

STATE OF HAWAII HAWAII LABOR RELATIONS BOARD

Princess Keelikolani Building, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813 HLRB-4 PROHIBITED PRACTICE COMPLAINT

Case No. <u>C6_07_714</u>

File the original and five copies of this Complaint, by U.S. Mail or in person, with the Hawaii Labor Relations Board, Princess Keelikolani Building, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board
proceed pursuant to Hawaii Revised Statutes Sections 89-13 and 89-14, and its Administrative Rules, to determine
whether there has been any violation of the Hawaii Revised Statutes, Chapter 89.

2. Complainant

(a) Name, address and telephone number.	200
UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY	RE S
J.N. Musto, Ph.D, Executive Director	
1017 Palm Drive	## 1
Honolulu, Hawaii 96814	2= -
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	B001
(808) 593-2157	ARD ARD
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(b) Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

T. Anthony Gill, Esq. Gill & Zukeran, Attorneys 707 Richards Street #100 Honolulu, Hawaii 96813

(808) 523-6777

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3. I	Respondent (Public Employer and/or Employee Organization or its A	aents A	gainst Whom Con	nplaint is Filed

(a) Name, address and telephone number. UNIVERSITY OF HAWAII

Dr. David McClain, President

Bachman Hall 202

2444 Dole Street

Honolulu, HI 96822

(808) 956-8207

(b) Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed. Darolyn Lendio, VP for Legal Affairs and General Counsel

Bachman Hall 110

2444 Dole Street

Honolulu, HI 96822

(808) 956-9901

4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

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5. Allegations

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of the Hawaii Revised Statutes, Section 89-13. (Specify in detail the particular alleged violation, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

The UHPA-UH 2003-2009 Agreement provides, in its Article XXX, Duration, that the Agreement shall "remain in effect to and including June 30, 2009. During the term of this Agreement, the parties, each on the call of the other, shall meet to bargain in good faith on matters covered herein. In the event that agreement cannot be reached on these matters, the current language of the Agreement shall continue in force and effect and Article XIX, No Strike or Lockout, shall control the actions of the parties." The parties have met since Fall, 2008, but agreement has not been reached on any matters. Accordingly, all contractual provisions "shall continue in force and effect."

On June 9, pursuant to contract, the UHPA lodged a class grievance with the President of the UH, asking him to concur that the Agreement would continue in force and effect as of July 1, 2009, pending negotiation of a new contract. On June 24, the UHPA and the President timely met to discuss the grievance. On June 30, the President informed the Executive Director of UHPA that the UH denied the class grievance. UHPA has requested arbitration. The matter is ripe for arbitration. The parties have agreed to arbitrate. An arbitrator has not yet been selected. At time of filing, the parties are cooperating to move the grievance to expedited arbitration.

The employer has abandoned a properly negotiated, properly ratified, ongoing contract, contrary to its direct and plain meaning, and is thus in violation of the Duration Article and the entire Agreement. This constitutes a prohibited practice under §89-13(a)(8) HRS.

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o. Provide a clear and concise statement or any other rele	vant racts.
but not limited to: EUTF contributions, which are maintained which are maintained by the existing Agreement at the exist Agreement under traditional retrenchment language. The foremployees.	alter terms and conditions of employment in Unit 7, including a by the existing Agreement at the highest going rate; wages, ting rate; or layoffs, which are regulated by the existing pregoing acts will constitute irreparable injury to Unit 7
The Board may retain jurisdiction or defer to arbitration account 377.	ording to principles in, inter alia, Decisions 22, 62, 73, and
Complainant seeks: a) the Board's deferral to arbitration and in force and effect pending arbitration and subsequent procedumediate interlocutory order to maintain the Agreement in Board, and a ruling by the Board that the Agreement remains	d an immediate interlocutory order to maintain the Agreement eedings; or, if the Board declines to defer to arbitration, b) an force and effect pending resolution of this complaint by the as in force and effect per its terms.
Respondent declines to stipulate to such interlocutory relief.	
consisting of this andadditional pag	oath, deposes and says: that is e, and that has read the above Petitio e(s), and is familiar with the facts alleged therein, which facts those matters alleged on information and belief, which matter
	(Signature)
	Attorney for the Complainant U.H.P.A. (Title)
Subscribed and sworn to before me	
Notary Public,First Circuit State of Hawaii	TOT-345
My Commission expires: 7-22-2011	Minimum.

SEE ATTACHED NOTARY CERTIFICATION

Visit our Website at www.hawaii.gov/labor for ALL interactive and downloadable forms.

NOTARY CERTIFICATION

Doc. Date: undated at time of	notarization # Pages: 4
Name: Joanne Kai	1 st Circuit
Doc. Description: HLRB-4 I	Prohibited Practice
Complaint	
Dunela	July 1, 2009
Signature	Date

