

## OPINION NO. 4

An employee of a private housing agency assists nonprofit groups in implementing special federal housing programs. In his job he helps his clients to obtain "seed money" loans for the planning, development and initial costs of beginning projects by preparing materials, making presentations, preparing applications and assisting in any way required.

This employee was recently appointed to a state commission which administers a state fund to make available "seed money" to help develop nonprofit housing through the use of federal funds.

The state fund, only recently created, is not yet under administration of the state agency. The employee has stated that as a member of the administering state agency charged with future administration of the fund, he could have some influence on formulating policy and making decisions on applications for funds.

This Commission finds that holding these two positions is not, of itself, a violation of Act 263. However, the employee must carefully scrutinize actions he is called upon to take as a public official to avoid participation in official action relating to the state fund to avoid violation of section 8.

In his dual capacity he would be in the position of helping and advising his private applicants in applying for and obtaining state funds on the one hand and, on the other hand, formulating public policies about and passing on these same applications, unless appropriate steps for his disqualification were taken by him. As the fund is limited in amount, every decision he makes on applications for fund monies would affect the monies available to applicant-clients of the private agency. Furthermore, in the future, a large percentage of the operating expenses of the private agency may be secured from fees chargeable to the federal mortgage monies, making the fees obtainable by the private employer partially dependent upon first obtaining "seed money" from the state source.

It is against the public interest to place a public employee in the position where his private interests, in this case employment, may be directly affected by his decisions made in a public office regarding the awarding of public funds. There is a danger that such interrelation may cloud his impartial judgment. It also may create an appearance of impropriety, which tends to undermine the public confidence in government. The possible dangers of clouded judgment and the appearance of impropriety are both targets of Act 263.

Any official action taken by the employee in his capacity as a member of a state commission which may directly affect his private agency's clients would be a violation of section 8(a) of Act 263 and would subject him to the sanctions of the Act.

Because there are a number of members on the commission, he should be able to disqualify himself when private agency matters arise without disabling the commission and still be able to serve the public in commission work not directly affecting the private agency or its clients. However, complete abstention from all matters directly affecting clients of the

private agency and from all matters dealing with the "seed money" fund is the only way he can avoid violation of section 8(a).

Dated: Honolulu, Hawaii, May 14, 1968.

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