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2014 FEB 26 AM 8: 04

HAWAII LABOR  
RELATIONS BOARD

Attorney for the Complainant United Public Workers,  
AFSCME Local 646, AFL-CIO

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of )  
)  
UNITED PUBLIC WORKERS, AFSCME, )  
LOCAL 646, AFL-CIO )  
)  
Complainant, )  
)  
and )  
)  
DEPARTMENT OF ENVIRONMENTAL )  
SERVICES, REFUSE DIVISION, CITY )  
AND COUNTY OF HONOLULU, ET AL.; )  
)  
Respondents. )

CASE NO.: CE-01-789

STIPULATION TO DISMISS  
CONSOLIDATED COMPLAINT

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In the Matter of )  
)  
UNITED PUBLIC WORKERS, AFSCME, )  
LOCAL 646, AFL-CIO )  
)  
Complainant, )  
)  
and )  
)  
DEPARTMENT OF ENVIRONMENTAL )  
SERVICES, REFUSE DIVISION, CITY )  
AND COUNTY OF HONOLULU, ET AL.; )  
)  
Respondents. )

CASE NO.: CE-01-803

In the Matter of	)	CASE NO.: CE-01-807
	)	
UNITED PUBLIC WORKERS, AFSCME,	)	
LOCAL 646, AFL-CIO	)	
	)	
Complainant,	)	
	)	
and	)	
	)	
PETER CARLISLE, MAYOR OF THE	)	
CITY & COUNTY OF HONOLULU, ET AL.;	)	
	)	
Respondents.	)	

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**STIPULATION TO DISMISS CONSOLIDATED COMPLAINT**

The United Public Workers, AFSCME Local 646, AFL-CIO, hereinafter "UPW", the complainant in the above captioned consolidated prohibited practice complaints, hereinafter "consolidated complaints", by its attorney herein Charles K.Y. Khim, Esq., and the respondents in these consolidated complaints: mayor Peter Carlisle in his capacity as a HRS, chapter 89 public employer; Department of Environmental Services of the City & County of Honolulu, hereinafter "ENV", in its capacity as an agent of mayor Carlisle; James Quinoñes, in his capacity as an agent of mayor Carlisle; Rialrome Thornton, a/k/a "Boy", in his capacity as an agent of mayor Carlisle; Bert Wong, in his capacity as an agent of mayor Carlisle; Kenneth Self, in his capacity as an agent of mayor Carlisle; David Shiraishi, in his capacity as an agent of mayor Carlisle; and Timothy Houghton, in his capacity as an agent of mayor Carlisle; by their attorney deputy corporation counsel John <sup>S</sup>H. Mukai, hereby stipulate and agree to the following:

1. The averments made by the UPW in the consolidated complaints constitute valid claims that the foregoing respondents committed commission of prohibited practices within the meaning of HRS, chapter 89. If these claims are proven to be true, the foregoing respondents will be deemed to have committed prohibited practices within the meaning of HRS, chapter 89;

2. The averments made by the respondents herein in the answers and responses to the averments in the consolidated complaints constitute complete and valid defenses to the averments in the consolidated complaints. If the foregoing respondents' averments and responses to the UPW's foregoing claims and averments are proven to be true, then the foregoing respondents will be deemed not to have committed any prohibited practices which are alleged in the consolidated complaints;

3. The UPW contends that the averments in the consolidated complaints are true and if the hearing on the merits of said averments which is currently being conducted by the above entitled board continues to its completion, the UPW's averments would be found to be true and the foregoing respondents would be found to have committed the prohibited practices averred in the consolidated complaints;

4. The foregoing respondents contend that the averments in their answers and responses to the averments in the consolidated complaints are true and if the hearing on the merits of said averments which is currently being conducted by the above entitled board continues to its completion, said respondents' averments would be found to be true and the foregoing

respondents would be found not to have committed the prohibited practices averred in the consolidated complaints;

5. Effective December 31, 2013, respondent James Quinoñes has permanently resigned from his employment with respondents mayor Carlisle and ENV for the purposes of retirement, and has subsequently retired. Therefore respondent Quinoñes is not currently employed by respondents mayor Carlisle and ENV, will not be reemployed by respondents mayor Carlisle and ENV;

6. The foregoing resignation and retirement of respondent Quinoñes render the foregoing claims in the consolidated complaints moot;

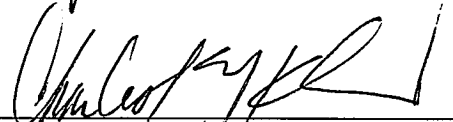
7. Since the claims in the consolidated complaints are moot, a case or controversy no longer exists in the HRS, chapter 91 contested case hearing and proceeding which is currently being conducted by the above entitled board in the above entitled case concerning the foregoing consolidated complaints;

8. Since the instant matter is moot and a case of controversy no longer exists in the instant matter prior to the completion of the foregoing hearing in the instant matter: (a) the instant matter shall be dismissed solely for being moot and the lack of a case or controversy; (b) the UPW and the foregoing respondents maintain their respective positions are valid and that they will prevail in this matter, with said positions being set forth in detail supra; and (c) since the instant matter shall be dismissed prior to the completion of the hearing of the instant matter due to the matter being moot and lacking a case or controversy,

there is no precedent established by the instant matter and res judicata or collateral estoppel is not established by the instant matter; and

9. The UPW and the foregoing respondents shall each bear their own fees and costs incurred in this matter, including but not limited to attorney's fees.

DATED: Honolulu, Hawaii, February 21, 2014.



CHARLES K.Y. KIM, ESQ.  
Attorney for Complainant UPW



JOHN S. MUKAI, ESQ.  
Deputy Corporation Counsel  
Attorney for the Respondents

THE HAWAII LABOR RELATIONS BOARD  
APPROVES THE FOREGOING AND  
THEREBY ORDERS THE SAME:

ORDER NO. 2962

DATED: February 26, 2014



JIM NICHOLSON, CHAIRMAN



ROCK B. LEY, MEMBER



SESNITA A.D. MOEONO, MEMBER