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BY:

IN THE SUPERIOR COURT OF GUAM
HAGATNA, GUAM

THE PEOPLE OF GUAM,
Plaintiff

vs.

DAVID J. SABLAN,
DOB: 11/06/1953;

CRIMINAL CASE NO. CM 0431-17
AG REPORT 17-0537

CHARGE 1

Open Government Law; Penalties
(Attending a Secret, Nonpublic Meeting of a
Public Agency where Action Was Taken;
Violation of the Requirement for Open and
Public Meetings) (As a Misdemeanor)

CHARGE 2

Open Government Law; Penalties
(Attending a Secret, Nonpublic Meeting of a
Public Agency where Action Was Taken;
Violation of the Requirement that Recorded
Minutes are to be Open to Public Inspection)
(As a Misdemeanor)

CHARGE 3

Open Government Law; Penalties
(Attending a Secret, Nonpublic Meeting of a
Public Agency where Action Was Taken;
Violation of the Requirement for Notice of
Special Meeting) (As a Misdemeanor)

CHARGE 4

Open Government Law; Penalties
(Attending a Secret, Nonpublic Meeting of a
Public Agency where Action Was Taken;
Violation of the Reporting Requirements for
Boards and Commissions) (As a
Misdemeanor)

CHARGE 5

Conspiracy (As a Misdemeanor)

ORIGINAL

CHARGE 6

Official Misconduct (Unauthorized Exercise of Official Function) (As a Misdemeanor)

CHARGE 7

Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law) (As a Misdemeanor)

CHARGE 8

Conspiracy (As a Misdemeanor)

CHARGE 9

Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement for Open and Public Meetings) (As a Misdemeanor)

CHARGE 10

Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement that Recorded Minutes are to be Open to Public Inspection) (As a Misdemeanor)

CHARGE 11

Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement for Notice of Special Meeting) (As a Misdemeanor)

CHARGE 12

Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Reporting Requirements for Boards and Commissions) (As a Misdemeanor)

CHARGE 13

Conspiracy (As a Misdemeanor)

CHARGE 14

Official Misconduct (Unauthorized Exercise of Official Function) (As a Misdemeanor)

CHARGE 15

Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law) (As a Misdemeanor)

CHARGE 16

Conspiracy (As a Misdemeanor)

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CECILE B. SUDA,
DOB: 9/22/1957;

CHARGE 17
Open Government Law; Penalties
(Unlawful Exception to Open Government
Law; Action Taken Electronically; Violation
of the Requirement for Open and Public
Meetings) (As a Misdemeanor)

CHARGE 18
Open Government Law; Penalties
(Unlawful Exception to Open Government
Law; Action Taken Electronically; Violation
of the Requirement that Recorded Minutes are
to be Open to Public Inspection) (As a
Misdemeanor)

CHARGE 19
Open Government Law; Penalties
(Unlawful Exception to Open Government
Law; Action Taken Electronically; Violation
of the Requirement for Notice of Special
Meeting) (As a Misdemeanor)

CHARGE 20
Open Government Law; Penalties
(Unlawful Exception to Open Government
Law; Action Taken Electronically; Violation
of the Reporting Requirements for Boards and
Commissions) (As a Misdemeanor)

CHARGE 21
Conspiracy (As a Misdemeanor)

CHARGE 22
Official Misconduct (Unauthorized Exercise
of Official Function) (As a Misdemeanor)

CHARGE 23
Official Misconduct (Knowingly Refraining
from Performing a Duty Imposed by Law) (As
a Misdemeanor)

CHARGE 24
Conspiracy (As a Misdemeanor)

CHARGE 25
Conspiracy (As a Misdemeanor)

CHARGE 26
Conspiracy (As a Misdemeanor)

CHARGE 27
Conspiracy (As a Misdemeanor)

CHARGE 28
Conspiracy (As a Misdemeanor)

CHARGE 29
Conspiracy (As a Misdemeanor)

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4 **DEANNE TORRE,**
5 **DOB: 4/7/1970;**
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10 **ROSIE BLAS,**
11 **DOB: 7/2/1962;**
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17 **ROLAND SELVIDGE,**
18 **DOB: 8/4/1949;**
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23 **JOHN ILAO,**
24 **DOB: 2/16/67;**
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26 **MICHAEL J. DUENAS,**
27 **DOB: 4/30/1954**
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) **CHARGE 30**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 31**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 32**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 33**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 34**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 35**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 36**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 37**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 38**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 39**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 40**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 41**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 42**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 43**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 44**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 45**
) **Official Misconduct (Unauthorized Exercise**
) **of Official Function) (As a Misdemeanor)**

) **CHARGE 46**
) **Conspiracy (As a Misdemeanor)**

) **CHARGE 47**
) **Conspiracy (As a Misdemeanor)**

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2 **COMPLAINT**

3 The Attorney General of Guam hereby accuses **DAVID J. SABLAN, CECILE B. SUDA,**
4 **DEANNE TORRE, ROSIE BLAS, ROLAND SELVIDGE, JOHN ILAO, and MICHAEL J.**
5 **DUENAS,** of certain crimes committed as follows:

6 *[A.1. December 26, 2011 Working Session]*

7 **FIRST CHARGE**

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9 **Open Government Law; Penalties (Attending a Secret, Nonpublic Meeting of a Public Agency
where Action Was Taken; Violation of the Requirement for Open and Public Meetings)**

10 On or around December 2011 to January 2012, in Guam, in violation of 5 GCA §§ 8115 (b),
11 8103 (a), and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of a
12 Commission of a Public Agency, did attend a Meeting at which Action was taken in violation of any
13 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
14 thereof, when, as a Member of Board of Commissioners ("BOC") of the Guam Housing and Urban
15 Renewal Authority ("GHURA"), he met with a quorum or more of the Members to, by a majority of the
16 Members, make a collective decision, or a collective commitment or promise by a majority of the
17 Members to make a positive or negative decision on a matter, in violation of the requirement that such
18 Meeting be open, public, and any person shall be permitted to attend any GHURA Meeting; such
19 conduct chargeable within the time prescribed by 8 G.C.A. §10.40.

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22 **SECOND CHARGE**

23 **Open Government Law; Penalties (Attending a Secret, Nonpublic Meeting of a Public Agency
24 where Action Was Taken; Violation of the Requirement that Recorded Minutes are to be Open to
Public Inspection)**

25 On or around December 2011 to January 2012, in Guam, in violation of 5 GCA §§ 8115 (b),
26 8103 (a), 8113 and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member
27 of a Commission of a Public Agency, did attend a Meeting at which Action was taken in violation of any

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2 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
3 thereof, when, as a Member of the GHURA BOC, he met with a quorum or more of the Members to, by
4 a majority of the Members, make a collective decision, or a collective commitment or promise by a
5 majority of the Members to make a positive or negative decision on a matter, in violation of the
6 requirement that minutes of such Meeting be promptly and fairly recorded, open to public inspection,
7 and shall include record of all motions, proposals and resolutions offered, the results of any votes taken,
8 and a record of individual votes in event of roll call; such conduct chargeable within the time prescribed
9 by 8 G.C.A. §10.40.
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11 **THIRD CHARGE**

12 **Open Government Law; Penalties (Attending a Secret, Nonpublic Meeting of a Public Agency 13 where Action Was Taken; Violation of the Requirement for Notice of Special Meeting)**

14 On or around December 2011 to January 2012, in Guam, in violation of 5 GCA §§ 8115 (b),
15 8103 (a), 8107 (b) and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a
16 Member of a Commission of a Public Agency, did attend a Meeting at which Action was taken in
17 violation of any provision of the Open Government Law, with knowledge of the fact that such Meeting
18 was a violation thereof, when, as a Member of the GHURA BOC, he convened with a quorum or more
19 of the Members to, by a majority of the Members, make a collective decision, or a collective
20 commitment or promise by a majority of the Members to make a positive or negative decision on a
21 matter, in violation of the requirement that a Public Agency which holds a meeting not previously
22 scheduled by statute, regulation or resolution, or for which notice is not already provided by law, shall
23 give five (5) working days public notice of such meeting, and a second notice at least forty-eight (48)
24 hours, prior to the start of such meeting; such conduct chargeable within the time prescribed by 8 G.C.A.
25 §10.40.
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2 **FOURTH CHARGE**

3 **Open Government Law; Penalties (Attending a Secret, Nonpublic Meeting of a Public Agency**
4 **where Action Was Taken; Violation of the Reporting Requirements for Boards and Commissions)**

5 On or around December 2011 to January 2012, in Guam, in violation of 5 GCA §§ 8115 (b),
6 8103, 8113.1 and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member
7 of a Commission of a Public Agency, did attend a Meeting at which Action was taken in violation of any
8 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
9 thereof, when, as a Member of the GHURA BOC, he convened with a quorum or more of the Members
10 to, by a majority of the Members, make a collective decision, or a collective commitment or promise by
11 a majority of the Members to make a positive or negative decision on a matter, in violation of the
12 requirement that governing Boards and Commissions of all agencies, public corporations, and
13 departments of the government of Guam shall provide electronic copies of the monthly Board and
14 Commission meeting agendas, approved minutes, and other attachments and addendums as discussed in
15 each monthly meeting, to *I Maga'lahaen Guåhan* and the Speaker of *I Liheslaturan Guåhan* no later than
16 fifteen (15) days after the end of said meeting and post the same on its website of the agency, public
17 corporation, or department to which it governs and the requirement that the audio recording of each
18 meeting shall be provided to the Office of Public Accountability within seven (7) calendar days after the
19 meeting; such conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
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22 **FIFTH CHARGE**

23 **Conspiracy**

24 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
25 accordance with 9 GCA § 80.34, **DAVID J. SABLAN** did agree with one or more of the members of
26 the Board of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them
27 would engage in conduct which constitutes a violation of the Open Government Law; that he did so with
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1 the intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and
2 that **DAVID J. SABLAN** or one of the members of the Board of Commissioners of the Guam Housing
3 and Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
4 chargeable within the time prescribed by 8 G.C.A. §10.40.
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6 7 **SIXTH CHARGE**

8 **Official Misconduct (Unauthorized Exercise of Official Function)**

9 On or around December 2011 to January 2012, in Guam, in violation of 9 GCA § 49.30 (a) and
10 punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, a public servant, did, with intent
11 to benefit himself or another person or to harm another person or to deprive another person of a benefit,
12 commit an act relating to his office but constituting an unauthorized exercise of his official functions,
13 knowing that such act was unauthorized; such conduct chargeable within the time prescribed by 8
14 G.C.A. §10.40.
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16 17 **SEVENTH CHARGE**

18 **Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law)**

19 On or around December 2011 to January 2012, in Guam, in violation of 9 GCA § 49.30 (b) and
20 punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, a public servant, did, with intent
21 to benefit himself or another person or to harm another person or to deprive another person of a benefit,
22 knowingly refrain from performing a duty which is imposed upon him by law or is clearly inherent in
23 the nature of his office; such conduct falling within the time prescribed by 8 G.C.A. §10.40.
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2 **EIGHTH CHARGE**

