

HAWAI'I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

November 10, 2004 ~ 10:09 a.m.

King Kamehameha's Kona Beach Hotel-Ohana Room
75-5660 Palani Road, Kailua-Kona, Hawai'i

Present: Leroy Victorine, Chairman
Sharon Cislo, Vice Chairman
Reeve Williams
Kerry Inouye
Patricia K. O'Toole, Deputy Corporation Counsel
Paulette Cainglit, Secretary

Paul deSilva, Petitioner
Joseph K. Kamelamela, Deputy Corporation Counsel
Dwight Manago, Respondent

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CHAIR: The meeting of the County Ethics Board shall come to order. And for the record, the time is 10:09 a.m.

SC: Mr. Chair, may I make a motion to amend the agenda adding communication 2004-25 under No. 4 Communications on the agenda.

CHAIR: It's been moved to amend the agenda to add a memo from Lincoln Ashida, Communication No. 2004-25 to the agenda. Do I hear a second?

KI: Second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: The agenda is amended. Are there any statements from the public at this time? [None] There being none, we move on to the approval of minutes. The minutes of the September 8th meeting Regular Session and Executive Session have been circulated.

SC: I make a motion to accept and file the minutes of the Regular and the Executive Sessions, September 8, Board of Ethics meeting minutes.

RW: And I second that.

CHAIR: It has been seconded...any opposition? All in favor say aye.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: It is passed. Communications. Communication 2004-23 is a letter from Mr. Gimpel to...is a letter from the Mayor to Mr. Gimpel, accepting his resignation. Is there a motion?

SC: I make a motion to accept and file Communication No. 2004-23.

KI: Second.

CHAIR: It's moved and seconded. All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: It is passed. 2004-24 is a training notice from the Corporation Counsel, Lincoln Ashida, to all Departments and Agencies, Hawai'i County Council and Office of the Mayor relative to the Sunshine Law Training due to commence on December 1st. Do I hear a motion?

RW: I move to accept and file.

SC: Second.

CHAIR: It's moved and seconded that we accept and file 2004-24. All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: That passes. 2004-25 was added on as a Communication which is a letter from Lincoln Ashida encouraging County Board and Commission members to attend the Office of Information Practices on the Sunshine Law Training on December 1st. Do I have a motion?

SC: So moved.

RW: Second.

CHAIR: It's moved and seconded that we accept and file Communication 2004-25. All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: That is passed. Okay. We now move to New Business. New Business is the Petition 2004-02. Mr. Paul deSilva and Mr. Dwight Manago, requesting an informal advisory opinion regarding violation of the County Code of Ethics. Mr. deSilva.

Petitioner: Do you want me to sit here?

CHAIR: Yes please. And everybody, we want to remind everybody that we're recorded, so please speak clearly and slowly.

Petitioner: Okay. Good morning, Mr. Chairman, good morning Commissioner. My name is Paul deSilva and by way of introduction ... may I ask first Mr. Chairman, how much time I have...as much as I want?

CHAIR: The day is yours.

Petitioner: That's dangerous if you're actually _____ .

CHAIR: Okay. Right now Mr. deSilva is going to speak and anybody who speaks, would you please identify yourself prior to speaking, Mr. Kamelamela and Mr. Manago and anybody else who's going to speak.

PKO: I'm just saying that for the record, to say that Mr. Kamelamela is present and Mr. Manago is present from the beginning and then Mr. deSilva would have the floor.

CHAIR: Okay, as the announcement says, Mr. Manago is present. Would you like to sit up with your attorney. And Mr. Kamelamela, representing Mr. Manago, is also present. And before we begin, for the record...distribute these items brought [deSilva's Exhibit]. Mr. Kamelamela do you have a copy?

Kamelamela: Yes I do.

CHAIR: Mr. Manago?

Manago: He [Mr. Kamelamela] has one.

CHAIR: Thank you.

Petitioner: Thank you Mr. Chairman. By way of introduction, I know all of you might not know me. My name is Paul deSilva and unfortunately, by next month I'm going to be seventy. By way of experience, I went to Hilo High School and graduated from Hilo High School in 1952. Then the University of Hawai'i, I got out of there in 1958 with a teacher's certificate. I taught school for eight years...public school, and with three children and my wife and no money, I went to the mainland and my wife took care of the children and I supported my family and earned a law degree. After doing that, I returned back to Hilo and I became employed by the County Attorneys Office. My first job was _____ the Ethics Commission...the Board of Ethics rather. In fact, I must confess, I really didn't know much about what I was doing, unlike your present counsel. After working for _____ a couple of years, I got activated and sent overseas along with Police Commissioner Horace Hara and Police Commissioner Pete Mueller who also went to Korea to serve that time then came back to Hilo. Then when I came back they tried to split the County Attorneys Office and the Prosecutors side and the Corporation Counsel side. I went with the Prosecuting Attorney's side. I stayed there for a few years, and I was elected Prosecutor twice. After that...in mid-term, I was appointed by the Chief Justice of District Court of the Third Circuit in Hilo. And then I was elevated later to the Circuit Court. I retired from there in 1988, then I practiced law for six years. _____ till I joined the Police Commission in January of 2003. I resigned from the Police Commission this year...I think it was in July or August...but sure. I want to say just by way of background that I resigned from the Police Commission for the number of reasons. Some of the reasons are personal reasons, and other reasons are that I became very frustrated with the Police Commission and I found that I was not handling my own personal frustrations very well, so I thought it would be best for everyone if I resigned. Still I have an interest in civilian review of law enforcement. In fact, it has become my hobby. And I not prefer to be a watch dog over the Police Commission, rather than f watch dog over the Police. I want to say before I try to give my analysis of what happened here exactly. I have a great deal of personal respect for Mr. Manago. I think he was a good commissioner. I think that _____ Mr. Hara, Deputy Chief Kubojiri and _____, for the most part, I agree with. I think Mr. Manago is a decent man; comes from a good and honorable family that has made long term contributions to this community; he's a gentleman; he's intelligent; he's a good _____ man; he's a good family man; a good father; and I think he's also a member of a church, _____ too, what I understand. So I

have admiration for Mr. Manago. And above any admiration for any particular individual in government, I have a passion for the rule of law, rather than the rule of men. I really believe that to operate a democracy in this County and anywhere else, we must make sure that every Commissioner or anyone who has accepted any government responsibility, must make sure that they understand what the law asks them to do. And before loyalty to any community group, any community interests, any government organization, an individual who accepted that role must be loyal to the Charter that creates the organization that he serves. In this case, what the evidence shows you...and Mr. Manago isn't here because I question that he is or isn't a good man. I don't question whether he is or isn't a good Commissioner. All I'm saying, is that in the instances involved here, Mr. Manago violated the County Charter when he appeared before the Mayor and when he appeared before the County Council without any authority from the Police Commission to do so. Mr. Manago worked very hard with the Police trying to understand their recommendations. And he presented his own recommendations to the Mayor and the Council as his own. And I'd like you to please look at the Exhibit that I have...it would be that Section 2 of the Statute on powers and duties of commissions. If you look at the Section i) at the bottom of the page...it says:

"The affirmative vote of a majority of the entire membership to which a board or commission is entitled shall be necessary to make any action valid."

