

1 Criminal Investigator. This Motion is based on the accompanying Memorandum of
2 Points and Authorities and any evidence to be adduced at a hearing on this matter.

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4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 The Office of the Attorney General suspended Criminal Investigator Bryan J.
6 Cruz ("Cruz") from his employment as an Investigator III in the Criminal Investigation
7 Unit of the AG's Office on or about July 19, 2024, after discovering that he leaked an
8 internal confidential email on or about July 12, 2024 to local criminal defense counsel
9 Peter Santos ("Attorney Santos"), which had been authored and distributed by the
10 Attorney General from his government-assigned email address. The AG's Office
11 subsequently conducted a thorough investigation that included interviewing various
12 individuals. Based on the findings of the investigation, the Attorney General terminated
13 Mr. Cruz on September 25, 2024. At all relevant times, Attorney Santos represented
14 dozens of ruthless criminal defendants.

15 Mr. Cruz's forwarding of the email to Attorney Santos endangered the safety of
16 the Attorney General, prosecutors, other investigators, support staff and their families,
17 in addition to revealing confidential methods and tactics of investigations carried out by
18 the AG's Office, which Attorney Santos can now exploit in the future in his
19 representation of criminal defendants being prosecuted by the AG's Office.

20 Mr. Cruz's actions violated the laws of Guam, government policy, personnel
21 policy, and the Guam Rules of Professional Conduct ("GRPC"). Notwithstanding the
22 incontrovertible evidence of culpability, Mr. Cruz insists the AG's Office wrongfully
23 terminated him. To press his claims, he hired the Law Office of Jacqueline Taitano

1 Terlaje ("Terlaje Law Office") to represent him in the adverse action appeal¹ before the
2 Civil Service Commission ("CSC") and in three (3) other legal actions² arising from the
3 same transaction or occurrence. Attorney Kristine Borja ("Attorney Borja"), a former
4 Assistant Attorney General (prosecutor) assigned to the General Crimes Division of the
5 AG's Office, was, and remains, an Associate Attorney in the Terlaje Law Firm. See
6 **Exhibit A**, *Declaration of Marc Pido, Human Resources Supervisor, Office of the*
7 *Attorney General*. She is also from the same Division that Employee worked in in the
8 General Crimes Division.

9 The AG's Office timely raised this issue. It tailored and so moved to disqualify
10 counsel before the CSC. It raises it here *once again* in this more fully throated motion
11 and has done so once Mr. Cruz filed his Answer to Verified Petition for Writ of Judicial
12 Review and Declaratory Judgment and Counterclaim for Declaratory Relief in the
13 instant case on May 7, 2025. See **Exhibit B**, *Excerpted Verified Answer to Verified*
14 *Petition for Writ of Judicial Review and Declaratory Judgment and Counterclaim for*
15 *Declaratory Relief*, pp. 1, 4 and 7.

16 Title 4 Guam Code Annotated § 15210, and GRPC Rules 1.9, 1.10, and 1.11
17 require the immediate disqualification of the Terlaje Law Office and attorneys
18 Jacqueline Taitano Terlaje ("Attorney Terlaje") and Kristine Borja. First, on or about
19 May 7, 2025, Attorney Terlaje and the Terlaje Law Firm filed Mr. Cruz's "Answer to

20 ¹ *In the Matter of: Bryan J. Cruz v. Office of the Attorney General of Guam*, Civil Service Commission Adverse
Action No. 24-AA13T

21 ² See *Office of the Attorney General v. The Guam Civil Service Commission, Bryan J. Cruz*, Superior Court of
22 Guam Case No. SP0055-25 (Verified Petition for Writ of Judicial Review and Declaratory Judgment filed on April
23 16, 2025); *Bryan J. Cruz v. Douglas B. Moylan, in his official capacity as the Attorney General of the Office of the*
Attorney General of Guam, Superior Court of Guam Case No. CV0262-25 (Verified Complaint for Retaliation,
Request for Special Damages, Injunctive and Declaratory Relief filed April 17, 2025); and, *Bryan J. Cruz v.*
Douglas B. Moylan, in his official capacity as the Attorney General of the Attorney General of Guam, Guam Civil
Service Commission of Guam Case No. 25-WB01 (Whistleblower's Complaint filed April 21, 2025).

1 Verified Petition for Writ of Judicial Review and Declaratory Judgment and
2 Counterclaim for Declaratory Relief," thus fully noting their appearance in the instant
3 case. See **Exhibit B**, *Excerpted Verified Answer to Verified Petition for Writ of Judicial*
4 *Review and Declaratory Judgment and Counterclaim for Declaratory Relief*, pp. 1, 4
5 and 7.

