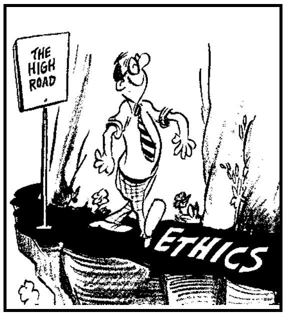

The HIGH ROAD

"Preserving public confidence in public servants."

No. 96-5 Hawaii State Ethics Commission September 1996

ETHICS ADVICE IS JUST A TELEPHONE CALL AWAY

A company that transacts business with your state office is updating its computer system and offers to donate all of its old computers to your office. Can your office accept the offer?

In addition to your state job, you operate a small consulting business with your spouse. Can your business apply for any state contracts?

Your state office plans to hold a raffle to raise money for the Aloha United Way. Is this kind of fundraising at work permissible?

In each of these cases, ethics advice is just a telephone call away. The State Ethics Commission's legal staff is available to assist state employees with all ethics-related questions. The Commission's staff will address each situation and will provide detailed explanations to employees about the ethics laws. Most questions can be resolved quickly over the telephone. All ethics advice is confidential.

If you have an ethics question, please call the Commission before taking further action. By calling beforehand, employees can make sure that their actions are proper and can avoid inadvertent violations of the ethics laws.

The Commission's telephone number is 587-0460.

COMMISSION CHARGES STATE OFFICIALS WITH VIOLATIONS OF GIFTS LAW

The Ethics Commission charged three state officials with violations of the Gifts Law, for accepting gifts of invitations from private companies to participate in certain golf tournaments, and for accepting gifts of golf clubs given in connection with those events. The Gifts Law, HRS §84-11, prohibits a state official or employee from accepting a gift if it is reasonable to infer that the gift is given to influence or reward official action.

The Commission recognized that it had been customary for private companies to invite representatives of government to participate in privately sponsored golf tournaments. The value of an invitation was substantial. The three officials participated in the events in question in their state capacities. The Commission issued an informal advisory opinion to each of them in lieu of taking further action on the charges.

The first official was a high-ranking official. The Commission believed that his acceptance of invitations raised serious questions under the Gifts Law, because it appeared that he exercised significant discretionary authority (official action) in matters directly affecting the donors of the invitations. It also appeared, however, that his participation in the events fulfilled the need for a high-ranking representative of state government to be present at the events. In some instances, he may have served as a substitute for the Governor. After considering a number of factors, the Commission did not believe that the first official's acceptance of invitations violated the Gifts Law.

The second official was also a high-ranking official. The official's state agency had jurisdiction over the donor of an invitation, however, it did not appear that he personally took any official action directly affecting that donor. Moreover, it appeared that he was an appropriate person to represent the State at the event, because he was a prominent official associated with the Governor. The Commission therefore did not believe that the second official violated the Gifts Law by accepting the invitation.

The third official, who was a member of a state board, admitted to the charge issued against him. The Commission believed that the third official violated the Gifts Law by accepting gifts of substantial value from donors that were subject to significant regulatory control (official action) on his part, in that his board regulated one company from which he had accepted an invitation, and the subsidiary of another company from which he had accepted another invitation.

The Commission believed that the three officials' acceptance of golf clubs given in connection with the tournaments was prohibited by the Fair Treatment Law, HRS §84-13, which prohibits the use of one's official position to obtain unwarranted benefits for oneself or others. Because the officials participated in the tournaments in their state capacities, the Commission believed that §84-13 prohibited them from accepting the golf clubs to personally benefit themselves. The Commission also believed that acceptance of the golf clubs was prohibited by HRS §84-13(2) (a subsection of the Fair Treatment Law), which prohibits state officials from accepting additional "compensation" simply because of the performance of their official duties. [Informal Advisory Opinion Nos. 96-4, 96-5, and 96-6]

STATE CANDIDATES FILE FINANCIAL INTERESTS DISCLOSURES FOR 1996 ELECTIONS

The State Ethics Code requires all candidates for state elective office to file a disclosure of their financial interests with the State Ethics Commission. Financial interests disclosures must be filed no later than 20 days prior to the primary election. For candidates for the board of trustees of the Office of Hawaiian Affairs, the filing deadline is 20 days prior to the general election.

Candidates must disclose information about sources and amounts of income for services rendered; ownership and beneficial interests held in businesses; officerships, directorships, and trusteeships held in businesses; creditors; real property interests held or transferred; clients represented before state agencies; and creditor interests in insolvent businesses.

This year, 211 candidates for state office filed financial interests disclosures with the State Ethics Commission before the primary election. All disclosure statements are public records and are available for review at the Commission's office.

Reminder to candidates for the board of trustees of the Office of Hawaiian Affairs: The filing deadline for financial interests disclosures is October 16, 1996.

ETHICS QUIZ

QUESTION: Can a state agency solicit private businesses for food, door prizes, and other contributions for an employee party?

ANSWER: No. Section 84-13 of the State Ethics Code prohibits state employees from using their official positions to obtain unwarranted benefits for themselves. The State Ethics Commission believes that a state agency's solicitation of a private company for an employee social function, such as an employee party, is prohibited by section 84-13. This type of solicitation amounts to the use of one's state position for an unwarranted personal benefit.

The High Road is a publication of the Hawaii State Ethics Commission.
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