

OPINION NO. 340

The manager of a state facility, along with a state employee of another department, prepared a presentation for the awarding of a special event to the State of Hawaii. That event would take place at the state facility in 1979. In addition, another event would take place at the state facility in January of 1980. The manager was also involved in the presentation that led to the awarding of this second event to the State of Hawaii.

The manager would be associated with both events as manager of the facility in order to assure coordination with the facility. He wished to know if his involvement with the events had been in accord with the state ethics code, and he also wished to know what restrictions might apply to his future relationship to these two events.

We had in the past issued opinions to him concerning the relationship between his state duties at the facility and certain of his private interests. Those opinions had generally dealt with HRS §84-14(a) which is concerned with those financial interests one holds prior to becoming a state employee. The standard in such cases was not so strict as the situation in which a state employee acquired financial interests following his acceptance of employment with the State. It was the stricter rule which applied here.

The code restrictions are found in HRS §84-14(b) which provides:

No employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

While it appeared likely that he would be the executive director of the first event, he was not an officer of the organization that would run it nor did he anticipate being paid compensation for his services to it. Rather, he and the board governing him had viewed his participation in this matter as an extension of his state duties to the facility. Whether this participation was a part of his state duties or not was for the facility's governing board to determine. Certainly such a determination would not have been unreasonable as the solicitation of such events was within the scope of his position.

We noted that despite the fact that the State had given its support to his solicitation of these events, the likelihood was that the organizations that would ultimately have the responsibility to run them would be private businesses. Therefore, in accordance with HRS §84-14(b), the manager would not be able to acquire a financial interest in either of the organizations. He could continue to serve as executive director of the events but he should not accept a directorship or officership position with either of them. He was further advised to refrain from accepting compensation from either of the event's organizing committees as this would then make him an employee of the organizations.

Because the two events would be doing business with the facility's governing board the manager would normally be called upon to take official action with respect to them. It was because HRS §84-14(b), unlike HRS §84-14(a), did not provide for selective disqualification, that he could not acquire financial interests in either of the events.

It was our opinion that he had acted in accordance with the state ethics code in his attempts to secure these events for the State of Hawaii. Further, his decision to refuse any additional compensation for his services to the events was in accord with the standards of the ethics code. In addition, his action created the appearance that his efforts on behalf of these events had been proper.

We commended him for being sensitive to the ethics issues involved in this matter and for taking the forthright action of refusing compensation for his services.

We recognized that as plans proceeded for the staging of these two events questions might arise that could not be anticipated at that time. We stated that he could, of course, raise such matters with us as they required resolution.

Dated: Honolulu, Hawaii, June 15, 1978.

STATE ETHICS COMMISSION
Paul C.T. Loo, Chairman
Audrey P. Bliss, Commissioner
Dorothy K. Ching, Commissioner

Note: Vice Chairman I.B. Peterson was excused from the meeting at which this opinion was considered. Commissioner Gary B.K.T. Lee was not present during the discussion and consideration of this opinion.