



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813
50th ANNIVERSARY 1968-2018

Resolution of Investigation **2018-2**

(COMPL-I-17-00397)

**Hawaii House of Representatives, Speaker Emeritus Joseph M. Souki,
Alleged Violations of Fair Treatment Law**

March 16, 2018

The Hawaii State Ethics Commission (“Commission”) has resolved an Investigation of Speaker Emeritus Joseph M. Souki (“Respondent Souki”), for alleged violations of the State Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84. The investigation involved allegations that Respondent Souki sexually harassed multiple women by subjecting them to unwanted kissing, touching, and sexual language.

The alleged violations came to the attention of the Commission by way of a complaint from Rachael Wong, former Director of the Department of Human Services. Upon investigation, the Commission staff received allegations of similar unwanted and inappropriate conduct by Respondent Souki from several other women.

I. Facts

Respondent Souki admitted the following facts:

- a. Respondent Souki, at all times relevant herein, was an elected member of Hawaii’s House of Representatives. He was first elected to office in 1982 and has served continuously since that time. He served as Speaker of the House from 1993 to 1999 and again from 2013 to 2017.
- b. The House of Representatives is a “state agency” as defined by HRS § 84-3. Respondent Souki, at all times relevant herein, was a state legislator and was therefore required to comply with the State Ethics Code.
- c. The House of Representatives’ internal rules prohibit sexual harassment:

It is the policy of the House to provide a work environment free from violence, threats of violence, harassment,

intimidation, and other disruptive behavior. House members and staff shall be treated with dignity and respect at all times.

Rules of the House of Representatives, Twenty-Ninth State Legislature, 2017-2018 (hereinafter, "House Rules"), Preface, available at <https://www.capitol.hawaii.gov/docs/HouseRules.pdf>.

d. The House of Representatives' Standards of Conduct contain clear proscriptions on members' conduct, including the following:

60.1. Members should conduct themselves in a respectful manner befitting the office with which they as elected officials have been entrusted, respecting and complying with the law and acting at all times in a manner that promotes public confidence in the integrity of the House.

...

60.3. Members should treat their fellow House members, staff, and the general public with respect and courtesy, regardless of political or religious beliefs, age, race, ethnicity, sex, sexual orientation, gender identity or expression, or physical disability.

60.4. . . . Members should freely and willingly accept certain restrictions on their business activities and professional conduct that might be considered burdensome by an ordinary private citizen, and should perform the duties of elected office impartially and diligently. To the greatest extent reasonably possible, members should:

...

(2) Refrain from showing bias or prejudice, including but not limited to bias or prejudice based on political or religious beliefs, age, race, ethnicity, sex, sexual orientation, gender identity or expression, or physical disability, in the performance of their official duties;

(3) Exercise patience, tolerance, and courtesy to all those with whom they deal with in an official capacity, and require staff and others subject to

their direction and control to maintain similar standards of conduct, fidelity, and diligence inherent in public service;

...

- (8) Refrain from using, or permitting the use of, the privileges and prestige of their public office to derive undue personal, professional, or financial benefits for themselves, members of their family, or others with whom they maintain personal, business, or professional relationships;

House Rules at 49-50.

- e. The Speaker of the House is the presiding officer of the House of Representatives, and as such, exercises substantial control over the operations of the House:

The presiding officers of each house conduct floor sessions in their respective chambers and exercise control over their house's operations, facilities, and property, including by appointing conference committee members and scheduling the legislative timetable in cooperation with the other house. In addition, the presiding officers represent their respective houses in dealing with the public and other agencies.

Hawaii State Legislature, "Membership, Leadership and Standing Committees," available at <https://www.capitol.hawaii.gov/docs/cg/5.pdf>. Similarly, the House of Representatives' internal rules contain three full pages devoted to the Speaker's duties, including appointing committee chairs and referring bills to committees. House Rules at 3-5.

- f. The Speaker of the House also has significant control over the process for investigating complaints against Representatives – including the Speaker – by choosing the members of any panel that would investigate a complaint of misconduct: "[T]he Speaker shall appoint a special committee to receive complaints and investigate any member for misconduct, disorderly conduct, neglect of duty, violation of chapter 84, Hawaii Revised Statutes, or violation of these Rules." House Rules, Rule 28.3.¹

¹ House Rule 28.3 refers to the process established by House Rule 60.7, which in turn provides:

There shall be established a Select Committee on Standards of Conduct composed of three members of the majority party and three members of the minority party, who shall be appointed by the Speaker. The Committee shall investigate any member for misconduct, disorderly

- g. Respondent Souki admits that, while serving as Speaker of the House and in meetings held in his State Capitol office, he touched and kissed more than one woman in ways that were inappropriate and unwelcome. He admits that this physical contact exceeded the boundaries of the customary “aloha kiss.”
- h. Respondent Souki further admits that he made sexual comments, including comments on the physical appearance of more than one woman, that were inappropriate and unwanted.