3 **Conspiracy**

4 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
5 accordance with 9 GCA § 80.34, **DAVID J. SABLAN** did agree with one or more of the members of
6 the Board of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them
7 would engage in conduct which constitutes a violation of Official Misconduct; that he did so with the
8 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
9 **DAVID J. SABLAN** or one of the members of the Board of Commissioners of the Guam Housing and
10 Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
11 chargeable within the time prescribed by 8 G.C.A. §10.40.
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14 *[B.1. Resolution FY2015-014(A)]*

15 **NINTH CHARGE**

16 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken**
17 **Electronically; Violation of the Requirement for Open and Public Meetings)**

18 On or around April to July 2015, in Guam, in violation of 5 GCA §§ 8115 (b), 8103 (a), 8105,
19 and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of a
20 Commission of a Public Agency, did attend a meeting at which Action was taken in violation of any
21 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
22 thereof, when, as a Member of Board of Commissioners ("BOC") of the Guam Housing and Urban
23 Renewal Authority ("GHURA"), he electronically took part in a collective decision, or a collective
24 commitment or promise by a majority of the Members to make a positive or negative decision on a
25 matter, outside of an Open Government Meeting then later ratified the vote; such conduct chargeable
26 within the time prescribed by 8 G.C.A. §10.40.
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2 **TENTH CHARGE**

3 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken**
4 **Electronically; Violation of the Requirement that Recorded Minutes are to be Open to Public**
5 **Inspection)**

6 On or around April to July 2015, in Guam, in violation of 5 GCA §§ 8115 (b), 8103 (a), 8113,
7 8105, and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of a
8 Commission of a Public Agency, did attend a Meeting at which Action was taken in violation of any
9 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
10 thereof, by failing to meet the requirement that minutes of such Meeting be promptly and fairly
11 recorded, open to public inspection, and shall include record of all motions, proposals and resolutions
12 offered, the results of any votes taken, and a record of individual votes in event of roll call; such conduct
13 chargeable within the time prescribed by 8 G.C.A. §10.40.

14 **ELEVENTH CHARGE**

15 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken**
16 **Electronically; Violation of the Requirement for Notice of Special Meeting)**

17 On or around April to July 2015, in Guam, in violation of 5 GCA §§ 8115 (b), 8103 (a), 8107
18 (b), 8105, and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of
19 a Commission of a Public Agency, did attend a Meeting at which Action was taken in violation of any
20 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
21 thereof, when, as a Member of the GHURA BOC, he acted in violation of the requirement that a Public
22 Agency which holds a meeting not previously scheduled by statute, regulation or resolution, or for
23 which notice is not already provided by law, shall give five (5) working days public notice of such
24 meeting, and a second notice at least forty-eight (48) hours, prior to the start of such meeting; such
25 conduct chargeable within the time prescribed by 8 G.C.A. §10.40.

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3 **TWELFTH CHARGE**

4 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken**
5 **Electronically; Violation of the Reporting Requirements for Boards and Commissions)**

6 On or around April to July 2015, in Guam, in violation of 5 GCA §§ 8115 (b), 8103, 8113.1 and
7 punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of a Commission
8 of a Public Agency, did attend a Meeting at which Action was taken in violation of any provision of the
9 Open Government Law, with knowledge of the fact that such Meeting was a violation thereof, when, he
10 failed to meet the requirement that governing Boards and Commissions of all agencies, public
11 corporations, and departments of the government of Guam shall provide electronic copies of the
12 monthly Board and Commission meeting agendas, approved minutes, and attachments and addendums
13 as discussed in each monthly meeting, to *I Maga'lahaen Guåhan* and the Speaker of *I Liheslaturan*
14 *Guåhan* no later than fifteen (15) days after the end of said meeting and post the same on its website of
15 the agency, public corporation, or department to which it governs and the requirement that the audio
16 recording of each meeting shall be provided to the Office of Public Accountability within seven (7)
17 calendar days after the meeting; such conduct chargeable within the time prescribed by 8 G.C.A. §10.40.

18
19 **THIRTEENTH CHARGE**

20 **Conspiracy**

21 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
22 with 9 GCA § 80.34, **DAVID J. SABLAN** did agree with one or more of the members of the Board of
23 Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
24 engage in conduct which constitutes a violation of the Open Government Law; that he did so with the
25 intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and that
26 **DAVID J. SABLAN** or one of the members of the Board of Commissioners of the Guam Housing and
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2 Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
3 chargeable within the time prescribed by 8 G.C.A. §10.40.
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5 **FOURTEENTH CHARGE**

6 **Official Misconduct (Unauthorized Exercise of Official Function)**

7 On or around April to July 2015, in Guam, in violation of 9 GCA § 49.30 (a) and punishable in
8 accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, a public servant, did, with intent to benefit
9 himself or another person or to harm another person or to deprive another person of a benefit, commit an
10 act relating to his office but constituting an unauthorized exercise of his official functions, knowing that
11 such act was unauthorized; such conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
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13 **FIFTEENTH CHARGE**

14 **Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law)**

15 On or around April to July 2015, in Guam, in violation of 9 GCA § 49.30 (a) and punishable in
16 accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, a public servant, did, with intent to benefit
17 herself or another person or to harm another person or to deprive another person of a benefit, commit an
18 act relating to his office but constituting an unauthorized exercise of his official functions, knowing that
19 such act was unauthorized; such conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
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22 **SIXTEENTH CHARGE**

23 **Conspiracy**

24 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
25 with 9 GCA § 80.34, **DAVID J. SABLAN** did agree with one or more of the members of the Board of
26 Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
27

1 engage in conduct which constitutes a violation of Official Misconduct; that he did so with the intention
2 of engaging in, promoting, or assisting in the violation of Official Misconduct; and that **DAVID J.**
3 **SABLAN** or one of the members of the Board of Commissioners of the Guam Housing and Urban
4 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
5 within the time prescribed by 8 G.C.A. §10.40.
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8 *[C.I. Resolution Nos. FY2013-005; FY2013-006]*
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10 **SEVENTEENTH CHARGE**

11 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken 12 Electronically; Violation of the Requirement for Open and Public Meetings)**

13 On or around October to November 2012 , in Guam, in violation of 5 GCA §§ 8115 (b), 8103
14 (a), 8105, and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of a
15 Commission of a Public Agency, did attend a meeting at which Action was taken in violation of any
16 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
17 thereof, when, as a Member of Board of Commissioners ("BOC") of the Guam Housing and Urban
18 Renewal Authority ("GHURA"), he electronically took part in a collective decision, or a collective
19 commitment or promise by a majority of the Members to make a positive or negative decision on a
20 matter, outside of an Open Government Meeting then later ratified the vote; such conduct chargeable
21 within the time prescribed by 8 G.C.A. §10.40.
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23 **EIGHTEENTH CHARGE**

24 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken 25 Electronically; Violation of the Requirement that Recorded Minutes are to be Open to Public 26 Inspection)**

27 On or around October to November 2012, in Guam, in violation of 5 GCA §§ 8115 (b), 8103 (a),
28 8113, 8105, and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of

1 a Commission of a Public Agency, did attend a Meeting at which Action was taken in violation of any
2 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
3 thereof, by failing to meet the requirement that minutes of such Meeting be promptly and fairly
4 recorded, open to public inspection, and shall include record of all motions, proposals and resolutions
5 offered, the results of any votes taken, and a record of individual votes in event of roll call; such conduct
6 chargeable within the time prescribed by 8 G.C.A. §10.40.
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8 9 10 **NINETEENTH CHARGE**

11 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken 12 Electronically; Violation of the Requirement for Notice of Special Meeting)**

13 On or around October to November 2012, in Guam, in violation of 5 GCA §§ 8115 (b),
14 8103 (a), 8107 (b), 8105, and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**,
15 then a Member of a Commission of a Public Agency, did attend a Meeting at which Action was taken in
16 violation of any provision of the Open Government Law, with knowledge of the fact that such Meeting
17 was a violation thereof, when, as a Member of the GHURA BOC, he acted in violation of the
18 requirement that a Public Agency which holds a meeting not previously scheduled by statute, regulation
19 or resolution, or for which notice is not already provided by law, shall give five (5) working days public
20 notice of such meeting, and a second notice at least forty-eight (48) hours, prior to the start of such
21 meeting; such conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
22

23 **TWENTIETH CHARGE**

24 **Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken 25 Electronically; Violation of the Reporting Requirements for Boards and Commissions)**

26 On or around October to November 2012, in Guam, in violation of 5 GCA §§ 8115 (b), 8103,
27 8113.1 and punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, then a Member of a
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2 Commission of a Public Agency, did attend a Meeting at which Action was taken in violation of any
3 provision of the Open Government Law, with knowledge of the fact that such Meeting was a violation
4 thereof, when, he failed to meet the requirement that governing Boards and Commissions of all
5 agencies, public corporations, and departments of the government of Guam shall provide electronic
6 copies of the monthly Board and Commission meeting agendas, approved minutes, and attachments and
7 addendums as discussed in each monthly meeting, to *I Maga'lahaen Guåhan* and the Speaker of *I*
8 *Lihaslaturan Guåhan* no later than fifteen (15) days after the end of said meeting and post the same on
9 its website of the agency, public corporation, or department to which it governs and the requirement that
10 the audio recording of each meeting shall be provided to the Office of Public Accountability within
11 seven (7) calendar days after the meeting; such conduct chargeable within the time prescribed by 8
12 G.C.A. §10.40.
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15 **TWENTY FIRST CHARGE**

16 **Conspiracy**

17 On or around October to November 2012, in violation of 9 GCA § 13.30 and punishable in
18 accordance with 9 GCA § 80.34, **DAVID J. SABLAN** did agree with one or more of the members of
19 the Board of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of
20 them would engage in conduct which constitutes a violation of the Open Government Law; that he did
21 so with the intention of engaging in, promoting, or assisting in the violation of the Open Government
22 Law; and that **DAVID J. SABLAN** or one of the members of the Board of Commissioners of the
23 Guam Housing and Urban Renewal Authority performed an overt act in pursuance of the agreement;
24 such conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
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2 **TWENTY SECOND CHARGE**

3 **Official Misconduct (Unauthorized Exercise of Official Function)**

4 On or around October to November 2012, in Guam, in violation of 9 GCA § 49.30 (a) and
5 punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, a public servant, did, with intent
6 to benefit himself or another person or to harm another person or to deprive another person of a benefit,
7 commit an act relating to his office but constituting an unauthorized exercise of his official functions,
8 knowing that such act was unauthorized; such conduct chargeable within the time prescribed by 8
9 G.C.A. §10.40.
10

