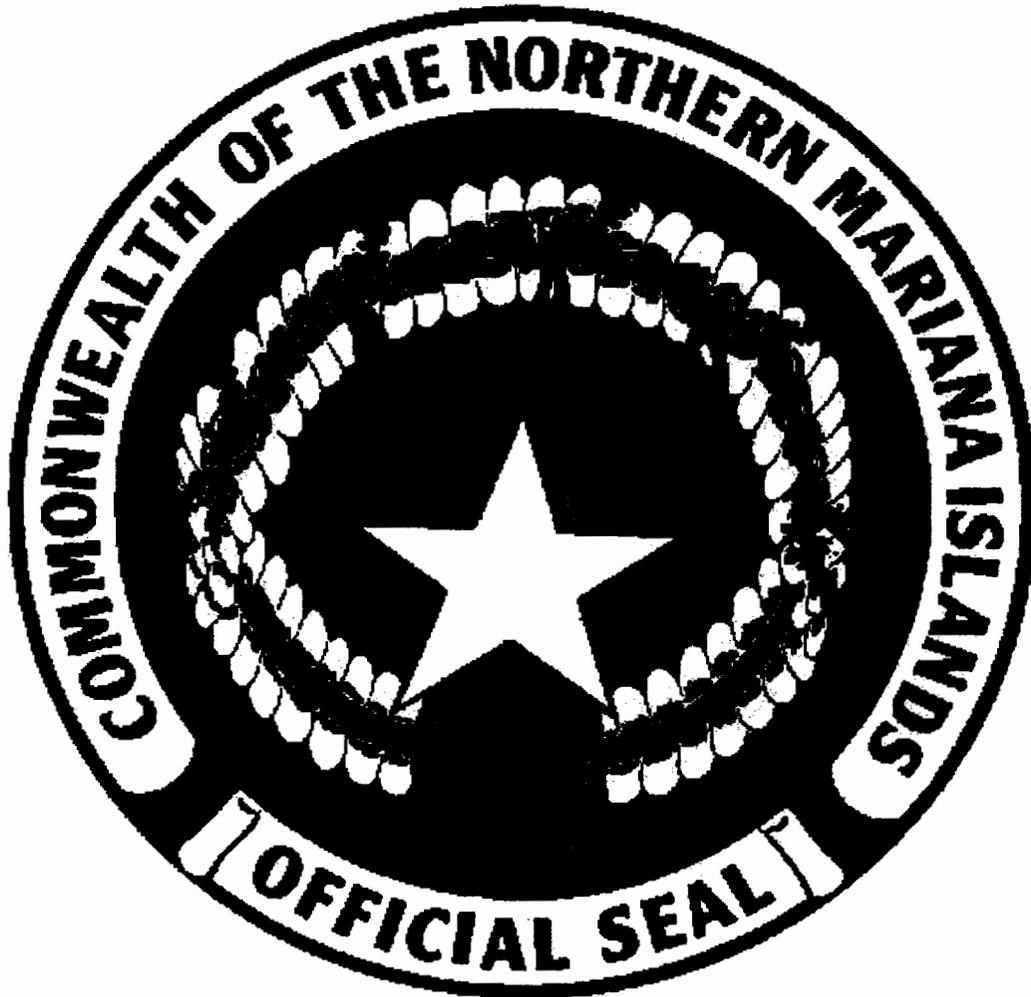


**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS**



**COMMONWEALTH REGISTER
VOLUME 27
NUMBER 03**

MARCH 17, 2005

COMMONWEALTH REGISTER

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NUMBER 03
MARCH 17, 2005

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FEBRUARY 28, 2005

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

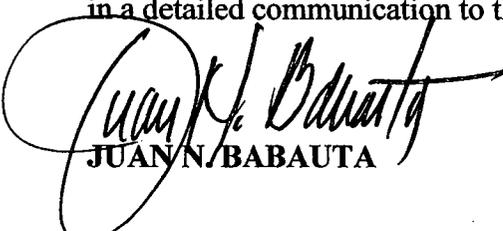
DECLARATION OF A STATE OF EMERGENCY

Volcanic Eruption on Anatahan

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, declare a State of Emergency for the island of Anatahan. This Declaration of a State of Emergency is in accordance with the recommendations and justifications presented by the Emergency Management Office (EMO), Commonwealth of the Northern Mariana Islands and the United States Geological Survey (USGS) such recommendations and justifications being attached and incorporated by reference.

I further declare that the island of Anatahan is unsafe for human habitation and do therefore restrict all travel to the island of Anatahan, except for such travel deemed to be for scientific purposes, provided that such scientific expeditions be permitted only upon prior notification to the Director of the EMO or his designee. In addition to the restriction on travel to the island of Anatahan an off-limits zone shall be maintained from thirty (30) nautical miles to (10) nautical miles around the island of Anatahan.

This Declaration of Emergency shall take immediately and shall remain in effect for thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. The underlying justification for any such further extension, as with this Declaration of a State of Emergency, shall be set forth in a detailed communication to the Legislature.


JUAN N. BABAUTA

CC: Lt. Governor
Senate President
House Speaker
Mayor of the Northern Islands
Director, Emergency Management Office
Commissioner, Department of Public Safety
Attorney General
Secretary of Finance
Special Assistant of Management and Budget
Special Assistant for Programs and Legislative Review



Emergency Management Office
OFFICE OF THE GOVERNOR
 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Juan N. Babauta, Governor
 Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
 Mark S. Pangelinan Dep., Director

MEMORANDUM

To: Governor

28 FEB 2005

From: Acting Director, Emergency Management Office

Subject: Declaration of Emergency

The EMO seismic staff and USGS, once again with close consultation has informed me that the seismicity level decreased dramatically to a very low level. However, steam and ash are like rising below two thousand feet as recorded by the seismographs at EMO.

Therefore, we are once again respectfully soliciting your assistance in extending the **Declaration of Emergency** for the island of Anatahan for another thirty (30) days and to maintain the *off limits zone from 30 nautical miles to 10 nautical miles* around Anatahan until further notice. Under these conditions, restriction of entry to the said island should continue until a thorough scientific study is done and that the findings suggest otherwise. The current **Declaration of Emergency** expired on January 29, 2005.

Should you have any question or concern, please call our office at 322-9528/29.


 Mark S. Pangelinan

Attachments

cc: Lt. Governor
 SAA
 Mayor, NI

rec'd 3/14/05




Northern Mariana Islands Volcanic Activity

[Anatahan Home](#) | [Current Update](#) | [Archive of Updates](#) | [Photo Gallery](#) |

Activity Update

The first historical eruption of Anatahan Volcano began suddenly on the evening of May 10. An eruption column as high as 10 km resulted in a far-reaching eruption cloud to the west. No one was directly threatened by the initial activity, because residents had long before evacuated the small volcanic island (9 km long and 3 km wide). Thus far, the eruption has consisted of a nearly continuous small eruption column (less than 5 km) punctuated by stronger explosive activity. In early June, a small lava flow erupted in the volcano's east crater, but was mostly destroyed by subsequent explosive activity.

[Eruption Overview](#) | [Washington VAAC Volcano Ash Advisories](#) |

Anatahan Volcano Update

Submitted Saturday, February 26, 2005 (1030 local Anatahan time on February 27)

Seismic and acoustic records from Anatahan have shown very low levels of activity over the past 10 days. Present amplitudes now approximate levels recorded prior to the onset of the January 5 eruption. Interruptions in DSL service at the CNMI Emergency Management Office over the past several days appear to be largely rectified, although bandwidth appears to be reduced, as data gaps are still occurring at both Cascades and Hawaiian Volcano Observatories. NASA MODIS (Moderate Resolution Imaging Spectroradiometer) imagery taken on February 26 indicate the source plume of vog and steam trending southwest of Anatahan for a distance of about 300 nautical miles. Remnants of earlier venting are visible in a second cloud trending northeast to southwest, detached from and located west of the main plume.

The 2003 crater floor is now almost entirely covered by fresh lava to a diameter of about one kilometer. The current eruption peaked during the period between January 26 and February 2, during which the volcano sent ash as high as 15,000 to 20,000 feet locally.

In the days following, ash blew as far as 100 nautical miles and vog blew nearly 600 miles downwind.

The third historical eruption of Anatahan began on January 5, after three days of precursory seismicity. On January 6 frequent strombolian explosion signals began and by the next day ash was rising to 10,000 feet and blowing 40 nautical miles downwind. Bombs a meter in diameter were being thrown hundreds of feet in the air. By January 20 explosions were occurring every 3 to 10 seconds and fresh ejecta and small lava flows had filled the innermost crater to nearly the level of the pre-2003 East Crater floor.

The Emergency Management Office, Office of the Governor, CNMI, has placed Anatahan Island off limits until further notice and concludes that, although the volcano is not currently dangerous to most aircraft within the CNMI airspace, conditions may change rapidly, and aircraft should pass upwind of Anatahan or beyond 30 km downwind from the island and exercise due caution within 30 km of Anatahan.

Background: The first historical eruption of Anatahan began May 10, 2003, after several hours of increasing seismicity, a phreatomagmatic eruption sent ash to over 30,000 feet and deposited about 10 million cubic meters of material over the island and sea. A small craggy dome extruded in late May and was destroyed during explosions on June 13 and 14 after which the eruption ceased. The second historical eruption began about April 9, 2004 after a week or so of increasing seismicity. That eruption primarily comprised strombolian explosions every minute or so and occasionally sent ash up to a few thousand feet. The eruption ended July 26, 2004.

