

## OPINION NO. 183

A state employee inquired whether he might provide consulting services to a private firm on a matter in which he had participated as a state employee. He submitted the following facts:

1. He was on special leave without pay from his state position. He planned to return to his position in the fall of 1974.
2. He had received a request to serve as a consultant for a firm on a program developed by the state agency by which he was employed.
3. As a state employee, he had been directly involved in the development of the program. The firm which made the request for his services was under contract with his state agency to carry out a variety of tasks related to the program.
4. As a consultant to the firm, he would provide services related to the adoption of the program in jurisdictions outside the State of Hawaii.
5. The service to be performed by the state employee would involve out-of-state travel, including certain foreign countries, and the period of employment would be less than twenty days.
6. Only travel and per diem costs would be covered by the firm. The employee did not intend to request nor accept any fee or stipend for his services.

Based upon the facts before us, we concluded that the state employee would not be in violation of HRS ch. 84 (the state ethics law) if he were to provide consulting services to the private firm notwithstanding the fact that he had participated in his state capacity in the program.

HRS §84-14(b)(Supp. 1973) 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 stated that this statutory section was inapplicable to the instant situation because he would not be acquiring a financial interest, as defined in HRS §84-3(6), in the private firm. Although an employment interest is a financial interest under the ethics law, "employment" is statutorily defined as "any rendering of services *for compensation*" (emphasis added). HRS §84-3(5) (Supp. 1973). "Compensation" is defined as "any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another." HRS §84-3(2). The employee stated that the company would reimburse him only for travel and per diem costs and that he would not accept any fees for his services. He further informed us that he would not be doing any personal business on the trip. For these reasons, we said that he would not be acquiring an employment interest in the private firm.

Then, HRS §84-14(d) states that "[n]o ... employee shall assist any person or business or act in a representative capacity for a fee or other compensation to ... obtain a contract, claim, or other transaction or proposal in which he has participated or will participate as an ... employee." This statutory section was also inapplicable to the instant situation because the state employee would not be receiving a fee or other compensation in return for his consulting services. In this case, we did not believe that payment of his travel and per diem costs was compensation for his services. We pointed out that he had informed us that he would not do any personal business on the trip.

We thanked the state employee for his concern for ethics in government.

Dated: Honolulu, Hawaii, June 24, 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.