

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of

UNITED PUBLIC WORKERS, AFSCME,  
LOCAL 646, AFL-CIO,

Complainant,

and

MARIE LADERTA, Director, Department of  
Human Resources Development, State of  
Hawaii and VALERIE PACHECO, Personnel  
Program Administrator, Department of  
Human Resources Development, State of  
Hawaii,

Respondents.

CASE NOS.: CE-01-605a  
CE-10-605b

ORDER NO. 2401

ORDER GRANTING  
COMPLAINANT'S MOTION TO  
REOPEN RECORD & FOR OTHER  
APPROPRIATE RELIEF, FILED ON  
SEPTEMBER 25, 2006

ORDER GRANTING COMPLAINANT'S  
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On September 25, 2006, Complainant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO ("UPW") filed a Motion to Reopen Record & for Other Appropriate Relief with the Hawaii Labor Relations Board ("Board"). The UPW requested that the Board receive the Decision and Award, rendered by Arbitrator Paul S. Aoki in an arbitration between the UPW and the State of Hawaii, Department of Public Safety, in Case Nos. CU-04-19 to CU-04-45 on September 22, 2006 ("Aoki award"), into evidence as Union's Exhibit 52. UPW's counsel states in an affidavit attached to the motion that the Arbitrator's Decision and Award is clearly relevant to the issues in this proceeding and was not available at the time the case was heard by the Board. UPW's counsel also requested the Board not to defer to the terms of the award to the extent that it excludes Elizabeth Baruz ("Baruz") and Michael Basham ("Basham") from the order rescinding the discharges, reinstating affected employees, and requiring the employer to make the grievants whole because the Arbitrator refused to consider and decide the validity of the applicable settlement agreements.

Thereafter on October 2, 2006, Respondents, by and through their counsel, filed a response to the instant motion with the Board. Respondents did not object to the Decision and Award being received into evidence as State's Exhibit K and Union Exhibit 52 but argued that the award is final and binding. Respondents contend that the Arbitrator

considered and decided the validity of the Baruz and Basham settlement agreements as evidenced by the award and documents attached to their response.

As there is no opposition to the admission of the Aoki award into evidence and only a disagreement as to the weight to be accorded the award, the Board hereby grants the instant motion to reopen the record and receive the award as Union Exhibit 52.<sup>1</sup> The Board will consider the arguments made by counsel in its deliberations.

DATED: Honolulu, Hawaii, October 6, 2006.

HAWAII LABOR RELATIONS BOARD

  
BRIAN K. NAKAMURA, Chair

  
EMORY J. SPRINGER, Member

  
SARAH R. HIRAKAMI, Member

Copies sent to:

Herbert R. Takahashi, Esq.  
Jeffrey A. Keating, Deputy Attorney General  
Joyce Najita, IRC

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<sup>1</sup>The Board will receive the document as Union Exhibit 52 since there appears no reason to receive the award into the record twice, as a Union Exhibit as well as a State Exhibit.