

## OPINION NO. 492

A state employee asked the Commission to determine whether he could appear in a television commercial for a private company. The employee stated to the Commission that there would be no reference to his official position in the commercial and that the private company had no business relationship with his office.

The relevant ethics code provision was HRS §84-13, which prohibits state employees from using their official positions to secure unwarranted privileges, exemptions, advantages, contracts, or treatment for themselves or others. The Commission was initially concerned that the employee's participation in the television commercial might create an appearance of a state endorsement of the private company because of the employee's position as a state employee. However, since the commercial was to make no reference to the employee's state position, the Commission believed that the employee could appear in the commercial without contravening the ethics code. Furthermore, since the company had no business dealings with the employee's office, the Commission believed that the employee's participation in the commercial would not give rise to any questions of favoritism.

The Commission was, however, concerned about how the commercial might be used by the company. Since events conducted by the employee's office were televised, and since the employee appeared on television during those events, the Commission believed that an appearance of impropriety or misuse of position in violation of HRS §84-13 would arise if the commercial were shown in close proximity to or in association with such televised programs. The Commission thus advised the employee to remain aware of this problem, and, although the Commission believed that the employee could participate in the commercial, the Commission informed the employee that its decision did not preclude the Commission from examining ethical problems that might arise in the future with regard to the use of the commercial.

The Commission also informed the employee that HRS §84-13(3) bars state employees from using state time, equipment, or other facilities for private business purposes. Although the Commission realized that the employee had shown sensitivity to this provision of the code, the Commission reminded him that his private financial interests had to be kept as distinct as possible from his state responsibilities and that work for the private company had to take place during non-state hours.

The Commission told the employee that it appreciated his contacting the Commission with regard to this question. The Commission has found that this kind of attention to ethical matters furthers public confidence in state employees and contributes to an improved ethical climate in state government.

Dated: Honolulu, Hawaii, March 31, 1983.

STATE ETHICS COMMISSION  
Edith K. Kleinjans, Chairperson  
Allen K. Hoe, Commissioner  
Gary B.K.T. Lee, Commissioner  
Robert N. Mitcham, Commissioner

Note: Vice Chairperson Paul C.T. Loo was excused from the meeting at which this opinion was considered.