

OPINION NO. 83

A member of a State commission has inquired whether he should disqualify himself from a matter involving a business with which he has a substantial contract to sell his product or services as a self-employed individual.

The State Ethics Commission advised him to disqualify himself from participation in discussion and voting action because such participation would be in violation of HRS, §84-14, relating to conflicts of interest, which provides: "No employee shall participate, as an agent or representative of a State agency, in any official action directly affecting a business or matter in which he has a substantial financial interest."

His economic security is dependent upon the contracts with the corporation which has the ultimate authority to reject his product or services. Therefore, the interests of the corporation are of direct concern to him. For this reason, this Commission finds that his contractual interest in this matter is of a sufficient magnitude to have a possible influence on his judgment and is, therefore, a substantial financial interest within the meaning of the law.

We have previously held that "direct effect" depends solely upon whether the official action has an actual and real effect on the "business or matter" in which the employee has a substantial interest, and not whether it affects the employee's interest in it [Opinion No. 9]. This corporation is a business in which this commission member has a substantial interest by virtue of his contract with that corporation.

Dated: Honolulu, Hawaii, August 20, 1970.

STATE ETHICS COMMISSION
James F. Morgan, Jr., Chairman
Vernon F.L. Char, Commissioner
Walters K. Eli, Commissioner

Note: Commissioner S. Don Shimazu was excused from the meeting at which this opinion was considered. The vacancy left by the resignation of The Very Reverend John J. Morrett has not been filled.