

## OPINION NO. 175

A member of a state commission inquired whether he might act as an arbiter or referee, either on a compensated or non-compensated basis, in disputes involving private businesses and their employees.

The commission member indicated that his commission was responsible for the administration of a law affecting the rights of government or public employees.

HRS §84-14(b) states that "[n]o employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him." We have construed this section to mean that an employee should not acquire a financial interest (defined in HRS §84-3(6)) in a business if there is a strong probability that he directly will be required to take official action with regard to the business.

The commissioner indicated that as an arbiter in the private sector, he would not be concerned with rights of public employees or dealing with associations that were primarily concerned with the rights of public employees (hereinafter referred to as "public sector employee associations"). Conversely, he stated that in his state capacity, he did not take official action affecting associations that had, or primarily had, employees in the private sector as members (hereinafter referred to as "private sector employee associations").

It was our opinion that the employee could act as an arbiter on a compensated basis in private sector disputes in which private sector employee associations were involved. He could not referee (on a compensated basis) disputes in which public sector employee associations were involved. We indicated that to referee a private sector dispute in which a public sector employee association was involved for compensation would be a violation of HRS §84-14(b) because it was probable that the public sector employee association would be directly involved in subsequent official action to be taken by the board member.

It was our further opinion that HRS §84-14(b) did not preclude him from refereeing on a non-compensated basis any private sector dispute, including one in which a public sector employee association was a party. Although there would be reason to believe that he might subsequently be taking official action involving the public sector employee association, he would not, as a noncompensated arbiter, be acquiring a financial interest in the association.

Finally, the board member indicated that he would act as an arbiter in private sector disputes only on weekends or holidays. We stated that this would be in accord with HRS §84-13, which, among other things, prohibits the use of state time for private business purposes.

The Commission commended the individual for his sensitivity to ethics in government.

Dated: Honolulu, Hawaii, January 21, 1974.

STATE ETHICS COMMISSION  
Gwendolyn B. Bailey, Chairman  
Vernon F.L. Char, Vice Chairman  
Audrey P. Bliss, Commissioner

Note: Commissioner Walters K. Eli was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.