I now refer you to the First Exhibit which is a copy of the County Charter. If you would look at subsection 2. This section says that it's the power and duty of the police commission, to review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor and managing director.

Now, _____ of examining the police budget, he never presented his recommendation to the Police Commission. And I have searched the minutes, and unless I can't find something that's there...and I attended every meeting, I never missed a meeting, I don't remember the Commission ever voting to authorize Mr. Manago to go and meet with the Mayor and make recommendations. Now, before those recommendations were presented, each of us who were commissioners at the time, had the right to examine those recommendations, and we would disagree or agree or make modifications and so forth. Now, Mr. Manago, went to the Mayor, and if he did _____ as he did before the counsel, he was deceptive. Now, these things that I'm talking

about before you are not ethical violations, they're background to the ethical violation. Now, to be absolutely clear that when Mr. Manago went to meet with Mayor Kim, he had no authority from the Commission to do so because there was simply no vote. Now, furthermore, Mr. Manago felt...and I don't question Mr. Manago's intentions, I think he had very good intentions. What Mr. Manago doesn't understand is his role as a Police Commissioner and his obligation to follow the law. That's all that I'm saying, I'm not questioning his character. In this situation, Mr. Manago stated to me, the night before he went to the Council, over the telephone, that he was going to make these recommendations to the...I think it was the Finance Committee of the Council. And he was going to make this recommendation. I told him over the telephone that I didn't think it was our role to make recommendations to the County Council. Now, I would like to refer you back to Exhibit Number 1, which is the Charter. Looking to subsection 2 says that it is the power...this section defines the powers and duties of the Commission. I'm sure there are sections that apply to you. You're a commission also. If you look at number 2...number 2 says that we have the power and duty to review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor and managing director. Do you notice that it says nothing about making recommendations to the chief of police. And do you also notice, that it doesn't say anything about making recommendations to the Council. So, this is what led me to file this Ethics Complaint, because after I retired...let me show an Exhibit first...another Exhibit first. Would you please look at Exhibit number 5 please. Mr. Manago, in his normally conscientious manner, which is good, brought out the idea that we should start studying the budget again because we had to get ready to testify before the County Council. At that meeting, I objected and I said that we should make budget recommendations to the Mayor. I should have said the Managing Director also. In the minutes there is nothing that says anything about the Council. So I wondered whether it was proper for us to go to the Council. I want to point out to you today, that it was Mr. Ashida's opinion that our recommendation should not be made to the County Council...that they have to be made...unlike the Fire Department, they have to be made through the Mayor or Managing Director. And the reason for that, is that the Fire Department and the Police Commission are not set up by the same basis. For the Police Commission, the Mayor has general supervisory, authority over the operations of the Police Department, totally. The Fire Department isn't set up this way. So if you go through the Charter and you look at the Fire Department, that Charter plainly says that the Fire Commission has the duty to make recommendations to the Mayor or Managing Director and the

County Council, which they do, and they did effectively with that positions. But since the Police Department comes under the Mayor's office, the recommendations, if any, to the Council, are included in the Mayor's budget, that goes to the County Council to act on. Now, it's blatantly clear, to my thinking, that the Charter does not give the Police Commission the authority to make recommendations to the County Council. Now if you read Mr. Hara's affidavit, and I'd be interested in what Mr. Kamelamela is going to say, to see whether or not he disagrees with his boss, because his boss said that the recommendations aren't made to the Council, they're made to the Mayor, and you can read it more thoroughly _____ again. But, I'm interested in what Mr. Kamelamela is going to say about that,...what his boss has said, and his boss is adviser isn't the Police Commission, Mr. Ashida is. I'm interested to see what Mr. Kamelamela will say, whether or not it's proper for Mr. Manago to have taken it upon himself to go before the County Council because in that instance also, there was no vote taken by the Commission. And, if there had been a vote, or a motion made, I would not oppose this vehemently, and I think there are at least two other commissioners that I think would have agreed with me, and perhaps others, that it was improper for us to act as lobbyists for the Police. I'm sure you all read the papers and you recognize that almost all the journalists think that the Police Commission has really become a lapdog rather a watchdog. If you read the Charter provision here, you can plainly see that what we have in this County is known across the mainland as a Civilian Review Board. These types of boards are there to review police conduct. They're not there to be palsy-walsy with the police. They're not put there to be lobbyists for the Police Department. They're there to be a check and balance against police authority to protect the citizens of the community. And I think that Mr. Manago, though...it's strange to me though, because Mr. Manago attended a conference on the mainland about review of police operations and he made very constructive, he made very constructive suggestions about how the Police Commission can review the department's operations and make recommendations. All of that was fine, so I find it difficult to understand why Mr. Manago doesn't understand that the same principle applies to the Budget. The recommendations are made to the Mayor. We don't interfere with the department and we don't lobby the Council for the Police Department. Those are intentionally done to separate the powers? and make the Police Commission something independent...the body that reviews the conduct of the...the police department.

RW: May I ask a question of you?

Petitioner: Sure.

RW: And a little bit for Mr. Manago as well. But, first of all, I just say that all this is preliminary to the actual ethics violation.

Petitioner: Yes, ah hum.

RW: The question is, when did Mr. Manago make the recommendations to the Mayor? What _____ that date?

Petitioner: It's in my memo...

RW: Maybe Mr. Manago can tell us that.

Petitioner: No, no, I could tell you, I think it was January 6 that he went and met with the Mayor.

RW: Following this Police Commission meeting in July?

Petitioner: No.

RW: Preceding that?

Petitioner: Yes.

RW: January was with the Mayor...so this note here of when Corporation Counsel Ashida reaffirms the principle of going to the managing director, that chronologically follows the _____ in August. He had already done that right?

Petitioner: That's correct.

RW: And then, secondarily, when did Mr. Manago make recommendations to the Council?

Petitioner: On the 15th and 17th of March.

RW: Again, all _____ .

Petitioner: Yeah.

RW: Okay.

