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STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. OSH 2016-34
)	
ALAN IWASAKI,)	APPELLEE DIRECTOR, DEPARTMENT
)	OF LABOR AND INDUSTRIAL
Complainant-Appellant,)	RELATIONS' PROPOSED ORDER
)	GRANTING APPELLEE DIRECTOR,
and)	DEPARTMENT OF LABOR AND
)	INDUSTRIAL RELATIONS' MOTION TO
RESEARCH CORPORATION OF THE)	DISMISS, FILED OCTOBER 25, 2016;
UNIVERSITY OF HAWAII,)	CERTIFICATE OF SERVICE <i>SM</i> <i>QDM</i>
)	
Respondent-Appellee,)	
)	
and)	ORDER NO. 3283
)	
DIRECTOR, DEPARTMENT OF LABOR)	
AND INDUSTRIAL RELATIONS, State of)	
Hawaii,)	
)	
Appellee.)	
)	

**APPELLEE DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL
RELATIONS' PROPOSED ORDER GRANTING APPELLEE DIRECTOR,
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS' OCTOBER 25, 2016
MOTION TO DISMISS COMPLAINANT-APPELLANT ALAN IWASAKI'S CONTEST**

I. PROPOSED FINDINGS OF FACT AND PROCEDURAL BACKGROUND

If it should be determined that any of these Proposed Findings of Fact should have been set forth as Proposed Conclusions of Law, then they shall be deemed as such.

A. The Discrimination Complaint and Determination Notice and Order

This case arises from a discrimination complaint filed by Complainant-Appellant Alan Iwasaki (Iwasaki) with the State of Hawaii, Department of Labor and Industrial Relations (DLIR), Hawaii Occupational Safety and Health Division (HIOSH) under Hawaii Revised Statutes (HRS) § 396-8(e).

On July 29, 2016, HIOSH mailed to Iwasaki a Determination Notice and Order regarding Iwasaki's discrimination complaint. After an investigation, HIOSH found that Respondent-Appellee Research Corporation of the University of Hawaii (RCUH) did not discriminate against Iwasaki in violation of HRS § 396-8(e). The Determination Notice and Order stated that Iwasaki may appeal by:

notifying the HIOSH Administrator in writing within (20) calendar days after receiving this order. You must file the notice of contest letter with:

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division
830 Punchbowl Street, Room 423
Honolulu, Hawaii 96813

[...]

If a written notice of contest of this Determination Notice and Order (Order) is not received within twenty (20) calendar days after receipt of this Order by you, it becomes a final order (not

contestable).

As proof of its mailing, HIOSH obtained a U.S. Postal Service Certified Mail Receipt showing that it mailed the Determination Notice and Order to Iwasaki on July 29, 2016. A U.S. Postal Service Domestic Return Receipt showed that Iwasaki received the Determination Notice and Order on August 1, 2016.

On August 3, 2016, Iwasaki sent an e-mail to Tin Shing Chao, Health Branch Manager at HIOSH, stating that

HIOSH has continued to deny my civil rights in 16-001, therefore I find your determination invalid as a matter of law.

You will receive my certified letter shortly.

Be advised, a formal complaint has been lodged against you and HIOSH with the Department of Labor, Civil Rights Center, for 15-012. I will now add 16-001 to my complaint (16-HI-001).

Iwasaki's e-mail shows that he intended to file a written contest and to mail the written contest via certified letter "shortly." Iwasaki's e-mail indicates that he understood the Determination Notice and Order's instructions on how and when to appeal.

August 22, 2016 was the last day that Iwasaki could file a proper contest with HIOSH.¹ HIOSH did not receive the certified letter that Iwasaki stated he would send to HIOSH in his August 3rd e-mail. HIOSH did not receive any original, written contest by this day.

On August 24, 2016, HIOSH sent a letter to Iwasaki stating that the Determination Notice and Order was now final because Iwasaki did not file a written contest per the instructions in the Determination Notice and Order.

¹ The last day to contest fell on a Sunday—August 21, 2016. Per Rule 6 of the Hawaii Rules of Civil Procedure and HRS § 1-29, the last day to contest is moved to the next business day—August 22, 2016.

On September 2, 2016, Iwasaki mailed to the Department of Labor and Industrial Relations a petition for declaratory ruling under HRS § 91-8 and Hawaii Administrative Rules (HAR) § 12-1-5.² In his petition, Iwasaki expressed an intent to appeal the Determination Notice and Order.

