



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

Resolution of Charge **2017-3**

(COMPL-C-16-00438)

Hawaii Tourism Authority President and Chief Executive Officer's Alleged Violations of Fair Treatment Law, Gifts Law, and Gifts Reporting Law

December 8, 2017

The Hawaii State Ethics Commission (“Commission”) has resolved a Charge issued against George Szigeti, President and Chief Executive Officer, Hawaii Tourism Authority (“HTA”), for alleged violations of the State Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

The alleged violations came to the attention of the Commission by way of an anonymous complaint.

I. Facts

Respondent Szigeti admitted the following facts:

- a. Respondent Szigeti, at all times relevant herein, was employed by HTA, a state agency, as its President and Chief Executive Officer (“CEO”). He joined HTA in June 2015.
- b. Respondent Szigeti, at all times relevant herein, was a state employee as defined in HRS § 84-3. As a state employee, Respondent Szigeti is required to comply with the State Ethics Code.
- c. Respondent Szigeti and other HTA personnel are required to travel for state business in the performance of their official duties.
- d. On all flights referenced herein, Respondent Szigeti was traveling in the performance of his official duties.
- e. According to policy and practice, all air travel and hotel arrangements are booked and paid by HTA. Air tickets are reserved and paid at the economy fare.

- f. On the following occasions, Respondent Szigeti accepted “courtesy” upgrades to Business Class when traveling on state business:
 - i. Respondent Szigeti accepted an unsolicited upgrade to Business Class from Japan Airlines (“JAL”) on a round-trip flight from Honolulu to Tokyo, Japan, on August 31, 2015 (returning on September 4, 2015), as well as access to JAL’s premier class lounge; and
 - ii. Respondent Szigeti accepted an unsolicited upgrade to Business Class from JAL on a round-trip flight from Honolulu to Guangzhou, China (via Tokyo), on October 10, 2015 (returning on October 16, 2015).
 - iii. Each of the above travel upgrades accepted by Respondent Szigeti had a value in excess of \$200.
- g. Respondent Szigeti did not report the above flight upgrades that he accepted by filing a Gifts Disclosure Statement with the Commission by the statutory deadline of June 30, 2016 (to cover the reporting period of June 1, 2015 through June 1, 2016).

II. The State Ethics Code, HRS Chapter 84

A. Constitutional Mandate and Statutory Purpose

The State Ethics Code arises from the declaration contained in the State Constitution that “[t]he people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government.”¹ To this end, the Hawaii Constitution further directs that the legislature enact a code of ethics that applies to all appointed and elected state officers and employees.

In accordance with this constitutional mandate, the legislature enacted the State Ethics Code and charged the Commission with administering and enforcing the law “so that public confidence in public servants will be preserved.”² Additionally, the legislature

¹ Hawaii State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

explicitly directed that the State Ethics Code be liberally construed to promote high standards of ethical conduct in state government. HRS § 84-1. It is in this context that the Commission examines every employee's actions.

B. Application of the State Ethics Code to Respondent Szigeti

According to HTA's website, HTA is "Hawaii's state tourism agency." HTA is "a body corporate and a public instrumentality of the State" and is placed within the Department of Business, Economic Development, and Tourism for administrative purposes only. HRS § 201B-2(a). HTA's responsibilities include, but are not limited to, "promoting, marketing, and developing the tourism industry in the State." HRS § 201B-7(b)(2). The powers and functions granted to and exercised by HTA are expressly declared to be "public and governmental functions, exercised for a public purpose, and matters of public necessity" pursuant to HRS § 201B-14.

As an employee of HTA, Respondent Szigeti was a state employee for purposes of the State Ethics Code.³ As a state employee, Respondent Szigeti is required to comply with the State Ethics Code. As the head of HTA's staff, it is incumbent upon Mr. Szigeti to set – and exhibit – high standards of ethical conduct for the agency.

1. Fair Treatment and Gifts

HRS § 84-13 (the "Fair Treatment Law") prohibits a state employee from using his or her state position to obtain unwarranted privileges, advantages, or benefits for the employee or others.

The Gifts Law of the State Ethics Code, HRS § 84-11, prohibits a state employee from soliciting, accepting, or receiving, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the employee in the performance of the employee's official duties or is intended as a reward for any official action on the employee's part.

It is the State's policy that employees travel by coach class when traveling on state business. The State's travel rules provide that "[t]ravel route(s) shall be the most economical and direct route(s) available to the point(s) of business destination." Hawaii Administrative Rules ("HAR") § 3-10-6. See also HAR § 3-10-8(b) ("Unless otherwise justified and approved by the governor, travel shall be by the most economical means consistent with time available and urgency of the trip.").

