



On January 28, 2005, the HGEA filed HGEA's Motion to Dismiss and/or for Summary Judgment on the grounds the Board lacks jurisdiction and the complaint fails to state a claim for relief.

On February 2, 2005, CONDON filed Complainant's Opposition to HGEA's Motion to Dismiss and/or for Summary Judgment.

On February 14, 2005, the Board conducted a hearing on Respondents' motions. The parties were afforded full opportunity to argue their respective positions before the Board. After a thorough review of the record, the Board makes the following findings of fact, conclusions of law and order.

### FINDINGS OF FACT

1. CONDON was, for all relevant times, a public employee, as defined in HRS § 89-2, assigned to a Social Service Assistant V position at the Oahu Intake Service Center (OISC), Department of Public Safety, State of Hawaii, and included in bargaining unit (BU) 03.
2. The UPW is an employee organization and the exclusive representative, as defined in HRS § 89-2, of the employees in BU 10.
3. The HGEA is an employee organization and the exclusive representative, as defined in HRS § 89-2, of the employees in BU 03.
4. The Board takes administrative notice of the BU 03 collective bargaining agreement, in effect for the period covering July 1, 2003 to June 30, 2005, pursuant to Hawaii Administrative Rule § 12-42-8(g)(8)(F), which contains a three step grievance procedure culminating in arbitration at step four, which only the Union can invoke, as set forth in Article 11.
5. Article 11.B of the applicable BU 03 agreement states, in part, as follows:

An individual Employee may present a grievance without the intervention of the Union, up to and including Step 3, provided the Union has been afforded an opportunity to be present at the meeting(s) on the grievance.
6. In January 2000, CONDON was an Adult Corrections Officer, Department of Public Safety, State of Hawaii, and included in BU 10 and received a work related injury. In July 2001, he enrolled in the RTWPP and was placed in the Social Service Assistant position at OISC.

7. CONDON has complained to his employer over the past three years that his OISC position exceeds his medical restrictions. In November 2004, CONDON received a report from the employer dated February 2002 indicating that according to its doctor, the OISC position exceeded CONDON's medical limitations.
8. By letter dated December 1, 2004, CONDON requested the HGEA file a grievance concerning his return to work priority placement in the OISC and the freezing of his salary.
9. By letter dated December 6, 2004, HGEA Union agent TAUALA, denied CONDON's request to pursue a grievance based on his placement at OISC because his placement "was due to [his] participation in the RTWPP [Return to Work Priority Placement] program while [he] was an Adult Corrections Officer. [His] injury occurred while [he was] a member of Unit 10 of the United Public Workers. [His] placement was clearly out of the Hawaii Government Employees Association's jurisdiction and responsibility." The HGEA further explained as follows:

In July of 2001, you were placed in a Unit 03 position which you officially became a member of HGEA. As of this date, the Union has vigorously represented you in many issues that you raised against your employer. Two cases in particular are pending arbitration. The first deals with the employer not following your work restrictions due to your placement in your current position, the second seeks to overturn a fifteen (15) day suspension. The remedies in both issues seek to make you whole from the date of the employer's adverse actions which encompasses loss of rights, wages and benefits.

10. CONDON admitted that he chose not to pursue his grievance against the employer upon receipt of TAUALA's letter informing him of HGEA's decision denying his request on December 6, 2004. Indeed, he had filed grievances on other matters through the first three steps, thus demonstrating a familiarity with the grievance procedure and his right to pursue a grievance without the assistance of his Union. He explained that having learned how the system works, he spent too much time doing the "Union's job," i.e., being an advocate, for which he pays union dues. Instead of pursuing a grievance on his own, CONDON filed the instant prohibited practice complaint against both the HGEA and the UPW, alleging a breach of the duty to fair representation based on HGEA's refusal to initiate a grievance, thereby seeking the Board's determination as to which union was properly his exclusive representative.

