



HAWAI‘I STATE ETHICS COMMISSION

State of Hawai‘i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai‘i 96813

Resolution of Charge **2020-03**

(COMPL-C-18-00185)

Department of Land and Natural Resources Division of Conservation and Resources Enforcement Employee’s Violations of Fair Treatment Law and Conflicts of Interests Law

February 20, 2020

The Hawai‘i State Ethics Commission (“Commission”) has resolved the Charge issued against Patrick Chong Tim, a Conservation and Resources Enforcement Officer (“CREO”) III of the Hawai‘i Department of Land and Natural Resources (“DLNR”) Division of Conservation and Resources Enforcement (“DOCARE”), for alleged violations of the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.

I. Facts

Respondent Chong Tim admitted and declared, under penalty of perjury, that the following facts are true and correct:¹

- a) Respondent Chong Tim was, at all times relevant herein, employed by the State of Hawai‘i DLNR as a CREO III for DOCARE.
- b) Prior to early-2019, Respondent Chong Tim was assigned to District 4, which encompasses Windward O‘ahu. His duties included enforcing state laws and regulations, investigating complaints, and conducting field observations and inspections as required.
- c) Respondent Chong Tim, at all times relevant herein, was a state employee as defined in HRS § 84-3. As a state employee, Respondent Chong Tim was required to comply with the State Ethics Code.
- d) Respondent Chong Tim was also employed at iWaterman LLC (“iWaterman”), which is a private for-profit company formed in 2014.

¹ This Resolution does not make formal findings, but relies on the facts admitted by Respondent Chong Tim.

iWaterman trains law enforcement officers, military personnel, and other individuals on the use of marine reconnaissance vehicles, such as jet skis. Respondent Chong Tim became a paid trainer for iWaterman in 2015.

- e) From 2018 to present, Respondent Chong Tim has also been a paid trainer for the Big Wave Risk Assessment Group, LLC (“BWRAG”), which is a private business whose activities include educating and training surfers in ocean risk management, safety protocols, and skills.
- f) Respondent Chong Tim, by taking the following actions, used his state position and resources to assist iWaterman and/or BWRAG:
 - i. In or around May 2016, Respondent Chong Tim used his state radio during an iWaterman training for a private client.
 - ii. At least four times in 2018, Respondent Chong Tim used his state email account and/or his state title to facilitate and organize iWaterman trainings. Respondent Chong Tim used his state title by signing some of his email communications as: “CREO III Division of Conservation and Enforcement Resources [sic] Department of Land and Natural Resources.”
 - iii. On at least two occasions in 2017 and/or 2018, Respondent Chong Tim drove his state patrol vehicle to iWaterman trainings.
 - iv. On or about January 29, 2018, Respondent Chong Tim used state sick leave at DOCARE to attend and be paid for two days of a private iWaterman training.
 - v. In or around April 2018, Respondent Chong Tim utilized his state title in an email requesting additional space for “DLNR/iWaterman” to store items at Marine Corps Base Hawai’i (“MCBH”). He stated that MCBH could proceed “with the use under DLNR as a partnering agency.” Respondent Chong Tim was not authorized to request additional storage space on behalf of DLNR, and his use of his state title and reference to DLNR falsely created the impression that he was requesting additional space on behalf of DLNR instead of iWaterman.
 - vi. On two occasions in 2018, Respondent Chong Tim utilized his state patrol vehicle to travel to and/or from the airport to attend BWRAG training events.
- g) In or around 2018, Respondent Chong Tim assisted iWaterman in obtaining a Marine/Ocean Event Permit to allow it to operate in offshore Oahu waters from October-December 2018. Respondent Chong Tim

personally met with officials from DLNR's Division of Boating and Ocean Recreation regarding the permit, and thus represented iWaterman before his own state agency for pay.

- h) In or around June 2018, Respondent Chong Tim took action as a state employee by discussing an official DLNR press release regarding iWaterman with a DOCARE official prior to its release. At the time of that discussion, Respondent Chong Tim was also a paid employee of iWaterman.

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.”² To this end, the Hawai‘i 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.”³ 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. Application of the State Ethics Code to Respondent Chong Tim

As a DOCARE employee, Respondent Chong Tim is a state employee for purposes of the State Ethics Code.⁴ As a state employee, Respondent Chong Tim is required to comply with the State Ethics Code.

HRS § 84-13(a) (the Fair Treatment Law) prohibits a state employee from using her or his state position to obtain unwarranted privileges, advantages, or benefits for the employee or others, and HRS § 84-13(a)(3) specifically prohibits state employees from “[u]sing state time, equipment or other facilities for private business purposes.” The Commission investigated Respondent Chong Tim’s actions, and Respondent Chong

² Hawai‘i State Constitution, Art. XIV.

³ HRS Chapter 84, Preamble.

⁴ HRS § 84-3.

Tim admits that he violated the Fair Treatment Law by using state resources to support the private business activities of iWaterman and BWRAG. The Commission is particularly troubled by Respondent Chong Tim's use of his state title in requesting additional storage space from military personnel for "DLNR/iWaterman": in so doing, Respondent Chong Tim falsely gave the impression that he was acting on behalf of the State, when he was actually acting on behalf of iWaterman, his private employer.

HRS § 84-14(d) (the Conflicts of Interests Law) prohibits state employees from being paid to assist or represent another person or business in transactions or proposals before their own state agency. HRS § 84-14(a), another provision of the Conflicts of Interests Law, prohibits state employees from taking official action affecting a business in which they have a substantial financial interest, such as outside private employment. Respondent Chong Tim admits that he violated the Conflicts of Interests Law by: (1) assisting and representing iWaterman, for pay, in obtaining a Marine/Ocean Event Permit from DLNR; and (2) taking official action affecting his private employer in discussing a press release about iWaterman with DOCARE personnel.

III. Resolution of Charge

Respondent Chong Tim admits that he violated the Fair Treatment Law (HRS §§ 84-13(a) & (a)(3)) and the Conflicts of Interests Law (HRS §§ 84-14(a) & (d)).

Respondent Chong Tim has not previously been the subject of a Commission charge or investigation and cooperated with the Commission in its investigation.

Given the violations of the State Ethics Code, the Commission believes it is reasonable, fair, and in the public interest to resolve the Charge by (1) issuing this Resolution of Charge, (2) requiring Respondent Chong Tim to pay an administrative penalty of \$10,000 to the State of Hawai'i, and (3) referring this matter to DLNR/DOCARE for further action as appropriate.