

OPINION NO. 91

A member of a state board requested a clarification of Opinion No. 6. His duties as a board member include: 1) the assessment of qualifications of those wishing to practice related professions in the State and 2) the execution of the laws relating to the licensing and regulation of those professions. This employee is a member of one of the professions regulated by his board and he owns a firm which practices that profession.

The main purpose of this board is to maintain high standards in the practice of related professions in the State. Members of this board are chosen because of their association with and expertise in the various professions to be regulated, and because of the excellence of reputation among their professional colleagues.

Opinion No. 6 of this Commission involved a board which did not require professional qualifications for membership. There was no legislative mandate that the board referred to in Opinion No. 6 be composed of persons with interests in the regulated industries as there is in the case of the board this member will serve on. The commissioner in Opinion No. 6 had an interest in government regulated industry. Therefore, it was appropriate to require disqualification from industry matters. However, the undeleted form of Opinion No. 6 goes on to say:

... Boards, such as that of Engineers, Architects and Surveyors ... are formed by legislation specifically providing that a certain number of the members of the Board be of the profession regulated. This is a clear policy decision by the legislature that the members of these professions are best informed as to the standards of proficiency in the profession to which its members should be held.

In the case of this employee, the legislature has determined that members of the professions regulated should participate in determining how the standards of proficiency in the profession are best served. For this reason the Ethics Commission ruled that he need only disqualify himself from matters directly affecting any firm in which he has a direct substantial financial interest.

Dated: Honolulu, Hawaii, January 26, 1971.

STATE ETHICS COMMISSION
James F. Morgan, Jr., Chairman
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Gwendolyn B. Bailey, Commissioner
Walters K. Eli, Commissioner
S. Don Shimazu, Commissioner