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10 **OFFICE OF PUBLIC ACCOUNTABILITY**
11 **PROCUREMENT APPEALS**

13 In the Appeal of:
14 DFS Guam L.P.,
15 Appellant.

APPEAL NO. OPA-PA-13-006
DECLARATION OF MAURICE M. SUH

1 **DECLARATION OF MAURICE M. SUH**

2 I, Maurice M. Suh, hereby declare as follows:

3 1. I am a licensed member of the California Bar, have been admitted *pro hac vice* to
4 appear before the Superior Court of Guam in *DFS Guam L.P. v. A.B. Won Pat International Airport*
5 *Authority et al.*, Case No. CV0685-13 (“Superior Court Proceeding”), and have been admitted *pro*
6 *hac vice* to appear before the Supreme Court of Guam in *DFS Guam L.P. v. A.B. Won Pat*
7 *International Airport Authority et al.*, Case Nos. CVA13-035 and CVA13-036 (“Supreme Court
8 Proceeding”). I am a partner at the law firm of Gibson, Dunn & Crutcher LLP, which serves as
9 counsel for Plaintiff DFS Guam L.P. (“DFS”) in the above-captioned matter (“OPA Appeal”). I
10 make this declaration in support of DFS’s (1) Motion to Declare Automatic Stay in Effect and
11 (2) Response to A.B. Won Pat International Airport Authority, Guam’s (“GIAA”) Objection to the
12 Office of Public Accountability (“OPA”) Hearing Appeal. I am familiar with and have personal
13 knowledge of the pleadings and proceedings in this case, as well as the facts set forth in this
14 declaration, and if called to do so, I could and would testify competently thereto.

15 2. Attached as Exhibit 1 is a true and correct copy of GIAA’s Request for Proposal for
16 Specialty Retail Merchandise Concession Multiple Concepts, RFP No. GIAA 010-FY12 (“RFP”)
17 without attachments, which was issued on or about July 19, 2012.

18 3. Attached as Exhibit 2 is a true and correct copy of a letter, dated May 17, 2013, from
19 Mr. Charles Ada, Executive Manager of GIAA, to Mr. William Blair, counsel for DFS.

20 4. Attached as Exhibit 3 are true and correct copies of the agenda, minutes, and sign-in
21 sheet for the April 12, 2013 special meeting of GIAA’s board of directors.

22 5. Attached as Exhibit 4 is a true and correct copy of a GIAA press release, dated
23 April 12, 2013.

24 6. Attached as Exhibit 5 is a true and correct copy of a letter, dated October 30, 2012,
25 from Mr. Jim Beighley, Managing Director of DFS Group’s Mid-Pacific Division, to Mr. Charles
26 Ada, Executive Manager of GIAA.

1 7. Attached as Exhibit 6 is a true and correct copy of a Pacific Daily News article, dated
2 May 7, 2013, titled "Airport bid protest detailed: DFS alleges questionable activity, ethics violation."

3 8. Attached as Exhibit 7 is a true and correct copy of a Pacific Daily News article, dated
4 May 7, 2013, titled "Controversial gifts were sample cosmetics."

5 9. Attached as Exhibit 8 is a true and correct copy of a Pacific Daily News article, dated
6 May 7, 2013, titled "Airport concession contract on hold."

7 10. Attached as Exhibit 9 is a true and correct copy of a KUAM News article, dated
8 April 25, 2013, titled "Lotte Duty Free Guam speaks out about DFS protest."

9 11. Attached as Exhibit 10 is a true and correct copy of a KUAM News article, dated
10 April 24, 2013, titled "Negotiations for airport contract stymied."

11 12. Attached as Exhibit 11 is a true and correct copy of a transcript of a Pacific News
12 Center video titled "DUTY FREE KK ER 20121211."

13 13. Attached as Exhibit 12 is a true and correct copy of a transcript of a Pacific News
14 Center News video titled "LOTTE CR ER 20121115 desktop."

15 14. Attached as Exhibit 13 is a true and correct copy of a transcript of a Pacific News
16 Center News video titled "LOTTE AIR KK ER 20121109."

17 15. Attached as Exhibit 14 is a true and correct copy of a transcript of a Pacific News
18 Center News video titled "GIAA CONCERNS desktop."

19 16. Attached as Exhibit 15 is a true and correct copy of a Pacific News Center article,
20 dated March 28, 2013, titled "VIDEO: Airport Concession Vote Delayed After 3 GIAA Board
21 Members Ask to Recuse Themselves."

22 17. Attached as Exhibit 16 is a true and correct copy of a Pacific Daily News article, dated
23 April 1, 2013, titled "A South Korea-based travel retailer yesterday denied having directly given gifts
24 to two Guam airport agency board members."

