



HAWAI‘I STATE ETHICS COMMISSION

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

Resolution of Investigation **2021-2**

(COMPL-I-17-00164)

Hawai‘i Youth Correctional Facility Employee’s Violations of the Fair Treatment law

February 24, 2021

The Hawai‘i State Ethics Commission (“Commission”) has resolved the investigation of Darrell Bueno (“Respondent Bueno”), Institutional Facility Superintendent, Hawai‘i Youth Correctional Facility (“HYCF”), Department of Human Services (“DHS”), for alleged violations of the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.

I. Facts

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

- a) At all times relevant herein, Respondent Bueno was employed as Institutional Facility Superintendent (“IFS”), Hawai‘i Youth Correctional Facility (“HYCF”), Department of Human Services (“DHS”), and was required to comply with the State Ethics Code, HRS chapter 84. As IFS, Respondent Bueno is responsible for three primary areas: maintenance of campus grounds, structures, and utility infrastructure; HYCF’s kitchen (to feed wards and staff); and the farm unit. Supervisors for each of these three sections report to Respondent Bueno.
- b) As part of his state duties, Respondent Bueno assists in managing HYCF’s cattle ranching operations. Among other things, Respondent Bueno takes HYCF cattle to Hawaii Meats, LLC (“Hawaii Meats”) for slaughter and processing; HYCF pays Hawaii Meats for its services to slaughter cattle and break down the carcass into selected cuts.

¹ This Resolution does not make formal findings; instead, the Commission relies on the facts admitted by Respondent Bueno.

- c) Respondent Bueno also co-owns and operates a private cattle ranching business with the business name dB Cattle, Inc. (“dB Cattle”). He ranches cattle on land in Kunia and in Maunawili. Respondent Bueno also takes cattle from his private business to Hawaii Meats for slaughter and processing.
- d) On two occasions in or around early 2020, Respondent Bueno drove to Hawaii Meats on state time and using state equipment, including a truck and trailer, as part of his state duties to transport HYCF cattle. While at Hawaii Meats on these two occasions, Bueno was offered – and purchased – cows for his private cattle business. On the first occasion, Respondent Bueno paid the President of Hawaii Meats \$300 for two cows, after which he used an HYCF truck and trailer, and state time, to take the cattle to his Maunawili property. On the second occasion, Respondent Bueno paid the President of Hawaii Meats \$400 for two cows and a calf, after which he used an HYCF truck and trailer, and state time, to take the cattle to his Kunia property. On both occasions, a subordinate state employee accompanied Respondent Bueno to Hawaii Meats to transport the HYCF cattle, and accompanied Respondent Bueno to the Maunawili and Kunia properties to transport the cattle purchased for Respondent Bueno’s private business.
- e) On dozens of occasions in 2019 and 2020, Respondent Bueno used his state e-mail to conduct business on behalf of dB Cattle. He frequently exchanged e-mails with Hawaii Meats personnel regarding both HYCF business and his own private business, including requests for processing and pricing for his dB Cattle animals. He sent some of these e-mails on state time.
- f) On multiple occasions over the course of several years, Respondent Bueno used HYCF equipment for his personal use and/or to benefit dB Cattle. For example, on two occasions in late 2019, Respondent Bueno took an HYCF riding lawnmower to his Maunawili property using his personal truck and trailer. In April 2020, Respondent Bueno took an HYCF trailer for several days to tow a friend’s Bobcat Skid-Steer to Respondent Bueno’s property in Kunia. Several years ago, Respondent Bueno also took an HYCF hydraulic tamper to his Kunia property and kept it there for over a year; in 2019, Respondent Bueno used state time and an HYCF truck to travel to his Kunia property to retrieve the tamper. Respondent Bueno maintains that he had the approval of his supervisor to use this equipment for non-HYCF purposes.
- g) In or around April 2020, Respondent Bueno attempted to take an HYCF tire and rim for his personal trailer; he also attempted to use state resources to have that tire and rim repaired for his personal use prior to

taking it for his personal use. At the time, the old tire was not functional, so Respondent Bueno instructed a subordinate state employee to repair it with the intention of taking the repaired tire for his personal use. Respondent Bueno intended for the subordinate to repair the tire using HYCF equipment. Unbeknownst to Respondent Bueno, the subordinate took the tire and rim to Goodyear Auto Service Center in Kailua and used \$70.61 in state funds to have the tire repaired; because the subordinate used state funds to have the tire repaired, Respondent Bueno did not take the tire and rim for his personal use.