Contact persons:

Juan Takai Camacho, Geophysical Seismic Technician, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: juantcamacho@hotmail.com

Ramon Chong, Geophysical Instrument Specialist, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: rcchongemo@hotmail.com

Frank Trusdell, Geologist, USGS; tel: (808) 967-8812, fax: (808) 967-8890, email: trusdell@usgs.gov.



Commonwealth of the Northern Mariana
Islands

Department of Public Health

Office of the Secretary

PUBLIC NOTICE

**NOTICE OF FINDINGS AND STATEMENT OF REASONS FOR
EMERGENCY ADOPTION OF AMENDMENTS
TO THE RULES AND REGULATIONS GOVERNING THE
ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM
(Addition of Approved Facility)**

Emergency: The Secretary of the Department of Public Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC section 2605, hereby finds that the public interest requires adoption on an emergency basis of amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program.

The proposed amendment to alter Attachment 1 would add Children's Hospital of Los Angeles as a recognized Medical Referral site.

The Secretary of Public Health finds that it is in the best interest of the public that the amendment to the regulation becomes effective immediately upon concurrence by the Governor and the Office of the Attorney General and filing with the Registrar of Corporations. Once approved, the emergency amendment to the regulations shall remain in effect for a period of 120 days.

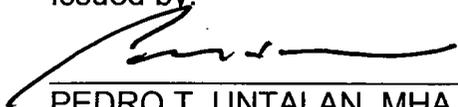
Reason for the Emergency: Since the implementation of the Rules and Regulations Governing the establishment and administration of the Medical Referral Program, some of the major CNMI insurers no longer have contracts with some of the listed major Hawaii hospitals, but do have contracts with California facilities. The Medical Referral Program has identified an additional provider (Children's Hospital of Los Angeles) that specializes in performing these medical procedures and services not available in the CNMI. The Secretary would like to expand the Medical Referral Program to allow services at this specialty medical center to further meet the medical needs of CNMI patients.

Contents: Attached to this Notice of Emergency is the amended provision.

Intent to Adopt: It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CHC section 9104, in amending the Rules and Regulations. Copies of the proposed Rules and Regulation may be obtained from the Office of the Secretary of Public Health located on the ground floor of the Commonwealth Health Center. Comments on the proposed Rules and Regulations may be sent to the Office of the Secretary of Public Health, Department of Public Health, P.O. Box 500409 CK, Saipan, MP 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

Authority: The Department of Public Health is authorized to implement these amendments to the Rules and Regulations Governing the Establishment and Administration of the Medical Referral Program pursuant to 1 CMC section 2605.

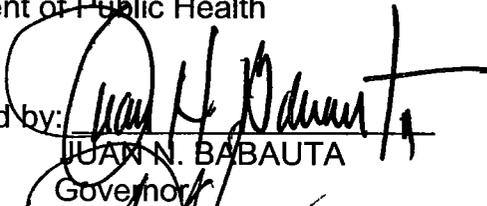
Issued by:



PEDRO T. UNTALAN, MHA
Acting Secretary of Public Health
Department of Public Health

Date 3/11/05

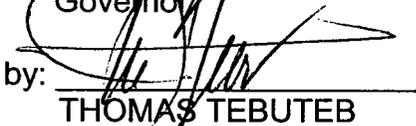
Concurred by:



JUAN N. BABAUTA
Governor

Date 3/14/05

Received by:



THOMAS TEBUTEB
Special Assistant for Administration

Date 3/14/05

Filed by:



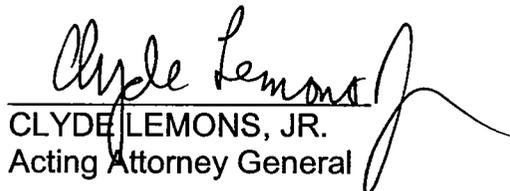
BERNADITA B. DELA CRUZ
Commonwealth Registrar

Date 3/14/05

Certification by Office of the Attorney General

Pursuant to 1 CMC section 2153, the emergency amendments to the rules and regulation attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Office of the Attorney General.

Certified by:



CLYDE LEMONS, JR.
Acting Attorney General

Date 3/15/05

**Emergency Amendments to the Rules and Regulations
Governing the Administration of the Medical Referral Program**

Citation of Statutory Authority: 1 CMC Section 2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC section 2603 (f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities. This includes the authority to operate the Medical Referral Program.

Short Statement of Goals/Objectives: The purpose of the change to Attachment 1 is to recognize Children's Hospital of Los Angeles as an official provider of medical care for authorized medical referral patients.

Brief Summary of the Proposed Rule: The amendment to Attachment 1 would establish Children's Hospital of Los Angeles as a recognized "referral health care facility" for medical referral patients from the CNMI.

Contact Person(s): Gloria Cabrera, Administrator of Medical Referral, Department of Public Health.

Citation of Related and/or affected Statutes, Regulations, and Orders: Rules and Regulations Governing the Administration of the Medical Referral Program, Commonwealth Register Volumes and Numbers: 18-04, 18-07, 20-02, 20-06, 22-05, 22-07, 23-09, 24-02, 26-01, 26-02, 26-05, 26-07.

ATTACHMENT 1

For purposes of these Rules and Regulations, the following health care facilities, and those health care providers and ancillary care providers associated with these facilities, shall be recognized as "referral health care facilities" for medical referral patients from the CNMI:

Territory of Guam

Dededo Polymedic Clinic
Espaldan Clinic, Inc.
Family Medical Clinic
Good Samaritan Clinic
Guam Memorial Hospital
Guam Pacific Medical Clinic
Guam Seventh Day Adventist Clinic
Specialty Clinic
St. Anthony Clinic
The Doctor's Clinic
Cancer Institute of Guam
Naval Hospital Guam
MR Imaging Group
Guam Eye Clinic
Guam Public Medical Clinic
Simard Cardiology Group
Guam SurgiCenter

State of California

San Diego Children's Hospital
*California Pacific Medical Center
Good Samaritan Hospital, Los Angeles
Children's Hospital of Los Angeles

State of Texas

The Brown Schools of Central Texas
(San Marcos Treatment Center, Health Care Rehabilitation Center, etc.)

State of Hawaii

Kapiolani Medical Center
Kuakini Medical Center
Queen's Medical Center
Rehabilitation Hospital
Shriner's Hospital For Crippled Children
St. Francis Medical Center
Straub Clinic and Hospital
Cancer Institute of Maui
Renal Treatment Center
Tripler Army Medical Center
Island Cardiology
Kahi Mohala
Castle Medical Center

Republic of the Philippines

Makati Medical Center
Saint Luke's Medical Center
Philippine General Hospital
Asian Hospital and Medical Center

* Referral to these referral health care facilities shall be authorized only for infant heart surgery, kidney transplant, or other highly sophisticated surgical procedures as substantiated and approved by the Medical Referral Committee.

COMMONWEALTH OF THE NORTHERN MARIANAS ISLANDS
OFFICE OF THE GOVERNOR

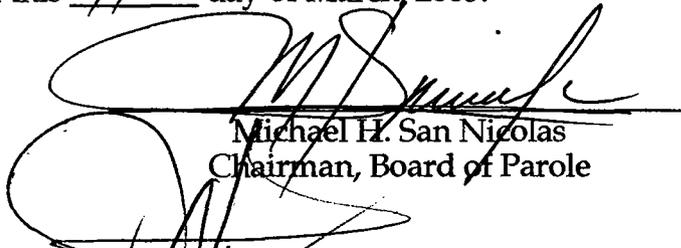
PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS
OF THE
CNMI BOARD OF PAROLE

The Board of Parole of the Commonwealth of the Northern Mariana Islands hereby notifies the general public of its intent to adopt the proposed Rules and Regulations. These Rules and Regulations are promulgated under Public Law 12-41, 6 CMC §4206, and in accordance with the Administrative Procedures Act 1 CMC §9109, et. seq.

Copies of the proposed Rules and Regulations are available at the Board of Parole Office, Susupe, Saipan, MP 96950.

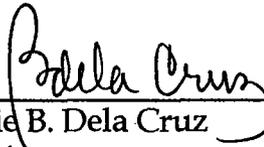
The Board of Parole urges the general public to submit written comments and recommendations regarding the above-mentioned Rules and Regulations within thirty (30) days after the publication of this Notice in the Commonwealth Register. Comments on the proposed Rules and Regulations may be mailed or delivered to the Chief Parole Officer of the Board of Parole, P.O. Box 502641, Saipan, MP 96950-2641.

Dated this 11th day of March, 2005.


Michael H. San Nicolas
Chairman, Board of Parole

Received By: 
Thomas A. Tebuteb
Special Assistant for Administration

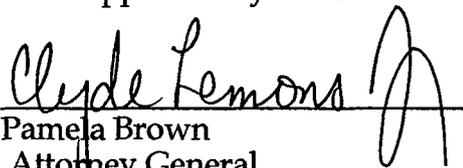
3/14/05
Date

Filed and
Recorded By: 
Bernie B. Dela Cruz
Registrar

3-14-05
Date

Pursuant to 1 CMC §2153, as amended by PL 10-50, the proposed Rules and Regulations attached hereto have been reviewed and approved by the CNMI Attorney General.

Dated this 15th day of March, 2005.


