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 238 Archbishop Flores St.  
 Hagåtña, Guam 96910



# FAX

|            |  |                              |   |
|------------|--|------------------------------|---|
| <b>To:</b> | <b>Mr. John M. Quinata</b><br><b>Executive Manager</b><br>Guam International Airport Authority<br>P.O. Box 8770<br>Tamuning, Guam 96931<br>Phone: (671) 646-0300<br>Fax: (671) 646-8823<br>Email: <a href="mailto:john.quinata@guamaiport.net">john.quinata@guamaiport.net</a>   | <b>From:</b>                 | <b>Benjamin J.F. Cruz</b><br><b>Public Auditor</b><br>Office of Public Accountability |
|            | <b>Mr. William B. Brennan, Esq.</b><br><b>Attorney for Guam International Airport Authority</b><br>Arriola Law Firm<br>259, Martyr Street, Suite 201<br>Hagåtña, Guam 96910<br>Phone: (671) 477-9730/33<br>Fax: (671) 477-9734<br>Email: <a href="mailto:attorneys@arriolafirm.com">attorneys@arriolafirm.com</a>  | <b>Pages:</b>                | 3 (including cover page)  |
| <b>CC:</b> | <b>Mr. Joshua D. Walsh, Esq.</b><br><b>Attorney for Appellant JMI-Edison</b><br>Razano Walsh & Torres, P.C.<br>139 Murrery Blvd.<br>Hagåtña, Guam 96910<br>Phone: (671) 989-3009<br>Email: <a href="mailto:jdwalsh@rwtguam.com">jdwalsh@rwtguam.com</a>  | <b>Date:</b>                 | January 29, 2024  |
|            | <b>Mr. R. Marsil Johnson, Esq.</b><br><b>Attorney for Interested Party Menzies Aviation</b><br>Blair Sterling Johnson & Martinez<br>A Professional Corporation<br>238 Archbishop Flores St. Ste.1008<br>Hagåtña, Guam 96910<br>Phone: (671) 477-7857<br>Fax: (671) 472-4290<br>Email: <a href="mailto:rmarsjohnson@bsjmlaw.com">rmarsjohnson@bsjmlaw.com</a> | <b>Phone:</b><br><b>Fax:</b> | (671) 475-0390 x. 204<br>(671) 472-7951   |

**Re:** OPA-PA-21-010 Order Appointing Hearing Officer

For Review       Please Comment       Please Reply       Please Recycle

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Thank you,  
 Jerrick Hernandez, Auditor  
[jhernandez@guamopa.com](mailto:jhernandez@guamopa.com)

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**BEFORE THE PUBLIC AUDITOR  
PROCUREMENT APPEALS  
TERRITORY OF GUAM**

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In the Appeal of )  
Johndel International, Inc. dba JMI-Edison, ) **Appeal No: OPA-PA-21-010**  
Appellant. ) **ORDER APPOINTING**  
 ) **HEARING OFFICER**  
 ).....

To: **Purchasing Agency:**  
Guam International Airport Authority  
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**Appellant:**  
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**ORDER**

Pursuant to 2 GAR Div. 4 § 12109, attorney JOSEPH B. McDONALD is appointed to act as the hearing officer for all further proceedings with respect to OPA-PA-21-010 and shall have and may exercise any and all relevant powers and authorities conferred on hearing officers, as provided for under the Procurement Law and regulation.<sup>1</sup>

**SO ORDERED** this 29<sup>th</sup> day of January, 2024 by:



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**Benjamin J. F. Cruz**  
**Public Auditor of Guam**

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<sup>1</sup> Appellant JMI–Edison (“JMI”) filed its Notice of Appeal in this matter on Oct. 8, 2021 and on Feb 3, 2022 dismissed the appeal, and the case proceeded to the Superior Court in CV0095-22. The Superior Court in its Decision and Order of Dec. 29, 2023 remanded the case back to the Public Auditor. JMI then moved on Jan. 11, 2024 to dismiss the Public Auditor. Under binding Supreme Court of Guam caselaw, administrative hearing officers are presumed to be free from bias, and their recusal requires a concrete showing of actual bias, not a mere appearance of impropriety. *Sule v. Guam Board of Dental Examiners*, 2008 Guam 20 ¶¶ 17-20. While that is the law for recusal of administrative hearing officers, under 2 GAR Div. 4 § 12109, the Public Auditor’s appointment of a hearing officer is discretionary and does not require the Public Auditor’s disqualification or recusal as a condition to the appointment. Thus, the appointment of attorney McDonald as hearing officer here is discretionary and not based on any consideration of the Public Auditor’s disqualification or recusal.



Jerrick Hernandez <jhernandez@guamopa.com>

## OPA-PA-21-010 Order Appointing Hearing Officer

Jerrick Hernandez <jhernandez@guamopa.com>

Mon, Jan 29, 2024 at 4:17 PM

To: "Joshua D. Walsh" <jdwalsh@rwtguam.com>, "Joseph C. Razzano" <jrazzano@rwtguam.com>, "R. Marsil Johnson" <rmarsjohnson@bsjmlaw.com>, William Brennan <wbrennan@arriolafirm.com>

Cc: Thyrsa Bagana <tbagana@guamopa.com>

Hafa Adai,

Please see the attached Order Appointing Hearing Officer for OPA-PA-21-010. This email will serve as an official notice in lieu of a transmittal via Fax.

Please confirm receipt of this email and the attached document. Thank you.

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Best Regards,



Jerrick J.J.G. Hernandez, MA, CGFM, CFE, CICA, CGAP  
*Accountability Auditor*

**Office of Public Accountability**  
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