On September 15, 2016, HIOSH sent a letter to Iwasaki explaining that his petition for declaratory ruling clarified his intent to appeal the Determination Notice and Order. HIOSH therefore transmitted his appeal to the Board for further proceedings.

On September 23, 2016, HIOSH sent a letter to Iwasaki informing him that his discrimination case will be transmitted to the Board for further proceedings.

B. Motion to Dismiss

On October 25, 2016, Appellee Director of DLIR (Director) filed “Appellee Director, Department of Labor and Industrial Relations’ Motion to Dismiss Complainant-Appellant Alan Iwasaki’s Contest” (Motion) alleging that Iwasaki’s notice of contest was neither properly nor timely filed; and therefore, failed to give the Board jurisdiction over Iwasaki’s discrimination case. The Declaration of Tin Shing Chao, the Declaration of Doris Dvonch, counsel for Director, and copies of the Determination Notice and Order, USPS mailing and delivery documents, letters by Tin Shing Chao, e-mails by Iwasaki, and a petition for declaratory ruling by Iwasaki were filed with the Motion.

On October 26, 2016, the Board issued a Notice of Hearing on Director’s Motion; said Notice set a November 14, 2016 hearing on the Motion.

On October 27, 2016, counsel for Director requested to reschedule the hearing due to a

² The petition for declaratory ruling is not a part of this proceeding. The petition is currently pending before the State of Hawaii Department of Labor and Industrial Relations.

scheduling conflict.

On October 28, 2016, the Board issued a Notice of Rescheduled Hearing on the Motion to Dismiss due to conflict in the parties' schedule; said Notice set a November 29, 2016 hearing on the Motion.

On October 28, 2016, the Board issued a Supplement to the Notice of Rescheduled Hearing on the Motion to Dismiss; said Supplement re-set the briefing schedule for the Motion.

On October 31, 2016, the Board issued a Second Amended Supplement to the Notice of Rescheduled Hearing on the Motion to Dismiss; said Second Amended Supplement re-set the briefing schedule for the Motion.

On November 4, 2016, RCUH filed "Respondent the Research Corporation of the University of Hawaii's Joinder in Appellee Director, Department of Labor and Industrial Relations' Motion to Dismiss Complainant-Appellant Alan Iwasaki's Contest, Filed October 25, 2016" joining the Director's Motion.

On November 8, 2016, Iwasaki filed "Complainant-Appellant Memorandum in Opposition to Appellee Director, Department of Labor and Industrial Relations' Motion to Dismiss Complainant-Appellant Alan Iwasaki's Contest" alleging that the Board has jurisdiction over Iwasaki's discrimination case due to a timely filed notice of contest filed on August 3, 2016 pursuant to HRS § 396-11; that HIOSH has validated e-mail as an acceptable form of filing a notice of contest in HRS § 396-8(e) discrimination cases; that HIOSH's July 29, 2016 Determination Notice and Order regarding Iwasaki's discrimination complaint is defective and errs as a matter of law and is therefore invalid and unenforceable; that DLIR is not entitled to deference in the interpretation of its rules because the rule is not in compliance with HRS Chapter 91 as the DLIR did not adopt formal rules in compliance with HRS Chapter 91 to

exclude e-mails from the HRS § 396-8(e) notice of contest process; and that the DLIR rules governing inspections, citations, and proposed penalties are inapposite to this case. The Declaration of Alan Iwasaki was filed with Iwasaki's opposition to the Motion.

On November 16, 2016, the Director filed "Appellee Director, Department of Labor and Industrial Relations' Reply to Complainant-Appellant's Memorandum in Opposition to Appellee Director, Department of Labor and Industrial Relations' Motion to Dismiss Complainant-Appellant Alan Iwasaki's Contest" alleging that e-mail is not a valid method of filing a notice of contest, and cited to *Si-Nor, Inc. v. Director, Dep't of Labor and Industrial Relations*, 120 Hawaii 135, 202 P.2d 596 (App. 2009); that the Director's interpretation of its own rules is reasonable; that HAR §§ 12-51-15 and 12-51-19 apply; and that Iwasaki's other arguments are unavailing. A letter by Norman Ahu was filed with the reply.

