

DECISION NO. 2

Upon information received, the Commission filed a charge against a state employee alleging that the employee had violated the ethics code by assigning campaign tasks to his office's secretaries. Because the employee denied the allegations, the Commission held a formal hearing to determine whether violations of the ethics laws had in fact occurred. After the hearing, the Commission made the following findings of fact:

- (1)The employee served as the treasurer of an individual's campaign for election to a state office.
- (2)The employee kept campaign materials, including envelopes and brochures, at his state office.
- (3)The employee permitted a secretary in his office to type in his presence campaign mailing labels using a state typewriter on state premises.
- (4)The employee himself typed campaign mailing labels on state premises.
- (5)The employee directed a secretary in his office to type the candidate's response to a campaign questionnaire on a state typewriter during state time on state premises.
- (6)The employee directed a secretary in his office to type campaign mailing labels on a state typewriter during state time on state premises.
- (7)The employee directed a secretary in his office to type campaign contribution cards on a state typewriter during state time on state premises.
- (8)The employee directed a secretary in his office to stamp campaign envelopes during state time on state premises.

The Commission found that the employee had violated the ethics code with respect to facts 2 through 8. The relevant sections of the ethics code were HRS §§84-13 and 84-13(3), which in pertinent part read as follows:

Fair treatment. No legislator or employee shall use or attempt to use his official position to secure to grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for himself or others; including but not limited to the following:

. . . .

- (3) Using state time, equipment or other facilities for private business purposes.

The Commission has often stated that campaign activities constitute a private business activity and thus, in accordance with HRS §84-13(3), state time, equipment, or premises cannot be used for campaign purposes. Furthermore, a state employee who uses state resources to further

the election of one individual over another grants that individual an "unwarranted advantage" in violation of HRS §84-13. In this case, the Commission found that the employee had violated HRS §§84-13 and 84-13(3) by using state time, state equipment, state premises, and state personnel for campaign purposes.

After the Commission determined that the employee had in fact violated the ethics code, the Commission forwarded a complaint to the Governor of the State of Hawaii for appropriate disciplinary action. The Commission also, in accordance with HRS §84-32(b), made the record of the hearing and the decision in the case a matter of public record. Within the time period provided by law, the Governor informed the Commission of the disciplinary action he had taken.

Dated: Honolulu, Hawaii, August 28, 1985.

STATE ETHICS COMMISSION

Allen K. Hoe, Chairperson
Laurie A. Loomis, Commissioner
Edith K. Kleinjans, Commissioner
Arnold J. Magid, Commissioner

Note: Vice Chairperson Tim Scott Farr disqualified himself from consideration of this opinion.