

## OPINION NO. 434

We received a request for an advisory opinion from the executive officer of a state commission who wished to know if it would be permissible for one of the commission's members to take action with respect to two requests presently before it.

The conflicts-of-interests section of the State Ethics Code was HRS §84-14(a), which prohibited an employee from taking official action directly affecting a business or other undertaking in which he had a substantial financial interest. Under the code, a member of a board or commission was considered to be an employee. Further, pursuant to HRS §84-3(6)(C), an employment interest was included in the definition of financial interest.

The first request under consideration was an application submitted by the parent company. The question of the commissioner's participation arose because he had been employed by the subsidiary of the parent company. In this case, we were not so much concerned with the effect of any action the commissioner might have taken with respect to the subsidiary, but with its effect on the parent company. Any action taken by the state commission with respect to the application would have directly affected the parent company. Although the commissioner had not been directly employed by the parent company, he had been employed by its subsidiary, and, as a result, we found that he should have disqualified himself in this matter.

When applying the standards set out in the ethics code in the past, this Commission had been guided by its mandate to liberally construe the code to promote high standards of ethical conduct in state government. We noted that while a parent company and its subsidiaries may have been separate legal entities, in fact, the benefits gained by or through its subsidiaries ultimately flowed to the parent company. As a consequence, this Commission concluded that, for purposes of the ethics code, the interests of the two corporations were identical, and thus the commissioner was prohibited from taking action in this matter.

We found, however, that a conflict of interest did not exist with respect to the second application, which involved a request by the employer of one of the commissioner's children. Only the financial interests of an employee's spouse or dependent children may be imputed to an employee under the code, and, in this case, the commissioner's child was not his dependent. Accordingly, this Commission determined that the commissioner would be permitted to participate and vote on this application.

We commended him and the commission involved for their sensitivity to the ethical considerations in this matter.

Dated: Honolulu, Hawaii, January 20, 1981.

STATE ETHICS COMMISSION  
Edith K. Kleinjans, Chairman  
Paul C.T. Loo, Vice Chairman  
Dorothy K. Ching, Commissioner  
Robert N. Mitcham, Commissioner

Note: Commissioner Gary B.K.T. Lee disqualified himself from consideration and preparation of this opinion.