6 Second, Attorney Borja served as an Assistant Attorney General (prosecutor)
7 from January 31, 2022 until her resignation on August 23, 2024. See **Exhibit A**. Third,
8 during her tenure with the Office of the Attorney General, Attorney Borja worked in the
9 General Crimes Division from January 20, 2023 to August 23, 2024. *Id.* Fourth,
10 Attorney Borja became an Associate Attorney in the Terlaje Law Office immediately
11 upon her resignation from the AG's Office on August 23, 2024. *Id.* Fifth, Attorney Borja
12 materially participated in the representation of Mr. Cruz in front of the CSC.

13 Sixth, in their May 7, 2025 filing in the instant case, the Terlaje Law Office and
14 Attorney Terlaje admit that Attorney Borja is an associate with the Terlaje Law Office
15 and concede that she was an Assistant Attorney General with the Office of the
16 Attorney General. See **Exhibit B**, pp. 1, 4 and 7 ("... [Mr. Cruz] admits Attorney
17 *Kristine Borja was an Assistant Attorney General from January 2022 to August*
18 *2024...*" at ¶ 25) and ("... [Mr. Cruz] admits Attorney *Kristine Borja is an Associate*
19 *Attorney with the Law Office of Jacqueline Taitano Terlaje.*" at ¶ 27). Notably, Attorney
20 Borja is a potential witness in the adverse action appeal.

21 The Terlaje Law Office and Attorneys Terlaje and Borja knowingly undertook the
22 legal representation of Mr. Cruz in this case, and in other related legal cases arising
23 from the same operative facts, following Criminal Investigator Cruz's dismissal from the

1 AG's Office on September 25, 2024. On that date, Attorney Borja was already an
2 Associate Attorney in the Terlaje Law Office, having joined on or about August 2024
3 upon her resignation from the AG's Office on August 23, 2024. Accordingly, at the
4 time of Criminal Investigator Cruz's initial engagement of these legal advocates, these
5 seasoned attorneys knew they could not represent a private client like Mr. Cruz in any
6 matter adverse to the Office of the Attorney General, Attorney Borja's former employer.
7 See 4 GCA § 15210(b); see also GRPC Rules 1.9, 1.10 and 1.11.

8 In her capacity as an Assistant Attorney General, Attorney Borja had access to
9 "confidential government information"³ such as criminal prosecution files, internal
10 information technology systems used to transmit electronic e-mails, and other
11 confidential information that the Office of the Attorney General is prohibited from
12 disclosing to the public.⁴ Specifically, during her assignment to the General Crimes
13 Division, Attorney Borja: (1) received the confidential email communication sent by the
14 Attorney General; and (2) learned of Criminal Investigator Cruz' unauthorized
15 forwarding of confidential government information to Alternate Public Defender
16 Defense Attorney Peter Santos.

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20 ³ "...the term 'confidential government information' means information that has been obtained under
21 governmental authority and which, at the time this Rule is applied, the government is prohibited by law from
disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public."
GRPC 1.11(c)

22 ⁴ All confidential government information was protected by the attorney-client privilege, the work product
23 doctrine, and the deliberative process privilege. See, e.g. *Maricopa Audubon Soc. v. U.S. Forest Service*, 108 F.3d
1089, 1092-1093 ("The purpose of the deliberate process privilege 'is to prevent injury to the quality of agency
decisions' by ensuring that the 'frank discussion of legal or policy matters' in writing, within the agency, is not
inhibited by public disclosure." [citations omitted]).

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4 GCA § 15210 RESTRICTION ON POST EMPLOYMENT PROHIBITS REPRESENTATION

Title 4 Guam Code Annotated § 15210, Restriction on Post Employment, reads
as follows:

(a) No former employee shall disclose any information which by law is not available to the public and which the employee acquired in the course of official duties or use the information for personal gain or the benefit of anyone.

(b) No former employee shall, within twelve (12) months after termination from employment, assist any person or business, or act in a representative capacity for a fee or other consideration, on matters involving official action by the particular territorial agency with which the employee had actually served.

Sub-section (b) unequivocally prohibits Attorney Borja from representing former Criminal Investigator Cruz in any matter adverse to the AG's Office. The facts are clear: (1) Attorney Borja resigned as an Assistant Attorney General on August 23, 2024; (2) Attorney Borja is acting in a representative capacity on a matter involving official action (the filing of Case No. SP55-25) of a particular territorial agency (like the AG's Office) where she served within the 12 month restriction on post-employment; and (3) The Terlaje Law Firm and Attorney Terlaje have admitted in a pleading that Attorney Borja is an Associate Attorney in the law firm and formerly worked at the AG's Office. See **Exhibits A and B**. The AG's Office has opposed Mr. Cruz's claims in all forums. Accordingly, Attorney Borja is statutorily disqualified from representing Mr. Cruz.

