

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII STATE TEACHERS  
ASSOCIATION,

Complainant,

and

LINDA LINGLE, Governor, State of Hawaii  
and MARIE LADERTA, Director,  
Department of Human Resources, State of  
Hawaii,

Respondents.

CASE NO. CE-05-751

ORDER NO. 2700

ORDER DENYING DWIGHT  
TAKENO'S EX PARTE MOTION TO  
REVOKE SUBPOENA DUCES  
TECUM, DATED AND SERVED ON  
MARCH 30, 2010, FILED ON APRIL 5,  
2010

ORDER DENYING DWIGHT TAKENO'S EX PARTE  
MOTION TO REVOKE SUBPOENA DUCES TECUM, DATED  
AND SERVED ON MARCH 30, 2010, FILED ON APRIL 5, 2010

On April 5, 2010, Dwight Takeno (Takeno), by and through his counsel, filed an Ex Parte Motion to Revoke Subpoena Duces Tecum, Dated and Served on March 30, 2010 with the Hawaii Labor Relations Board (Board). The subpoena duces tecum ordered Takeno to appear before the Board on April 7, 2010 to testify in the instant case and to produce:

1. All proposals, counter-proposals, notes of negotiating sessions, notes of meetings; telephone messages, records, and documents leading to the terms and conditions of the October 22, 2009 supplemental agreement between HSTA and the State of Hawai'i, Board of Education, and which would indicate who was authorized to negotiate the supplemental agreement for the employer.

2. All calendar, notebooks, e-mails, messages, records and documents which would indicate the dates, times, places and all persons involved in negotiating or bargaining sessions between HSTA and the State of Hawai'i Board of Education.

3. All proposals, counter proposals, notes of negotiating sessions, notes of meetings, telephone messages,

letters, records, and documents leading to the terms and conditions of the December 23, 2009 agreement between HSTA and the State of Hawai'i, Board of Education.

4. All calendar, notebooks, e-mails, messages, records, and documents which would indicate the dates, times, places, and all persons involved in meetings or bargaining sessions from November 15, 2009 to December 23, 2009 over elimination of furloughs in public schools following Governor Linda Lingle's press conference of November 15, 2009 as reported in the Honolulu Advertiser on November 16, 2009.

According to his Declaration, dated April 2, 2010, attached to the motion, Takeno alleges that he does not have the identified documents in his possession; he does not have any unique knowledge about the negotiations which are the subject of the instant prohibited practice proceedings because at least one or more representatives of the Hawaii State Teachers Association (HSTA or Union) accompanied Takeno to the negotiations; and that his counsel so advised Complainant's counsel and asked that the subpoena be withdrawn so that he would not lose a workday. Takeno's counsel stated in a Declaration, dated April 2, 2010, that Complainant's counsel refused to withdraw the subpoena.

On April 6, 2010, the Board convened the hearing in this matter. After considering the record and the instant motion, the Board hereby denies Takeno's ex parte motion to revoke the subpoena duces tecum. The Board is not persuaded that the subpoena should be revoked because there may be other persons from HSTA who attended the bargaining sessions and could testify as their statements could be considered hearsay. Takeno was the chief spokesperson for the Union during the negotiations which are the subject of the instant complaint and his testimony may be relevant. The Board further notes that if Takeno is not in possession of the papers identified in the subpoena duces tecum, he can state as much at the hearing. As the hearings in this matter has been recessed, the Board orders that the subpoena duces tecum continue in effect. Complainant's counsel shall advise Takeno's counsel when to appear at the hearing before the Board.

DATED: Honolulu, Hawaii, April 21, 2010.

HAWAII LABOR RELATIONS BOARD

  
JAMES B. NICHOLSON, Chair

HAWAII STATE TEACHERS ASSOCIATION and LINDA LINGLE, et al.

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DUCES TECUM, DATED AND SERVED ON MARCH 30, 2010, FILED ON APRIL 5, 2010

  
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SARAH R. HIRAKAMI, Board Member

Copies sent to:

Herbert R. Takahashi, Esq.  
Maura M. Okamoto, Deputy Attorney General  
Robert S. Katz, Esq.