

CAMPAIGN SPENDING COMMISSION

STATE OF HAWAII

In Re the Matter of)	CA 07-05
)	
Richard Nakao)	
)	
Respondent)	
_____)	

CONCILIATION AGREEMENT

On or around November 2006, Barbara U. Wong, Executive Director for the Campaign Spending Commission ("Commission"), initiated an investigation of Richard Nakao ("Respondent"). The investigation was initiated pursuant to the express authority of section 11-193(a)(7), Hawaii Revised Statutes ("HRS"), for a determination of whether the Hawaii campaign spending laws had been violated and a complaint would be submitted to the Commission.

NOW, THEREFORE, Respondent and the Commission, having entered into conciliation and pursuant to section 11-216(g), HRS, do hereby agree as follows:

- I. That the Commission has jurisdiction over Respondent and the subject matter of this administrative action.
- II. That this Conciliation Agreement ("Agreement"), upon complete performance of the conditions stated herein has the effect of remedial or corrective action taken by Respondent pursuant to section 11-216(g), HRS.
- III. That Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

- IV. That Respondent waives the right to be heard at a public hearing conducted under chapter 91, HRS, pursuant to section 11-228(b), HRS.
- V. That Respondent having voluntarily and fully cooperated with this investigation desires to resolve any further administrative proceedings and potential litigation by entering into this Agreement with the Commission on his own volition and with full knowledge and understanding.
- VI. That parties agree to the pertinent facts as follows:
 1. On or around November 2006, Barbara U. Wong, Executive Director for the Commission, initiated an investigation of the Respondent.
 2. The Friends of Stacy Higa ("Committee") is the candidate committee for Stacy Higa, a candidate for a two-year office.
 4. The Committee reported receiving a \$1,000 contribution from Respondent on August 28, 2005 and a \$1,500 contribution on August 30, 2006.
 5. Section 11-204, Hawaii Revised Statutes, reads in part as follows:

“(a)(1) No person or any other entity shall make contributions to:

..... A candidate seeking nomination or election to a two-year office or to the candidate’s committee in an

aggregate amount greater than \$2,000 during an election period...”

6. The relevant election period for the Committee is from November 3, 2004 through November 7, 2006.
7. Respondent’s contributions to the Committee aggregated \$2,500 during the election period, an excess contribution of \$500 in violation of section 11-204(a), HRS.
8. Respondent did not knowingly, intentionally, or recklessly take actions in alleged violation of section 11-204(b), HRS.
9. Section 11-204(e), HRS, reads as follows:

“Any candidate, candidate's committee, or committee that receives in the aggregate more than the applicable limits set forth in this section in any primary, initial special, special, or general election from a person, shall be required to return any excess contribution to the original donor within thirty days of receipt of the excess contribution. Any excess contribution not returned to the original donor within thirty days shall escheat to the Hawaii election campaign fund. ..”
10. A \$500 excess contribution, dated August 30, 2006, to the Committee was not returned within thirty days after the contribution was received.

VII. Settlement Terms

1. As final settlement of the matter and issues in this Conciliation Agreement #07-05, Respondent agrees to an assessment of Two Hundred Dollars (\$200) pursuant to section 11-228, HRS.
2. Terms of payment of the assessment shall be by Order of the Commission.
3. Respondent agrees to comply with Hawaii laws on contributions and expenditures.
4. Respondent acknowledges that its excess contribution of \$500 to Committee shall escheat to the Hawaii election campaign fund.
5. It is understood that Respondent's entering into this Conciliation Agreement is intended to remedy or correct the alleged violation, but it is not an admission of liability.

VIII. The Commission upon its own motion or a written request of anyone filing a complaint under section 11-216, HRS, may review compliance with the Agreement. If the Commission believes that the Agreement has been violated, it may institute administrative proceedings or a civil action in the Circuit Court of the First Circuit pursuant to section 11-228(c), HRS.

- IX. This Agreement shall become effective as of the date that all parties have signed and the Commission has approved the entire Agreement.
- X. This Agreement constitutes the entire agreement between the Commission and Respondent on the matters raised herein, and no other statement, promise, or agreement, either in writing or oral, not contained in this Agreement made by either party or by agents of either party shall be enforceable.
- XI. This Agreement, unless violated, shall be a complete bar to any further action by the Commission with respect to the violations at issue in this matter and any and all other matters covered by this Agreement.

FOR THE COMMISSION:

Barbara Wong, Executive Director

Date: _____

FOR THE RESPONDENT:

Richard Nakao

By: _____

Its: _____

Date: _____