## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS



## **COMMONWEALTH REGISTER**

VOLUME 45 NUMBER 03 MARCH 28, 2023

## **COMMONWEALTH REGISTER**

## VOLUME 45 NUMBER 03 MARCH 28, 2023

### **ADOPTION**

Public Notice of Certification and Adoption of Regulations         Commonwealth Ports Authority         04		
Public Notice of Certification and Adoption of Regulations Department of Lands and Natural Resources		049607
<b>PROPOSED</b>		
Notice of Amendment to the Sick Leave Bank (NMIAC §10-10-50-410 through §10-10-515) Civil Service Commission Office of Personnel Management		049609
<u>ORDERS</u>		
PUA Case o. Subject:	21-0126 Order Denying Appellants Request to Recuse; Order Denying Request to Reopen; Final Agency Order	
In the Matter of:	Jennifer Angello v. CNMI Department of Labor Division of Employment Services – PUA.	
		049617
PUA Case No. Subject: In the Matter of:	22-0221 Administrative Order Karmen Ohri v. CNMI Dept. of Labor, Division of Employment Services,	
		049621

PUA Case No. Subject: In the Matter of:	22-0222 Administrative Order Sabinoy Chakraborty v. CNMI Dept. of Labor, Division of Employment Services PUA	
Department of Labo	or	049627
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Department of Labo	or	049634
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Labor Case No. Subject: In the Matter of:	22-020 Dismissal of Labor Case; Referral to Enforcement Ji Fei Zheng v. Eagle LLC dba SM	0.40.620
Department of Labor		



Commonwealth Ports Authority Francisco C. Ada/Saipan International Airport PO BOX 501055•SAIPAN•MP•96950 Phone: (670) 237-6500/01 E-Mail Address: cpa.admin@pticom.com Website: https://cnmiports.com



# PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

#### PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED AMENDMENTS TO THE PROCUREMENT RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY Volume 45, Number 01, pp. 049396-402, of January 28, 2023

#### Amendments to the Commonwealth Ports Authority Procurement Rules and Regulations

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: Pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a), the Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT the Proposed Amendments to the Procurement Rules and Regulations of the Commonwealth Ports Authority published in Number 01 of Volume 45 of the Commonwealth Register. I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations.

**PRIOR PUBLICATION**: The substance of these regulations was published in Volume 45, Number 01, pp. 049396-402 of the Commonwealth Register.

AUTHORITY: The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122.

**EFFECTIVE DATE:** These amendments to the Commonwealth Ports Authority's Procurement Rules and Regulations will become effective ten days after publication of this Notice of Adoption in the Commonwealth Register. I CMC § 9105(b).

**COMMENTS, MODIFICATIONS, AND AGENCY CONCISE STATEMENT**: During the 30-day comment period, the Authority received no comments regarding the Proposed Regulations. No individual requested the Authority issue a concise statement of the principal reasons for or against the adoption of the Proposed Regulations.

At a Financial Affairs Committee meeting held on March 16, 2023, the Committee agreed to recommend to the CPA Board of Directors that the Proposed Regulations be adopted. The CPA Board of Directors adopted the Proposed Regulations as final at the March 16, 2023, Board of Directors meeting.

#### TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED:

The adopted regulations amend the Procurement Rules and Regulations to revise the amount that triggers the requirement to submit a request for a written quotation or written price from at least three potential on or off-island vendors. The proposed regulations also authorize the processing of open purchase orders for a procurement valued from \$10,000.00 and below.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 16th day of March, 2023, at Saipan, Commonwealth of the Northern Mariana Islands.

Date: March 16, 2023

Submitted by:

CHRISTOPHER S. TENORIO Executive Director

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the certified final regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published. 1 CMC § 2153(f).

day of March, 2023. Dated this

EDWARD MANIBUSAN Attorney General

Filed and Recorded by: \_\_\_\_

Enn

ESTHER R.M. SAN NICOLAS Commonwealth Registrar

Date: 3.28.2023

#### § 40-50-210 Small Purchases

(a) Any procurement not exceeding \$25,000.00 may be made in accordance with these small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) The Executive Director or Procurement Officer or authorized designee shall obtain written price quotations and detailed proposals of the product description or services to be rendered. Any Authority section Manager or Supervisor may initiate a Small Purchase procurement by coordinating such a request through the Procurement Officer, who shall aid in preparing the request for quotations and a description of the goods or services required.

(d) The Executive Director or Procurement Officer or authorized designee is authorized to process open purchase orders for a procurement valued from  $\frac{1,000.0010,00000}{10,000.00000000}$  and below with authorized signers listed on the purchase order.

History: Amdts Adopted 42 Com. Reg. 44069 (Sept. 28, 2020); Amdts Proposed 42 Com. Reg. 43544 (May 28, 2020); Adopted 33 Com. Reg. 32150 (Dec. 29, 2011); Proposed 33 Com. Reg. 31931 (Sept. 26, 2011); Amdts Adopted 29 Com. Reg. 26690 (Aug. 17, 2007); Amdts Proposed 29 Com. Reg. 26453 (Mar. 15, 2007); Adopted 10 Com. Reg. 5716 (Oct. 15, 1988); Proposed 10 Com. Reg. 5625 (Aug. 15, 1988).



# Commonwealth of the Northern Mariana Islands

Department of Lands and Natural Resources

Lower Base, Caller Box 10007 Saipan, MP 96950 Tel: 670-322-9830/34 Fax: 670-322-2633



Commonwealth of the Northern Mariana Islands Department Lands and Natural Resources

Lower Base, Caller Box 10007 Saipan MP 96950 Tel: (670) 322-9834 Fax: (670) 322-2633

### PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Department of Land and Natural Resources

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS Volume 44, Number 4, pp 048358-048389, of April 28, 2022

# Regulations of the Department of Lands and Natural Resources: Chapter 85-120 Submerged Land Rules and Regulations.

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Lands and Natural Land and Natural Resources ("DLNR"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the abovereferenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). DLNR announced that it intended to adopt them as permanent, and now does so.

I also certify by signature below that: as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment except as expressly noted below.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: The prior publication referenced above indicated that the rules and regulations would be adopted as Chapter 85-30.4 of the NMI Administrative Code. However, this numbering is not accurate as regulations concerning the Mariana Crow Conservation Area already appear as Chapter 85-30.4, and the Proposed Regulations do not intend to repeal or replace the Mariana Crow Conservation Area Regulations. For this reason, the number in the final rules as adopted herein is corrected to Chapter 85-120.

AUTHORITY: The Secretary of DLNR may promulgate necessary regulations to carry out its duties, including its regulation of the Submerged Lands. 1 CMC § 2653(r); 1 CMC § 2653(k). PL 1-23, as amended by PL 6-13, the "Submerged Lands Act" (2 CMC §§ 1201-1231, eff. November 3, 1988).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: DLNR received no written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 9th day of January 2023, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

Augustin M. Kaipat Acting Secretary Department of Land and Natural Resources January 12, 2023

Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), the certified final regulations, modified as indicated above from cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published.

23 Dated the <u>18</u><sup>th</sup> day of <u>March</u>

EDWARD MANIBUSAN Attorney General

Filed and Recorded by:

ESTHER R.M. SAN NICOLAS Commonwealth Registrar

03.28.2023

Date

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JAKEMARATITA Chairperson, CSC

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS CIVIL SERVICE COMMISSION **OFFICE OF PERSONNEL MANAGEMENT** P.O. BOX 5153 CHRB, SAIPAN, MP 96950-5153 CSC TEL NO: (670) 233-1606 | FAX NO: (670) 233-4096 OPM TEL. NO: (670) 234-6925 / 6958 / 8036 | FAX NO. (670) 234-1013 CSC website: http://www.cnmicsc.net | OPM website: http://www.cnmiopm.net



FRANCES TORRES-SALAS Director of Personnel

#### NOTICE OF AMENDMENT TO THE SICK LEAVE BANK REGULATIONS (NMIAC § 10-10-50-410 through §10-10-515)

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Civil Service Commission ("Commission") intends to amend the Sick Leave Bank Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104 (a). The amendment will become effective 10 days after compliance with 1 CMC § § 9102 and 9104 (a) as stipulated by 1 CMC § 9105 (b).

AUTHORITY: The Commission has statutory authority to promulgate and effect personnel regulations pursuant to 1 CMC § 8117, as amended by Public Law No. 17-80, and specifically the Sick Leave Bank Regulations, as authorized by Public Law No. 8-25.

**TERMS AND SUBSTANCE:** The Commission proposes to adopt changes to the Sick Leave Bank Regulations codified as NMIAC § 10-10-50-410 through §10-10-515.

