

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)
JOHN MUSSACK,)
)
Complainant,)
)
and)
)
MICHAEL HARANO, Former Principal,)
Elementary School, Department of Education,)
State of Hawaii,)
)
Respondent.)

CASE NO. CE-05-482
ORDER NO. 2071
ORDER GRANTING COMPLAINANT'S
MOTION TO WITHDRAW CASE NOS.
CE-05-484 AND CU-05-190, IN PART,
AND GRANTING COMPLAINANT'S
MOTION TO AMEND ORDER NO. 2062
TO CONSOLIDATE CASE NO. CU-05-190
PART G WITH CASE NOS. CE-05-486,
ET SEQ.; NOTICE OF HEARING ON
DISPOSITIVE MOTIONS AND NOTICE
OF HEARING ON PROHIBITED PRACTICE
COMPLAINTS

In the Matter of)
JOHN MUSSACK,)
)
Complainant,)
)
and)
)
MICHAEL HARANO, Principal, Kailua)
Elementary School, Department of Education,)
State of Hawaii,)
)
Respondent.)

CASE NO. CE-05-483

In the Matter of)
JOHN MUSSACK,)
)
Complainant,)
)
and)
)
HAWAII STATE TEACHERS)
ASSOCIATION,)
)
Respondent.)

CASE NO. CU-05-190 (PARTS A AND B)

ORDER GRANTING COMPLAINANT'S MOTION TO
WITHDRAW CASE NOS. CE-05-484 AND CE-05-190,
IN PART, AND GRANTING COMPLAINANT'S MOTION TO AMEND
ORDER NO. 2062 TO CONSOLIDATE CASE NO. CU-05-190 PART G
WITH CASE NOS. CE-05-486, ET SEQ.; NOTICE OF HEARING ON DISPOSITIVE
MOTIONS AND NOTICE OF HEARING ON PROHIBITED PRACTICE COMPLAINTS

On March 11, 2002, Complainant JOHN MUSSACK (MUSSACK), pro se, filed a Motion to Dismiss Some Cases Without Prejudice; Motion to Amend Orders Consolidating the Remaining Cases for Disposition in the above-consolidated cases with the Hawaii Labor Relations Board (Board). MUSSACK moved this Board to dismiss without prejudice, inter alia, Case No. CE-05-484 against LEA ALBERT (ALBERT), District Superintendent, Windward District Office, Department of Education, State of Hawaii, in toto.

In addition, MUSSACK moved to dismiss his complaint against the HAWAII STATE TEACHERS ASSOCIATION (HSTA) for failing to arbitrate grievances in Case No. CU-05-190, part (c) involving ALBERT's extension of MUSSACK's probationary period; part (d) involving Respondent MICHAEL HARANO (HARANO), Principal, Kailua Elementary School, Department of Education, State of Hawaii's failure to provide teacher-protection meetings regarding an oral warning; part (e) involving Lanelle Hibbs (Hibbs), Principal, Kailua Elementary School, Department of Education, State of Hawaii's failure to provide teacher-protection meetings regarding a November 16, 2000 letter, and part (f) involving Hibbs' two directives issued to MUSSACK.

Respondents HARANO and ALBERT (collectively DOE), by and through their counsel, filed their Statement of No Objections to Complainant's Motion to Dismiss Some Cases Without Prejudice and Statement of No Objections to Complainant's Motion to Amend Orders Consolidating Remaining Cases for Disposition, as well as Objections to Board's Proceedings on March 14, 2002.

On March 15, 2002, MUSSACK and counsel for the DOE and the HSTA appeared before the Board for a Show Cause Hearing of Complainant's Application for Issuance of Subpoenas filed on March 11, 2002 in Case No. CE-05-486. At the hearing, the Board agreed to consider Complainant's Motion to Dismiss Some Cases Without Prejudice; Motion to Amend Orders Consolidating the Remaining Cases for Disposition which was scheduled for hearing on March 18, 2002.

Having advised MUSSACK that neither a dismissal without prejudice nor withdrawal of his complaints tolls the running of the statute of limitations, MUSSACK agreed to treat his motion to dismiss without prejudice as a motion to withdraw.

There being no objection by the DOE or the HSTA to the withdrawal of the complaints in Case No. CE-05-484, in toto, and Case No. CU-05-190, parts (c), (d), (e), and

(f), the Board hereby grants the withdrawal of the instant complaints pursuant to Hawaii Administrative Rules (HAR) § 12-42-44.

In addition, pursuant to MUSSACK's Motion to Amend the Order Consolidating the Cases, the Board hereby amends Order No. 2062, Order Consolidating Cases for Disposition; and Notice of Prehearing Conference and Hearing on Prohibited Practice Complaints, issued on February 15, 2002 to reflect the consolidation of Case Nos. CE-05-482, CE-05-483, and CU-05-190, parts (a) and (b), relating to grievances over an oral warning and written reprimand. Case No. CU-05-190 part (g) is hereby consolidated with Case Nos. CE-05-486, et seq.¹

NOTICE IS HEREBY GIVEN that the Board will conduct a hearing pursuant to Hawaii Revised Statutes (HRS) §§ 89-5(b)(4) and 89-14 and HAR § 12-42-8(g) on any dispositive motions filed by Respondents by the close of business on March 25, 2002 and any opposition to Respondents' motions filed by MUSSACK by the close of business on April 1, 2002 on April 4, 2002 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.

NOTICE IS ALSO GIVEN that the Board will conduct a hearing, pursuant to HRS §§ 89-5(b)(4), and 89-14, and HAR §§ 12-42-49 and 12-42-8(g) on the instant complaints on April 9, 2002 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. The hearing may continue from day to day until completed.

DATED: Honolulu, Hawaii, March 21, 2002.

HAWAII LABOR RELATIONS BOARD



BRIAN K. NAKAMURA, Chair

¹On March 18, 2002, MUSSACK filed an Amended Prohibited Practice Complaint (Amended Complaint) against HARANO and the HSTA reflecting the withdrawal of his claims and the clarification of the issues in this consolidated case. MUSSACK alleged that he was disciplined without proper cause for an oral warning on November 1, 2000 and a written reprimand on January 11, 2001 in violation of HRS § 89-13(a)(8) and the Unit 05 agreement. MUSSACK also alleged the HSTA breached its duty of fair representation by refusing to demand arbitration for the grievances over the two disciplinary actions in violation of HRS §§ 89-13(b)(1) and (5) and the Unit 05 agreement. As MUSSACK's Amended Complaint does not add or amend the charges already pending before the Board, the Board will not require Respondents to file Answers to the Amended Complaint.

JOHN MUSSACK v. MICHAEL HARANO

CASE NO. CE-05-482

JOHN MUSSACK v. MICHAEL HARANO

CASE NO. CE-05-483

JOHN MUSSACK v. HAWAII STATE TEACHERS ASSOCIATION

CASE NO. CU-05-190 (PARTS A AND B)

ORDER NO. 2071

ORDER GRANTING COMPLAINANT'S MOTION TO WITHDRAW CASE NOS. CE-05-484 AND CU-05-190, IN PART, AND GRANTING COMPLAINANT'S MOTION TO AMEND ORDER NO. 2062 TO CONSOLIDATE CASE NO. CU-05-190 PART G WITH CASE NOS.: CE-05-486, ET SEQ.; NOTICE OF HEARING ON DISPOSITIVE MOTIONS AND NOTICE OF HEARING ON PROHIBITED PRACTICE COMPLAINTS


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

Copies sent to:

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