Pamela Brown
Acting Attorney General

COMMONWEALTH I SUMANGKATTAN SIHA NA ISLAS MARIANAS
PAPA I OFISINAN I MAGALAH I

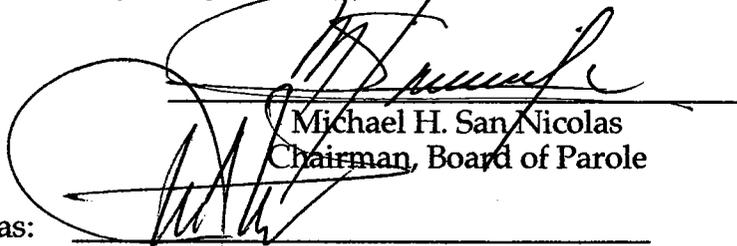
NUTISIAN PUPBLIKU PUT PRINIPONEN AREKLAMENTO YAN
REGULASION
GI
CNMI BOARD OF PAROLE

I Kuetpo i Parole giya Commonwealth i Sumangkattan siha na Islas Marianas ginen este mana'na'e' nutisia para i pupbliku henerat put i intension-fia para u adapta i priniponen Areklamento yan Regulasion. Este siha na Areklamento yan Regulasion manmafatinas sigun fuetsan Lai Pupbliku 12-41, 6 CMC §4206, yan sigun gi Administrative Procedures Act 1 CMC §9109, et. seq.

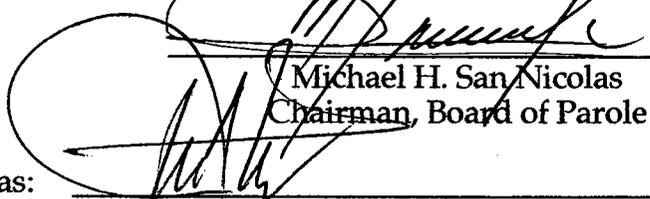
Kopian i mapropopone na Areklamento yan Regulasion guaha gi ofisinan i Board of Parole Office, Susupe, Saipan, MP 96950.

Kuetpo i Parole masosoyu' i pupbliku henerat para u fana'halom komento yan rekomendasion gi tinige' put i sumanhilo' siha na Areklamento yan Regulasion ya u masatmiti halom trenta (30) dias despues di mapupbliku este na nutisia gi Rehistran Commonwealth. Todu komento put i priniponen Areklamento yan Regulasion sina ha manahanao guato para i Chief Parole Officer gi Ofisinan i Kuetpo i Parole, P.O. Box 502641, Saipan, MP 96950-2641.

Ma fecha guine gi mina' 11 na dia este na mes Matso, 2005.

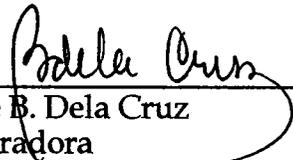

Michael H. San Nicolas
Chairman, Board of Parole

Rinisibi as:


Thomas A. Tebuteb
Special Assistant for Administration

7/14/05
Date

Ma file yan
Rinekod as:


Bernie B. Dela Cruz
Rehistradora

3/14/05
Date

Sigun 1 CMC §2153. ni inamenda nu i Lai Pupbliku 10-50, mapropopone siha na Areklamento yan Regulasion ni chechetton guine esta manmaribisa yan apreba ginen i Ofisinan i Abugadun Henerat giya CNMI.

Ma fecha guine gi mina' _____ na dia este na mes Matso, 2005.

Pamela Brown
Abugadun Henerat

COMMONWEALTH TEEL FAÚWASH MARIANAS
BWULASIYOOL SÓW LEMELEM

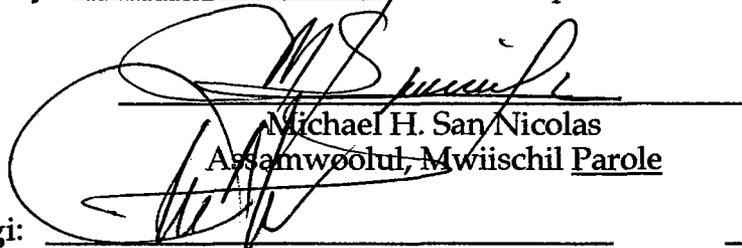
ARONGOL TOULAP REEL POMWOL ALLÉGH ME AMMWELIL
MELLÓL
BOARD OF PAROLE

Sáangi mwiischil mellól Parole Commonwealth Matawal wóol Téel Falúwasch Marianas ekke arongaar toulap reel aghiyeghil igha ebwe fillóoy pomwol allégh kkaal. Allégh kkaal nge e akkatéwow faal Alléghúl Toulap 12-41, 6 CMC, me abwe yoor alúghúlúgh sáangi Administrative Procedures Act, 1 CMC talil 9109, et. seq.

Tiliighial pomwol Allégh kkaal nge eyoor mereel Bwulasiyool Mwiischil Parole, Suupi, Seipél, MP 96950.

Mwiischil Parole ekke tittingor ngáliir toulap bwe rebwe ischilong aghiyegh me mángemáng sáangi kkapasal iye ekke iráátiw allegh kkaal bwe llól eliigh (30) rállil mwiril yaal atéew arong yeel mellól Commonwealth Register. Mángemáng reel pomwol Allégh kkaal nge emmwel bwe ubwe email me ngáre afanga ngáli Samwoolul Parole mellól mwiischil Parole, P.O. Box 502641, Seipel, MP 96950-2641.

Rállil ye 1/14, Ilól Maailap, 2005.

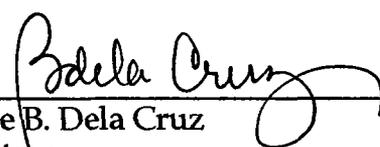

Michael H. San Nicolas
Assamwoolul, Mwiischil Parole

Mwir sáangi:

Thomas A. Tebuteb
Sów Alillisil Sów Lemelem

3/14/05
Date

Aisis sáangi:


Bernie B. Dela Cruz
Registrar

3/14/05
Date

Sáangi allégh ye 1 CMC tilil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50, pomwol allégh kkaal nge raa takkal amweri fischiy me aléghéléghéló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Rállil ye _____, Ilól Mááilap, 2005.

Pamela Brown
Sów Bwungúl allégh Lapalap

Board of Parole Rules and Regulations

Parole Supervision Assessment Fees

- I. Authority:** The Board of Parole is authorized pursuant to 6 CMC § 4206 as amended by Public Law 12-41 to adopt regulations related to parole supervision and assessment fees.
- II. Purpose:** The purpose of these Rules and Regulations is to establish procedures to be utilized in the implementation and imposition of Parole Supervision Assessment Fees pursuant with Public Law 14-33.
- III. Definitions:**
- A. "Parole" means a conditional release from imprisonment.
 - B. "Parolee" means an inmate released from prison on parole subject to conditions of parole.
 - C. "Supervision Fees" means monies paid by and collected from parolees imposed by the Board of Parole to defray costs associated with supervising a parolee.
 - D. "Due Date" means the date fees are due for payment.
 - E. "Special Account" means an account assigned to the Board of Parole by the Department of Finance where monies or fees collected are deposited to and drawn from.
 - F. "Department of Finance" means a department within the Commonwealth of the Northern Mariana Islands government responsible for the maintenance and administration of the Special Account.
 - G. "Division of Treasury" means a division of the Department of Finance responsible in the collection of all monies or fees from parolees and the disbursement of all monies from the Special Account.
 - H. "Waive" means to defer or to put aside.
 - I. "Condition of Parole" means a condition imposed by the Board of Parole on a parolee to adhere to.
- IV. Applicability:** This shall be made applicable to all parolees on supervision prior to and after the effective date of this Procedure and pursuant with Public 14-33.
- V. Supervision Fee:** There is hereby established by this Procedure and in accordance with Public Law 14-33, a **monthly** supervision fee of thirty U.S. Dollars (\$30.00) to be imposed, as a condition of parole, to all parolees in the CNMI including but not limited to parolees currently on supervision prior to and after the effective date of this Procedure.

- VI. Due Date:** All fees not otherwise waived are to be collected on the first working day of each month following the effective date of this regulation.
- VII. Notice:** All parolees currently on parole supervision prior to and after the effective date of this Procedure and in accordance with Public Law 14-33 shall be immediately notified of the imposition of the supervision fee as a condition of their parole. Notice shall be provided in the form of copies of this regulation being provided to each parolee now under supervision.
- VIII. Waiver of Fees:** At the request of a parolee or duly authorized official of the Board of Parole, the Board of Parole may, in its sole discretion, waive all or part of a parolee's supervision fee. Factors that the Board may consider include the following:
- a. A licensed physician has certified that the parolee is physically and mentally disabled and is recommended by such physician that parolee is unable to be employed;
 - b. Is unable due to his/her criminal background and only when all attempts and means have been made and exhausted by the parolee to secure employment;
 - c. Is currently enrolled in a school, college, university, trades school, etc. as a full-time student;
 - d. Is undergoing full-time treatment at a mental health facility or other residential facilities as an in-patient; and
 - e. Such fee would be detrimental to the welfare of the parolee's family.
 - f. **Such fee is otherwise found to be appropriately waived for such reasons as may be specified by the Board.**
- IX. Community Work Service:** In lieu of supervision fees, parolees may request to perform community work service of 8 hours per month for the duration of his/her parole tenure. However, a parolee who has been determined able to pay such fees, shall be required to make such payments.
- X. Condition of Parole:** Pursuant with Public Law 14-33, such supervision fee must be imposed on all parolees including those currently on parole and shall be a condition of their parole or and in accordance with this Procedure and Public Law 14-33.
- XI. Severability Provision:** If any provision, or the applicability of any provision of these Rules and Regulations shall be held invalid by a court of competent

jurisdiction, the remaining of these Rules and Regulations shall not be affected thereby.

XII. Savings Clause: This Rules and Regulations and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Rules and Regulations shall not affect any proceeding instituted under or pursuant with prior law. The enactment of this Rules and Regulations shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Rules and Regulation becomes effective.

XIII. Effective Date: This Rules and Regulations shall become effective upon their publication in the Commonwealth Registrar and the announcement having expired without comments or changes made therein.

