

Resolution of Investigation
2021-7

(COMPL-I-21-00028)

**Department of Health Employee's
Violation of the Fair Treatment law**

July 15, 2021

The Hawai'i State Ethics Commission ("Commission") has resolved the investigation of Lenny Kudaishi ("Respondent Kudaishi"), Mental Health Care Coordinator, Child and Adolescent Mental Health Division, Department of Health ("DOH"), for alleged violations of the State Ethics Code, Hawai'i Revised Statutes ("HRS") chapter 84.

I. Facts

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

- a) At all times relevant herein, Respondent Kudaishi was employed as a Mental Health Care Coordinator for the Child and Adolescent Mental Health Division, DOH, and was required to comply with the State Ethics Code, Hawai'i Revised Statutes ("HRS") chapter 84.
- b) During the COVID-19 pandemic, Respondent Kudaishi was allowed to work remotely and was provided with a state computer for this purpose.
- c) In or around February 18, 2021, during his lunch break, Respondent Kudaishi used his state computer and state email account to send an email to the Chief Executive Officer ("CEO") of a private health care facility in which he solicited the CEO to purchase personal protective equipment from a private company, M&W Suppliers. Respondent Kudaishi was not

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

an employee of M&W Suppliers but sent this email to assist a friend who was a distributor for the company.

- d) In the body of the email, Respondent Kudaishi introduced himself with his name and state title and asked the CEO to consider purchasing PPE supplies from M&W Suppliers. Respondent Kudaishi signed the email with his name and state title.

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 Kudaishi

At all times relevant herein, Respondent Kudaishi was a state employee⁴ and was bound by the State Ethics Code’s Fair Treatment law, HRS § 84-13(a), which prohibits a state employee from using the employee’s state position to obtain unwarranted privileges, advantages, or benefits for the employee or others. The Fair Treatment Law also contains a provision that explicitly prohibits a state employee from using state resources for private business purposes. In relevant part, the Fair Treatment law states:

§84-13 Fair treatment. (a) No . . . employee shall use or attempt to use the . . . employee's official position to secure or grant unwarranted

² Hawai‘i State Constitution, Art. XIV.

³ HRS Chapter 84, Preamble.

⁴ HRS § 84-3.

privileges, exemptions, advantages, contracts, or treatment, for oneself or others; including but not limited to the following:

...

- (3) Using state time, equipment or other facilities for private business purposes.

Respondent Kudaishi admits that he violated the Fair Treatment law, HRS § 84-13(a), by writing and sending the email to the CEO of the private health care facility. Specifically, by using his state computer, state e-mail address, and state title, Respondent Kudaishi admits that he (1) used or attempted to use his state position to obtain unwarranted benefits for M&W Suppliers, in violation of HRS § 84-13(a); and (2) used state equipment and resources for private business purposes in violation of HRS § 84-13(a)(3).

III. Resolution of Investigation

Respondent Kudaishi fully cooperated with the Commission's investigation and has not previously been the subject of a Commission charge.

Given the violation 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 Kudaishi to pay an administrative penalty of \$1,000 to the State of Hawai'i, and (3) referring this matter to DOH for further disciplinary action as appropriate.