On November 28, 2016, Iwasaki requested the Board to continue the hearing on the Motion until December 13, 15, 20, or 22, 2016. However, the Board was not available on December 13 or 15, and it was the Board's understanding and belief that counsel for RCUH was not available on December 20 or 22. The parties coordinated dates with the Board and each other, and all parties were available on January 24, 2017 for a rescheduled hearing on the Motion.

On November 30, 2016, the Board issued a Notice of Second Rescheduled Hearing on the Motion to Dismiss; said Notice set a January 24, 2017 hearing on the Motion.

On January 24, 2017, the Board heard oral arguments on the Motion. Representatives of Director and RCUH appeared in person, and Iwasaki appeared via telephone. At the conclusion of oral arguments, the Board orally took the Motion under advisement.

On May 26, 2017, the Board issued a Minute Order Granting Appellee Director,

Department of Labor and Industrial Relations' Motion to Dismiss Complainant-Appellant Alan Iwasaki's Contest; said Minute Order directed the Director, as the prevailing party on the Motion, to submit to the Board proposed findings of fact, conclusions of law, and order granting the Motion for the Board's consideration and signature.

II. PROPOSED CONCLUSIONS OF LAW, DISCUSSION, AND ORDER

If it should be determined that any of these Proposed Conclusions of Law should have been set forth as Proposed Findings of Fact, then they shall be deemed as such.

A. Director and Iwasaki's Positions

The Director takes the position that the Board lacks subject matter jurisdiction because Iwasaki did not properly and timely contest the Determination Notice and Order. In support, the Director asserts that the applicable rule is that the Board has no jurisdiction unless the mandatory statutory requirement of timely perfecting of an appeal is met. The Director maintains that in this case, HRS § 396-11 requires that a Determination Notice and Order shall be final and conclusive unless it is contested within 20 days after receipt of the Determination Notice and Order. The Director further argues that based on Iwasaki's August 1, 2016 receipt of the Determination Notice and Order, Iwasaki was required to contest the Determination Notice and Order on or before August 22, 2016, which he failed to do so by this deadline. Thus, the Board has no jurisdiction over this case, which should be dismissed. In support, the Director relies on HRS § 396-11, HAR §12-51-15, HAR § 12-51-19 and the general rule articulated by the Hawaii Intermediate Court of Appeals in *Si-Nor v. Director, Dep't. of Labor and Indus. Rels.*, 120 Hawaii 135, 142-43, 202 P.3d 592, 604 (App. 2009) that "the time limit for filing an appeal is generally considered to be mandatory and jurisdictional in both civil and criminal cases and cannot be waived by the parties."

Iwasaki takes the position that the Board has subject matter jurisdiction because he properly and timely contested the Determination Notice and Order by sending an e-mail to Tin Shing Chao on August 3, 2016. This e-mail stated:

HIOSH has continued to deny my civil rights in 16-001, therefore I find your determination invalid as a matter of law.

You will receive my certified letter shortly.

Be advised, a formal complaint has been lodged against you and HIOSH with the Department of Labor, Civil Rights Center, for 15-012. I will now add 16-001 to my complaint (16-HI-001).

In support, Iwasaki asserts that HIOSH has validated e-mail as an acceptable form of filing a notice of contest in HRS § 396-8(e) discrimination cases. Iwasaki maintains e-mail is an acceptable form of filing a notice of contest because HRS § 396-11, HAR § 12-51-15 and HAR § 12-51-19 do not specifically bar e-mail as an acceptable form of filing a notice of contest. Iwasaki further argues that his August 3, 2016 e-mail to Tin Shing Chao constitutes a valid and timely notice of contest, and any rule barring e-mail as an acceptable form of filing should comport with HRS Chapter 91 procedures for rule promulgation. Thus, the Board has jurisdiction over this case, which should not be dismissed. In support, Iwasaki relies on HRS Chapter 91 and *International Bhd. Of Elec. Workers, Local 1357 v. Hawaiian Tel. Co.*, 68 Hawaii 316, 323, 713 P.2d 943, 950 (1986) regarding interpretation of administrative rules.

B. Applicable Standards for a Motion to Dismiss

The Board adheres to the legal standards established by the Hawaii appellate courts for motions to dismiss brought under the Hawaii Rules of Civil Procedure (HRCP) Rule 12(b).