11 **TWENTY THIRD CHARGE**

12 **Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law)**

13 On or around October to November 2012, in Guam, in violation of 9 GCA § 49.30 (a) and
14 punishable in accordance with 9 GCA § 80.34, **DAVID J. SABLAN**, a public servant, did, with intent
15 to benefit herself or another person or to harm another person or to deprive another person of a benefit,
16 commit an act relating to his office but constituting an unauthorized exercise of his official functions,
17 knowing that such act was unauthorized, such conduct falling within the time prescribed by 8 G.C.A.
18 §10.40.
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21 **TWENTY FOURTH CHARGE**

22 **Conspiracy**

23 On or around October to November 2012, in violation of 9 GCA § 13.30 and punishable in
24 accordance with 9 GCA § 80.34, **DAVID J. SABLAN** did agree with one or more of the members of
25 the Board of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them
26 would engage in conduct which constitutes a violation of Official Misconduct; that he did so with the
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2 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
3 **DAVID J. SABLAN** or one of the members of the Board of Commissioners of the Guam Housing and
4 Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
5 chargeable within the time prescribed by 8 G.C.A. §10.40.
6

7 *[A.2. December 26, 2011 Working Session]*

8 **TWENTY FIFTH CHARGE**

9 **Conspiracy**

10 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
11 accordance with 9 GCA § 80.34, **CECILE B. SUDA** did agree with one or more of the members of the
12 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
13 would engage in conduct which constitutes a violation of the Open Government Law; that she did so
14 with the intention of engaging in, promoting, or assisting in the violation of the Open Government Law;
15 and that **CECILE B. SUDA** or one of the members of the Board of Commissioners of the Guam
16 Housing and Urban Renewal Authority performed an overt act in pursuance of the agreement; such
17 conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
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20 **TWENTY SIXTH CHARGE**

21 **Conspiracy**

22 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
23 accordance with 9 GCA § 80.34, **CECILE B. SUDA** did agree with one or more of the members of the
24 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
25 would engage in conduct which constitutes a violation of Official Misconduct; that she did so with the
26 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
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2 **CECILE B. SUDA** or one of the members of the Board of Commissioners of the Guam Housing and
3 Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
4 chargeable within the time prescribed by 8 G.C.A. §10.40.

5
6 *[C.2. Resolution Nos. FY2013-005; FY2013-006]*

7 **TWENTY SEVENTH CHARGE**

8 **Conspiracy**

9 On or around October to November 2012, in violation of 9 GCA § 13.30 and punishable in
10 accordance with 9 GCA § 80.34, **CECILE B. SUDA** did agree with one or more of the members of the
11 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
12 would engage in conduct which constitutes a violation of the Open Government Law; that she did so
13 with the intention of engaging in, promoting, or assisting in the violation of the Open Government Law;
14 and that **CECILE B. SUDA** or one of the members of the Board of Commissioners of the Guam
15 Housing and Urban Renewal Authority performed an overt act in pursuance of the agreement; such
16 conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
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20 **TWENTY EIGHTH CHARGE**

21 **Conspiracy**

22 On or around October to November 2012, in violation of 9 GCA § 13.30 and punishable in
23 accordance with 9 GCA § 80.34, **CECILE B. SUDA** did agree with one or more of the members of the
24 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
25 would engage in conduct which constitutes a violation of Official Misconduct; that she did so with the
26 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
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2 **CECILE B. SUDA** or one of the members of the Board of Commissioners of the Guam Housing and
3 Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
4 chargeable within the time prescribed by 8 G.C.A. §10.40.

5
6 *[A.3. December 26, 2011 Working Session]*

7 **TWENTY NINTH CHARGE**

8 **Conspiracy**

9 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
10 accordance with 9 GCA § 80.34, **DEANNE TORRE** did agree with one or more of the members of the
11 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
12 would engage in conduct which constitutes a violation of the Open Government Law; that she did so
13 with the intention of engaging in, promoting, or assisting in the violation of the Open Government Law;
14 and that **DEANNE TORRE** or one of the members of the Board of Commissioners of the Guam
15 Housing and Urban Renewal Authority performed an overt act in pursuance of the agreement; such
16 conduct chargeable within the time prescribed by 8 G.C.A. §10.40.

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19 **THIRTIETH CHARGE**

20 **Conspiracy**

21 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
22 accordance with 9 GCA § 80.34, **DEANNE TORRE** did agree with one or more of the members of the
23 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
24 would engage in conduct which constitutes a violation of Official Misconduct; that she did so with the
25 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
26 **DEANNE TORRE** or one of the members of the Board of Commissioners of the Guam Housing and
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2 Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
3 chargeable within the time prescribed by 8 G.C.A. §10.40.
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5 **[B.3. Resolution FY2015-014(A)]**

6 **THIRTY FIRST CHARGE**

7 **Conspiracy**

8 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
9 with 9 GCA § 80.34, **DEANNE TORRE** did agree with one or more of the members of the Board of
10 Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them would
11 engage in conduct which constitutes a violation of the Open Government Law; that she did so with the
12 intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and that
13 **DEANNE TORRE** or one of the members of the Board of Commissioners of the Guam Housing and
14 Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
15 chargeable within the time prescribed by 8 G.C.A. §10.40.
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18 **THIRTY SECOND CHARGE**

19 **Conspiracy**

20 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
21 with 9 GCA § 80.34, **DEANNE TORRE** did agree with one or more of the members of the Board of
22 Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them would
23 engage in conduct which constitutes a violation of Official Misconduct; that she did so with the intention
24 of engaging in, promoting, or assisting in the violation of Official Misconduct; and that **DEANNE**
25 **TORRE** or one of the members of the Board of Commissioners of the Guam Housing and Urban
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2 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
3 within the time prescribed by 8 G.C.A. §10.40.
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5 *[A.4. December 26, 2011 Working Session]*

6 **THIRTY THIRD CHARGE**

7 **Conspiracy**

8 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
9 accordance with 9 GCA § 80.34, **ROSIE BLAS** did agree with one or more of the members of the
10 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
11 would engage in conduct which constitutes a violation of the Open Government Law; that she did so
12 with the intention of engaging in, promoting, or assisting in the violation of the Open Government Law;
13 and that **ROSIE BLAS** or one of the members of the Board of Commissioners of the Guam Housing
14 and Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
15 chargeable within the time prescribed by 8 G.C.A. §10.40.
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18 **THIRTY FOURTH CHARGE**

19 **Conspiracy**

20 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
21 accordance with 9 GCA § 80.34, **ROSIE BLAS** did agree with one or more of the members of the
22 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
23 would engage in conduct which constitutes a violation of Official Misconduct; that she did so with the
24 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
25 **ROSIE BLAS** or one of the members of the Board of Commissioners of the Guam Housing and Urban
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2 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
3 within the time prescribed by 8 G.C.A. §10.40.
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5 ***[B.4. Resolution FY2015-014(A)]***

6 **THIRTY FIFTH CHARGE**

7 **Conspiracy**

8 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
9 with 9 GCA § 80.34, **ROSIE BLAS** did agree with one or more of the members of the Board of
10 Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them would
11 engage in conduct which constitutes a violation of the Open Government Law; that she did so with the
12 intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and that
13 **ROSIE BLAS** or one of the members of the Board of Commissioners of the Guam Housing and Urban
14 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
15 within the time prescribed by 8 G.C.A. §10.40.
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18 **THIRTY SIXTH CHARGE**

19 **Conspiracy**

20 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
21 with 9 GCA § 80.34, **ROSIE BLAS** did agree with one or more of the members of the Board of
22 Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them would
23 engage in conduct which constitutes a violation of Official Misconduct; that she did so with the intention
24 of engaging in, promoting, or assisting in the violation of Official Misconduct; and that **ROSIE BLAS**
25 or one of the members of the Board of Commissioners of the Guam Housing and Urban Renewal
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2 Authority performed an overt act in pursuance of the agreement; such conduct chargeable within the
3 time prescribed by 8 G.C.A. §10.40.

4
5 *[C.4. Resolution Nos. FY2013-005; FY2013-006]*

6 **THIRTY SEVENTH CHARGE**

7 **Conspiracy**

8 On or around October to November 2012, in violation of 9 GCA § 13.30 and punishable in
9 accordance with 9 GCA § 80.34, **ROSIE BLAS** did agree with one or more of the members of the
10 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
11 would engage in conduct which constitutes a violation of the Open Government Law; that she did so
12 with the intention of engaging in, promoting, or assisting in the violation of the Open Government Law;
13 and that **ROSIE BLAS** or one of the members of the Board of Commissioners of the Guam Housing
14 and Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
15 chargeable within the time prescribed by 8 G.C.A. §10.40.
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18 **THIRTY EIGHTH CHARGE**

19 **Conspiracy**

20 On or around October to November 2012, in violation of 9 GCA § 13.30 and punishable in
21 accordance with 9 GCA § 80.34, **ROSIE BLAS** did agree with one or more of the members of the
22 Board of Commissioners of the Guam Housing and Urban Renewal Authority that she or one of them
23 would engage in conduct which constitutes a violation of Official Misconduct; that she did so with the
24 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
25 **ROSIE BLAS** or one of the members of the Board of Commissioners of the Guam Housing and Urban
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2 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
3 within the time prescribed by 8 G.C.A. §10.40.
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5 *[A.5. December 26, 2011 Working Session]*

6 **THIRTY NINTH CHARGE**

7 **Conspiracy**

8 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
9 accordance with 9 GCA § 80.34, **ROLAND SELVIDGE** did agree with one or more of the members of
10 the Board of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them
11 would engage in conduct which constitutes a violation of the Open Government Law; that he did so with
12 the intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and
13 that **ROLAND SELVIDGE** or one of the members of the Board of Commissioners of the Guam
14 Housing and Urban Renewal Authority performed an overt act in pursuance of the agreement; such
15 conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
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18 **FOURTIETH CHARGE**

19 **Conspiracy**

20 On or around December 2011 to January 2012, in violation of 9 GCA § 13.30 and punishable in
21 accordance with 9 GCA § 80.34, **ROLAND SELVIDGE** did agree with one or more of the members of
22 the Board of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them
23 would engage in conduct which constitutes a violation of Official Misconduct; that he did so with the
24 intention of engaging in, promoting, or assisting in the violation of Official Misconduct; and that
25 **ROLAND SELVIDGE** or one of the members of the Board of Commissioners of the Guam Housing
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2 and Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
3 chargeable within the time prescribed by 8 G.C.A. §10.40.
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5 **[B.5. Resolution FY2015-014(A)]**

6 **FORTY FIRST CHARGE**

7 **Conspiracy**

8 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
9 with 9 GCA § 80.34, **ROLAND SELVIDGE** did agree with one or more of the members of the Board
10 of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
11 engage in conduct which constitutes a violation of the Open Government Law; that he did so with the
12 intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and that
13 **ROLAND SELVIDGE** or one of the members of the Board of Commissioners of the Guam Housing
14 and Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
15 chargeable within the time prescribed by 8 G.C.A. §10.40.
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18 **FORTY SECOND CHARGE**

19 **Conspiracy**

20 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
21 with 9 GCA § 80.34, **ROLAND SELVIDGE** did agree with one or more of the members of the Board
22 of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
23 engage in conduct which constitutes a violation of Official Misconduct; that he did so with the intention
24 of engaging in, promoting, or assisting in the violation of Official Misconduct; and that **ROLAND**
25 **SELVIDGE** or one of the members of the Board of Commissioners of the Guam Housing and Urban
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2 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
3 within the time prescribed by 8 G.C.A. §10.40.