Petitioner: Again, you know, I'll tell you frankly what the real problem is with the Police Commission...I can't speak for the other Police Commissions, but it seems like, not only are you appointed to this

position, but you're anointed. In other words, we have... to become a police commissioner; report to a meeting and sit down and understand all the complexities of General Orders, the complexities of promotion policies; to understand the disciplinary system; to understand arrest? reasoning and thinking when it comes to making decisions; and under the leadership of Mr. Hara and Mr. Manago, we have no training program. And I'd like to suggest to you, that it is not the Mayor's responsibility to create a training program. It isn't the Corporation Counsel's responsibility to train or create a training program. It's the Police Commission's responsibility to provide themselves with a training program, because they're supposed to be the experts on police review. Now, all you have to do is look in the back of...or look at the website. There's a national organization on police review. All you have to do is get a training program from there, modify it and apply it. What happens in the Commission is, they...not having any pay?, they've come to define their own role right, they didn't come to do _____ concerning the budget. We have no role to lobby the Council. They've come to define that as their own role. Now, if you looked at Mr. Hara's exhibit, he said...well...and I've heard Mr. Manago say this to me once too at a meeting, "The Charter doesn't say that we can't do that." Now, you know, I ask you, if you get any lawyer to write a provision in the Charter saying what your powers and duties are, would you expect that he would write down all the things that you can't do? You know, you'd have a book fifty pages long, about things that you can't do. So the way the Charter is written, if we read it in _____ manner, all the types _____, what the Fire Department's supposed to do, what the Police Commissioner's supposed to do and we're supposed to read together. If that isn't true, there is nothing in here in the Charter that would even imply that we're supposed to be a lobby for the Police Department before the County Council.. Now, that's all background information. Because the real question before us is whether or not Mr. Manago, as a government official, used his office to secure...helped to secure unwarranted advantage for himself or others...that's what it says. Now, what did Mr. Manago do. Not only did he _____ he tried to advance the budget before the Mayor, before the County Council. He came to Kona and organized about ninety of his friends or people that know him, to come to the Council meeting to push for the budget. Now, I think that's good, and I think even if intentions might be good, but that's not why we're here. You know, if I'm with an official, call the public trust. And when it comes to apparent conflict of interest, principle ethics exists so that _____ on Mr. Manago and know what a nice man he is and so forth. Who only knows that Mr. Manago would tell Mr. Manago and the Police Commissioner. I know

people buy into trust. I've gotten it. When they _____ two-tenths of a mile from Manago Hotel. May I have some water.... So, whether intentional or not, I think...you know, the fact that they're playing their...I think....whether or not that was his principle objective or whether or not he even cared about it, it doesn't matter. Did he do it in such a way so that a member of the public would look at it and think, "Gee, Mr. Manago might have been pushing that button so he could get a Police Station built right down the street." And to me that is at least an apparent, if not, a real conflict of interest. Because I think, at least if the papers are correct, Mr. Manago has already admitted that it would be a benefit, an economic benefit to the Manago Hotel and Restaurant by having a large facility built a tenth of a mile down the street. I think probably everyone in this room has already gone to eat Mr. Manago's wonderful pork chops in his restaurant. And they are good. And I'm sure his business is going to profit, and he knows it. He admitted it. Now, if that's the case, Mr. Manago could have said to Mr. Hara and other members of the Commission, "Mr. Hara or Mr. _____, I think I'm in an apparent conflict of interest situation, I think you're the one that should go forward with it." What would have been so difficult about that. Now, what you're going to be left with is perpetual monument. If you do nothing about this, what you're going to leave in this community is two perpetual monuments, who is obvious to me anyway, in my opinion, an obvious violation of the Code of Ethics. Every time somebody drives by the nice Police Station and Manago Hotel, many are going to remember that Mr. Manago was very instrumental in getting that done. Now, everybody agrees that what he did was defective. In fact, you know, even though I disagreed with Mr. Manago going before the County Council, I went to watch him testify. I went to watch him testify. I went to watch him testify because I wanted to hear what the Police said about the budget and what he said about the budget. He did a marvelous job. After the _____, I told him, I shook his hand and I said, "I think you did a good job." But, you can also tell that to a carpenter who builds a beautiful house on the wrong lot without a contract. And that's what happened here. He did a wonderful job doing something that he wasn't supposed to do. And doing something, in my opinion, was a conflict of interest. I don't know what Mr. Kamelamela is going to say about this, but I heard the following comments. Comment 1) Well, the old station is _____ to my hotel than up the street. The old station...substation there is a lot smaller and is about a tenth of mile. The other one is two-tenths of a mile away. I fail to understand how that justifies that it anyway mitigates what Mr. Manago did in this situation, they're getting a way bigger building with more people. But more importantly than

that, whoever chose the original station across the street...location across the street...wasn't the influence by public official. But nobody from Manago Hotel was a public official when that happened. But now when it's happening, Mr. Manago is a public official who's going to get an economic benefit. So...I'm almost done, I promise you. I heard also from the Police Commissioners, as a matter of fact, Mr. Hara's memo, and I don't _____, but it's the idea is, we've done this before. Who are you to tell us that you're going to do this, because we've done this for a long time before. You know, the problem of them having not any training, isn't any responsibility of any member of the public or any police commissioner. It's them that didn't train themselves. So if they didn't, if you commit murder one, does it mean the second murder is correct or three _____ and the fourth one you could do okay. No, you have to judge from its inception, right at the time at it happen. You look at the County Charter saying it's not. Also, this comment, everything I did was intended for the benefit of the community. You know, there's stuff like Richard Nixon saying, "Everything I did was for the benefit of the community and the Republican Party when he burglarized the Watergate Hotel." I mean, we don't judge _____ by the outcome. You don't say, "This is a beautiful station, if Bush was out _____ therefore we don't care about what anybody here is getting because it's so good. That's the way old boys think. People that believe in democracy preserve the process because the process is what guarantees us all employment in government? You know, one thing I was very disappointed in Mr. Manago's presentation to the Council was that, Mr. Manago knew full well that he was there without authority from the Council. Councilman Tyler asked him two or three times or maybe four, but a number of times..."Mr. Manago, did you discuss these matters with the Police Commission and is this the position of the Police Commission?" I remember exactly what his words were.

"In the past." You ask him again. "In the past." The reason he didn't say yes is that he knew that he's not supposed to be there, so he wanted to give them the impression that 'yes' I can give it 'cause the cops will let them do that "in the past." So he never answered the question. And that, I found was very, very bad. But anyway, I do feel much regret to Mr. Manago, I find this very difficult to do things like this because he was a friend. You know I had friends on the Commission, I think some of them no longer consider me a friend. But, you know, as a lawyer and a judge is one thing. "Cause _____ my friend. If he committed this conduct in my court, I'd report him to the bar disciplinary committee. Why? Because it's my job. If you sit on this commission and you know there's conflict from another committee member, you report it to the

Mayor. Why? Because that's your job. And the reason it's your job as well as my job, is that we're the only ones that really know what happens in government and if we don't do something about it, no one will. I ask you...all I ask from you is to please do what you feel is your sense of justice and your understanding of what ethical and what isn't and I will be forever satisfied and I thank you very much for your attention.

RW: Are you going to speak to us of the land swap issue...

Petitioner: The land swap issue only became germane because that's how I learned about this...no land swap was ever mentioned to the Police Commission. I read about it in the Council minutes. And you know, I began to wonder what's going here, because this man was talking to the County a long, long time ago. And apparently there were ongoing discussion...not one word from Mr. Manago about it. Although, he even mentioned his hotel and the land site inspection. I think that was much later in the process, but I think we should ask him when did you first find out that it was a possibility that this was going to be...as soon as it became a possibility, it became an ethical question for him. The more probable it became, the deeper his ethical problem became. Because if he knew it was going to happen for sure, he should have been hands off. If he knew it was an reasonable probability it was going to be happening, in my opinion, he should have been hands off. So as soon as he knew that...maybe _____ and he may benefit, he should have just recused himself. Thank you very much.