25 18. Attached as Exhibit 17 is a true and correct copy of a letter, dated April 11, 2013, from
26 Mr. Jim Beighley, Managing Director of DFS Group's Mid-Pacific Division, to Mr. Franklin P.
27 Taitano of GIAA.
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1 19. Attached as Exhibit 18 is a true and correct copy of a letter, dated April 23, 2013, from
2 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

3 20. Attached as Exhibit 19 is a true and correct copy of a letter, dated May 2, 2013, from
4 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

5 21. Attached as Exhibit 20 is a true and correct copy of a letter, dated May 29, 2013, from
6 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

7 22. Attached as Exhibit 21 is a true and correct copy of a letter, dated June 3, 2013, from
8 Mr. Charles Ada, Executive Manager of GIAA, to Mr. William Blair, counsel for DFS.

9 23. Attached as Exhibit 22 is a true and correct copy of a letter, dated June 7, 2013, from
10 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

11 24. Attached as Exhibit 23 is a true and correct copy of a transcript of a May 20, 2013
12 interview of Mr. Charles Ada, Executive Manager of GIAA, on Pacific News Center K57's radio
13 show called "The Big Show with Travis Coffman."

14 25. Attached as Exhibit 24 is a true and correct copy of a transcript of a May 20, 2013
15 interview of Mr. Charles Ada, Executive Manager of GIAA, on Pacific News Center K57's radio
16 show called "The Big Show with Travis Coffman."

17 26. Attached as Exhibit 25 is a true and correct copy of a GIAA press release, dated
18 May 20, 2013.

19 27. Attached as Exhibit 26 is a true and correct copy of Lotte Duty Free Guam, LLC's
20 ("Lotte") RFP proposal, submitted to GIAA on or about October 17, 2012, which was produced by
21 GIAA at Bates numbers GIAABSJM300002-GIAABSJM3300407.

22 28. Attached as Exhibit 27 is a true and correct copy of Lotte's RFP proposal, submitted
23 to GIAA on or about November 29, 2012, which was produced by GIAA at Bates numbers
24 GIAABSJM300408-GIAABSJM3300547.

25 29. Attached as Exhibit 28 is a true and correct copy of Attachment H-10 to the RFP.

26 30. Attached as Exhibit 29 is a true and correct copy of Attachment H-10 to DFS's RFP
27 proposal, submitted to GIAA on or about October 17, 2012.

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1 31. Attached as Exhibit 30 is a true and correct copy of a letter, dated May 30, 2013, from
2 Mr. Ladd Bauman, counsel for James Richardson (Guam) LLC, to Mr. Charles Ada, Executive
3 Manager of GIAA.

4 32. Attached as Exhibit 31 is a true and correct copy of a letter, dated June 7, 2013, from
5 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

6 33. Attached as Exhibit 32 is a true and correct copy of a letter, dated May 17, 2013, from
7 Mr. Charles Ada, Executive Manager of GIAA, to Mr. William Blair, counsel for DFS.

8 34. Attached as Exhibit 33 is a true and correct copy of a GIAA press release, dated
9 May 17, 2013.

10 35. Attached as Exhibit 34 is a true and correct copy of a letter, dated May 23, 2013, from
11 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

12 36. Attached as Exhibit 35 is a true and correct copy of a letter, dated May 30, 2013, from
13 myself, counsel for DFS, to Mr. William Hebert, counsel for GIAA.

14 37. Attached as Exhibit 36 are true and correct copies of the agenda, minutes, and sign-in
15 sheet for the June 11, 2013 special meeting of GIAA's board of directors.

16 38. Attached as Exhibit 37 is a true and correct copy of a letter, dated April 19, 2013, from
17 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

18 39. Attached as Exhibit 38 is a true and correct copy of a letter, dated April 22, 2013, from
19 Ms. Joyce Tang, counsel for DFS, to Mr. Karl Pangelinan, General Manager of the Guam Visitors
20 Bureau.

21 40. Attached as Exhibit 39 is a true and correct copy of a letter, dated May 1, 2013, from
22 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

23 41. Attached as Exhibit 40 is a true and correct copy of a letter, dated May 20, 2013, from
24 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

25 42. Attached as Exhibit 41 is a true and correct copy of a letter, dated May 21, 2013, from
26 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

1 43. Attached as Exhibit 42 is a true and correct copy of a letter, dated May 24, 2013, from
2 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

3 44. Attached as Exhibit 43 is a true and correct copy of a letter, dated June 4, 2013, from
4 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

5 45. Attached as Exhibit 44 is a true and correct copy of a letter, dated June 25, 2013, from
6 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA. This letter
7 supplemented DFS's June 4, 2013 and June 21, 2013 letters.

