



CIVIL SERVICE COMMISSION
Kumision / Setbision Sibit
GOVERNMENT OF GUAM
I Gobietnon Guahan
 Bell Tower, Suite 201
 710 West Marine Corps Drive
 Hagatna, Guam 96910
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LOURDES A. LEON GUERRERO
 Governor
JOSHUA F. TENORIO
 Lieutenant Governor

DANIEL D. LEON GUERRERO
 Executive Director

Employee Address and Contact Information / Disclosure Form:

This form requests information that is relevant and necessary to reach a decision in your Appeal. The Civil Service Commission collects this information in order to process Appeals or Complaints under its statutory and regulatory authority. An Appeal or Complaint is a voluntary action, you are not required to provide any personal information in connection with it. However, failure to supply the Civil Service Commission with all the information essential to reach a decision in your case could result in the rejection of your Appeal or Complaint.

Please be advised that your Appeal or Complaint is available to the public under the provisions of the Sunshine Reform Act of 1999. Information contained in your Appeal or Complaint file may be released as required by the Sunshine Reform Act of 1999. Additionally, information about your Appeal or Complaint will also be used in a depersonalized form in a database for program statistics.

Please print legibly below:

Employee Name:	CHRISTOPHER M. SANTOS
Position Title:	CORRECTIONS DEL. 2
Agency/Department:	DEPARTMENT OF CORRECTIONS
Home Phone:	NONE
Work Phone:	735-5174
Cell Phone:	[REDACTED]
Home Address:	[REDACTED]
Mailing Address:	[REDACTED]
E-mail address:	[REDACTED]



DISCLOSURE OF INFORMATION: Upon filing of any Appeal or Complaint, all documents submitted to the Civil Service Commission become public records/writing. The documents may be disclosed, inspected, or copied pursuant to the Sunshine Reform Act (5GCA, Chapter 10) or other applicable law(s). Personal information will not be made available to the public (i.e., SSN#, home address, etc.).

I hereby agree and acknowledge that upon any changes of the above information, I will notify the Commission. Non-notification may result in my case being dismissed. Furthermore, I have read and understand the Disclosure of Information Statement above.

[Signature] 12-18-2020 *[Signature]* 12/18/20
 SIGNATURE & DATE OF EMPLOYEE SIGNATURE & DATE OF REPRESENTATIVE



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 Executive Director

DATE: 12-18-2020

TO: Executive Director, Civil Service Commission

FROM: CHRISTOPHER M. SANTOS

SUBJECT: Letter of Appeal Letter of Complaint
 (Must check only one (1) item. For multiple Appeals or Complaints please fill out additional forms.)

APPEAL: (Please check only one (1) box)

- Adverse Action Grievance Equal Employment Opportunity
 Lay-Off "Bad Faith" Furlough "Bad Faith" Priority Placement "Bad Faith"

COMPLAINT: (Please check only one (1) box)

- Post Audit Notice of Personnel Action Lay-Off Furlough Priority Placement
 Public Protection Act, "AKA: Whistle Blower" Ethics in Procurement Political Activity, "AKA: Mini-Hatch"

I, CHRISTOPHER M. SANTOS
 (Print Full Name)

A Classified employee Unclassified Employee of DEPT. OF CORRECTIONS in the position
 (Agency or Department)

CORRECTIONS OFFICER 1, alleges that the action is inappropriate for the following reasons:
 (Your official job title)

ACTION IS UNFAIR, UNJUST AND PROCEDURALLY DEFECTIVE.

[Signature] 12-18-2020
 Signature & Date

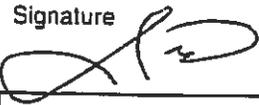
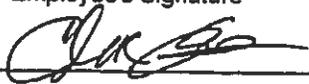
**GOVERNMENT OF GUAM
DEPARTMENT OF CORRECTIONS
FINAL NOTICE OF ADVERSE ACTION**

NAME OF EMPLOYEE (First, Middle, Last) Christopher Mangiona Santos	RANK OR TITLE: Corrections Officer I
BUREAU OR DIVISION: Adult Correctional Facility	DATE OF THIS ACTION: December 14, 2020

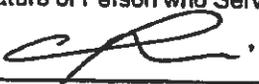
LAST KNOWN ADDRESS: [REDACTED]

TYPE OF ACTION
 Final Notice of Adverse Action.
 Notice of Proposed Adverse Action.
This is a Notice of Proposed Adverse Action which may result in any of the following: B, C, D.

A. DISMISSAL (Temporary Intermittent, Provisional, Seasonal or Part Time) Effective: <small>There is no appeal from this action. Refer to Department of Administration.</small>	C. SUSPENSION for (***) working days Effective: _____ <small>You may appeal this action in accordance with the procedures outlined on Page 4.</small>
B. DISMISSAL (From Permanent Appointment) Effective: Immediately, December 14, 2020 upon service. <small>You may appeal this action in accordance with the procedures outlined on Page 4.</small>	D. DEMOTION Effective: <small>You may appeal this action in accordance with the procedures outlined on Page 4.</small>

Director of Corrections Joseph S. Carbullido	Signature 	Date 12/14/2020
Employee's Signature 	Date 12-14-2020	Time 1639 HRS.

I hereby certify that the original copy of this notice was served on the subject employee on this 14TH day of DECEMBER, 2020, at 1639 hours.

<input checked="" type="checkbox"/> Served Personally	<input type="checkbox"/> Copy left at Last Known Address	<input type="checkbox"/> Registered Mail
Print Name of Person who Served this Notice GAYLE R. SUGIYAMA, COI	Signature of Person who Served this Notice 	

EXECUTIVE ORDER 96-24, AUTHORIZED CAUSES FOR ADVERSE ACTION FROM SECTION 11.303 ARE LISTED BELOW. SELECT AND MARK APPROPRIATE BLOCK(S).

- A. Fraud in securing appointment.
- B. Refusal or failure to perform prescribed duties and responsibilities.
- C. Insubordination.
- D. Intoxication while on duty or the unauthorized possession, use or sale of alcohol on duty or while on government premises.
- E. Unlawful use, possession, or sale of illicit drugs.
- F. Unauthorized absences.
- G. Conviction for a crime.
- H. Discourteous treatment to the public or other employees.
- I. Political activity prohibited by law.
- J. **Misuse or theft of government property.**
- K. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- L. Acts prohibited by Section 9102, 4GCA relating to strikes against the government.
- M. Acts prohibited discrimination to include sexual harassment.
- N. Failure to comply with the Drug-Free workplace program.
- O. Other misconduct not specifically listed (violations of oath, DOC policies 88-19 and 97-009, DOA policies (chapter 3), DOA 11.402 violations), Executive Order 2007-18, DOC General Order 2003-01, and violations of Guam's criminal code, including 9 GCA § 49.90 (official misconduct), 9 GCA 58.60 (promoting prison contraband) and 10 GCA Chapter 90 (Natasha Protection Act).

EMPLOYEE'S RIGHTS

Chapter 11. 307, PR & R, Executive Order No. 96-24

11.306 Notice of Proposed Adverse Action

An employee against whom adverse action is sought is entitled to immediate written notice stating any and all reasons, specifically and in detail, for the proposed action. The written notice must make it clear that it concerns only proposed action and not a matter already decided. A copy of such action shall be filed by the department/agency head with the Department of Administration and CSC.

11.307 Employee's Answer

An employee is entitled to seek reconsideration of the proposed adverse action by answering any charges within 10 calendar days after receipt of the notice; the answer may be made orally, in writing, or both. The department/agency head shall be available to meet with the employee at the designated date and time. The department/agency head may designate a committee to hear the employee's answer. The employee may be represented by a person of his choice. The department/agency must consider the employees answers to the charges in the proposed adverse action notice. If the employee fails to answer during the notice period, the employee's inaction shall be construed as an answer, and the department/agency head may proceed with the adverse action upon expiration of the notice period.