SUBJECTS AND ISSUES INVOLVED: The Commission has noticed that some amendments to the Sick Leave Bank Regulations, codified as NMIAC § 10-10-50-410 through \$10-10-515, were inadvertently omitted from the previous notice of amendment that was published in the Commonwealth Register, Volume 44, Number 09, on September 28, 2022, on pages 049004 to 049018.

DIRECTIONS FOR FILING AND PUBLICATION: The Civil Service Commission is soliciting comments regarding this proposed regulation, which must be received by the Commission within thirty (30) days of first publication of this notice in the Commonwealth Register, 1 CMC § 9104(a)(2). Interested parties may submit comments on the proposed amendments to Teresa Borja, Executive Assistant, Civil Service Commission, to the following address, or email address, with the subject line "Amendments to the Sick Leave Bank."

> CIVIL SERVICE COMMISSION P.O. BOX 5153 CHRB SAIPAN, MP 96950 Email address: staff@cnmicsc.net

Notice of Amendment - Sick Leave Bank

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JITHE OF THE AT TORNEY GENERAL CIVIL DIVISION RECEIVED

Page 2

Submitted by:

mtih

Jake Maratita Chairperson, Civil Service Commission

2.27.2023 Date

**Received by:** 

Frank Rabaulimon Osgar M. PASA

2/28/23 Date

Special Assistant for Administration

Filed and recorded by:

Esther R.M. San Nicolas Commowealth Registrar

Gmarch 28, 2023 ate

I certify, pursuant to 1 CMC § 2153 (e) and 1 CMC § 9104 (a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.

Édward Manibusan Attorney General

March 6, 2023

Date

PAGE 049610



JAKEMARATITA Chairperson, CSC COMMONWEALTH TÉĖL FALÚW KKA EFÁNG LLÓL MARIANAS CIVIL SERVICE COMMISSION OFFICE OF PERSONNEL MANAGEMENT P.O. BOX 5153 CHRB, SAIPAN, MP 96950-5153 CSC TEL NO: (670) 233-1606 | FAX NO: (670) 233-4096 OPM TEL. NO: (670) 234-6925 / 6958 / 8036 | FAX NO. (670) 234-1013

CSC website: http://www.cnmicsc.net | OPM website: http://www.cnmiopm.net



FRANCES TORRES-SALAS Director of Personnel

#### ARONGORONG REEL LIIWEL NGALI MWÓGHUTUGHUTUL SICK LEAVE BANK (NMIAC § 10-10-50-410 ngali § 10-10-515)

ARONGORONGOL MÁNGEMÁNGIL MWÓGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas, Civil Service Commission ("Commission") re mángemángil rebwe liiwcli Mwóghutughutúl Sick Leave Bank, sángi Mwóghutughutul Administrative Procedure Act, 1 CMC § 9104 (a). Ebwe bwunguló angúúngú féngál me 1 CMC § § 9102 me 9104 (a) iye aa ffat sángi 1 CMC § 9105 (b).

**BWÁNGIL:** Eyoor bwángil Civil Service Commission reel rebwe aronga me ayoora mwóghutughutul sángi 1 CMC § 8117, igha aa liiwel sángi Alléghúl Toulap No. 17-80, me e ffat Mwóghutughutul Sick Leave Bank, iye eyoor bwángil sángi Alléghúl Toulap No. 8-25.

**KKAPASAL ME WEEWEL:** Civil Service Commission re ppwomw rebwe adóptááli liiwel ngáli Mwóghutughutúl Sick Leave Bank iye e lo bwe NMIAC § 10-10-515.

KKAPASAL ME AUTOL: Commission re weri bwe eyoor liiwel ngáli Mwóghutughutul Sick Leave Bank, iye e ghikkill bwe NMIAC § 10-10-50-410 ngáli §10-10-515, rese tiip igha rese aschuulong llól arongorongol liiwel iwe e ghommw iwe re arongawow me llól Commonwealth Register, Volume 09, wóól Maan 28, 2022, wóól peigh 049004 ngáli 049018.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Civil Service Commission re tingór kkapas ngali ppwommwol mwóghutughut ikka rebwe bwughi sángi Commission Ilól eliigh (30) ráál mwiril aal ghommwal akkatééwow arongorong yeel me Ilól Commonwealth Register, 1 CMC § 9104(a)(2). Schóó kka re tipáli rebwe isiisilong kkapas wóól ppwomol liiwel kkal rebwe isiis ngáli Teresa Borja, Executive Assistant, Civil Service Commission, ngáli féléf el, ngáre email address, ebwe lo wóól subject line bwe "Amendments to the Sick Leave Bank."

> CIVIL SERVICE COMMISSION P.O. BOX 5153 CHRB SAIPAN, MP 96950 Email address: staff@cnmicsc.net

Arongorongol Liiwel – "Sick Leave Bank" Peigh 2

PAGE 049611

Isáliyalong:

nantita

Jake Maratita Chairperson, Civil Service Commission 2.27.2023

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Bwughiyal:

Frank Roboolimon Core M. BABOTA

Special Assistant ngáli Administration

Ammwelil:

anilar

Esther R.M. San Nicolas Commowealth Registrar

2/28/2023

Ráál

Narch 28, 2023

Ráál

I alúghúlúgh, sángi 1 CMC § 2153 (e) me 1 CMC § 9104 (a)(3), bwe I ya takkal amwuri fischiiy me átirowa mwóghutughut kkal bwe aa lléghló reel fféérúl me legal sufficiency.

Mauten

Edward Manibusan Soulemelemil Allégh Lapalap

Ráal March 6; 2023



JAKE MARATITA Kabesiyu, CSC COMMONWEALTH GI SANKATTAN NA ISLAS MARIÅNAS KUMISIÓN CIVIL SERVICE UFISINAN ATMINISTRASIÓN IMPLI'ÅO P.O. BOX 5153 CHRB, SAIPAN, MP 96950-5153 CSC TEL NO: (670) 233-1606 | FAX NO: (670) 233-4096 OPM TEL. NO: (670) 234-6925 / 6958 / 8036 | FAX NO. (670) 234-1013 CSC website: http://www.cnmicsc.net | OPM website: http://www.cnmiopm.net



FRANCES TORRES-SALAS Direktot Personnel

#### NUTISIAN NU I MA'AMENDA SIHA GI REGULASIÓN "SICK LEAVE BANK" (NMIAC § 10-10-50-410 asta §10-10-515)

NUTISIAN I MA'INTENSIONA NA AKSION: I Commonwealth gi Sankattan na Islas Mariånas, i Kumisión Civil Service ("i Kumisión") ha intensiona para u amenda i regulasion "Sick Leave Bank", sigun gi maneran nu i Åkton Administrative Procedure, I CMC § 9104 (a). I amenda siempri umifektibu gi dies (10) dihas dispues di i tinåttiyi yan i 1 CMC § 9102 yan 9104 (a) komu mamensiona ni 1 CMC § 9105 (b).

**ÅTURIDÅT: I** Kumisión gai åturidåt estatua para u cho'gui yan u implimenta i regulasion personnel sigun para I CMC § 8117, komu ma'amenda ni Lain Pupbliku No. 17-80, yan ispesifikåo i Regulasión "Sick Leave Bank", komu ma'aturisa ni Lain Pupbliku No. 8-25.

I TEMA YAN I SUSTÅNSIAN I PALÅBRA SIHA: I Kumisión mampropoponi para u adåpta i tinilaika siha gi Regulasión "Sick Leave Bank" otganisa komu NMIAC § 10-10-50-410 asta §10-10-515.

I SUHETU YANI ASUNTU SIHA NI TINETEKKA': I Kumisión maripåra na palu na amenda siha gi Regulasión "Sick Leave Bank", otganisa komu NMIAC § 10-10-50-410 asta § 10-10-515, sin intension ti mana'hålum ginen i ma'pus na amenda ni mapupblika gi halum Rehistran Commonwealth, Baluma 44, Numiru 09, gi Septembri 28, 2022, gi påhina 049004 para 049018 siha.

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA:** I Kumisión Civil Service manmamamaisin upiñon siha put esti i manmaproponi na regulasión, ni debi di u marisibi ginen i Kumisión gi halum trenta (30) dihas ginen i fine'na na pupblikasión esti na nutisia gi halum Rehistran Commonwealth, 1 CMC § 9104(a)(2). I manintires na pattidå siña muna'halum upiñon siha gi maproponi na amenda siha para as Teresa Borja, Eksakatibun Ayudånti, Kumisión Civil Service, gi tinåttiyi na address, osino email address, yan i suhetu na råya "Amenda gi Sick Leave Bank."