Kamelamela: I just have one question for Judge deSilva, that I'm not sure exactly what the violation is, but, you're claiming that the ethical violation in this case is an event that occurred in January 6, 2004, regarding the Mayor and an event occurring on March 15, 2004 and March 17, 2004 when Manago went to the County Council. Those _____ that we were considering and it all has to relate to the land swap...is that it? Or are we talking about something else.

Petitioner: The land swap is really irrelevant. The location of the Police Station is relevant.

Kamelamela: Okay.

Petitioner: I'm just saying, Mr. Kamelamela, the only way I found out about was, because of the land swap that roused through my suspicion. That's all.

Kamelamela: Okay, so the specific violation that you're talking about is that of the location of the site.

Petitioner: Mr. Manago's participation in becoming an advocate of the site.

RW: Okay.

Petitioner: Thank you.

RW: And was that first known in January or March, respectively?

Manago: Well, in reading page 2 of his Complaint, the location of the site is a quarter of a mile south of Manago Hotel.

RW: That was known in January when you were testifying?

CHAIR: Read the Petition, on page 2.

RW: Yeah, I've done that, I wading through a lot of _____.

CHAIR: At this meeting, Manago made a presentation supporting the department's budget request including the location of the new station.

RW: Okay.

Kamelamela: Yeah, but, now he just said new police station in central South Kona...not just in Central...of the location. Because, right now, we don't have any specifics as to whether he knew back in January and March, of the specific location. Now, why don't we do this...I brought some affidavits that each of the members should get a hold of. Can you pass it...I got a copy...to Judge deSilva.

CHAIR: You should have...if I have it correct, an Affidavit of Mr. Kubojiri, Affidavit of Mr. Reynolds and Affidavit of Mr. Hara. Those are the three.

SC: What to do with the extras?

CHAIR: The extras, just drop them here.

RW: Can we just digest these before go on?

Kamelamela: Oh, okay, then I'll get some water.

CHAIR: Sure. Let's take a little recess while we have a chance to go over those.

Recess: 10:50 a.m.

Return: 10:55 a.m.

CHAIR: The meeting is back to order again. Mr. Kamelamela, first off, would you tell us the order in which you want to look at the Affidavits.

Kamelamela: I won't be looking at it in any special order...I was just making a statement...a loud statement. And then when I do the reference to it, I will let the Commissioners on the Board know which affidavit I'm referring to.

CHAIR: Okay. Before you begin sir, would you clarify for us in your letter...in your stance to the Petition on page two. You list your defenses...under the third defense, would you identify what it is that Mr. Manago is admitting to in the allegation from paragraph one. What paragraph specifically is it referencing?

Petitioner: Mr. Chairman. Mind if I could have a copy of that. I never did get any copy.

CHAIR: Did you forward a copy to Mr. deSilva?

Kamelamela: I have a certificate of service of October 6.

Petitioner: _____ I never got a copy.

Kamelamela: Is your residence address 3020 Ainaola Drive?

Petitioner: Yes. You're not talking about the affidavit Mr. Kamelamela?

Kamelamela: No, no, no. This is our answer to the Petition.

Petitioner: Oh, I never got that...I don't care...you can go ahead, but I should sometime get a...

Kamelamela: Oh, here, I have an extra.

Petitioner: Okay, thank you.

Kamelamela: So, page two...

CHAIR: Page two, and we've got third defense...

Kamelamela: Okay.

CHAIR: Item number one. It states Manago admits to the allegations in paragraph one of the Petition.

Kamelamela: Yeah, that's the name and address and telephone number.

CHAIR: Okay...that was...I guess part of the discussion here to understand what it was, okay.

Kamelamela: Yeah, 'cause that's the only thing that we could admit to.

CHAIR: Okay, thank you. Everybody understand that.

Kamelamela: That's paragraph number one.

CHAIR: Sometimes, sir, just to clear the air, us non-lawyers we looking at Allegations and I don't see allegations in that paragraph, so that's why...it's good. Thank you. Go on sir.

Kamelamela: Good morning Chair and members of the Board of Ethics. My name is Joseph Kamelamela. I'm a Deputy Corporation Counsel. Sitting to the left of me is Dwight Manago who I am representing in this situation. We kinda have our hands tied behind our back here, all because besides Mr. deSilva filing this ethics complaint, he, from what I understand has also filed a criminal complaint alleging violation of counsel. And because of that, I advised my client that he has a right to remain silent. And that right, I believe is a right that should be respected because we actually do a lot of making these statements that may be taken out of context. And we believe that what we see here is really a complaint that I'll consider retaliatory because of we basically philosophical differences about how the things should be done. It's something that shouldn't be brought before the Board of Ethics...a complaint like this. I know that Judge deSilva had said that he's a watchdog, but, you know, there's a limit that we should receive in certain kinds of things and one of the most important things to remember to me...I mean, our concern too is that, here we have an honorable man who's been on the Police Commission for at least four years and has continued to serve the Police Commission and the Police Department the way that would benefit a community. Not just him, but the community at-large. So I find the complaint, although it has a lot of allegations, to be defamatory, to be inflammatory, that there's really no productive matter when it comes to furthering the business of the Police Commission. Because what is here so far, is that yes,

there's a disagreement of how certain things should be done. But that doesn't mean that that's something for the Board of Ethics should consider. For example, Hilo is _____ with the Police Commission. Trading _____ whether they have the authority to speak before the Council. That's not an issue for the Board of Ethics. And he admits that that's not an issue. But yet, he brings it up. He shouldn't have brought it up. And because he brings it up, to me, it's just to encourage you to find something wrong. You shouldn't use that kind of problems with the Police Commission to find something wrong. We have to stick to the issue in this case. What did he do to gain some kind of benefit...not only for himself, but for Manago Hotel and the restaurant. Another example, he talks about the Charter violations, he talks about Section 7 to that too and he says, "Well, we can't let anything into the Charter to see what _____" which is right. I mean, like the Mayor goes around and talks to the public and that's not listed in as to one of his powers...but he does it anyway. And do we find the Mayor to be in violation of the Charter because of that? I say, "No." That doesn't make sense. We have to kinda step back sometimes and then think about why we have the Charter. It's a hard one. And although you're not here to really decide that issue, I think I have to respond 'cause he brought it up. In reading the Charter, and I'm glad that he made you Exhibits of all the Charter, 7.7.2. Yes, it talks about the pertinent duties of how our Police Commission is. That's all it does. And so, when a member of the public serves on the Police Commission and reads it that way, the _____ way, they're going to read it and say, "Well, I have a duty to do this." I'm serving for me to do something else. I mean, this makes common sense to me. Okay, so we're not here to decide whether it's a violation of the Charter...I mean I'm talking about it because he had talked about it. Neither are we here to decide whether certain conduct that Mr. Manago had done is illegal. We're not here to decide that too. He had used the word illegal many times during his oral presentation and in his written, he also states illegal, that's why...you know, you're not here to decide whether it's legal or not. It's for somebody else to decide that issue. That issue, has not been decided already. He wants you to take that issue, _____ as background information and say, "Okay, this is where it's wrong." You know, that, to me, is wrong. To have you guys, hear all the policies, here in this fashion. This is not the correct time to do this kind of airing out. You know, there's other ways to do it. When Mr. Manago _____ went to talk to the County Council on the budget, I don't see any real problems with that. I don't see any problems with that. The County Council members, both of them were appreciative as we found out, because he presented some in detail. And even if the County