1 Sub-section (a) also prohibits Attorney Borja from representing former Criminal
2 Investigator Cruz because she acquired confidential government information which by
3 law is not available to the public and which she acquired in the course of her
4 employment as an Assistant Attorney General. The facts are clear: (1) on or about
5 July 12, 2024, she received the aforementioned email that Mr. Cruz improperly shared
6 with Alternate Public Defender Santos; and (2) from January 10, 2023 to August 23,
7 2024 she was assigned to the sparsely-staffed General Crimes Division where she had
8 access to prosecution files and matters involving Mr. Cruz's improper conduct. She
9 also worked with Criminal Investigator Cruz during her employment in the AG General
10 Crimes Division. Once she joined the Terlaje Law Office, she materially participated in
11 the representation of Mr. Cruz in front of the CSC. There can be no doubt that
12 Attorney Borja has disqualifying personal experience with the subject matter of this
13 case which could potentially make her a witness in the adverse action appeal. Further,
14 her continued representation of Mr. Cruz unfairly places the AG's Office and the
15 People of Guam (client and former employer) at a disadvantage because she can use
16 the confidential government information that she gained through her former
17 employment and whilst representing the People of Guam who are synonymous with
18 the AG and AG's Office as officers and entities of the People of Guam. Accordingly, 4
19 GCA § 15210 disqualifies Attorney Borja from representing Mr. Cruz in any forum
20 adverse to the AG's Office and People.

1 **GUAM RULES OF PROFESSIONAL CONDUCT 1.9 AND 1.11 REGARDING**
2 **GOVERNMENT EMPLOYEES PROHIBITS REPRESENTATION**

3 Guam Rules of Professional Conduct 1.9(a) reads:

4 A lawyer who, has formerly represented a client in a matter
5 shall not thereafter represent another person in the same or
6 a substantially related matter in which that person's interests
7 are materially adverse to the interests of the former client
8 unless the former client gives informed consent, confirmed in
9 writing.

10 From January 31, 2022 until her resignation on August 23, 2024, Attorney Borja
11 served as an Assistant Attorney General representing the people of Guam. The people
12 of Guam are considered clients of the AG's Office. See *In re Request of Lourdes A.*
13 *Leon Guerrero, I Maga'hâgan Guâhan, Relative to the Duties of the Attorney General*
14 *of Guam to Executive Branch Agencies*, 2024 Guam 18, ¶ 40, Opinion ("AG Moylan is
15 correct, that, because he is elected by the people of Guam, acting in the people's and
16 the public's interest is considered a core function of the Office of the Attorney General.
17 [citation omitted]."). Attorney Borja's continued representation of Mr. Cruz in any legal
18 matter opposed by the AG's Office is materially adverse to the interests of the people
19 of Guam, and we do not waive any conflict, her former clients. But for her role as an
20 advocate for the people of Guam, she would not have had access to same email chain
21 with Mr. Cruz, or been privy to activities, internal conversations and meetings that
22 followed and were related to Mr. Cruz's unauthorized dissemination of AG Office's
23 confidential communications.

1 Guam Rules of Professional Conduct 1.11(a) and (b) reads:

2 (a) Except as law may otherwise expressly permit, a lawyer
3 who has formerly served as a public officer or employee of
4 the government:

5 (1) is subject to Rule 1.9(c); and

6 (2) shall not otherwise represent a client in connection
7 with a matter in which the lawyer participated personally and
8 substantially as a public officer or employee, unless the
9 appropriate government agency gives its informed consent,
10 confirmed in writing, to the representation.

11 (b) When a lawyer is disqualified from representation under
12 paragraph (a), no lawyer in a firm with which that lawyer is
13 associated may knowingly undertake or continue
14 representation in such a matter unless:

15 (1) the disqualified lawyer is **timely** screened from
16 any participation in the matter and is apportioned no part of
17 the fee therefrom; and

18 (2) written notice is promptly given to the appropriate
19 government agency to enable it to ascertain compliance with
20 the provisions of this rule.

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Attorney Borja works in a two-lawyer law firm and both she and Attorney Terlaje have already been actively working on this case together for almost a year. The Terlaje Law Office knew or should have been aware of the conflict of interest at the inception of the case. As such, screening should have occurred at the beginning of Mr. Cruz's representation. Further, Attorney Terlaje should have known that, given Attorney Borja's conflict, her office should not have taken the case. It has become apparent that screening did not occur and that, instead, Attorney Borja's former association with the government is being used to the disadvantage of the people of Guam.