11. By Order No. 2077, Order Granting Respondent Unions' Motions to Dismiss Complaints and Granting Respondent State's Motion for Summary Judgment issued April 11, 2002 in consolidated Case Nos. CE-10-489, Richard Kealoha Condon; CU-10-191, Richard K. Condon; CU-03-192, Richard K. Condon involving the same parties as in the instant complaint, as well as designated representatives of the public employer, State of Hawaii, Department of Public Safety (State), the Board dismissed an earlier complaint filed by CONDON as follows:

CONDON fails to state a claim for relief against the State because he alleges in his grievance filed on August 15, 2001 that the State violated the provisions of the Unit 10 agreement when he ceased being a member of Unit 10 on or about July 23, 2001. There being no genuine issues of material fact in dispute, the State is entitled to judgment as a matter of law.<sup>1</sup>

12. CONDON does not dispute that he is a member of BU 03, and that he is not a member of BU 10.

#### DISCUSSION

CONDON filed the instant complaint against both the UPW and HGEA and respective Union agents seeking a determination from the Board as to "which Union is responsible (sic) for representation,"<sup>2</sup> based on the HGEA's refusal to initiate a grievance over his placement in the RTWPP when he was an Adult Corrections Officer in BU 10 and his exclusive representative was the UPW. In response to CONDON's request, the HGEA's Union Agent MARVIS TAUALA wrote to CONDON as follows:

Unfortunately, the Union is denying your request to file a grievance based on your placement at OISC. As we have discussed previously, your placement was due to your participation in the RTWPP program while you were an Adult Corrections Officer. Your injury occurred while you were a Member of Unit 10 of the United Public Workers Union. Your placement was clearly out of the Hawaii Government Employee's (sic) Association's Jurisdiction and responsibility.

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<sup>1</sup>CONDON's complaint against the Unions was untimely filed and therefore dismissed for lack of jurisdiction.

<sup>2</sup>See, Board Exhibit (Ex.) 1, Prohibited Practice Complaint filed on January 13, 2005.

The issue as to CONDON's exclusive representative was settled by Board Order No. 2077, issued April 11, 2002 involving the same parties as in the instant complaint, as well as representatives of the State as the public employer. CONDON does not dispute that since 2001, when he was placed in a social worker position, he became a member of BU 03, whose exclusive representative is the HGEA.<sup>3</sup>

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<sup>3</sup>At the hearing held on February 14, 2005, CONDON testified as follows regarding the claim against the UPW:

A.: So I don't see how – and I agree with Herb, I don't think I fall under Unit 10, but HGEA pointed the finger at them. So instead of waiting three months, I brought them both before the Board to determine who is responsible.

Transcript of proceedings, dated February 14, 2005 (Tr.) at p. 6.

In further questioning, CONDON testified as follows:

Q.: [by Member Racuya-Markrich] Mr. Condon, when did HGEA – well, when did you go to HGEA and ask them to file a grievance for you.

A.: I went in the late part of November, and I wrote three letters.

Q.: November of what year?

A.: Last year, 2004.

Q.: And do you have it in writing they're refusing to file a grievance on your behalf?

A.: Yes, I do.

Q.: So you don't dispute that you're a member, then, of HGEA, BU 3?

A.: No, I don't.

Q.: And the letter that you have from HGEA refusing to represent you is dated what?

A.: December 6, 2004.

Q.: Okay, and at any time did you file a grievance on your own without being represented by HGEA with the Employer?

A.: Not in this matter. I did file grievances on my own prior, but not on this specific matter. I had filed one about them not following my medical restrictions, but not to – basically I'm looking to be placed in a position that, you know, complies with my restrictions, so that's what I'm seeking.

Q.: [by Board Member Kunitake] And you admit that you have not been represented by UPW since 2002 when you were moved into this position?

A.: I admit that. And once again, the only reason I brought UPW here is because HGEA mentioned them in the letter, and when I tried to work it out with both units, they kept on blaming

The UPW thus moves to dismiss the instant complaint on the grounds that, “. . . the complaint fails to state any substantive claim upon which relief can be granted since Condon is in bargaining unit 3 and the UPW is not the exclusive bargaining representative of employees in bargaining unit 3.” As such, employees who are no longer part of the bargaining unit can state no claim for relief against a union for breach of the duty of fair representation. Spelau v. CSX Transp., Inc., 279 F.3d 1313 (11<sup>th</sup> Cir. 2002) (labor union’s duty of fair representation traditionally runs only to members of the collective bargaining unit and does not extend simply by claims of seniority). The Board agrees.