4
5 **[B.6. Resolution FY2015-014(A)]**

6 **FORTY THIRD CHARGE**

7 **Conspiracy**

8 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
9 with 9 GCA § 80.34, **JOHN ILAO** did agree with one or more of the members of the Board of
10 Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
11 engage in conduct which constitutes a violation of the Open Government Law; that he did so with the
12 intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and that
13 **JOHN ILAO** or one of the members of the Board of Commissioners of the Guam Housing and Urban
14 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
15 within the time prescribed by 8 G.C.A. §10.40.

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18 **FORTY FOURTH CHARGE**

19 **Conspiracy**

20 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
21 with 9 GCA § 80.34, **JOHN ILAO** did agree with one or more of the members of the Board of
22 Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
23 engage in conduct which constitutes a violation of Official Misconduct; that he did so with the intention
24 of engaging in, promoting, or assisting in the violation of Official Misconduct; and that **JOHN ILAO** or
25 one of the members of the Board of Commissioners of the Guam Housing and Urban Renewal Authority
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1 performed an overt act in pursuance of the agreement; such conduct chargeable within the time
2 prescribed by 8 G.C.A. §10.40.
3

4
5 **FORTY FIFTH CHARGE**

6 **Official Misconduct (Unauthorized Exercise of Official Function)**

7 On or around April to July 2015, in Guam, in violation of 9 GCA § 49.30 (a) and punishable in
8 accordance with 9 GCA § 80.34, **JOHN ILAO**, a public servant, did, with intent to benefit himself or
9 another person or to harm another person or to deprive another person of a benefit, commit an act
10 relating to his office but constituting an unauthorized exercise of his official functions, knowing that
11 such act was unauthorized; such conduct chargeable within the time prescribed by 8 G.C.A. §10.40.
12

13 *[B.7. Resolution FY2015-014(A)]*

14 **FOURTY SIXTH CHARGE**

15 **Conspiracy**

16 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
17 with 9 GCA § 80.34, **MICHAEL J. DUENAS** did agree with one or more of the members of the Board
18 of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
19 engage in conduct which constitutes a violation of the Open Government Law; that he did so with the
20 intention of engaging in, promoting, or assisting in the violation of the Open Government Law; and that
21 **MICHAEL J. DUENAS** or one of the members of the Board of Commissioners of the Guam Housing
22 and Urban Renewal Authority performed an overt act in pursuance of the agreement; such conduct
23 chargeable within the time prescribed by 8 G.C.A. §10.40.
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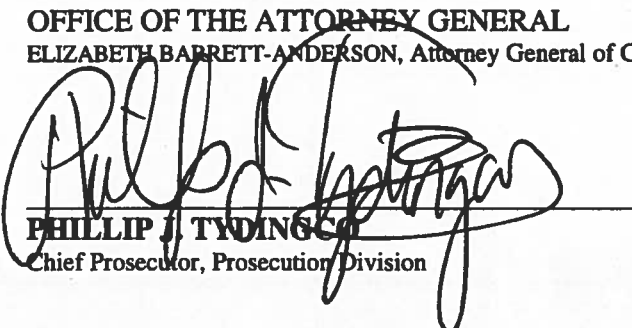
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2 **FORTY SEVENTH CHARGE**

3 **Conspiracy**

4 On or around April to July 2015, in violation of 9 GCA § 13.30 and punishable in accordance
5 with 9 GCA § 80.34, **MICHAEL J. DUENAS** did agree with one or more of the members of the Board
6 of Commissioners of the Guam Housing and Urban Renewal Authority that he or one of them would
7 engage in conduct which constitutes a violation of Official Misconduct; that he did so with the intention
8 of engaging in, promoting, or assisting in the violation of Official Misconduct; and that **MICHAEL J.**
9 **DUENAS** or one of the members of the Board of Commissioners of the Guam Housing and Urban
10 Renewal Authority performed an overt act in pursuance of the agreement; such conduct chargeable
11 within the time prescribed by 8 G.C.A. §10.40.

12
13 Respectfully submitted this 20th day of July, 2017.

14
15 **OFFICE OF THE ATTORNEY GENERAL**
16 **ELIZABETH BARRETT-ANDERSON, Attorney General of Guam**

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18 
19 **PHILLIP J. TYDINGCO**
20 Chief Prosecutor, Prosecution Division

21
22 **SERVICE VIA COURT BOX**

23 I acknowledge that a copy of the
24 original hereto was placed in the
25 court box of:

26 AG 'S

27 Date: 7/24/17 Time: 10:59am

28 Antonio J. Cruz
Deputy Clerk, Superior Court of Guam

IN THE SUPERIOR COURT OF GUAM

DECLARATION

Comes now the People of Guam by the Office of the Attorney General, through Chief Prosecutor Philip J. Tydingco, averring on information and belief that the facts stated herein are true and occurred in Guam. I have reviewed documents and reports prepared by the Federal Bureau of Investigations ("FBI"), the Office of the Inspector General of the United States Department of Housing and Urban Development ("HUD IG"), and Office of the Attorney General of Guam ("OAG") in connection with OAG case no. 17-0537, as well as evidence obtained from HUD IG administrative subpoenas and a search warrant for Guam Housing & Urban Renewal Authority's ("GHURA's") premises as part of an investigation into the activities of its Board of Commissioners ("BOC"). The investigation revealed that the BOC, specifically, David J. Sablan, Cecile Suda, Deanne Torre, John Ilao, Roland Selvidge, and Rosie Blas, conspired, held secret meetings, decided GHURA business, and made illegal votes outside of the public eye, in violation of various provisions of the Open Government Law found at 5 GCA § 8101 *et. seq.* Executive Director Michael J. Duenas shared in the conspiracy as a willing facilitator of the BOC's secret meetings and associated illegal conduct.

I. Background

As a result of a joint, collaborative investigation involving the FBI, the HUD IG and OAG investigators, it was revealed that the GHURA BOC conducted numerous secret meetings at which two or more commissioners gathered to decide and or deliberate on GHURA business outside of Regular Meetings, Special Meetings, or Executive Sessions.¹ These secret gatherings violated the policy of the Territory pronounced by the Legislature at 5 CGA § 8102:

[T]he formation of public policy and decisions is public and shall not be conducted in secret. The people of Guam do not yield their individual rights to the public agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

GHURA BOC secret meetings were blatant violations of the Legislature's pronounced policy and the Open Government Law.

A. Commissioners' knowledge of the Open Government Law

1. **David J. Sablan ("Sablan")** has extensive experience in government agency boards. He served on the GHURA BOC from about February 23, 2011 to about June 28, 2016.²

¹ Regular Meetings, Special Meetings and Executive Sessions are the only types of meetings which agency board members may have in order to deliberate towards a decision or decide on a matter concerning their agency. See 5 GCA §§ 8103, 8104 (a), (b), (c), 8106, 8108, and 8111.

² A Commissioner shall hold office until his successor has been qualified, unless removed by the Governor for inefficiency, neglect of duty or misconduct in office, after a hearing before the Governor or a hearing officer specially designated by him for the purpose. 12 GCA §§ 5103 (c), (e). George A. Santos was

Gov. Edward B. Calvo designated Sablan as GHURA BOC chairman on March 7, 2011. Prior to his term on GHURA's BOC, Sablan was on the Guam Power Authority Board of Directors as its Board Secretary from 1983-85; and Chairman, from 1987-94. Sablan was also on the Guam State Council on Vocational Education from 1988-94 and on the Guam Visitors Bureau Board of Directors from 1997-2002. Additionally, he has served as a board member on the Commonwealth Utilities Corporation in the Commonwealth of the Northern Marianas Islands from 2014 to 2016 or to the present. Sablan has received training in the ethical running of government boards that, on information and belief, included specifically the Open Government Law. He attended a four-hour course and thereafter received his Ethics in Government certificate from the University of Guam on or around July 7, 2011. Sablan has knowledge of the requirements of Guam's Open Government Law because of his lengthy experience on government agency boards and his Ethics in Government trainings.

2. **John R. Ilao ("Ilao")** served on the GHURA BOC from about August 12, 2013 to September 30, 2015, when he resigned. Prior to GHURA's BOC, Ilao served on the Alcohol Beverage Control Board from 2005-09 and from 2011 to 2013. Ilao told investigators that he knew it was illegal for commissioners to meet and discuss GHURA matters unless it was a published and public meeting. Ilao also attended GHURA-specific board training and certified his completion in September 2013. Ilao has knowledge of the requirements of Guam's Open Government Law because of his experience on government agency boards, his GHURA-specific BOC training, and because of his knowledge that board members' discussing agency matters outside of a public meeting is illegal

3. **Deanne S.N. Torre ("Torre")** was confirmed to the GHURA BOC on March 30, 2011 for a five-year term. Like Sablan, she received training in the ethical running of government boards that included, on information and belief, specifically the Open Government Law, wherein she attended a four-hour course and thereafter received her Ethics in Government certificate from the University of Guam on or around July 7, 2011. Torre has knowledge of the requirements of Guam's Open Government Law and explained to investigators that BOC members were not allowed to meet and discuss GHURA business without a quorum. There also had to be public notices issued ahead of time. Torre further explained to investigators that commissioners were not allowed to participate in special meetings or side meetings.

4. **Rosie Ann Blas ("Blas")** was confirmed to the GHURA BOC on February 23, 2011 for a five-year term. Like Sablan and Torre, she received training in the ethical running of government boards that included, on information and belief, specifically the Open Government Law, wherein she attended a four-hour course and thereafter received her Ethics in Government certificate from the University of Guam on or around July 7, 2011. Blas told investigators that it was important to follow Guam's Open Government Laws by advertising prior to meetings and that if four commissioners gathered outside of a public meeting, it could be considered a quorum because of concern that the BOC were discussing government business.

appointed Chairman of the Board by Gov. Eddie Calvo on June 28, 2016, ending Sablan's term on the GHURA BOC on that date. That date, as well as the dates for which respective BOC members were replaced by Gov. Calvo, also sets the time for running of the three-year statute of limitations for criminal actions filed against public officials and others acting in complicity with public officials pursuant to 8 GCA § 10.40. *See also People v. Quenga*, 2015 Guam 39.

