

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CE-09-365
)	
HAWAII GOVERNMENT EMPLOYEES, ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO,)	ORDER NO. 1551
)	
Complainant,)	ORDER DISAPPROVING STIPULA- TION TO EXTEND STATUTE OF LIMITATIONS AND DISMISS COMPLAINT WITHOUT PREJUDICE
)	
and)	
)	
BENJAMIN J. CAYETANO, Governor, State of Hawaii,)	
)	
Respondent.)	
)	

ORDER DISAPPROVING STIPULATION TO EXTEND STATUTE
OF LIMITATIONS AND DISMISS COMPLAINT WITHOUT PREJUDICE

On November 5, 1997, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA/AFSCME), by and through its counsel, and Respondent BENJAMIN J. CAYETANO, Governor, State of Hawaii (CAYETANO), by and through his counsel, filed a stipulation with the Hawaii Labor Relations Board (Board). The parties agreed to continue their settlement negotiations over the hazard pay grievance which underlies the prohibited practice complaint in this matter and to dismiss the instant complaint without prejudice. The parties also agreed to extend the statute of limitations of this Board to permit the HGEA/AFSCME to bring the same allegations and claims which are contained in the instant complaint at a later time, prior to and including October 30, 1998.

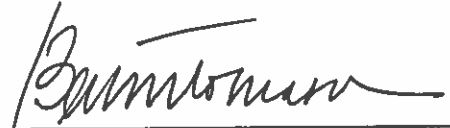
The Board has previously held that statutes of limitation are to be strictly construed. Alvis W. Fitzgerald, 3 HPERB 186 (1983). Thus, the Board in the Fitzgerald case found that it

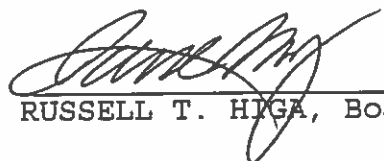
lacked jurisdiction over the prohibited practice complaint which was filed one day late. Although the parties here stipulate that the Board's statute of limitations can be modified by mutual agreement, the Board finds that its 90-day statute of limitations to entertain prohibited practice complaints is jurisdictional and the Board cannot approve a stipulation for the dismissal of a complaint based upon the premise that a future complaint can be filed on these same allegations which occurred more than 90 days prior to the filing of the complaint. Accordingly, the Board hereby disapproves the instant stipulation entered into by the parties.

In addition, the parties are advised that Administrative Rules § 12-42-44 provides for the withdrawal of prohibited practice complaints upon the filing of an appropriate motion. Accordingly, any stipulations entered into to dismiss the complaint should be attached to an appropriate motion to withdraw the prohibited practice complaint.

DATED: Honolulu, Hawaii, November 13, 1997 .

HAWAII LABOR RELATIONS BOARD


BERT M. TOMASU, Chairperson


RUSSELL T. HIGA, Board Member


CHESTER C. KUNITAKE, Board Member

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152,
AFL-CIO and BENJAMIN J. CAYETANO, Governor, State of Hawaii;
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Copies sent to:

Charles K.Y. Khim, Esq.
Douglas H. Inouye, Deputy Attorney General
Joyce Najita, IRC