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# HAWAI‘I STATE ETHICS COMMISSION

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

## **Resolution of Investigation** **2020-1**

**(COMPL-I-20-00040)**

### **Former Hawaii Health System Corporation Employee’s Violation of Post-Employment Law**

**March 23, 2020**

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The Hawai‘i State Ethics Commission (“Commission”) has resolved the Investigation of Marlisa Coloso (“Respondent Coloso”), Former Health Information Management Director of the Hawai‘i Health Systems Corporation (“HHSC”) Kaua‘i Region (“Kaua‘i Region”), for alleged violations of the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.

#### **I. Facts**

Respondent Coloso admitted and declared, under penalty of perjury, that the following facts are true and correct:<sup>1</sup>

- a) Respondent Coloso was employed by the HHSC Kaua‘i Region until her retirement on June 30, 2019. As a former state employee, Respondent Coloso is required to comply with the State Ethics Code’s post-employment law, HRS § 84-18.
- b) Prior to her retirement, Respondent Coloso was the Health Information Management Director for the Kaua‘i Region, and was directly responsible for ensuring that Kaua‘i Region handled medical records appropriately and abided by state and federal law. Respondent Coloso also served as Kaua‘i Region’s technical representative for a contract (“Contract”) between the Kaua‘i Region and Star Auditing Services, LLC (“Star”), in which Star agreed to provide coding and auditing services to the Kaua‘i Region. The Contract was later supplemented to expand the scope of services provided by Star to include Health Information Management

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<sup>1</sup> This Resolution does not make formal findings, but relies on the facts admitted by Respondent Coloso.

Directorship services, although Ms. Coloso did not work on those matters while employed by the Kaua'i Region.

- c) On July 15, 2019, Star hired Ms. Coloso as its Director of Business Development, and she is responsible for marketing Star's business and building relationships with customers. Ms. Coloso also assists Star in providing the Kaua'i Region with the Health Information Management Directorship services identified in the Contract's supplemental agreements.
- d) During her employment at Star, Ms. Coloso regularly met with Kaua'i Region personnel, including personnel employed at the Health Information Management department whom she previously supervised. Since the start of her employment at Star, she met and communicated with Kaua'i Region personnel approximately five to ten hours a week, and approximately half of that time was spent communicating with her former co-workers at the Health Information Management department.

## 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."<sup>2</sup> 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."<sup>3</sup> 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 Coloso

Respondent Coloso is a former state employee for purposes of the State Ethics Code,<sup>4</sup> and is bound by the Post-Employment law, HRS § 84-18.

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<sup>2</sup> Hawai'i State Constitution, Art. XIV.

<sup>3</sup> HRS Chapter 84, Preamble.

<sup>4</sup> HRS § 84-3.

Pursuant to HRS § 84-18(c), a former employee is prohibited for a period of twelve months after leaving state service from “representing” any person or business for pay or other compensation on: (1) any matter in which the former employee participated in his or her state capacity, or (2) any matter involving official action by employee's former state agency. For purposes of the post-employment laws, “the term ‘represent’ is defined as engaging in direct communication on behalf of any person or business with a state agency or subdivision thereof, or their employees.” Advisory Opinion No. 2019-5, available at 2019 WL 5309548, at \*1 (internal quotation marks omitted). Respondent Coloso was therefore prohibited from communicating with Kaua‘i Region personnel on behalf of Star until July 1, 2020. The Commission investigated Respondent Coloso’s actions, and Respondent Coloso admits that she repeatedly violated the Post-Employment law by communicating with Kaua‘i Region personnel for approximately five to ten hours a week during her employment with Star.

### III. Resolution of Investigation

Respondent Coloso admits that she violated the Post-Employment law (HRS § 84-18(c)). Upon learning of the violation, Respondent Coloso pledged to take immediate corrective action, and she has apologized for her conduct. Respondent Coloso has not previously been the subject of a Commission charge or investigation and cooperated with the Commission in its investigation.

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