

Office of Disciplinary Counsel
Complaint Processing Dept.
201 Merchant Street, Suite 1600
Honolulu, Hawaii 96813

August 26, 2019

RE: Office of Disciplinary Counsel Complaint Form

ATTACHMENT: Your complaint against this attorney: State what the attorney did or failed to do which is the basis of your complaint. State the facts as you understand them. Do not include opinions or arguments.

I. BACKGROUND

Hawaiian Electric Industries is corporate parent of Hawaiian Electric Company, Maui Electric Company, Hawai'i Electric Light Company and American Savings Bank.

1. Hired by Hawaiian Electric Company [HECO] as contract employee August 13, 2018.
2. Received Hawaiian Electric Industry [HEI] Code of Conduct about August 13, 2018.
3. Mr. Goold is legal, medical cannabis patient authorized by State of Hawai'i Department of Health. He is also legal, medical cannabis patient authorized by State of New Mexico Department of Health.
4. Relevant Alcohol, drug and illicit substance HEI Code of Conduct written by HEI attorneys: CEO Constance Hee Lau; Thao T. Tran, Sr. Associate General Counsel; Susan Li, Sr. Vice President, General Counsel, Chief Compliance & Administrative Officer & Corporate Secretary
 - d. Reporting to work under the influence of alcohol or drugs, drinking alcoholic beverages (other than as permitted at functions or events approved by your respective Company President), possession or the unprescribed use or distribution of any controlled substance or illegal drug, or any other illegal act which occurs on work premises (including any non-Company site where you are performing work on behalf of the Company) or during your work hours (including meal breaks or rest periods) or which interferes with work performance.*
5. Relevant FairDealing HEI Code of Conduct written by HEI attorneys: CEO Constance Hee Lau; Thao T. Tran, Sr. Associate General Counsel; Susan Li, Sr. Vice President, General Counsel, Chief Compliance & Administrative Officer & Corporate Secretary.

11. Fair Dealing

The Company depends on its reputation for quality, service and integrity. The way we deal with our customers, competitors, suppliers and fellow employees molds our reputation, builds long-term trust and ultimately determines our success. You should endeavor to deal fairly with the Company's customers, suppliers, competitors and your fellow employees. We must never take unfair advantage of others through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair dealing practice.

6. Relevant Values of HEI and HECO written by HEI attorneys: CEO Constance Hee Lau; Thao T. Tran, Sr. Associate General Counsel; Susan Li, Sr. Vice President, General Counsel, Chief Compliance & Administrative Officer & Corporate Secretary.



**Hawaiian
Electric**

Our Values

The following foundational values of our Companies are embodied in the way we interact and it is evident in every business decision we make:

Safety

We live a culture of safety every day

Aloha

We care for each other as family

We care for our community

We care for our Hawaii and its future

Integrity

We are honest and ethical in our words and actions

Excellence

We perform to the highest standards

We embrace change to make things better

We hold ourselves accountable

7. Relevant HEI and HECO Corporate Code of Conduct philosophy *'imi pono* — strive to be righteous — written by HEI attorneys: CEO Constance Hee Lau; Thao T. Tran, Sr. Associate General Counsel; Susan Li, Sr. Vice President, General Counsel, Chief Compliance & Administrative Officer & Corporate Secretary.

'imi pono ~ to strive to be righteous



Hawaiian Electric Industries Inc.

'imi pono to strive to be righteous



Corporate Code of Conduct

II. HISTORY

8. HEI/ HECO did not require Mr. Goold submit to pre-employment drug screen prior to hire August 13, 2018. HEI does not require 100s of contract employees to submit to pre-employment or employment drug screen.
9. HECO valued Goold performance. Extended my contract December 2018 until July 31, 2019.
10. HECO valued Goold performance. Offered me opportunity to apply internal position January 2019.
11. HECO valued Goold performance. Selected me for internal position conditionally February 11, 2019. Required to pass background check and pre-employment drug screen.
12. HEI and HECO failed to provide any written or verbal information about alleged corporate policy restricting or prohibiting use of legal, prescribed medical cannabis.
13. Discussion with HECO HR director Shana Bucu February 27, 2019. Stated she has never seen any written information or policy about alleged corporate restriction or prohibition of use of legal, prescribed medical cannabis. Ms. Bucu has been with corporation over seven years.
14. Discussion with HECO HR rep Elizabeth “Liz” Deer February 14, 2019. Disclosed mobility disability and related legal, prescribed DOH medical cannabis authorization for chronic pain. Ms. Deer thanked Mr. Goold for being “pro-active” and stated he would “be fine.” Requested Mr. Goold provide copy DOH “329” card to HR office at future time.
15. Submitted to corporate required URINE drug screen at Straub Clinic February 14, 2019. Informed technician of legal, prescribed medical cannabis use.
16. About February 18, 2019, received confirmation from Straub Clinic drug screen showed active for cannabis. Informed clinic had reported results to HECO HR.
17. February 20, 2019, received phone call from Herman Lau, HECO IT Security, disclosing HECO HR had approved Goold official internal employment. Official *first day* would be February 25, 2019.
18. February 25, 2019, received phone call from Shana Bucu, terminating my employment with HECO per HEI corporate restriction on medical cannabis. Bucu claimed drug screen showed Mr. Goold was intoxicated and impaired in workplace; that he was danger to coworkers, company and general public; and that he was engaged in criminal behavior.
19. February 25, 2019, asked Shana Bucu to speak with HEI corporate legal team. She denied Mr. Goold’s request.
20. HEI required pre-employment URINE drug screen measures THC-COOH metabolites. This does not assess impairment or intoxication — just past use.
21. February 27, 2019, received phone call from Shana Bucu. Ms. Bucu reaffirmed claim drug screen showed Mr. Goold was intoxicated and impaired in workplace; that he was danger to coworkers, company and general public; and that he was engaged in criminal behavior. Mr. Goold asked to speak with HEI corporate legal team. Ms. Bucu said she would relay request but would not promise.