A motion to dismiss for lack of subject matter jurisdiction pursuant to HRCP Rule 12(b)(1) is based on the contents of the complaint, the allegations of which must be accepted as

true, and construed in the light most favorable to the plaintiff. Dismissal is improper unless “it appears beyond doubt that the plaintiff can prove no set of facts in support of his [or her] claim which would entitle him [or her] to relief.” In considering a motion to dismiss for lack of subject matter jurisdiction, the Board is not restricted to the face of the pleadings, but may review any evidence, such as affidavits and testimony to resolve factual disputes concerning the existence of jurisdiction. *Casumpang v. ILWU, Local 142*, 94 Hawaii 330, 337, 13 P.3d 1235, 1242 (2000); *Right to Know Committee v. City Council, City and County of Honolulu*, 117 Hawaii 1, 7, 175 P.3d 111, 117 (App. 2007); *Director, Dep’t. of Labor and Indus. Rels. v. 1st Green Solutions, LLC*, Board Case No. OSH 2011-19, Order No. 530, at *6 (2013).

C. Applicable Law for Notices of Contest

HRS § 396-11(a), setting forth the review procedure for citations, proposed penalties, and orders issued under HRS Chapter 396, states that:

Any citation, proposed penalty, or order of the director shall be final and conclusive against the employer unless the employer files with the director a written notice of contest of the citation, the abatement period stated in the citation, the proposed penalty, or order within twenty days after receipt of the citation, proposed penalty, or order.

Haw. Rev. Stat. § 396-11(a) (emphasis added).

HRS § 396-11(e), setting forth the review procedure for orders denying a complaint of discrimination filed by an employee issued under HRS Chapter 396, states that:

Any employee or representative of employees may file a notice of contest of an order of the director denying a complaint of discrimination filed by an employee pursuant to section 396-8(e); provided that in each case the notice is filed within twenty days after receipt of the order by the employee.

Haw. Rev. Stat. § 396-11(e) (emphasis added).

In this case, the July 29, 2016 Determination Notice and Order regarding Iwasaki’s

discrimination complaint constitutes an appealable order under HRS §§ 396-11(a) and 396-11(e).

As noted in the Hawaii Intermediate Court of Appeals decision of *Si-Nor v. Director, Dep't. of Labor and Indus. Rels.*, 120 Hawaii 135, 142-43, 202 P.3d 592, 604 (App. 2009), DLIR promulgated HAR §§ 12-51-15 and 12-51-19 to clarify the HRS § 396-11 review process in more detail.

HAR § 12-51-15 states in relevant part:

§ 12-51-15 Proposed Penalties. (a) [...] Any notice of proposed penalty shall state that the proposed penalty shall be the final order and not subject to review by any court or agency unless, within twenty calendar days from the date of receipt of notice, the employer files a notice of contest in accordance with section 12-51-19 for review of the order in accordance with the law.

Haw. Admin. R. § 12-51-15 (emphasis added).

HAR § 12-51-19 states in relevant part:

Any employer to whom a citation and notice of proposed penalty has been issued may petition the director for review of the citation and notice pursuant to the rules of the appeals board within twenty days of the receipt by the employer of the notice of proposed penalty. Each notice of contest shall specify whether it is regarding the citation, the proposed penalty, or both. This petition shall be an original, and shall be served on the director and must be postmarked, or if not mailed, received by the director within twenty calendar days of the receipt by the employer of the citation and notice of proposed penalty. If not mailed, the date of receipt by the director shall be the date stamped on the contest by the director.

Haw. Admin. R. § 12-51-19 (emphasis added).

Iwasaki argues that HAR § 12-51-15 and HAR § 12-51-19 do not apply to this case, and that only HAR Title 12, Chapter 57 applies because it deals with employee discrimination. Although HAR § 12-51-15 and HAR § 12-51-19 only mention employers and not employees like Iwasaki, they are applicable to employee discrimination appeals because these rules have been

adopted to implement HRS § 396-11 appeals. See e.g., In the Matter of James R. Murray et. al., Case No. 2009-1, 2012 WL 1605671 *1 (Hawaii Labor Relations Board Mar. 12, 2012) (concluding that the Board had jurisdiction over the appeal pursuant to HRS § 396-11 where timeliness was not an issue); In the Matter of Timothy Santos et. al., Case No. 2005-7, 2006 WL 8416935 *1 (Hawaii Labor Relations Board June 29, 2006) (concluding that the Board had jurisdiction over the appeal pursuant to HRS § 396-11 where timeliness was not an issue).

