

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF GUAM**

UNITED STATES OF AMERICA,
Plaintiff,
vs.
GOVERNMENT OF GUAM,
Defendant.

Civil Case No. 02-00022

**ORDER RE: *EX PARTE* APPLICATION
FOR ORDER SUSPENDING
WEEKLY PAYMENTS**

Before the court is the Government of Guam’s (the “Government’s”) “*Ex Parte* Application for an Order to Suspend Weekly Payments.”¹ See Docket No. 400; see also Docket Nos. 401-02 (supporting papers). Therein the Government moves the court, under Rule 60 of the Federal Rules of Civil Procedure, “to relieve [it] of the obligation to make the weekly payments required by the Court’s February 13, 2009 Order,” so as “to allow [it] to seek and obtain revenue bonds to finance the Consent Decree projects as authorized by Public Law 30-1 as amended by Public Law 30-7.” Docket No. 400 at 1:22-2:2.

\\
\\
\\
\\
\\

¹ The court received this application just before close-of-business on Friday, April 3, 2009, and so could not act on it until today, Monday, April 6, 2009.

1 This issue is too important to be decided without full briefing and a hearing, so the court
2 **DENIES** the request to decide it in *ex parte* fashion.² However, the court will act in an
3 expedited manner. Accordingly, the court **ORDERS** the following:

- 4 • By 12 noon on Tuesday, April 7, 2009, the Government shall file an affidavit in
5 which both the Attorney General and the Government's bond counsel certify that
6 Public Law 30-7 (1) is indeed viable as a financing mechanism for the Consent
7 Decree projects, and (2) provides for financing that can be timely obtained
8 without interruption of or delay to the court-adopted timetable.
- 9 • By 12 noon on Wednesday, April 8, 2009, Gershman, Brickner & Bratton, Inc.,
10 ("the Receiver") shall provide its assessment of the law's viability as a financing
11 mechanism. Such assessment shall incorporate analysis by the Receiver's
12 financial experts of the Government's application.
- 13 • By 12 noon on Friday, April 10, 2009, the United States shall provide their
14 assessment of the law's viability as a financing mechanism. Such assessment
15 shall incorporate analysis by the United States' financial experts of the
16 Government's application.
- 17 • The court will hear argument on the viability of Public Law 30-7 at 10:00 a.m. on
18 Tuesday, April 14, 2009.³ All financial experts whose opinions furnished a basis
19 for this application (in the case of the Government) and for the responses to it (in
20 the cases of the Receiver and the United States) shall be present at the hearing,
21 and shall be prepared to testify to the substance of their opinions.

22 \\
23
24 _____
25 ² The court notes the Government's confidence that the new legislation will suffice to acquire
26 the bond proceeds. Accordingly, the court encourages the Government to prepare the bonds for
27 market.

28 ³ This hearing is set for Tuesday, rather than Monday, to accommodate off-island counsel
and financial experts.

1 Meanwhile, the court-ordered weekly payment obligation remains in effect until the court
2 orders otherwise.⁴

3 **SO ORDERED.**



4 /s/ Frances M. Tydingco-Gatewood
5 Chief Judge
6 Dated: Apr 06, 2009

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

⁴ Failure to make such a payment will result in the immediate levying of contempt fines, per the court's March 20, 2009 Order. *See* Docket No. 388.