[] **11.308 Suspension During Notice Period**

- A. An employee against whom adverse action is proposed, must be retained in active duty status during the notice period; however, in an emergency situation, an employee may be immediately suspended during the notice period, under the following conditions:
 - 1. The continued presence of the employee may interfere with the efficient operation of the department/agency, or the health or safety of the employee or others.
 - 2. Suspension is necessary to eliminate the possibility of deliberate damage to equipment, property or important documents.
 - 3. The employee's absence without authorized leave prevents the issuance of notice of proposed adverse action and the department/agency's attempt to contact the employee was unsuccessful.
- B. Suspension under this section is a separate adverse action and is appealable to the Commission within 20 days of the effective date of the immediate suspension. A copy of the notice of immediate suspension shall be filed with the Civil Service Commission no later than the next working day following the effective date of the suspension.
- C. If the Commission sustains the department's action in suspending the employee during the notice period, the number of days of suspension under this section shall be considered part of the final disciplinary penalty and in no case, shall the final days of suspension be more than 30 working days.

/XX/ Chapter 11.311, Final Notice of Adverse Action

- A. An employee is entitled to written notice of the department's decision within 10 days after receipt of the of the employee's answer to the charge(s). The decision shall be made by the department/agency head and shall be delivered to the employee at, or before the time the action will be made effective. The notice shall be in writing, be dated, state the specific facts found upon which such action is based; inform the employee of the time limit of 20 days within which an appeal may be submitted as provided in Personnel Rules and Regulations, Appendix A-CSC-100 (c) of the Civil Service Commission Hearing Procedures for Adverse Action Appeals.
- B. In the event the appointing authority cannot locate the employee, the Notice of Proposed Adverse Action and/or Notice of Final Adverse Action shall be sent, certified mail, to the employee's last known address.
- C. Copies of the final notice of adverse action shall be filed by the department with the Commission not later than the next work day following the effective date of the action, A copy of the final notice shall be filed with the Department of Administration.

/ XX / Chapter 11.313 Service of Proposed and Final Notice of Adverse Action

The Proposed and Final Notices of Adverse Action shall be personally served upon the employee. In the event the appointing authority cannot locate the employee, after reasonable efforts have been made to locate the employee, service of the Proposed or Final Notices may be made by leaving the Notice at the employee's dwelling or usual place of abode with some person of suitable age and discretion residing therein, or by mailing the Notice to the employee at the last known address. Service by mail is complete upon mailing.

[XX] CSC-100, Personnel Rules & Regulations, Appendix A, EO96-24

A. Right to Appeal

1. Any person in the classified service holding a permanent appointment and who is subject to an adverse action by management, except one who is exempted by law from the jurisdiction of the Civil Service Commission, is entitled to appeal an adverse action to the Civil Service Commission. A person who has been appointed to a permanent position and who has satisfactorily completed his probationary period holds a permanent appointment.
2. A contract employee occupying a permanent position in the classified service is entitled to appeal an adverse action to the Civil Service Commission during the term of his contract. Non-renewal of the contract by the government of Guam is not appealable.

B. Contents of Appeal

An appeal shall be in writing and shall set forth the answer to the charges and the grounds for appeal. An appeal may be amended within 15 days after filing. A person who is the subject of an adverse action and who files an appeal on his own behalf or through a representative is the appellant.

[XX] Time Limit for Filing Appeal

An appeal must be submitted within 20 calendar days from the effective date of the action.

[XX] Rights in Pursuit of Appeal

An appellant shall:

1. Be assured freedom from restraint, interference, coercion, discrimination, or reprisal.
2. Have the right to be accompanied, represented and advised by a representative.
3. Be assured a reasonable amount of official time to prepare his case if he is on duty status.

[XX] Chapter 11.302d, PR & R, EO96-24 Definition of Day

Day means calendar day unless otherwise specified.

EMPLOYMENT

Corrections Officer I Christopher Manglona Santos' employment with the Department of Corrections commenced on or about July 17, 2015. He signed an oath of office and appointment affidavit on or about July 17, 2015, which is in the official personnel file at DOA. Officer Santos attended a formal basic correction officer academy that he completed on October 23, 2015. In the formal academy he was trained on policies and procedures, code of conduct, and departmental rules and regulations. He took the Oath of Office and was sworn-in on October 24, 2015, by Lieutenant Governor Ray Tenorio. Moreover, Officer Santos signed an oath on October 24, 2015, to faithfully support the laws of Guam and affirmed he would conscientiously and impartially discharge his duties as an officer/employee of the government of Guam.

- A. **This case pertains to Corrections Officer I Christopher M. Santos' Responsibility and Conduct of Employee for his actions and inaction on or about September 19, 2020.**

On or about September 19, 2020, an unannounced bag search was conducted by DOC Special Operations Response Team (SORT) officers. This action is brought as a result of Officer Santos' Copenhagen (tobacco) onto government property, and violating numerous departmental policies as set forth herein.

On or about September 23, 2020, Officer Santos admitted to misconduct on and before September 19, 2020.

- B. **Officer Santos was arrested by GPD relating to this conduct on or about September 19, 2020 at DOC. Officer Santos' arrest by GPD and any criminal charges being brought against him by prosecutors are not the basis for this proposed adverse action, although the actions may involve similar or related facts and circumstances and/or charges herein.**

For purposes of this administrative action, criminal charges alleged allow for a lower administrative burden of proof should this matter proceed to final agency action at a future date and an appeal filed.

The facts and circumstances forming the basis of this proposed adverse action are Officer Santos' conduct on or about September 19, 2020, when he reported to work at DOC, and an administrative bag search revealed his misconduct prior to reporting to his post, and his subsequent admission as to misconduct by bringing in unlawful tobacco products during a three month period prior to September 19, 2020, and hiding it in a locker on DOC property. All criminal conduct alleged herein, and violations of Guam law and DOA/DOC policies are based on Officer Santos' actions and misconduct on government property on September 19, 2020, and his subsequent admissions to Internal Affairs on or about September 23, 2020, as to prior misconduct. DOC had no knowledge of this prior misconduct until September 23, 2020.

- C. **On September 22, 2020, Investigators Julius Tano, Heath Gogue, and Gayle Sugiyama received a verbal order to launch an internal affairs investigation from the Director of Corrections Joseph S. Carbullido after he received notice of the results of an administrative bag search made by Frank S. Talianao, Alpha Platoon Commander, made to the Prison Security Administrator.**

AFTER REVIEW OF THE INVESTIGATION AND ADVERSE ACTION DOCUMENTS AND AFTER CONSIDERING EMPLOYEE'S ORAL (VIDEO) RESPONSE TO THE PROPOSED ADVERSE ACTION ON DECEMBER 10, 2020, I NOW FIND THAT EACH OF THE CHARGES BELOW ARE SUPPORTED BY THE FACTS AND CIRCUMSTANCES SET FORTH HEREIN (AND AS PREVIOUSLY SET FORTH IN THE NOTICE OF PROPOSED ADVERSE ACTION). I

I FIND THAT EMPLOYEE VIOLATED EACH OF THE CHARGES BELOW AND HAVE TAKEN ACTION AS STATED ON PAGE 1 AS A RESULT OF THE FACTS AND CIRCUMSTANCES REFERENCED HEREIN. IN EMPLOYEE'S ORAL RESPONSE, HE ADMITTED HE WAS FAMILIAR WITH DOC POLICIES AND PROCEDURES, HE KNEW IT WAS ILLEGAL TO BRING TOBACCO INTO THE DOC FACILITY AND YET HE DID SO ON SEPTEMBER 19, 2020. HE ALSO ADMITTED TO INTERNAL AFFAIRS DURING THE INVESTIGATION THAT IN ADDITION TO BRINGING IN TOBACCO INTO THE PRISON UNLAWFULLY, HE BROUGHT IN OTHER ITEMS FOR DETAILS (PRISONERS). THIS CONDUCT ALSO VIOLATES DOC POLICIES SET FROTH HEREIN INCLUDING UNDUE FAMILIARITY AND ATTEMPTS TO BYPASS PRISON SECURITY/SEARCH PROTOCOLS.