5. **Roland Meno Selvidge ("Selvidge")** was confirmed to the GHURA BOC as a Resident Commissioner on September 9, 2010. Sometime in June 2013, Gov. Calvo relieved Selvidge of his duties as commissioner. However, Sablan and GHURA legal counsel advised Selvidge that he could remain on the BOC until replaced, and so, he continued to serve as a commissioner until July 2015. Like Sablan, Torre, and Blas, Selvidge received training in the ethical running of government boards that included, on information and belief, specifically the Open Government Law, wherein he attended a four-hour course and thereafter received his Ethics in Government certificate from the University of Guam on or around July 7, 2011. Selvidge has knowledge of the requirements of Guam's Open Government Law because of his experience on a government agency board and his Ethics in Government trainings.

6. **Cecile B. Suda ("Suda")** was confirmed to the BOC on May 29, 2009, re-appointed to the BOC by Gov. Calvo, and re-confirmed on June 4, 2012. She later resigned from the BOC on August 22, 2014. Like Sablan, Torre, Blas, and Selvidge, Suda received training in the ethical running of government boards that included, on information and belief, specifically the Open Government Law, wherein she attended a four-hour course and thereafter received her Ethics in Government certificate from the University of Guam on or around July 7, 2011. Suda has knowledge of the requirements of Guam's Open Government Law because of her experience on a government agency board and her Ethics in Government trainings.

II. Conduct

A. GHURA BOC's Secret Meetings: "Working Sessions"

Sablan told the other commissioners that he was not to vote unless the commissioners had a tie. However, during Sablan's tenure as chairman, there was never any result of voting other than a unanimous vote of the BOC. Evidently the reason votes were unanimous was because Sablan ran a great deal of GHURA's board-level business through secret meetings, which the BOC and GHURA employees innocuously termed "Working Sessions". Through Working Sessions, Sablan would direct the holding of private gatherings of the BOC, GHURA management and employees outside of a statutorily authorized Open Government Meeting (i.e. outside of a Regular Meeting, Special Meeting or Executive Session) where commissioners would go over GHURA business in detail and arrive at a collective commitment on decisions to be made by the BOC on the record at a public meeting. Working Sessions were not advertised in papers of general circulation, minutes of working sessions were not kept, and reports of the results of Working Sessions were not provided to the legislature. Working Sessions are expressly not an exception to the requirement for public meetings of boards:

5 GCA § 8105. Exception. A chance meeting of two or more members of a public agency shall not be considered a public meeting. No chance meeting, informal assemblage or electronic communication shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this Chapter.

There were numerous Working Sessions during Sablan's and the other Board Members' tenures. Those interviewed relayed that the Working Sessions were forums during which Sablan would make his position known and an opportunity for him to ensure that the position he advocated for would be upheld when the BOC voted at a Regular Meeting.

1. Admissions to investigators that the GHURA BOC held non-public meetings where BOC-level decisions were deliberated and or arrived at

Commissioners' admissions to investigators regarding Working Sessions

Selvidge admitted to investigators that throughout his term as resident commissioner, he attended nearly every board meeting to include both publicly-held Regular Meetings, as well as privately held Working Sessions. Working Sessions were held prior to regular board meetings and were not announced to, nor attend by, the public. He stated that Working Sessions only took place during the second administration of Governor Eddie Calvo. Working Sessions always preceded Regular Meetings, and GHURA BOC members were notified or advised of the scheduling of these secret meetings in advance. Working Sessions were held in the GHURA office in the GCIC Building or in the GHURA office building in Sinajana, Guam. According to Selvidge, during these Working Sessions, GHURA BOC, Legal Counsel and staff would attend. Proposed GHURA board actions were discussed including various programs, projects, bidders, subsidiaries, bidders' disqualification, property control issues, award of different contracts to certain bidders, administrative matters, budgets, vehicles, operational matters, Low Income Housing Tax Credit ("LIHTCs"), housing development projects, Section 8 property matters, agency insurance, and other matters. BOC decisions were discussed, including the pros and cons, and issues were "hashed out" and agreed upon by a consensus of the BOC in advance during these working sessions and prior to the public Regular Meetings of the GHURA BOC. Selvidge said that, although no on-the-record voting occurred during these secret meetings, the BOC did come to a consensus on how they would vote during the publicly-held Regular Meeting of the GHURA BOC that would follow the Working Session. At Regular Meetings, then, the BOC voted unanimously every single time because decisions had already been made in advance during the Working Session and then voted on and unanimously approved during the Regular Meetings. Selvidge could not recall a single instance in which there was a dissenting vote during the actual public meetings taking place. Selvidge described the Regular Meetings as merely "perfunctory" or a "rubber stamp" meeting. Selvidge admitted that although the BOC were not allowed to vote on the record during the Working Sessions, "[W]e were actually voting." Selvidge acknowledged that the fact that the BOC came to a consensus during the working sessions "is a vote". Selvidge admitted that they made decisions at Working Sessions as to how they would vote and affirmed that the public meeting itself was only so the vote would be on record. During Selvidge's interview with investigators, upon reflection, he realized that it did not look good that they were making decisions at Working Sessions.

Blas, like Selvidge, admitted to investigators that the BOC would have Working Sessions, which, as Selvidge had stated, occurred before publicly-held Regular Meetings of the BOC. According to Blas, GHURA staffer Millie Taitano ("Taitano") and Executive Director Michael Duenas ("Duenas") would send out dates of tentative Working Sessions to the BOC just a few days before they wanted the secret meeting to take place, and respective commissioners would respond as to their availability. Blas told investigators that GHURA management, specifically Exec. Dir. Michael J. Duenas, would decide the content of what would be discussed at the Working Sessions. Generally, three or four commissioners would be present at Working Sessions—during the Working Session held prior to the October 2015 Regular Meeting of the BOC, Blas, commissioner Luis Paulino (now deceased), Sablan, and Ilao were present. When

asked whether a decision or consensus was made at the conclusion of a Working Session, Blas explained, as an example, that commissioners were given a budget package for every division and a GHURA department head would be there to explain the budget request and the BOC would review each item to arrive at the final budget figures. After getting their questions answered, all commissioners present would agree to the changes and the decision was "for all intents and purposes" already made. Blas was asked to clarify if decisions were made at Working Sessions, she said "yes," specifically saying if it concerned GHURA's budget. When asked to clarify if the BOC held Working Sessions outside of the budget matters, Blas affirmed that they did.

Torre, like Blas and Selvidge, admitted that the BOC held Working Sessions. She told investigators that Working Sessions were used to make decisions and predetermine how the board would vote at the next scheduled public meeting. According to Torre, GHURA staffer Millie Taitano coordinated and notified BOC members when working sessions were needed. Commissioners responded via e-mail once notified by Taitano. Torre stated her belief that there would be punitive actions against any board member who voted against Sablan and that the Governor's Office would be notified if a board member were to cast a dissenting vote. Torre could not recall any board member casting a dissenting vote on any issue brought by Sablan.

Suda told investigators that Working Sessions did take place. Although she denied that decisions were made, she did state that there were discussions of specific issues, such as the budget, before the BOC would have an official vote during a Regular Meeting. Suda offered, as an example of how Working Sessions worked, the agency's purchase of a new vehicle, where the specifics of the purchase were questioned. Suda further admitted that other matters, such as GHURA's Administrative Plan, were discussed in Working Sessions. Suda noted that the Working Sessions were required because board meetings could take a long time, and the Working Sessions eliminated a lot of the discussion that normally took place in public at Regular Meetings. Suda also told investigators that most Board members attended working sessions, as did GHURA's executive director, deputy director, controller, Section 8 Administrator, and public housing project administrators.

When questioned, Sablan admitted that the BOC held Working Sessions and described them as the "bible" where the BOC would get down to the "nitty gritty."

Executive Directors' statements to investigators regarding Working Sessions

Marcel Camacho ("Camacho") was GHURA's Executive Director from about January 2011 until he resigned sometime in March or April 2012. Camacho told investigators that, when Sablan became the GHURA Board Chairman, the BOC operated differently compared to how former BOC chairs Rick Calvo (now deceased) and Luis Paulino, who had extensive experience with the GHURA BOC, had run the BOC. Sablan would have lengthy, 8-hour board meetings as well as "Working Sessions," which Camacho believed were illegal meetings of the BOC. Camacho asked GHURA legal counsel Mark Smith about the Working Sessions and was told that they were illegal meetings. Camacho stated that, even after legal counsel said they were illegal, the Working Sessions continued.

Raymond S. Topasna ("Topasna") was made GHURA's Executive Director after Marcel Camacho resigned. He remained there until sometime in late 2012, when he was replaced by Michael J. Duenas after Topasna expressed numerous differences with the BOC. Topasna told investigators that he was aware of non-public meetings which involved BOC and GHURA staff and, like Selvidge, reported that these secret meetings (Working Sessions) started after Sablan became BOC chairman. Topasna relayed that the purpose of the Working Sessions, which always took place before the public meetings, was to discuss the matters that the BOC would be voting on during the Regular Meeting. Topasna told investigators that Sablan would request for a Working Session to take place, and Millie Taitano would contact the BOC members and notify them of an upcoming Working Session. Topasna stated that not only were commissioners present at the Working Sessions, but also GHURA management and employees. Topasna reported that sometimes the BOC would have two Working Sessions in a single week. He noted that at each Working Session, five or six of the BOC members were present and these sessions were always the precursor to actual public meetings. Topasna provided investigators with information concerning a number of Working Sessions during which significant matters were discussed, including (1) the 2011 LIHTC award; (2) the 2011 Administrative Plan for Section 8 and Public Housing ("ACOP"); and (3) a late-2011 secret meeting to force Marcel Camacho to resign as executive director. Topasna also told investigators he had received information that it was standard practice for Sablan to meet with the BOC prior to Regular Meetings when they were awarding LIHTC for other years, as well as when GHURA awarded Sec. 8 public assistance housing to Core Tech. Topasna additionally told investigators that it was common practice for the BOC to vote on matters via email when there was not a quorum for a Regular Meeting; the vote on the matter would be ratified at a subsequent Regular Meeting.

Current Exec. Dir. Michael J. Duenas explained that the process of holding a Working Session would begin when Sablan determined that the non-public meeting would be needed and what the agenda would entail. Like other interviewees, Duenas reported that Taitano would send out messages to commissioners advising of an upcoming Working Session. Duenas told investigators that the BOC did not record the discussions at Working Sessions, although they did come to decisions at the Working Sessions. Duenas confirmed that it was not uncommon for GHURA executive management and the board chairman to hold a brief meeting just prior to the start of a regularly scheduled board meetings. These side bar type meetings would usually occur in the Executive Director's office. Duenas admitted to investigators that he was aware of Open Government Laws but did not try to stop the secret meetings from happening. Duenas further told investigators that HUD was unaware that the BOC had been conducting the Working Sessions. When questioned as to the legality of these non-public Working Sessions, Duenas explained that GHURA counsel Anthony Perez said they were okay as long as no decisions were made at the meetings. However, Duenas admitted that decisions were always made at the Working Sessions, and the purpose of the actual board meetings was so the decision the BOC had previously made would then be on the record. Duenas noted that, while there was no actual voting during working sessions, the BOC had an implied tacit agreement to go along with Sablan as to what the decision of the BOC would be.

