

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

JOSEPH H. CAMPOS II, Ph.D.

Complainant,

and

UNIVERSITY OF HAWAII AT MĀNOA
and ~~UNIVERSITY OF HAWAII~~
~~PROFESSIONAL ASSEMBLY,~~

Respondents.

CASE NOS. 18-CE-07-917
~~18-CU-07-362~~

ORDER NO. 3728

MINUTE ORDER DIRECTING
RESPONDENT TO SUBMIT PROPOSED
FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER IN
THIS MATTER

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PROPOSED FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER IN THIS MATTER**

On June 12, 2018, JOSEPH H. CAMPOS II, Ph.D. (Complainant or Campos), *pro se*, filed a Prohibited Practice Charge (PPC) against Respondents UNIVERSITY OF HAWAII AT MANOA (UHM) AND THE UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY (UHPA) citing violations of Hawaii Revised Statutes (HRS) §89-13, with HAWAII LABOR RELATIONS BOARD (HLRB or Board).

On June 13, 2018, the Board filed Order No. 3371, PRETRIAL ORDER AND NOTICES, et al.

On June 22, 2018 a Prehearing Conference was held in the HLRB Hearing Room; the Complainant was a self-represented litigant, UHM was represented by Elisabeth Contrades, UH Associate General Counsel, and UHPA was represented by David Sgan, Esq.

On June 22, 2018, the Board issued Notice of Rescheduled Hearing on the Merits of the Prohibited Practice Complaint and Deadlines; Pretrial Conference and Oral Arguments on Dispositive Motions.

On July 3, 2018, UHPA filed Respondent UHPA's Motion to Dismiss, or in the Alternative, for Summary Judgment.

On July 3, 2018, UHM filed Respondent University of Hawaii's Motion to Dismiss Prohibited Practice Complaint.

On July 23, 2018, a Motion Hearing was held to receive oral arguments over the Respondents UHPA Motion to Dismiss, or in the Alternative, for Summary Judgment, and the Respondent UHM's Motion to Dismiss Prohibited Practice Complaint. The Board took the Respondents' motions under advisement. The Hearing on the Merits (HOM) scheduled to begin on July 30, 2018 was taken off the calendar.

On February 1, 2019, the Board issued Order No. 3455, ORDER GRANTING IN PART RESPONDENT UNIVERSITY OF HAWAII'S MOTION TO DISMISS PROHIBITED PRACTICE COMPLAINT; AND GRANTING IN RESPONDENT UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY'S (UHPA) MOTION TO DISMISS, OR IN THE ALTERNATIVE FOR SUMMARY JUDGEMENT.

On February 11, 2019, UHPA filed Respondent UHPA's Motion to Reconsider and Amend Order No. 3455, filed February 1, 2019; Proposed Findings of Fact and Conclusions of Law.

On February 20, 2019, the Board issued Notice of Hearing on Respondent University of Hawai'i Professional Assembly's Motion to Responder and Amend Order No. 3455, filed February 1, 2019.

On April 24, 2019, the Board issued Order No. 3488, ORDER GRANTING, IN PART, AND DENYING, IN PART, RESPONDENT UHPA'S MOTION TO RECONSIDER AND AMEND ORDER NO. 34555, FILED FEBRUARY 1, 2019; AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER.

On April 24, 2019, the Board issued Order No. 3455A, AMENDED ORDER GRANTING IN PART, RESPONDENT UNIVERSITY OF HAWAII'S MOTION TO DISMISS PROHIBITED PRACTICE COMPLAINT; AND GRANTING IN PART, AND DENYING, IN PART, RESPONDENT UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY'S MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGEMENT. Order No. 3455A, *inter alia*, Grants Respondent UHPA's Motion for Summary Judgment in part, regarding the breach of the duty of fair representation and ordered "Accordingly, as all claims against Respondent UHPA have been dismissed, Board Case No. 18-CU-07-362 is hereby closed,

and Respondent UHPA is dismissed from any future proceedings in this case.” Further, Order No. 3455A, held HRS §89-13(a)(1) and (4) claims against UH in abeyance pending the exhaustion of the grievance process.

On July 25, 2019, the Board issued AMENDED PRETRIAL ORDER AND NOTICES.

On September 10, 2019, UHM filed Respondent University of Hawai`i’s Motion for Summary Judgment.

On October 16, 2019, the Board issued Order No. 3568, ORDER GRANTING COMPLAINANT’S EX PARTE MOTION TO ADVANCE MOTION TO SET ASIDE ORDER NUMBERS 3455 AND 3455a; NOTICE OF MOTION HEARING. Respondent UHPA filed Opposition to Complainant’s Motion to Set Aside Order Numbers 3455 and 3455A, *et al.*, and Respondent UHM joined in opposition to the Complainant’s Motion.

On October 17, 2019, the Hearing on the Merits (HOM) was held in Case No. 18-CE-07-917. Respondent made an oral motion for directed verdict at the conclusion of the Complainant’s Case-in-Chief for failure to carry his burden of proof.

On November 8, 2019, Respondent UHM filed Respondent University of Hawai`i’s Motion for Directed Verdict.

On November 18, 2019, Compos filed Complainant’s Response to University of Hawai`i’s Motion for Directed Verdict.

After a review of the pleadings, the exhibits, the record of HOM, and the arguments of the parties, pursuant to HRS § 91-11,ⁱ the Board enters the following order and decision.

1. The Board finds that Complainant failed to carry the burden of proof necessary to sustain the PPC filed in the above reference matter.
2. The Board Grants the November 8, 2019 Respondent University of Hawai`i’s Motion for Directed Verdict.

Hawaii Administrative Rules (HAR) § 12-42-8(g)(17)(C) provides that the “[B]oard may **direct** oral argument or the filing of briefs or **proposed findings of facts, conclusions of law, or both**, when it deems the submission of briefs or proposed findings, or both, is warranted by the nature of the proceeding or the particular issues therein” (emphases added).

Accordingly, this minute order directs the Respondent University of Hawai`i at Manoa to submit to the Board proposed findings of fact, conclusions of law, and decision and order, incorporating the Board’s oral rulings in this matter and providing findings of fact and conclusions of law pertinent to the Board’s oral rulings. The Respondent shall submit the proposed findings

of fact, conclusions of law, and decision and order to the Board with copy to Complainant no later than **the close of business at 4:30 pm on Monday, May 10, 2021.**

The Board further notifies the parties that after May 10, 2021, the Board will issue its own Proposed Findings of Fact, Conclusions of Law, and Decision and Order which may or may not incorporate all, some, or none of Respondent's submission. However, following the Board's issuance, any party adversely affected will thereafter be given the opportunity to file exceptions thereto and to present argument to the Board, in accordance with the provisions of HRS § 91-11.

DATED: Honolulu, Hawai'i, _____ March 30, 2021 _____.

HAWAI'I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEPONO, Member

J N. MUSTO, Member

Copies sent to:

Joseph H. Campos II, Ph.D., *pro se*

Elisabeth A. K. Contrades, Esq.

ⁱ HRS § 91-11 states:

§91-11 **Examination of evidence by agency.** Whenever in a contested case the officials of the agency who are to render the final decision have not heard and examined all of the evidence, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision containing a statement of reasons and including determination of each issue of fact or law necessary to the proposed decision has been served upon the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials who are to render the decision, who shall personally consider the whole record or such portions thereof as may be cited by the parties.