

## OPINION NO. 202

An appointee to a state commission inquired whether he should serve on the commission. He filed a disclosure of financial interests with us.

The individual was employed by a certain company and he also had an ownership interest in this organization of approximately two percent.

The commission to which the individual had been appointed served in an advisory capacity on certain matters to several other state agencies.

Initially, we pointed out that the ethics law did not preclude him from serving on the commission. However, we brought to his attention HRS §84-14(a) (Supp. 1974). This section states the following:

No employee shall take any official action directly affecting ... [a] business or other undertaking in which he has a substantial financial interest ....

Because we held that his employment and ownership interests in his company were substantial financial interests, we stated that this statutory section had to be followed by him.

We were cognizant that the legislature had mandated that the individual's commission should consist of members who had an interest in, knowledge of, and the ability to make contributions to matters relating to the area of the commission's concern. We interpreted this to mean that the legislature had intended that members of the commission should participate in a matter even though they might have a general interest in the outcome of the action. (See Opinion No. 163.) We also noted that the commission was an advisory rather than a regulatory or policy-making board.

In order to accommodate both the legislative intent indicated above and the legislative intent expressed in the ethics law that an employee should disqualify himself in instances of a conflict of interest, we held that HRS §84-14(a) required the individual to disqualify himself on any matter directly and specifically affecting his private company. He was not required to abstain from matters generally affecting all similar organizations.

We expressed appreciation for his concern for ethics of public officials.

Dated: Honolulu, Hawaii, December 23, 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.