8 46. Attached as Exhibit 45 is a true and correct copy of a letter, dated June 26, 2013, from
9 Ms. Joyce Tang, counsel for DFS, to Mr. Henry Taitano, Administrator of the Guam Economic
10 Development Authority.

11 47. Attached as Exhibit 46 is a true and correct copy of a letter, dated September 13, 2013,
12 from Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

13 48. Attached as Exhibit 47 is a true and correct copy of a letter, dated June 3, 2013, from
14 Mr. Charles Ada, Executive Manager of GIAA, to Mr. William Blair, counsel for DFS.

15 49. Attached as Exhibit 48 is a true and correct copy of an agreement, dated May 18,
16 2013, between GIAA and Lotte, titled "Specialty Merchandise Concession Agreement."

17 50. Mr. David J. Lujan has not participated in any of the briefing or proceedings in this
18 OPA Appeal. Mr. Lujan also has not participated in any of the briefing or proceedings in the
19 Superior Court Proceeding or the Supreme Court Proceeding.

20 51. Mr. Ignacio Aguigui has not participated in any of the briefing or proceedings in this
21 OPA Appeal. Mr. Aguigui also has not participated in any of the briefing or proceedings in the
22 Superior Court Proceeding or the Supreme Court Proceeding.

23 52. Attached as Exhibit 49 is a true and correct copy of an email chain, dated in
24 January 2013, involving Ms. Janalynn Cruz Damian, an attorney at Calvo Fisher & Jacob LLP, which
25 was produced by GIAA at Bates numbers GIAABSJM400075-GIAABSJM400077.

26 53. Attached as Exhibit 50 is a true and correct copy of an email chain, dated in
27 February 2013, involving Mr. Michael A. Pangelinan, Ms. Sarah L. Fabian, and Ms. Janalynn Cruz
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1 Damian, attorneys at Calvo Fisher & Jacob LLP, which was produced by GIAA at Bates numbers
2 GIAABSJM400078-GIAABSJM400079.

3 54. Attached as Exhibit 51 is a true and correct copy of an email chain, dated in March
4 2013, involving Ms. Janalynn Cruz Damian, an attorney at Calvo Fisher & Jacob LLP, which was
5 produced by GIAA at Bates numbers GIAABSJM400080-GIAABSJM400081.

6 55. Attached as Exhibit 52 is a true and correct copy of an email chain, dated in March
7 2013, involving Ms. Janalynn Cruz Damian, an attorney at Calvo Fisher & Jacob LLP, which was
8 produced by GIAA at Bates numbers GIAABSJM400082-GIAABSJM400084.

9 56. Attached as Exhibit 53 is a true and correct copy of an email chain, dated in November
10 2012, involving Ms. Janalynn Cruz Damian, an attorney at Calvo Fisher & Jacob LLP, which was
11 produced by the Guam Visitors Bureau at Bates numbers 00862-00869.

12 57. Attached as Exhibit 54 is a true and correct copy of a letter, dated May 24, 2013, from
13 Mr. William Hebert, counsel for GIAA, to Mr. William Blair, counsel for DFS.

14 58. Attached as Exhibit 55 is a true and correct copy of a letter, dated June 28, 2013, from
15 Michael Pangelinan, counsel for GIAA, to Mr. William Blair, counsel for DFS.

16 59. Attached as Exhibit 56 is a true and correct copy of a letter, dated May 7, 2013, from
17 Mr. William Blair, counsel for DFS, to Mr. Charles Ada, Executive Manager of GIAA.

18 60. Attached as Exhibit 57 is a true and correct copy of an email chain, dated August 2012
19 to November 2012, among employees of the Guam Visitors Bureau and John Calvo of Mid Pacific
20 Distributors Inc., which was produced by the Guam Visitors Bureau at Bates numbers 001274 to
21 001278.

22 61. Attached as Exhibit 58 is a true and correct copy of the Complaint, filed on May 30,
23 2013, in the Superior Court Proceeding.

24 62. Attached as Exhibit 59 is a true and correct copy of a letter, dated June 4, 2013, from
25 Mr. William Hebert, counsel for GIAA, to various counsel for DFS.


26 63. Attached as Exhibit 60 is a true and correct copy of the Opinion, issued on June 2,
27 2014, in the Supreme Court Proceeding.

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I declare under penalty of perjury under the laws of Guam that the foregoing is true and correct.

Executed on September 15, 2014, in Los Angeles, California.

By: 
Maurice M. Suh