CIVIL SERVICE COMMISSION P.O. BOX 5153 CHRB SAIPAN, MP 96950 Email address: staff@cnmicsc.net

Nutisian Ma'amenda - Sick Leave Bank

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Page 2

Nina'hålum as:

nantih

Jake Maratita Kabesiyu, Kumisión Civil Service

Rinisibi as:

4 BATA

2.27.2023

Fetcha

Frank Rabachinan Star M. Ispisiåt na Ayudånti para i Atministrasión

2/28/2023

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Pine'lu yan Ninota as:

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Esther .M. San Nicolas Rehistran Commonwealth

Varch 28, 2023 Fetcha

Hu testiguyi, sigun gi 1 CMC § 2153 (e) yan gi 1 CMC § 9104 (a)(3), na hu ribisa yan apreba esti siha na regulasion komu fotma yan ligåt sufisienti.

Marin hn

Edward Manibusan Abugådu Hiniråt

March 6, 2023

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#### §10-50-410 Disability

If the Director of Personnel <u>Management</u> determines that the expected disability precludes the employee from performing the essential job functions of any equivalent government position, the Director of Personnel <u>Management</u> shall deny additional sick leave hours to the employee. The Director of Personnel <u>Management</u> shall then recommend the employee apply for disability retirement benefits.

History: Adopted 19 Com. Reg. 15748 (Nov. 15, 1997); Proposed 19 Com. Reg. 15638 (Sept. 15, 1997).

#### Part 500 - Miscellaneous

#### § 10-50-501 Appeal

Any employee denied hours from the sick leave bank has the following recourse:

(a) The employee shall, within two five (5) business days of the denial, request the Director of Personnel Management reconsider his or her decision to deny the request. The employee may supplement the original withdrawal request with additional information. The Director of Personnel Management must issue a written final decision within five (5) business days of the request for reconsideration. If the Director affirms the original denial, the decision shall include the specific reason(s) for the denial and a summary of the evidence relied upon.

(b) If the employee chooses to appeal the Director of Personnel's <u>Management's</u>-final decision, the appeal must be filed at the Civil Service Commission ("Commission") officeCommission-office within five (5) business days after the employee receives the final decision. The appeal shall be processed by the Commission in the same manner as it processes a grievance under Personnel Service System Rules and Regulations, NMIAC § 10-20.2-294(c) through § 10-20.2-294(h).

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 19 Com. Reg. 15748 (Nov. 15, 1997); Proposed 19 Com. Reg. 15638 (Sept. 15, 1997).

#### § 10-50-505 Records

The Director of Personnel Management or his designee shall maintain records of all hours contributed to, withdrawn from, and returned to the sick leave bank.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15748 (Nov. 15, 1997); Proposed 19 Com. Reg. 15638 (Sept. 15, 1997).

#### § 10-50-510 Effect on Family Medical Leave Act

All hours withdrawn from the sick leave bank shall be counted towards the leave time provided by the federal Family Medical Leave Act of 1993 and implemented in the Commonwealth by the Personnel Service System Rules and Regulations, NMIAC § 10-20.2-625 and the Excepted

Service Personnel Regulations, NMIAC § 10-10-135.

#### §10-50-515 Maintenance of the General Account

The general account of the sick leave bank shall be maintained and managed by the Office of Personnel Management. The Office of Personnel Management shall periodically advise government employees of these regulations, the purpose of the sick leave bank and the possibility of donating hours to the bank. It shall also provide an option on all exit interviews for employees leaving the government to donate their unused sick leave hours to the sick leave bank.

Modified, 1 CMC § 3806(c).

History: Adopted 19 Com. Reg. 15748 (Nov. 15, 1997); Proposed 19 Com. Reg. 15638 (Sept. 15, 1997).

Final	Agency Action
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		PUA-21-0126 Page 1 of 4	
	Page 1 of 4 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF LABOR ADMINISTRATIVE HEARING OFFICE		
OTTICALSEAL 3	In Re Matter of:	) PUA Case No. 21-0126	
ATHENT OF 4	Jennifer Angello,	)	
5	Appellant,	) ORDER DENYING APPELLANT'S ) REQUEST TO RECUSE;	
7	V.	) ORDER DENYING REQUEST TO ) REOPEN;	
8 9	CNMI Department of Labor, Division of Employment Services-PUA,	) ) FINAL AGENCY ACTION	
10	Appellee.		
11			
12	I. INTRODUCTION		
13	On February 3, 2023, Appellant filed a written request to reopen this case and rec		
14	undersigned hearing officer. On February 16	5, 2023, Appellant filed clarifications to further	
15	explain the request to reopen. As discussed bel	ow, Appellant's requests are <b>DENIED</b> .	
16	II. I	DISCUSSION	
17	Appellant has the burden to prove that the above-captioned case warrants reopening and		
18	undersigned hearing officer should recuse from the case. Each issue is discussed below.		
19	1. Request to Recuse		
20		when there is "any direct or indirect interest in the	
20		which the [hearing officer's] relative by affinity or	
21		sted" or "whenever any party files with the direct or prejudice against such party or in favor of any	
22		avit must be supported by facts demonstrating bias	
		ualified when allegations for impartiality are valid	
24		s not possible. <i>Id.</i> Further, the hearing officer may	
25		with absolute impartiality of a pending matter. <i>Id.</i>	
26		taffler to recuse the undersigned hearing officer.	
27		vledge of the Hawaiian unemployment insurance	
28			

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laws and rules and lacks willingness to apply the mandates of UIPL advisories. Further, Appellant alleges bias and an apparent ex parte communication with the Department.

As a preliminary matter, the undersigned hearing officer does not have any direct or indirect interest in the case. After considering all of the circumstances, the undersigned finds no personal, financial, or familial connection to motivate a certain outcome.

5 Further, Appellant fails to demonstrate a need for recusal for prejudice or bias. 6 Appellant's allegations are unsupported by facts. First, with respect to the allegations regarding 7 Hawaiian unemployment insurance laws, the reasoned interpretation and application of law is not 8 prejudice or bias. The undersigned recognizes that a case can be reopened with a written request - however, that section of the law does include state when a request to be reopened should be 9 granted. Considering that an appellant has the burden to prove a legal or factual error occurred 10 and its occurrence warrants reversal and to avoid requests for reopening to simply relitigate issues, 11 the Administrative Hearing Office requires that requests be accompanied by some basis to support 12 reopening. Second, with respect to alleged unwillingness to apply the mandates of UIPL 13 advisories, the undersigned did not ignore the applicable law. Rather, the issue of overpayment 14 was moot and not further discussed in the Administrative Order because: (1) payment was 15 intercepted before finalized at the bank; (2) the Department never issued an overpayment 16 determination for the undersigned to review; and (3) UIPL guidance regarding waivers do not 17 apply if an overpayment was not established by the Department. Third, with respect to allegations 18 of bias and ex parte communications, Appellant's request fails to include a sworn affidavit supported by facts. For that reason, it is unclear what actions or communications demonstrate 19 bias and ex parte communication. To be clear, the undersigned hearing officer does not 20 communicate with the parties outside of a noticed hearing. Further, hearing staff intercept all 21 communications and filings to avoid direct contact between the hearing officer and parties. The 22 undersigned finds that a reasoned application of the law is insufficient to demonstrate bias or 23 prejudice warranting recusal. Accordingly, based on above, Appellant's request to recuse the 24 undersigned hearing officer is **DENIED**.

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#### 2. Request to Reopen

Pursuant to HAR §12-5-93, "[a]ny application for reopening shall be in writing." HAR §125-93(h). "The [hearing officer] may grant or deny the application without a hearing or may notify
the parties to appear at a designated place and time for argument on the application." *Id.* "A

[hearing officer] may reconsider the decision upon the evidence already in the record or take such additional evidence as the [hearing officer] deems necessary in order to decide the case and give the parties a fair hearing." HAR §12-5-93(i). A decision may only be reopened once. "A denial of an application to reopen the decision shall not be subject to further reopening." HAR §12-5-93(j). In the event that an application to reopen is denied or parties have further objections to a subsequent decision, the parties may obtain judicial review. Id.