Former GHURA Deputy Director Frank Camacho ("F. Camacho") also admitted to investigators that Working Sessions were held. Working Sessions were led by Sablan and used to line everything up for the Regularly Meeting of the BOC that followed, where the actual vote

on the record would take place. F. Camacho did clarify that during Working Sessions, decisions would be made as to what they planned to do at the regular board meetings.

GHURA staffers' statements to investigators regarding Working Sessions

GHURA staff admitted to investigators that the BOC would hold non-public Working Sessions at which the BOC would deliberate towards a decision or have a crystallized, collective position. These staff included Millie Taitano, Lucele Guerrero, Katherine Taitano, Norma San Nicolas, Beatrice Nededog, and Albert Taitano.

2. Illegal secret meetings held to facilitate the award of \$4.1 mil. in tax credits: 2011 LIHTC Working Sessions

State Public Housing Agencies like GHURA award Low Income Housing Tax Credits to developers as a way to finance projects. In 2011 GHURA advertised that it had \$1,168,241 of expiring 2010 LIHTCs and \$2,465,000 of 2011 LIHTCs available. The tax credits represented financing capital of around \$50 million. In Oct. 2011, GHURA published its Qualified Allocation Plan ("QAP"), which described the desired development project specifications, and invited developers to submit their applications for development projects. Five bidders responded and submitted their applications. An evaluation committee consisting of GHURA staffers Ray Topasna, Michael Duenas³, Henry Taitano (then a Guam Economic Development Agency GEDA employee) was formed to review and rank the proposed projects. Under the terms of the QAP, the Executive Director (then Marcel Camacho) was to review the evaluations, exercise his authority to disqualify any bidders on a specified set of criteria and or refer the top qualifying proposal to the BOC. The BOC would then vote on the winning application to award LIHTCs, which under QAP was supposed to take place on Dec. 15, 2011.

The committee reviewed the applications and ranked the bidders in the following order:

1. Talo Isla Village
2. Ironwood Highlands Senior Housing
3. Iron Lada Senior Village
4. Great Homes, LLC
5. Tumon Heights Tower

The evaluation committee then recommended on Dec. 13, 2011 that the BOC award the 2010 and 2011 LIHTCs to Talo Isla Village.

However, as per the terms of the QAP, then-Exec. Dir. Camacho disqualified the top three applicants and announced this at the Dec. 15, 2011 special board meeting, which was open to the public. He did not publicly announce the reason for the disqualification at the time of the meeting, but Camacho told investigators it was because of site control issues, meaning that the disqualified applicants did not own the property or it was under probate. Camacho then asked the BOC for permission to negotiate with the remaining 2 applicants, Great Homes LLC (hereinafter "Great Homes"), which became the top-ranked applicant after the disqualifications, and Tumon Heights Tower (hereinafter "Tower 70"), which became the second-highest ranked applicant. Vice Chair Rick Calvo acting in Sablan's absence at the Dec. 15, 2011 meeting then

³ Michael Duenas was a planner for GHURA prior to succeeding Ray Topasna as executive director.

instructed that Camacho begin negotiations with Great Homes first then proceed to negotiate with Tower 70. The Dec. 15, 2011 special meeting of the GHURA BOC that was supposed to be held to award the 2010 and 2011 LIHTCs was then continued to Dec. 21, 2011.

After the Dec. 15, 2011 BOC special meeting, Sablan wrote an email to Camacho instructing him to arrange a "private meeting" with the two of them, Vice Chair Rick Calvo, and legal counsel Mark Smith. A private meeting was then scheduled for Dec. 20, 2011, as shown by an Outlook meeting invitation sent by GHURA staffer Millie Taitano. Camacho told investigators that during this private meeting, he advised Board Chairman David Sablan, Vice Chair Rick Calvo and GHURA Legal Counsel Mark Smith that Great Homes' price was \$560,000 per unit but Tower 70's price was \$300,000 per unit. Camacho then met with Mr. Eduardo Calvo, Chairman Sablan, and Vice Chair Rick Calvo to discuss terms of their low-income housing price.

When the LIHTC matter was brought at the Dec. 21, 2011 continued meeting of the BOC, which was convened at 9:00 a.m., the meeting was recessed to Dec. 23, 2011 at 9:00 a.m. During negotiations that evidently followed the special meeting, at a separate, Dec. 21, 2011, meeting with Great Homes and attended by Mr. Eduardo Calvo, Mr. Leonard Calvo, and reportedly a Mr. Noli C. Cadag (Noely), a Jones & Guerrero representative, Great Homes refused to drop their price, and so Camacho informed them he would disqualify Great Homes.

Camacho then negotiated with Tower 70, and in a Dec. 22, 2011 letter from legal counsel Mark Smith, the developer's representative Mr. Keith Farrell was notified that the Tower 70 proposal was being considered and was accepted subject to approval by the BOC. Camacho told investigators that the Governor's Chief of Staff, Mr. Frank Arriola, contacted him and asked him to come to his office. When Camacho arrived, he discovered that several of the individuals associated with Great Homes were present and accused him of purposely attempting to remove them from the bidding process so that Camacho's father could get it; Camacho asserted that although his father does build houses, he had no affiliation with the low-income housing project. Camacho stated to investigators that Mr. Eduardo Calvo tried to intimidate him at that meeting.

At the continued special meeting on Dec. 23, 2011, which was convened at 9:00 a.m., discussion of the LIHTC award did not take place. The official minutes of that meeting memorialized that Sablan stated that he believed more time was necessary for the BOC to go over the reports and information before discussion and a decision can be made. Thereafter GHURA staffer Millie Taitano sent the following email:

From: Millie Taitano
Sent: Friday, December 23, 2011 11:10 AM
To: Marcel Camacho; 'mark smith'; Ray S. Topasna; David Sablan; Deann Torre; 'Rick Calvo'; 'luis.lg.paulino@gmail.com'; Cecile B. Suda; Rosie Ann. Blas; Rosie Ann. Blas - External; 'commissioner.selvidge@yahoo.com'
Subject: meetings

Hafa Adai All!

We will be having a working session on Monday, December 26, 2011 @ 9:00 a.m. here at the Sinajana Main Office

On Tuesday, December 27th @ 9:00 a.m. we will reconvene for our regular scheduled board meeting also here at the Sinajana Main Office.

Please confirm attendance for both meetings.

Merry Christmas!

Millie Taitano

Special Assistant

GHURA

117 Bien Venida Ave

Sinajana, Guam 96910

(671) 475-1378

mtaitano@ghura.org



Evidence obtained from HUD IG administrative subpoenas show that David Sablan confirmed attendance. Then Taitano sent the following email:

From: Millie Taitano

Sent: Saturday, December 24, 2011 12:34 PM

To: David Sablan <dsablan@ghura.org>; Deann Torre <dtorre@ghura.org>; 'Rick Calvo' <rickcalvo.ghura@XXXXXX>; luis.lg.paulino@XXXXX; Cecile B. Suda <csuda@ghura.org>; Rosie Ann. Blas <rblas@ghura.org>; Rosie Ann. Blas - External <XXXXX>; commissioner.selvidge@XXXXX

Subject: RE: meetings

Commissioners

Attached for you use is the QAP

See you all on Monday, Dec 26th @ 9:00 a.m.

Doors will be locked so please call me cell XXXXX when you arrive!

Millie Taitano

Special Assistant

GHURA

117 Bien Venida Ave

Sinajana, Guam 96910

(671) 475-1378

mtaitano@ghura.org



This Working Session was not publicly announced in accordance with the Open Gov. Law, and the locking of the doors suggests that the public would not be allowed to attend, likely because

Dec. 26 was the day after Christmas, which would have been a holiday. Sablan then clarified the time for the Working Session:

From: David J Sablan [mailto:XXXXXXX]
Sent: Saturday, December 24, 2011 12:59 PM
To: Millie Taitano <mtaitano@ghura.org>
Cc: Deann Torre <dtorre@ghura.org>; Rick Calvo <rickcalvo.ghura@XXXX>;
luis.lg.paulino@XXXX; Cecile B. Suda <csuda@ghura.org>; Rosie Ann. Blas
<rblas@ghura.org>; Rosie Ann. Blas - External <XXXXXXX>;
commissioner.selvidge@XXXX
Subject: RE: Working Session on Monday

12/24/11

ALCON:

Mark Smith needs some time to gather information per my instruction, which we need to discuss at our working session on Monday. I kindly ask if it is okay with you all to meet in the afternoon about 3 PM on Monday to allow Mark time to finish his research and report to us who will be attending the working session.

Millie, kindly advised our ED and legal counsel of the change in time for our working session on Monday.

Your understanding is appreciated.

Merry Christmas!
David J. Sablan
XXXXXX - Cell Phone
=====

When questioned, Exec. Dir. Camacho stated that at the Dec 26, 2011 Working Session, all board members were present. The number of board members in attendance, then, were sufficient to form a quorum. Camacho stated that he was informed by the BOC that Great Homes increased their housing units to 81, which was 21 more than what was originally asked for. Chairman Sablan wanted Camacho to sign documents to award the tax credits to both Great Homes and Tower 70. However, Camacho was not comfortable about it and did not sign. Camacho's decision was to award the tax credits to Tower 70, but at the Dec 26, 2011 Working Session, Camacho was informed by Chairman Sablan that the GHURA Board will be awarding the tax credits to Tower 70 and Great Homes and that the BOC has the authority to make the decision. According to Mr. Camacho, GHURA Board Chairman David Sablan stated to him that the Board was going to reverse Mr. Camacho's decision to award the tax credits. Mr. Camacho stated the awarding of the tax credits to both Tower 70 & Great Homes was the GHURA Board's decision and not his.

When questioned, former BOC member Deanne Torre explained the process the board used to award LIHTCs in 2011. Torre stated that GHURA formed a selection committee to rank the companies who had submitted a bid. After the selection committee submitted their recommendation, the BOC held a Working Session in the GHURA conference room ahead of the

official vote on LIHTC. At this working session, board members agreed to split the contract between Mr. Eduardo Calvo, who represented Great Homes, and Mr. Robert Salas, who represented Tower 70. Chairman Sablan made the decision to split the contract between Great Homes and Tower 70 rather than award it to a single bidder. All board members in attendance at the secret meeting agreed with Sablan's recommendation to split the LIHTC award between Great Homes and Tower 70. Torre told investigators that the following commissioners and employees present at the working session: Chairman Sablan, Commissioner Rosie Blas, Commissioner Cecil Suda, Executive Director Camacho, Executive Assistant Millie Taitano, and Attorney Mark Smith, who was a full participant at this meeting.

