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PROCUREMENT APPEALS

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FILE NO. OPA-PA: 10-004

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8 *Attorneys for*
9 *Jose D. Leon Guerrero Commercial Port*

10 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

11 **PROCUREMENT APPEAL**

12 IN THE MATTER OF APPEAL of

APPEAL NO: OPA-PA-010-004

13 HARBOR CENTRE GUAM CO. LTD.
14 And HARBOUR CENTRE PORT
15 TERMINAL, INC.

Appellant.

**OBJECTION TO APPELLANT'S
NOTICE OF DEPOSITION; MOTION TO
RESCHEDULE DEPOSITION**

16 Comes Now the Jose D. Leon Guerrero Commercial Port (the "Port"), the Purchasing
17 Agency in this Appeal, and moves to quash Appellant's Notice of Deposition of Robert Kono,
18 which Appellant has unilaterally scheduled, despite the Port's objections, for Friday October 15,
19 2010 at 2:00 p.m. Appellant's refusal to consider rescheduling the deposition has necessitated the
20 filing of this objection and motion to reschedule.

21 Appellant filed a Request for Special Accommodations on October 13, 2010 to take the
22 deposition of Robert Kono who, according to Appellant's Counsel, is currently a patient at Guam
23 Memorial Hospital. Appellant's Counsel made several further representations regarding Mr.
24 Kono's medical condition and expected travel plans to obtain medical treatment. Noticeably
25 absent from Appellant's Request was any information from a medical professional or from Mr.
26 Kono supporting Appellant's summary of Mr. Kono's condition.
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28

1 At approximately 8:37 a.m, on October 14, the Office of Public Accountability issued an
2 electronic mail advising the parties that the Hearing Officer granted Appellant's Request for
3 Special Accommodations and Ordered that said deposition occur prior to the October 18, 2010
4 hearing in this matter.

5
6 Appellant's Counsel has provided information, via telephone call, that he intends to
7 schedule the deposition for 2:00 p.m on Friday, October 15, 2010. Appellant's Counsel was
8 asked to schedule the deposition instead for Saturday, October 16, 2010. See Declaration of
9 Rebecca Perez Santo Tomas, attached herewith as Exhibit "A". During the discussion with
10 Appellant's Counsel, it was discovered that Appellant's counsel did not possess any verification
11 that Mr. Kono would not be available *after* Friday October 15, 2010.

12
13 With sympathy for Mr. Kono's medical condition, counsel for the Port is unable to verify
14 Mr. Kono's availability absent information from a party other than Appellant's counsel. In the
15 event Appellant submits information from a medical professional that Mr. Kono will be
16 unavailable after October 15, 2010, Counsel for the Port will not object to the scheduling of his
17 deposition for that date. However, absent such information counsel for the Purchasing Agency
18 hereby requests that deposition of Robert Kono be scheduled for a date and time after October 15,
19 2010 in order to adequately prepare for the deposition, and respectfully requests that such
20 deposition be scheduled for October 16, 2010.

21
22 Dated this 14th day of October, 2010.

23 Respectfully submitted,

24 **LUJAN AGUIGUI & PEREZ LLP**

25 By: _____

26 **REBECCA PEREZ SANTO TOMAS, ESQ.**

27 *Attorneys for Jose D. Leon Guerrero Commercial Port*

28 P-0045/778/RPST.emt

In the Matter of Appeal of Harbor Centre Guam Co. LTD. and Harbour Centre Port Terminal, Inc.

Appeal No. OPA-PA-010-004

Objection to Appellant's Notice of Deposition; Motion to Schedule Deposition

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EXHIBIT A

1 **LUJAN AGUIGUI & PEREZ LLP**

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10 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

11 **PROCUREMENT APPEAL**

12 IN THE MATTER OF APPEAL of

13 APPEAL NO: OPA-PA-010-004

14 HARBOR CENTRE GUAM CO. LTD.
15 And HARBOUR CENTRE PORT
16 TERMINAL, INC.

17 **DECLARATION OF REBECCA PEREZ**
18 **SANTO TOMAS**

19 Appellant.

20 I, Rebecca Perez Santo Tomas, declare and state as follows:

- 21 1. That I am an attorney with the firm Lujan Aguigui & Perez, LLP and the attorney of
22 record for the Jose D. Leon Guerrero Commercial Port in the matter captioned above.
- 23 2. That on October 14, 2010 at approximately 10:45 a.m. I received a message that the
24 Office of Cabot Mantanona, counsel for the Appellant in this case, advised that they
25 intended to schedule the deposition of Robert Kono for 2:00 p.m. on Friday, October 15,
26 2010.
- 27 3. That I had my secretary convey a request to the Office of Cabot Mantanona that I would
28 be unavailable at that time due to a previously scheduled court hearing and to please
schedule the deposition for Saturday, October 16, 2010.
4. That at approximately 11:00 a.m. I called Rawlen Mantanona, counsel for Appellant, to
discuss the scheduling of the deposition for Saturday, October 16, 2010.

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5. That Mr. Mantanona stated that Mr. Kono would not be available on October 16th as he is expected to leave island at any time for medical reasons.

6. That when asked whether he had any written verification that Mr. Kono would not be available after Friday, October 15th, Mr. Mantanona indicated he did not have any such verification.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

Dated this 14th day of October, 2010.



REBECCA PEREZ SANTO TOMAS
Attorneys for Jose D. Leon Guerrero Commercial Port