BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS

IN THE MATTER OF:

ROBERT E. KOSS,
Employee,

vs.

DEPARTMENT OF EDUCATION,
Management.

PUBLIC EMPLOYEE PROTECTION ACT COMPLAINT
CASE NO. 16-WB01

ORDER AFTER HEARING

This matter came first before the Board of Commissioners on October 13, 2016, for the
presentation of an initial Staff Assessment Report. Employee Robert E. Koss, former
Employee-Management Relations Officer for the Guam Department of Education
("GDOE"), filed a Whistleblower Complaint on August 24, 2016, alleging Abuse of
Government Authority, Mismanagement of the Department, and Waste of Government
Funds. Present at the Assessment Hearing were Employee and his counsel, Daniel
Somersleck, Esq., of Somersleck & Associates, PLLC, and Legal Counsel Jesse N. Nasis,
Esq., for GDOE.

At the Assessment Hearing, CSC’s Vickilynn Sablan, presented the view of the
Staff that sufficient grounds appeared to warrant the Commission’s approval for an
official investigation to be conducted. Yet, an issue existed as to the timeliness of the
filing of the Whistleblower Complaint itself. Therefore, the Commission invited briefing on the issue of the timeliness of the complaint to be filed by a vote of 5-0.

On November 3, 2016, another hearing was held. The parties had both submitted briefs regarding the timeliness of the filing of the complaint which had been reviewed by the Commissioners prior to the hearing. Attending for the parties were those present at the October 13, 2016, hearing, as well as Taling M. Taitano, Deputy Superintendent, Finance & Administrative Services, for GDOE. After hearing oral arguments, the Commission voted 6-0 to accept the complaint; however, another issue arose.

Inquiries were raised regarding the propriety of staying the Whistleblower proceedings. In addition to filing a Whistleblower Complaint, Employee had also filed an adverse action appeal with the hearing on the merits set to commence on November 29, 2016. The subject of the interplay between the adverse action appeal and the Whistleblower investigation was questioned. There was also a prospect that the parties might agree on how to proceed forward through waivers and stipulations. The parties were invited to discuss it further and submit briefs.

On November 10, 2016, another hearing was held. The parties had submitted briefs on their respective positions which were reviewed by the Commissioners prior to the hearing. Those present for the parties were the same as those who attended the November 3rd hearing, except Superintendent Joseph Sanchez was present instead of Ms. Taitano. The Commissioners heard oral arguments from the parties.

**CONCLUSION**

By a vote of 5-0, the Commission orders as follows:

1) Pursuant to 4 GCA § 4504(a) and Rules for Public Employee Protection Act (aka “Whistleblower”) Complaints Rule 7, the staff of the Commission is hereby
authorized to undertake further investigation into the matters raised by
Employee’s Whistleblower Complaint;

2) The staff of the Commission shall begin their investigation immediately as no
“stay” is in place;

3) GDOE shall immediately and fully cooperate with all requests by the staff related
to the investigation into Employee’s Whistleblower Complaint;

4) Pursuant to the Rules for Whistleblower Complaints Rule 7.1, unreasonable delay
or refusal to cooperate with Commission staff in this investigation will be cause to
determine that a violation did take place; and,

5) The previously set dates for hearing on the merits of Koss v. Dept. of Education,
16-AA25T, are hereby vacated until the investigation is completed.

IT IS SO ORDERED THIS 22nd DAY OF November 2016.

EDITH PANGELINAN
Chairperson

DANIEL D. LEON GUERRERO
Vice-Chairperson

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

LOURDES HONGYEE
Commissioner

CATHERINE CAYLE
Commissioner
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Management

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PROTECTION ACT COMPLAINT
CASE NO.16-WBO1

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HS: Host send
HR: Host receive
WS: Waiting send
PL: Polled local
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MP: Mailbox print
RP: Report
FF: Fax Forward
CP: Completed
FA: Fail
TU: Terminated by user
EC: Error Correct

TS: Terminated by system
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DEPARTMENT OF EDUCATION,

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PUBLIC EMPLOYEE
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CASE NO. 16-W801

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