

Resolution of Charge
2019-2

(COMPL-C-17-00112)

**Office of Hawaiian Affairs, Trustee's Alleged Violations of
Confidential Information Law**

April 25, 2019

The Hawaii State Ethics Commission ("Commission") has resolved a Charge and Further Statement of Alleged Violation against Rowena Akana, Trustee, Office of Hawaiian Affairs ("OHA"), for alleged violations of the State Ethics Code, Hawaii Revised Statutes ("HRS") chapter 84.

I. Facts

Respondent Akana admitted and declared, under penalty of perjury, that the following facts are true and correct:

- a) Paragraph 1.3.d of the Office of Hawaiian Affairs ("OHA") Board of Trustees ("BOT") Executive Policy Manual requires a trustee to obtain board approval before disclosing information from an Executive Session of the BOT.
- b) In January 2017, while an OHA Trustee, Respondent Akana disclosed confidential information from the January 3 and January 26, 2017 Executive Session meetings of the BOT regarding the BOT's evaluation of Executive Director Kamana'opono Crabbe. Respondent Akana, in her Answer to the Further Statement of Alleged Violation, denied that, at the time of the disclosures, she believed or understood that some or all of this information was confidential or intended to be confidential.
- c) The BOT did not authorize Respondent Akana to disclose the confidential information in 2017, and Respondent Akana lacked the authority to disclose the information on her own.

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 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. Applicable Section of the State Ethics Code: the Confidential Information Law, HRS 84-12

The Confidential Information law, HRS § 84-12, prohibits a state employee from “disclos[ing] information which by law or practice is not available to the public and which the . . . employee acquires in the course of the . . . employee’s official duties, or use the information for the . . . employee’s personal gain or for the benefit of anyone[.]”

C. Application of the State Ethics Code to Respondent Akana

As a Trustee of OHA, Respondent Akana was a state employee for purposes of the State Ethics Code.³ As a state employee, Respondent Akana was required to comply with the State Ethics Code, including the Confidential Information law.

¹ Hawaii State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

³ HRS § 84-3.

III. Resolution of Charge

The Commission believes that, based on the facts admitted above,⁴ Respondent Akana likely violated the Confidential Information Law (HRS § 84-12).

Given the likely violations of the State Ethics Code, the Commission believes it is reasonable, fair, and in the public interest to resolve this matter without further administrative action by (1) issuing this Resolution of Charge; and (2) requiring Respondent Akana to pay an administrative penalty of \$1,500.00 to the State of Hawaii. Charge number COMPL-C-17-00112 against Respondent Akana is hereby dismissed.

⁴ This Resolution of Charge does not make formal findings but relies on the facts admitted by Respondent Akana.