6 Appellant requests the undersigned to reopen this case. In support of reopening, Appellant 7 argues that there are new legal issues relating to the U.S. Department of Labor's UIPL advisories 8 that were ignored. First, Appellant argues that the contents of email communications with the department were contradictory and warrant a new appeal. Upon review of the attached 9 communication, the undersigned noticed that the email was not a new determination warranting 10 a new appeal but an opinion and attempt to clarify or explain the UIPL. This email 11 communication, in and of itself, does not create new legal issues warranting reopening. Second, 12 as discussed below, the UIPL guidance<sup>1</sup> was not ignored. Based on the evidence presented at the 13 hearing, the undersigned found that: (1) Appellant was not eligible for PUA; (2) there was no 14 overpayment established and no determination for the undersigned to review; and (3) the 15 discussion on waivers for repayment or recovery of an overpayment was moot because there were 16 no benefits to recoup from Appellant. Here, the Department intercepted the funds before payment 17 was finalized and never issued an overpayment determination with an amount to repay. Because 18 payment was not made, the issue of waivers for repayment was moot and irrelevant to deciding the issues on appeal. 19

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Ultimately, Appellant's request to reopen does not demonstrate a basis to reconsider the undersigned's decision. Specifically, Appellant's request to reopen does not demonstrate: (1) 21 misapplication of the law that would change the outcome of the case; (2) factual error that would 22 change the outcome of the case; (3) the overpayment occurred; (4) the waiver applies; or (5) 23 Appellant satisfies the two-prong test for a waiver. In conclusion, Appellant does not provide any

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<sup>26</sup> <sup>1</sup> Generally, when individual receive PUA or FPUC benefits to which they are not entitled, states must require repayment of these amounts. Section 4.d of UIPL20-21 describes that the Department may waive recovery of the 27 overpayment (i.e., not require claimants to pay back improper payments) when: (1) the improper payment occurred without the claimant's fault; and (2) equity and good conscience requires it. This provision allows the Department to 28 forgive improper payments, it does not allow the Department to make improper payments, especially after a finding

	Final Agency Action PUA-21-0126 Page 4 of 4
1	new information or arguments to justify reopening this case or reversing the decision. Based on
2	above, Appellant's request to reopen this case is <b>DENIED</b> .
	III. CONCLUSION
3	As discussed above, Appellant's request to recuse and reopen the above-captioned case is
4	hereby <b><u>DENIED</u></b> . The CNMI Department of Labor's Disqualifying Determination, dated June
5	11, 2021 is affirmed. Appellant is not eligible to receive PUA benefits. The Administrative Order,
6	issued October 25, 2021, and this present Order shall constitute a FINAL AGENCY
7	DECISION.
8	In the event a party aggrieved by this Order would like to dispute or contest this decision, said
9	party may seek judicial review with the CNMI Superior Court under the local Administrative
10	Procedures Act within 30 days of this Order. See 1 CMC § 9112.
11	So ordered this Oth day of March 2022
12	So ordered this <u>9th</u> day of March, 2023.
13	<u>/s/</u>
14	<b>Jacqueline A. Nicolas</b> Chief Administrative Hearing Officer
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Common	WEALTH REGISTER VOLUME 45 NUMBER 03 MARCH 28, 2023 PAGE 049620

#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF LABOR ADMINISTRATIVE HEARING OFFICE

4	In Re Matter of:	) PUA Case No. 22-0221
5	Karmen Ohri,	)
6	Appellant,	) ) ADMINISTRATIVE ORDER
7		)
8	V.	)
9	CNMI Department of Labor,	)
10	Division of Employment Services-PUA,	)
11	Appellee.	)
12		_)

#### I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on February 14, 2023 at 9:00 a.m. at the Administrative Hearing Office, Saipan, CNMI. Appellant Karmen Ohri, formerly known as Karmen Ohri Villagomez ("Appellant"), was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Department") was present and represented by PUA Coordinator Naomi Camacho. There were no other witnesses that provided testimony at the hearing. A list of the admitted evidence were added to the end of this Administrative Order.

For the reasons stated below, the Department's Determination dated June 23, 2021 is AFFIRMED. Appellant is not eligible for benefits for the period of December 27, 2020 to September 4, 2021.

#### II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of
2020 was signed into law creating new temporary federal programs for unemployment benefits
called Pandemic Unemployment Assistance ("PUA")<sup>1</sup> and Federal Pandemic Unemployment
Compensation ("FPUC").<sup>2</sup> On December 27, 2020, the Continued Assistance for Unemployed
Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said

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<sup>1</sup> See Section 2102 of the CARES Act of 2020, Public Law 116-136.

<sup>2</sup> See Section 2104 of the CARES Act of 2020, Public Law 116-136.

federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.<sup>3</sup> On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance to applicable law.<sup>4</sup> The CNMI Department of Labor Administrative Hearing Office has been designated to preside over appeals of agency decisions.

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on June 23, 2021. On November 21, 2022, Appellant filed the present appeal and the matter was scheduled for a hearing. As stated in the Notice of Hearing, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is eligible for PUA; and (3) whether an overpayment occurred and funds should be returned.

Upon review of the records, the appeal is not timely filed. Accordingly, jurisdiction is notestablished.

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16	In consideration of the evidence provided and credibility of witnesses' testimony, the
17	undersigned issues the following findings of fact:
	1. On or around June 15, 2021, Appellant submitted an application <sup>5</sup> for unemployment
19	assistance under the PUA and FPUC programs administered by the Department. In the

- application,<sup>6</sup> Appellant self-certified under penalty of perjury that:
  - a. She is the owner or sole proprietor of a business named "E&S Catering";
  - b. Her self-employment was directly affected by COVID-19 for none of the reasons listed on the application;
    - c. Her employment was affected since March 20, 2020; and
  - d. For all quarters of year 2020, her net earnings were zero (\$0.00).
- 29 <sup>3</sup> See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").
- <sup>30</sup> <sup>4</sup> Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
   <sup>5</sup> Exhibit 1.

<sup>6</sup> Id.

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	Administrative Order PUA-22-0221 Page 3 of 6
1	2. There is no showing that Appellant's self-employment was directly affected by COVID-
2	19 pandemic. Specifically,
3	a. E&S Catering closed due to Typhoon Yutu in October 2018.
4	b. When E&S Catering was open, it was not making any profits or earnings. <sup>7</sup>
5	c. Appellant had a valid business license for E&S Catering only until
6	November 18, 2018. After said business license expired, Appellant was unable to
7	renew or obtain a new license.
8	d. Immediately prior to COVID-19 pandemic, Appellant was no longer an owner or
9	sole proprietor of a business. Moreover, Appellant was not employed and she did
10	not have any attachment to the CNMI workforce.
11	e. After the PUA and FPUC benefit period ended on September 4, 2021, Appellant
12	obtained a business license under a new business name, "Kaselehlie", which is
13	located in Chalan Kanoa Village, Saipan. The Kaselehlie business license was
14	valid from November 2, 2021 to November 2, 2022. <sup>8</sup>
15	f. Appellant had no other documents to show that she owned a business or had any
16	attachment to the CNMI workforce that was directly affected by COVID-19 from
17	December 27, 2020 to September 4, 2021.
18	3. On June 23, 2021, the Department issued a Determination <sup>9</sup> disqualifying Appellant from
19	benefits from December 27, 2020 to September 4, 2021 because the Department found
20	that Appellant's business license was expired since November 18, 2018 and it was not
21	renewed, and based on the Appellant's 2019 and 2020 BGRTs, Appellant was unable to
22	substantiate that her employment was directly affected by the COVID-19 pandemic.
23	4. On November 21, 2022, more than one year after the Determination was issued, Appellant
24	filed the present appeal <sup>10</sup> and the matter was scheduled for an Administrative Hearing. <sup>11</sup>
25	5. Appellant was unable to provide credible testimony or substantiating documents on why
26	she filed late.
27	6. The Department provided credible testimony and supporting documents the Department
28	informed Appellant of the disqualification, the basis for the disqualification, and gave
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30	<sup>7</sup> See Exhibit 6.
31	<sup>8</sup> See Exhibit 5. <sup>9</sup> See Exhibit 2. <sup>10</sup> See Exhibit 3. <sup>11</sup> See Exhibit 4.
соммог	WEALTH REGISTER VOLUME 45 NUMBER 03 MARCH 28, 2023 PAGE 049623

2 when Appellant followed up on her PUA and FPUC application. 3 7. The Department also provided Appellant with instructions on how to file her appeal through the Benefit Rights Information Handbook.<sup>12</sup> newspaper articles.<sup>13</sup> and the 4 Determination.<sup>14</sup> 5 8. Appellant did not receive any PUA or FPUC benefits, and the Department's Benefit 6 7 Payment Control Unit confirmed there is no overpayment to Appellant.<sup>15</sup> CONCLUSIONS OF LAW 8 IV. 9 In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law: 10 11 1. Appellant's appeal is not timely filed. Generally, an appeal should be filed within ten days after the Determination was issued or 12 served to the claimant. However, the Department may extend the period to thirty days by a 13 showing of good cause.<sup>16</sup> Good cause means: (1) illness or disability; (2) keeping an appointment 14 for a job interview; (3) attending a funeral of a family member; and (4) any other reason which 15 would prevent a reasonable person from complying as directed.<sup>17</sup> 16 17 Here, Appellant failed to file her appeal within the 10-day deadline and Appellant did not 18 have good cause to file late. Specifically, the Determination was issued on June 23, 2021 and 19 Appellant did not file her request to appeal until November 21, 2022, which is more than one year 20 after the Determination was issued. Additionally, based on testimony and substantiating 21 documents, the undersigned finds that Appellant did not have good cause to file late. When asked 22 at the hearing for an explanation for the late filing, Appellant's only explanation was that she 23 followed up with the Department and submitted the required business licenses. However, Appellant admitted that she did not file a request to reconsider or request to appeal. The 24 Department provided credible testimony and supporting documents<sup>18</sup> that on instances when 25 26 Appellant followed up on her claims, the Department informed Appellant of the disgualification, 27 28 29 <sup>12</sup> Exhibit 9. 13 Id. 30 <sup>14</sup> See Exhibit 2. <sup>15</sup> Exhibit 8. 31 <sup>16</sup> HI. Rev. Statute § 383-38(a). <sup>17</sup> HAR § 12-5-81(j). 18 See Exhibit 7. PAGE 049624 VOLUME 45 NUMBER 03 MARCH 28, 2023 COMMONWEALTH REGISTER