“Laws *in pari materia*, or upon the same subject matter, shall be construed with reference to each other. What is clear in one statute may be called upon in aid to explain what is doubtful in another.” In re Water Use Permit Applications, 94 Hawaii 97, 144-45, 9 P.3d 409, 456-57 (2000). The same general principles that apply to statutory interpretation also apply to interpretation of administrative rules. Director, Dep’t of Labor & Indus. Relations v. Kiewit Pacific Co., 104 Hawaii 22, 29-30 n. 6, 84 P.3d 530, 537-38 n. 6 (App. 2004).

While HAR Title 12, Chapter 57 deals with employee discrimination, this chapter does not speak to methods and deadlines for filing an appeal. It would be unreasonable to assume that the legislature and/or the Director intended no filing methods or deadlines to apply to notices of contest in discrimination cases. Iwasaki has not cited to any law or legislative history showing such intention. HRS § 396-11, HAR § 12-51-15, and HAR § 12-51-19 all must be construed with HAR Title 12, Chapter 57 in order to clarify the filing methods and deadlines for employee notices of contest. HAR § 12-51-15 and HAR § 12-51-19 are therefore applicable. See State v. Kimball, 54 Haw. 83, 83, 503 P.2d 176, 176 (1972) (ruling that when read *in pari materia* with other statutes and administrative rules and regulations, HRS § 727-24 is not unconstitutionally vague).

D. E-mail Is Not an Acceptable Form of Filing a Notice of Contest in HRS § 396-8(e) Discrimination Cases

In addressing Iwasaki's argument that e-mail is an acceptable form of filing a notice of contest in HRS § 396-8(e) discrimination cases, the Board finds the Si-Nor case instructive. In *Si-Nor, Inc. v. Director, Dep't of Labor and Industrial Relations*, 120 Hawaii 135, 202 P.2d 596 (App. 2009), the employer argued that a facsimile transmission of its notice of contest to HIOSH constituted timely filing under HRS § 396-11(a) because a facsimile should be an acceptable means of providing notice. *Si-Nor*, 120 Hawaii at 145, 202 P.2d at 606. The Hawaii Intermediate Court of Appeals agreed with the Director that because a facsimile transmission of a notice of contest is not specifically allowed by any applicable statute or rule, faxing a notice of contest to HIOSH does not satisfy the filing requirement under HRS § 396-11(a). *Id.*

The Hawaii Intermediate Court of Appeals in *Si-Nor* explained that "the right of appeal is purely statutory and therefore, the right of appeal is limited as provided by the legislature and compliance with the method and procedure prescribed by it is obligatory." *Si-Nor*, 120 Hawaii at 145, 202 P.2d at 606. This comports with the general rule that the time limit for filing an appeal is generally considered to be mandatory and jurisdictional in both civil and criminal cases and cannot be waived by the parties. This rule is strictly enforced.

"[T]he timely perfecting of an appeal is no mere technical formality: it is in fact a mandatory requirement, and if it is not complied with the court has no jurisdiction over the case." *Si-Nor*, 120 Hawaii at 145, 202 P.2d at 606. See *In the Matter of Maryl Group Construction, Inc.*, Case No. 2014-6 (Hawaii Labor Relations Board Oct. 3, 2014), affirmed by *In the Matter of Maryl Group Construction, Inc.*, Civil No. CV 14-1-2263-10 (RAN) (State of Hawaii First Circuit Court Dec. 7, 2015) (granting Director's motion to dismiss employer's contest based on

lack of jurisdiction where employer's notice of contest was a copy and not an original).

Similar to *Si-Nor*, there is no applicable statute or administrative rule that specifically allows for filing of a notice of contest by e-mail. The legislature limits the right to appeal by prescribing specific, permitted methods and procedures to file an appeal. Compliance with these methods and procedures is mandatory. In *re Tax Appeal of Lower Mapunapuna Tenants Ass'n*, 73 Haw. 63, 68, 828 P.2d 263, 266 (1992). In other words, the law must explicitly permit the method in order to be deemed a valid method of filing. Just because e-mail is not barred as a method of filing does not mean that it is permitted. Iwasaki has failed to cite any law or legislative history that permits e-mail as a valid means of filing under HRS § 396-11 and its applicable rules.