An unannounced bag search was conducted for officers reporting for duty for Alpha Platoon on or about September 19, 2020 by the Special Operations Response Team (SORT). Members of SORT performed the administrative search of Officer Santos' lunch bag and discovered unauthorized items in his bag. Discovered in his bag were five (5) cans of Copenhagen chewing tobacco, packets of instant coffee, packets of food seasonings and one (1) bottle of sriracha hot sauce.

Items such as the five (5) cans of Copenhagen chewing tobacco are unlawful and not authorized to be on government property, including DOC property. These unauthorized items violate Guam law, including 9 GCA § 58.60 (promoting prison contraband), violate Executive Order 2007-18 (Relative to establishing tobacco free workplace environment department policy for the Executive branch for the Government of Guam and DOC General Order 2003-01 (Designation of Department of Corrections facilities as smoke-free and tobacco-free), violated 10 GCA Chapter 9 (Natasha Act) and other DOA and DOC policies set forth herein.

Guam law, executive orders and departmental policies, including DOC's policy, provide for a zero-tolerance on tobacco products in the workplace, whether for personal benefit or whether for its use by prisoners at DOC. Tobacco is unauthorized on Government property, including DOC, in the form of chewing tobacco or cigarettes. DOC is a smoke-free and tobacco-free facility.

Officer Christopher Santos told Internal Affairs' investigators on September 23, 2020, in his interview, that the (05) each cans of Copenhagen chewing tobacco were for his personal use. He further stated he had been bringing it in and hiding it in his locker for approximately three (3) months.

On September 19, 2020, he further admitted the tobacco was found in his lunch bag in plain view by Officer Osbourne. Both he and Officer Osborne signed the custody receipt. Officer Santos referred to the tobacco as snuff. He admitted to bringing it from his vehicle in his bag, where it was discovered in the unannounced administrative search while he was on DOC premises in the operations room.

Attachment 1 is a photograph of the contents of Officer Santos' lunch bag on September 19, 2020. Attachment 1 shows cans of Copenhagen tobacco in addition to other items. Officer Christopher Santos stated he was bringing in the tobacco to use for his personal use to place in his locker at Post 3.

Attachment 2 are two (2) written statements signed by Officer Christopher Santos dated September 23, 2020, which he provided to Internal Affairs. The attached statements are incorporated by reference as if set forth in full. Officer Santos' written statement acknowledge tobacco was found in his lunch bag by CO1 Osborne on September 19, 2020. His statement confirms items discovered in his bag were coffee, seasoning, sriracha sauce, black tea, rice, steak, and tobacco.

Attachment 3 is the custody receipt showing the **five (5) cans of Copenhagen tobacco**. This document is signed by Officer Santos and Officer Osborne and dated September 19, 2020.

Attachment 4 is the appointment affidavit and oath (DOA HR) signed by Officer Santos on July 17, 2015.

Attachment 5 consists of 3 pages; a two (2) page typed incident report from Officer Osborne and a one (1) page hand-written statement dated September 24, 2020 addressed to Internal Affairs by COI G.N. Osborne. All three pages are attached. The hand-written statement states:

On 9/19/20 at around 0017 commence un-announced bag search on Alpha platoon COI CM Santos and at around 0028 when opening said officers lunch bag noticed in plain view (05) cans total of chewing tobacco in a clear plastic bag and also inside was container of rice, meat and a bottle of sriracha and a unknown amount of cool aid packets and 1 container of seasoning mix. End of report.

Attachment 6 is **Executive Order 2007-18** signed and promulgated November 27, 2007, by Governor Felix Camacho regarding the Executive Branch Tobacco Free Workplace Policy.

Attachment 7 is DOC's General Order 2003-01 designating DOC as a smoke-free and tobacco-free facility. This general order refers to 10 GCA Chapter 90, §§ 90105 and 90106.

In addition to bringing in tobacco into the prison unlawfully, he admitted to bringing in other items for details (prisoners). This conduct also violates DOC policies set forth below including undue familiarity and attempts to bypass prison security/search protocols.

His statement that the Copenhagen tobacco in this amount (5 cans) for his personal use is alleged to be false, inaccurate and/or misleading, as he admitted to bringing in other items found in his bag for prisoners. The amount of the Copenhagen (5 cans) also appears to support the allegation it was bring brought in to distribute to the inmates/prisoner population. In his interview, he admits to hiding the tobacco in his locker previously and states he was bringing this tobacco in to put in his locker.

Officer Santos' conduct in bringing tobacco and contraband onto government property is criminal in nature, an abuse of his position of trust and authority as a corrections officer, disrespectful to his superiors and peers, and violates the public's trust as well as that of DOC Management.

As a peace officer and corrections officer, he is charged with complying and enforcing Guam law and DOC policies and preventing crime. Instead, he engaged in criminal (official misconduct, promoting prison contraband), dishonest, disrespectful, unethical and irresponsible conduct which jeopardized DOC's mission and security protocols to benefit himself and others. Further, he violated the public's trust, DOC's trust, and he violated his oaths taken (with DOA and DOC) to uphold the laws of Guam and to conscientiously and impartially discharge his duties as an officer/employee of the Government of Guam.

He knew his conduct violated Guam law and departmental policies, yet engaged in this conduct knowingly and intentionally to further his own purposes and his own personal gain. As a result of the administrative search and the discovery of these improper and unlawful items in the possession and control of Officer Santos, the Guam Police Department was contacted.

- D. On Wednesday, September 23, 2020 at about 1125 hours, Corrections Officer I Christopher Santos was interviewed by Internal Affairs Investigators Julius R. Tano, Heath A. Gogue, and Gayle R. Sugiyama in reference to Internal Affairs Case Number 20-022. He signed, acknowledged, and was afforded a Copy of Garrity Warning.

At the time of his interview, CO1 Santos was assigned to Alpha Platoon and scheduled to work from 2400 to 1200 hours with Saturday and Sunday being his regular days off. He has been employed with the department for about 5 years as of the date of the incident and his interview. His immediate supervisor is Lieutenant Marceline U. Maratita.

Officer Santos signed, acknowledged and was afforded a Copy of Garrity Warning.

1. Officer Sugiyama: He was advised the reason he is here today regarding the bag search that took place on September 19, 2020 that was this past Saturday, can you go ahead and give us scenario on what took place there on what happened.

2. Officer Santos: He went to the briefing, I came out, SORT (Special Operations Response Team) was there standing by to do the bag search. Officer Osborne was the one that inspected my bag. He found five (5) cans of snuff right on the top, in plain sight, and that was the end of that (emphasis added).

3. Officer Sugiyama: What time, do you recall what time you reported for duty?

4. Officer Santos: I think around 1130 no, I think I came to the gate around 11, 2300 hours.

5. Officer Sugiyama: you came through Post 10?

6. Officer Santos: Yes.

7. Officer Santos: I checked into ACF around 2330 hours.

8. Officer Sugiyama: So, you reported for duty at gate 10 at 2300 hours and then you wait in your vehicle until around 2330 hours.