- h) On multiple occasions, Respondent Bueno used state equipment to benefit other private individuals and/or organizations with ties to HYCF. In or around June 2019, Respondent Bueno used an HYCF tractor to mow a private pasture in preparation for a fundraising rodeo event for a private non-profit organization with connections to HYCF. Respondent Bueno asked his state supervisor for permission to use the HYCF tractor for this purpose, and the supervisor approved this use of the tractor. In or around early 2019, Respondent Bueno drove the same HYCF tractor – on state time – through the back roads of Waimanalo to clear land to support a church-based domestic violence organization with ties to HYCF. Again, Respondent Bueno’s supervisor approved this use of the HYCF tractor, and Respondent Bueno maintains that the supervisor directed Respondent Bueno to do so.
- i) Respondent Bueno maintains that for many years, up to and including 2020, it was common practice for HYCF employees to use state equipment for their personal use, including but not limited to lawn mowers, chainsaws, weed trimmers, and tile cutters.

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

² Hawai‘i State Constitution, Art. XIV.

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 Bueno

Respondent Bueno is a state employee⁴ and is bound by the State Ethics Code’s Fair Treatment law, HRS § 84-13(a). Pursuant to HRS § 84-13(a), “No . . . employee shall use or attempt to use the . . . employee’s official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others[.]”

Respondent Bueno admits that he violated the Fair Treatment law on numerous occasions in 2019 and 2020. Among other things, Respondent Bueno admits that he violated the Fair Treatment law by:

- i. Using state time to negotiate the purchase of cattle for dB Cattle from an HYCF vendor while on the vendor’s premises to conduct HYCF business;
- ii. Using state time and equipment to transport cattle for dB Cattle to his Kunia and Mauanawili properties;
- iii. Using state time and state e-mail to perform work for dB Cattle;
- iv. Using equipment – including but not limited to the HYCF trailer, hydraulic tamper, and riding lawnmower – for his personal use and/or to benefit dB Cattle;
- v. Directing a subordinate employee to fix a tire, with the intention to take the tire for his (Respondent Bueno’s) personal trailer; and
- vi. Using state resources, including state time and an HYCF tractor, to clear/mow land for the benefit of private individuals and/or organizations. Again, Respondent Bueno maintains that some of these activities were done at the direction of his supervisor.

In sum, Respondent Bueno repeatedly used state resources for his personal use and to benefit his private business, dB Cattle, and he directed another subordinate to repair a piece of state equipment so that he (Respondent Bueno) could take it for his personal use. These actions are clearly prohibited by the Ethics Code.

³ HRS Chapter 84, Preamble.

⁴ HRS § 84-3.

Respondent Bueno also used state resources to benefit individuals and/or organizations that could be described as “community partners” with HYCF. While the Commission understands the desire to help those who help HYCF, the Ethics Code prohibits the use of state resources to do “favors” for private individuals and organizations.

As for the purchase of cattle from Hawaii Meats, the Commission notes that the Ethics Code does not necessarily prohibit a state employee from engaging in private financial transactions with a state vendor. Particularly with specialized vendors (such as a slaughterhouse), an outright prohibition on such transactions could be problematic in Hawai'i: state employees seeking a specialized service may have no other option for legitimate, arms-length business transactions than the same vendor used by the State. However, the Fair Treatment law does prohibit state employees from “[s]oliciting, selling, or otherwise engaging in a substantial financial transaction with a . . . person or business whom the . . . employee inspects or supervises in the . . . employee’s official capacity.” HRS § 84-13(a)(4). The Commission makes no findings as to whether Respondent Bueno violated this provision, but the Commission thus advises Respondent Bueno’s supervisors to ensure that HYCF employees are not overseeing contractors with which they have significant outside business dealings.

Similarly, the Commission received allegations that other HYCF staff had improperly disposed of materials (such as tires). This matter is outside the Commission’s jurisdiction and the Commission did not investigate these allegations. The Commission respectfully refers this matter to DHS for further investigation and action as appropriate.

III. Resolution of Investigation

Respondent Bueno admits that he repeatedly violated the Fair Treatment law (HRS § 84-13(a)). Respondent Bueno fully cooperated with the Commission’s investigation: he was candid and forthright and took full responsibility for his actions. He has not previously been the subject of a Commission charge, and he indicated that he would comply with the State Ethics Code going forward.

Given the violations of the State Ethics Code, the Commission believes it is reasonable, fair, and in the public interest to resolve this investigation by (1) issuing this Resolution of Investigation; (2) requiring Respondent Bueno to pay an administrative penalty of \$4,000 to the State of Hawai'i; and (3) referring this matter to DHS (including the Office of Youth Services and HYCF) for further disciplinary action as appropriate.