

OPINION NO. 124

On October 29, 1970, we issued Opinion No. 89 to an employee regarding his directorship with a non-profit organization.

In that opinion, we stated that HRS, §84-14, relating to conflicts of interest, did not apply to him inasmuch as he was an uncompensated board member of a non-profit organization. We held that there was no indication that he had violated HRS, §84-13, relating to the use of official position to obtain unwarranted treatment for one's self or others. We did, however, advise that to avoid even the appearance of any violation of the ethics law, he should disclose his connection with the organization to his immediate supervisor and that he should refrain from further discretionary action relating to a proposed contract between his state agency and the non-profit corporation.

Since the issuance of that opinion, it was called to our attention that a directorship of both corporations for profit and non-profit corporations involves potential liability. Although such liability is a disadvantage rather than a benefit, it was nevertheless, in our opinion, a substantial financial interest. Under the circumstances, we revoked the portion of Opinion No. 89 relating to HRS, §84-14. We ruled that this provision, §84-14, did apply to the individual and that therefore he was now required to disqualify himself from all official action directly affecting the non-profit corporation. Under the statute, official action included decisions, recommendations, approval or disapproval, or any other action which involved the use of discretionary authority. We interpreted this to mean that he should also disqualify himself from action relating to the evaluation of performance of contracts awarded to the non-profit corporation by his agency.

This revocation and amendment was made pursuant to our authority under HRS, §84-31(a)(2) and was effective upon the date of issuance of this new advisory opinion.

Dated: Honolulu, Hawaii, November 4, 1971.

STATE ETHICS COMMISSION
Vernon F.L. Char, Acting Chairman
Gwendolyn B. Bailey, Commissioner
Audrey P. Bliss, Commissioner
Walters K. Eli, Commissioner
Fred S. Ida, Commissioner