

OPINION NO. 6

A member of a state board which regulates a number of related industries has asked for an advisory opinion as to whether owning a business in one of the industries regulated by the board is in violation of the Ethics Act (Act 263, SLH 1967, *as amended*, Act 21, SLH 1968).

The employee has never represented his business before the board. Board minutes submitted to the Commission by the employee show that he has been excused from all meetings concerning industry matters since the effective date of the Ethics Act.

The board in question closely and completely regulates his industry in all its facets, including economics.

While it is the opinion of the Commission that this situation does not violate Act 263, great care on the part of the employee is necessary to avoid future violation of the Act.

There is no question that section 8 of the Act applies. This section prohibits any public action by an employee directly affecting his private interest. Any action taken by this board on industry matters directly affects the industry and affects the employee's business as part of that industry. For this reason, careful abstention by this member from any board deliberation or action dealing with the industry is necessary to avoid violation of section 8.

As this employee is one of a number of board members, he can abstain from participation in all areas dealing with his industry without rendering the board unable to act. Thus, he can retain his membership on the board without being in violation of Act 263. However, if this employee's appointment to the board was because of his expert knowledge on industry matters, Act 263 now prohibits his participation and use of this expert knowledge for the public benefit because of his private interest in the industry.

Dated: Honolulu, Hawaii, May 23, 1968.

STATE ETHICS COMMISSION
Vernon F.L. Char, Chairman
Mary George, Vice Chairman
James F. Morgan, Jr., Commissioner
S. Don Shimazu, Commissioner
July Simeona, Commissioner