Appellant instructions on the appeals process including the 10-day deadline on instances

the reason for the disqualification, and the appeals process. The Department also provided
 Appellant with instructions on how to file her appeal through multiple avenues with the deadline
 clearly stated. This includes appeals instructions and information in the Benefit Rights
 Information Handbook, the Determination, and through newspaper articles. Generally, the failure
 to follow instructions and correctly file an appeal are not good cause for an extension.

Considering that Appellant's appeal is untimely, the Department's Determination is final and
the latter issues are moot. Note that even if a 30-day extension was granted for good cause,
Appellant filed her appeal more than one year after the Determination was issued. Accordingly,
because the appeal is untimely, the Administrative Hearing Office does not have jurisdiction to
review the Department's Determination and the Determination shall be deemed final.

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#### DECISION

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For the reasons stated above, it is ORDERED that:

1. The Department's Determination, dated June 23, 2021, is AFFIRMED; and

V.

 Appellant is <u>NOT ELIGIBLE</u> to receive PUA and FPUC benefits for the period of December 27, 2020 to September 4, 2021.

If a party is aggrieved by this Order and would like to contest the decision, he or she must
 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The
 written request should be supported by legal, factual, or evidentiary reasons to reopen the
 decision. The written request must be submitted to the Administrative Hearing Office, either in
 person at Building #1357, Mednilla Avenue, Capitol Hill, Saipan, CNMI or via email at
 hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, and if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the CNMI Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

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So ordered this 27th day of February, 2023.

/s/ CATHERINE J. CACHERO Administrative Hearing Officer

Administrative C PUA-22-	221
Page 6	of 6
2 1. Exhibit 1: Copy of Appellant's Application Snapshot, filed June 15, 2021;	
<sup>3</sup> 2. Exhibit 2: Copy of the Department's Disqualifying Determination, dated June 23, 2021;	
4 3. Exhibit 3: Copy of Appellant's Request to File an Appeal and supporting documents, fi	led
5 November 21, 2022;	
6 4. Exhibit 4: Copy of the Notice of Hearing, issued November 21, 2022;	
7 5. Exhibit 5: Copies of Appellant's Business Licenses, issued on November 28, 2017	ind
<ul> <li>8 November 18, 2021;</li> <li>9 C Exhibit &amp; Conice of Annellout's DCDTs for months of November 2018. December 20</li> </ul>	
<ul> <li>6. Exhibit 6: Copies of Appellant's BGRTs for months of November 2018, December 20</li> <li>2019, and 2020, all showing zero income;</li> </ul>	18,
11 7. Exhibit 7: Copies of the Department's Case Notes, dated June 23, 2021 and August 17, 20	22;
12 8. Exhibit 8: Copies of the Department's Benefit Payment Control Unit's En	ail
13 Communication, dated January 26, 2023; and	
<sup>14</sup> 9. Exhibit 9: Copies of the PUA & FPUC Benefit Rights Information Handbook and Newspa	per
Articles regarding the Appeals Process, posted in the Saipan Tribune and Marianas Vari	ety,
16 on October 15, 2020 and October 16, 2020.	
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### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF LABOR ADMINISTRATIVE HEARING OFFICE

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j	In Re Matter of: DUA Case No. 22.0222	
4	4   FUA Case No. 22-0222	
5	5 Sabinoy Chakraborty,	
6 7	Appellant, ) ADMINISTRATIVE ORDER	
8	V )	
9		
10	Division of Employment Services-PUA,	
11	1 Appellee.	
12	2	
13	I. INTRODUCTION	
14	This matter came before the undersigned for an Administrative Hearing on February	23, 2023
15	at 9:00 a.m. at the Administrative Hearing Office, Saipan, CNMI. Appellant Sabinoy Ch	akraborty
16	6 ("Appellant"), was present and self-represented. Appellee CNMI Department of Labor	Division
17	7 of Employment Services – Pandemic Unemployment Assistance program ("Departme	ent") was
18	8 present and represented by PUA Supervisor Zachary Taitano. There were no other with	esses that
19	provided testimony at the hearing. A list of the admitted evidence were added to the e	nd of this
20	Administrative Order.	
21	For the reasons stated below, the Department's Determination dated December 31	, 2020 is
22	AFFIRMED. Appellant is not eligible for benefits for the period of February 2,	2020 to
23	3 December 26, 2020.	
24	4 II. JURISDICTION	
25	5 On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES	") Act of
26	6 2020 was signed into law creating new temporary federal programs for unemploymen	t benefits
27	7 called Pandemic Unemployment Assistance ("PUA") <sup>1</sup> and Federal Pandemic Unem	ployment
28	8 Compensation ("FPUC"). <sup>2</sup> On December 27, 2020, the Continued Assistance for Une	employed
29	9 Workers Act of 2020 ("Continued Assistance Act") amended and created new provisio	ns of said
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31	1	
	<sup>1</sup> See Section 2102 of the CARES Act of 2020, Public Law 116-136. <sup>2</sup> See Section 2104 of the CARES Act of 2020, Public Law 116-136.	

federal unemployment insurance programs, which, among other things, extended the PUA and
 FPUC programs to March 13, 2021.<sup>3</sup> On March 11, 2021, the American Rescue Plan Act of 2021
 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is
 charged with the responsibility in administering the above-mentioned programs in the CNMI in
 accordance to applicable law.<sup>4</sup> The CNMI Department of Labor Administrative Hearing Office
 has been designated to preside over appeals of agency decisions.

Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon review of Appellant's application and supporting documents, the Department issued a Disqualifying Determination on December 31, 2020. On November 22, 2022, Appellant filed the present appeal and the matter was scheduled for a hearing. As stated in the Notice of Hearing, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is eligible for PUA; and (3) whether an overpayment occurred and funds should be returned.

Upon review of the records, the appeal is not timely filed. Accordingly, jurisdiction is notestablished.

#### **III. FINDINGS OF FACT**

16 In consideration of the evidence provided and credibility of witnesses' testimony, the
17 undersigned issues the following findings of fact:

- On or around June 21, 2020, Appellant submitted an application<sup>5</sup> for unemployment assistance under the PUA and FPUC programs administered by the Department. In the application,<sup>6</sup> Appellant self-certified under penalty of perjury that:
  - a. He is an Alien/Refugee Lawfully Admitted to the U.S.;
  - b. He is the owner or sole proprietor of a business named "SAIPAN TAXI SERVICE";
  - c. His self-employment was directly affected by COVID-19 when he was scheduled to commence employment and do not have a job or he is unable to reach the job as a direct result of the COVID-19 public health emergency;
- 29 3 See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

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 <sup>&</sup>lt;sup>4</sup> Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.
 <sup>5</sup> Exhibit 1.

<sup>&</sup>lt;sup>6</sup> Id.