The Director, through HIOSH, is charged with the authority to adopt rules for the Department and has consistently taken the position that e-mail is not sufficient for a valid notice of contest in discrimination cases. Unless and until the Director does promulgate rules that explicitly authorize the filing of a notice of contest by e-mail, e-mail is not a valid method of filing. See *Si-Nor*, 120 Hawaii at 145, 202 P.2d at 606 (ruling that “[a]s the DLIR has not promulgated rules that authorize the filing of a notice of contest by facsimile transmission, the circuit court did not err in ruling that *Si-Nor*'s facsimile transmission did not constitute a valid filing under HAR § 12-51-19”).

Iwasaki argues that HIOSH validated e-mail as a method of filing when it transmitted the case to the Board. However, nothing in HIOSH's communications with Iwasaki shows that HIOSH accepted Iwasaki's August 3rd e-mail as a valid method of filing. HIOSH's September 15, 2016 letter informed Iwasaki that the case is being transmitted to the Board, and that the first issue to be decided by the Board is whether his August 3rd e-mail was a proper appeal.

HIOSH's September 23, 2016 letter informed Iwasaki that the case was being transmitted to the Board and that the Board would handle further proceedings. Iwasaki has not shown that HIOSH validated e-mail as a method filing a notice of contest.

E. The Board Lacks Jurisdiction Based on Untimely Filing of the Notice of Contest

The Board concludes that satisfying the requirements of HAR § 12-51-19 for a proper and timely notice of contest is mandatory. The record is undisputed that the Determination Notice and Order was issued and mailed on July 29, 2016 and received by Iwasaki on August 1, 2016. The Determination Notice and Order advised Iwasaki that he may appeal the Determination Notice and Order by notifying the HIOSH Administrative in writing within twenty calendar days after receiving this order; that he must file the notice of contest letter with DLIR at the stated mailing address; and that if the notice of contest is not received within twenty calendar days after receipt of the Determination Notice and Order by Iwasaki, it becomes a final order (not contestable). Accordingly, the 20-day contest period expired on August 22, 2016. Iwasaki did not mail any original, written notice of contest to DLIR by August 22, 2016.

In this case, dismissal is proper based on these undisputed facts because "it appears beyond doubt that [Iwasaki] can prove no set of facts in support of his claim which would entitle him to relief." As noted in the *Si-Nor* case, "[t]he right of appeal is purely statutory and ... therefore, the right of appeal is limited as provided by the legislature and compliance with the method and procedure prescribed by it is obligatory." 120 Hawaii at 145, 202 P.3d at 606. See also *Kissell v. Labor & Indus. Rel. App. Bd.*, 57 Haw. 37, 38, 549 P.2d 470, 471 (1976). The 20-day statute of limitations for filing a contest is a jurisdictional requirement which the Board has no authority to waive. *Bacon v. Karlin*, 68 Haw. 648, 650 (1986). See *Familian Northwest, Inc. v. Central Pacific Boiler & Piping, Ltd.*, 68 Haw. 368, 369 (1986) ("When we perceive a

jurisdictional defect in an appeal, we must, *sua sponte*, dismiss the appeal.”).

Therefore, the Board must strictly construe the limitation period and will not waive a defect of even a single day. See *Alvis W. Fitzgerald*, 3 HPERB 186, 199 (1983). For all the reasons set forth above, the Board is compelled to find that it lacks jurisdiction to consider Iwasaki’s discrimination case. Due to lack of jurisdiction in this case, the Board does not reach Iwasaki’s arguments regarding the alleged defects in the Determination Notice and Order and in the investigation into Iwasaki’s discrimination complaint. This case is closed. *SM*

DATED: Honolulu, Hawaii JUN 15 2017 *QWm*



DORIS DVONCH
Deputy Attorney General

Attorney for Appellee Director, Department
of Labor and Industrial Relations

SO ORDERED BY THE
HAWAII LABOR RELATIONS BOARD:

ORDER NO. 3283

DATED: August 9, 2017

Sesnita A. D. Moepono
SESNITA A.D. MOEPONO, Member



J.N. Musto
J.N. MUSTO, Member

In the Matter of Alan Iwasaki, et. al., Case No. OSH 2016-34;
Appellee Director, Department of Labor and Industrial Relations’ Proposed Order Granting Appellee Director,
Department of Labor and Industrial Relations’ Motion to Dismiss, Filed October 25, 2016