argues that "the civil service lacks  
12 Jurisdiction to hear this matter on the grounds that the employees were not lawfully entitled to  
13 hold the positions in the first place and reversing their promotion was not an 'adverse  
14 action'...." Motion to Dismiss, 3. Management contends that no adverse actions occurred  
15 because the demotions at issue here were taken as corrective measures to address incorrect  
16 promotions. The Employees respond that Management's position on the reasons for the  
17 adverse actions is of no consequence to the Commission's jurisdiction to hear the appeals  
18 raised by the demoted employees.  
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## 20 III.

### 21 DISCUSSION

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23 Title 4 G.C.A. § 4403(b) grants the Commission appellate jurisdiction over adverse actions  
24 involving classified employees. See *Guam Fed'n of Teachers v. Gov't of Guam*, 2013 Guam  
25 14 ¶ 68; see also *Guam Memorial Hospital v. Chaco*, 2015 Guam 18 ¶ 32 ("[T]he CSC has the

1 power, duty and responsibility to hear appeals from adverse actions taken to suspend, demote  
2 or dismiss an employee from the classified service pursuant to section 4403(b)...”) The Guam  
3 Supreme Court has held that a purported defective hiring corrected by an adverse employment  
4 action does not divest the Civil Service Commission of jurisdiction to review that adverse  
5 action. See *Port Auth. of Guam v. Civil Serv. Comm'n (Susuico)*, 2015 Guam 14, ¶18. “Title  
6 4 GCA § 4403(b) provides that the CSC ‘shall hear appeals from the adverse actions taken to  
7 suspend, demote or dismiss an employee from the classified service if such right of appeal to  
8 the Commission is established in the personnel rules governing the employee[.]’” *Port Auth.*  
9 *of Guam v. Civil Serv. Comm'n*, 2015 Guam 14, ¶19 quoting *Blas v. Guam Customs &*  
10 *Quarantine Agency*, 2000 Guam 12 ¶ 13 (emphasis added). There is no dispute that the  
11 employees have both been demoted and are provided with a right to appeal to the CSC that is  
12 contained in GWA’s personnel rules and regulations. See GWA personnel rules and  
13 regulations, §§5.1.3; 22, PL 28-159(2006).

14 Under Civil Service Commission Rules of Procedure for Adverse Action Appeals (“CSC  
15 Rules”) Rule 5, a person may appeal an adverse action to the CSC if the person (1) is a  
16 permanent, classified employee; (2) has successfully completed his probationary period; (3) is  
17 subjected to a Final Adverse Action; and (4) is entitled under his department's or agency's  
18 Personnel Rules to appeal to the CSC. *Port Auth. of Guam v. Civil Serv. Comm'n (Susuico)*,  
19 2015 Guam 14 (Guam Apr. 27, 2015), citing 4 GCA §§ 4403(b), 4406. The employees all meet  
20 these criteria.


#### 21 IV.

#### 22 CONCLUSION

23 Based on the foregoing reasons, the Commission DENIES Management’s Motion to  
24 Dismiss.  
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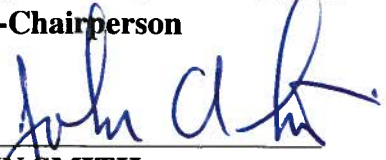
IT IS SO ORDERED this 3rd day of May, 2016.

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EDITH PANGELINAN  
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