22. February 27, 2019 at 2:06PM, forwarded Memorialized transcript of earlier conversation. SEE Exhibit 1.

23. HEI attorneys refused to speak with Mr. Goold by email, phone or in-person.

24. Forced to hire attorney, Joseph T. Rosenbaum, for \$5,000.00 plus GET, to open conversation with HEI attorneys.

25. April 12, 2019, HEI attorneys respond to Rosenbaum demand letter. SEE Exhibit 2.

- a. HEI attorneys state (p1), "Mr. Goold did not pass his drug test." False. Per HEI Code of Conduct, Goold medication was legal and prescribed. HEI allows opioid medication.
- b. HEI attorneys state (p1), "We questioned the validity of Mr. Goold's assertion that he informed the Company's HR Service Center Representative, Ms. Elizabeth Deer, of his disability and his use of cannabis for his disability prior to his drug test." Non-denial denial, unethical. Ms. Deer does not deny our conversation.
- c. HEI attorneys state (p1-2), "*anguendo*, that Mr. Goold did tell Ms. Deer of his asserted disability ... It is undisputed that Hawaiian Electric was not aware of Mr. Goold's asserted disability and related medical issues at any time before the decision to rescind was made." Ms. Deer is Hawaiian Electric. Legal malpractice, unethical, violation of good faith.
- d. HEI attorneys state (p1-2), "Mr. Goold admitted that Ms. Deer did not inform 'her superiors, including Ms. Bucu.'" Mr. Goold did not admit anything. Hearsay.
- e. HEI attorneys state, (p2), "Mr. Goold, therefore, was not discriminated against because of his asserted disability." Unethical and bad faith conclusion.

26. HEI terminates negotiations May 3, 2019.

From: Tran, Thao <thao.tran@hawaiianelectric.com>
Sent: Friday, May 3, 2019 12:16 PM
To: 'Joseph T. Rosenbaum' <jtr@frlawhi.com>
Cc: 'Christina Michailidis' <ejfujiwara.paralegal@gmail.com>; 'Elizabeth Jubin Fujiwara' <ejf@frlawhi.com>
Subject: RE: Scott Goold

Hi Joe:

Thank you for your email and the proposed counteroffer. This is to inform you that we reject your counteroffer and, as you know, our offer is off the table as the deadline to respond to that offer has passed.

As mentioned in my previous phone conversation with you, the Company is discovering on a regular basis Mr. Goold's continued misrepresentation of, among others, our company's relationship with him, which was never an employer-employee relationship. Mr. Goold was never an employee of the Company and was not terminated from our Company. The Company has concerns with such misrepresentations.

Thank you,
Thao

THAO T. TRAN

Senior Associate General Counsel
Hawaiian Electric
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27. HEI terminated negotiators in part claiming falsely Mr. Goold spoke untruthfully.

“Mr. Goold was never an employee of the Company and was not terminated from our Company. The Company has concerns with such misrepresentations.”

28. Attorney for Mr. Goold in March 25, 2019, Demand Letter wrote. SEE Exhibit 3.

RE: HECO’s Wrongful Denial of Employment and Termination of Disabled Employee
Scott Goold

Mr. Goold’s attorney stated he was “terminated.” HEI attorneys did not object.

29. Mr. Goold sends via email and Certified Letter July 24, 2019, to HEI attorneys announcing *pro se* status and requesting to meet. SEE Exhibit 4. HEI attorney refused to acknowledge or respond.

30. Mr. Goold emails “anniversary memo” to HECO team on about August 14, 2019. Receives auto-response from HEI attorney Thao Tran:

Aloha:


Thank you for your email. I'm currently out of the office. I will respond to you upon my return to the office. If you need more immediate assistance, please call my cell at (808) 265-4753 or email me. I will be checking email occasionally.
Thank you.

31. Mr. Goold contacts Ms. Tran August 15, 2019 about 8:45AM at phone number provided previous day. Ms. Tran tells Mr. Goold she has family emergency and cannot speak at length. Asks Mr. Goold for his phone number and promises to return his call. Ms. Tran never returned his call.

32. HCRC filed Charge of Discrimination against HEI August 21, 2019. SEE Exhibit 5.

- Mr. Goold claims HEI attorneys failed to provide ethical, competent policy information to prospective employees, contracted employees and internal employees.
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- Mr. Goold claims HEI attorneys failed to engage him in good faith, ethical behavior and have violated legal practice requirements.
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- Mr. Goold claims HEI attorneys failed to respect his *pro se* status ethically and as professional requirements demand.

Scott Goold


Honolulu, HI 96815