



HAWAII
STATE
ETHICS
COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

NEWS RELEASE

FOR IMMEDIATE RELEASE

June 7, 2006

2006-4

For Additional Information

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Today, the Hawaii State Ethics Commission issued, with regard to Charge No. 05-Cg-3 filed against Senator Kanno by the Hawaii State Ethics Commission, a “Sua Sponte Order To Dismiss Charge No. 05-Cg-3 Without Prejudice.” A copy of the Order is attached.

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S.E.C. No. 05-Cg-3

BEFORE THE HAWAII STATE ETHICS COMMISSION
STATE OF HAWAII

HAWAII STATE ETHICS COMMISSION,)	Charge No. 05-Cg-3
)	
Complainant,)	SUA SPONTE ORDER
)	TO DISMISS CHARGE
vs.)	NO. 05-Cg-3
)	WITHOUT PREJUDICE;
BRIAN KANNO,)	EXHIBIT A
)	
Respondent.)	
)	

SUA SPONTE ORDER TO DISMISS
CHARGE NO. 05-Cg-3 WITHOUT PREJUDICE

The Hawaii State Ethics Commission, upon its own motion, and for the reasons set forth below, issues this Order To Dismiss Charge No. 05-Cg-3 against Senator Brian M. Kanno without prejudice.

RECITALS

WHEREAS, the Hawaii State Ethics Commission filed Charge No. 05-Cg-3 against Senator Brian M. Kanno ("Senator Kanno") on September 20, 2005, alleging that Senator Kanno had violated Hawaii Revised Statutes ("HRS") section 84-13 of the State Ethics Code, which is set forth in chapter 84, HRS; and

WHEREAS, Senator Kanno, on November 28, 2005, filed with the Hawaii State Ethics Commission an Answer to Charge No. 05-Cg-3, together with a Motion to Dismiss, denying, among other things, that he had violated HRS section 84-13; and

WHEREAS, the Hawaii State Ethics Commission issued an Order denying Senator Kanno's November 28, 2005, Motion to Dismiss on March 8, 2006; and

WHEREAS, on March 8, 2006, the Hawaii State Ethics Commission, in accordance with HRS section 84-31, issued a "Charge and Further Statement of Alleged Violation" against Senator Kanno; and

WHEREAS, the "Charge and Further Statement of Alleged Violation" was issued by the Hawaii State Ethics Commission, in accordance with HRS section 84-31, based on a determination by the Hawaii State Ethics Commission that there was probable cause for belief that Senator Kanno might have violated HRS section 84-13 of the State Ethics Code; and

WHEREAS, Senator Kanno, on April 12, 2006, filed with the Hawaii State Ethics Commission an Answer to the "Charge and Further Statement of Alleged Violation" denying, among other things, that he had violated HRS section 84-13; and

WHEREAS, on April 19, 2006, the Hawaii State Ethics Commission, in accordance with HRS section 84-31, after reviewing Senator Kanno's Answer to the "Charge and Further Statement of Alleged Violation," concluded that there was probable cause to believe that a violation of HRS section 84-13 had been committed by Senator Kanno; and

WHEREAS, the Hawaii State Ethics Commission, in accordance with HRS section 84-31, on April 19, 2006, issued to Senator Kanno a "Notice of Formal Hearing," informing Senator Kanno that a public, formal, contested-case hearing would be held on June 7, 2006, in order to determine whether Senator Kanno had in fact violated HRS section 84-13; and

WHEREAS, on May 4, 2006, Senator Kanno publically announced on the floor of the State Senate of the Legislature of the State of Hawaii that he would not seek re-election this year to his Senate seat; and

WHEREAS, in announcing his decision on the Senate floor on May 4, 2006, not to seek re-election to his Senate seat this year, Senator Kanno stated that his decision was based on his desire to complete a master's degree in social work and to spend more time with his family. (See Honolulu Advertiser article, "Kanno won't seek re-election to Senate," May 5, 2006, B-4, attached as Exhibit A); and

WHEREAS, HRS section 84-32(a) provides that if the Hawaii State Ethics Commission, after due hearings, determines that a state legislator is found to have violated the State Ethics Code, the Hawaii State Ethics Commission is to forward its findings to the appropriate House of the State Legislature for consideration

by the appropriate House of the State Legislature of disciplinary action, if any, to be taken against the legislator; and

WHEREAS, HRS section 84-32(a) provides that the appropriate House of the State Legislature may consider disciplinary action against a legislator for a violation of the State Ethics Code only when the State Legislature is in session; and

WHEREAS, the State Legislature at the date of this Order is not in session; and

WHEREAS, HRS section 84-32(c) provides that if the Hawaii State Ethics Commission determines, after due hearings, that a former state legislator has violated the State Ethics Code, the Hawaii State Ethics Commission shall "refer the matter" to the Attorney General of the State of Hawaii, who "may exercise whatever legal or equitable remedies" are available to the State regarding the violation of the State Ethics Code; and

WHEREAS, HRS section 84-19(b) provides that the State by the Attorney General may recover any fee, compensation, gift, or profit received by any person as a result of a violation of the State Ethics Code by a state legislator or former state legislator; and

WHEREAS, the Hawaii State Ethics Commission believes that if, after due hearings, the Hawaii State Ethics Commission were to find that Senator Kanno had in fact violated the State Ethics

