County liable for alleged sexual harassment of worker

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County Councilman Stacy Higa’s alleged sexual advances toward an employee will cost Hawaii County $272,000.

That’s the ruling of a federal administrative law judge, who said that the county is liable for allowing a hostile work environment due to Higa’s alleged sexual harassment of his legislative aide.

Former county councilman James Arakaki and County Clerk Constance Kiriu were also found to have contributed to the hostile environment that forced Melissa Chang to leave her job with the county in April 2006.

Arakaki contributed to the hostile environment by trying to discourage Chang from filing her complaint against Higa, according to a person familiar with the ruling distributed Tuesday by Equal Employment Opportunity Commission Judge William Schmidt.

Kiriu is at fault because she was Chang’s supervisor, knew of the situation with Higa because of the victim’s worker’s compensation claim, and did nothing about it.

The county must pay Chang $150,000 for “Mr. Higa’s actions against her,” according to a person close to the case, who provided a few details Friday on condition of anonymity.

The county is also ordered to pay another $122,000 to Chang for “other things not specified in the ruling,” according to the source.

The ruling can be appealed by the county.

The 30-year-old Chang was hired to work for then-councilman Arakaki as a council aide beginning in September 2004. Even before she became a legislative assistant to Higa in July 2005, Higa had allegedly begun making advances toward her, according to her complaint.

Chang left abruptly in April 2006 — one year after Higa’s alleged overtures began, according to her complaint — and took 40 days of paid leave from her post, according to county records.

On Oct. 12, 2006, Chang filed a notice of discrimination complaint with the Hawaii Civil Rights Commission (HCRC), accusing Higa of subjecting her to a hostile work environment, causing her “serious mental and emotional distress ... for which she took a sick leave from her employment.” The complaint further states she suffered a psychiatric harm for which she filed a worker’s compensation claim that was confirmed.

Chang’s complaint also accuses Arakaki of threatening her with retaliation if she made a formal complaint against Higa.

Chang’s complaint was transferred by the HCRC to the EEOC in January 2007.

Higa has denied the charges in the past. In response to a call Thursday from the Tribune-Herald, Higa left a telephone message stating that he was unaware a ruling had been made. Higa stated that he was a witness in the case, and not necessarily a person who would be contacted about the ruling.

Higa’s family attorney, Brian De Lima, said Friday that Higa is not a party to any lawsuit. In this EEOC complaint, De Lima reitered, Higa was only a witness.

“Stacy Higa has not been charged with any wrongdoing in any matter. It would be wrong and irresponsible to suggest that Mr. Higa did anything wrong when he has never been sued and never been charged,” said De Lima.

Arakaki did not return phone calls Friday. Kiriu could not be reached for comment.

County corporation litigation attorney Michael Udovic responded to an e-mail request for information Friday by stating that his office “can neither confirm nor deny any of the information you reference.”

In a later e-mail, Udovic stated that the federal administrative law judge sealed the records, and therefore the county cannot respond to any questions concerning the case.

Details about the sexual harassment allegations against Higa continue to remain out of the public eye because a decision by the judge to keep all documents sealed. A two-day hearing held by the EEOC in November was closed at Chang’s request, citing the Federal Privacy Act. The Tribune-Herald has attempted without success to have these documents and hearings opened to the public.

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