



# HAWAII STATE ETHICS COMMISSION

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

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RELATING TO RESOLUTION OF INVESTIGATION OF JOSEPH M. SOUKI, SPEAKER  
EMERITUS, HOUSE OF REPRESENTATIVES  
(Resolution of Investigation COMPL-I-17-00397)

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”), is entered into by and between Joseph M. Souki (“Respondent Souki”) and the Hawaii State Ethics Commission (“Commission”). The Commission and Respondent Souki are referred to together as the “Parties.”

1. **Admitted Facts.** Respondent Souki admits that the following facts are true and correct:
  - 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 Hawaii Revised Statutes (“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.
- g. The State Ethics Code, HRS chapter 84, "shall be liberally construed to promote high standards of ethical conduct in state government." HRS § 84-1.
- h. The Fair Treatment law, HRS § 84-13, 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 unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others[.]
- i. While serving as Speaker of the House and in meetings held in his State Capitol office, Respondent Souki 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."
- j. Respondent Souki made sexual comments to more than one woman, including comments on their physical appearance, that were inappropriate and unwanted.

**2. Agreement.** In light of the above admitted facts, the Parties hereby agree as follows:

- a) Respondent Souki admits that the actions described in Section 1, and in particular Sections 1(i) and 1(j) (the “Settled Claims”), likely constitute violations of the State Ethics Code, specifically, the Fair Treatment Law (HRS § 84-13). Respondent Souki does not dispute that more than one woman has made allegations of sexual harassment against him. Respondent Souki acknowledges that if this investigation proceeded to a contested case hearing, his actions could be punishable by an administrative penalty of up to \$1,000.00 for each violation of the State Ethics Code.
- b) To avoid further proceedings, including a contested case hearing before the Commission, Respondent Souki agrees to the following:
  - (1) the Commission will publish a “Resolution of Investigation” document describing the Settled Claims and the resolution of those claims;
  - (2) Respondent Souki will resign his position as a member of the House of Representatives, effective no later than March 30, 2018.
  - (3) Respondent Souki will issue a public apology and notice of resignation no later than March 30, 2018, containing, at a minimum, the following language:

In response to the allegations of sexual harassment brought by more than one woman, I apologize – to those women, to my constituents, and to the people of Hawaii – for my inappropriate and unacceptable behavior.

As agreed upon with the Hawaii State Ethics Commission, I will resign from my office as State Representative effective March 30, 2018.
  - (4) Respondent Souki will pay an administrative penalty of \$5,000 to the State of Hawaii. Payment of the administrative penalty to the State of Hawaii shall be made no later than five business days after the Parties execute this agreement. Payments shall be made by check payable to the “State of Hawaii” and submitted to the Hawaii State Ethics Commission, 1001 Bishop St., Suite 970, Honolulu, Hawaii, 96813.
  - (5) Respondent Souki agrees not to seek or accept any public office for a period of two years from the Effective Date of this Agreement.
- c) A draft Resolution of Investigation is attached as Exhibit A (“Resolution of Investigation”) and will be published after the Parties execute this Agreement. Respondent Souki has had an opportunity to review and comment on the

Resolution of Investigation and: (1) approves the content of the Resolution of Investigation; (2) acknowledges that the Resolution of Investigation is potentially subject to further revision or action by the Commission; and (3) agrees that he has no editorial control over the contents or time of publication of the Resolution of Investigation now or anytime in the future.

- d) In consideration of Respondent Souki's agreement hereto, the Commission will terminate the proceedings against Respondent Souki regarding the Settled Claims. The Commission further agrees that it will not bring further proceedings against Respondent Souki should it receive further complaints or evidence regarding sexual harassment by Respondent Souki, provided that nothing herein shall prevent the Commission from investigating or taking action on allegations of ethics violations other than sexual harassment.
- e) Should Respondent Souki fail to comply with the terms of this Agreement, the Commission reserves the right, at its discretion, to re-open proceedings regarding the Settled Claims or refer this matter to the Department of the Attorney General for collection proceedings for the unpaid amounts due and owing to the State of Hawaii under this Agreement.
- f) Respondent Souki further acknowledges that the Resolution of Investigation and this Agreement shall be public documents.

**3. Bar of Claims.** Acceptance of the consideration stated above and execution of this Agreement is a complete and final bar to any appeal, claims, or further proceedings by Respondent Souki against the Commission or its staff regarding the Settled Claims. Respondent Souki waives his right to a contested case hearing or any further proceedings regarding the Settled Claims. Respondent Souki acknowledges that only those claims set forth in the Charge and described in Section 1 and Section 2(d), actionable by the Commission pursuant to the Ethics Code, HRS chapter 84, are resolved by way of this Agreement.

**4. Representation of Comprehension of Document.** The Parties represent that they have entered into this Agreement with full knowledge of the facts. The Parties execute and deliver this Agreement having completely read its provisions, terms and agreements, and being fully informed as to its contents and effect. Each Party fully understands and voluntarily accepts this Agreement without any coercion or duress. The Parties declare, covenant and warrant that they are over the age of eighteen (18) years, that they are not suffering from any legal, mental or physical disability which would impair or disable them from executing this Agreement, and that they have the authority to enter into this Agreement. This Agreement shall be construed as if it was drafted by the Parties jointly, and shall not be construed against any party regardless of which party drafted any provision hereof.

**5. Execution in Counterparts.** The Parties may sign this Agreement using one or more counterparts. The several executed copies together will be considered an original and will be binding on the Parties. One or more of the counterparts may be a faxed or digital copy, which shall constitute an original of this Agreement. This Agreement is effective upon execution by

the Respondent and the Chair of the Commission, or the Chair's designee, following approval of the Agreement by three or more Commissioners.

**6. Entire Agreement.** This Agreement, including exhibits, constitutes the entire agreement between the Parties concerning the resolution of the Settled Claims; supersedes all prior oral or written agreements or understandings between the Parties regarding that subject matter; and may not be modified except by written agreement of the Parties.

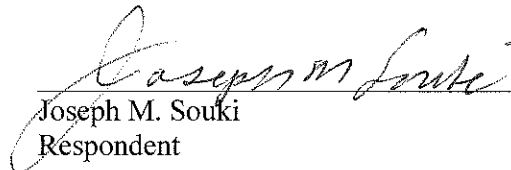
I HAVE READ THE FOREGOING AGREEMENT, I FULLY UNDERSTAND IT, AND I AGREE TO ALL ITS TERMS.

Dated 3/16/18



Reynaldo D. Gaulty, Chair  
on behalf of  
Hawaii State Ethics Commission

Dated 3/15/18



Joseph M. Souki  
Respondent