

## OPINION NO. 342

A former employee of a state division had become associated with a private law firm. The law firm was involved with that division on a number of matters and it was likely that it would call upon the former employee's expertise from time to time. In addition, he might be called upon to represent clients before a particular appeals board that involved these same matters. He was concerned, therefore, with the application of the post-employment provisions of the ethics code to his employment with this firm.

The relevant language was contained in HRS §84-18(c) which provides as follows:

No former legislator or employee shall within twelve months after termination of his employment, assist any person or business or act in a representative capacity for a fee or other consideration, on matters involving official action by the particular state agency or subdivision thereof with which he had actually served.

The meaning of this section was that within the time period established, he might not assist or represent clients of the law firm on matters requiring the official action of the state office he had served during his tenure as a state employee.

He was particularly interested in learning if he would be permitted to represent private clients before the appeals board. Because he had not actually served this board it appeared that it might be permissible for him to represent clients before it. However, he had indicated to us that the board often requested that the parties to matters before it attempt conciliation and settlement efforts. Such negotiations took place between the client and his representative and the division and its representative. In such conferences, he would be dealing with the office that he had served in a state capacity. Therefore, our advice to him was that he might only appear before the appeals board on a particular matter when there was no possibility that the matter would be referred for further negotiation and would be concluded at the board level. We understood that it would be a rare case where such a certainty could be established. It appeared, therefore, that he might not represent clients before the board until the period of twelve months following his termination from state service had passed.

He also wished to know if he might advise the clients of the law firm and the law firm's attorneys on general matters in the area of his expertise. As an example he had cited a recent Supreme Court case concerning this area of the law and had asked if he could prepare a memorandum on this case for the firm. It was our view that he might assist the law firm and its clients on these general matters as they did not involve particular matters before the state office he had served. It was only where his assistance and representation concerned a matter that was in controversy between the firm's client and the division that HRS §84-18(c) would restrict his activities.

The restrictions we had noted applied through January of 1979. Therefore, it would be proper for him to become involved in matters that would not be brought before the division that had employed him prior to that date.

His concern for being in compliance with the ethics code was exemplary.

Dated: Honolulu, Hawaii, August 8, 1978.

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

Note: Commissioner Audrey P. Bliss was excused from the meeting at which this opinion was considered.