9. Officer Santos: I do that every day.

10. Officer Sugiyama: Prior to you going up to operations were you aware that there is a bag search being conducted?

11. Officer Santos: Negative.

12. Officer Sugiyama: You said Officer Osborne was the one that inspected your bag?

13. Officer Santos: Yes

14. Officer Sugiyama: And he (Officer Osborne) found 5 cans of snuff in plain view?

15. Officer Santos: Yes

16. Officer Sugiyama: And this was in your regular bag?

17. Officer Santos: No, it's was in my lunch bag.

18. Officer Sugiyama: Was there anything else that he (Officer Osborne) found?

19. Officer Santos: Kool-aid, coffee.

20. Officer Sugiyama: Anything else.

21. Officer Santos: And my lunch.
22. Officer Sugiyama: Other than the snuff, everything else is personal use.
23. Officer Santos: Yes.
24. Officer Sugiyama: What about the snuff?
25. Officer Santos: Was personal use also.
26. Officer Sugiyama: The five cans of snuff, what kind of snuff was this?
27. Officer Santos: Copenhagen.
28. Officer Sugiyama: Do you bring 5 cans of snuff every day?
29. Officer Santos: No, I just brought it that day, I didn't know they are going to do anything, and it's supposed to go in my locker.
30. Officer Sugiyama: And you store your snuff in your locker?
31. Officer Santos: Yes.
32. Officer Sugiyama: So you have no intention on bringing it in for any inmate or prisoner.
33. Officer Santos: No
34. Officer Sugiyama: Did you purchase the snuff prior to reporting for duty that evening
35. Officer Santos: No
36. Officer Gogue: Officer Santos, 5 cans of snuff so personal use and you say you put it into your locker?
37. Officer Santos: So, you don't have to bring everyday.
38. Officer Gogue: Ok, so where is your locker.
39. Officer Santos: Post # 3
40. Officer Gogue: Where is the locker located?
41. Officer Santos: Right there behind the desk.
42. Officer Gogue: How long have you had that locker
43. Officer Santos: Maybe 2 years.
44. Officer Gogue: You share the locker with anybody else?
45. Officer Santos: Yes
46. Officer Gogue: Who
47. Officer Santos: Sergeant Uson
48. Officer Gogue: Is she aware that you put snuff inside?

49. Officer Santos: No
50. Officer Gogue: How long have you been bringing in, when you say personal use, how long doing that?
51. Officer Santos: Probably just about 3 months.
52. Officer Gogue: For those 3 months, Sergeant Uson was not aware you bringing in ...your personal?
53. Officer Santos: No. She wasn't aware. She was on a different shift and I was trying to hide it away from her.
- You are hiding it from her?
- Yes. She is on the top, and I am on the bottom of the locker.
54. Officer Gogue: How long have you been an officer here at DOC?
55. Officer Santos: About 5 years.
56. Officer Gogue: What's your knowledge about snuff?
57. Officer Santos: That we are not supposed to bring it.
58. Officer Gogue: Now do you know where you were going to be assigned that day?
59. Officer Santos: No, well it depends on the shift, if we are short, they just put me anywhere. I don't have a specific unit.
60. Officer Gogue: So where have you been assigned?
61. Officer Santos: Recently Post 2
Your locker is at post 3? Yes. He does not get assigned to Post 4.
62. Officer Gogue: When was the last time you were assigned to Post # 17?
63. Officer Santos: Last Saturday. All depends on the shift.
64. Officer Gogue: Can you describe your food bag?
65. Officer Santos: Brown and black, it got design.
66. Officer Gogue: What about the inside?
67. Officer Santos: Silver.
68. Officer Gogue: Other than Kool aid and coffee and the Copenhagen that you said was in plain sight, what else is in the contents in your bag?
69. Officer Santos: Tea.
70. Officer Gogue: Anything else?
71. Officer Santos: I think the seasoning.
72. Officer Gogue: What kind of seasoning?
73. Officer Santos: Mama sita
For your personal use? No, that was for the details.
- What else other than the mix in your bag? Coffee
Anything else? That's it

Any candy? Candy.
Anything else? No

74. Officer Gogue: How about the sriracha sauce?

75. Officer Santos: Yea

76. Officer Gogue: What was the sriracha sauce for?

77. Officer Santos: Our use.

78. Officer Tano: When did they do the bag search, who searched your bag

79. Officer Santos: Officer Osborne

80. Officer Tano: Where in operations did, he search your bag?

81. Officer Santos: Right there on top of the red box.

82. Officer Tano: Who's the officer that discovered the cans of Copenhagen?

83. Officer Santos: Officer Osborne.

Anybody else present during search? Everybody.
In immediate area? Tainano.

Who was the officer who discovered the Copenhagen? Osbourne.

84. Officer Tano: Did Officer Osborne ask you who was that Copenhagen for?

85. Officer Santos: No

86. Officer Tano: He (Officer Osborne) just found it and that's it?

87. Officer Santos: Yea.

88. Officer Sugiyama: So, after Officer Osborne found the 05 cans of Copenhagen snuff what happened?

89. Officer Santos: I was placed in the holding tank.

90. Officer Sugiyama: You stayed in the holding tank?

91. Officer Santos: I stayed at the holding tank.

92. Officer Sugiyama: Did anybody come and take you?

93. Officer Santos: GPD

94. Officer Sugiyama: And then from there?

95. Officer Santos: I drove my truck down to the police station.

96. Officer Sugiyama: You drove your truck to the police station?

97. Officer Santos: Yes, I was given all my equipment, my bags and I was told to drive my vehicle.

98. Officer Sugiyama: And you provided a statement with GPD, correct?

99. Officer Santos: Yes, Whatever I told you guys, I told them.

100. Officer Sugiyama: Everything exactly?

101. Officer Santos: Everything.

102. Officer Sugiyama: So you did not bring that for anybody?

103. Officer Santos: No.

104. Officer Tano: So that Copenhagen is for personal use?

105. Officer Santos: Yes.

106. Officer Gogue : Officer Santos now, Officer Tano just mentioned earlier add on to it that If we do find out it coincides with that night the morning with any other persons, whether officers , prisoners, do you understand you will be liable what we are trying to say, be honest to us that's what the Garrity is saying too, that you provide truthful statement testimony so then I am going to ask you one last time was it for a prisoner ?

107. Officer Santos: No

108. Officer Gogue: I am going to ask one last time, was it for a prisoner?

109. Officer Santos: No

110. Officer Sugiyama: When you stated you brought the food or the other items in your lunch bag that you said it's for your details?

111. Officer Santos: That's we use to run the shift good, we give them coffee, candy ...

112. Officer Sugiyama: So it's not for any specific detail?

113. Officer Santos: It's not for any specific detail, just to make the shift run good everybody brings in the stuffs for the prisoner for them to relax, calm down, 18 is on lockdown for how long already, these guys come out want to use the phone, tell them no, so we give them, here have a candy, so relax or have a coffee.

114. Officer Sugiyama but never snuff?

115. Officer Santos: No.

116. Officer Gogue: Officer Santos, now you understand that we do come across a witness whether it be from either side or through sources of info that will tie you up with these items you brought in. I am just letting you know, so be mindful you will be liable of what you said to us, okay as far as bringing the sriracha, the sinigang, the snuff, despite what you provided to us. Do you understand where I am coming from, whether be it come from a witness, through recordings, do you understand?

117. Officer Santos: I understand.

118. Officer Gogue: Again, so it's not intended for no prisoner?

119. Officer Santos: No.

120. Officer Sugiyama: Do you at any point state that you were scared that's the reason why you brought it in?

121. Officer Santos: No

E. On Thursday, September 24, 2020 at about 1421 hours, Corrections Officer I Gerald Nakota Osborne was interviewed by Internal Affairs Investigators Julius R. Tano, Heath A. Gogue, and Gayle R. Sugiyama in reference to Internal Affairs Case Number 20-022.

He signed, acknowledged, and was afforded a Copy of Garrity Warning. He is currently assigned to Special Operations Response Team Bravo Shift. Scheduled 1200-2200 hours. Employed with DOC for about 11 years. Immediate Supervisor is Corporal Joey L.G. Pocaigue.

