

DECISION NO. 89-1

A state agency head filed a charge with the State Ethics Commission ("the Commission") against an employee, alleging that the employee had initiated, approved, and processed purchases of supplies by the agency from two businesses that were owned by the employee. The employee appeared with her attorney at a Commission meeting to respond to the charge. The employee stated that her purchasing decisions had been based upon the cost and quality of supplies and that she processed purchases of supplies from her own businesses in order to save the agency money. The employee further stated that her actions were taken in good faith and that she was unaware that she might have violated the State Ethics Code.

During the course of the Commission's investigation into the charge, the employee terminated her state employment and moved to the mainland. The Commission then filed its own charge against the employee pursuant to section 84-31(a)(6), Hawaii Revised Statutes ("HRS"), which provides that the Commission shall have jurisdiction for purposes of taking appropriate action on alleged violations of the State Ethics Code in all proceedings commenced within one year after termination of state employment by an employee. A proceeding is deemed commenced by the signing of a charge by three or more members of the Commission.

The employee agreed to waive a contested charge hearing and stipulated to certain factual admissions upon which the Commission rendered its decision. Based upon the stipulation to factual admissions, the Commission found that in her state capacity, the employee had initiated, approved, and/or processed purchases of supplies by her agency from two businesses which were owned and operated by the employee and/or the employee's spouse.

Section 84-14(a), HRS, provides that no state employee shall take any official action directly affecting a business in which the employee has a substantial financial interest. A "financial interest" is defined by the ethics code to include an ownership interest in a business held by an individual or the individual's spouse.

The Commission found that the employee in this case had a substantial financial interest in the employee's two businesses by virtue of her and her spouse's ownership interests in those businesses. The Commission also found that by initiating, approving, and/or processing purchases of supplies by her agency from her own two businesses, the employee had violated section 84-14(a), HRS, by taking official action directly affecting businesses in which she had a substantial financial interest.

Following the Commission's determination that the employee had in fact violated the ethics code, the Commission forwarded a copy of its decision to the employee's former agency.

Dated: Honolulu, Hawaii, March 15, 1989.

STATE ETHICS COMMISSION
Cynthia T. Alm, Chairperson
K. Koki Akamine, Commissioner
Laurie A. Loomis, Commissioner

Note: Vice Chairperson Rev. David K. Kaupu was not present during the discussion and consideration of this matter. There was a vacancy on the Commission when this opinion was considered.