



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813
50th ANNIVERSARY 1968-2018

Resolution of Investigation **2018-5**

(COMPL-C-17-00001-03)

Department of Land and Natural Resources, Division of Boating and Ocean Recreation, Kauai Office, Harbor Agent's Alleged Violations of Fair Treatment Law

December 14, 2018

The Hawaii State Ethics Commission ("Commission") has resolved an investigation of Kathy Rosare, Harbor Agent II, Department of Land and Natural Resources ("DLNR"), Division of Boating and Ocean Recreation, Kauai Office ("DOBOR-Kauai"), for alleged violations of the State Ethics Code, Hawaii Revised Statutes ("HRS") chapter 84.

I. Facts

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

- a) Respondent Rosare, at all times relevant herein, was employed by the Department of Land and Natural Resources ("DLNR"), a state agency, in the Kauai office of the Division of Boating and Ocean Recreation ("DOBOR-Kauai"). She has worked for DOBOR-Kauai since approximately 2005. Her current position is Harbor Agent II.
- b) Respondent Rosare, at all times relevant herein, was a state employee as defined in HRS § 84-3. As a state employee, Respondent Rosare was required to comply with the State Ethics Code.
- c) In her private capacity, and as a hobby, Respondent Rosare breeds and sometimes sells dogs to cover her breeding expenses. On multiple occasions in 2015, 2016, and 2017, Respondent Rosare used state resources, including state time, to facilitate her dog breeding hobby: she used her state e-mail account and her state computer to coordinate the purchase, sale, and transport of a dog; in 2017, she brought a small sick dog to the DOBOR-Kauai office and treated the dog with medication during the work day.

- d) In her private capacity, Respondent Rosare rents a room to another DOBOR-Kauai employee. In 2017, Respondent Rosare used state resources, including her state e-mail account and her state computer, to facilitate her room rental.
- e) On multiple occasions in 2013 and 2014, Respondent Rosare used state resources – including her state e-mail account, her state computer, and state time – to research, design, and purchase t-shirts for her supervisor. DOBOR-Kauai District Manager Joseph Borden asked or authorized Respondent Rosare to perform this work; Respondent Rosare was aware that this work was not for state business.

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.”¹ To this end, the Hawaii 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.”² 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 Rosare

As an employee of DOBOR-Kauai, Respondent Rosare is a state employee for purposes of the State Ethics Code.³ As a state employee, Respondent Rosare is required to comply with the State Ethics Code.

¹ Hawaii State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

³ HRS § 84-3.

HRS § 84-13 (the “Fair Treatment Law”) prohibits a state employee from using her or his state position to obtain unwarranted privileges, advantages, or benefits for the employee or others. HRS § 84-13(3) specifically prohibits a state employee from using state time, equipment, or facilities for private business purposes.

The Commission investigated Respondent Rosare’s actions and believes that Respondent Rosare likely violated the Fair Treatment law by using state resources – including her state e-mail account, state computer, state office, and/or state time – to facilitate her private business activities. The Commission likewise believes that Respondent Rosare likely violated the Fair Treatment law by using state resources to assist a DOBOR-Kauai Supervisor in researching, designing, and purchasing t-shirts for private ranching organizations.

III. Resolution of Investigation

The Commission believes that, based on the facts admitted above,⁴ Respondent Rosare likely violated the Fair Treatment Law (HRS § 84-13). Respondent Rosare has not previously been the subject of a Commission charge or investigation.

Given the likely violations of the State Ethics Code, the Commission believes it is reasonable, fair, and in the public interest to resolve this matter by (1) issuing this Resolution of Investigation, and (2) requiring Respondent Rosare to pay an administrative penalty of \$1,500 to the State of Hawaii.

⁴ This Resolution does not make formal findings, but relies on the facts admitted by Respondent Rosare.