IN WITNESS WHEREOF, the undersigned has executed these Rules and Regulations on this 17th day of March, 20 05.



Michael H. San Nicolas
Chairman
CNMI Board of Parole

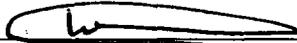
PUBLIC NOTICE
PROPOSED RULES AND REGULATIONS GOVERNING THE P.L. 14-37 CNMI HONOR SCHOLARSHIP PROGRAM FOR POSTSECONDARY EDUCATION

The Scholarship Advisory Counsel Board for the Commonwealth of the Northern Mariana Islands Scholarship Office hereby notifies the general public of its intention to promulgate Rules and Regulations for P.L. 14-37 "CNMI Honor Scholarship Program". P.L. 14-37 and Executive Order 94-3, Sec. 211, authorizes the proposed of the "CNMI Honor Scholarship Program" Rules and Regulations.

All interested persons may examine the proposed "CNMI Honor Scholarship Program" Rules and Regulations and submit written comments to the Chairperson, Scholarship Advisory Board, Caller Box 10007, Saipan, MP 96950, or by facsimile to 664-4759 or email to cnmieap@cnmischolarship.com within thirty (30) calendar days following the date of the publication of this Notice in the Commonwealth Register.

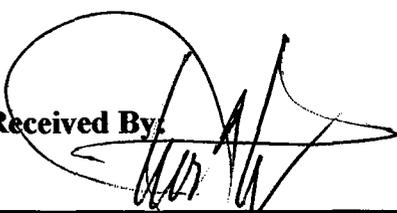
Dated this 11 day of March 2005, at Saipan, Northern Mariana Islands.

SCHOLARSHIP ADVISORY BOARD

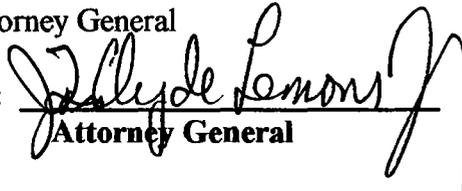
By: 
MARGARITA D. TUDELA
Scholarship Advisory Board, Acting Chairperson

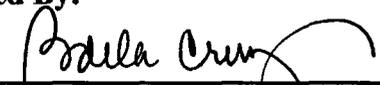
Pursuant to 1 CMC § 2153, as amended by P.L. 10-50, the rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated this 3/15/05 day of March 2005.

Received By: 
THOMAS TEBUTEB
Special Assistant for Administration

Date: 3/14/05

NAME:
Attorney General
By: 
Attorney General

Filed By:

BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTRAR

Date: 3/14/05

**PROPOSED REPEAL AND RE-ENACTMENT OF THE RULES AND
REGULATIONS GOVERNING THE EDUCATIONAL ASSISTANCE
PROGRAM**

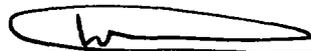
Citation of Statutory Authority: The Scholarship Office proposes to promulgate Rules and Regulations pursuant to executive Order, 94-3, Sec. 211 and Public Law 14-37.

Short Statement of Goals and Objectives: Proposed Rules and Regulations provides a guidelines and criteria to applicants pursuing a postsecondary education scholarship funds for P.L. 14-37 CNMI Honor Scholarship Program.

Brief Summary of the Proposed Regulations: The proposed Rules and Regulation is required to implement the P.L. 14-37, which repealed P.L. 7-32 and P.L. 11-77. P.L. 14-37 commenced with the academic year 2004/2005. P.L. 14-37 authorizes the Scholarship Advisory Board to award fifteen (15) graduating students; eight (8) from Saipan, two (2) from Rota, two (2) from Tinian and three (3) from off-island graduating student within the U.S. and its territories.

Citation of Related and/or Affected Statutes, Regulations, and Orders: P.L. 14-37 now codified at 3 CMC Section 1341; P.L. 8-18 The Post Secondary Education Act of 1982 and Executive Order 94-3, Sec. 211.

For Further Information Contact: Meliza S. Guajardo, Scholarship Administrator, telephone number 664-4750 or facsimile number 664-4759. Electronic mail cnmieap@cnmischolarship.com



Margarita D. Tudela SAB-Acting Chairperson

3/11/05
Date

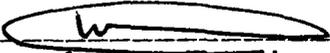
NOTISIAN PUPBLIKO
I MA PROPONE NA AREKLAMENTO YAN REGULASION NI
GUMUBEBIETNA I LAI PUPBLIKO P.L. 14-37, CNMI HONOR
SCHOLARSHIP NA PROGRAMA GI POST SECONDARY EDUCATION

I Kuetpon i Scholarship Advisory Board gi Commonwealth Notte Marianas gi Ofisinan i Scholarship, ha notitisia i publiko henerat nu i intension-nia pot para hu na guaha areklamento yan regulasion para i Lai Publiko P.L. 14-37 "CNMI Honor Scholarship Program". I Lai Publiko P.L. 14-37 yan i Executive Order 94-3, Seksiona 211, ha atoririsa i ma proponen areklamento yan regulasion siha gi "CNMI Honor Scholarship Prgram".

Todo man interesao na petsona sina ma eksamina i ma propone na areklamento yan regulasion para i "CNMI Honor Scholarship Program", ya ufan na'halom tinige' pot hafa sinentin niha, ya uma satmiti guato gi Kabesiyon i Scholarship Advisory Board, Caller Box 10007, Saipan, MP 96950, osino uma fax guato gi 664-4759, pat uma email guato gi cnmicap@cnmischolarship.com gi halom trenta (30) dias despues de i ma publikan este na notisia gi Commonwealth Registrar.

Ma fecha este gi dia 11 Matso 2005, Saipan Northern mariana Islands.

SCHOLARSHIP ADVISORY BOARD

Si: 
Margarita D. Tudela
Scholarship Advisory Board, Acting Chairperson

Sigun gi 1 CMC Seksiona 2153, ni inamenda nui Lai Publiko P.L.10-50, i areklamento yan regulasion ni man checheton guine, esta man ma ina yan inapreba nui Ofisinan i Abugao Henerat gi suficiente yan ligat na fotma.

Ma fecha este gi dia _____ Matso 2005.

Rinisibe as: 
Thomas Tebuteb
Special Assistant for Administration
Fecha: 3/14/05

Ma file: 
BERNADITA B. DELA CRUZ
REHISTRAN I COMMONWEALTH
Fecha: _____

Si: 3/14/05
Abugao Henerat

ARONGORONGOL TOULAP
POMWOL ALLÉGH ME AMMWEL KKAAL IYE E LEMELEM ALLEGHÚL TOULAP 14-
37 CNMI PROGRÓOMAL AWÓÓLINGIL SCHOLARSHIP REEL POSTSECONDARY
EDUCATION

Sáangi Scholarship Advisory Counsel mwiisch mellól Commonwealth Teel Falúwasch Marianas Bwulasiyool Scholarship ekke arongaar aramas toulap reel aghiyeghil igha ebwe akkaté allégh kkaal sáangi Alléghúl Toulap 14-37 “Awóólingil Progroomal Scholarship”. Alléghúl Toulap 14-37 me akkuléyal Sów Lemelem 94-3, Tálil 211, iye e mweiti ngáli powmol “CNMI Awóólingil progróomal scholarship” allégh kkaal.

Schóókka e ghal yoor yaar aghiyeghil reel pomwol yeel “CNMI Awóólingil progróomal scholarship” Allégh me Ammwel kkaal ebwe akkafangalong reel Assamwool (Chairperson), Scholarship Advisory Board, Caller Box 10007, Seipél, MP 96950, me ngáre fax reel 664-4759 me email ngáli cnmieap@cnmischolarship.com llól eliilgh (30) ráalil mwiril ráalil yaal akkaté arong yeel mellól Commonwealth Register.

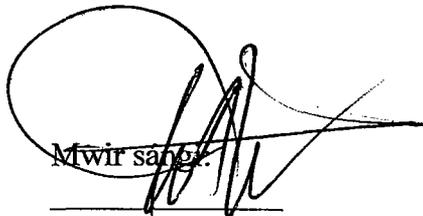
Rállil ye 11 ótol Mááilap 2005, mewóól Seipél, Téel Falúwasch Marianas.

MWIISCHIL SCHOLARSHIP ADVISORY

Sáangi 
MARGARITA D. TUDELA
Mwiischil Scholarship Advisory,
Acting ngáli Assamwool (Chairperson)

Sáangi allegh ye 1 CMC Tálil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50 allegh kkaal ikka e appasch nge raa takkal amweri fischiy me aléghéléghéló mereel Bwulasiyool Sów Bwungúl Allégh Lapalap.

Rállil ye _____ llól Mááilap 2995.


Mwir sáangi

THOMAS TEBUTEB
Sów Alillisil Sów Lemelem

Rál: 2/14/25

Iit:
Sów Bwungúl Allégh Lapalap
Sangi: _____
Sów Bwungúl Allégh Lapalap

Aisis sáangi 
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTRAR

Rál: 3/14/05

RULES AND REGULATIONS GOVERNING THE PUBLIC LAW 14-37 CNMI HONOR
SCHOLARSHIP PROGRAM.

PURPOSE

P.L. 14-37 CNMI HONOR SCHOLARSHIP PROGRAM has repealed and reenacted P.L. 7-32 as amended by P.L. 11-77. Because of this change to the law the Scholarship Advisory Board repeals and reenact it Rules and Regulations regarding the CNMI Honors Scholarship Program. These Rules and Regulations are to implement the CNMI Honors Scholarship Program.