Council _____, get the property in x place. I mean, if he had said that, "Let's get the property in Captain Cook." Maybe, there's a violation. But I haven't seen anything written or discussed, that says that that's what he said. You know, "Let's get this particular land site for the new Police Station and Fire Station complex." There's nothing like that, okay. He talks _____, yet he talks about training, but is it Manago's fault that they need...you know, somebody _____, but, training, that's separate. You have to decide on what kind of issues. We're here to decide whether there is an ethical violation of 2-83. That's all we're here to decide. Whether there's a conflict of interest and before I really start on that issue, I want to comment on Exhibit 5 that was sent by Mr. deSilva. What Corporation Counsel Ashida was talking about, if you look at sentence number two, if a commissioner goes to the Council, so then he's there, there's _____ if he _____ and makes recommendations, that may create conflict. Now, the conflict that he refers to is that, which may not _____ with the Mayor's budget...oh, you don't have the response.

RW: Yeah. Don't know...

Kamelamela: If Mr. Manago had stated something that was different from what he says to the Mayor, that is a potential conflict. That is what the reference is being made to. The reference is not saying that, "Hey, commissioner, you cannot talk to the County Council." That issue hasn't been made or really _____ yet. But, I guess this is the not body to litigate decide it. We focus on what this particular complaint is about. What is this complaint about? You know, I'll really be honest...I don't know what this is about. Although he said that certain things happened on a certain date, January and March. He's claiming that in some fashion, my client, Mr. Manago, had influenced people to get up and make a cut. Now, I haven't seen anything, so far, to indicate to me that 1) that he even owns the property...if he owns the property, I can see that there's a problem. 2) Anything in writing or other testimony where maybe he indicated, "Hey, I would rather this perfect site in Captain Cook." Because it's going to be closer. What about things like that? To me, that would be a clear violation of section 2-83. All I have is deSilva _____ alleges that Manago could possibly reap the benefits that anybody else would get, okay? It's not like people can't get better response time. I think because it's moving away from Mr. Manago's place, the response time will be increased. 'Cause right now, there's a police station next to him...it's just a stone's throw away from him. But they're moving the location to another area to better serve the community. There's nothing wrong with that. All I know is that deSilva talked about Nixon, but you know, Nixon did

something that was _____, he burglarized the place, but we don't have that kind of situation here. It's not like went out to, go talk to a friend and say, "Eh, do this for me." And that's it. While we're at it, actually let's look at the Affidavit by Joe Reynolds. He was the one that went out to get the property. He did whatever was necessary to get the property. And all Manago did was to be involved in the discussions. That's all he had. Although there's no timeline as to when certain things happened, we know that it was Joe Reynolds who pushed for a specific site. Now, in reading deSilva's allegations, I think a lot of things that he had noted to me, was an unfair characterization of Manago's conduct. Because he were the _____ information, but yet, he makes these inferences which to me, is not backed up. There's nothing to show, right now, that Mr. Manago had in some way, influenced what is Reynolds or the _____ company to locate the new Police Station and Fire Station complex at the time of the County Council hearing. There is nothing there that will show that. I'd like to look at some of...we need to look at some of his allegations that he made in his motion. Let's go over some of those things. One of the allegations that I disagreed with him, and if you look at page 3, number 1, Economic opportunities and advantages above other businesses. You know, technically just an argument, but he uses that word almost side-by-side which to me, is a misrepresentation. It's not like the hotel and the new site being compensated if side-by-side. We're talking about something that's a quarter mile away. Let's look at page number 5, he makes references, see, if you look at paragraph 6, paragraph 9, paragraph 12, he makes allegations about Charter violations and illegality _____, again, I ask you not to consider those types of things, because like I said earlier, anything related to those kinds of issues, is not to be decided by this Board. What the facts show, and that's why I submitted my Affidavit, is that if you look at Harry Kubojiri's affidavit, it's clear that the Police had a need. It's clear that the Police recognized a need to have a new Police Station located in the South Kona area. This is something that the Police want. And if you look at page 2, paragraph 4, and at the time that they were thinking about the Police Station, at that time, they had no definite area identified in South Kona for that. So, this isn't something that was drummed up by Manago, this something that the Police want. And the reason why I submitted all of these affidavits is because all of these people have _____ who understand _____ with Judge deSilva and Joe Reynolds. I feel that although Judge deSilva said that Manago is a nice man, he no problem, but you know, he's still attacking his character as an individual. That's one of the reasons why we have submitted these affidavits who know him. His motives were clear. His motives were not benefit himself or the hotel. His

motives was to benefit the community as a whole. Nothing more and nothing less. And because of that, you should find that there's no violation of Section 2-83. Any questions?

RW: Is that criminal complaint still open and pending?

Kamelamela: That's my understanding right now.

CHAIR: The Board...let me interject here. For the purposes of this hearing, I don't want to discuss the criminal aspects.

RW: Okay.

CHAIR: It has no bearing in my eyes.

RW: Okay, then let me move into another...did Mr. Manago ever testify before the Council prior to this March testimony?

Kamelamela: _____, whether he had testified previously.

RW: Yeah, was this a recurring thing he had done?

Kamelamela: I have to tell you that other Police Commissioners...

RW: _____

Kamelamela: Yeah, well, because of the pending criminal, I advised him not to testify, _____. If I were to tell you what he tells me that's a _____.

RW: Well, when...what was Manago actually authorized by the Police commission to represent them before the Council on this March testimony?

Kamelamela: See, again there's a _____ disagree Judge deSilva and myself as to what you're talking about now. I'm saying that he was authorized to talk about this issue before the County Council. He sees it different. But to me you're not here to decide that issue.

CHAIR: That's correct. And here again, I may interject, it's part of our consideration as to whether or not Manago had a legal right to testify.

RW: Well, he had a legal right, I'm just trying to get the whole event that transpired in my judgment to make a sound conclusions as to whether or not there was a violation, because that's relevant.

Kamelamela: But, at the same time...but my thinking is different from his. I think he has. He says, "No." So you gotta weigh that. But I also tell you that I know that there's been prior Commissioner's who testified too. And then, you should add in this fact that, that at times with the Corp counsel there, present, and did not go back to testify.

RW: Further, did you...did Mr. Manago suggest or have any knowledge of the Kona site being availability of the Corporation Counsel?

Kamelamela: As far as I know, he did not.

RW: Did Mr. Manago organize or recruit community members to testify in favor of the Captain Cook site at this March hearing? First, question, did he organize or recruit community members to testify at the March hearing...that's the first question.

Kamelamela: You know you're not supposed to ask him that question or we stepping into the criminal area.

RW: Well...