1 **GUAM RULES OF PROFESSIONAL CONDUCT 1.10 AND 1.11 REQUIRE**
2 **THE IMPUTATION OF ATTORNEY BORJA'S CONFLICT OF INTEREST**
3 **TO THE TERLAJE LAW OFFICE AND ATTORNEY TERLAJE**

4 Pursuant to GRPC 1.9(a), 1.10(a) and 1.11(a)(2), Attorney Borja's disqualifying
5 conduct must be imputed to the Terlaje Law Office and Attorney Terlaje.

6 Guam Rules of Professional Conduct 1.10(a) reads, in relevant part:

7 (a) While lawyers are associated in a firm, none of them
8 shall knowingly represent a client when one of them
practicing alone would be prohibited from doing so by Rules
1.7 or 1.9...

9 As shown above, 4 GCA § 15210 and GRPC 1.9 (a) and (b) require Attorney Borja's
10 disqualification from representing Mr. Cruz. Notably, she already worked at the Terlaje
11 Law Office at the time Mr. Cruz hired that firm. Moreover, as a former Assistant
12 Attorney General with the AG's Office she cannot represent Mr. Cruz against the AG's
13 Office within twelve (12) months of her August 23, 2024 resignation.

14 In situations where a firm becomes associated with a former government
15 employee who is ethically-compromised by a prospective client's case, GRPC 11(b)
16 mandates that "*the disqualified lawyer [be] timely screened from any participation in*
17 *the matter and [be] apportioned no part of the fee therefrom; and ...written notice [be]*
18 *given to the appropriate government agency to enable it to ascertain compliance with*
19 *the provisions of this rule.*" Here, the Terlaje Law Office did not screen Attorney Borja
20 and, in fact, Attorney Borja advocated for Mr. Cruz before the CSC. In addition, the
21 Terlaje Law Office failed to provide any written notice regarding the potential
22 deficiency.

1 The collusion between these legal advocates has materially disadvantaged the
2 AG's Office. See GRPC 11(c) ("*...a lawyer having information that the lawyer knows is*
3 *confidential government information about a person acquired when the lawyer was a*
4 *public officer or employee, may not represent a private client whose interests are*
5 *adverse to that of the person in a matter in which the information could be used to the*
6 *material disadvantage of that person.*"). Not only was Attorney Borja an Assistant
7 Attorney General in the General Crimes Division in July 2024 when then Criminal
8 Investigator Cruz forwarded without any authorization the email to Alternate Public
9 Defender Peter Santos, but she had access to confidential government information
10 that likely makes her a witness in the adverse action appeal.

11 Therefore, for the reasons stated above, Attorney Borja's compromised
12 representation must be imputed to the Terlaje Law Office and Attorney Terlaje with
13 whom she practices law. In their roles as advocates for Mr. Cruz, they shared all
14 knowledge regarding information relevant to the prosecution of Mr. Cruz's claims in the
15 above forums.

16 CONCLUSION

17 Other jurisdictions have disqualified counsel for similar conduct under 18
18 U.S.C.A § 207, a substantially analogous federal statute to 4 GCA § 15210. That
19 federal statute requires the disqualification of former government attorneys who assist
20 in actions adverse to their former government employers. See 18 U.S.C.A § 207 ("*Any*
21 *person who is an officer or employee (including any special Government employee) of*
22 *the executive branch of the United States (including any independent agency of the*
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1 *United States), or of the District of Columbia, and who, after the termination of his or*
2 *her service or employment with the United States or the District of Columbia,*
3 *knowingly makes, with the intent to influence, any communication to or appearance*
4 *before any officer or employee of any department, agency, court, or court-martial of the*
5 *United States or the District of Columbia, on behalf of any other person (except the*
6 *United States or the District of Columbia) in connection with a particular matter—(A) in*
7 *which the United States or the District of Columbia is a party or has a direct and*
8 *substantial interest ...” is permanently restricted from such representation.”); See also*
9 *In re Restaurant Development of Puerto Rico, Inc., 128 B.R. 498, 499-501 (1991). The*
10 *former government attorney’s actions need not be substantial for disqualification to*
11 *attach. See e.g., Kessenich v. Commodity Futures Trading Commission, 684 F.2d 88,*
12 *95 (D.C. Cir. 1982) (disqualified former government attorney who only received a copy*
13 *of the complaint); Accord United States v. Miller, 624 F.2d 1198, 1200, 1202 (3d Cir.*
14 *1980) (disqualified former U.S. Attorney although had no direct participation in case*
15 *because his actions also violated Rules of Professional Conduct).*

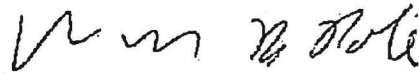
16 The termination of Bryan Cruz and the filing of the instant case are official
17 actions of the Office of the Attorney General. 4 GCA § 15210 and the Guam Rules of
18 Professional Conduct prohibit Attorney Borja from representing an employee of the
19 Office of the Attorney General. Attorney Borja was an employee of the Office of the
20 Attorney General at the time of the incident, in the General Crimes Division with former
21 Criminal Investigator Cruz at all relevant times. The law office that she is employed
22 with failed to wall her off and the entire firm is now disqualified from representation.

