

**BEFORE THE BOARD OF TRUSTEES  
OF THE PUBLIC DEFENDER SERVICE CORPORATION  
RELATIVE TO THE PARTIAL USE OF LAPSED FUNDS  
TO RECTIFY AND ADJUSTE THE PAY GRADES/STEPS FOR  
CHARMAINE SAN NICOLAS AND RACHEL MUSUBED**

**RESOLUTION NO. PDSC 07-17**

- WHEREAS,** §11113.1 of 12 GCA authorizes the Public Defender Service Corporation (PDSC) to retain unexpended appropriations beginning with Fiscal Year 2000, and to carry these funds over into succeeding fiscal years; and
- WHEREAS,** during the recruitment, hiring and classification of Charmaine San Nicolas and Rachel Mesubed, proper recruitment efforts, to include the Above-Step Recruitment, were not followed or applied to both employees – causing a downgrade and readjustment in both their classification, step and pay grade in May 2015; and
- WHEREAS,** the PDSC Personnel Specialist audited personnel files in FY2015 and discovered that management did not properly follow 4GCA CH4 §4105(d)(1) & CH6 §6205 to recruit and hire Charmaine San Nicolas and Rachel Mesubed; and
- WHEREAS,** PDSC's Chief Investigator conducted a special investigation relative to the recruitment of both Charmaine San Nicolas and Rachel Mesubed by interviewing the former Administrative Director and HR specialist who expressed their understanding of the recruitment process, based on the Corporation's Personnel Rules & Regulations, and that the former Executive Director, Michael Nisperos, had the authority to set and/or negotiate the pay grade/scale according to the successful candidates years of experience and skills; and
- WHEREAS,** the current Executive Director and Administrative Director, Stephen Hattori and Cathy Gogue, contend that while the former Executive and Administrative Directors were incorrect in the process of hiring Above-Step, that the onus of ensuring proper recruitment procedures are followed should be on management and that the payback or correction to named employees' wages should not be exercised due to management's error; and
- WHEREAS,** to ensure that the PDSC not be sued by private counsel, the Executive and Administrative Directors Hattori and Gogue, respectfully, request that the board settle the amounts due both employees according to the attached reconstruction worksheet provided by HR Specialist Bernadette Lizama; and
- WHEREAS,** the settlement agreement provided by private counsel, Daniel S. Somerfleck, dated November 8, 2016, be accepted and settled out of court and that PDSC provide payment in full to Somerfleck & Associates, PLLC in the amount of **Two Thousand Dollars (\$2,000.00)**; and
- RESOLVED,** The Board of Trustees of the Public Defender Service Corporation, in its duly-noticed meeting of May 30, 2017 hereby approves the Corporation's request for the expenditure of **\$30,130.96** from PDSC lapsed (\$21,929.28) and current funds (\$8,201.68) in order to resolve and adjust the salaries described above; and be it further

**RESOLVED**, the spreadsheets prepared by Personnel Specialist IV Bernadette Lizama, which details the adjustments necessary to correct this matter, are attached hereto and made a part of this resolution.

**DULY AND REGULARLY ADOPTED** this 30<sup>th</sup> day of May, 2017.

  
Chief Justice KATHERINE A. MARAMAN

ATTEST:

  
\_\_\_\_\_  
CATHY GOGUE  
Secretary

**RECONSTRUCTION OF BACKPAY UP TO PPE 06/10/17**

**Charmaine T. San Nicolas**

POSITION TITLE	NATURE OF ACTION	DATES		NO. OF DAYS	Work Hours - Proper	FROM				TO				RATE DIFF	AMOUNT OWE	COMMENTS
		FROM	TO			PAY GRADE	STEP	SALARY	HOURLY RATE	PAY GRADE	STEP	SALARY	HOURLY RATE			
Legal Secretary II	Probational Appt	03/14/11	03/13/13	521	4168	I	13	\$35,571.00	\$17.10	I	13	\$35,571.00	\$17.10	\$0.00	\$0.00	Hourly rate was \$17.10
Legal Secretary II	S/I	03/14/13	01/25/14	226	1808	I	14	\$36,816.00	\$17.70	I	14	\$36,816.00	\$17.70	\$0.00	\$0.00	Hourly rate was \$17.70
Legal Secretary II	Transition CWA 2014	01/26/14	03/13/15	295	2360	I	9	\$38,048.00	\$18.29	I	9	\$38,048.00	\$18.29	\$0.00	\$0.00	Hourly rate was \$18.29
Legal Secretary II	S/I	03/14/15	05/02/15	35	280	I	9	\$38,048.00	\$18.29	I	10	\$39,255.00	\$18.87	\$0.58	\$162.40	Hourly rate was \$18.29
		05/03/15	12/26/15	170	1360	I	3	\$30,803.00	\$14.81	I	10	\$39,255.00	\$18.87	\$4.06	\$5,521.60	Hourly rate was \$14.81
Legal Secretary III	Promotion	12/28/15	06/05/16	115	920	J	3	\$33,476.00	\$16.09	J	10	\$42,661.00	\$20.51	\$4.42	\$4,066.40	Hourly rate was \$16.09
Legal Secretary Supervisor	Detail Appt	06/06/16	06/25/16	15	120	J	3	\$30,803.00	\$16.09	L	7	\$46,375.00	\$22.30	\$6.21	\$745.20	Hourly rate was \$16.09
		06/26/16	07/15/16	15	120	L	1	\$37,100.00	\$17.84	L	7	\$46,375.00	\$22.30	\$4.46	\$535.20	Hourly rate was \$17.84
Legal Secretary III	Term Detail App	07/16/16	06/10/17	235	1880	J	3	\$30,803.00	\$16.09	J	10	\$42,661.00	\$20.51	\$4.42	\$8,309.60	Hourly rate was \$16.09