Kamelamela: Let me answer it this way. You got to _____ of you. What is the relevance on that issue, that issue whether he organized it or not because a, a lot of us organize people who...

RW: You know, I...boards will ask what they interpret appropriate.

Kamelamela: Yeah.

RW: 'Cause he's a member of Board or Commission and so we're asking too if he used his position to secure land and water _____ contract for treatment for himself or others, let's the way the Charter reads as I understand it. I'm just wondering if he indeed lobbied while a member of the Police Commission. Anyway, _____ lobby efforts. Because this certainly the privy of the Board of Ethics. This is exactly what we're about.

Kamelamela: Yeah, but that's...

CHAIR: Let me interject here...That's the specific issue that we will be looking at to make a decision. Did he use if official position to better grasp unwarranted privileges et cetera for himself or others...in this case Manago Hotel. That is our specific...frankly our lone issue in this whole consideration. All the rest of the information presented in writing and in testimony as been

background and color if you will. The issue we're looking at is specifically section 2-83, Standards of Conduct...and I'll read it:

"No officer or employee shall use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for himself or others." That specific authority.

Kamelamela: The reason why I asked the question, so that I _____ period. As to what is what...but before I talk to him, he has another question...

RW: Well, I guess that the drift of the gist of my questioning at that point. Organizing, recruiting, you know, any members, to testify to secure the place at the County Council.

Kamelamela: Yeah, because I can tell you this, from what I know...is that when the particular resolution went through _____, but I don't know whether he wants to talk about that particular _____.

RW: Shall we call a huddle or a break?

Kamelamela: Ummm...

CHAIR: I'm sorry, just a moment.

PKO: Why don't you see if Joe wants a break to talk to Manago.

CHAIR: Would you like some time to talk to Mr. Manago?

Kamelamela: What I was thinking is that if there's other questions that the Board has that's similar to Mr. Williams one...I would like the questions now...and then...

CHAIR: Okay, specifically, the issue that we're talking about is what I read. The Standard of Conduct issue of the Ethics Code. Okay? That's where we're at. Mr. deSilva did you have something?

Petitioner: Mr. Chairman, if you think it's _____, I would like to give a brief rebuttal on what Mr. Kamelamela said. If not, that's okay, but who has the burden of proof does _____.

CHAIR: Yeah...let's see if he wants to talk to his client first.

Petitioner: Okay.

CHAIR: Okay, Joe, you want to talk to Mr. Manago at this point?

PKO: And if any other commissioners have any questions.

CHAIR: That's the bulk of our questions at this point.

Kamelamela: Okay, so...

CHAIR: We'll take a recess for a little while?

RW: Yeah.

CHAIR: Okay, we are in recess.

Recess: 11:25 a.m.

Returned: 11:45 a.m.

CHAIR: We're back in session. Mr. Kamelamela?

Kamelamela: Yeah, thank you. In order to get this _____ I will address several issues _____, what I'll do, I'll ask questions in certain areas and then when you have follow up questions, then we can follow up in the end. Okay, let's take it one at a time.

Petitioner: I would just like to inquire Mr. Chairman...is it his idea that he's going to assert the 5th amendment on certain questions and then next one he'll answer it and any other one he won't answer it, is that the idea? I don't think that's too _____ myself.

Kamelamela: Like I said, I'll ask the questions, and then you'll answer the follow up to that area.

CHAIR: Specifically to that area?

Kamelamela: Yeah, to that area, yeah.

Petitioner: That's not fair...I don't want to be overly legalistic, but if he gets to answer only what he wants to answer and he doesn't have to answer things that I asked of him...that's fair to the public. Either he gives up his right to the 5th amendment or you don't. That's the way it works. Maybe we can check with counsel...I don't know what she thinks, but...

PKO: Well, I think it's not a trial...so the strict evidence rules don't apply here, so...

Petitioner: So it's okay?

PKO: Yeah.

CHAIR: There's one other thing too. Even in criminal court, Mr. deSilva, when a witness testifies to certain areas, cross-examination is limited to those areas also.

Petitioner: Yes, if the person is a witness, Mr. Chairman, but not the accused. For instance, if a man is accused of a crime, he decides to take the stand in his defense, such as Police Commissioner Mr. Manago is, you cannot answer only certain questions. Either you give up the right or not. If you're a witness that is true, but, that's not ...but
_____...

CHAIR: Okay, then at this point, the ruling that I'll make is that whatever questions will go to Mr. Manago would be specific to those issues that he discussed.

Kamelamela: Okay, so the first area would be, the incident that Mr. Williams had talked about earlier, if you had organized...

CHAIR: Okay, Mr. Manago would you identify yourself for the record.

Respondent: My name is Dwight Manago. I live in Captain Cook and I am the manager of the Manago Hotel...and I'm also Vice-Chairman for the Police Commission.

Kamelamela: My first question is, "Did you organize a committee support to testify before the County Council?" And that was Mr. Williams' question.

Respondent: Okay, I think you need some background about this first. First of all, I was contacted by CPO, Community Police Officer. South Kona District was having some major problems and he wanted me to hear and come to one of their community watch meetings...so I told him if we're having problems, I'm willing to attend some of his meetings _____. And they were having some major problems with amount of...the time between the reporting of it and the response time. But this means that the South Kona District spans from Manuka Park all the way to the Kanaha _____ above the Keauhou lookout. And there's only two patrol officers patrolling that huge district at any given time. Members of the community had to wait in excess of one hour sometimes from the time that they phoned in a complaint or because the two officers might have been down in Milolii taking care of a domestic and

_____. They wouldn't be allowed before they got back to the area where they couldn't attend the problems that other people are having. So I went to the meeting and they were telling us that they have a problem, this is what's happening, we're not getting proper response and everything so _____, so you know you just can't blame the officers about this, 'cause this is what's happening within the district. We have two patrol officers, our stations stem from here to here, this is what's happening. This is why we take so long for the response. They say well, "That's not a good enough answer. We deserve more than that." But you know we're taxpayers, we deserve more service than what we're getting. And _____ you're probably right. And I says, "Well, what do we do? What can we do to get better service?" And I said, "Well, you know, part of the problem that we had is with not having enough police officers for this district. And I told them that we as a commission had recommended that ... stated from the fact that the Police Department, had in their budget...stated that they need a full on station, fully manned station up in South Kona to handle the amount of complaints, I mean the amount of calls they were having and everything. I told them well, the process is basically, the chief would have to agree that you need a fully manned station up there. Number two, you would need the Mayor to approve it also, because he's the one person that allocates the amount of people. He's the only one that can add personnel to the purpose. And number three, he needs County Council approval to get the funding for these things. I said, "This is what needs to be done." So Brenda Ford who is very active in the community, and she's also like the head of the community watch group and everything. She organizes all those things. She said, "Well, what to we need to do with this?" I said, "Well, for us, you know, we have our recommendations and these are the types of recommendations we have." Some of the recommendations we had looked at was, equipment budget; training, proper training budget, _____ budget, accreditation, getting the Police Department accredited. Also, they were having problems with filling vacancies for the Police Officers. So we said, "You know, it takes twenty months to get a police officer fully trained and on the road." So, why are we waiting until a police resigns or retires before we decide that we need a police officer now? Why wouldn't these provisions be funded previously, and therefore, we know we have about fifteen officers that resigned, retired or whatever during the course of the year. Why aren't we already looking ahead of time and say, "Hey, would these should be _____ positions, therefore, when one officer leaves, we somebody to replace or cover the position. Those are things, and number one on the Capital improvement that they had was the new station for Puna, and number two would be a new station for South