1 The law requires that Attorney Borja, the Terlaje Law Firm, and Attorney Terlaje be
2 disqualified from further representation.

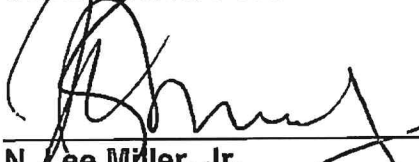
3 The Office of the Attorney General respectfully requests that this Honorable
4 Court enter an order disqualifying the Law Office of Jacqueline Taitano Terlaje,
5 Attorney Jacqueline Taitano Terlaje and Attorney Kristine Borja from further legal
6 representation of Real Party in Interest Bryan J. Cruz and grant Mr. Cruz a reasonable
7 period of time to obtain new counsel.

8 **Respectfully submitted** this 2nd day of July, 2025.

9
10 **OFFICE OF THE ATTORNEY GENERAL**
Douglas B. Moylan, Attorney General

11 

12 _____
13 **William B. Pole**
Co-counsel for Petitioner

14 

15 _____
16 **N. Lee Miller, Jr.**
Deputy Attorney General, Civil Division

1 following points and authorities and such documentary evidence and any oral evidence as may be adduced
2 at any hearing set on the matter.

3 4 I. FACTUAL BACKGROUND

5 The Attorney General of Guam (hereinafter "AG"), Douglas B. Moylan, distributed an office wide
6 email to all employees of the OAG disparaging Assistant Alternate Public Defender Peter J. Santos
7 (hereinafter "Attorney Santos") on July 12, 2024. Employee was terminated on September 25, 2024, based
8 on providing a copy of the email to Attorney Santos. Following timely appeal of termination to the Guam
9 Civil Service Commission (hereinafter "Commission"), Employee was ordered reinstated by the
10 Commission. The OAG filed its Petition for Judicial Review on April 16, 2025, appealing the Decision and
11 Judgment, including the Commission's order denying disqualification of Employee's counsel. Verified
12 Petition (Apr. 16, 2025).

13
14 Attorney Borja was an employee of the OAG when the AG sent the email about Attorney Santos on
15 July 12, 2024; she was neither assigned nor responsible for any adverse action matters for the OAG on or
16 before July 12, 2024 through her resignation on August 23, 2024. *See* Declaration of Kristine B. Borja (Jan.
17 07, 2025)(hereinafter "Dec. K. Borja"), attached hereto as Exhibit A.

18 Attorney Borja was not involved in the investigation of Employee on behalf of the OAG at any time
19 during her employment. *Id.* Attorney Borja was neither a witness nor acting for or on behalf of the OAG in
20 reference to the adverse action investigation and any action taken against the Employee. *Id.* The OAG
21 Report of Investigation (hereinafter "ROI") identifies the details of their investigation, including the names
22 of employees interviewed, and the names of OAG management, who participated in the decision-making
23 process.¹ Attorney Borja is not identified as a witness with any knowledge; neither is she identified as part of
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27 ¹ Counsel for Real Party in Interest can submit a copy of the OAG's Report of Investigation under seal. It is notable this report
was generated by the OAG and raises the question of its motion being made in bad faith.

1 the Management-team providing any advice or counsel to the OAG on the determination of the adverse
2 action against Employee.

3 The OAG now seeks disqualification of Employee's counsel, and the Law Office of Jacqueline
4 Taitano Terlaje, on the basis that Attorney Borja was an employee of the OAG on July 12, 2024, and that
5 she is a witness to the events related to the adverse action of Employee. Verified Petition, ¶ 59 and 60. The
6 OAG further seeks disqualification asserting a general prohibition set forth in under 4 GCA §15210.
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9 II. LEGAL ARGUMENT

10 The OAG's reliance on 4 GCA § 15201 is either misplaced or is a blatant attempt to knowingly
11 mislead the Court of violation of both Guam law and the Guam Rules of Professional Responsibility. 4
12 GCA § 15201(a) provides, "no former employee shall, within twelve (12) months after termination from
13 employment, assist any person or business, or act in a representative capacity for a fee or other consideration,
14 on matters **involving official action** by the particular territorial agency **with which the employee had**
15 **actually served.**" 4 GCA § 15210(a) (emphasis added). 4 GCA § 15210(a) is simply not applicable to
16 Attorney Borja.