³ HRS § 84-3.

In Advisory Opinion No. 95-1, the Commission determined that travel upgrades for state officials traveling on state business are a personal benefit rather than a benefit to the State and that HRS § 84-11 and § 84-13 prohibited the solicitation and acceptance of travel upgrades by state officials.

The State's travel policies are particularly important for HTA personnel, because HTA awards contracts to – and thus takes official action regarding – multiple airlines:

- In 2014, HTA reported a contract with JAL valued at more than \$1,000,000 over the life of the contract. HTA, 2014 Annual Report to the Hawai'i State Legislature, p. 52.
- In 2014, HTA reported a contract with Hawaiian Airlines valued at more than \$100,000. HTA, 2014 Annual Report to the Hawai'i State Legislature, p. 52.
- In 2015, HTA reported a contract with Hawaiian Airlines valued at more than \$1,000,000 over the life of the contract; two additional contracts with Hawaiian Airlines valued at more than \$100,000 each; and contracts with Alaska Airlines and Virgin America valued at more than \$100,000 each. HTA, 2015 Annual Report to the Hawai'i State Legislature, p. 51.
- In 2016, HTA reported a contract with Virgin America valued at more than \$100,000. HTA, 2016 Annual Report to the Hawai'i State Legislature, p. 51.

There are circumstances in which a state employee may fly in a higher class of service. For example, a state employee who earns frequent flyer miles by using a personal credit card for personal purchases may use these miles to obtain an upgrade to a higher class of service. Likewise, a state employee may use personal funds to purchase an upgrade. Absent extraordinary circumstances, however, the State achieves no benefit in having its employees travel in First Class or Business Class; that is, there is virtually never a state purpose in soliciting or accepting a gift of an upgrade in service. Instead, the improvement in service is a personal benefit to the employee receiving that upgrade.

The Commission investigated Respondent Szigeti's actions from 2015 through 2017 and discovered that, on the above-referenced occasions, Respondent Szigeti accepted "courtesy" upgrades.

The Commission believes that, by accepting "courtesy" upgrades while traveling on state business, Respondent Szigeti likely violated the Fair Treatment Law and Gifts Law. Particularly relevant in this case, the acceptance of "gifts" from state contractors or potential contractors raises serious concerns under the Ethics Code, undermining the trust placed in government officials by the people of Hawaii.

2. Gifts Reporting

The Gifts Reporting Law of the State Ethics Code, HRS § 84-11.5, requires every state employee to file a gifts disclosure statement on June 30 of each year if the following conditions are met: (1) The employee “received directly or indirectly from one source any gift or gifts valued singly or in the aggregate in excess of \$200, whether the gift is in the form of money, service, goods, or in any other form”; (2) the source of the gift or gifts has interests that may be affected by the employee’s official action; and (3) the gift is not exempted by HRS § 84-11.5(d) from the reporting requirements. HRS § 84-11.5. The law provides that “[t]he report shall cover the period from June 1 of the preceding calendar year through June 1 of the year of the report.” HRS § 84-11.5(b). The law further provides that the report shall contain: (1) a description of the gift; (2) a good faith estimate of the value of the gift; (3) the date the gift was received; and (4) the name of the person, business entity, or organization from whom, or on behalf of whom, the gift was received. HRS § 84-11.5(c).

Respondent Szigeti did not file gifts reports for any of the above-referenced flight upgrades as required by HRS § 84-11.5 until after the Commission notified HTA of its investigation in September 2016. As such, the Commission believes that Respondent Szigeti likely violated the Gifts Reporting Law.

III. Resolution of Charge

The Commission issued a Charge against Respondent Szigeti on August 17, 2017.

The Commission believes that, based on the facts admitted above,⁴ Respondent Szigeti likely violated the Gifts Law (HRS § 84-11), the Gifts Reporting Law (HRS § 84-A11.5), and the Fair Treatment Law (HRS § 84-13).

Given the likely violations of the State Ethics Code, as well as Respondent Szigeti’s position as the President and CEO of HTA, the Commission believes it is reasonable, fair, and in the public interest to resolve this investigation by (1) issuing this Resolution of Charge, and (2) requiring Respondent Szigeti to pay an administrative penalty of \$1,750 to the State of Hawaii.