	Administrative Order PUA-22-0222 Page 3 of 7
1	d. His employment was affected since February 2, 2020; and
2	e. For all quarters of year 2020, his net earnings were zero (\$0.00).
3	2. There is no showing that Appellant is a qualified alien at the time relevant to his claim,
4	which is February 2, 2020 to December 26, 2020. Specifically,
5	a. Appellant provided a copy of his most recent employment authorization card under
6	Category C11, but this authorization had expired on June 29, 2019. <sup>7</sup>
7	b. Appellant applied to U.S. Citizenship and Immigration Services ("USCIS") for re-
8	parole, but USCIS denied his request on or around April 2, 2020.8
9	c. Appellant then applied for employment authorization, but USCIS denied his
10	application for employment authorization on or around April 7, 2022.9
11	d. When questioned with regards to each provision of the qualified alien statute, <sup>10</sup>
12	Appellant answered in the negative.
13	e. Moreover, Appellant had no other documents to establish that he had any other
14	status during the relevant claimed period.
15	3. On or around December 29, 2020, the Department entered Appellant's information into
16	the Systematic Alien Verification for Entitlements ("SAVE") database maintained by
17	USCIS, Verification Division. <sup>11</sup> This database is used to determine the status of claimants
18	so that only those entitled to benefits receive them. The SAVE results <sup>12</sup> indicated that
19	Appellant was a non-national of the U.S. and that his most recent employment
20	authorization was under Category C11 but it had expired on June 29, 2019. <sup>13</sup>
21	4. On December 31, 2020, the Department issued a Determination <sup>14</sup> disqualifying Appellant
22	from benefits from February 2, 2020 to December 26, 2020 because the Department found
23	that based on the evidence provided, Appellant is not a U.S. citizen, Non-Citizen National,
24	or Qualified Alien.
25	5. Appellant filed a "Redetermination Letter" on or around June 7, 2022. <sup>15</sup>
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28	<sup>7</sup> See Exhibit 9. <sup>8</sup> See Exhibit 10.
29	<sup>9</sup> See Exhibit 11.
30	<sup>10</sup> See 8 USC § 1641. <sup>11</sup> See Exhibit 8.
31	<ul> <li><sup>12</sup> Exhibit 8.</li> <li><sup>13</sup> See id.; see also Exhibit 9.</li> <li><sup>14</sup> See Exhibit 2.</li> <li><sup>15</sup> See Exhibit 5.</li> </ul>
COMMON	WEALTH REGISTER VOLUME 45 NUMBER 03 MARCH 28, 2023 PAGE 049629

	A dministrative Order PUA-22-0222 Page 4 of 7
1	6. On November 22, 2022, almost two years after the Determination was issued, Appellant
2	filed the present appeal <sup>16</sup> and the matter was scheduled for an Administrative Hearing. <sup>17</sup>
3	7. Appellant was unable to provide credible testimony or substantiating documents on why
4	he filed his appeal late.
5	8. The Department provided credible testimony and supporting documents that the
6	Department informed Appellant of the disqualification and the basis for the
7	disqualification, <sup>18</sup> and on instances when Appellant followed up on his PUA and FPUC
8	application, the Department gave Appellant instructions on the appeals process including
9	the 10-day deadline.
10	9. The Department also provided Appellant with instructions on how to file his appeal within
11	the 10-day deadline through the Benefit Rights Information Handbook, <sup>19</sup> newspaper
12	articles, <sup>20</sup> and the Determination. <sup>21</sup>
13	10. Appellant did not receive any PUA or FPUC benefits, and the Department's Benefit
14	Payment Control Unit confirmed there is no overpayment to Appellant. <sup>22</sup>
15	IV. CONCLUSIONS OF LAW
16	In consideration of the above-stated findings and applicable law, the undersigned issues the
17	following conclusions of law:
18	1. Appellant's appeal is not timely filed.
19	Generally, an appeal should be filed within ten days after the Determination was issued or
20	served to the claimant. However, the Department may extend the period to thirty days by a
21	showing of good cause. <sup>23</sup> Good cause means: (1) illness or disability; (2) keeping an appointment
22	for a job interview; (3) attending a funeral of a family member; and (4) any other reason which
23	would prevent a reasonable person from complying as directed. <sup>24</sup>
24	Here, Appellant failed to file his appeal within the 10-day deadline and Appellant did not have
25	good cause to file late. Specifically, the Determination was issued on December 31, 2020 and
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28	<sup>16</sup> See Exhibit 3. <sup>17</sup> See Exhibit 4.
29	<ul> <li><sup>18</sup> See Exhibit 6.</li> <li><sup>19</sup> Exhibit 13.</li> </ul>
30	<sup>20</sup> Exhibit 12. <sup>21</sup> See Exhibit 2.
31	<ul> <li><sup>22</sup> Exhibit 14.</li> <li><sup>23</sup> HI. Rev. Statute § 383-38(a).</li> <li><sup>24</sup> HAR § 12-5-81(j).</li> </ul>
COMMON	WEALTH REGISTER VOLUME 45 NUMBER 03 MARCH 28, 2023 PAGE 049630

Appellant did not file his request to appeal until November 22, 2022, which is almost two years 1 2 after the Determination was issued. Based on testimony and substantiating documents, the 3 undersigned finds that Appellant did not have good cause to file late. When asked at the hearing for an explanation for the late filing, Appellant's only explanation was that he followed up with 4 5 the Department. However, based on Appellant's testimony and substantiating documents, on 6 instances when Appellant followed up on his claims, the Department informed Appellant of the 7 disqualification, the reason for Appellant's disqualification, and the appeals process. The Department also provided credible testimony and supporting documents<sup>25</sup> to show that the 8 9 Department provided Appellant with instructions on how to file his appeal through multiple 10 avenues with the 10-day deadline clearly stated. This includes appeals instructions and information in the Benefit Rights Information Handbook, the Determination, and through 11 newspaper articles. Instead of following the instructions and meeting the deadline, Appellant filed 12 a request to reconsider via a "Redetermination Letter" on or around June 7, 2022, which is one 13 and a half years after the Determination was issued. Five months later, on November 22, 2022, 14 15 Appellant finally filed his request to appeal with the Administrative Hearing Office. Generally, the failure to follow instructions and correctly file an appeal are not good cause for an extension. 16 17 Considering that Appellant's appeal is untimely, the Department's Determination is final and the latter issues are moot. Note that even if a 30-day extension was granted for good cause, 18 19 Appellant filed his appeal more than one year after the Determination was issued. Accordingly, because the appeal is untimely, the Administrative Hearing Office does not have jurisdiction to 20 21 review the Department's Determination and the Determination shall be deemed final. V. DECISION 22 23 For the reasons stated above, it is ORDERED that: 24 1. The Department's Determination, dated December 31, 2020, is AFFIRMED; and 25 2. Appellant is NOT ELIGIBLE to receive PUA and FPUC benefits for the period of 26 February 2, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must
 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The
 written request should be supported by legal, factual, or evidentiary reasons to reopen the
 decision. The written request must be submitted to the Administrative Hearing Office, either in

<sup>25</sup> See Exhibit 7.

	Administrative Order PUA-22-0222 Page 6 of 7
1	person at Building #1357, Mednilla Avenue, Capitol Hill, Saipan, CNMI or via email at
2	hearing@dol.gov.mp.
3	In the event a request to reopen the decision is granted, the matter shall be scheduled for a
4	subsequent hearing. In the event a request to reopen the decision is denied, and if the Appellant
5	still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI
6	Superior Court under the CNMI Administrative Procedures Act. See 1 CMC § 9112. All forms,
7	filings fees, and filing deadlines for judicial review will be as established by the applicable law
8	and court rule.
9	So ordered this <u>28th</u> day of February, 2023.
10	/s/ CATHERINE J. CACHERO
11	Administrative Hearing Officer
12	
13	LIST OF ADMITTED EVIDENCE
14	
15	1. Exhibit 1: Copy of Appellant's Application Snapshot, filed June 21, 2021;
16	2. Exhibit 2: Copy of the Department's Disqualifying Determination, dated December 31, 2020;
17	3. Exhibit 3: Copy of Appellant's Request to File an Appeal and Disqualifying Determination,
18	filed November 22, 2022;
19	4. Exhibit 4: Copy of the Notice of Hearing, issued November 22, 2022;
20	5. Exhibit 5: Copy of Appellant's "Redermination Letter," dated June 1, 2022;
21	6. Exhibit 6: Copies of the Department's Case Notes, dated December 30, 2020, June 22, 2021,
22	April 27, 2022, June 21, 2022, June 22, 2022, and September 29, 2022;
23	7. Exhibit 7: Copy of Department's Northern Mariana Islands Portal – Preview Message, dated
24	December 3, 2020;
25	8. Exhibit 8: Copy of Departments SAVE Response, dated December 29, 2020;
26	9. Exhibit 9: Copy of Appellant's Employment Authorization Card (valid until June 29, 2019)
27	and Bangladesh Passport (valid until February 18, 2023);
28	10. Exhibit 10: Copy of U.S. Citizenship and Immigration Services' Notice of Decision on
29	Appellant's Parole Request, dated April 2, 2020;
30	11. Exhibit 11: Copy of U.S. Citizenship and Immigration Services' Form I-797C, Notice of
31	Action on Appellant's Form I-765, dated April 7, 2022;

	Administrative Order PUA-22-0222 Page 7 of 7
1	12. Exhibit 12: Copies of Newspaper Articles regarding the Appeals Process, posted in the Saipan
2	Tribune and Marianas Variety, on October 15, 2020 and October 16, 2020.
3	13. Exhibit 13: Copy of the PUA & FPUC Benefit Rights Information Handbook; and
4	14. Exhibit 14: Copy of the Department's Benefit Payment Control Unit's Email Communication,
5	dated February 15, 2023.
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#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF LABOR ADMINISTRATIVE HEARING OFFICE

Appellant,

v.