17 First, it is indisputable that (1) Attorney Borja was an Assistant Attorney General (hereinafter
18 "AAG") with the OAG until August 23, 2024 and (2) she did not participate in any official action related to
19 this case while she was an AAG. See Dec. K. Borja (Jan. 07, 2025). "Official act" or "official action," as
20 defined by the statute is "a decision, recommendation, approval, disapproval, or other action, including
21 inaction which involves the use of discretionary and non-discretionary authority." 4 GCA § 15102(i). The
22 OAG asserts without any basis in fact or law that Attorney Borja has a conflict because she was previously
23 employed by the OAG. The OAG relies on nothing other than her mere employment with the OAG.
24 Importantly, the OAG makes no effort to produce any factual support of its claim that Attorney Borja
25 "actually served" or made any decision, recommendation or other action, as defined by the statute. Reading
26 the statute as a whole, there is no doubt that the intention of Chapter 15 of Title 5 is to govern relationships
27 around contracts, gifts, and other pecuniary interest situations that can affect the contract interests of the
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1 Government of Guam. *See* 4 GCA § 15100 *et seq.* and 15201 *et seq.* Even if the statute encompasses situations
2 beyond this, it is still inapplicable to this case as Attorney Borja did not participate in the investigation or
3 Management’s decision against Mr. Cruz in this case while she was employed at the OAG. *See* Dec. K Borja
4 (Jan. 07, 2025). Notably, the OAG does not deny this in their motion.

5 The one and only fact asserted by the OAG of is its absurd interpretation of law is that Attorney
6 Borja is one of approximately one hundred employees at the OAG who received this agency-wide disparaging
7 email, which formed the basis for the Final Notice of Adverse Action (hereinafter “FNAA”) against Mr.
8 Cruz. However, there is no violation under the statute, unless Attorney Borja actually served in the official
9 action taken in this case by the OAG. The OAG does not in either its motion, the discovery in this case, or
10 by the sworn affidavits submitted in support show that Attorney Borja gave any advice, recommendation, or
11 took any official action in relation to this case.

12 Rather, the OAG, in an unsupported effort, makes a wild allegation that Attorney Borja obtained
13 confidential information about this case while an employee of the OAG without referencing what
14 confidential information could or has been received by Attorney Borja. The statute defines confidential
15 information as “information which is considered a private document by existing laws, and which the
16 employee acquires in the course of official duties, or the use of information for personal gain or for the
17 benefit of someone else.”. 4 GCA §15203. It is undisputed that Attorney Borja has confidential information
18 related to the cases she prosecuted and assisted in the prosecution of and that she must maintain
19 confidentiality related to those cases. However, the contents of the AG’s email and Attorney Santos’s
20 response are both public documents. Attorney Borja is not mentioned in the over 800 pages of discovery
21 provided by the OAG in this case. Further, when the Commission questioned the OAG about what
22 information Attorney Borja has related to this case at a motion hearing, the OAG did not identify any
23 information or state any role Attorney Borja had in the OAG’s decisions related to this case.

24 Additionally, the ROI by OAG then-Acting Chief Investigator Maria Apuron specifically names the
25 OAG employees who were interviewed in the course of the investigation of this case and the members of
26 the OAG Management who participated in the decision-making process at any point before Mr. Cruz was
27 served the Proposed Notice of Adverse Action (“NPAA”) or FNAA. Attorney Borja is not mentioned in
28 the ROI in any capacity.

1 It is the NPAA and FNAA that is the official action in this case. It indisputable the NPAA and the
2 FNAA were served after Attorney Borja had resigned from the OAG. It also indisputable that Attorney
3 Borja was present as Mr. Cruz's counsel when Mr. Cruz was served the FNAA. *See Dec. K. Borja* (Jan. 07,
4 2025). The Court can also take notice that Attorney Borja filed an Entry of Appearance and appeared before
5 the Commission on several Status Calls in this case without objection from the OAG.

6 The OAG further tries to argue that Attorney Borja should be disqualified because the OAG feels
7 "disadvantage[d]." The OAG previously conceded that Attorney Borja is not conflicted from criminal and
8 other civil cases involving the OAG as the Guam Rules of Professional Conduct which govern her conduct
9 are not violated by her subsequent employment. *See Motion to Disqualify Employee's Counsel* (Violation of
10 4 GCA §15210)(Dec.18, 2024), attached hereto as Exhibit B. While the OAG claims disadvantage, the party
11 who is truly disadvantaged in this case by this nonsensical motion, is Mr. Cruz, who was terminated for
12 releasing a public document, and who was unlawfully subjected to an illegal search. The Court should take
13 notice that the OAG fails to cite to any law or rule that requires the disqualification of an attorney simply
14 because the other party feels "disadvantaged".

