

## **OPINION NO. 153**

An attorney-legislator contacted the State Ethics Commission requesting an opinion relating to the following.

On occasion during his practice of law, the attorney-legislator has represented persons in court with interests adverse to a governmental agency other than the legislature and on matters in which he had not participated and would not participate as a legislator. The legislator indicated that he charged a flat rate for court appearances and that he collected payment before appearing. He asked whether under the circumstances, it would be appropriate for him to continue representation of such persons and if so, under what conditions.

The Commission found that the only provision of chapter 84 which might apply under the circumstances is §84-14(c), HRS, which states, "No legislator or employee shall assist any person or business or act in a representative capacity before any state or county agency for a contingent compensation in any transaction involving the State." Action by the governmental agency against a party is a transaction in which the State has an interest and which involves the State. The legislator was informed that his representation of his client in court is not covered by the statute since courts are specifically excluded from the definition of "state agency." However, he was advised that his negotiations and other activities incidental to his representation of his client vis-a-vis the governmental agency were subject to that section. Consequently, if the attorney were to represent a client before state or county agencies other than the courts on a contingency basis, he would be in violation of §84-14(c). On the other hand, if the attorney represented a client with regard to a matter in which he had participated or would participate or on a matter before the house of the legislature of which he was a member, and he received compensation therefor, he would be in violation of §84-14(d), HRS. The determination of the Commission was limited to consideration of chapter 84 only.

The Commission thanked the legislator for his continuing interest in the matter of the ethics of state legislators and employees and hoped that the opinion would be of aid to him.

Dated: Honolulu, Hawaii, December 26, 1972.

STATE ETHICS COMMISSION  
Walters K. Eli, Vice Chairman  
Gwendolyn B. Bailey, Commissioner  
Audrey P. Bliss, Commissioner  
Fred S. Ida, Commissioner

Note: Chairman Vernon F.L. Char was excused from the meeting at which this opinion was considered.