1. DEFINITIONS FOR IMPLEMENTING PUBLIC LAW 14-37.

- 1.1. CUMULATIVE GRADE POINT AVERAGE: The Grade Point Average for all terms combined. The recipient must have a 3.00 cumulative GPA on a 4.00 scale at the end of each school year.
- 1.2. FULLTIME STATUS: Twelve (12) credits per enrollment period. Courses that are repeated will not be counted as fulfillment of a student's full-time enrollment status.
- 1.3. PROBATION: A condition placed on a student who failed to comply with the statutory requirement or in any of the Rules and Regulation promulgated by the Scholarship Advisory Board.
- 1.4. TERMINATION: Discontinued from the program.
- 1.5. SAT: Scholastic Achievement Test
- 1.6. ACT: American College Testing

2. APPLICATION

- 2.1. All Applications and required documents must be received by the CNMI Scholarship Advisory Board, Office of the Governor, on or before June 30th of the year for which the scholarship is to be commenced.

NOTE: If the Deadline falls on a weekend or a holiday, deadline will be on the next working day.

- 2.2. The required documents include, but are not limited to: a) an official high school transcript, inclusive of the last quarter's 12th grade; b) a letter of acceptance from an accredited college or university; c) proof of compliance with statutory requirements, as demonstrated by, but not limited to d) Scholastic Achievement Test (SAT) and/or American College Testing (ACT), two letters of recommendation, a description of extra curricular activities, and proof of citizenship and residency such as a U.S. passport, parents' CNMI tax forms, CNMI voter registration, or other similar documents deemed acceptable or appropriate to the Scholarship Advisory Board.
- 2.3. At the beginning of each academic year on-going recipients must submit all the required documents to maintain their scholarship.

3. SELECTION CRITERIA

3.1. The Scholarship Advisory Board shall meet after July 15th for the purpose of selecting the scholarship recipients.

3.2. The Scholarship Advisory Board shall review and evaluate the applications of applicants using the criteria established by law.

3.2.1. Applicants must be a U.S. citizen or a U.S. National.

3.2.2. Applicants must be newly high school graduates who have attained a combination of highest cumulative grade point average and highest SAT and/or ACT score. In addition, applicants' extra-curricular activities, difficulty of courses taken and at least two letters of recommendation will be used in the selection process.

Process of Ranking Scholarship:

1. 80% of the rank will be determined by the applicants' cumulative grade point average. SAB will ensure that the assessments of Advance Program Courses in the applicants' grade point averages are equivalent. Students will be ranked according to their cumulative grade point average from highest to lowest with the highest-ranking student receiving a "one."
2. 20% of the rank will be determined by the highest total SAT or ACT score that the applicant received on a given testing day. ACT scores will be converted to an equivalent SAT score. Students will be ranked according to their highest total SAT (or converted ACT) score from highest to lowest with the highest-ranking student receiving a "one."
3. Once applicants have a rank for their grade point average and SAT score, the rankings will be multiplied by the appropriate percentage and totaled. The applicants with the ranking closest to one will receive the awards in order until all available scholarships under the program are provided.
4. The following example shows how the ranking process works.

Student	CGPA	Rank No. on CPGA	Percentage applied for CPGA	CGPA SCORE	SAT/ACT SCORE	Rank No. on SAT/ACT	Percentage applied on SAT/ACT	SAT/ACT SCORE	TOTAL CGPA & SAT SCORE	Placement
A	4.25	1	80%	0.800	1275	6	20%	1.200	2.000	1st
F	4.15	2	80%	1.600	1400	3	20%	0.600	2.200	2nd
E	4.1	3	80%	2.400	1000	8	20%	1.600	4.000	4th
G	4.06	4	80%	3.200	1600	1	20%	0.200	3.400	3rd
I	4.01	5	80%	4.000	1500	2	20%	0.400	4.400	5th
C	4	6	80%	4.800	1325	4	20%	0.800	5.600	6th
B	4	6	80%	4.800	1300	5	20%	1.000	5.800	7th
H	3.99	7	80%	5.600	1325	4	20%	0.800	6.400	8th
D	3.75	8	80%	6.400	1250	7	20%	1.400	7.800	9th

Under this example, if eight scholarships were available, the individuals ranked first through eighth will receive awards. In other words, only applicant D would not receive an award.

5. Applicants' extra curricular activities shall be applied as a determining factor for the purpose of a tiebreaker. The Scholarship Advisory Board will consider both the quality and quantity of extra curricular activities when making this determination. The extra curricular activities in which applicants participate both inside and outside of their school may be considered.

3.2.3. Applicants graduating within the CNMI must have attended school within the CNMI for a minimum total of six (6) years. Within the six (6) years requirement, applicants must have attended the CNMI - two (2) years immediately preceding the date of the award.

3.2.4. In addition to the 3.2.1 and 3.2.2 requirement, applicants graduating from a high school within the United States of America or its territories as one of the top students, scholastically are eligible to apply, provided the applicant have attained the highest scholastic achievement with a 4.0 or higher cumulative grade point average and of parents who are bonafide CNMI resident at the time of application and have been so for a minimum period of eight (8) years prior to the date of application.

4 SCHOLARSHIP AWARD

4.1 Either the actual cost of the scholarship benefits as established by P.L. 14-37 or the amount of Fifteen Thousand dollars (\$15,000.00) which ever is less, will be awarded to each recipient for each academic year. Awards will be decreased by any amount the recipient receives from other grants or scholarships.

4.2 The award per term will be prorated.

4.3 If a recipient either dropped out of school or is terminated by the school, all scholarship privileges will be terminated immediately and the recipient will be required to remit the whole amount of moneys provided through this scholarship fund to the CNMI government.

4.4 Scholarship may not be used to cover for expenses not included in the Institutions Definition for Cost of Attendance.

4.5 If an applicant declines an award or receives scholarship funds from other sources that equal the full amount of applicants' cost of attendance, the applicant will not be provided an award under this program. The applicants' award will instead be provided to the next eligible applicant by rank.

5 SCHOLARSHIP MAINTENANCE AND CONDITIONS

5.1 The recipient graduating from high-school selected for the scholarship may continue to receive scholarship but no more than five (5) academic years, as long as he/she maintains the required cumulative GPA of 3.00 on a 4.00 scale at the end of each school year.

5.2 The recipient must submit a certified copy of the Institutions' Cost of Attendance each academic year. If the recipient fails to submit the Institutions' Cost of Attendance all

scholarship privileges will be deferred until the Scholarship Advisory Board receives such document.

- 5.3 The recipient must enroll and maintain a full-time status each enrollment period.
- 5.4 At the end of each enrollment period, the recipient must provide the Scholarship Advisory Board with a copy of his/her grade report for the enrollment period ending. At the end of each academic year, the student must provide the Scholarship Advisory Board with an official sealed transcript. If the recipient fails to submit the official transcript or the grade report, all scholarship privileges will be deferred until the Scholarship Advisory Board receives such document(s).
- 5.5 The recipient must sign and have notarized a Memorandum of Agreement approved by the Scholarship Advisory Board for each academic year in order to receive scholarship benefits. This Memorandum of Agreement shall set forth the terms and conditions pursuant to which scholarship benefits will be granted to the recipient. Each Agreement must be notarized and returned to the Scholarship Advisory Board before the recipient will receive any scholarship benefits.
- 5.6 A recipient who is enrolled in a two-year institution must have prior approval from the Scholarship Advisory Board prior to enrolling in any two-year institution for a third (3rd) academic year.
- 5.7 All scholarship recipients must declare their field of study before the beginning of their second year in college. The Scholarship Advisory Board will hold awards until this information is received in writing, via fax, or email or via an appropriate mail service to the following address:

Scholarship Advisory Board
Office of the Governor
Caller Box 10007
Saipan, MP 96950

Facsimile: 670-664-4759
Email Address: cnmischolarship.com

- 5.8 All scholarship recipients must advise the Scholarship Advisory Board of both their school and CNMI address each time there is a change.
- 5.9 A recipient is not eligible for same or lower level of education.

6 PROBATION AND TERMINATION

- 6.1 The recipient must maintain a fulltime status and have a GPA of 3.00 on a 4.0 scale cumulatively at the end of each academic year. If the recipient fails to maintain a required GPA, or if the number of credit hours drops below that of full-time status at the end of an enrollment period or the student fails to comply with the statutory requirements or the terms of the Memorandum of Agreement, the student will be placed on probation for the following academic year.
- 6.2 Scholarship benefits will be awarded during the probation period. However, the student must makeup the credits lacking while also maintaining a full-time (12 credits) status. By the end of the probationary enrollment period the student must be able to meet the

minimum GPA requirement and be in compliance with the statutory requirements and the terms of the students' Memorandum of Agreement.

- 6.3 If the student does not meet the required GPA requirements or does not complete the credits lacking in addition to maintaining full-time status or is not in compliance with the statutory requirements or the terms of the Memorandum of Agreement during the probationary enrollment period, the scholarship benefits will terminate immediately, and the recipient will not be allowed any future participation in the program.

7. TRANSFER OR CHANGE OF FIELD OF STUDY

Permission must first be obtained from the Scholarship Administrator if a recipient wants to transfer to another institution or change his/her field of study. A request shall be in writing and, if the request is to another institution, an acceptance letter from the institution to which a student is transferring must be submitted with the request for an approval of transfer.