“The purpose of Rule 12(b)(6) is to allow a defendant to test whether, as a matter of law, the plaintiff is entitled to legal relief even if everything alleged in the complaint is true.” Mayer v. Mylod, 988 F.2d 635, 638 (6<sup>th</sup> Cir. 1993). A dismissal is clearly warranted under Rule 12(b)(6), HRCF, if the claim is clearly without merit due to “an absence of law to support a claim of the sort made, or of facts sufficient to make a good claim, or of disclosure of some fact which will necessarily defeat the claim.” Rosa v. CWJ Contractors, Ltd., 4 Haw.App. 210, 215, 664 P.2d 745 (1983) (internal quotes and citation omitted). Such a dismissal is generally disfavored but warranted “if it appears beyond a reasonable doubt that the plaintiff can prove no set of facts entitling a plaintiff to relief.” Bertelmann v. Taas Associates, 69 Haw. 95, 99, 735 P.2d 930 (1987). While the allegations in the complaint are deemed true, the court is not required to accept conclusory allegations on the legal effect of the events alleged. Marsland v. Pang, 5 Haw.App. 463, 474, 701 P.2d 175 (1985).

Given the Board’s Order No. 2077, ruling that Condon “ceased being a member of BU 10 on or about July 23, 2001” his claim against the UPW in the instant complaint is without merit. Since the UPW ceased being Condon’s exclusive representative in 2001, he can state no claim for relief against UPW for breach of the duty of fair representation. Therefore, the complaint against the UPW and its Union agent is dismissed for lack of standing.

As against the HGEA, Complainant alleges violations of HRS §§ 89-13(b)(2), (3), (4) and (5),<sup>4</sup> which state in part:

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each other. So that’s why I brought them in before the 90 days expired.

Id., at pp. 7-8.

<sup>4</sup>As the instant complaint is filed against the HGEA and UPW and their respective representatives, Complainant’s allegations refer to the employee organizations in HRS § 89-13(b).

(b) It shall be a prohibited practice for a public employee or for an employee organization or its designated agent wilfully to:

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- (2) Refuse to bargain collectively in good faith with the public employer, if it is an exclusive representative, as required in section 89-9;
- (3) Refuse to participate in good faith in the mediation, fact-finding and arbitration procedures set forth in section 89-11;
- (4) Refuse or fail to comply with any provision of this chapter; or
- (5) Violate the terms of a collective bargaining agreement.

The Board has previously ruled that the provisions of HRS §§ 89-13(b)(2) and (3) refer to the negotiations process between an employee organization and the public employer within the meaning of HRS § 89-2, and not the individual grievance process which involves a violation or misinterpretation of the collective bargaining agreement, as alleged by CONDON in the instant case. See, Thomas Lepere, 5 HLRB 263 (1994).<sup>5</sup> Since, CONDON is neither an “employee organization” nor a “public employer” as defined by HRS § 89-2, he lacks standing to maintain his allegations against the HGEA. Thus, the Board dismisses the alleged violations of HRS §§ 89-13(b)(2) and (3).

Initially, both the HGEA and UPW, contend that CONDON’s complaint was untimely as based on an identical complaint resolved by Board Order No. 2077, alleging that his initial placement in the Social Services Assistant position under the RTWPP on or about July 23, 2001 was improper. However, at the hearing CONDON clarified that the instant complaint was triggered by the December 6, 2004 letter from HGEA Union agent TAUALA denying his request to file a grievance over his placement in an unsuitable position because

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<sup>5</sup>HRS § 89-13(b)(2) prohibits an employee organization from refusing to bargain with the public employer as required in HRS § 89-9. A refusal to bargain charge is properly raised by a public employer who has the reciprocal duty to bargain in good faith. Similarly, HRS § 89-13(b)(3) prohibits an employee organization from refusing to participate in the mediation, fact-finding, and arbitration procedures in HRS § 89-11. These procedures in HRS § 89-11 refer to the impasse resolution mechanism for interest arbitrations involving the terms of the contract rather than the grievance procedures which involves the violation or interpretation of the collective bargaining agreements.

of medical restrictions which limited his work performance and the freeze placed on his salary.

HRS § 89-14 provides that no complaints of any specific unfair labor practice shall be considered unless filed within 90 days of its occurrence. The Board finds the date of the alleged violation to be TAUALA's December 6, 2004 letter to CONDON denying his request to file a grievance. As such, CONDON's complaint filed on January 13, 2005 was timely filed within the 90-day period as required by HAR § 12-42-42 and HRS § 377-9, which is made applicable to the Board by HRS § 89-14.