When questioned, Blas told investigators that she attended a Working Session at the GHURA office associated with the proposed LIHTC project a few days before the actual board meeting (possibly a Monday or Tuesday) which was later awarded to Great Homes and Tower 70. Blas advised that a "full quorum" of commissioners were present at the Working Session, including herself, Sablan, Torre, Rick Calvo, Paulino, Suda and Selvidge. At the conclusion of the Working Session, Sablan asked each commissioner individually if they agreed to award the LIHTC project to Great Homes and Tower 70. Blas further recalled that Sablan polled individually all of the board members, including herself, and they agreed at the Working Session to award it to Great Homes and Tower 70. She could not recall anyone having an objection. Blas recalled Marcel Camacho and Millie Taitano were both present at this Working Session. She could not recall if Smith was present at this Working Session. Further, Blas advised that during a Working Session, bidders Medallion and Ironwood were removed from consideration because they didn't meet the minimum requirements of the QAP.

When questioned, former planner and current Executive Director Mike Duenas recalled that a Working Session did occur just prior to a board meeting to award LIHTCs in 2011, but he could not be specific about exactly when this meeting occurred. Duenas advised that Camacho favored Tower 70, which he, Duenas, perceived was because of Camacho's friendship with Mr. Robert Salas. According to Duenas, Chairman Sablan was also biased in his support for Great Homes, which he maintained was because Sablan had a close personal relationship with the Calvo family, meaning Mr. Eduardo Calvo and Mr. Leonard Calvo, who represented Great Homes. Duenas also stated that Sablan had a close relationship to the Calvo & Fisher law firm.

Ray Topasna, who was then the Deputy Executive Director, told investigators about the Working Session during which Sablan led the discussions relative to awarding LIHTCs. According to Topasna, Camacho and most of the other board members were in attendance. Camacho presented the recommendations of the Evaluation Committee for the LIHTC award to the BOC. The evaluation committee recommended a portion of the \$26M to be awarded to Medallion, which was a Georgia-based company that had a long history of building homes on the mainland with LIHTCs, and another portion to be awarded to Ironwood Senior Housing. Camacho had a different recommendation than that of the Committee, but the BOC did not want to entertain his recommendation. Instead, the Board opted to disqualify the top 3 ranked offers and awarded approximately \$26 million in LIHTC funding to Great Homes and approximately \$24 million in LIHTC funding to Tower 70. The BOC's justification for disqualification of the top three applicants was a lack of site control. Topasna reported to investigators that the meeting was not recorded and that it was not open to the public but resulted in the Board agreeing

unanimously to Chairman Sablan's directive to award LIHTCs to Great Homes and Tower 70. The Board then ratified their decision at next Board meeting.

The emails and the interviews of BOC members and management show that the GHURA BOC had, on or around Dec. 26, 2011, deliberated towards a decision, and or had made a collective decision, and or a collective commitment or promise to award tax credits to both Great Homes and Tower 70, not at a public meeting, but in secret and outside of an Open Government Meeting.

Nevertheless, at the Dec. 27, 2011 continued special meeting of the GHURA BOC, the Board voted on the record to award LIHTCs to Great Homes and Tower 70. The minutes nowhere contain any of the discussions that were had at the Dec. 26, 2011 Working Session, or that there was a Working Session. Additionally, there were no recordings of the Dec. 26, 2011 Working Session.⁴

In June 2012, Tower 70 requested to change the site of the proposed development and to change the investors to remove Mr. Farrell and substitute in Mr. Eun Ho of Core Tech. These changes were approved at the June 28, 2012 Open Gov. Meeting. By February 2013, Great Homes, too, sold ownership interests and transferred the LIHTCs to Core Tech. Both the Tower 70 and Great Homes transfers to Core Tech were made without re-bidding the LIHTC award.

(i) Other Working Sessions

In addition to the statements provided to investigators, documentary evidence obtained during the investigation suggests that a large number of Working Sessions, besides the Dec. 26, 2011 Working Session to award LIHTC to Great Homes and Tower 70, took place throughout Sablan's tenure as GHURA BOC Chairman, including at least the following:

OPEN GOV. MEETINGS WITH MINUTES	DOCUMENTARY EVIDENCE
Sep. 15, 2011 and Sep. 29, 2011	9/5/11 email from Sablan to Taitano instructing for Working Sessions around the Sept. 2011 board meetings 9/6/11 response email from Taitano to Camacho & Topasna proposing Working Sessions on 9/15/11, 9/16/11, 9/27/11, 9/28/11 9/12/11 email from Taitano to commissioners Sablan, Torre, R. Calvo, Selvidge, Blas, Suda, Paulino with tentative Working Session dates of 9/15/11 (to take place immediately after the board meeting) and 9/26/11
Mar. 19, 2012 and Mar. 30, 2012	3/2/12 mail from G. Tenorio to commissioners Sablan, Torre, R. Calvo, Selvidge, Blas, Suda and Paulino proposing 3/7/11, 3/13/11 and 3/15/11 Working Sessions to discuss GHURA's administration plan ("ACOP")

⁴ The BOC Minutes for the Dec. 27, 2011 meeting showed that \$2,997,000 of LIHTCs were awarded to Great Homes, LLC and \$1,443,622 of LIHTCs were awarded to Tower 70. Because the award had been predetermined at the Dec. 26, 2011 Working Session, the BOC action taken at the Dec. 27, 2011 board meeting is null and void. See 5 GCA § 8114 (Any action taken at a meeting in violation of any Section of this Chapter shall be void and of no effect ...).

Apr. 12, 2012 and Apr. 30, 2012	4/20/12 email from G. Tenorio to commissioners Sablan, Torre, R. Calvo, Selvidge, Blas, Suda and Paulino proposing Working Sessions for the week of 4/23/12 4/20/12 email responses from commissioners Torre, Sablan, Suda regarding available times for Working Sessions
Sep. 17, 2013 and Sep. 30, 2013	Outlook invite for 8/27/13 Working Session sent by G. Tenorio to commissioners Sablan, Paulino, Blas, Suda, Torre, Selvidge
Jun. 23, 2014 and Jun. 30, 2014	6/5/14 email from Taitano to Sablan proposing 6/27/14 Working Session 6/7/14 email from Sablan approving the scheduled board meetings and Working Session

Other documentary evidence suggested Working Sessions were planned and or held on March 2015 and August 2015. Indeed, GHURA Executive Director Mike Duenas, in confirming that decisions were made at working sessions, told investigators in an Aug. 31, 2015 interview by HUD OIG and the FBI that a decision was made at a Working Session that was held that very day.

B. GHURA BOC's illegal voting by email

The Open Gov. Law forbids the use of electronic communications to decide or deliberate public business in contravention of the spirit or requirements of the law. The investigation revealed at least two instances where the BOC had used emails to record their votes to take action on GHURA business.

1. Resolution FY2015-014(A)

One email chain showed the need for a summary approval of a new policy for credit card usage:

From: Millie Taitano
Sent: Friday, April 17, 2015 2:51 PM
To: David Sablan <dsablan@ghura.org>; Deann Torre <dtorre@ghura.org>; Rosie Ann. Blas <rblas@ghura.org>; John R. Ilao <jllao@ghura.org>; Roland M. Selvidge <rselvidge@ghura.org>; Luis LG. Paulino <l paulino@ghura.org>
Cc: Mike Duenas <mjduenas@ghura.org>; Albert Santos <alsantos1@ghura.org>
Subject: FW: request to Poll
Importance: High

Hafa Adai Commissioners!

Thank you. I will prepare the amended Resolution for the next BOC meeting.

Have a great weekend!

Millie Taitano
Special Assistant
117 Bien Venida Avenue
Sinajana, Guam 96910
(671) 475-1378

mtaitano@ghura.org

Board Member	Date/Time	AYE	NAYE	ABSTAIN
David J. Sablan Chairman	Approved to poll On 4/17/2015			
Luis LG Paulino Vice Chairman	4/17/15 @ 11:43a.m. via telephone	v		
Deanne SN Torre Member	4/17/15 @ 1:52p.m. via email	v		
John Ilao R. Ilao Member	4/17/15 @ 11:36a.m. via email	v		
Rosie Ann Blas Member	4/17/15 @ 11:41a.m. via email	v		
Roland M. Selvidge Resident Member	4/17/15 @ 12:26pm	v		

From: Millie Taitano
Sent: Friday, April 17, 2015 11:31 AM
Subject: FW: request to Poll
Importance: High

Hafa Adai Commissioners!

The Executive Director has consulted with Chairman Sablan requesting to proceed with a poll.

With the Chairman's concurrence, Management is humbly seeking your vote on the following item and to be ratified at the next scheduled board meeting of April 28, 2015:

New Business:

- 1. RESOLUTION NO. FY2015-014(A)** ratifying the amendment to the Authority's credit card policy and procedures
*(for more details please refer to email threads)

Please respond to this email by voting AYE or NAYE.

I will provide you with the results once I receive all the responses. If approved, I will prepare the Resolution for your ratification at the next Board Meeting on Tuesday, April 28, 2015.

Millie Taitano
Special Assistant
117 Bien Venida Avenue
Sinajana, Guam 96910
(671) 475-1378
mtaitano@ghura.org

From: David Sablan - External
Sent: Thursday, April 16, 2015 5:21 PM
To: Mike Duenas
Subject: RE: request to Poll

No problem. You can poll the members of the board.

I am okay with the resolution. I made some changes to the language of the Resolution. So use the attached.

Dave

From: Mike Duenas [<mailto:mjduenas@ghura.org>]
Sent: Thursday, April 16, 2015 12:57 PM
To: David J Sablan
Subject: Fwd: request to Poll
Importance: High

Hi Dave :

The timing involved in amending the credit card policy and approving commissioner Selvidge's travel has left us without access to a credit card.

We have consulted Tony and he suggests that the board amend the resolution to clarify that the implementation date be effective upon receipt of the new cards. A draft resolution is attached.

I am requesting your authorization to poll the board on the proposed resolution. Approval will be submitted to the board for ratification at the next meeting.

Mike Duenas

Sent from my T-Mobile 4G LTE Device

The BOC's use of Board Polling, directed by Sablan, was a violation of the spirit and requirements of the Open Government Law.

Official minutes of the Board show that Resolution No. FY2015-014(A) did pass at a BOC meeting.

