

OPINION NO. 207

The head of a state agency asked us to render an advisory opinion on the applicability of HRS §84-14 (Supp. 1974) (the conflict of interests section of the ethics law) to him if he should put the shares of a certain company's stock (approximate market value of \$40,000) that he owned in a "blind trust." At a Commission meeting, the individual stated that he desired to take such action to promote public confidence in actions that he took as a public officer.

The agency head indicated that if a blind trust should be established, the trustee would have power to sell any of the trust assets and that he would not have control over the trustee or have knowledge of the assets of the trust. We assumed that such a trust would be irrevocable during the individual's period of government service.

HRS §84-14(a) states the following:

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;

Except that a department head who is unable to disqualify himself on any matter described in items (1) and (2) above will not be in violation of this subsection if he has complied with the disclosure requirements of section 84-17;

Except that a member of a board, commission or committee, whose participation is necessary in order to constitute a quorum to conduct official business on any matter described in items (1) and (2) above, will not be in violation of this subsection if he has complied with the disclosure requirements of section 84-17.

We brought to the individual's attention the exception for a department head who has filed a disclosure of financial interests with the Commission.

It was our opinion that if the agency head should put the shares of stock that he owned in a blind trust as described above, the ethics law would not preclude him from taking official action affecting the company in question. (We reminded the individual to file a disclosure of financial interests with the Commission.)

We were very pleased with the individual's offer to put his shares of stock in a blind trust and hoped that it would encourage others who may be in similar situations in the future to consider such action. We said that by the use of devices such as a blind trust, we believed that public confidence in public servants and government would be promoted; at the same time, government would be able to attract very highly qualified and competent individuals into its service.

We commended the individual for his sensitivity to ethics in government.

Dated: Honolulu, Hawaii, January 20, 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.