1. Officer Sugiyama: Can you tell us what happened on September 19, 2020, this past Saturday?
2. Officer Osborne: The evening prior to us coming in, we were told that we were going to come in and conduct an unannounced bag search due to supposed information that the commanders had, so we came in. The officers were already in the briefing but their bags were in the Operations area so they were pulled out one at a time per officer to check their bags and their belongings for any contraband or for any unauthorized items. While we were conducting that search, I called C.M. Santos out to conduct his search. I searched his backpack which didn't have anything but water and food and snacks. Then I noticed that he had another bag and I asked him to put in on the Xerox copy machine so I can search it. I unzipped the brown bag which was a lunch bag and on top of everything was (05) cans of Copenhagen Snuff in a clear plastic bag. I reported it to Corporal Taiañao and he had me put C.M. Santos in the holding tank and he took the bag and secured it in Central until we were completed with the remaining searches.
3. Officer Sugiyama: Who were the other S.O.R.T. Operators that were present with you?
4. Officer Osborne: That would be Corporal P.F. Aguon, COI Ryan Ruiz, G.E. Manansala, and Jacob Talsipic.
5. Officer Sugiyama: A total of (05)?
6. Officer Osborne: Yes, ma'am.
7. Officer Sugiyama: Was there any other officer assisting with the search?
8. Officer Osborne: Only other officer I know that was assisting was Frank which was the platoon commander that night and the recorder was Officer J.J. Santos.
9. Officer Sugiyama: Before you searched Officer Santos' belongings, did he at any time disclose that he had contraband or unauthorized items on him or with him?
10. Officer Osborne: No, he didn't.
11. Officer Sugiyama: He never did?
12. Officer Osborne: Only thing he did to me was when I opened his bag, he thought I would turn my blind eye.
13. Officer Tano: Was the Copenhagen in plain view?
14. Officer Osborne: Yes, it was in plain view as soon as I opened his lunch bag, it was right there, on top.
15. Officer Tano: Were the cans of snuff inventoried?
16. Officer Osborne: Yes.

17. Officer Tano: In his presence? Do you recall?
18. Officer Osborne: No, I don't recall.
19. Officer Tano: Do you know how many cans?
20. Officer Osborne: There was a total of (05).
21. Officer Tano: Do you recall what was the contents of his bag besides the snuff?
22. Officer Osborne: He had a Tupperware with rice, Tupperware with unknown meat but it was a clear container, if I'm not mistaken, there was Kool-Aid packets, and a bottle of sriracha sauce (brand new).
23. Officer Tano: How's his demeanor afterwards when you had your findings with the Copenhagen? How was his demeanor towards you? His initial reaction?
24. Officer Osborne: He was nonchalant. When I told him to sign his inventory he was like "No, it's for my personal consumption." Then I said "It says on the billboard out there, you're not supposed to bring that."
25. Officer Gogue: While you were searching Officer Christopher Santos, did you recognize or observe who else was being searched around the immediate area?
26. Officer Osborne: The only other person that I know that was being searched at the same time was Gumataotao, the new officer.
27. Officer Gogue: So, you witnessed part of it?
28. Officer Osborne: I didn't witness the part where they fully – I just saw from a distance the different items that he had.
29. Officer Gogue: What items did you see that was searched?
30. Officer Osborne: When I looked over, I saw them searching from the corner of my eye, I can see them search, I saw a green and white bag - if I'm not mistaken it's chorizos español. I know they were looking at a bottle with a flashlight. That's as far as I was able to see until everything was done and being inventoried.
31. Officer Gogue: Do you know what kind of bottle?
32. Officer Osborne: Like a lotion bottle or something. I just know it was a bottle and they were using a flashlight to look in it to try and see if there's anything inside.
33. Officer Gogue: Who was using a flashlight?
34. Officer Osborne: That was Officer Manansala.
35. Officer Gogue: Anybody else assisted in the search of Officer Gumataotao's items?

36. Officer Osborne: I don't really know who was helping, I just know I saw Manansala's flashlight and at the time it was Frank Taiañao who was the platoon commander – they were both in the same area. Can't really say I saw him searching, I just know he was in the same area.
37. Officer Gogue: What else did you see while the search process was going on with Officer Gumataotao?
38. Officer Osborne: I didn't see much 'til after. If we're speaking after, I saw that they were searching his bag. After I'd already put Santos inside the holding tank and his bag was seized and put inside (Central) Control for safekeeping until I was done; I know I saw them looking through peanut butter jars. If I'm not mistaken, two were peanut butter jars and one was Biscoff.
39. Officer Gogue: Who was searching the peanut butter jars?
40. Officer Osborne: I saw Manansala searching the peanut butter jars with somebody else – I don't remember. I know who was searching it but I don't know who was with him.
41. Officer Gogue: When you mentioned the lotion, did you see anything out of the lotion as far as the process?
42. Officer Osborne: Content?
43. Officer Gogue: Yes.
44. Officer Osborne: Towards the end, yes.
45. Officer Gogue: What did you see?
46. Officer Osborne: When GPD was opening it, they had (02) straws which they stated was possible marijuana, and (01) Zip Lok bag that was containing what looked to be methamphetamine, and (01) syringe.
47. Officer Gogue: So, GPD opened the bottle?
48. Officer Osborne: Yes.
49. Officer Gogue: You witnessed GPD open the bottle?
50. Officer Osborne: Oh no, I didn't see them open the bottle. The bottle was opened already.
51. Officer Gogue: Do you know who opened it?
52. Officer Osborne: No, I didn't see that part. All I heard was a "Oh! Fuck!". So, it had to be something bad, whoever popped it open. I didn't see the part of popping it open. I only got the part where Officer Pocalgue was inventorying the content.
53. Officer Gogue: Just to valid the findings of the Copenhagen regarding Officer Christopher Santos, to your knowledge, do you know him as a snuffer? Are you aware if he chews?
54. Officer Osborne: No. I never really worked with him. He's always on a different shift.

55. Officer Sugiyama: Sir, was there anybody else that you searched that brought up any suspicious behavior?
56. Officer Osborne: No, everybody was pretty alright. It was only the two that I know that everybody was really looking at – It was just those two. The rest were pretty alright. They didn't seem to have any movement of doubt like they had anything on them.
57. Officer Sugiyama: Did you happen to notice Officer Gumataotao's demeanor/behavior while he was being searched?
58. Officer Osborne: To be honest, he was pretty surprised. Like, when I know whoever opened the thing, I heard him say "Oh shit! I didn't know that was there!".
59. Officer Sugiyama: That was Gumataotao?
60. Officer Osborne: Yeah, that's all I heard from him. But he didn't seem like he was bothered by anything, but, later on, the way I watched him when he left, it just seemed like he didn't look of a person that didn't really – had nothing to say. Some people will fuck up and they'll look embarrassed, they'll keep their head down but him, he was just cool.
61. Officer Sugiyama: No remorse?
62. Officer Osborne: Yeah, I've seen a lot of people get busted and they always look a certain way and that's not the way you look when you get popped for something.

AS SET FORTH ABOVE AND HEREIN, I FIND YOU VIOLATED EACH AND ALL OF THE FOLLOWING CHARGES BASED ON YOUR ADMISSIONS OF MISCONDUCT TO MYSELF, TO INTERNAL AFFAIRS AND AS SET FORTH IN THE ADVERSE ACTION DOCUMENTS.

All of the factual statements and allegations set forth above are incorporated herein to support each of the various charges below to avoid further repetition.

"Department of Corrections Executive Orders, General Orders, and Special Orders"

**1. General Order 97-009
Department Rules and Regulations**

III. Conduct and Responsibilities

A. Standard of Conduct.

Employees both sworn and unsworn shall conduct their private and professional lives in such a manner as to avoid bringing the department into disrepute.

C. Cooperation

Cooperation between the ranks and units is essential to effective and productive work relationship. Therefore, all employees are strictly charged with establishing and maintaining a high spirit of cooperation withing themselves and within the department.

E. General Responsibilities

Sworn employees shall at all times take appropriate action to:

1. Protect life and property.
2. Preserve the peace.
3. Prevent crime.
4. Detect and arrest violations of the law.
5. Enforce all Federal and Guam's laws within departmental jurisdiction.

