

INFORMAL ADVISORY OPINION NO. 15

A member of the public charged a former state employee with alleged violations of HRS §84-18 (Supp. 1974). The charge stated that it had been widely reported, and the former state employee had not denied, that the former state employee had accepted employment as an officer of a certain company, a firm for which he helped arrange a loan from the State while he was a state employee.

The former state employee was notified of this charge by registered letter. He was also informed that, pursuant to HRS §84-31(b), he could meet with the Commission to explain the conduct alleged to be in violation of the law. An informal hearing was held.

We issued this informal advisory opinion pursuant to HRS §84-31(b) (Supp. 1974).

We made the following findings:

1. The individual was a former employee of state "Agency A."
2. The former state employee was a member of another state agency, "Agency B." He was also a member of Agency B's executive committee. This agency had the responsibility of submitting recommendations to another state agency on applications for loans or grants under a certain loan and grant program.
3. Agency A had been selected to be the expending agency under the loan and grant program in question.
4. Agency B approved a certain proposal for a project submitted by a certain company, "Company C." The former state employee abstained from voting on the motion to approve the project.
5. The executive committee of Agency B, of which the former state employee was a member, had the responsibility of working out the financial package for the project.
6. By letters signed by the former state employee, Agency B recommended that loans be granted to Company C under the loan and grant program.
7. By a letter signed by the former state employee, Company C was advised that the loans had been approved.
8. Disbursement of funds under the notes executed by Company C was made through a special supervised account. Checks disbursing funds of Company C were cosigned by Agency A.
9. The former state employee was employed by Company C as an officer. He was in charge of the company's financial matters and was in charge of funds disbursed under the company's special supervised account.
10. By letter to the head of Agency A, the former employee requested approval of a change in the budget of Company C.

11. The former state employee resigned his position with Company C and returned to the company all the compensation that he had received.

We reached the following conclusions:

1. Under HRS §84-31(a)(6), the Commission had jurisdiction for purposes of investigation and the taking of appropriate action on alleged violations of the ethics law in all proceedings commenced within one year after the termination of employment by a State employee; therefore, the Commission had jurisdiction over the former state employee.
2. There was probable cause to believe that as an official of Company C, the former state employee assisted the company for compensation on matters in which he had participated as a state employee.
3. There was probable cause to believe that as an official of Company C, the former state employee had assisted and acted in a representative capacity for the company for compensation on matters involving official action by Agency A.
4. There was probable cause to believe that by assisting Company C on financial matters and by requesting the head of Agency A to approve a change in the budget of Company C, the former state employee violated HRS §§84-18(b) and (c).

We recommended that to avoid future violations of HRS §84-18, the former state employee should not seek future employment with Company C or assist or act in a representative capacity for the company for compensation on matters involving official action by Agency A for a period of one year from his termination of state employment.

Inasmuch as the charge filed against the former state employee was limited to alleged violations of HRS §84-18 and concerned with his employment with Company C, we limited our findings and conclusions to these matters.

We stated that pursuant to HRS §84-31(b), the former state employee might either 1) agree to comply with the findings, conclusions, and recommendations of this informal advisory opinion or 2) request a formal opinion. We requested that he inform us of his decision within ten days.^{††}

Dated: Honolulu, Hawaii, June 13, 1975.

STATE ETHICS COMMISSION
Gwendolyn B. Bailey, Vice Chairman
Audrey P. Bliss, Commissioner
Paul C.T. Loo, Commissioner
I.B. Peterson, Commissioner

Note: Chairman Vernon F.L. Char disqualified himself from consideration and preparation of this Informal Advisory Opinion.

^{††}The former state employee indicated by letter that he would comply with the findings, conclusions, and recommendations of this informal advisory opinion.