

OPINION NO. 52

An employee of a private group is a member of a state commission dealing with matters of interest to his private employer. He had earlier asked the State Ethics Commission for an opinion regarding these dual positions in view of the fact that the commission administers, among other matters, a fund for which his private agency could apply. We held at the time that he could occupy the dual private-public positions so long as he, as a state commissioner, scrupulously practiced disqualification from participating in all action on 1) applications for the state money and 2) applications before the commission by his private employer and its clients.

We note that he has indicated that he has disqualified himself approximately four times at commission meetings since we issued our last opinion.

This further opinion was requested because of an additional private position he has assumed in another private corporation.

He has stated that the ongoing programs of the second private agency are such that he may be serving people in his private capacity who may qualify for assistance by his state agency.

Furthermore, there are two new state programs in which the two private organizations with which he is connected may wish to participate.

The relevant section of chapter 84 is section 14, relating to conflicts of interests. This section prohibits employee participation in official action directly affecting a business or matter in which the employee has a substantial financial interest. While the additional position he now occupies and the expanded activities related thereto do not constitute a *per se* violation of the section, continued careful scrutiny of the action he is called on to take as a public official is necessary to avoid violation of section 14.

The employee must, of course, refrain from participation in decisions on applications for the state program from clients of his private employer. He should also refrain, as a commission member, from participation in commission decisions on any awards if the private corporation or its clients have applied for, or are contemplating applying for participation in the state programs.

Thus, we hold that he must disqualify himself from all such participation in all commission decisions involving clients of his private employer or any limited public funds in which they may be interested to avoid violation of the code.

Dated: Honolulu, Hawaii, December 30, 1969.

STATE ETHICS COMMISSION

Vernon F.L. Char, Chairman

James F. Morgan, Jr., Vice Chairman

S. Don Shimazu, Commissioner

July Simeona, Commissioner

Margaret W. Smalley, Commissioner