Accordingly, the remaining allegation against the HGEA is whether the HGEA breached its duty of fair representation to CONDON, by refusing to initiate a grievance for reasons stated in TAUALA's December 6, 2004 letter in wilful violation of HRS §§ 89-8(a) and 89-13(b)(4). Upon a clarification of the complaint against HGEA, the Board granted HGEA's oral motion to supplement the grounds for dismissal to include a failure to exhaust contractual remedies.<sup>6</sup> Based on CONDON's admission, that he has not attempted to file a grievance with the employer without the Union's assistance, the HGEA contends that the complaint fails to state a claim for relief since he cannot establish that he has exhausted all the contractual remedies available. Poe v. Hawai'i Labor Relations Board, 97 Hawai'i 528, 40 P.3d 930 (2002) (Poe I).

In Poe I, the Hawaii Supreme Court stated:

We hold that under Hawaii Revised Statutes (HRS) chapter 89, pertaining to collective bargaining in public employment, a public employee pursuing an individual grievance exhausts his or her administrative remedies when the employee completes every step available to the employee in the grievance process and a request to the employee's exclusive bargaining representative to proceed to the last grievance step, which only the representative can undertake, would be futile.

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<sup>6</sup>In Winslow v. State, 2 Haw.App. 50, 55, 625 P.2d 1046 (1981) (Winslow), the Hawaii Intermediate Court of Appeals held that where the terms of public employment are covered by a collective bargaining agreement pursuant to HRS Chapter 89 and the agreement includes a grievance procedure to dispose of employee grievances against the public employer, an aggrieved employee is bound by the terms of the agreement. The Court in Winslow found that the employee had failed to exhaust her available remedies because she failed to proceed to Step 4 (appeal to the employer) of the grievance procedure. In Santos v. State, Dept. of Transp., Kauai Div., 64 Haw. 648, 646 P.2d 962 (1982), the Hawaii Supreme Court stated that "[i]t is the general rule that before an individual can maintain an action against his [or her] employer, the individual must at least attempt to utilize the contract grievance procedures agreed upon by his [or her] employer and the [union]." (Citation omitted). 64 Haw. at 655.



Id., at 531.

Although CONDON did not file a separate prohibited practice complaint against the employer for violations of the collective bargaining agreement, the claims are “inextricably interdependent.” See, DelCostello v. Int’l Bhd. of Teamsters, 462 U.S. 151, 164, 76 L.Ed. 476, 103 S.Ct. 2281 (1983) (DelCostello). Therefore, in order to prevail against the employer *and/or* the Union, the burden of proof is the same. Poe v. Hawai’i Labor Relations Board, 105 Hawai’i 97, 102, 94 P.3d 652 (2004) (Poe II).

Thus, an employee who is prevented from exhausting the remedies provided by the collective bargaining agreement may, nevertheless, bring an action against his or her employer. Under federal precedent, such an action consists of two separate claims: (1) a claim against the employer alleging a breach of the collective bargaining agreement and (2) a claim against the union for breach of the duty of fair representation. *DelCostello*, 462 U.S. at 164, 103 S.Ct. 2281.

[T]he two claims are inextricably interdependent. *To prevail against either the company or the Union, employee-plaintiffs must not only show that their discharge was contrary to the contract but must also carry the burden of demonstrating breach of duty by the Union. The employee may, if he chooses, sue one defendant and not the other; but the case he must prove is the same whether he sues one, the other, or both.* (Emphasis added).

*Id.* at 164-65, 103 S.Ct. 2281 (citation, brackets, quotation marks, and ellipsis points omitted); see also *DiGuilio v. Rhode Island Bhd. of Corr. Officers*, 819 A.2d 1271, 1273 (R.I. 2003) (without a showing that the union breached its duty of fair representation, the employee does not have any standing to contest the merits of his contract claim against the employer in court).

Id., at 102.

Chapter 89 expressly authorizes parties to a collective bargaining agreement to establish a “grievance procedure culminating in final and binding decision . . . .” (Emphasis added.) HRS § 89-11(a). Even more applicable to the facts of the instant complaint, under HRS § 89-8(b), an employee “may present a grievance at any time to the

employee's employer and have the grievance heard without intervention of an employee organization; provided that the exclusive representative is afforded the opportunity to be present at such conferences and that any adjustment made shall not be inconsistent with the terms of an agreement then in effect between the employer and the exclusive representative." This is consistent with Article 11 B. of the BU 03 Contract.

