

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. DR-03-77
)	
LEWIS W. POE,)	ORDER NO. 1748
)	
Petitioner.)	ORDER DISMISSING PETITION
)	FOR DECLARATORY RULING
)	

ORDER DISMISSING PETITION FOR DECLARATORY RULING

On August 4, 1999, LEWIS W. POE (POE) filed a Petition for Declaratory Ruling with the Hawaii Labor Relations Board (Board). POE alleges that on or about January 2, 1998, the State of Hawaii/Employer and the HGEA/Union executed a Memorandum of Agreement (MOA), regarding Salary and Wage Overpayment, for bargaining units 02, 03, 04, 09, and 13. POE contends that the MOA was not ratified by the Unit 03 membership and the Union has allegedly usurped the employee's rights without his or her consent. Thus, POE contends that portions of the MOA which allegedly usurp an employee's interests and/or preempt an employee's interests are invalid. Moreover, POE contends that he has been overpaid by the Employer and the Union has no right to intervene in his affairs without POE's consent or approval. POE thus seeks an interpretation of §§ 89-1 and 89-8(a), Hawaii Revised Statutes (HRS).

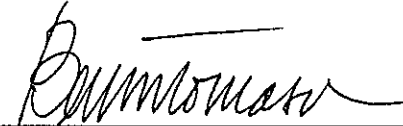
After reviewing POE's petition, it is clear that while POE allegedly seeks an interpretation of §§ 89-1 and 89-8(a), HRS, POE in essence seeks an order from the Board finding violations of

the cited statutes and to in effect invalidate portions of the negotiated MOA. As such, the Board finds that POE's declaratory ruling petition is an inappropriate vehicle to allege violations of Chapter 89, HRS. If POE seeks to charge the public employer or union with a statutory violation, the public employer or union has a right to defend any such charges. Therefore, pursuant to Administrative Rules § 12-42-9(f),¹ the Board finds that good cause exists to decline to issue a declaratory order in this case.

Accordingly, the Board hereby dismisses the instant petition.

DATED: Honolulu, Hawaii, August 16, 1999.

HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson

¹Administrative Rules § 12-42-9(f) provides as follows:

The board may, for good cause, refuse to issue a declaratory order. Without limiting the generality of the foregoing, the board may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts or facts which can reasonably be expected to exist in the near future.
- (2) The petitioner's interest is not of the type which would give the petitioner standing to maintain an action if such petitioner were to seek judicial relief.
- (3) The issuance of the declaratory order may adversely affect the interests of the board or any of its officers or employees in a litigation which is pending or may reasonably be expected to arise.
- (4) The matter is not within the jurisdiction of the board.

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RUSSELL T. HIGA, Board Member



CHESTER C. KUNITAKE, Board Member

Copies sent to:

Lewis W. Poe
Joyce Najita, IRC