

## OPINION NO. 358

A high ranking state administrator had been offered two complimentary tickets on an inaugural flight by an airline company that did business in Hawaii. He wished to know if his acceptance of this gift of transportation could be in violation of the ethics code.

We pointed out that the provision on gifts was concerned with the official state relationship that might exist between a donor and the employee who was to be the recipient of the gift. Where there was no such relationship a gift would generally be found to be acceptable, regardless of its value. Where such a relationship did exist, however, almost any gift would be prohibited. The actual language is as follows:

No legislator or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part. (HRS §84-11)

The Commission had established through its opinions a number of criteria to guide itself in matters such as these. These included evaluating the business relationship between the donor and the donee; the relationship of the gift to the official functions of the recipient; the benefits to the donor and the recipient of the gift; and whether the gift would redound to the benefit of the State.

He had indicated to us that he had no direct business relationship to the airline company. He was not involved in making travel arrangements for his state office and when such arrangements were made they were handled through a travel agent who was responsible for choosing the airline.

His office was involved in establishing general state policies and such policies affected entities doing business in the State.

We commented, however, that for a gift to be prohibited the circumstances in which it was given must indicate an attempt to influence the recipient. The circumstances surrounding this gift did not create such an inference.

First of all, we recognized that inaugural flights were a sanctioned form of promotion permitted to airline companies by appropriate federal regulatory authorities. Inaugural passes were traditionally given to prominent persons in business and government. The gift to him, therefore, was not an exceptional one but was identical to that given to a large number of persons. The gift did not appear to be related to any specific action that he would take or had taken affecting this company. Rather, the gift arose from a usual and traditional event that had no relationship to the state office this employee served or his state position.

Further, we saw no particular benefit flowing to the company as a result of this gift.

We did find that while there might be some benefit redounding to the State from his participation in this inaugural flight, the primary benefit had to be seen as a personal one to himself and his wife. The determination as to whether he should make the trip on state time or vacation

time depended on the extent to which he devoted time to matters identifiable as state business while he was on this trip.

We commended him for the sensitivity he had shown to the ethics questions raised by this gift.

Dated: Honolulu, Hawaii, November 15, 1978.

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

Note: Commissioner Gary B.K.T. Lee was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.