Code as alleged in this case, there is no apparent legal or equitable remedy to be exercised by the Office of the Attorney General, due to the nature of the allegation in this case; and

WHEREAS, in accordance with HRS sections 84-32(a) and 84-32(c), as a former state legislator, Senator Kanno could not be subject to any disciplinary action by the State Senate for a violation of the State Ethics Code, if the Hawaii State Ethics Commission were, after due hearings, to find a violation of the State Ethics Code by Senator Kanno; and

WHEREAS, the Hawaii State Ethics Commission has no legal authority itself to sanction a current or former state legislator if it determines, after due hearings, that the State Ethics Code has been violated by a current or former state legislator; and

WHEREAS, the Hawaii State Ethics Commission believes that there is no legal or equitable remedy that could be pursued by the Attorney General, or disciplinary action that could be considered or undertaken by the State Senate if Senator Kanno were to be found, after due hearings, to have violated the State Ethics Code; and

WHEREAS, the Hawaii State Ethics Commission believes that, under these circumstances, which have arisen out of Senator Kanno's decision not to seek re-election to his Senate seat this year, it is an unwise and imprudent use of taxpayer resources and

taxpayer dollars to pursue this case to and through a formal, contested-case hearing, where no remedy for a violation of the State Ethics Code appears to exist, should the Hawaii State Ethics Commission find that Senator Kanno, after due hearings, had violated HRS section 84-13, as alleged in Charge No. 05-Cg-3; now therefore,

THE HAWAII STATE ETHICS COMMISSION HEREBY ORDERS that Charge No. 05-Cg-3 issued by the Hawaii State Ethics Commission against Senator Kanno be and is hereby dismissed without prejudice.

Dated: Honolulu, Hawaii, June 7, 2006.

HAWAII STATE ETHICS COMMISSION



Dawn Suyenaga, Chairperson



Carl Morton, M.D., Vice Chairperson

EXCUSED

Nadine Y. Ando, Commissioner



Robert R. Bean, Commissioner



Maria J. Sullivan, Commissioner

Kanno won't seek re-election to Senate

BY DERRICK DePLEDGE
Advertiser Government Writer

State Sen. Brian Kanno, the chairman of the Senate Labor Committee and one of the most consistent allies of organized labor, told his colleagues yesterday that he would not run for re-election this year.

Kanno, D-19th (Kapolei, Makakilo, Waikale), said he will complete a master's degree in social work from the University of Hawai'i-Mānoa this year and would seek a job in the field. He now works part time at Child & Family Service, a human services group.

In a speech on the Senate floor on the last day of session, Kanno thanked those who backed him during his 14 years in the Senate



Kanno

but said he wanted to put his family first. He especially recognized his wife, Lorrie, who was in the gallery.

Kanno said he lost his father, who was a union electrician, and his mother-in-law within the past few years and realized that life was short. "After much deliberation with my wife, the decision I made was about putting my family first," he said.

Kanno was first elected in 1992 and has chaired or co-chaired the agriculture, consumer protection and judiciary committees.

Considered among the most reliable supporters of organized labor at the state Legislature, he said he has tried to help businesses make the transition from sugar and pineapple plantations while protecting worker rights.

Kanno mentioned his work this session on a bill that would temporarily lower the amount businesses pay into the unemployment insurance fund and extend unemployment benefits to workers from 26 weeks to 30 weeks, the highest in the nation.

"For me, he's going to be sorely missed," said state Senate President Robert Bunda, D-22nd (North Shore, Waiahā), who has counted on Kanno in Senate leadership struggles. "He is a once-in-a-lifetime kind of senator."

Kanno's departure could affect Senate leadership because he was among the faction that has kept Bunda in power.

The Hawai'i State Ethics Commission has charged Kanno with violating state law for trying to coerce Norwegian Cruise Line into rehiring or paying restitution to a cabin steward fired in 2004 for sexual harassment.

A contested-case hearing is scheduled for June. If the commission upholds the charge, it would be referred to the Senate president for review and any potential punishment, including censure, suspension or expulsion. It is unlikely that the Senate

would take any action against Kanno as he is leaving office.

Kanno has declined to comment on the ethics charge and did not refer to it as a factor in his decision not to run for re-election. Republicans, and some Democrats, had considered Kanno vulnerable this year because of the ethics case.

Mike Gabbard, a former Honolulu City Council member, announced in March that he would run in the Republican primary in Senate District 19.

Reach Derrick DePledge at ddepledge@honoluluadvertiser.com or 525-8070.

EXHIBIT A

Honolulu Advertiser
May 5, 2006 B-4

A FAREWELL TO 7

The Legislature yesterday bid farewell to several members who have decided not to seek re-election.

In the House: Rep. Dennis Arakaki, D-30th (Moanalua, Kalihi Valley, 'Ālewa), Rep. Helene Hale D-4th (Puna), Rep. Ezra Kanoho, D-15th (Lihū'e, Kōloa), Rep. Brian Schatz, D-25th (Makiki, Tantalus), and Rep. William "Bud" Stonebraker R-17th (Hawai'i Kai, Kalama Valley).

In the Senate: Sen. Bob Hogue, R-24th (Kailua, Kāne'ohe), and Sen. Brian Kanno, D-19th (Kapolei, Makakilo, Waikale).

Schatz and Hogue are giving up their seats to run for the congressional seat being vacated by U.S. Rep. Ed Case.