2. Christmas Party funded by Payments in Lieu of Taxes ("PILOT") Funds

The BOC also used agency funds to pay for a portion of GHURA's Christmas Party:

--- On **Mon, 10/29/12**, Millie Taitano <mtaitano@ghura.org> wrote:

From: Millie Taitano <mtaitano@ghura.org>

Subject: FW: Board polling

To: "David Sablan" <dsablan@ghura.org>, "Deann Torre" <dtorre@ghura.org>, rablas@ghura.org, rcalvo@ghura.org, "Cecile B. Suda" <csuda@ghura.org>, lpaulino@ghura.org

Cc: "Ray S.Topasna" <rtopasna@ghura.org>, "Frank J.C. Camacho" <fcamacho@ghura.org>,"

"Lucele Leon Guerrero" <lucelle@ghura.org>

Date: Monday, October 29, 2012, 5:04 PM

Hafa Adai Commissioners!

Thank you for your prompt action to the Board Items listed below! Please refer to the polling results. Ratifications will be included in the next board meeting agenda, scheduled for November 8, 2012.

Sincerely,

Millie Taitano

Special Assistant

117 Bien Venida Avenue

Sinajana, Guam 96910

(671) 475-1378

mtaitano@ghura.org

New Business:

A. Resolution No. FY2013-005 authorizing the use of PILOT funds in the amount of \$5,000 to assist with the 50th Anniversary GALA. Total expected expense is \$14,715.00 for the following:

250 pax @ \$44 ea. = \$11,000.00

2 carving stations = \$715.00

Décor (estimated) = \$2,000.00

Entertainment (estimated) = \$1,000.00

The Employee Association will cover the balance of \$9,715.00 through advertisement sales in the Souvenir Booklet.

At the request of the Chairman...AS A CONTINGENCY, OR FALLBACK, SHOULD SALES OF ADS IN PROGRAM BOOKLET NOT BE SUFFICIENT TO COVER EXPENSES AS THEY BECOME DUE. SHOULD

SALES OF ADS IN THE PROGRAM BOOKLET EXCEED BUDGET REQUIREMENTS BEFORE PAYMENT DUE DATES, THE PILOT FUND WILL NOT BE USED. IF PILOT FUNDS ARE USED, AND SALES OF ADS LATER EXCEED BUDGET REQUIREMENTS FOR THE 50TH ANNIVERSARY GALA, THEN THE PILOT FUND SHALL BE REIMBURSED NOT TO EXCEED THE \$5,000 CONTINGENCY.

Board Member	Date / Time	Yes	No	Abstained
Dave Sablan, Chairman				
Ricardo Calvo, Vice Chairman	10/26/12 @ 11:58a.m. via telephone	X		
Deanne Torre, Member	No response			
Cecile Suda, Member	10/26/2012 4:33 PM via email	X		
Luis Paulino, Member	10/26/12 @ 10:04a.m. via telephone	X		
Rosy Ann Blas	10/30/2012 10:04 AM via email	X		

B. Resolution No. FY2013-006 authorizing the use of PILOT Funds in the amount of \$360.00 to participate in the Governor's 2012 MAGPRO Banquet, where two of our employees will be awarded (1) Employee of the year and (2) Manager/Supervisor of the Year.

(see attachment)

Board Member	Date / Time	Yes	No	Abstained
Dave Sablan, Chairman				
Ricardo Calvo, Vice Chairman	10/26/12 @ 11:58a.m. via telephone	X		

Deanne Torre, Member	No response			
Cecile Suda, Member	10/26/2012 4:33 PM via email	X		
Luis Paulino, Member	10/26/12 @ 10:04a.m. via telephone	X		
Rosy Ann Blas	10/30/2012 10:04 AM via email	X		

Official minutes of the Board dated November 8, 2012 show that Resolution No. FY 2013-005 did pass.

C. Concerns regarding BOC actions

The evidence shows that there were a number of attempts to curb the BOC taking action outside of an Open Government Meeting. In an email dated, Jan. 24, 2012 from Millie Taitano to Sablan, cc Camacho, Topasna, Paulino, Torre, R. Calvo, Selvidge, Blas, Sablan is reminded of the advertising requirements of the law. Working Sessions nevertheless continued, which eventually caused Sablan to defend his use of Working Sessions in a series of terse exchanges with Topasna, who had recognized that the Working Sessions were being used to make decisions outside of Open Gov. Meetings.

Indeed, Topasna was very concerned the "working sessions" were violating Guam's open meeting laws and specifically mentioned his concerns during six different working sessions in which the various board members, including Sablan, Selvidge, Blas, Suda and Torre were present. Sablan responded to Topasna's concerns by saying he was "just an agent of the board". Topasna wanted the involvement of the Attorney General's office to voice his concerns regarding conduct of the Board of Commissioners, including Mark Smith's conflict of interest, illegal board meetings and the LIHTC award, so he requested a meeting and invited all of the GHURA BOC and the Attorney General's office to attend. However, not a single commissioner showed up at the meeting.

At the Sep. 27, 2012 Open Gov. Meeting, the following was provided in the minutes:

Working Sessions

Mr. Topasna stated we have already been told not to have any more Working Sessions. It has already been discussed so many times and it is micromanaging the operations. It is unnecessary for what is decided that during the Working Sessions do not count as stated by the Chairman.

Chairman Sablan stated the Governor has never told him this, so he cannot rely on this statement from [Topasna]. Mr. Topasna stated Mr. Frank Arriola conveyed it to him and he is the Chairman of the Board. Vice Chairman Calvo stated he feels the Working Sessions are needed. How often are we in a Working Session? Mr. Topasna stated that when Mr. Frank Arriola came in during the last Working Session he made it clear.

In an Oct. 12, 2012 email Topasna also referred to the matter being discussed with the Governor's Chief Policy Advisor Arthur Clark and Chief of Staff Frank Arriola

III. Violations

Based on the foregoing, there is reasonable cause to charge David J. Sablan, with the following offenses:

[December 26, 2011 Working Session]

1. Open Government Law; Penalties (Attending a Non-open, Nonpublic Meeting of a Public Agency where Action Was Taken; Violation of the Requirement for Open and Public Meetings), in violation of 5 GCA §§ 8115 (b), 8103 (a) and 8 GCA § 10.40;
2. Open Government Law; Penalties (Attending a Non-Open, Nonpublic Meeting of a Public Agency where Action Was Taken; Violation of the Requirement that Recorded Minutes are to be Open to Public Inspection), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8113 and 8 GCA § 10.40;
3. Open Government Law; Penalties (Attending a Non-Open, Nonpublic Meeting of a Public Agency where Action Was Taken; Violation of the Requirement for Notice of Special Meeting), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8107 (b) and 8 GCA § 10.40;
4. Open Government Law; Penalties (Attending a Non-Open, Nonpublic Meeting of a Public Agency where Action Was Taken; Violation of the Reporting Requirements for Boards and Commissions), in violation of 5 GCA §§ 8115 (b), 8103, 8113.1 and 8 GCA § 10.40;
5. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
6. Official Misconduct (Unauthorized Exercise of Official Function), in violation of 9 GCA § 49.30 (a) and 8 GCA § 10.40
7. Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law), in violation of 9 GCA § 49.30 (b) and 8 GCA § 10.40;
8. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

[Resolution FY2015-014(A)]

9. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement for Open and Public Meetings), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8105 and 8 GCA § 10.40;
10. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement that Recorded Minutes are to be Open to Public Inspection), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8113, 8105 and 8 GCA § 10.40;

11. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement for Notice of Special Meeting), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8107 (b), 8105 and 8 GCA § 10.40;
12. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Reporting Requirements for Boards and Commissions), in violation of 5 GCA §§ 8115 (b), 8103, 8113.1 and 8 GCA § 10.40;
13. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
14. Official Misconduct (Unauthorized Exercise of Official Function), in violation of 9 GCA § 49.30 (a) and 8 GCA § 10.40;
15. Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law), in violation of 9 GCA § 49.30 (b) and 8 GCA § 10.40;
16. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

[Resolution Nos. FY2013-005; FY2013-006]

17. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement for Open and Public Meetings), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8105 and 8 GCA § 10.40;
18. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement that Recorded Minutes are to be Open to Public Inspection), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8113, 8105 and 8 GCA § 10.40;
19. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Requirement for Notice of Special Meeting), in violation of 5 GCA §§ 8115 (b), 8103 (a), 8107 (b), 8105 and 8 GCA § 10.40;
20. Open Government Law; Penalties (Unlawful Exception to Open Government Law; Action Taken Electronically; Violation of the Reporting Requirements for Boards and Commissions), in violation of 5 GCA §§ 8115 (b), 8103, 8113.1 and 8 GCA § 10.40;
21. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
22. Official Misconduct (Unauthorized Exercise of Official Function), in violation of 9 GCA § 49.30 (a) and 8 GCA § 10.40;
23. Official Misconduct (Knowingly Refraining from Performing a Duty Imposed by Law), in violation of 9 GCA § 49.30 (b) and 8 GCA § 10.40;
24. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40.

Based on the foregoing, there is reasonable cause to charge Cecile Suda with the following offenses:

[December 26, 2011 Working Session]

25. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
26. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

[Resolution Nos. FY2013-005; FY2013-006]

27. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
28. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40.

Based on the foregoing, there is reasonable cause to charge Deanne Torre with the following offenses:

[December 26, 2011 Working Session]

- 29. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 30. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

[Resolution FY2015-014(A)]

- 31. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 32. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

Based on the foregoing, there is reasonable cause to charge Rosie Blas with the following offenses:

[December 26, 2011 Working Session]

- 33. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 34. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

[Resolution FY2015-014(A)]

- 35. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 36. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

[Resolution Nos. FY2013-005; FY2013-006]

- 37. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 38. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40.

Based on the foregoing, there is reasonable cause to charge Roland Selvidge with the following offenses:

[December 26, 2011 Working Session]

- 39. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 40. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

[Resolution FY2015-014(A)]

- 41. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 42. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

Based on the foregoing, there is reasonable cause to charge John Ilao with the following offenses:

[Resolution FY2015-014(A)]

- 43. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 44. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 45. Official Misconduct (Unauthorized Exercise of Official Function), in violation of 9 GCA § 49.30 (a) and 8 GCA § 10.40;

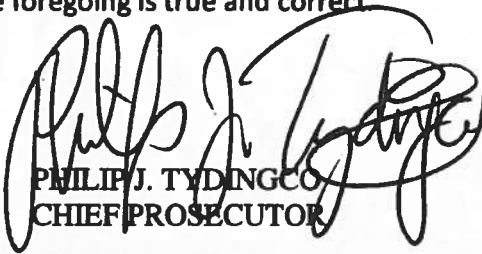
Based on the foregoing, there is reasonable cause to charge Michael J. Duenas with the following offenses:

[Resolution FY2015-014(A)]

- 46. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;
- 47. Conspiracy, in violation of 9 GCA § 13.30 and 8 GCA § 10.40;

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

Executed this 20th day of July, 2017.


PHILIP J. TYDINGCO
CHIEF PROSECUTOR