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Case No. 22-CU-01-387

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

PATRICK ISHIDA,

Complainant(s),

and

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO; ~~and AMERICAN
FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES,~~

Respondent(s).

CASE NO(S). 22-CU-01-387

ORDER NO. 3886

ORDER GRANTING RESPONDENTS'
MOTION TO REVOKE SUBPOENAS TO
APPEAR [WITNESSES: KALANI
WERNER, DARRELL WILCOX, JUNIOR
MOANANU]

**ORDER GRANTING RESPONDENTS' MOTION TO REVOKE SUBPOENAS TO
APPEAR [WITNESSES: KALANI WERNER, DARRELL WILCOX, JUNIOR MOANANU]**

Complainant PATRICK ISHIDA (Complainant or Mr. Ishida) filed an Application for Issuance of Subpoenas (Application) with the Hawai'i Labor Relations Board (Board), applying for subpoenas for, among others, Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO's (UPW or Union) State Director, Kalani Werner (Mr. Werner), the President of UPW's State Executive Board, Darrell Wilcox (Mr. Wilcox), and the Secretary/Treasurer of UPW's State Executive Board, Junior Moananu (Mr. Moananu).

The Board issued those subpoenas, and UPW filed a Motion to Revoke the subpoenas issued to Mr. Werner, Mr. Wilcox, and Mr. Moananu based on, among other things, the fact that these three individuals were not in their current positions when the events in this case took place.

Mr. Ishida objected to UPW's Motion to Revoke and brought up certain sections of the UPW Constitution and the American Federation of State, County and Municipal Employees' (AFSCME) Financial Standards Code. Mr. Ishida raised questions regarding, among other things, who bears the responsibility for responding to this case if Mr. Werner, Mr. Wilcox, and Mr. Moananu are not responsible and issues of written authorization for UPW's attorneys.

The Board's administrative rules, Hawai'i Administrative Rules § 12-42-8(g)(7)(D)(i) provides that the Board, "may revoke a subpoena on the ground that the subpoena does not reasonably relate to any matter under investigation, inquiry or hearing; that the subpoena does not describe with sufficient particularity the evidence or that the evidence sought from the witness is privileged under the law or the provisions of this chapter."


The Board has no jurisdiction over UPW's or AFSCME's constitutions. *See Leslie v. UPW*, Board Case Nos. 20-CU-10-381; 20-CE-10-943; and 20-CU-10-382, Order No. 3773, at *6 (July 6, 2021) (<http://labor.hawaii.gov/hlrb/files/2021/07/Order-No.-3773.pdf>) citing Hawai'i Revised Statutes § 89-5. Similarly, the Board has no jurisdiction over AFSCME's Financial Standards Code. Therefore, the Board dismisses Mr. Ishida's arguments related to those documents.

Previously in this case, UPW filed a Notice of Appearance of Counsel, designating Koshiba & Price, AAL, ALC as its attorneys. The Board accepted this Notice of Appearance of Counsel and accepts that UPW has given authorization to Koshiba & Price, AAL, ALC to act on their behalf.


The Board has previously accepted the principal that when a public officer is a party to an action in an official capacity and ceases to hold office, the officer's successor is automatically substituted as a party. *Salera v. Yokoyama*, Board Case No. 20-CE-01-952, Order No. 3732, at *1-2, (April 7, 2021) (<http://labor.hawaii.gov/hlrb/files/2021/06/Order-No.-3732.pdf>). Therefore, to the extent that Mr. Werner, Mr. Wilcox, and Mr. Moananu are now responsible for UPW, they are responsible for this case in their official capacity for the Union.

However, this responsibility does not impart knowledge on the individuals. There is no dispute that Mr. Werner, Mr. Wilcox, and Mr. Moananu were not in office or responsible for UPW when Mr. Ishida was terminated, when Mr. Ishida's grievance was processed, or when UPW made the decision not to take Mr. Ishida's grievance to arbitration.

Accordingly, Mr. Werner, Mr. Wilcox, and Mr. Moananu have no personal knowledge of any relevant facts in this case. Therefore, their testimony would not reasonably relate to any matter in this case. Therefore, the Board grants the Motion to Revoke the subpoenas to Mr. Werner, Mr. Wilcox, and Mr. Moananu.

DATE: August 23, 2022
HAWAII LABOR RELATIONS BOARD


MARCUS R. OSHIRO, Chair



EXCUSED

SESNITA A.D. MOEPONO, Member

A handwritten signature in black ink, appearing to read "J. N. Musto", written over a horizontal line.

J. N. MUSTO, Member

Copies sent to:

Gary Rodrigues, Representative for Complainant
Jonathan Spiker, Esq.

ISHIDA v. UPW

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[WITNESSES: KALANI WERNER, DARRELL WILCOX, JUNIOR MOANANU]

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