In our view, ignorance of the law is no excuse: the fact that Respondent Szigeti spent twenty years in the private sector before being appointed President and CEO of HTA does not lessen his culpability, nor does the fact that his upgrades occurred within five months into his tenure at HTA. Records indicate that Respondent Szigeti attended

⁴ This Resolution does not make formal findings, but relies on the facts admitted by Respondent Szigeti.

ethics training in March 2016. Despite attending this training, although he did not solicit the upgrades and benefits, Mr. Szigeti did not file a gifts disclosure statement by June 30, 2016, nor did he take any other corrective action until after he was notified by the Commission.

This is not a trivial matter. HTA has had contracts valued at over \$1,000,000 with Japan Airlines, which provided Respondent Szigeti with Business Class upgrades and special lounge privileges. He was provided with privileges not given to other state employees because of his important position and influence in tourism promotion for our state. For these reasons, we do not believe any special consideration should be given to Respondent.

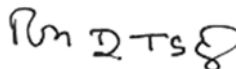
Respondent Szigeti fully cooperated with the Commission in its investigation and has not previously been the subject of a Commission charge or investigation. The Commission also recognizes that Respondent Szigeti's receipt of upgrades occurred early in his tenure with the State and that he has since taken steps to ensure that HTA staff do not accept unlawful upgrades in the future. The resolution of the Charge does not constitute an admission by Respondent Szigeti, or a determination by the Commission, that Respondent Szigeti violated the State Ethics Code. As previously stated, the Commission believes it is fair, reasonable, and in the public interest to resolve this matter without further administrative action.



Reynaldo D. Graulty, Chair
Hawaii State Ethics Commission



David O'Neal, Vice Chair
Hawaii State Ethics Commission



Ruth D. Tschumy, Commissioner
Hawaii State Ethics Commission



Melinda Wood, Commissioner
Hawaii State Ethics Commission

**Concurring and Dissenting Statement to Resolution of Charge
2017-3**

(COMPL-C-16-00438)

**Hawaii Tourism Authority President and Chief Executive Officer's
Alleged Violations of Fair Treatment Law, Gifts Law, and Gifts Reporting Law**

December 8, 2017

I concur with Resolution of Charge No. 2017-3 in all respects except for the majority's decision to make public the identity of Respondent George Szigeti ("Respondent Szigeti"), President and Chief Executive Officer ("CEO") of the Hawaii Tourism Authority ("HTA"). Decisions to release a respondent's identity have been made on a case-by-case basis, and I believe that the facts and circumstances of the instant case warrant confidentiality. Therefore, for the reasons explained below, I respectfully dissent, in part.

Respondent Szigeti was employed by the HTA, commencing in or around June 2015. He was previously employed as President and CEO of the Hawaii Lodging & Tourism Authority (from July 2012 to May 2015) and as President and CEO of Better Brands (from March 1997 to May 2015). Thus, for nearly 20 years prior to joining HTA, a state agency, Respondent Szigeti worked in the private sector.

Within the first approximately 60 days of employment with HTA, Respondent Szigeti took his first business-related trip to Japan (on August 31, 2015) and 40 days thereafter flew to China (on October 10, 2015). He has accepted responsibility for having received unsolicited travel upgrades for both business trips, complied with the Commission's directive to file a gift disclosure statement regarding those upgrades, and agreed to pay an administrative penalty of \$1,750. He fully agrees that his lack of knowledge with respect to the ethics code is no excuse. However, in my view, I believe that the facts of this case mitigate in favor of not identifying the respondent as the alleged violator:

- (1) he has demonstrated his commitment as President and CEO of HTA to lead by example, having taken the necessary steps to ensure that his staff complies with the ethics code;
- (2) his employment with HTA is his first public sector position;

- (3) since learning of his own inadvertent violations, he has not accepted any travel upgrades;
- (4) he attended ethics training in October 2017; and
- (5) publication could unjustifiably undermine his effectiveness as head of HTA, especially in his dealings with the Legislature and community supporters.

Ignorance of the law is no excuse; however, I firmly believe Respondent Szigeti's acceptance of two isolated, unsolicited travel upgrades was, indeed, inadvertent. The trips were taken within the first 100 days of employment; clearly, during a time when he is "getting up to speed" in his new position. Finally, in the past, the Commission has kept the identity of respondents confidential in certain circumstances, and I believe the circumstances in this case warrant confidentiality as well.

Accordingly, I concur in part with Resolution of Charge No. 2017-03 and, based on the foregoing discussion, respectfully, dissent in part from the majority's decision to make public the identity of the respondent in this case.



Susan N. DeGuzman, Commissioner
Hawaii State Ethics Commission