\$19,340.40

\$2,000.00 Attorney's fee

\$21,340.40

**RECONSTRUCTION OF BACKPAY UP TO PPE 06/10/17**

**Rachel N. Mesubed**

POSITION TITLE	NATURE OF ACTION	DATES		NO. OF DAYS	NO. OF DAYS - PROPER	Work Hours - Proper	FROM				TO				RATE DIFF	AMOUNT OWE	COMMENTS
		FROM	TO				PAY GRADE	STEP	SALARY	HOURLY RATE	PAY GRADE	STEP	SALARY	HOURLY RATE			
Legal Clerk I	Probational	05/25/09	05/24/10	261	261	2088	F	03	\$19,840.00	\$9.54	F	03	\$19,840.00	\$9.54	\$0.00	\$0.00	Hourly rate was \$9.54
Legal Clerk I	Salary Increment	05/25/10	09/30/10	93	93	744	F	04	\$20,942.00	\$10.07	F	04	\$20,942.00	\$10.07	\$0.00	\$0.00	Hourly rate was \$9.54
Legal Clerk I	Hay 2010 Impl	10/01/10	01/30/11	86	86	688	F	01	\$23,171.00	\$11.14	F	01	\$23,171.00	\$11.14	\$0.00	\$0.00	Hourly rate was \$11.14
Legal Clerk I	Hay Study Susp	01/31/11	04/10/11	50	50	400	F	04	\$20,942.00	\$10.07	F	04	\$20,942.00	\$10.07	\$0.00	\$0.00	Hourly rate was \$10.07
Legal Secretary I	Promotion	04/11/11	04/10/12	262	262	2096	H	03	\$22,471.00	\$10.80	H	03	\$22,471.00	\$10.80	\$0.00	\$0.00	Hourly rate was \$10.80
Legal Secretary I	Salary Increment	04/11/12	04/10/13	261	261	2088	H	04	\$23,720.00	\$11.40	H	04	\$23,720.00	\$11.40	\$0.00	\$0.00	Hourly rate was \$11.40
Legal Secretary I	Salary Increment	04/11/13	01/11/14	197	197	1576	H	05	\$24,968.00	\$12.00	H	05	\$24,968.00	\$12.00	\$0.00	\$0.00	Hourly rate was \$12.00
		01/12/14	01/25/14	10	10	80	H	03	\$22,471.00	\$10.80	H	05	\$24,968.00	\$12.00	\$1.20	\$96.00	Hourly rate was \$10.80
Legal Secretary I	CWA	01/26/14	04/10/14	54	54	432	H	03	\$22,471.00	\$10.80	H	1	\$26,520.00	\$12.75	\$1.95	\$842.40	Hourly rate was \$10.80
Legal Secretary I	Salary Increment	04/11/14	09/06/14	106	106	848	H	04	\$23,720.00	\$11.40	H	2	\$27,525.00	\$13.23	\$1.83	\$1,551.84	Hourly rate was \$11.40
		09/07/14	04/10/15	155	155	1240	H	2	\$27,525.00	\$13.23	H	2	\$27,525.00	\$13.23	\$0.00	\$0.00	Hourly rate was \$13.23
Legal Secretary I	Salary Increment	04/11/15	04/10/16	260	260	2080	H	3	\$26,568.00	\$13.73	H	3	\$26,568.00	\$13.73	\$0.00	\$0.00	Hourly rate was \$13.73
Legal Secretary I	Salary Increment	04/11/16	06/12/16	45	45	360	H	4	\$29,650.00	\$14.25	H	4	\$29,650.00	\$14.25	\$0.00	\$0.00	Hourly rate was \$14.25
Legal Secretary II	Promotion	06/13/16	06/10/17	280	280	2080	I	4	\$31,970.00	\$15.37	I	4	\$31,970.00	\$15.37	\$0.00	\$0.00	Hourly rate was \$15.37

\$2,490.24