

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)
)
SALEEM AHMED,)
)
)
Complainant,)
)
and)
)
EAST-WEST CENTER and AMERICAN)
FEDERATION OF STATE, COUNTY AND)
MUNICIPAL EMPLOYEES, LOCAL 928,)
AFL-CIO,)
)
Respondents.)

CASE NOS.: 96-5(CE)
96-6(CU)

ORDER NO. 1523

ORDER GRANTING AHMED'S
MOTION TO QUASH RESPONDENT
AFSCME'S SUBPOENA DUCES
TECUM

In the Matter of)
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AMERICAN FEDERATION OF STATE,)
COUNTY AND MUNICIPAL EMPLOYEES,)
LOCAL 928, AFL-CIO,)
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Complainant,)
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In Order No. 1514, dated August 20, 1997, the Board granted the parties leave to serve interrogatories and take depositions in order to assist in narrowing the issues in the case and to streamline the conduct of the hearing on the case-in-chief.

On September 2, 1997, the AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 928 (AFSCME), by and through its attorney, filed an application for issuance of subpoena duces

tecum and a notice of taking depositions upon written interrogatories. AFSCME noticed the deposition of SALEEM AHMED (AHMED) upon written interrogatories on September 8, 1997 at 10:00 a.m. The subpoena directed to AHMED to produce, inter alia, state and federal income tax returns for 1992 to the present; bank account and other financial institution records; contracts and accountings of monies from books authored by AHMED, including a Scrabble dictionary; documents indicating personal living expenses from 1992 to the present; and documents pertaining to pension benefits.

On September 3, 1997, AHMED filed a motion to quash AFSCME's subpoena duces tecum with the Board. AHMED contended that the subpoena addressed his financial affairs and had no bearing on the merits of his complaint. AHMED further argued that the materials subpoenaed are not reasonably calculated to lead to admissible evidence and are therefore not relevant to the case. Thereafter, on September 5, 1997, AHMED filed a motion to postpone his deposition with the Board. AHMED contended that he was unable to attend the deposition as scheduled because of prior commitments and that he contacted AFSCME's counsel to request a postponement of the deposition date and counsel suggested 4:15 p.m. on the same date as an alternative, which was also unacceptable to AHMED.

On September 9, 1997, AFSCME, by and through its counsel, filed a memorandum in opposition to AHMED's motion to quash the subpoena duces tecum with the Board. AFSCME contends, inter alia, that the items requested for production directly relate to the issue of damages requested by AHMED in this case and given the

broad scope of discovery under the Hawaii Rules of Civil Procedure (HRCP), the matters requested are discoverable.

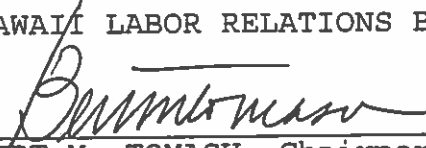
On September 11, 1997, the EAST-WEST CENTER, by and through its attorney, filed a response to AHMED's motion to quash subpoena duces tecum with the Board. The EAST-WEST CENTER submits that certain financial information, such as AHMED's income tax returns, is routinely sought as the information is material to the mitigation issue and that if AFSCME had not subpoenaed the returns, the EAST-WEST CENTER would have.

Upon review of the record and the arguments presented by the parties, the Board finds that AFSCME's subpoena requires extensive records relating to the issue of AHMED's damages and the mitigation of damages. While the Board is aware of the broad scope of discovery permitted by the HRCP, the Board believes that the matters requested are irrelevant at least at this juncture, to the merits of AHMED's claims against AFSCME and the EAST-WEST CENTER. In this regard, the Board will bifurcate the proceedings and proceed first with the case on the merits of the claims and the issues of liability and, if necessary, proceed with the issue of damages. Accordingly, the Board hereby grants AHMED's motion to quash AFSCME's subpoena duces tecum.

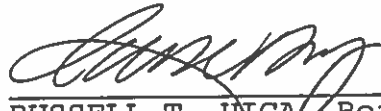
In view of the Board's ruling with regard to the motion to quash, it is unnecessary to rule on AHMED's motion to postpone his deposition.

DATED: Honolulu, Hawaii, September 16, 1997.

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson

SALEEM AHMED and EAST-WEST CENTER and AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 928, AFL-CIO and AMERICAN
FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 928,
AFL-CIO and SALEEM AHMED; CASE NOS.: 96-5(CE), 96-6(CU)
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RUSSELL T. HIGA, Board Member



CHESTER C. KUNITAKE, Board Member

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