II. The State Ethics Code, HRS Chapter 84

A. Constitutional Mandate and Statutory Purpose

The State Ethics Code arises from the declaration contained in the State Constitution that “[t]he people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government.”² To this end, the Hawaii Constitution further directs that the legislature enact a code of ethics that applies to all appointed and elected state officers and employees.

In accordance with this constitutional mandate, the legislature enacted the State Ethics Code and charged the Commission with administering and enforcing the law “so that public confidence in public servants will be preserved.”³ Additionally, the legislature explicitly directed that the State Ethics Code be liberally construed to promote high standards of ethical conduct in state government. HRS § 84-1. It is in this context that the Commission examines every employee’s actions.

B. The State Ethics Code

As a legislator, Respondent Souki was required to comply with the State Ethics Code. As a legislator, and particularly as Speaker of the House, it is incumbent upon Respondent Souki to set – and exhibit – high standards of ethical conduct.

HRS § 84-13 (the “Fair Treatment Law”) provides in relevant part:

No legislator or employee shall use or attempt to use the legislator's or employee's official position to secure or grant

conduct, neglect of duty, violation of chapter 84, Hawaii Revised Statutes, or violation of these Rules. The Select Committee on Standards of Conduct shall operate in accordance with rules and procedures adopted by the House

² Hawaii State Constitution, Art. XIV.

³ HRS Chapter 84, Preamble.

unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others

In other words, a legislator may not use his state position to obtain unwarranted benefits for himself, nor may he use his state position to subject another person to unwarranted treatment – favorable or unfavorable.

The Commission investigated Respondent Souki's actions, and as set forth above, Respondent Souki admits to inappropriate and unwanted sexual comments, kissing, and touching.

Because of his power as Speaker over legislation and budgeting questions, women were reticent to confront Respondent Souki or to file a complaint with the House of Representatives regarding his conduct. For example, then-Director Wong was responsible for a state department with a budget of \$3.3 billion, consisting of "four divisions, two attached agencies, two attached commissions, and six staff offices." Department of Human Services, Annual Report 2016, at 2, available at <https://humanservices.hawaii.gov/wp-content/uploads/2017/01/DHS-2016-Annual-Report.pdf>. Challenging then-Speaker Souki's conduct could have jeopardized her agency's budget and legislation, thereby impairing her advocacy efforts on behalf of Hawaii's children and families. She, like others, felt she had no choice but to remain silent in the face of Respondent Souki's behavior. The Ethics Code was designed to prevent such abuses of power by state government officials.

III. Resolution of Investigation

The Commission believes that, based on the facts admitted above,⁴ Respondent Souki likely violated the Fair Treatment Law (HRS § 84-13).

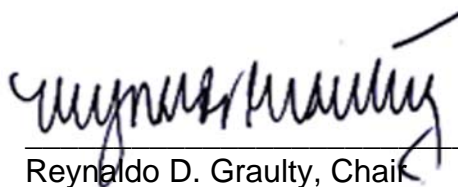
Based on the circumstances in this case, the Commission believes that it is reasonable, fair, and in the public interest to resolve this investigation as follows:

- (1) Issuing this Resolution of Investigation;
- (2) Requiring Respondent Souki to resign his position as a member of the House of Representatives, effective no later than March 30, 2018;
- (3) Requiring Respondent Souki to issue a public apology for his conduct;
- (4) Requiring Respondent Souki to pay an administrative penalty of \$5,000 to the State of Hawaii; and
- (5) Requiring Respondent Souki to agree not to seek or accept any public office for a period of two years.

⁴ This Resolution does not make formal findings, but relies on the facts admitted by Respondent Souki.

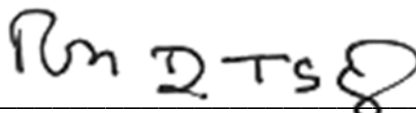
As previously stated, the Commission believes it is fair, reasonable, and in the public interest to resolve this matter without further administrative action.

Dated March 16, 2018



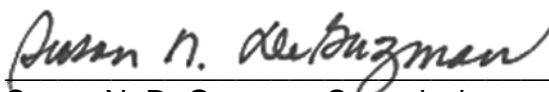
Reynaldo D. Graulty, Chair
Hawaii State Ethics Commission

Dated March 16, 2018



Ruth Tschumy, Vice Chair
Hawaii State Ethics Commission

Dated March 16, 2018



Susan N. DeGuzman, Commissioner
Hawaii State Ethics Commission

Dated March 16, 2018



David O'Neal, Commissioner
Hawaii State Ethics Commission

Dated March 16, 2018



Melinda Wood, Commissioner
Hawaii State Ethics Commission