G. Performance of Duty

All employees shall perform their duties as required or directed by law, departmental rules, policies, orders, or orders by a superior officer. All lawful duties required by competent authority shall be performed promptly as directed, notwithstanding the general assignment of duties and responsibilities.

J. Knowledge of Laws, Rules and Regulations

Every sworn employee is required to establish and maintain a working knowledge of all laws enforced in the Territory, the departmental rules, regulations, policies and the orders of the department and Divisions thereof. In the event of improper action or breach of discipline, it will be presumed that the sworn employee was familiar with the law, rules, regulations, or policies in question.

K. Conformance of Laws, Rules and Regulations

Employees shall observe and obey all laws, all departmental rules and regulations, general, special orders and unit directives.

M. Establishing elements of violations

Existence of facts establishing a violation of law, rule, or regulation is all that is necessary to support any allegation of such as a basis for a charge under this section. It is not necessary that a formal complaint be filed or sustained.

Nothing in this General Order of Rules prohibits disciplining or charging members or employees merely because the alleged act or omission does not appear herein, in departmental orders or in laws within the cognizance of the department.

On or about September 19, 2020, and as further stated herein, Corrections Officer I Christopher M. Santos failed to perform his prescribed duties and responsibilities as required by departmental rules, policies, and/or orders to observe and perform his duties as required by departmental rules and regulations, general, special orders and unit directives.

Officer Santos did not observe and obey all departmental rules and instead of enforcing Guam's laws and preventing crime, he committed conduct which is a crime under Guam law including but not limited to violating 9 GCA Chapter 58 (promoting prison contraband), 9 GCA § 49.90 (official misconduct), and violated Executive Order 2008-17 and DOC General Order 2003 -01 (and 10 GCA chapter 90, §§ 90105 and 90106) by bringing 5 cans of tobacco onto DOC property.

Officer Santos admitted on September 23, 2020, to having done this over a period of three (3) months and hiding it in his locker. He confirmed that his commander was not aware of his conduct and that what he did violated DOC policies. There is even a billboard on DOC property warning persons not to bring tobacco or other contraband into the prison (contraband is defined in the Guam criminal code as also including items not allowed by DOC policies).

Officer Santos violated Executive Order 2007-18 (Relative to establishing tobacco free workplace environment department policy for the Executive branch for the Government of Guam and DOC General Order 2003-01 (Designation of Department of Corrections facilities as smoke-free and tobacco-free), in addition to other DOA and DOC policies. Corrections officers are charged with being familiar with DOC policies and Guam law, and Officer Santos admitted to his improper conduct by bringing in tobacco.

As a peace officer, he also can enforce 10 GCA Chapter 90 (the Natasha Act).

On September 23, 2020, during his interview with Internal Affairs Investigators, Corrections Officer I Christopher M. Santos admitted that he failed his standard of conduct and that he failed to comply with departmental rules and regulations and to perform his job duties as required on or about September 19, 2020.

On September 23, 2020, he admitted to bringing in five cans of Copenhagen chewing tobacco, packets of instant coffee, packets of food seasonings and (01) each bottle of sriracha hot sauce inside his bag onto government property on September 19, 2020. On September 23, 2020, Officer Santos also admitted to bringing in items for details (prisoners) on September 19, 2020, which is also a violation of DOC policies, including security and search policies as well as policies relating to undue familiarity and violates ethical and conduct policies.

Corrections Officer I Christopher M. Santos is held to a higher standard not only on the department but as well as the public and he should conduct himself as such and not to bring discredit to himself and on the department. His conduct brought disrepute to the department and himself. His conduct was criminal, dishonest, unprofessional, unethical, irresponsible, disrespectful and notoriously disgraceful.

The above facts and circumstances and statements are incorporated into each of the following charges below.

2. **General Order 97-009**
Department Rules and Regulations
Section II. "Oath of Office":

- B. "I _____, a Correction Officer, do solemnly that I will bear true faith and allegiance to the United States of America and will faithfully support the Constitution of the United States applicable to Guam and the laws of Guam, and that I will obey the orders of the Governor of Guam and the orders of my superior officers appointed over me. I will conscientiously and impartially discharge my duties as a Correction Officer of the Department of Corrections."

Corrections Officer I Christopher M. Santos failed to uphold this oath (and his oath signed on July 2015 attached as Exhibit 4) by failing to conscientiously discharge his duties as a sworn officer and by conducting himself in such a manner as to violate his oath by failing to obey the orders of his superior officers and failing to conscientiously and impartially perform his duties as a sworn officer and to comply with the Department's Rules and Regulations and DOA Rules and Regulations as set forth above and herein.

"DEPARTMENT OF ADMINISTRATION, PERSONNEL RULES AND REGULATIONS"

3. **DOA, Chapter 3, Code of Conduct**

Chapter 3, CODE OF CONDUCT

- A. Public service is a public trust. Employees are expected to be loyal to the U.S. Constitution, the Organic Act of Guam, and to perform their duties and responsibilities ethically and on accordance with laws.**

E. Employees shall put forth honest effort in the performance of their duties.

G. Employees shall not use public office for private gain.

H. Employees shall protect and conserve public property and shall not use it for other than authorized activities.

Corrections Officer I Christopher M. Santos did not act ethically or in accordance with laws based on the facts and circumstances set forth in this action. He violated the public's trust and did not put in honest effort to perform his duties, which involved obeying the law, enforcing Guam laws and preventing crime, and so forth. He violated DOC policies and committed conduct which is criminal under the criminal statutes set forth below.

He brought in items considered "contraband" under Guam's criminal statutes onto government property. He is a sworn peace officer and engaged in criminal, unethical and irresponsible conduct on-duty. He abused his position of trust and authority and used his office for private gain. He also committed official misconduct as a result of his conduct. See allegations above and herein to support this charge. His conduct on September 19, 2020, jeopardized DOC security, safety and its mission.

Officer Santos used his public office and position as a correction officer for private gain, misused government property, including his locker, failed to protect public property and failed to use public property for authorized activities. He committed official misconduct by committing an act relating to his office that was unauthorized to benefit himself and details.

On September 23, 2020, he informed Internal Affairs that he brought tobacco products (chewing tobacco/snuff) onto DOC property and kept them hidden in his locker at Post 3.

DOC was unaware of this conduct until after he was caught with tobacco in his lunch bag on September 19, 2020, and thereafter admitted to bringing in tobacco onto government property for approximately three (3) months and putting it in his locker at DOC. This is a misuse and abuse of his position and government property as tobacco products are not allowed or authorized for any use on government property and are not allowed by Guam law set forth above and herein.

Officer Santos is aware tobacco is not authorized and yet continued to bring it on over a three (3) month period, he admitted to hiding it from his commanding officer, and storing the unlawful tobacco in his locker at DOC. Whether he used the tobacco personally or gave or sold it to prisoners or officers, he committed official misconduct and abused his position of authority and thereby obtained a personal benefit for himself or for others while he was working in his capacity as a corrections officer at the prison.

See all facts and circumstances set forth above to support these charges.

4. Chapter 11, Section 11.303 – "Authorized Causes for Adverse Action:"

A department/agency head may remove an employee for such misconduct, which affects the efficiency of the service. The authorized causes for adverse action include, but are not limited to the following:

B. Failure to perform prescribed duties and responsibilities.

H. Discourteous treatment to the public or other employees.

J. Misuse or theft of government property.

- O. Other misconduct** (violations of oath, DOC policies 88-19 and 97-009, DOA policies (chapter3), DOA 11.402 violations), Executive Order 2007-18, DOC General Order 2003-01 (10 GCA Chapter 90, §§ 90105-106, and violations of Guam's criminal code, including 9 GCA § 49.90 (official misconduct) and 9 GCA 58.60 (promoting prison contraband)).

