

HonFed loses bid to keep lawsuit in federal court

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Federal Judge Harold Fong has sent a lawsuit against Honolulu Federal Savings & Loan Association back to state court where it began, rejecting HonFed's attempt to have the matter tried in federal court.

Fong's order also dissolved a federal magistrate's order that muzzled attorneys and sealed records in the case. Media organizations, including The Advertiser, had opposed the gag order in court documents.

The case involves a lawsuit filed in January by a former HonFed executive who alleged he was not told the true nature of the thrift's financial condition when he was hired in 1985.

David Lacy claimed in the suit that, at the time of his hiring, HonFed President Kenneth Fujinaka made "false assurances and representations and omitted certain facts" about the financial stability of HonFed, which last year was rendered insolvent and taken over by a group of Mainland investors.

Lacy also alleged he was "constructively discharged"

by HonFed after he uncovered an alleged conflict of interest by Fujinaka in a loan transaction, and complained his career was damaged as a result.

HonFed tried to have the case moved to federal court, arguing that HonFed is a federally regulated thrift. Also, HonFed argued that Lacy is now living in California, raising a "diversity of citizenship" issue.

But Jerry Hiatt, Lacy's attorney, argued successfully that no diversity of citizenship exists and that Lacy's wrongful discharge claims are based exclusively on state law. Hiatt also alleged that HonFed was trying to "forum shop" and thus make the lawsuit more expensive for Lacy.

Fong ruled that both Lacy and HonFed are citizens of Hawaii and said in his order that Lacy's complaint did not raise a federal question. "HonFed's status as a federally chartered savings and loan association does not in itself constitute a basis for removal (to federal court)," Fong ruled.

Fong also said that "as a general proposition, plaintiff is the master of his own complaint."