15 The OAG further raises arguments under the Guam Rules of Professional Conduct (hereinafter
16 "GRPC"), but as with its arguments under 4 GCA §15202, fails to correctly and specifically identify the
17 conflict. It is undisputed Attorney Borja was a Prosecutor who represented the "People of Guam" in criminal
18 cases when she was assigned to the General Crimes Division and enforced Child Support orders between
19 custodial and non-custodial parents when she was assigned to the Child Support Enforcement Division.
20 However, the party in this case is OAG Management, due to its unjustifiable action. This motion is yet
21 another blatant example of how the OAG continues to act in direct contravention of Guam law and
22 continues to retaliate against Employee. It also raises the question of the OAG bringing frivolous claims and
23 not having candor to the Court, both of which are violations of the Guam Rules of Profession Conduct. *See*
24 GRPC Rule 3.1 and 3.3.

25 Lastly, all attorneys in Guam, in this action and otherwise, are obliged to conform their conduct to
26 the Guam Rules of Professional Conduct. Attorney Borja and the Law Office of Jacqueline Taitano Terlaje,
27 take their responsibility under Guam law very seriously and request the Court require the OAG to similarly
28 conform their conduct in compliance with their obligations under their licensing with the Courts of Guam.

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III. CONCLUSION

Guam law prohibits former government employees who advised or represented an agency in official action from obtaining a benefit, assisting or representing a third party against the agency for a period of twelve months in matters where the employee “actually served.” Attorney Borja’s former employment with the OAG does not restrict or disqualify her or this firm from representing Mr. Bryan Cruz in this case before the Court challenging his wrongful termination due to the illegal actions of the OAG.

Attorney Borja did not advise or represent the OAG in the action against Mr. Cruz, in an official action or otherwise. Thus, 4 GCA § 15210 does not apply. The OAG’s only factual assertion in this case is an undisputed fact Attorney Borja was employed at the OAG when the public document and disparaging email for which Mr. Cruz was wrongfully terminated was received by all OAG employees, including Attorney Borja. This does not make her a necessary witness. Indisputably, the NPAA and FNAA were served after Attorney Borja resigned from the OAG, Attorney Borja was not involved in any investigation for the OAG against Mr. Cruz, and Attorney Borja was not a member of Management determining its official action against Mr. Cruz. Therefore, the OAG’s motion to disqualify this firm should be denied.

Respectfully submitted this 31st day of July, 2025.

LAW OFFICE OF
JACQUELINE TAITANO TERLAJE, P.C.

By: /s/

JACQUELINE TAITANO TERLAJE
Attorney for Real Party in Interest, *Bryan J. Cruz*

1 that conduct, specifically acting in a representative capacity in a matter against that
2 Agency. Attorney K. Borja ("Attorney Borja") is an associate attorney at the Law Office
3 of Jacqueline Taitano Terlaje, P.C. whose law firm is representing Cruz against the
4 AG's Office / Government of Guam. . See 4 GCA § 1250(b).

5 The AG's Office motion is supported by Guam statutes and case law. Title 4
6 GCA § 15210(b) codifies a prohibition with two crucial objectives. The law safeguards
7 the Government of Guam from conflicts that might undermine the People's best
8 interests. Maintaining public confidence in government is essential, as even the
9 appearance of impropriety can erode trust and undermine effective governance.
10 When an attorney, recently privy to internal operations and confidential information,
11 represents a party adverse to their former employer, it inevitably raises concerns about
12 fairness and equal access to justice. The Guam Legislature passed a law consistent
13 with a sound public policy objective. Second, and equally important, this prohibition
14 aims to mitigate the significant risk of undue influence.

16 The potential for an attorney to leverage personal connections cultivated during
17 their prior tenure within the agency, or to exploit confidential knowledge gained during
18 their employment with the Government of Guam, poses a severe threat to equitable
19 legal proceedings. Such leverage could unfairly disadvantage the governmental entity,
20 compromise sensitive information and ultimately subvert the course of justice.
21 "[U]ltimately the issue involves a conflict between a client's right to counsel of his
22 choice and the need to maintain ethical standards of professional responsibility."
23 Guam law sets forth an ethical prohibition that may undermine the People's
24 government's best interests. The preservation of public trust both in the scrupulous
25

1 administration of justice and in the integrity of the bar is paramount [The client's
2 recognizably important right to counsel of his choice] must yield, however, to
3 considerations of ethics which run to the very integrity of our judicial process." *Comden*
4 *v. Superior*, 576 P.2d 971 (Cal. 1978).

