

OPINION NO. 217

A state official asked us to advise him on whether the ethics law would restrain any of his activities as a state employee.

The state employee informed us that before accepting his position with his agency, he was associated with a certain consulting firm. At this firm, he was involved in virtually every major program implemented in the State under a certain law. The individual further indicated that in his state capacity, he would be involved in certain actions against clients of his former firm.

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

We asked the state employee to note that this statutory section prohibits a state employee from taking official action directly affecting a business in which he currently has a substantial financial interest or an undertaking in which he is engaged as an advisor or consultant. We stated that HRS §84-14(a) did not prohibit a state employee from taking official action directly affecting a firm in which he previously had a substantial financial interest or a matter in which he had acted as a consultant before beginning state service.

We reviewed the disclosure of financial interests filed by the employee with the Ethics Commission. We noted that he no longer had any financial interests in this consulting firm or any of its clients and he was not a private consultant to any firm which might be directly affected by official action that he was required to take in his state position. Thus, we held that HRS §84-14(a) did not impose any restraints on his activities with respect to actions by his department against clients of his former firm.

We pointed out to the employee that our opinion was limited to the application of the ethics law to the instant facts. We said that although the ethics law did not require his disqualification on the actions in question, he and his department might wish to consider voluntary disqualification by him in some circumstances. We stated that such disqualification might be appropriate when he and his department felt that he could not be impartial in a case because of personal bias or prejudice.

We expressed appreciation for the individual's concern for ethics of public servants.

Dated: Honolulu, Hawaii, May 22, 1975.

STATE ETHICS COMMISSION
Vernon F.L. Char, Chairman
Gwendolyn B. Bailey, Vice Chairman
Audrey P. Bliss, Commissioner
Paul C.T. Loo, Commissioner
I.B. Peterson, Commissioner