Labor Case No. 22-014 Secretary Appeal No. 23-001

FINAL AGENCY DECISION

Island Star International, Inc.,

In Re Matter of:

Feng Yu,

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Appellee.

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#### INTRODUCTION

On September 1, 2022, Feng Yu ("Appellant") filed an Intake and Complaint form
("Complaint") to the Administrative Hearing Office ("AHO"). The Complaint was for labor
claims of unpaid wages against Island Star International, Inc. The Complaint was processed and
served through personal service to Appellee on the same day.

On September 12, 2022, an Order to Show Cause was issued to both parties scheduling a
hearing for October 13, 2022. On October 12, 2022, an entry of appearance was filed with AHO
for the Appellee's legal counsel. On October 13, 2022, the scheduled hearing was vacated due to
the Hearing Officer's unforeseen illness. An Order Continuing Hearing was issued the following
day to both parties scheduling the hearing for October 18, 2022.

On October 18, 2022, an Order after the hearing was issued ordering both parties to submit
their arguments and evidence in writing. The Administrative Hearing Officer set deadlines for
both parties as expressed in the Order. On November 2, 2022, the Appellee filed their Motion of
Summary Disposition, Memorandum in Support of Motion for Summary Disposition, and
Declaration of Xing Bo Yu in Support of Plaintiff's Motion for Summary Disposition.

On January 9, 2023, the Administrative Hearing Officer issued an Order of Dismissal of the case. The Appellant claimed unpaid wages from November 18, 2022 to June 30, 2022. Based on the applicable law, the Appellant can only recover wages accruing six months before the filing of the Complaint. The Appellant failed to show cause why the claims from November 18, 2020

through February 28, 2022 should not be dismissed. Appellant is limited to wages accrued form March 1, 2022 to September 1, 2022, and the claims arising out of the six-month statute of 2 limitations were dismissed. Appellant also failed to establish a claim for unpaid wages under the 3 CNMI Minimum Wage Act, leading to the dismissal of his remaining claims. On November 14, 4 2022, the Appellant filed his response to the Appellee's Motion. On November 23, 2022, the 5 Appellee filed their reply to the Appellant's response.

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#### II. LEGAL STANDARD

7 "An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee..." NMIAC 80-20.1-490(a). "The record before the Secretary 8 consists of the complaint, pleadings filed, exhibits, and order of the hearing officer." NMIAC § 9 80-20.1-490(c). "When the Secretary is exercising jurisdiction over appeals from final orders of 10 the Administrative Hearing office, the Secretary shall have all the powers and responsibilities of 11 a hearing officer. No hearing or oral argument on an appeal is required." NMIAC 80-20.1-490(d). 12 "In a review on appeal, the Secretary may restrict review to the existing record, supplement the 13 record with new evidence, hear oral argument, or hear the matter de novo pursuant to 1 CMC 14 §9109 and §9110. Upon completion of review, the Secretary shall affirm, reverse or modify the 15 findings, decision, or order of the hearing office." NMIAC § 80-20.1-490(e).

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#### III. DISCUSSION

17 Here, Appellant argues that the Administrative Hearing Officer's order was based on a factual error that altered the decision. Appellant sought relief that Administrative Hearing Officer 18 considers hours that he worked for the apartment. For the reasons stated below, the undersigned 19 finds the Administrative Hearing Officer's decision was proper. 20

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#### 1. Appellant fails to meet his burden of proof on appeal.

"It is a general rule of practice that legal arguments should be supported by law and analysis... 22 An issue is insufficiency developed if it is raised in a conclusory manner, or when the overall 23 analysis of the issue is so lack as to shift the burden of research and argument to the reviewing 24 court." 42 Com. Reg. 044123 (September 28, 2020) (internal citations omitted). It is beyond the 25 reviewing court's duties to have to guess or construct parties' arguments. See 41 Com. Reg. 26 041761 (may 28, 2019). For that reason, arguments that are not fully developed shall be deemed 27 waived.

1	Here, Appellant failed to provide evidence that there was a factual error made by the
2	Administrative Hearing Officer. In his appeal, Appellant reiterated the same arguments from his
3	Complaint. Appellant provided no additional documentation or evidence to show proof of
	employment in the form of a contract, check stubs or any other records. Appellant does not meet
4	his burden on appeal by simply disagreeing with the Administrative Hearing Officer's decision
5	and relitigating issues already discussed on the record.
6	IV. CONCLUSION
7	Accordingly, pursuant to NMIAC § 80-20.1-490(e), the Administrative Hearing Officer's
8	decision is AFFIRMED.
9	This Order constitutes a <b>FINAL AGENCY DECISION</b> . In the event a party is aggrieved by
10	this Order and would like to dispute or contest this decision, said party may seek judicial review
11	with the CNMI Superior Court under the local Administrative Procedures Act. See 1 CMC §9112.
12	All forms, filing fees, and filing deadlines for judicial review will be as established by the
13	applicable law and court rule.
14	So ordered this 28th day of Folyment 2022
15	So ordered this <u>28th</u> day of February, 2023.
16	Leila F. Staffler
17	Secretary of Labor
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COMMONWEALTH REGISTER

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#### **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS** DEPARTMENT OF LABOR ADMINISTRATIVE HEARING OFFICE

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Labor Case No. 22-018

**DISMISSAL OF LABOR CASE;** 

**REFERRAL TO ENFORCEMENT** 

In Re Matter of

Wenhua Wu.

Complainant,

Respondent.

I.

v.

8 Fengze Corporation.

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### **INTRODUCTION**

This matter came for an Order to Show Cause Hearing on March 9, 2023 at 9:00 a.m. at the Administrative Hearing Office. Complainant Wenhua Wu ("Complainant") was present and self-14 represented. Respondent Fengze Corporation ("Respondent") was present and represented by Chairman Li Zhao Kuan. The Department's Enforcement, Compliance and Monitoring Section 15 ("Department") was also present and represented by Labor Law Enforcement Specialist III 16 Norman Rasiang. Interpreter Brandon Doggett was present to facilitate communications. 17

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#### L. **APPLICABLE LAW & DISCUSSION**

Pursuant to 3 CMC § 4947(a), "the hearing officer may, after notice and an opportunity to be 19 heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to 20 be without merit." Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following 21 grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; 22 (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim 23 upon which relief can be granted. See also NMIAC § 80-20.10485(b).

24 The Administrative Hearing Office does not have jurisdiction with respect to the claims of tourists. Those claims are pursued in the Commonwealth Superior Court." NMIAC § 80-20.1-25 450(e). "It is the intent of the legislature that the [Commonwealth Employment Act of 2007] shall 26 not apply to persons admitted to the Commonwealth as tourists, or to persons employed 27 illegally... it is the intent of the Legislature that ... illegally employed be prohibited from using 28 the terms of this Act to receive or avail themselves of a legal right or benefit." PL 15-108.

COMMONWEALTH REGISTER VOLUME 45 NUMBER 03 MARCH 28, 2023 PAGE 049637 On December 1, 2022, Complainant filed a complaint for unpaid wages and unlawful deductions. Upon review of the pleadings, the case was scheduled for an Order to Show Cause Hearing as to why this case should not be dismissed for lack of jurisdiction. After giving the parties notice and an opportunity to respond at the hearing, the undersigned finds that dismissal of the labor case is appropriate. Complainant is a foreign national who entered the CNMI as a tourist in 2019. Complainant never obtained a visa or other legal authorization to continue to stay and work in the CNMI. Accordingly, Complainant was not lawfully employed by Respondent and this office does not have jurisdiction with to these claims.

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#### II. DISMISSAL OF LABOR CASE & APPEAL RIGHTS

Accordingly, pursuant to NMIAC § 80-20.2-130(c), this matter is hereby <u>DISMISSED</u>.
 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and
 filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this
 Order.<sup>1</sup>

### III. REFERRAL TO ENFORCEMENT

In light of the allegations and other labor compliance issues, the clerk is ORDERED to
 copy and transmit the file to Enforcement for further investigation.<sup>2</sup> In the event that Enforcement
 finds a labor law violation or compliance issue, Enforcement may initiate a Compliance Agency
 Case.

So ordered this <u>9th</u> day of March, 2023.