In Hokama v. University of Hawai'i, 92 Hawai'i 268, 990 P.2d 1150 (1999), the Hawaii Supreme Court held that the contractual grievance procedure was the exclusive forum for any claims arising from the collective bargaining agreement. The Court stated:

HRS § 89-11(a) (1993) & Supp. 1998) provides: "A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in a final binding decision, to be invoked in the event of any dispute concerning the interpretation or application of a written agreement." The plain language of the statute indicates that the grievance procedure shall serve as the exclusive vehicle for resolving disputes regarding the terms of the collective bargaining agreement.

Id., at 272-73. The Court explained the policy considerations underlying the exhaustion of administrative remedies requirement as follows:

The exhaustion requirement, first, preserves the integrity and autonomy of the collective bargaining process, allowing the parties to develop their own uniform mechanism of dispute resolution. [Citations omitted.] It also promotes judicial efficiency by encouraging the orderly and less time-consuming settlement of disputes through alternative means. [Citations omitted.]

Id., at 272.

In Poe II, supra, the Hawaii Supreme Court held that a public employee who failed to exhaust his contractual remedies provided under the grievance process of the collective bargaining agreement lacked standing to pursue his prohibited practice claim before the Board:

Based on analogous federal cases previously cited by this court and the policy considerations articulated in them, we hold that an employee who is prevented from exhausting his or her contractual remedies may bring an action against an employer

for breach of a collective bargaining agreement “provided the employee can prove that the union as bargaining agent breached its duty of fair representation in its handling of the employee’s grievance.” *Vaca*, 386 U.S. at 186, 87 S.Ct. 903.

A union breaches its duty of good faith when its conduct towards a member of a collective bargaining unit is arbitrary, discriminatory, or in bad faith. (Citations omitted) Merely settling a grievance short of the arbitration process, without more, fails to establish a breach of the duty of fair representation. *Vaca*, 386 U.S. at 192, 87 S.Ct. 903.

Poe II involved a public employee who was a member of BU 03 like CONDON. Before bringing a prohibited practice complaint against the employer, “Poe, without the assistance of his union, pursued his grievances through Step 3 of the grievance procedure. Each time, Poe was not satisfied with the result. In one of the five grievances giving rise to the present appeal [before the Court], Poe requested that his union sponsor his complaint at Step 4 arbitration. The union declined on the basis that Poe’s grievance lacked merit. In the other four grievances, Poe did not request arbitration prior to filing suit.” *Id.*, at 100. Hence, the public employee failed to exhaust the contractual remedies by not asking the union to proceed to arbitration after pursuing the grievances through the first three steps without the Union’s assistance.

In the instant complaint against the HGEA, Complainant’s burden of proof is to show by a preponderance of evidence that he has been prevented from exhausting his contractual remedies by the union’s wrongful refusal to process the grievance, i.e., that the HGEA’s refusal is arbitrary, discriminatory or in bad faith. Sheldon S. Varney, 5 HLRB 508 (1995). Poe I, Poe II, supra. See also, Vaca v. Sipes, 386 U.S. 171, 190-191, 87 S.Ct. 903, 17 L.Ed.2d 842 (1967). “[A] union’s conduct is ‘arbitrary’ if it is ‘without rational basis,’ . . . or is egregious, unfair and unrelated to legitimate union interests.” Peterson v. Kennedy, 771 F.2d 1244, 1254 (9<sup>th</sup> Cir. 1985). Simple negligence or mere errors in judgment will not suffice to make out a claim for a breach of the duty of fair representation. Farmer v. ARA Services, Inc., 660 F.2d 1096, 108 LRRM 2145 (6<sup>th</sup> Cir. 1981); Whitten v. Anchor Motor Freight, Inc., 521 F.2d 1335, 1341, 90 LRRM 2161 (6<sup>th</sup> Cir. 1975).

Unlike the public employee in Poe I and Poe II, supra, CONDON filed the instant complaint against his exclusive representatives, past and present, instead of pursuing his grievance through Step 3 without the Union’s assistance in order to remedy his placement in a suitable position after learning of medical restrictions from a work injury. He admitted that he chose not to pursue his grievance against the employer upon receipt of TAUALA’s letter informing him of HGEA’s decision denying his request on December 6, 2004. Indeed, CONDON had filed grievances on other matters through the first three steps, thus demonstrating a familiarity with the grievance procedure and knowledge of his right to

pursue a grievance without the assistance of his Union.<sup>6</sup> He explained that having learned how the system works, he spent too much time doing the “Union’s job,” i.e., being an advocate, for which he pays union dues.<sup>7</sup> Such an attitude is contrary to the policy considerations underlying the exhaustion requirement.