Please see all factual statements made above and herein to support all charges.

On September 19, 2020, Officer Christopher M. Santos brought in contraband described as (05) each cans of Copenhagen chewing tobacco, packets of instant coffee, packets of food seasonings and (01) each bottle of sriracha hot sauce. An administrative search performed as he was coming onto his shift revealed his improper and illegal possession and custody of the above items. His conduct as stated herein which led to a violation of multiple DOA and DOC policies and Guam law, including criminal statutes involving official misconduct and promoting prison contraband.

On September 23, 2020, during his interview with Internal Affairs investigators, Corrections Officer I Christopher M. Santos admitted that he failed his standard of conduct and that he failed to comply with departmental rules and regulations and to perform his job duties as required on or about September 19, 2020, during an administrative search on Officer Santos' lunch bag by the SORT team where they were able to discover (05) each cans of Copenhagen chewing tobacco, packets of instant coffee, packets of food seasonings and (01) each bottle of sriracha hot sauce inside his bag.

Officer Santos' conduct was notoriously disgraceful on duty and off-duty, as he is a peace officer charged with obeying the rules and laws, enforcing the laws and preventing crime. He obtained or purchased tobacco off-duty and thereafter brought tobacco products onto government property during his shift on September 19, 2020 (and during a 3-month period according to his admission on September 23, 2020). He abused his position of trust and his office and violated his oath of office. By bringing unlawful tobacco products and items of contraband onto prison grounds on September 19, 2020, he misused government property on this date and on other occasions where he admitted he brought tobacco onto DOC premises and hid it in his locker for a three-month period prior to September 19, 2020. This conduct was not known to DOC until Officer Santos admitted to this misconduct in his interview with Internal Affairs on September 23, 2020.

These actions by Corrections Officer I Christopher M. Santos violate 9 GCA § 58.60 (promoting prison contraband) and 9 GCA 49.90 (official misconduct), 10 GCA Chapter 90, Executive Order 2007-18, and DOC General Order 2003-01. See also Exhibits 1-7.

5. DOA, "Personnel Rules & Regulations": Chapter 11, Section 11.402 - "Range of Penalties for Stated Offenses":

NATURE OF OFFENSE:

Conduct:

- A. Criminal, dishonest, notoriously disgraceful conduct adversely affecting the employee/employer relationship (on duty or off duty).**

Performance:

- D. In-attention to duty.**

Please see all facts, circumstances and statements above and herein to support the above charges to avoid duplication.

Officer Christopher M. Santos' conduct on or about September 19, 2020, was criminal, dishonest and notoriously disgraceful. This conduct adversely affects his employer and the employer/employee relationship and DOC's mission. His conduct on or about September 19, 2020 was also dishonest, disgraceful, including his on-duty and off-duty conduct, when he brought in unauthorized items such as (05) each cans of Copenhagen chewing tobacco, packets of instant coffee, packets of food seasonings and (01) each bottle of sriracha hot sauce. With that amount it appeared the items were to be given to the detainee/prisoner population.

On September 23, 2020, during his interview, Corrections Officer I Christopher M. Santos admitted to investigators that he did in fact bring in items to the Adult Correctional Facility claiming the contraband to be for personal use. Officer Santos admitted to investigators on September 23, 2020 that he was aware of his wrongdoings.

Officer Santos also admitted to bringing in items of food from outside the prison onto government property for details (prisoners). This conduct is unauthorized and not allowed under several departmental policies. This conduct violates contraband policies of DOC and policies concerning undue familiarity with prisoners and the requirement that any items provided to prisoners be authorized, searched and recorded. His on-duty and off-duty conduct set forth herein is criminal, dishonest, notoriously disgraceful, unbecoming, unethical and disrespectful to his fellow officers and to the department. He was aware of the policies against contraband and tobacco and violated them. He was inattentive to his duties to comply with Guam law, DOC policies and to enforce the law and prevent crime.

He is charged with dishonesty in his statements to Internal Affairs that the 5 cans of tobacco were for his personal use, as this is not supported by the volume of the cans of tobacco(5), his admission that he brought other items for details (not authorized) that same date, and his statement that he hid the tobacco in his locker on prior occasions. These statements and conduct support a reasonable inference that he brought in contraband (tobacco) to give to prisoners and/or to benefit others in addition to himself.

Officer Santos admitted to investigators that he is aware that the Department of Corrections is a tobacco free facility.

Corrections Officer I Christopher M. Santos acted in a criminal, disgraceful, careless, unprofessional, unethical and unbecoming manner on or about September 19, 2020, by admittedly bringing in items for prisoners and bringing in 5 cans of tobacco (contraband) while he was working on government property as a corrections officer.

EXECUTIVE ORDER 88-19

6. Executive Order 88-19, Departmental Rules and Regulations, Chapter 11 Personnel Article 2, Employees, Section 11.4, Responsibility of Employees.

All Employees are responsible to their facility heads through their supervisors for their specific functions. Employees shall promptly obey orders given them by proper authority and **shall familiarize themselves with the rules of the Department and their division. Ignorance of the rules is no excuse for violation.**

Corrections Officer I Christopher M. Santos is required to be familiar with departmental rules. He acted criminally, irresponsibly and unethically when he failed to adhere to the Departmental Rules and Regulations and Guam law, including Guam's criminal statutes concerning promoting prison contraband and official misconduct, when he brought in (05) cans of Copenhagen chewing tobacco, packets of instant coffee, packets of food seasonings and (01) each bottle of sriracha hot sauce for prisoners and/or for himself. His conduct is also considered a crime under 9 GCA Chapter 58 (prison contraband - illegal drugs and cell phone) and 9 GCA 49.90 (Official misconduct). Tobacco is not authorized on government property by Executive Order 2007-18 or DOC General order 2003-01 (10 GCA chapter 90 "Natasha Protection Act of 2005"). See Exhibits 1-7.

7. Executive Order 88-19, Departmental Rules and Regulations, Chapter 10, Authorization for Performance of Official duties, Section 10.1; Performance of Employee's duties, functions

All employees shall perform only the duties and functions as directed by authorized personnel, such as a supervisor, administrator, corrections administrator, facility head, the attorney general, the director, or by these rules. No staff personnel is authorized to perform and duty function directed by an unauthorized person such as an inmate, a private attorney or other third person. See all facts and circumstances stated herein to avoid duplication.

8. Executive Order 88-19, Departmental Rules and Regulations, Chapter 11, Personnel, Article 2, Employees Section 1.5, Conduct of Employees:

Employees shall be alert, courteous and professional in their dealings with inmates, parolees, other employees, visitors and members of the public. Indecent, abusive, or profane language shall not be used on duty, **Irresponsible or unethical conduct, or conduct reflecting discredit on themselves or the Department, either on or off duty shall be avoided.** See all facts and circumstances stated herein to avoid duplication.

9. Public Law 33-08. Contraband Reform Act of 2015. 9 GCA §58.60 (a)-(c). Promoting Prison Contraband

(a) As used in this Section:

(1) **Contraband** means any article or item that a *person in custody who is confined in a correctional facility is prohibited by statute, rule, or policy from obtaining or possessing*, and is not defined as "major contraband" in §58.60(a)(2).

(b) No person, including a person in custody as defined by this chapter, except as authorized by law or with permission of the facility head, shall knowingly:

(1) introduce, or attempt to introduce, contraband into a detention facility or the grounds of a detention facility; or

(3) possess, or attempt to possess, contraband within a detention facility; or...

Any person, including a person in custody, who violates any provision of this Subsection (b) **shall be guilty of a misdemeanor**

See all facts and circumstances previously set forth to support these charges. Officer Santos brought in contraband in the form of unlawful and unauthorized tobacco in violation of 9 GCA 58.80, 10 GCA Chapter 90, and further violated Executive Order 2007-18 and DOC General Order 2003-01 and other DOC policies concerning his conduct and the items found in his bag at DOC on September 19, 2020 by SORT officers. These criminal charges alleged by DOC in this proposed adverse action justify a lower burden of proof in administrative proceedings if final action is later taken.

