

Resolution of Investigations
2015-1

RESOLUTION OF INVESTIGATIONS 14-00090 AND 14-00091:
LAND USE RESEARCH FOUNDATION OF HAWAII, LOBBYING
ORGANIZATION; AND DAVID ARAKAWA, LOBBYIST

February 2, 2015

The Hawaii State Ethics Commission (“Commission”) received information indicating that the Land Use Research Foundation of Hawaii (“LURF”), through its Executive Director, David Z. Arakawa, had engaged in lobbying activities at the State legislature between 2008 and 2014. Lobbying records filed with the Commission revealed that, for most of this period, Mr. Arakawa was not registered as a lobbyist. The Commission’s records also revealed that neither Mr. Arakawa nor LURF had filed lobbying expenditures and contributions reports during this period.

Hawaii Revised Statutes (“HRS”) chapter 97, the Lobbyists Law, requires: (1) the registration of individual lobbyists; and (2) the reporting of lobbying expenditures and contributions by registered lobbyists, by persons who employ a lobbyist, and by persons who spend \$750 or more in a six month period lobbying.¹

“Lobbying” is defined as:

communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of attempting to influence legislative or administrative action or a ballot issue.

HRS section 97-1(7).

A “lobbyist” is defined as:

any individual who for pay or other consideration engages in lobbying in excess of five hours in any month of any reporting period described in

¹ HRS section 97-3(a).

section 97-3² or spends more than \$750 lobbying during any reporting period described in section 97-3.

HRS section 97-1(6).

Lobbyists must register with the Commission within five days of becoming a lobbyist, and registration must be renewed each odd numbered year. Lobbying expenditures and contributions reports must be filed at the end of each lobbying reporting period.

Mr. Arakawa cooperated fully with the Commission's investigation and filed the missing registration and lobbying reports for both himself and LURF. He apologized, took full responsibility, and explained that his failure to file reports was based on a misunderstanding of HRS section 97-2(e)(6), which exempts any person from the Lobbyists Law if he or she possesses special skills and knowledge that may be helpful to the legislature and makes an occasional appearance at the request of the legislature.³ The intent of this exemption is to allow those with expertise and/or specialized knowledge and skills to occasionally provide assistance to the legislature when so requested.

The Commission construes this provision as providing an exemption for those who provide expert information to the legislature, at the request of the legislature, but who do not attempt to advocate for a position or otherwise influence legislative action. Those who provide information to the legislature, or attempt to educate the legislature,

² There are three lobbying reporting periods per year:

- 1) January 1 through the last day of February. Report due March 31.
- 2) March 1 through April 30. Report due May 31.
- 3) May 1 through December 31. Report due January 31 of the following year.

In addition, if a special session of the legislature is held, a lobbying report must be filed for the period from May 1 through the adjournment of the special session (report due within 30 days after adjournment of the special session).

HRS section 97-3(b).

³ Specifically, HRS section 97-2 (**Registration of lobbyists, requirements**) provides:

- (e) This chapter shall not apply to:
- (6) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of state government, and who makes an occasional appearance at the request of the legislature or an administrative agency, or the lobbyist even though receiving reimbursement or other payment from the legislature or administrative agency or the lobbyist for the appearance.

while also advocating for a position are not exempt from the requirements of the Lobbyists Law.

The Commission noted that LURF describes itself as an advocate and a lobbyist on its website. Further, during the period in question, the testimonies submitted by Mr. Arakawa on behalf of LURF, provided factual information, however, they also specifically took advocacy positions and clearly attempted to influence legislative action. As such, the Commission believed that Mr. Arakawa's and LURF's actions were not exempted by HRS section 97-2(e)(6) from the requirements of the Lobbyists Law.

The statute of limitations for violations of the Lobbyists Law is three years.⁴ During the three-year period prior to the Commission's investigation, Mr. Arakawa twice failed to timely register as a lobbyist for LURF. He also did not timely file his individual lobbyist expenditures and contributions reports for nine lobbying periods. Likewise, LURF was also delinquent in filing nine organization lobbying expenditures and contributions reports.

Based on its investigation, the Commission believed that it was likely Mr. Arakawa and LURF may have violated the Lobbyists Law. Given that Mr. Arakawa appeared to have genuinely misunderstood the law, that upon being informed of the delinquencies he immediately met with staff of the Commission to discuss the law relating to the exemption, that he immediately filed his registration as a lobbyist and LURF's organization forms, that he fully cooperated with the Commission's investigation, and that he accepted full personal responsibility, the Commission believed that it was fair and in the public interest to resolve its investigation of this matter by the issuance of this public document and by the payment by Mr. Arakawa on behalf of himself and LURF of \$2,000 each to the State of Hawaii.

⁴ HRS section 97-6(a)(6).