

CAMPAIGN SPENDING COMMISSION

STATE OF HAWAII

In Re the Matter of) CA 08-02
)
Jay Kimura)
Friends of Jay Kimura)
)
)
Respondents)
_____)

CONCILIATION AGREEMENT

On or around August 2008, Barbara U. Wong, Executive Director for the Campaign Spending Commission ("Commission"), initiated an investigation of Jay Kimura and Friends of Jay Kimura ("Respondents") upon self-reporting by Respondents. 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, Respondents 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 Respondents 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 Respondents pursuant to section 11-216(g), HRS.
- III. That Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- IV. That Respondents waive the right to be heard at a public hearing conducted under chapter 91, HRS, pursuant to section 11-228(b), HRS.
- V. That Respondents 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 its own volition and with full knowledge and understanding.

VI. That parties agree to the pertinent facts as follows:

1. On or around August 2008, Barbara U. Wong, Executive Director for the Commission, initiated an investigation of the Respondents.
2. Respondent Friends for Jay Kimura is the candidate committee for Respondent Jay Kimura, the Hawaii Prosecuting Attorney.
3. Section 11-200(b), HRS, provides in part as follows:

“(b) Any provision of law to the contrary notwithstanding, a candidate, campaign treasurer, or candidate’s committee, as a contribution:

....

(3) May make contributions from its campaign fund to any community service, educational, youth, recreational, charitable, scientific, or literary organization; provided that in any election cycle, the total amount of all contributions from campaign funds and surplus funds shall be no more than the maximum amount that one person or other entity may contribute to that candidate pursuant to section 11-204(a); provided further that no contributions from campaign funds shall be made from the date the candidate files nomination papers to the date of the general election.”
4. Mr. Kimura filed nomination papers on April 23, 2008 to be a candidate for the office of Hawaii Prosecuting Attorney.
5. Mr. Grant Togashi (Treasurer for the Friends of Jay Kimura) sent a letter, dated July 30, 2008, to the Commission self-reporting \$1,000 in donations to community groups. He wrote that on June 30, 2008, Respondents contributed \$500 to the Children's Justice Center – East Hawaii; and \$500 to the Children's Justice Center – West Hawaii. These programs are established and administered by the Judiciary to aid children who are victims of or witnesses to child sexual abuse.

6. Respondents contributed \$1,000 in campaign funds to community groups during the period in which contributions were prohibited pursuant to section 11-200(b)(3), HRS.
7. Respondents did not knowingly, intentionally, or recklessly violate section 11-200(b) (3), HRS.

VII. Settlement Terms

1. As final settlement of the matter and issues in this Conciliation Agreement #08-02, Respondents agrees to an assessment of \$260 pursuant to section 11-228, HRS.
2. Terms of payment of the assessment shall be by Order of the Commission.
3. Respondents agree to comply with Hawaii laws on contributions and expenditures.
4. It is understood that Respondents 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 Respondents 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 RESPONDENTS:

Jay Kimura

By: _____

Date: _____

Friends of Jay Kimura

By: _____

Its: _____

Date: _____