

**BOARD OF DIRECTORS**

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**Resolution No. 2021-35**

**RELATIVE TO AUTHORITY TO ENTER INTO A STIPULATED JUDGMENT  
BETWEEN THE PORT AUTHORITY OF GUAM AND EDDIE N. CASTRO  
PURSUANT TO GUAM SUPREME COURT CASE NO. CVA19-020**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PORT AUTHORITY OF GUAM:**

**WHEREAS**, the Port Authority of Guam (“PAG”) and Eddie N. Castro (“Castro”) are presently engaged in litigation under the Civil Service Commission (“CSC”) Case No. 13-AA13T (“the Adverse Action Appeal”); and

**WHEREAS**, On April 5, 2013, the Port served employee, Mr. Eddie N. Castro, with a Final Notice of Adverse Action for alleged violations of the Port’s Personnel Rules and Regulations, Chapter 11, Rule 11.303(B), (D), (E), and (H). Specifically, the Port terminated Castro based on the following: Refusal or failure to perform prescribed duties and responsibilities; Falsification of Records; Insubordination; and Unauthorized absences; and

**WHEREAS**, On April 17, 2013, Castro appealed his termination to the Civil Service Commission in Adverse Action Appeal Case No. 13-AA13T. After approximately twelve (12) days of hearings on the merits, the CSC ruled in favor of Management. However, the CSC also voted to modify Castro’s termination into a demotion to a “Guard (unarmed)” position; and

**WHEREAS**, On April 28, 2016, the Port appealed the CSC’s Decision and Judgment to the Superior Court of Guam in Special Proceedings Case No. 0072-16 (“Petition for Judicial Review”), arguing that the CSC exceeded its statutory authority by placing Employee in the non-existing position of “Guard”; and

**WHEREAS**, On April 13, 2018, the Superior Court found the CSC’s decision to modify was not supported by substantial evidence since the “Guard” position did not exist, and the CSC’s expressed decision to place Employee in the “most severe” demotion properly should have been instead to the “security guard (armed)” position. The Superior Court therefore, remanded the matter back to the CSC to determine whether it would uphold its modification; and

**WHEREAS**, On April 9, 2019, at the hearing on remand, the CSC departed from its earlier decision to modify and instead voted unanimously to sustain Castro’s termination. Castro appealed the CSC’s decision to terminate on August 4, 2019 back to the Superior Court; and

**WHEREAS**, On September 3, 2019, the Superior Court denied Castro’s motion to review the CSC’s decision to sustain his termination, finding that the CSC’s decision to sustain the termination aligned with the Superior’s Court initial finding that the “Guard” position did not exist. Castro subsequently appealed the matter to the Supreme Court of Guam; and

**WHEREAS**, On June 24, 2021, the Supreme Court, in CVA19-020, issued its Opinion ruling in favor of Castro. The Supreme Court held that the trial court should have granted the Port’s petition only in part, remanding to the CSC for the limited purpose of correcting the appropriate position for Employee’s “severest demotion,” and thus, vacated the Superior Court’s decision upholding the CSC’s decision to terminate Castro. Subsequently, the Supreme Court remanded the matter back to the Superior Court for further proceedings consistent with its Opinion in *Port Auth. of Guam v. Civil Serv. Comm’n (Castro)*, 2021 Guam 4. The Supreme Court also remanded the matter to the Superior Court to determine attorney fees and costs; and

**WHEREAS**, after consulting with Port Legal Counsel, it is expected that the Superior Court will remand the matter back to the CSC to vacate Castro’s termination and amend the Decision and Judgment to read “Guard (armed)” instead of “Guard (unarmed)” pursuant to the Supreme Court of Guam’s Opinion. Thus, in an effort to avoid further delay of this almost nine (9) years long litigation and additional costs resulting therefrom, Port Legal Counsel has advised that the Port calculate Castro’s back wages, reasonable attorney’s fees, and associated costs to accompany the Superior Court’s order and judgment on remand; and

**NOW THEREFORE BE IT RESOLVED**, that based on the Supreme Court decision, the Board of Directors hereby authorizes the PAG Management to enter into to a Stipulated Judgment resolving all litigation against Castro resulting from his Adverse Action Appeal; and be it further

**RESOLVED**, the Board of Directors hereby authorizes the PAG Management to calculate Castro’s back wages, reasonable attorney’s fees, and associated costs to accompany the Superior Court’s order and judgment on remand; and be it further

**RESOLVED**, the PAG Management to enter into a Stipulated Judgment resolving all litigation against Castro resulting from his Adverse Action Appeal; and be it further

**RESOLVED**, the Chairman certify to, and the Secretary attest to, the adoption hereof.

**PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF  
DIRECTORS THIS 23<sup>rd</sup> DAY OF DECEMBER, 2021.**

**FRANCISCO G. SANTOS**  
**CHAIRMAN, BOARD OF DIR**  
**PORT AUTHORITY OF G**

**ISA MARIE C. KOKI**  
**SECRETARY, BOARD OF DIRECTORS**  
**PORT AUTHORITY OF GUAM**

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