8. REPAYMENT

- 8.1. All recipients of such scholarship are required to return to the CNMI no later than three (3) months after completion of their degree program.
- 8.2. Recipient, who fails to complete his/her educational degree program, will be required to repay the amount of scholarship awarded. The amount may either be repaid in full or in installments as determined by the Scholarship Advisory Board and the recipient.
- 8.3. Legal proceedings will be taken to recover the total amount of scholarships awarded in order to enforce the requirements provided in §8.1 and 8.2 above. The recipient shall also pay all legal expenses and fees incurred by the government in the effort to recover scholarship awards.
- 8.4. No penalty shall be imposed on a recipient who obtain their baccalaureate degree and decides to enter a post-graduate Degree Program. The repayment or cancellation of such scholarship will be deferred until the student obtains of their post-graduate degree whether or not the student is receiving scholarship funds. However, should the student cease his/her post-graduate program, he/she must return to the CNMI within three (3) months to commence work. Failure to return will result in the student being required to repay all scholarship awards previously received.

9. FRAUDULENT INFORMATION

- 9.1 All documents received by the Scholarship Advisory Board are subject to verification from the Institution and sources from which it came. The applicant and his or her family or authorized representative are individually responsible for the integrity of such documents. Recipients and the authorized representative who submit documents that are false or tampered in any way(s) will result in the recipient immediate and permanent removal from any Scholarship program administered by Scholarship Advisory Board. Documents include but are not limited to application, supporting documents, grade reports, transcript, etc.

10. APPEALS

- 10.1 A recipient who is denied P.L. 14-37 has the right to appeal to the Scholarship Advisory Board.
- 10.2 The appeal must be in writing addressed to the Chairperson of the Scholarship Advisory Board.
- 10.3 The appeal must be postmarked or hand-delivered no later than twenty-one (21) calendar days after notification of the decision by the Scholarship Administrator. If notification is via mail it shall be given via a certified mail, return receipt requested.
- 10.4 The appeal to the Scholarship Advisory Board shall be heard and decided pursuant to applicable CNMI law, including, but not limited to, the CNMI Administrative Procedure Act, 1 CMC Section 9101 et. seq.
- 10.5 All decisions by Scholarship Advisory Board on appeals are final regarding the administrative review process.

11. EFFECTIVE DATE

- 11.1 These Rules and Regulation shall take effect Fall 2005 semester/quarter.

PUBLIC NOTICE

NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS
TO THE REGULATIONS OF THE
COMMONWEALTH ELECTION COMMISSION

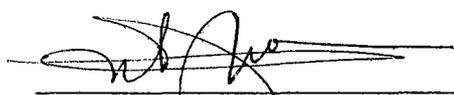
I, Miguel M. Sablan, Chairman, Commonwealth Election Commission, which is promulgating the Regulations amending Section 5.12 of the Commonwealth Election Commission Regulations, published in the Commonwealth Register Volume 27, Number 02, on February 17, 2005, pages 023977 to 023981, by my signature below hereby certify that as published, such amendments to the Regulations are true, complete and a correct copy of the amendments to the regulations previously published by the Commonwealth Election Commission. The amendments to Section 5.12 of the Commonwealth Election Commission's Regulations was adopted on February 11, 2005

Section 5.12. Proof of Voting. The polling place ~~supervisors~~workers shall cross off the name of each voter on their list after that voter has received their ballot. ~~In addition each voter shall be required to have their right index finger marked with an ink capable of making an indelible mark to show that the voter has indeed already voted. If a voter does not have a right index finger then any other finger will be acceptable.~~

I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register and that these regulations amending the Commonwealth Election Commission's Regulations become effective upon its publication.

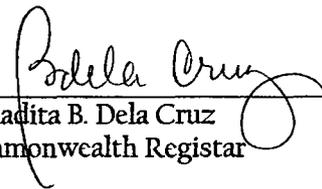
I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on Saipan, Northern Mariana Islands.

Certified by:


MIGUEL M. SABLAN
Chairman
Commonwealth Election Commission

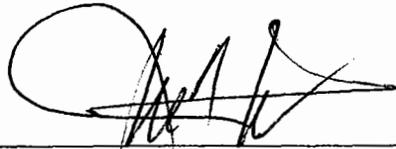
2-24-05
Date

Filed by:


Bernadita B. Dela Cruz
Commonwealth Registrar

3/10/05
Date

Received by:



Thomas A. Tebuteb
Special Assistant for Administration
Executive Offices of the Governor



Date

PUBLIC NOTICE

NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS TO THE REGULATIONS OF THE COMMONWEALTH ELECTION COMMISSION

I, Miguel M. Sablan, Chairman, Commonwealth Election Commission, which is promulgating the Regulations amending Sections 5.1 and 5.2 of the Commonwealth Election Commission Regulations, published in the Commonwealth Register Volume 27, Number 02, on February 17, 2005, pages 023967 to 023974, by my signature below hereby certify that as published, such amendments to the Regulations are true, complete and a correct copy of the amendments to the regulations previously published by the Commonwealth Election Commission. The amendments to Sections 5.1 and 5.2 of the Commonwealth Election Commission's Regulations were adopted on December 17, 2004 as follows:

Section 5.1 Voting Ballot. The Commonwealth of the Northern Mariana Islands currently uses the paper ballot method of voting. Prior to the election, the Commission shall print a ballot for each voting precinct on paper which shall list all candidates who have met the requirements to be listed on the ballot. In addition to the names of the candidates, the candidate's political party affiliation, if any, shall be listed on the ballot as well as the office that each candidate seeks. In the case of offices such as Municipal Council and Board of Education, or Independently nominated candidates for any office no political party affiliation shall be listed, as those offices or candidates are by their very nature considered non-partisan. No independently nominated candidate who previously had a political affiliation may use that affiliation unless he is nominated for that office by that political party.

All candidate names shall be printed with a sufficient font size for all voters to read, but no candidate shall have a different font size than any other candidate. The ballot shall be organized by race or offices wherein the names of candidates for a particular office or offices shall be placed together identified as candidates for a particular office and the name of the candidate's political party or independent candidacy shall be placed immediately under the candidate's name on the ballot in a columnar format for each political party or independent nomination of candidacy that is listed at the top of the ballot above the names of the nominated candidate for each office. The columns shall as nearly as possible be equal in size except where a candidate's name requires additional space then that column will provide that additional space to accommodate the name of the candidate.

Section 5.2 Design and Non-Contestability of Ballot. The staff of the Commission shall have the primary responsibility for the design of the ballot. The Election Commission shall have final approval over the design of the ballot. After the Election Commission publishes the ballot a specimen copy of the ballot shall be made available in Saipan, Tinian and Rota for

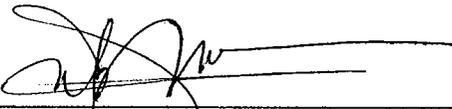
public viewing upon reasonable request. The design of the ballot as approved by the Election Commission shall be final and non-contestable in any Commonwealth Court or United States Court.

Prior to the final publication of the ballot the candidate locations (position or row) and ~~columns for the political parties~~ on the ballot for the various offices shall be designated by a number corresponding to their location (position or row). On a date designated by the executive director ~~commission staff~~ a representative of the ~~political parties~~ and the candidates (or their representatives) will select random numbers (corresponding to those ballot location numbers) out of a paper bag or hat in such a manner that the person choosing the number has no way of knowing which number they are choosing. The executive director shall conduct these drawings. ~~The first drawing will be for the political parties columnar position on the ballot.~~ The second drawing will be for the individual candidate locations (position or row) on the ballot where there are multiple (at least two) candidates for a particular race or office or offices ~~from one political parties and the candidates (or their representatives) shall then correspond to those pre-designated number locations on the ballot.~~ Any person can act as a representative of more than one candidate, for instance the Chairman of a new or recognized political party may act as the representative for all of their party's candidates.

I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register and that these regulations amending the Commonwealth Election Commission's Regulations become effective upon its publication.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on Saipan, Northern Mariana Islands.

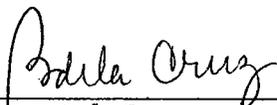
Certified by:



MIGUEL M. SABLAN
Chairman
Commonwealth Election Commission

2-29-05
Date

Filed by:



Bernadita B. Dela Cruz
Commonwealth Registrar

3/10/05
Date

Received by:



Thomas A. Tebuteb
Special Assistant for Administration
Executive Offices of the Governor



Date



Office of the Secretary
Department of Finance

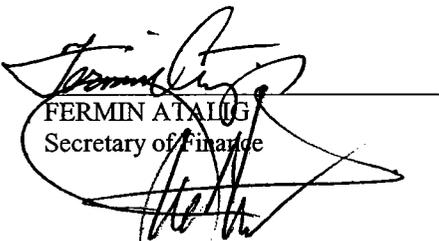
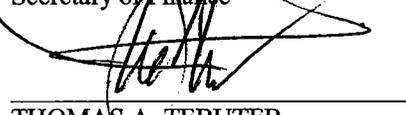
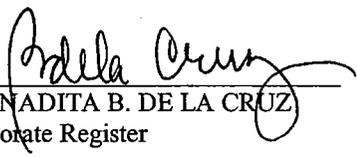
P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100 FAX: (670) 664-1115

**NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS TO
CUSTOMS SERVICE REGULATION
NO. 4301.4**

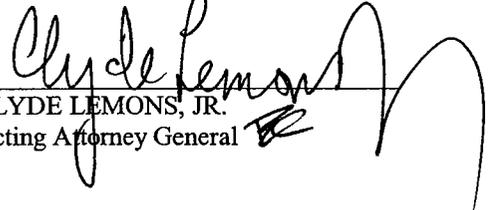
I, Fernin Atalig, the Secretary of the Department of Finance that previously promulgated an emergency amendment to a regulation with notice of intent to adopt that emergency amendment as a permanent amendment to Customs Service Regulation 4301.4, as published in the Commonwealth Register, Volume 27, Number 02, February 17, 2005, at pages 23917, through and including, 23920, by signature below hereby certify that as published, such emergency amendment to Customs Service Regulation No., 4301.4. is a true, complete and correct copy of the amendment to Customs Service Regulation No., 4301.4, which after expiration of the appropriate time for public comment have been adopted to Custom Service Regulation No. 4301.4 without modification. This amendment modifies the amount of certain cigarettes that may lawfully be brought into the CNMI for personal consumption and without payment of excise tax.

