

Auditor receives a financial interest from one of the parties to the Appeal. Guam

Procurement law provides:

Disqualification of Public Auditor. The Public Auditor may recuse herself or himself at any time and notify all parties, or any party may raise the issue of disqualification and state the relevant facts prior to hearing. The Public Auditor shall make a determination and notify all parties. In the event of disqualification or recusal of the Public Auditor, a procurement Appeal must be taken to the Superior Court of Guam in accordance with 5 G.C.A. §5480. G.A.R. Div. 4, §12601.

As stated in Appellant's original Motion, all of the elements are satisfied. Appellee argues that these cases are distinct due to the type of employment of James Brooks vs. the type of employment of Terry Brooks. Appellant responds that regardless of the ethical wall constructed around James Brooks at Lujan Aguigui and Perez, as a salaried employee of the firm, he has a financial interest in all of the firm's cases, regardless of whether or not he participated in them directly.

Therefore, the Public Auditor has the ethical duty not to participate in this appeal because a member of her immediate family, her husband, James Brooks, has a financial interest in this matter. Since the Public Auditor has an ethical duty not to participate in this appeal, she should recuse herself pursuant to 2 G.A.R. Div. § 12601 and this appeal must be taken to the Superior Court in accordance with 5 G.C.A. § 5480.

Respectfully submitted this 15 day of October, 2010.

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By:


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