



**BEFORE THE  
GUAM CIVIL SERVICE COMMISSION  
BOARD OF COMMISSIONERS**

21-413

**IN THE MATTER OF:**  
**ANTHONY SANDERS,**  
**Employee,**  
**vs.**  
**PORT AUTHORITY OF GUAM,**  
**Management.**

**ADVERSE APPEAL  
CASE NO.: 17-AA17T**

**DECISION AND  
JUDGMENT**

This matter came before the Civil Service Commission for merit hearings on May 29, 2018; August 9 and 14, 2018 at 5:45 p.m. at the Commission's regular scheduled meetings. On May 18, 2021, a hearing was scheduled at 9:00 a.m., through Zoom.

On May 18, 2021, the Commission heard the Employee's last witness, closing arguments in this case, and then deliberated and issued its decision as set forth below. This Decision and Judgment reflects the deliberations and votes of the Commission after review of the evidence and testimony taken on

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1 May 29, 2018, August 9 and 14, 2018; and closing arguments held on May 18,  
2 2021. Management's exhibits M014-M025 were admitted into evidence prior  
3 to the taking of testimony on May 29, 2018.

4 Present for Management during the three (3) merit hearings were  
5 Attorney Michael Philips, with General Manager Joann Brown of the Port  
6 Authority of Guam. However, Luis R. Baza, Deputy General Manager for  
7 Administration and Finance took over the case at the hearing on May 18, 2021.  
8 Attorney Daniel Somerfleck represented the Employee, who was also present  
9 for all four hearings.

10 Present at the hearing on May 18, 2021, when the Commission  
11 deliberated and rendered its oral decision was Chairman Juan K. Calvo, Vice  
12 Chair John Smith, Commissioner Priscilla Tuncap Commissioner,  
13 Commissioner Emilia F. Rice, Commission Anthony P. Benavente, and  
14 Commissioner Robert C. Taitano.

### 15 *Jurisdiction*

16 Civil Service Commission has jurisdiction to hear adverse action appeals  
17 filed by classified employees under 4 GCA § 4403 (b) involving suspensions,  
18 demotions and terminations.

1 *Facts*

2 Employee was personally served with a Notice of Proposed Adverse  
3 Action on September 29, 2017, and signed on September 27, 2017 by the  
4 former General Manager, Joann Brown (Exhibits M014-M018).

5 Employee orally responded to Acting General Manager Felixberto  
6 Duenas on October 9, 2017, as set forth in the Notice of Final Adverse Action  
7 (M019).

8 Employee did not have a representative present at this meeting. Present  
9 at this oral response was the Acting General Manager Felixberto Duenas,  
10 Charlene Yatar, Assistant Harbor Master, and Shawn B. Cepeda, Personnel  
11 Specialist II.

12 Employee had ten (10) days to respond to the proposed adverse action  
13 served on September 29, 2017, and answered orally on October 9, 2017. This  
14 ten (10) day period to answer ended on October 9, 2017.

15 Former General Manager Joann Brown terminated Anthony Q. Sanders  
16 pursuant to a Notice of Final Adverse Action dated October 20, 2017, with  
17 charges of UNLAWFUL MANUFACTURE, DISTRIBUTION,  
18 DISPENSING, POSSESSION OR USE OF CONTROLLED SUBSTANCES  
19 WHILE ON THE JOB OR ON THE AUTHORITY'S PREMISES  
20 INCLUDING WHILE OPERATING THE AUTHORITY'S EQUIPMENT.

1 The violation of the Drug Free Workplace policy was substantiated by Dr.  
2 Brian Heinen's Drug Test Report confirming the urine sample collected on  
3 September 15, 2017 from the Employee confirmed positive for THC, as set  
4 forth more fully in the Notice of Final Adverse Action (Exhibits M019-M025).  
5 Prior to taking final action, General Manager Joann Brown considered  
6 Employee's oral response to Acting General Manager Felixberto Duenas (and  
7 others present in this meeting), and reviewed the investigative file.

8 Employee filed an adverse action appeal with the Commission on  
9 October 27, 2017, regarding his termination of employment with the Port  
10 Authority of Guam.

11 The Commission finds that Management's action in this case was correct.

### 12 *Burden of Proof*


13 The Commission determined by a vote of 6 to 0 that the burden of proof  
14 was on substantial evidence.


### 15 *Ruling by Commissioners*

16 After review of the file, Management's exhibits M014-M025, hearing  
17 the testimony of the witnesses, as well as the arguments of lay representatives  
18 for both sides, the Commission voted 6 to 0 that Management met its burden of  
19 proof of substantial evidence as to the charge of Violation of the Drug Free  
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1 Workplace policy set forth in the Notice of Final Adverse Action. The  
2 Commission finds that Management's action was supported and affirms the  
3 termination action.

4 **SO ORDERED** this 15th of June, 2021.

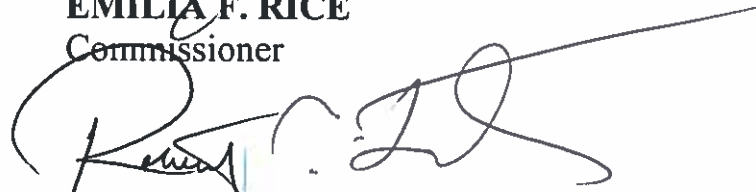
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7 **JUAN K. CALVO**  
Chairman

  
8 **JOHN SMITH**  
Vice Chairman

9 (absent)  
10 **PRISCILLA T. TUNCAP**  
Commissioner

  
11 **EMILIA F. RICE**  
Commissioner

  
12 **ANTHONY P. BENAVENTE**  
Commissioner

  
13 **ROBERT C. TAITANO**  
Commissioner