/s/ JACQUELINE A. NICOLAS Chief Administrative Hearing Officer

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The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

<sup>&</sup>lt;sup>2</sup> Pursuant to 3 CMC § 4940, the Department's Enforcement, Compliance, and Monitoring Section has the authority 23 to conduct investigations as the Department may deem appropriate and necessary to ensure compliance with applicable labor laws. Further, pursuant to NMIAC § 80-20.1-470(a), Enforcement may initiate such investigation 24 as warranted by the allegations, other information provided or available to the Department, and past complaints or violations. Further, investigators may conduct interviews of the parties and others, request documents from the 25 parties, inspect worksites, and undertake such other investigative actions as are warranted. NMIAC § 80-20.1-470(a). Enforcement "may conduct investigations as necessary and appropriate to enforce the provisions of the 26 Commonwealth Employment Act of 2007, as amended, and this subchapter to ensure lawful employment arrangements, payment of wages and overtime, working condition, employer-supplied benefits, and health and safety 27 for employees." NMIAC § 80-20.1-445. In conducting these investigations, Enforcement "shall have all of the powers delegated [under the Employment Rules and Regulations] and the powers to inspect any records that an 28 employer is required to keep, to make copies of records, and to interview employees." Id. Depending on the

investigation, Enforcement may initiate a consolidated agency action. NMIAC § 80-20.2-455(i).

#### **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS** DEPARTMENT OF LABOR **ADMINISTRATIVE HEARING OFFICE**

In Re Matter of:

Ji Fei Zheng,

Complainant,

Respondent.

I.

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Labor Case No. 22-020

**DISMISSAL OF LABOR CASE; REFERRAL TO ENFORCEMENT** 

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### **INTRODUCTION**

This matter came for an Order to Show Cause Hearing on March 9, 2023 at approximately 10:00 a.m. at the Administrative Hearing Office. Complainant Ji Feng Zheng ("Complainant") was present and self-represented.<sup>1</sup> Respondent Eagle LLC dba SM ("Respondent") was present and represented by Manager Maria Javier. The Department's Enforcement, Compliance and 15 Monitoring Section ("Department") was also present and represented by Labor Law Enforcement 16 Specialist III Norman Rasiang. Interpreter Brandon Doggett was present to facilitate 17 communications. 18

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#### II. **APPLICABLE LAW & DISCUSSION**

Pursuant to 3 CMC § 4947(a), "the hearing officer may, after notice and an opportunity 20 to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds 21 to be without merit." Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the 22 following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over 23 the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to 24 state a claim upon which relief can be granted. See also NMIAC § 80-20.10485(b). 25 111 111 26 27

28 Complainant was accompanied by a friend, Rodrigo Gatela. Mr. Gatela was only present to observe the proceedings. Mr. Gatela was not a representative and did not provide witness testimony.

On December 27, 2022, Complainant filed a complaint for unpaid wages and unsafe working conditions. On December 30, 2022, Respondent filed an answer refuting the allegations and working relationship. Upon review of the pleadings, the case was scheduled for an Order to Show Cause Hearing as to why this case should not be dismissed for failure to state a claim and lack of jurisdiction.

5 After giving the parties notice and an opportunity to respond at the hearing, the 6 undersigned finds that dismissal of the labor case is appropriate. First, any unpaid wages accrued 7 before July 27, 2022 is outside the six-month statute of limitations<sup>2</sup> and time-barred. Second, 8 Complainant fails to establish jurisdiction with respect to the claims within the six-month statute of limitation because Complainant does not have lawful authorization to work in the CNMI.<sup>3</sup> 9 Complainant is a foreign national who entered the CNMI with a six-month visa in 2009. 10 Complainant never obtained a visa or other legal authorization to continue to stay and work in the 11 CNMI. Accordingly, Complainant was not lawfully employed by Respondent and this office does 12 not have jurisdiction with to these claims.

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#### III. DISMISSAL OF LABOR CASE & APPEAL RIGHTS

Accordingly, pursuant to 3 CMC § 4947(a), this matter is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date of this Order.<sup>4</sup> ///

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COMMONWEALTH REGISTER

Pursuant to 3 CMC § 4962, "[n]o labor complaint may be filed more than six months after the date of the last-occurring event that is the subject of the complaint, except in cases where the actionable conduct was not discoverable upon the last-occurring event." See also 4 CMC § 9246. "If a complaint is not timely filed, the hearing office shall dismiss the complaint with prejudice." NMIAC § 80-20.1-465(e). Emphasis added.

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 &</sup>lt;sup>3</sup> The Administrative Hearing Office does not have jurisdiction with respect to the claims of tourists. Those claims are pursued in the Commonwealth Superior Court." NMIAC § 80-20.1-450(e). "It is the intent of the legislature that the [Commonwealth Employment Act of 2007] shall not apply to persons admitted to the Commonwealth as tourists,

<sup>27</sup> Inter [Commonwealth Employment Act of 2007] shall not apply to persons definition to be prohibited from or to persons employed illegally... it is the intent of the Legislature that ... illegally employed be prohibited from using the terms of this Act to receive or avail themselves of a legal right or benefit." PL 15-108.

<sup>28 &</sup>lt;sup>4</sup> The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.

1 In light of the allegations of unauthorized employment or other labor compliance issue the clerk is <b>ORDERED</b> to copy and transmit the file to Enforcement for further investigation. In the event that Enforcement finds a labor law violation or compliance issue, Enforcement main initiate a Compliance Agency Case. 3 So ordered this <u>9th</u> day of March, 2023. 3 So ordered this <u>9th</u> day of March, 2023. 4 JACQUELINE A. NICOLAS 6 Chief Administrative Hearing Officer 10 Chief Administrative Hearing Officer 11 Chief Administrative Hearing Officer 12 ordered the set of the partment's Enforcement, Compliance, and Monitoring Section has the authorit to conduct investigations as the Department's Enforcement, Compliance, and Monitoring Section has the authorit to conduct investigations as the Department may deem appropriate and necessary to ensure compliance with applicable labor laws. Further, pursuant to NMIAC § 30-20.1-470(a), Enforcement may initiate such investigation such automation provided or available to the Department, and past compliance with applicable labor laws. Further, pursuant to MMIAC § 80-20.1-470(a), Enforcement may initiate such investigation such automation provided or available to the Department, and past compliance is violations. Further, investigations may conduct interviews of the parties and others, request documents from the prices and others, request documents from the prices and others, request documents from the prices and others. Request documents from the prices and others, request documents from the prices and others.		
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<ul> <li>initiate a Compliance Agency Case.</li> <li>So ordered this <u>9th</u> day of March, 2023.</li> <li><u>/s/</u><u>JACQUELINE A. NICOLAS</u> Chief Administrative Hearing Officer</li> </ul>	3	
So ordered this <u>9th</u> day of March, 2023.           7       So ordered this <u>9th</u> day of March, 2023.         7       JACQUELINE A. NICOLAS         9       Chief Administrative Hearing Officer         10       So ordered this <u>9th</u> day of March, 2023.         11       So ordered this <u>9th</u> day of March, 2023.         12       So ordered this <u>9th</u> day of March, 2023.         13       So ordered this <u>9th</u> day of March, 2023.         14       So ordered this <u>9th</u> day of March, 2023.         15       So ordered this <u>9th</u> day of March, 2023.         16       So ordered this <u>9th</u> day of March, 2023.         17       So ordered this <u>9th</u> day of March, 2023.         18       So ordered this <u>9th</u> day of March, 2023.         19       JacQueLINE A. NICOLAS         11       So ordered this <u>9th</u> day of March, 2023.         18       So ordered the partment's Enforcement, Compliance, and Monitoring Section has the authorit to conduct investigations as the Department may deem appropriate and necessary to ensure compliance with order the singular bach investigations as the Department may deem appropriate and necessary to ensure compliance witolations. Further, investigators may conduct interviews of the parties and others, request documents from th parties, inspect worksites, and undertake such other investigative actions as are warranted. NMIAC § 80-20.1-470(0, as are warranted. NMIAC §	4	
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		Enforcement "may conduct investigations as necessary and appropriate to enforce the provisions of the
arrangements, payment of wages and overtime, working condition, employer-supplied benefits, and health and safet		Commonwealth Employment Act of 2007, as amended, and this subchapter to ensure lawful employment arrangements, payment of wages and overtime, working condition, employer-supplied benefits, and health and safety
powers delegated [under the Employment Rules and Regulations] and the powers to inspect any records that a		for employees." NMIAC § 80-20.1-445. In conducting these investigations, Enforcement "shall have all of the powers delegated [under the Employment Rules and Regulations] and the powers to inspect any records that an analysis is nearly a make an and to interview employment." Id Depending on the
<sup>20</sup> [] employer is required to keep, to make copies of records, and to interview employees." <i>Id.</i> Depending on the investigation, Enforcement may initiate a consolidated agency action. NMIAC § 80-20.2-455(i).	20	employer is required to keep, to make copies of records, and to interview employees." <i>Id.</i> Depending on the investigation, Enforcement may initiate a consolidated agency action. NMIAC § 80-20.2-455(i).
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