

OPINION NO. 257

We received a request for an advisory opinion from a member of an advisory commission. This individual was also an officer of a corporation which had diverse interests in the State of Hawaii. He had already filed a disclosure of his private employment and other financial interests with the Commission as required by HRS §84-17. The Commission had issued an acknowledgement of this filing and as we saw no potential conflicts of interest between his responsibilities to the state commission and his duties to his employer, we had not felt it appropriate at that time to issue any caveats to him.

He now requested, however, that the Commission specifically review his position to determine if there was any conflict of interest between his state and private responsibilities. HRS §84-14(a) (Supp. 1975) had application to the question he had raised:

No employee shall take any official action directly affecting:

(1) A business or other undertaking in which he has a substantial financial interest

....

Though he served on a voluntary basis, as an appointed member of the Commission, he was, for the purposes of the ethics law, considered to be a state employee under HRS §84-3(4). Furthermore, since the commission would be taking significant action in an important area, we considered that action to be "official action" as that term is defined in HRS §84-3(7). Accordingly, as a member of that commission, we concluded that he did take official action in his state role. Finally, pursuant to HRS §84-3(6), his employment as an officer of the corporation was a substantial financial interest.

However, it was the Commission's opinion that his participation as a member of the commission, in all matters within its mandate, would not be in violation of HRS §84-14(a). The commission was concerned, among other things, with the manner in which certain government agencies handled their business.

In discussing this area, we realized that he and the other commission members might consider matters that would involve business areas in which his company had financial interests. But we could discern in such action no direct effect on his corporation.

As we could see no potential conflicts of interest arising from his situation, we believed that he should feel free to fully participate in the business of the commission.

We commended him for the sensitivity he had shown for ethics in government.

Dated: Honolulu, Hawaii, June 9, 1976.

STATE ETHICS COMMISSION
Paul C.T. Loo, Vice Chairman
Gary B.K.T. Lee, Commissioner
I.B. Peterson, Commissioner

Note: Chairman Audrey P. Bliss disqualified herself from consideration of this opinion. Commissioner Dorothy K. Ching was excused from the meeting at which this opinion was considered.