



**EFiled: Jul 17 2015 03:53PM HAST**  
**Transaction ID 57573558**  
**Case No. CE-11-848**

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

HAWAII FIRE FIGHTERS ASSOCIATION,  
IAFF, LOCAL 1463, AFL-CIO,

Complainant,

and

KIRK CALDWELL, Mayor, City and County  
of Honolulu; MANUEL P. NEVES, Fire Chief,  
Honolulu Fire Department, City and County of  
Honolulu; RONALD RICO,  
Assistant Chief of Fire Operations, Honolulu  
Fire Department, City and County of Honolulu;  
and HONOLULU FIRE DEPARTMENT, City  
and County of Honolulu,

Respondents.

CASE NO. CE-11-848

ORDER NO. 3075

ORDER GRANTING HFFA/IAFF MOTION  
TO WITHDRAW PROHIBITED PRACTICE  
COMPLAINT FILED ON SEPTEMBER 17,  
2014; and CERTIFICATE OF SERVICE

**ORDER GRANTING HFFA/IAFF MOTION TO WITHDRAW  
PROHIBITED PRACTICE COMPLAINT FILED ON SEPTEMBER 17, 2014**

On September 17, 2014, Complainant HAWAII FIRE FIGHTERS ASSOCIATION, IAFF, LOCAL 1463, AFL-CIO (herein "Complainant") filed with the Board a Prohibited Practice Complaint (herein "Complaint") against Respondents KIRK CALDWELL, MANUEL P. NEVES and RONALD RICO (herein collectively "Respondents"). Subsequent to the filing of the Complaint and before the filing of the instant motion to withdraw (herein "Motion to Withdraw")<sup>1</sup>, many proceedings came before the Board, including (i) a prehearing/settlement conference, (ii) the filing of a First Amended Prohibited Practice Complaint on November 17, 2014 (herein "First Amended Complaint"), (iii) a second prehearing conference, (iv) the filing of

<sup>1</sup> Although Complainant's Motion to Withdraw references the withdrawal of the Prohibited Practice Complaint filed on September 17, 2014, it is apparent to the Board that it is Complainant's intention to withdraw the First Amended Complaint which was filed on November 17, 2014 and superseded and replaced the Complaint filed on September 17, 2014.

Respondents' Motion to Dismiss Complaint or, In the Alternative, for Summary Judgment, (v) the filing of Complainant's Motion for Summary Judgment, and (vi) a hearing on the two motions.

On April 13, 2015, Complainant filed the Motion to Withdraw, citing Section 12-42-44 of the Board's Rules, which states in part:

**Section 12-42-44 Withdrawal.** Any complaint may be withdrawn at any time prior to the issuance of a final order thereon, upon motion and with the consent of the board. Whenever the board approves withdrawal of such complaint, the case shall be closed .

In order to withdraw a prohibited practice complaint under Section 12-42-44 of the Board's Rules, the Complainant must meet three requirements: (1) Complainant must file a motion to withdraw, (2) which must be filed prior to the issuance of a final order, and (3) obtain the consent of the Board. In this case, Complainant has met the first two of the three requirements of Section 12-42-44, and the sole issue before this Board is whether to consent to or reject Complainant's request to withdraw the prohibited practice complaint.


Respondents object to Complainant's Motion to Withdraw and contend that Complainant seeks to withdraw merely to avoid an unfavorable decision on the two motions which were heard by the Board on March 2, 2015. Respondents claim that "the Board Chair informed the parties that the Board was **inclined** to and would grant the Respondents' motion and deny the Complainant's motion and that an order to that effect would be forthcoming." (emphasis added and at pages 2 and 3 of Respondents' Memorandum in Opposition to Complainant's Motion to Withdraw dated April 17, 2015.)

It should be noted that Chair James Nicholson's statement at the March 2, 2015 hearing was a mere statement of inclination of the Board, and Respondents cannot and should not imply that the Board ruled in favor of Respondents at that time. As such, Respondents assumption of "victory" is incorrect, and the record does not reflect any ill motive related to Complainant's Motion to Withdraw.

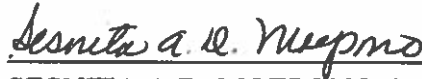
Based on a review of the record and consideration of the instant motion, the Board grants the withdrawal of the First Amended Complaint with prejudice. This class is closed.

DATED: Honolulu, Hawaii, July 17, 2015.

HAWAII LABOR RELATIONS BOARD



KERRY M. KOMATSUBARA, Chair



SESNITA A.D. MOEPONO, Member



ROCK B. LEY, Member

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