Kona. These are all on the Police Department, on their two capital improvements _____. So anyway, as far as organizing the group. Brenda Ford was the one that organized it. She said, "I have this, I have this person, I'm going get this, we're going to organize and everything." And she said, "Would you be able to help to provide information?" And I said, "Sure, I can do that. You need information, I can give it to you and everything." And, so we went on that basis. And the person that did represent the community at the meeting that Paul deSilva's talking about is Meg Childs who is Sherwood Greenwell's daughter. Meg Childs. She was the one that represented the whole community. While we went down to the meeting also, in talking to the Mayor, when did get our recommendations to the Mayor, the Mayor said, "Yeah. I will do it. Everything you folks have here. I agree with all the points, for the moneys and the capital improvement budget. I feel that being that we have the facts here, this is what we need." And we had made...we did a lot of work. We provided ratios, we provided amount of officers per district, we provided him with things like how many officers per district, how many citizens call for district what, how rough the district was, how many incidents, how many calls for service. And, we provided him with all that information so that he would be able to make a better...see what the needs of the community were. So, _____ went to them, and he said, "Yes, I agree with everything...everything you have here." And she said, "Wait a minute, I don't understand this." And I think it had to do with...she said, "I can't agree with this because I don't know how big the district is and whatnot...how many...certain...how wide the districts are...and so I provided him with that because we had that information, so he said, "I agree with all of them." And so that was it. So, I told them that at the meeting, Joe Reynolds did make a statement that the administration was not in favor of having this station in South Kona, therefore, you folks need to go and make a push on it also. And that's when I stepped back. I just attended the meeting, I was in the back of the room, and I said, "You know what, I have to _____." And the clarification that I made at the meeting was this...I told them, "The Mayor in the meeting that we had, had stated that he is for that, for the station for South Kona. And that, and so it's not that we need to tell the Mayor that we need to get on board and we deserve it and everything like that _____."

RW: Is this the March Council meeting?

Respondent: No. This happened, chronology...it was...I'm not sure when it was, but they came to Kona. 'Cause they had a Finance Committee meeting. The Council was listening to everybody and saying,

“Everybody can provide testimony to secure funding for different departments or whatever.

RW: You were _____ .

Respondent: Right, right. Basically, we told them what the needs were based on all the work we had done. So, that's what we did. And so, you know the thing is, is that, the way it was done, is that, you have ninety something people there...maybe 90 to 100 people there, but one person spoke and it was...people were very respectful. Meg Childs presented the...her ... all the different points and everything like that, and when she did that, after...I'm not sure if it was before or after she presented, she asked everybody, "Whoever is here, _____, please stand up." And everybody in the whole audience stood up. Okay, then they sat back down, and it was not something where you're going in there yelling and screaming and everything, because the _____ wasn't there. Okay, we have a problem, we're reasonable people, and this is the way we presented it. You know there's people of the community, they have a problem, they want the _____ up front, and _____ and number _____ and that's the way they presented it. And in fact, many of the Council people were very, they were very happy. In fact, they started wanting more information. In fact, they asked them about things, like even tourist and things like that, but they kept on asking them, "Well, what else do you folks think." And this third group could get more people to come up to just tell them what affects or experience they were having in the community and so on and so forth. They told them things that happen there.

RW: _____

Kamelamela: Now, the question that was asked was have you before the County Council.

Respondent: Okay. I'm in charge of the _____ committee. My _____ is Horace Hara is the Chair for the Police Commission. And we have provided information to the County Council...every time we come to the County Council, they asked us for more and more information. They've asked us to do more research to qualify certain things that we're taking to them and telling them. And so, this time we came back with more information and told them what the news of the community was. So yeah, I have testified, but only for the...on the budget items that we brought to the County Council to provide them that type of figures and whatever they asked and whatever budgetary things.

Kamelamela: And then, the third question is: When you on March 2004 at the County Council, did you have authorization to speak on behalf of the Police Commission?

Respondent: This is what did happen. In the year before, we had voted to accept all these recommendations for the budgetary item, budgetary thing. We did accept it, we voted on it and the following year, 2004 we maintained since we received absolutely nothing...nothing was received from the County Council or the Mayor. Everything was status quo, so we got nothing then. So basically, we did take the stance that hey, you've got the mandate of this commission and so therefore, we're presenting the same thing all over again. 'Cause we didn't get equipment, we didn't get the...

RW: _____ .

Respondent: Yeah, all those things didn't happen. And what we did do, is right before the meeting...going to the County Council, in our minutes, you will see that I did once again, tell them, this is what again...we reiterated what we were doing again. And it would show in the minutes also.

Kamelamela: Okay, are they any questions.

RW: _____ is an authorization _____ .

Respondent: And the thing is, when we did go to the Mayor's office and everything like that, I did have another commissioner with me. Jim Frazier was also with me when we went to the Mayor's to go and talk to discuss, you know, these things also. So, you know, the thing is, we're lay people. I don't have the law degree that Paul has or, you know, we're lay people. _____. We volunteer our time and try to do the best job we can to make the community better. And if I've done anything wrong, I think, I put in a lot of time, I put in a lot of time to do research, put in a lot of time to do a lot. You know, you try at least create better knowledge, more knowledge for the people making the decisions also, so that we can make better decisions. So, if I'm guilty of something, I think that's what I would guilty of. And I have taken a lot of time from my business or from my family and everything. You know, you folks should know that, because you folks do the same thing here too.

Kamelamela: The last area, I should refer you to page 5, paragraph 10. There's an allegation of Manago that on or about March 13, 2004, this is

about a telephone conversation. Do you agree or disagree with that?

Respondent: That telephone conversation never happened. It never, ever, happened. And you know, the first thing about it is...2 things, if Paul had wanted to disagree with things that was being brought up or the fact that we were bringing up something that was _____, then the previous meeting at the Police Commission meeting, when I had brought these things out, should have been the proper place to have done it. Number 2, the proper person to have attached that to, would have been to the Chair. Executive two would have been to the chair. You know, and being that he has a law degree, being that he was prosecutor and a past _____, you get _____ like that, the first person I would have called would have been the Chair. And that has always been my method of operation. Horace Hara would tell you, that whenever or if anything happens, I would first of all, call him and tell him, advise him that we may have a problem and this is what was happening. And I never called Horace because Paul never told me he objected to all these things. So as far as that goes, you know, that phone conversation, I have no recollection of that phone conversation.

Kamelamela: Any other questions that ...I was going to do something really short, but if there's other questions.

RW: Chair. I just appreciate the time, it was helpful.

