



HAWAII STATE ETHICS COMMISSION

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

Resolution of Investigation **2016-2**

Senator's Alleged Failure to Report Interest in Real Property On Annual Disclosure of Financial Interests

May 24, 2016

The Hawaii State Ethics Commission (“Commission”) has resolved an investigation regarding Senator Joshua Green’s alleged failure to report his interest in a condominium unit on his annual disclosure of financial interests as required by Hawaii Revised Statutes (“HRS”) section 84-17, the financial disclosure law. Senator Green agreed, as part of the resolution of this matter, to pay an administrative penalty to the State of Hawaii in the amount of \$300 and to the Commission’s issuance of this public document.

The Commission has not issued a charge against Senator Green in connection with this matter and the resolution of the investigation does not constitute an admission by Senator Green, or a determination by the Commission, that Senator Green violated the State Ethics Code. As discussed herein, the Commission believes it is fair and reasonable to resolve this matter without further administrative action.

I. Facts

The Commission understands the facts concerning Senator Green’s situation to be as follows.

Senator Green has served as a member of the State Senate since 2008. He represents Senate District 3, the Kona and Kau areas of Hawaii island. In 2005, Senator Green acquired an ownership interest in an Executive Centre condominium unit (“Executive Centre property”) in Honolulu, where he resided from 2005 to 2010 when working at the legislature. In 2010, he moved to another property. Senator Green still owns the Executive Centre property but no longer lives there. In 2013 to 2014, he rented the property and received rental income during this period.

II. Application of the Financial Disclosure Law, HRS Section 84-17

As a legislator, Senator Green is required to file an annual disclosure of financial interests (“financial disclosure statement”) with the Commission.¹ The financial disclosure provision of the State Ethics Code requires filers to report information about real property in which they hold an interest whose value is \$10,000 or more.² The information that must be reported includes the street address, tax map key number and value of the real property.³

The financial disclosure law required Senator Green to report his interest in the Executive Centre property on his financial disclosure statements from 2011 up to the present.⁴ However, Senator Green’s financial disclosure statements for this period of time did not include the required information about his interest in the Executive Centre property.

Senator Green explained that he did not report his interest in the property due to a misunderstanding of the financial disclosure reporting requirement. Senator Green stated that he had always considered the property to be for his “personal use” while away from his home in Kona. He stated that he did not view the Executive Centre property as “an investment property” and therefore did not report his ownership interest

¹ HRS section 84-17(c)(1).

² HRS section 84-17(f)(5) states:

All disclosures shall include:

(5) The street address and, if available, the tax map key number, and the value of any real property in which the person holds an interest whose value is \$10,000 or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration; provided that disclosure shall not be required of the street address and tax map key number of the person’s residence.

³ The Commission’s disclosure of financial interests form (Form D-201) directs filers to report real property interests as follows:

ITEM 6: INTERESTS IN REAL PROPERTY HELD, EXCLUDING PERSONAL RESIDENCE(S)

List interests in real property in or outside of the State held during the disclosure period, if the interest has a value of \$10,000 or more. Real property that is your personal residence or the personal residence of your spouse or dependent children need not be listed.

⁴ Senator Green was not required to list certain information about his personal residence on his financial disclosure statement during the time that he resided in the Executive Centre property; however, after he moved out of the property in 2010 and no longer used it as a residence, the financial disclosure law required him to report the street address, tax map key number and value of the property.

in the property on his financial disclosure statements. He did, however, report information on his disclosure statements about rental income from the property and creditors for mortgage loans he received for the property.⁵

The financial disclosure law's reporting requirement for interests held in real property does not distinguish between a filer's "personal" or "investment" use of the property. The law requires filers to report information about any real property in which a filer holds an interest whose value is \$10,000 or more. The only exception to this reporting requirement is for a filer's residence. Filers are not required to report certain information concerning a personal residence.

After Senator Green stopped using his Executive Centre property as a residence in 2010, he was required to report information on his annual financial disclosure statements regarding his ownership interest in the property. Specifically, the law required him to report the street address, tax map key number and value of the property under Item 6 of the Commission's financial disclosure form (Form D-201). Because Senator Green did not report this information on his disclosure statements for 2011 through 2016, it appears that Senator Green did not comply with the financial disclosure reporting requirement for interests held in real property during this period.

III. Resolution of Investigation

Senator Green fully cooperated with the Commission and its staff during the Commission's review of this matter. Senator Green stated that his failure to report all required information about his interest in the Executive Centre property was a mistake and explained that his failure to fully comply with the financial disclosure law was not intentional. When first contacted by the Commission's staff about this matter, he immediately amended his previously filed financial disclosure statements to correctly report all of the required information about his interest in the property.

The Commission believed that Senator Green should have exercised greater care when completing his financial disclosure statements. The Commission was also concerned that information required to be listed on Senator Green's disclosure statements went unreported for so long. Nevertheless, based on the totality of circumstances in this case, including Senator Green's cooperation and his immediate efforts to correct his previous financial disclosure statements, the Commission did not

⁵ On his financial disclosure statements for 2013 and 2014, Senator Green reported rental income from the Executive Centre property as income for services rendered pursuant to HRS section 84-17(f)(1); he also reported on his disclosure statements for 2011 to 2016, the names of his creditors to whom the value of \$3,000 or more was owed for mortgage loans pursuant to HRS section 84-17(f)(4).

believe that further investigation or administrative action was in the public interest. The Commission believed it was fair and reasonable to resolve the investigation based on the following terms, which were agreed to by Senator Green: (1) Senator Green's payment of an administrative penalty in the amount of \$300 to the State of Hawaii, and (2) the Commission's issuance of this public statement to provide other state officials and the public with information about the requirements of the State Ethics Code's financial disclosure law.