



HAWAII STATE ETHICS COMMISSION

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

Resolution of Charge 2016-5

(COMPL-I-16-00153)

Legislator's Acceptance of Improper Gifts

September 2, 2016

On June 16, 2016, the Hawaii State Ethics Commission ("Commission") issued a Charge against Respondent Senator Maile S.L. Shimabukuro for alleged violations of the State Ethics Code, Hawaii Revised Statutes ("HRS") chapter 84.

The alleged violation came to the attention of the Commission after Respondent Shimabukuro initiated contact with the Commission to ask advice about the proper reporting of gifts. Respondent Shimabukuro fully cooperated with the Commission in its investigation, and has not previously been the subject of a Commission Charge or investigation. The Commission and Respondent Shimabukuro agreed to resolve the Charge with Respondent's payment of \$739 – the value of the gifts – to the State of Hawaii and the publication of this Resolution of Charge. The Commission believes that, based on the allegations detailed below, the terms of the resolution are fair and in the public interest.

I. Alleged Facts

The Commission issued the Charge after its investigation of Respondent Shimabukuro for allegedly accepting improper gifts from Alston Hunt Floyd and Ing ("AHFI"), a law firm that employs or otherwise retains registered lobbyists to lobby on behalf of the law firm and its clients. AHFI and its lobbyists regularly file lobbying expenditures and contributions reports with the Commission.

A. Acceptance of Invitation to Attend Luau at Paradise Cove

As a member of the Senate, Respondent serves as chair of the Hawaiian Affairs Committee, vice chair of the Judiciary and Labor Committee, and member of the Water and Land Committee. Respondent's official duties include law-making functions and Respondent takes official action affecting registered lobbyists, the clients of registered lobbyists, and other individuals and organizations that lobby the legislature. Respondent represents District 21, an area that includes the Waianae coast.

Prior to February 20, 2016, one of AHFI's registered lobbyists contacted Respondent and invited her to participate in and attend an AHFI employee retreat. Respondent was asked to conduct a bus tour of the Waianae coast for AHFI attorneys and/or employees. The retreat was held on February 20, 2016; Respondent participated by providing narration and commentary on a bus tour of the Waianae coast. Respondent provided information about the community and its history.

Following the bus tour, AHFI hosted a luau at Paradise Cove at the Ko Olina Resort as part of the employee retreat. The cost of the luau was \$80 per adult and \$60 per child. Adults who attended the luau received a gift card worth \$16; children received one worth \$12. The gift cards were included in the price of the luau. Respondent, her significant other and three children attended as guests of AHFI. Each received gift cards which they used to purchase items from a gift shop at Paradise Cove.

B. Acceptance of Overnight Stay at the Aulani Disney Resort and Spa

After the luau, attendees stayed overnight at the Aulani Disney Resort and Spa ("Aulani"). Respondent, Respondent's significant other, and three children stayed overnight in a room at the Aulani as guests of AHFI. AHFI paid for the overnight stay at a cost of approximately \$399.

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 State Constitution further directs that the legislature enact a code of ethics that applies to all appointed and elected state officers and employees, including members of the state legislature.

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 It is in this context that the Commission examines every legislator's and employee's actions.

B. Application of the State Ethics Code to Respondent Shimabukuro

The State Ethics Code prohibits a state legislator from accepting certain gifts.

¹ Hawaii State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

HRS section 84-11, states:

§84-11 Gifts. No legislator or employee shall solicit, accept, or receive, 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 legislator or employee in the performance of the legislator's or employee's official duties or is intended as a reward for any official action on the legislator's or employee's part.

Respondent Shimabukuro appeared to have violated HRS section 84-11 by accepting gifts of significant value from AHFI, a lobbying organization. Specifically, the Charge alleged that Respondent violated HRS section 84-11 by:

1. Soliciting, accepting and/or receiving admission to the luau (which included, food entertainment, and gift cards) for Respondent, Respondent's significant other, and three children; and
2. Soliciting, accepting, and/or receiving an overnight stay at the Aulani for Respondent, Respondent's significant other, and three children.

The total value of these gifts was approximately \$739.

Assuming the alleged facts to be true, the Commission believed that one could reasonably infer that the gifts were intended to influence Respondent in the performance of her official duties, or were intended as a reward for official action on Respondent's part. Consequently, the Commission believed that Respondent's acceptance of these gifts likely violated the State Ethics Code.

III. Resolution of Charge

Respondent Shimabukuro fully cooperated with the Commission during its investigation of this matter. Indeed, this matter first came to the attention of the Commission when Senator Shimabukuro initiated contact with the Commission for advice as to how to report these gifts in order to comply with HRS section 84-11.5, the gifts disclosure law.

This Resolution of Charge is being issued pursuant to the Commission's agreement with Respondent Shimabukuro to resolve the Charge without any further administrative proceedings. It does not constitute an admission by Respondent Shimabukuro or a determination by the Commission of any wrongdoing; however, if the allegations in the Charge were found to be true, the Commission could conclude that Respondent's actions violated the State Ethics Code.

The Commission believed it was reasonable, fair and in the public interest to resolve the Charge by issuing this Resolution of Charge and by Respondent Shimabukuro's payment of the value of the gifts (\$739) as an administrative penalty to the State of Hawaii.