I further request and direct this Notice and Certification to be published in the CNMI Commonwealth Register.

Submitted by:	 _____ FERMIN ATALIG Secretary of Finance	<u>3/11/05</u> Date
Received by:	 _____ THOMAS A. TEBUTEB Special Assistant for Administration	<u>3/14/05</u> Date
Filed and Recorded by:	 _____ BERNADITA B. DE LA CRUZ Corporate Register	<u>3-11-05</u> Date

Pursuant to 1 CMC § 2153, as amended, and 1 CMC § 9104(a)(3), these adopted rules and regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 15 day of March, 2005.



CLYDE LEMONS, JR.
Acting Attorney General

MEMORANDUM

ATTORNEY GENERAL OPINION NO. 05-04

To: Fermin Atalig, Secretary of Finance
From: Pam Brown, Attorney General; Deborah L. Covington, AAG
Date: February 25, 2005
Re: Concordat Knitware, Ltd. f/k/a Diorva (Saipan) Ltd. – Application for Business License

Concordat Knitware, Ltd. f/k/a Diorva (Saipan) Ltd. (hereinafter “Concordat”) has applied for a business license to conduct garment manufacturing. Concordat previously held a business license under the name Diorva during the year 2000-2001, however it failed to timely file a renewal of that license and the license lapsed.

Issue

Whether a garment manufacturing company that liquidated its corporate assets after filing bankruptcy and allowed its business license to lapse may be granted a business license to conduct garment manufacturing?

Short Answer

No. A garment manufacturing company that liquidated its corporate assets and allowed its business license to lapse may not receive a business license to conduct a garment manufacturing because 4 CMC §5702 as amended by PL 12-11 prohibits issuance of any new business license in the Third Senatorial District for the purpose of garment manufacturing.

Facts

Concordat formally incorporated in the CNMI on December 31, 1991 under the name YTS Corporation.¹ On September 2, 1999, Diorva filed documents with the CNMI Registrar of Corporations changing its name to Concordat Knitware Ltd. Records at Business Licensing show that Concordat² renewed its

¹ On March 7, 1996, YTS Corporation amended its Articles of Incorporation and changed the corporation’s name to Diorva Saipan Limited.

² Although the name was officially changed from Diorva to Concordat, for unknown reasons, both the application for business license and the license itself continued use in Diorva’s name.

business license for garment manufacturing for the following annual periods: 4/10/98 – 4/10/99; 4/10/99 – 4/10/2000 and 4/10/2000 – 4/10/2001.³ The Business License Section does not have any records of a business license renewal application or a garment-manufacturing license for Concordat or Diorva after the last business license expired on April 10, 2001.⁴

On September 17, 2001, Concordat Knitware, Ltd. f/k/a Diorva (Saipan) Ltd. filed bankruptcy⁵ under Chapter 7 of the Bankruptcy Code and liquidated all remaining assets. Schedules attached to the bankruptcy filings indicated the only asset Concordat owned was \$21,500 in accounts receivable. It further indicated it did not own any vehicles, office equipment or inventory. Concordat's Statement of Financial Affairs indicated that it did not make any income from its business for the years 1999 – 2000. On June 21, 2002 the U.S. District Court signed an Order Approving Trustee's Report of No Distribution and the case was ordered closed.

In April 2002, the Registrar of Corporations sent notice to Concordat Knitware, Ltd. that it planned to dissolve the corporation due to its failure to file its annual corporate reports with the Registrar for the years 2000 and 2001. Concordat failed to take any action with respect to the Notice, and on August 7, 2002 the Registrar of Corporations formally filed a Notice of Administrative Dissolution for Concordat Knitware, Ltd. in accordance with 4 CMC §4612(b). Pursuant to 4 CMC §4612(c), Concordat's corporate existence continued, however, it was not allowed to carry on any business except that necessary to wind up and liquidate its business and affairs.

On October 27, 2003, the President of Concordat filed an Application for Reinstatement with the Registrar of Corporations. In order to be reinstated, Concordat was required to eliminate the grounds for administrative dissolution. 4 CMC §4613(a)(2). That is, it was required to file its annual reports for 2000 and 2001, which it did. On October 27, 2003, the Registrar of Corporations issued a Certificate of Reinstatement that reinstated the corporation's authority to conduct business. In accordance with 4 CMC §4613(c) the reinstatement related back to and took effect as of the effective date of the administrative dissolution and Concordat was allowed to resume carrying on its business as if the administrative dissolution had never occurred.

Under Schedule A, which became effective March 26, 1999, Diorva Saipan Ltd. was allocated a quota of 334 non-resident workers. Per the Department of Labor, all employees have been re-allocated to other qualified manufacturers.

³ Business License Records for periods prior to 1998 apparently were destroyed during burglaries at the Department of Commerce, which at that time was responsible for issuing business licenses. Additionally, computer records were not available prior to 1998. As such, there are no records available that show a garment-manufacturing license was issued to Diorva prior to the April 10, 1998 license that expired April 10, 1999. However, as discussed below, this issue is not important in determining whether Concordat should receive a business license for garment manufacturing.

⁴ The former president of Concordat, Ng Yuen Kwan seems to acknowledge that the business license for garment manufacturing expired. On October 24, 2003 he attempted to assign a "non-active garment license in the CNMI" to Paul Zak, current president of Concordat. (See General Assignment, filed with the Registrar of Corporations, October 27, 2003). Any such purported assignment is void. 4 CMC §5611(c) (licenses are not transferable).

⁵ U.S. District Court for the N. Mariana Islands case number BK 01-00016.

On September 9, 2004, Concordat filed an application for renewal of a business license for garment manufacturing.⁶ On July 14, 2004, the Secretary of Finance wrote to Paul Zak, President of Concordat requesting additional information about the license applications submitted for Diorva Saipan, Inc. and Concordat Knitware, Ltd.⁷ To date, no reply has been received.

Discussion

Before engaging in or continuing in a business, a person shall first obtain from the Secretary of the Department of Finance a license to engage in or conduct that business. 4 CMC §5611(a). Business licenses are valid for one year and are not transferable. 4 CMC §5611(c). A licensee may renew a license upon its expiration by the payment of the annual license fee. 4 CMC §5611(e). The Business Licensing Regulations of the Department of Finance, adopted in the Commonwealth Register Vol. 21, No. 10, October 15, 1999, addresses renewal of business licenses. Section 601(c) of those regulations provide:

A business license that was not renewed for any business on or before the expiration date shall be considered a non-renewal and the licensee shall have no further right to operate that business without first submitting a new application for a business license.

A. Prohibition upon issuance of new business licenses for garment manufacturing

The Commonwealth Code provides limitations on the issuance and renewal of business licenses for garment manufacturing. 4 CMC §5702 as amended by PL 12-11 provides in part that:

Except as otherwise provided by law, the Department of Finance shall not issue or cause to be issued to any applicant any new business license in the Third Senatorial District for the purpose of garment manufacturing. No business license for the purpose of garment manufacturing shall be issued or renewed unless:

(a) the garment manufacturing company's operations in the Commonwealth employs, on a full time basis, at least 20% US citizens, who are also residents of the CNMI, in management and/or supervisory positions.

....

(b) Each garment manufacturer shall provide the necessary training to a U.S. citizen in the position for which he or she is employed.

(c) If an employer demonstrates to the Secretary of Labor and Immigration that he is unable to reach or maintain the requisite percentage of resident workers in

⁶ In August 2003 the Mr. Paul Zak attempted to apply for a garment manufacturing business license for a company called "Divora Saipan, Inc.", a company separate and distinct from Diorva Saipan Ltd. Also submitted were Articles of Incorporation for Diorva Saipan, Inc. which shows the corporation was formed in August 2003. Business Licensing did not approve the garment-manufacturing license application due to the prohibition of issuing new garment-manufacturing business licenses.

⁷ In addition to the application submitted for Diorva Saipan, Inc., Mr. Zak apparently provided a copy of a business license application to the Secretary of Finance for Concordat Knitwear, Ltd. dated October 27, 2003. The Business Licensing Section has no record of ever receiving this particular application.

management and/or supervisory positions, despite a good faith effort to do so, the Secretary may reduce the percentage to one that is reasonably attainable under the circumstances. Provided, however, that in order to receive a reduction under this subsection, the employer must demonstrate that a training program for the development of resident supervisors/managers is in place and that resident workers are in fact being trained for management and supervisory positions. Eighteen months after the effective date of this Act, reduction under this subsection shall no longer be available.

(d) Failure to comply with this section shall be grounds for the Department of Commerce to initiate administrative proceedings to suspend or revoke the garment manufacturer's license, and shall subject the violator to a civil penalty not to exceed \$5000 per day of noncompliance. This section does not otherwise limit the grounds upon which such license may be suspended or revoked.

Thus, 4 CMC §5702 as amended by PL 12-11 prohibits issuance of any new business license in the Third Senatorial District for the purpose of garment manufacturing. Additionally, renewals of business licenses for garment manufacturing required proof of employment of a certain percentage of U.S. Citizens in management and/or supervisory positions as well as proof of certain training requirements.

Concordat failed to renew its business license before it expired in April 2001. As such, under the Business License Regulations, the license is considered a non-renewal and Concordat is required to submit a new application for a business license. Business License Regulation §601, 21 Com. Reg. 16974 (October 15, 1999). However, under 4 CMC §5702, as amended by PL 12-11, the Department of Finance is prohibited from issuing any new business license in the Third Senatorial District for the purpose of garment manufacturing. Because Concordat is considered a new applicant, the Department of Finance is prohibited from issuing a business license for garment manufacturing to Concordat.

