ADVISORY OPINION NO. 86-3

The Commission received a request for an advisory opinion from a board member who asked the Commission to determine whether a fellow board member's vote to abolish a program run by the board's department conflicted with her personal financial interests. The requester pointed out that the board member was employed by a group whose attorney represented certain plaintiffs in a lawsuit to have the court abolish the same program. Although the group's attorney represented the plaintiffs, the group itself was not a party to the lawsuit. Both the requester and the board member stated that at a recent board meeting the board member made a motion to abolish the program, and the motion was seconded. The matter was then put to a vote, and the motion carried by a single vote, with the board member casting her vote to abolish the program. Since the program had been abolished by the board, it seemed likely that the lawsuit would be dropped.

The section of the ethics code relevant to the question raised was HRS §84-14(a), which in pertinent part reads as follows:

> **§84-14 Conflict of interests.** (a) No employee shall take any official action directly affecting:
>
> (1) A business or other undertaking in which he has a substantial financial interest; or
>
> (2) A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

This section of the ethics code prohibits state employees from taking official action that "directly affects" companies or organizations they work for.

After reviewing the facts of the case, the Commission concluded that the action the board member took was not in violation of HRS §84-14(a), since neither her motion nor vote had a "direct effect" on the group she worked for in her private capacity. The Commission noted that the group was neither before the board nor a party to the lawsuit. The Commission believed that the lawsuit was too remote from the board member's action to constitute a conflict of interest.

The Commission told the requester that it appreciated his bringing this matter to the Commission's attention for its review and commended him for his sensitivity to the ethical considerations involved in the case.

Dated: Honolulu, Hawaii, January 31, 1986.

STATE ETHICS COMMISSION
Tim S. Farr, Chairperson
Laurie A. Loomis, Vice Chairperson
Allen K. Hoe, Commissioner
Edith K. Kleinjans, Commissioner
Rabbi Arnold J. Magid, Commissioner