BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS

IN THE MATTER OF:
DONALD SAN AGUSTIN,
Employee,

vs.

DEPARTMENT OF AGRICULTURE,
Management.

GRIEVANCE APPEAL
CASE NO. 15-GRE-01

JUDGMENT OF DISMISSAL

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
Chairman

MANUEL R. PINAUNIN
Vice-Chairman

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

LOURDES HONGYEE
Commissioner

DANIEL D. LEON GUERRERO
Commissioner

EDITH C. PANGELINAN
Commissioner

ORIGINAL

Judgment of Dismissal
CASE NO. 15-GRE-01
Guam Federation of Teachers

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

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

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

2. **Employee’s Obligation.**

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

3. **Management’s Obligation.**

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

4. **Performance Accepted.** The parties each agree and acknowledges: (a)
that the party accepts performance of his/her obligations specified in this
Agreement as a full and complete compromise of matters involving
disputed issues before the Civil Service Commission; (b) that the
negotiations for this settlement (including all statements, admissions or
communications) by the parties or their attorneys or representatives shall
not be considered admissions by any of said parties; (c) and that no past or present wrong doing on the part of the parties shall be implied by such negotiations.

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

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

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

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the date written by their respective names:
DONALD SAN AGUSTIN,
Employee

Date: 7-6-15

MATTHEW SABLON,
Director Department of Agriculture

Date: 7-13-15

DANIEL DEL PRIORE,
Lay Representative for Employee

Date: 6 July 2015

N/A,
Legal Counsel for Management

Date: ____________________
June 30, 2014

VIA HAND-DELIVERY

AGENCY COMMUNICATION (CONFIDENTIAL)

Honorable Judith T. Won Pat, Ed.D.
Committee on Education, Public Library and Women’s Affairs
1 Miny’rental Dos Na Liheslaturan 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.
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