Kamelamela: Dwight did nothing wrong. If you were to look at the minutes too. Whatever was presented to the County Council, it was budgetary items, things like that. If you look at the minutes, nobody is objecting to anything that Mr. Manago had to say. So you can look at that. Like I said, there is...this is more of a philosophical disagreement. But it shouldn't rise to an ethical violation here. Because the facts just don't meet that. And there are examples that provided it 2-83 in a situation that would warrant a violation. For example, when you try to sneak out in _____ for oneself. So if in the County Code itself, it says the kind of things that are pure violations and if we were to go to something more benevolent you're _____ on shaky ground to me. And it's going to have people really think hard and long as to whether it would be a public service to serve on any kind commission after awhile. If you find that what he did through his hard work is an ethical violation. So thank you for listening.

CHAIR: Mr. deSilva.

Petitioner: I think Mr. Manago and I have a difference of memory. I will swear to you, on a stack of Bibles that that telephone conversation did occur with Mr. Manago. But whether it did or not, really, it really isn't, really isn't the issue here. The issue I think, Mr. Kamelamela tries to say that he's a commissioner, he's only a volunteer, so you don't have to understand what the law says. And I guess, back to the same thing again. The Police Commission continues to define its' own role. Now it's one thing, incidentally, Mr. Manago said that this was approved in 2003, I think he said last year, I went through all the minutes for 2003, and I never found any approval by the Police Commission for Mr. Manago to make recommendations to the County Council. And even if he did, you know when Mr. Manago went and testified. There were three commissioners that were on the prior board and the _____ very clear and very simple. You don't have to be a lawyer. You can be a high school and read that before any action is taken on behalf of the Commission, you have to have a vote of the majority. Now, I guess it's the responsibility of anyone there on the Commission to make a motion that someone to testify before the Council. If Mr. Manago wanted to do that, he should have made the motion. There's nothing in the record of any motion. So, when Mr. Manago appeared, I'm sorry, he has good intentions, he does work hard. But I think we can expect of all our public servants that they how at least the fundamental rules of law. And the Commission never did authorize him to act on behalf of the Commission. He is a Police Commissioner and these duties that are specified by the Police Commission's powers and duties. You cannot exercise any of them unless the Commission authorizes him to do that. I have other things to say. But I think enough is enough. I trust your good judgment and unless you have any questions, I don't think I have to say anything else, although I do have some defenses _____.

CHAIR: Okay, thank you Mr. deSilva. Entertain a motion that we go into closed session for discussion with our attorney over issues.

RW: I move that we do that.

SC: Second.

CHAIR: It's moved and seconded that we go into Executive Session for purposes of discussing the issues at hand with our attorney. All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Okay thank you. We are in recess from the regular meeting and going into Executive Session.

Petitioner: Can we go?

CHAIR: Yes, you may.

Petitioner: We can go home, in other words.

CHAIR: Yes.

Petitioner: Okay, thank you, thank you very much.

Moved to Executive Session: 12:10 p.m.

Returned to Regular Session: 12:23 p.m.

CHAIR: The Ethics Board will resume its regular session, it's 12:23 p.m. We have been able to define what are job is. And that is to determine whether or not there has been any violation of Section 2-83, Standards of Conduct. That's what we're looking at, not at anything else. Mr. Kamelamela, you got anything else you want to say before the Board?

Kamelamela: No.

CHAIR: I want to request a motion that we take the time on our own to mull this over. And then make our final decision at the December meeting. Do I hear a motion?

RW: I'll so move, because I would like to go back and read this and our rules specifically, and I would in preparing for this, I would like to ensure that I understand this fully...so I would like to defer. I move to defer to the following meeting.

CHAIR: Okay. Do I hear a second?

KI: Second.

CHAIR: It's been moved and seconded that we defer the decision in this case until December in order that we may further review our written documents and rules that support, down the line. All in favor say aye.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. Any opposed. It passes and the matter is deferred until next time.

PKO: And I'll be a nag and warn you not to call each other and discuss this at all.

CHAIR: Yes. Review and so forth is strictly not allowed.

RW: Right.

CHAIR: Mr. Manago, I thank you for coming in. _____. But this isn't quite as simple as some of the other issues that have come before us. Mr. Kamelamela, thank you very much.

CHAIR: Now let's finish what we have in Regular session. We have Unfinished Business, the Financial Disclosure Statements and for that we need a motion to go back into Executive Session.

RW: I'd like to move that we return to Executive Session to address the Unfinished Business from last time.

PKO: Well, this Unfinished Business is not any particular person.

SC: We have to go into Executive Session for that.

PKO: No, no. I know that, but I'm looking at Unfinished Business. I thought Mr. Williams wanted at some time, some amendment to the rules of the filing procedure.

RW: No, we wanted to have a whole _____ from you whether we should accept the Short Form or the Long Form. I think...

CHAIR: I think what we need to do is to go into Executive Session and take care of Mr. Shirota's.

PKO: Aren't we on Unfinished Business number 6? This is not Mr. Shirota's.

CHAIR: I'm sorry, pardon me. Filing Requirements of the Financial Disclosure Statements. That's what we're doing now. Then after that I go into Executive Session. According to the Code of Ethics, we're required to use the Short Form, but we would have to change the Code to use the Short Form.

RW: That was the issue, what we need to file

CHAIR: I think we'd have to go back.

PKO: Do you want me to draft an amendment to the code and then next maybe next time you could vote if you want that or what you want to do.

CHAIR: The Council would have to do it right.

RW: The Long Form yearly. It can be the Short Form be yearly or the Long Form, I don't care. It's just time to do the Short or Long Forms. We should change and update that. And then we can, as Board members we can all _____.

SC: And where's the Long Form going to be filed at.

CHAIR: Yes. The biggest problem is...like we all agree on...would be to file a Short Form, and nobody's having to dig out the Long Form. Actually they're supposed to submit the Long Form along with the Short Form, they're copy...a lot of people don't bother to attach it. Okay.

PKO: One of you would have to testify before Council.

RW: Would we have a representative in Pat?

PKO: No.

CHAIR: No, the incoming chairman would take that initiative...the testimony before the Council. Alright. Now, I'll take a motion to go into Executive Session.

SC: So moved.

KI: Second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. Close the door.

Moved to Executive Session: 12:30 p.m.
Return to Regular Session: 12:35 p.m.

CHAIR: Okay, we have returned to Regular Session. I'll entertain a motion to accept and file the Financial Disclosure Statements of Gary Shirota.

RW: I so move.

SC: I second.

CHAIR: It's been moved and seconded that Gary Shirota's Financial Disclosure Statement is accepted and filed. All in favor say aye.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: The chair votes aye and it is approved. The next meeting is scheduled for Wednesday, December 8, to be determined is the location. I'll entertain a motion to adjourn.

SC: So moved

KI: Second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. We are adjourned.

(Meeting adjourned at 12:40 p.m.)

Respectfully submitted,

Paulette Cainglit
Secretary

Note: Blank lines indicate inaudible word(s)/voice(s) on audio tape recording.