Complainant fails to understand that the exhaustion requirement lies, first and foremost, with the public employee starting with the first steps of the individual grievance process set forth in Article 11 of the BU 03 Contract, and outlined in HRS § 89-8(b). The proper course of action for CONDON would have been to follow through with the employer by pursuing a grievance without the assistance of the Union, to complete every step available in the grievance process, that includes a request to the Union to proceed to the last grievance step, i.e., arbitration, unless doing so was futile. Poe I, supra. Only then may a claim arise against the Union alleging the employee has been prevented from exhausting his contractual remedies by the union’s “arbitrary, discriminatory or bad faith” refusal to process the grievance to arbitration. For “an employee who is prevented from exhausting his or her contractual remedies may bring an action against an employer for breach of a collective bargaining agreement ‘provided the employee can prove that the union as bargaining agent breached its duty of fair representation in its handling of the employee’s grievance.’” *Vaca*, 386 U.S. at 186, 87 S.Ct. 903.

In the instant complaint, Complainant lacks standing to bring a breach of duty of fair representation action against the HGEA for having denied his request to file a grievance. Accordingly, the Board concludes that CONDON fails to state a claim for relief because he can prove no set of facts to show that he exhausted the contractual remedies available to him with the employer.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over the instant complaint pursuant to HRS §§ 89-5, which was timely filed within the 90 days statute of limitations period as required by HAR § 12-42-42 and HRS § 377-9, and made applicable to the Board by HRS § 89-14.
2. CONDON is a member of BU 03 and not BU 10. As a result, the Board concludes that UPW is not CONDON’s exclusive representative within the

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<sup>6</sup>Tr., pp. 7-8, 29-30.

<sup>7</sup>Tr., pp.15-16. With regard to his abilities to represent himself, the Board notes that CONDON has filed several complaints with the Board where he has proceeded pro se against the HGEA, UPW and his employer.

meaning of HRS § 89-2 and therefore CONDON lacks standing to bring the instant prohibited practice complaint against the UPW.

3. HRS §§ 89-13(b)(2) and (3) refer to the negotiations process between an employee organization and the public employer within the meaning of HRS § 89-2, and not the individual grievance process which involves a violation or misinterpretation of the collective bargaining agreement, as alleged by CONDON in the instant case. See, Thomas Lepere, 5 HLRB 263 (1994). Since, CONDON is neither an “employee organization,” nor a “public employer” as defined by HRS § 89-2, he lacks standing to maintain his alleged violations of HRS §§ 89-13(b)(2) and (3).
4. A public employee pursuing an individual grievance exhausts his or her administrative remedies when the employee completes every step available to the employee in the grievance process and requests the employee’s exclusive bargaining representative to proceed to the last grievance step, which only the representative can undertake, or establish that exhaustion would be futile. Poe v. Hawai‘i Labor Relations Board, 97 Hawai‘i 528, 40 P.3d 930 (2002) (Poe I).
5. The Board concludes that Complainant fails to state a claim for relief that the HGEA breached its duty of fair representation action for denying his request to initiate a grievance since he can prove no set of facts to show that he exhausted the contractual remedies available to him with the employer.

ORDER

For the foregoing reasons, the Board hereby dismisses the instant prohibited practice complaints, with prejudice.

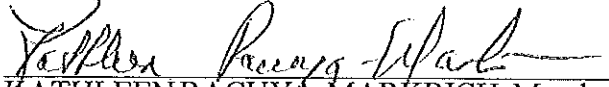
DATED: Honolulu, Hawaii, May 24, 2005 \_\_\_\_\_:

HAWAII LABOR RELATIONS BOARD

  
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BRIAN K. NAKAMURA, Chair

  
\_\_\_\_\_  
CHESTER C. KUNITAKE, Member

RICHARD K. CONDON v. HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME,  
LOCAL 152, AFL-CIO, et al.  
CASE NOS.: CU-03-235a, CU-10-235b  
ORDER NO. 2328  
ORDER GRANTING RESPONDENTS' MOTIONS TO DISMISS

  
KATHLEEN RACUYA-MARKRICH, Member

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