10. 9 GCA Crimes and Corrections CH. 49 Governmental Bribery, Other Unlawful Influence & Related Offenses §49.90. Official Misconduct; Defined & Punished.

A public servant commits a misdemeanor if, with *intent to benefit himself or another person* or to harm another person or to deprive another person of a benefit; (a) *he commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized;* or (b) he knowingly *refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.*

The facts, circumstances and statements referenced above and herein are pertinent to all charges herein. By admitting to his bringing in items for details and by being caught with tobacco, allegedly for his personal use, on prison grounds, Officer Santos committed acts in relation to his position as a corrections officer, and was on government property, yet his conduct was unauthorized by law, regulation or rule. He knew his actions were unauthorized. He admittedly benefitted himself and others with his conduct on September 19, 2020. He also failed to perform his duties imposed on him to enforce laws and policies and to prevent crime.

He admitted his conduct was wrong and unauthorized in his internal affairs' interview on September 23, 2020. He refrained from performing duties imposed on him as a corrections officer and that were inherent in the nature of his office and failed to ensure policies including searches of items to prisoners were followed. Instead of following protocol, he subverted policies and Guam law, and attempted to conceal his unlawful and wrongful conduct until he was caught on September 19, 2020 and thereafter questioned by Internal Affairs on September 23, 2020, relating to his conduct. See attachments 1-7.

11. **Executive Order 88-19. Departmental Rules and Regulations, Chapter 11, Personnel, Article 2, Employees Section 11.12; Undue Familiarity**

Employees *shall not indulge in undue familiarity with inmates, parolees, their families, or personal friends.* Whenever there is reason for an employee to discuss an inmate or parolee's problems, the employees shall maintain a helpful but professional attitude. The employee shall not discuss his own personal affairs with an inmate or parolee.

Officer Santos violated this policy by admitting to bringing in items for details on September 19, 2020.

12. **General Order 20000-01 Inmate/Detainee Outgoing/Incoming of Authorized Items**

C. Processing of Incoming

The following shall be the guidelines and procedures set forth for processing of incoming items.

1. Only individuals listed on the approved visitation application or as directed by the Director of Corrections will be allowed to bring and/or receive items for/from inmates/detainees during scheduled incoming.
2. Items received will be recorded on the authorized Incoming Items Form (Annex D). The inmate/detainee will be provided the form and will verify items received and provide signature upon receiving said items.
3. The authorized Incoming Items form will be returned to the Visitation Office for filing.
4. Items received that require Waiver Forms (Annex E) will be processed and provided to the inmate upon completion of recorded documentation.
5. A minor (17 years old and under) shall not be permitted to bring or receive for/from inmates/detainees.

Officer Santos violated this policy by personally bringing in unlawful and unauthorized items for his use and for that of prisoners on September 19, 2020. He failed to perform his job duties and engaged in unethical, unbecoming, irresponsible and criminal conduct. He failed to advise DOC of his intentions to bring in items for prisoners, and he failed to follow the strict process above for items that are to be received by prisoners.

13. **Executive Order 2007-18 – See Attachment 6 incorporated by reference – GovGuam Executive Branch Tobacco Free Workplace Environment Departmental Policy (referencing Natasha Act and PL 28-20).**

This Executive Order requires all Directors of the Executive Branch to adopt this tobacco free workplace policy (¶ 3).

You violated this Executive Order by knowingly bringing 5 cans of Copenhagen chewing tobacco onto prison grounds on September 19, 2020, when you knew you were not authorized to do so. You admitted to doing this over the prior 3 months and hiding the tobacco in your locker.

14. **DOC General Order 2003-01 (effective date June 30, 2004)– See Attachment 7 incorporated by reference herein.**

This General order designates DOC as smoke-free and tobacco-free with reference to the Natasha Protection Act, 10 GCA Chapter 90 (Public Law 28-80).

You violated this general order by knowingly bringing chewing tobacco (aka snuff) onto prison grounds on September 19, 2020. You knowingly brought 5 cans of Copenhagen tobacco onto prison grounds on September 19, 2020, when you knew you were not authorized to do so. You admitted to doing this over the prior 3 months and hiding the tobacco in your locker.

15. **Natasha Protection Act of 2005, 10 GCA Chapter 90 (Public Law 28-80)**

10 GCA 90103 (q) (Definitions) - Tobacco product means any product made or derived from tobacco, that contains nicotine or other substances, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device.

10 GCA 90104 requires that all Government of Guam facilities are subject to the provisions of Chapter 90. 10 GCA 90109 allows a peace officer defined by 8 GCA § 5.55 to enforce (a correction officer is a peace officer under 8 GCA § 5.55(d)).

You violated charges 13-15 above by knowingly bringing in tobacco (chewing tobacco/snuff) on September 19, 2020, onto DOC property in violation of 10 GCA Chapter 90, Executive Order 2007-18 and DOC General Order 2003-01, as further set forth herein. See all other factual allegations set forth herein to avoid duplication.

Service of Adverse Action and Response

You were personally served by Investigators Julius Tano, Gayle Sugiyama and Jaerica Sanchez with your Notice of Proposed Adverse Action on November 30, 2020 at 1409 hours.

You responded orally to me via video call on December 10, 2020, that was scheduled at your request. Internal Affairs was also present on this video call. On December 10, 2020, you were advised that you could submit a written response no later than December 10, 2020. You did not submit a written response to me regarding the Notice of Proposed Adverse Action.

In your oral response to me, you admitted that you are familiar with DOC policies and procedures. You further stated you knew it was illegal to bring chewing tobacco into the facility but you did it anyway. You stated this was the first time you brought in (05) cans of chewing tobacco, and in the past you indicated you would bring in only one (1) can of tobacco. You further admitted to me that you brought in items for the purpose of giving these items to the details (prisoners) on September 19, 2020.

- You failed to perform your duties and responsibilities as a Correction Officer I and Peace Officer with the Department of Corrections. You committed multiple violations when you brought in (5) cans of Copenhagen chewing tobacco on September 19, 2020. Even though you stated that it was for personal use, the Department of Corrections is a tobacco free facility. The amount of Copenhagen chewing tobacco you brought in appears not to be for personal use but for distribution for prisoners' use. You admittedly brought in other items with the intention of giving those items to the details on September 19, 2020, without going through the proper channels and required searches.

You abused your position of trust and authority and violated DOC's policies, including its security policies. In addition to violating multiple DOA and DOC policies, you acted irresponsibly, unethically, unprofessionally, and engaged in a course of conduct that is criminal under Guam law; namely, official misconduct, promoting prison contraband and violation of Guam's controlled substance laws.

As the Director of Corrections, I have an obligation to protect our organization and the community and to ensure compliance with Guam law and departmental policies. As a Correction Officer and Peace Officer, YOU are held to a higher standard of professionalism. You are required to be familiar with and follow departmental policies and procedures at all time. As a result of your misconduct, you have brought discredit to your Position as a Corrections Officer I, the Department of Corrections, your fellow officers, and the Government of Guam. Your non-compliance with policies, regulations and laws hampers the ability to enforce the policies of the Department (and Guam law) to promote good order and discipline. Your actions and behaviour are unprofessional and unbecoming and notoriously disgraceful such it has affected the employer/employee relationship.

I considered your oral response with me via video call on December 10, 2020, prior to making a decision and taking the action against you set forth on page 1 this date.

You have (20) calendar days in which to appeal this notice to the Civil Service Commission from the date of service.

CC Civil Service Commission
Department of Administration: Personnel Mgmt. Division
Department of Corrections Personnel Mgmt. Division

(IAU#20-022)

See Attachments 1-7 consisting of an additional 13 pages.