

OPINION NO. 205

The chairman of a state commission requested us to render another opinion with respect to the situation discussed in Opinion No. 193. In that opinion, the Ethics Commission stated that the ethics law would not prohibit the chairman's commission from employing one of its commissioners as executive director. However, we brought HRS §84-13 to the attention of the individual requesting the opinion and stated that the Ethics Commission made no determination on whether this statutory section had been violated because no facts relating to it had been presented.

The commission chairman requesting this opinion indicated that acting on Opinion No. 193, he continued the administrative action which would result in a contract with the commissioner to act as executive director and to prepare a report for the commission. He stated that this procedure was approved by a higher state official, contingent upon an Ethics Commission finding that HRS §84-13 had not been violated. The commission chairman wished the Ethics Commission to make a finding on this issue and presented us with the following facts:

1. Until July 1974, the executive secretary's functions and the preparation of reports to the state legislature on the work of the commission were conducted by the staff of two other state agencies. In the 1974 legislative session, a law was enacted appropriating money for the preparation of a report to the legislature by the commission itself.

2. Following the commission's meeting in July 1974, it became apparent to the chairman that the time and attention required of the commissioners were such that the work of the commission could not be performed without contracting for staff and for studies. It was also apparent that the amount appropriated by the legislature was an inadequate sum for such services. The chairman then concluded that the task could be accomplished only by someone who was already knowledgeable about the work of the commission, who was in full possession of the past history and past studies of the commission, and who was willing to make a personal sacrifice in support of the commission's work. He also concluded that only commission members were so qualified because of the constraint of time. Therefore, on his own initiative the chairman requested one of the members of the commission to consider undertaking such a task. The chairman's recollection was not clear as to whether the commissioner had volunteered or whether he had made the first suggestion of the contract. However, there was no lobbying or pressure by the commissioner for him to be given this task.

We were informed by the chairman's staff that the proposed consultant contract with the commission would be for a six-month period in the amount of approximately \$15,000. Of this amount, approximately \$13,000 would be compensation for the commissioner's personal services.

Based upon the above facts, we concluded that the commissioner had not used his position in violation of HRS §84-13 to obtain unwarranted privileges, contracts, or treatment for himself.

We expressed appreciation for the chairman's continued concern for ethics of public officials.

Dated: Honolulu, Hawaii, January 9, 1975.

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.