B. Applicant must be a "qualified manufacturer"

Even if the license did not lapse, and Concordat was permitted to apply for a renewal of the business license, additional statutory limitations would preclude issuance of the license. These limitations are found in 4 CMC §5703 and 4 CMC §5708.

4 CMC §5703 as amended by PL 12-11 provides:

Notwithstanding any other provision of law, the Department of Finance shall not renew or cause to be renewed to any applicant a business license for the purpose of garment manufacturing unless the applicant is a qualified manufacturer and can show the following:

(a) that the applicant held a valid business license for the purpose of garment manufacturing and was engaged in the manufacturing of textiles or textile products prior to January 1, 1995; or

(b) that the applicant was issued a valid business license for the purpose of garment manufacturing between January 1, 1995 and the effective date of this Act; and

(c) that the garment manufacturer's operations in the Commonwealth employs, on a full time basis, at least 20% US citizens, who are also residents of the CNMI, in management or supervisory positions, provided further that the garment manufacturer shall provide the necessary training to ensure compliance with this section. Failure to comply with this provision will be grounds for the Department of Commerce to refuse to renew or cause to be renewed the garment manufacturer's license, subject to an administrative proceeding. A garment manufacturer found to be in violation of this subsection or any other provision of law applicable to the business license of a garment manufacturer is subject to a civil penalty not to exceed \$5,000 per day of noncompliance, the payment of which shall be a condition for license renewal.

The term "qualified manufacturer", as used in 4 CMC §5703, is not defined, however, the code does define the term "qualified garment manufacturer". A "qualified garment manufacturer" is defined as "a garment manufacturer engaged in manufacturing textiles or textile products." 4 CMC §5701(e). This term contemplates an on-going business that has the equipment, machinery, and the resources to manufacture textiles.

As revealed in Concordat's bankruptcy filing, the company indicated that other than a \$21,500 account receivable, it had no assets. Concordat was liquidated as a result of the closing and dismissal of the Chapter 7 bankruptcy case. While a corporation may be liquidated of assets under Chapter 7 of the Bankruptcy Code, state law determines its legal status. *Village of Montpelier v. Riche, Chenevert, and Address Construction Co., Ltd.*, 43 B.R. 736 (M.D. La. 1984). As such, although Concordat had no assets, it continued to exist as a corporation until it is dissolved under CNMI law. While it retained its legal status as a corporate entity, Concordat lost its status as a qualified garment manufacturer. During the bankruptcy proceedings, Concordat indicated it had no equipment, machinery, or inventory and that it had ceased its garment manufacturing business. In effect, Concordat had only its corporate existence remaining after the bankruptcy liquidation. Because it was no longer a qualified garment manufacturer it is not entitled to renew its license under 4 CMC §5703, even if such renewal had been made prior to the lapse of the license.

Furthermore, even if were permitted to renew its license, the limitations found in 4 CMC §5708 would preclude Concordat from hiring non-resident alien workers to work in its factory. 4 CMC §5708 as amended by PL 12-11 provides:

(a) There is imposed on the garment industry in the Commonwealth a cap of not more than 15,727 non-resident alien workers. The cap includes positions in all job categories, from management to line worker in the garment industry.

(b) Each licensed garment manufacturer shall be allocated to a quota of non-resident alien workers pursuant to Schedule A. Provided, however, that the Secretary

of Labor and Immigration shall, by regulation, establish a mechanism for the reallocation of non-resident alien workers among manufacturers based on need. To offset the cost of increased administration, the Secretary may assess a reasonable reallocation fee.

(c) If a license for garment manufacturing is revoked, not renewed, or otherwise permitted to lapse, the quota allocated to that to that licensee shall be reallocated, at the discretion of the Secretary of Labor and Immigration, to another qualified manufacturer.

Under Schedule A, as referenced in 4 CMC §5708(b), Diorva Saipan, Ltd. was allotted a quota of 334 non-resident workers. Per the Department of Labor, all employees have been re-allocated to other qualified manufacturers. As such, even if Concordat/Diorva were able to renew its license, it no longer has a quota of non-resident workers allocated to its license and it would not be entitled to hire any non-resident workers under the cap.

Finally, with respect to Concordat's corporate reinstatement after the Registrar of Corporations administratively dissolved it in 2003, the issue of corporate reinstatement and the requirements of obtaining a business license are separate and distinct. Corporate reinstatement gave Concordat the legal status of a corporation in the CNMI. It nevertheless was still required to comply with the business license requirements of the Commonwealth Code.

While it is true that 4 CMC §4613(c) provides that corporate reinstatement relates back to and takes effect as of the effective date of the administrative dissolution, and Concordat would be allowed to resume carrying on its business as if the administrative dissolution had never occurred, it is not true that it would have been permitted to resume its business if it did not have a business license. That is, while it was administratively reinstated as a corporation in the CNMI, Concordat was still required to renew its business license in order to conduct its business. Corporate reinstatement did not automatically renew the license. Because Concordat failed to timely renew its license, it is prohibited from engaging in business as a garment manufacturer.

Conclusion

Concordat failed to timely renew its business license for garment manufacturing in 2001 causing the license to lapse. As such, it is considered a new applicant for purposes of applying for a business license. 4 CMC §5702 as amended by PL 12-11 prohibits issuance of any new business license in the Third Senatorial District for the purpose of garment manufacturing. Therefore, the Department of Finance is prohibited from issuing a business license to Concordat for the purpose of garment manufacturing.

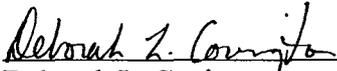
Even if the license did not lapse, and Concordat was permitted to apply for a renewal of the business license, additional limitations would preclude the issuance of the license. Concordat is not a qualified garment manufacturer under 4 CMC §5703 because it liquidated all equipment, machinery and assets during or prior to its bankruptcy case and it ceased operations. Furthermore, the limitations imposed under

4 CMC §5708 would preclude Concordat from hiring any non-resident workers in its factory even if it were allowed to renew the license.

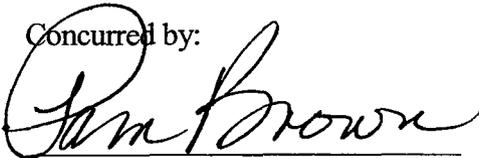
Finally, the corporate reinstatement of Concordat is separate and distinct from the requirements of procuring a business license in order to conduct business in the CNMI. That is, the reinstatement of Concordat by the Registrar of Corporations as a Commonwealth Corporation did not automatically cause the renewal of Concordat's business license. Rather, Concordat was required to timely renew its business license in order to engage in the business of garment manufacturing.

For the reasons stated above, the Department of Finance is prohibited from issuing a business license to Concordat for the purpose of garment manufacturing.

Opinion By:


Deborah L. Covington
Assistant Attorney General

Concurred by:


Pam Brown
Attorney General

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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**Office of the
Attorney General
Civil Division**

ATTORNEY GENERAL LEGAL OPINION NO. 05-05

To: Governor Juan N. Babauta
Thru: Acting Attorney General Clyde Lemons
From: Jeanne H. Rayphand, Asst. AG
Date: March 1, 2005
Re: Legal Opinion

QUESTION PRESENTED AND CONCLUSION

May an individual serve concurrently as a Resident Director of an Executive Department and as a member of the Board of Directors of the Commonwealth Utilities Corporation (CUC Board)?

Conclusion: No.

ANALYSIS

1. STATUTORY PROHIBITION

The Commonwealth Utilities Corporation Act prohibits an "employee or official of the Commonwealth government (including any agency, instrumentality, or political subdivision thereof)" from being appointed as a member of the CUC Board "except as

explicitly authorized by this section. . . .” 4 CMC 8131(a). A Resident Department Head is an “employee or official of the Commonwealth government.” Therefore, absent a waiver of the restriction imposed by 4 CMC 8131(a) by the Governor, a CUC Board member cannot concurrently serve as a Resident Department Head.

Although the Governor may waive “any *statutory* employment restriction with the exception of a felony,” the Governor may do so only “when such restriction, in the judgment of the appointing authority, would place an undue burden by limiting the pool of otherwise qualified potential appointees.” 1 CMC 2901(a) (emphasis added).

2. CONSTITUTIONAL PROHIBITION

Section 17(b) of the Article III of the Commonwealth Constitution provides:

Public services on Rota, and Tinian and Aguiguan, shall be headed by a resident department head in the departments providing the services. . . .

No resident department head may be appointed to serve in any commonwealth-wide board, commission, or authority.

Therefore, because the CUC Board is a commonwealth-wide board, no individual may serve concurrently as a Resident Director of an Executive Department and as a member of the Board of Directors of the Commonwealth Utilities Corporation (CUC Board). See, AG Legal Opinion No. 88-09, dated Nov. 28, 1988) (“Construing Amendment 25 such that it accomplishes a legitimate public policy and a reasonable result, we believe a court would find that Amendment 25 prohibits a member of a Commonwealth-wide board from simultaneously serving as an RDH.”)

This is a constitutional prohibition which cannot be waived. Although 1 CMC 2901(a), as amended by Public Law 13-9 authorizes the appointing authority to “waive

the requirement of Commonwealth residence . . ." and to "waive any statutory employment restriction with the exception of those convicted of a felony. . . .", the statute does not, and cannot, alter the Constitutional provision which prohibits a resident director from serving on a commonwealth-wide board.


Jeanne H. Rayphard
Assistant Attorney General


Clyde Lemons
Acting Attorney General