5 Therefore, the law acts as a prophylactic measure, ensuring that the legal
6 landscape remains level and that no party gains an unfair advantage due to privileged
7 past associations or information. Neither Cruz, nor his attorneys (law firm), have
8 adequately explained why this straightforward law is inapplicable. Moreover, this
9 prohibition constitutes a violation of the Guam Rules of Professional Conduct, and the
10 failure to establish a timely ethical screen around Attorney Borja necessitates the
11 disqualification of employee's entire law office. Guam R Prof. Conduct 1.10.

12 Title 4 GCA § 15210(b) states that a former employee is prohibited from
13 representing clients before their former agency if they were employed by that agency
14 within the past 12 months and the agency is involved in the matter. 4 GCA § 15210(b).
15 This prohibition applies regardless of whether the employee handled the specific
16 subject matter during their government employment. Both of these facts are
17 undisputed and undermine Cruz and his attorneys' legal argument. The Court must
18 ascertain whether the language is plain and unambiguous. *Aguon v. Gutierrez*, 2002
19 Guam 14, ¶ 6. Nevertheless, when the statute is unambiguous the inquiry by the court
20 is complete. *People v. Quichocho*, 1997 Guam 13 ¶ 5.

22 In this case further reasons exist mitigating against Cruz. Attorney Borja was in
23 fact a receiver on the email correspondence that Cruz improperly disclosed to an
24 external third-party (criminal adversarial defense attorney). This disclosure by Cruz
25 subjected Cruz to an adverse action, and Attorney Borja was privy to the entire process

1 because she was still an employee. She is a material fact witness. If an attorney—or
2 more likely a law firm—simultaneously represents clients who have conflicting
3 interests, a more stringent per se rule of disqualification applies. With few exceptions,
4 disqualification follows automatically, regardless of whether the simultaneous
5 representations have anything in common or present any risk that confidences
6 obtained in one matter would be used in the other. *People ex. Rel. Dept. of*
7 *Corporations v. Speedee Oil Change Systems, Inc.* 980 P.2d 371 (Cal. 1999) *citing*
8 *Flatt v. Superior Court*, 885 P.2d 950 (Cal. 1994). Furthermore, apart from just being
9 a fact witness, the attorney actively began representing Cruz, not properly “walling off”
10 herself.

11
12 Cruz’s argument that there should be a more substantial undertaking by
13 Attorney Borja while she was employed at the AG’s Office is incorrect. The Guam
14 statute created a sound public policy to limit the ability of a litigant to use a government
15 attorney who may gain valuable information while in the employment of the
16 Government. *Board of Education v. Nyquist*, 590 F.2d 1241(2d Cir. 1979). The law
17 does not contain any provisos. Guam explicitly restricts post-employment activities of
18 its employees for a statutory period of one year after their departure from service for
19 this reason. Arguably, a government department might consent or waive such exercise
20 of the prohibition; however, such was not done herein.

21
22 The rationale behind this public policy enactment is rooted in the imperative to
23 maintain the integrity of confidential information and to prevent any potential misuse
24 that could undermine the public trust or prejudice legal proceedings. Government
25 attorneys, by the very nature of their work, are often privy to sensitive and confidential

1 details pertaining to various cases, investigations and governmental operations. This
2 privileged information, if accessible to an opposing party in a subsequent legal dispute,
3 could create an unfair advantage and compromise the principles of due process and
4 equitable justice.

5 Furthermore, allowing such a practice could foster an environment where
6 litigants might strategically seek to engage former government attorneys precisely for
7 the purpose of leveraging inside information, thereby creating a conflict of interest that
8 could tarnish the reputation of the legal profession and the government's legal
9 apparatus. The policy aims to safeguard against such scenarios, ensuring that the
10 legal landscape remains fair and transparent for all parties involved. By upholding this
11 restriction, the government reinforces its commitment to ethical conduct and the
12 protection of confidential governmental interests.
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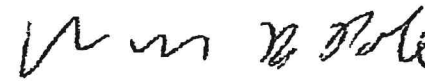
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1 Disregarding this law would subvert Guam's legislative intent. Guam Rule of
2 Professional Conduct 1.1(2) allows a waiver if and when the Government Agency
3 provides a conflict waiver in writing. Guam R Prof. Conduct 1.1(2). No written waiver
4 exists in this case and so the Rules of Professional Conduct don't allow for further
5 representation. The entire law firm must be disqualified under Guam's imputed
6 disqualification rule and the failure of Cruz's law office to wall off other attorney(s).
7 Guam R Prof. Conduct 1.10.
8

9 **Respectfully submitted** this 14th day of August, 2025.

10 **OFFICE OF THE ATTORNEY GENERAL**
11 Douglas B. Moylan, Attorney General of Guam

12 
13 _____
14 **Chisa N. Tillman**
Assistant Attorney General

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16 _____
17 **William B. Pole**
18 Co-Counsel for Defendant
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