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**OFFICE OF THE PUBLIC AUDITOR**  
**PROCUREMENT APPEALS**

SEP 09 2008  
TIME: 9:30 AM  
BY: AC  
FILE No. OPA-PA 08-009

9 **BEFORE THE PUBLIC AUDITOR OF GUAM**  
10 **PROCUREMENT APPEAL**

11 IN THE APPEAL OF

12 CAPTAIN, HUTAPEA & ASSOCIATES,  
13 INC.,

14 Appellant.

DOCKET NO. OPA-PA-08-009

**MOTION TO STRIKE "FINAL LETTER"  
OF APPELLANT FOR UNTIMELINESS**

15 On September 3, 2008, the Guam Housing and Urban Renewal Authority (GHURA)  
16 lodged a Status Memorandum with the Office of the Public Auditor. The Status Memorandum  
17 identified that Appellant has not lodged any Comments that it may have to GHURA's Agency  
18 Report within the time-frames proscribed by 2 GAR 12104(c)(4)<sup>1</sup>. PCR Environmental, Inc.,  
19 timely submitted Comments, which in effect, support the position of GHURA. Failure of an  
20 Appellant to comply with the time-limits stated in this section may result in resolution of the  
21 Appeal without consideration of the comments untimely filed. See 2 GAR 12104(c)(5).

22 On September 8, 2008, Appellant filed a "Final Letter" concerning this Appeal, which  
23 substantively, constitutes Appellant's Comments to GHURA's Agency Report. These Comments  
24 were filed approximately eighteen (18) days after the due date, and presumably, during the time-  
25 period while the Office of the Public Auditor is weighing and issuing a decision in this matter.

26 <sup>1</sup> 2 GAR 12104(c)(4) provide ten days after the receipt of the Agency Report by the Office  
27 of the Public Auditor for an Appellant or Interested Party to submit Comments. The Agency  
28 Report was filed on August 11, 2008, and Comments were due by August 21, 2008.

ORIGINAL

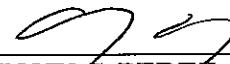
1 No good cause was exhibited for this untimely filing, nor was relief sought from the Office of the  
2 Public Auditor as has been done by GHURA earlier in this matter<sup>2</sup>.

3 GHURA respectfully requests that the "Final Letter" be stricken from consideration by the  
4 Office of the Public Auditor in accordance with 2 GAR 12104(c)(5), and that a decision be issued  
5 based upon Appellant's Appeal, GHURA's Agency Report, and PCR Environmental, Inc.'s  
6 Comments to Agency Report.  
7

8 Dated this 9<sup>th</sup> day of September, 2008.

9 LUJAN AGUIGUI & PEREZ LLP

10  
11 By:

  
12 ANTHONY C. PEREZ, ESQ.  
13 Attorneys for Guam Housing & Urban  
14 Renewal Authority (GHURA)  
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25 <sup>2</sup> GHURA sought extensions to lodge the Agency Report and Procurement Record due to  
26 Counsel's presence in an approximately one month long trial which was on-going during the  
27 relevant due dates. The Office of the Public Auditor authorized the extensions considering said  
28 good cause.

*In the Appeal of Captain, Hutapea & Associates, Inc.*  
Docket No. OPA-PA-08-009

1 CERTIFICATE OF SERVICE

2 I certify that the foregoing **MOTION TO STRIKE "FINAL LETTER" OF**  
3 **APPELLANT FOR UNTIMELINESS** was filed with the Office of Public Auditor at Suite 401,  
4 DNA Building, 238 Archbishop Flores Street, Hagåtña, Guam on September 9, 2008. I caused a  
5 copy to be served upon the following:

6  
7 W. Nicolas Captain, MAI, CRE, FRICS  
8 President  
9 Siska S. Hutapea, MAI, MRE  
10 Vice President

Janalynn Cruz-Damian, Esq.  
**CALVO & CLARK, LLP**  
259 Martyr Street, Suite 100  
Hagåtña, Guam 96910

9 **CAPTAIN, HUTAPEA & ASSOCIATES**  
10 101 Chalan Santo Papa, Suite 201  
11 Hagåtña, Guam 96910

12  
13 Dated this 9<sup>th</sup> day of September, 2008.

14 **LUJAN AGUIGUI & PEREZ LLP**

15  
16 By:

  
\_\_\_\_\_  
17 **ANTHONY C. PEREZ, ESQ.**