

ACCOMPLISHMENTS OF HONOLULU ETHICS COMMISSION: 2000-2015

The Commission's goal is to build an ethical culture in City government so that the public may justifiably trust government officials and their actions. To meet this goal, the Commission worked hard over the years to develop a clear set of ethics laws, to train all City employees in following these laws, to promptly respond to those who request ethics advice, and to investigate allegations of misconduct and enforce the ethics laws.

2000

- Commission staff: A Legal Clerk and the Executive Director/Legal Counsel;
- Published 150 past formal Advisory Opinions, some as old as 10 years;
- Created tracking system for each request for advice and complaint received by the Commission;
- Began ethics training programs for requesting agencies;
- Developed website including: laws, publications and guidelines, formal Advisory Opinions, FAQs and complaint handling flow chart, electronic complaint or concern form, and more;
- Rendered 3 formal Advisory Opinions, including:
 - Finding Councilmember Rene Mansho had a conflict of interest in being spokesperson for electric car company while asking City departments to purchase electric cars; and she had to pay fair value for gift of use of electric car.
- Began drafting formal Advisory Opinions with sufficient factual and legal analysis so they could be used as precedent by staff and the Commission.

2001

- Drafted bill and advocated for mandatory ethics training program for all 2,500 City supervisors, managers, board and commission members and elected officials (Supervisor Ethics Training). Bill enacted into law;
- Began roll out of mandatory Supervisor Ethics Training program;
- Created statistical tracking to record number of requests for advice, misconduct complaints, employees receiving ethics training, etc.;
- Investigated and rendered 7 formal Advisory Opinions, including:
 - Finding Councilmember Rene Mansho misused City resources by requiring her City staff to carry out political campaign activities on City work time. Recovered \$40,000 from Mansho and she resigned from the City Council. Mansho spent 1 year in jail as a result of the criminal case that arose from her misuse of City resources;
 - Finding a conflict of interest by a department director who was central to negotiating City's collective bargaining agreements and who was married to an attorney for the public employee unions;
- Worked with City Administration to draft and advocate bill allowing board and commission members to appear before City agencies, except for the board or commission they sit on. Once enacted, this increased the number of members of the public who could serve on boards and commissions.

2002

- Began use of part-time contract attorney for EC. Staff now: Executive Director/Legal Counsel, Legal Clerk and part-time contract lawyer;
- Published ethics training materials, including A Plain Language Guide to the City Ethics Laws, Ethics Checklist and Disclosure of Conflict of Interest Form and Instructions;
- Drafted and advocated for the Gift Cap law, making it an automatic violation for a City official to accept gifts in excess of \$200 value total in one year from one source who has matters before the official. Bill enacted into law;

- Rendered 4 formal Advisory Opinions focusing on clarifying the ethics laws, including:
 - Recognizing the authority of the mayor to use city resources to engage the public in City budget discussions.

2003

- Rendered 4 formal Advisory Opinions, including:
 - Informing all public officials that accepting gifts in violation of the Gift Cap law also creates a conflict of interest for the official regarding the matters that the donor has before the official;
 - Ending the Liquor Commission's practice of accepting thousands of dollars in gifts from the beverage and hotel industries for the Liquor Commission's annual conference.

2004

- Rendered 10 formal Advisory Opinions, including:
 - A councilmember could not receive a golf prize worth \$2000 from hotel and travel industry where councilmember was invited to the golf tournament because of his government position;
 - Councilmember Ann Kobayashi failed to disclose her conflict of interest in sitting on the board of a nonprofit that received funds from the Council;
 - Clarified the legal standard to be applied to find a violation of the ethics laws: a violation occurs if the official knew or should have known that his/her actions would violate the ethics laws;
- Published Guidelines on Employment After Leaving City Service and Revised Guidelines on Gifts.

2005

- Worked with City Council on making gifts to the City publicly transparent. Resolution adopted by Council requiring disclosure of gift, value, donor, purpose and recipient agency and ensuring that ethics laws are followed;
- Advocated for Charter amendments, including:
 - Budget and administrative independence for Commission -- proposal held by the Charter Commission;
 - Require councilmembers to be disqualified from voting on bills in which they have a conflict of interest – proposal held by Charter Commission;
 - Authorize the Commission to impose civil fines on officers and employees who violate the ethics laws – proposal adopted by voters in 2006 election;
 - Corrected the process for impeachment of elected officials on the basis of ethics violations – proposal adopted by voters on 2006 ballot.
- Published Revised Guidelines on [Political] Campaign Activities;
- Lobbyist regulation transferred from City Council to Commission;
- Rendered 6 formal Advisory Opinions, including;
 - Finding that an executive assistant at the Prosecutor’s Office misused her position by hiring her family members and political allies for lucrative contracts with the office. Suspension without pay imposed;
 - Finding the manager of a City facility misused his position in unilaterally changing work hours to provide about \$60,000 in overtime pay to a handful of employees;
 - Finding that a City supervisor may not enter into contracts for the City with his live-in girlfriend;
- Redrafted the Commission’s Guidelines on [Political] Campaign Activities.

2006

- Charter amendment to authorize Commission to impose civil fines on elected officials, officers and exempt employees is passed with 82% of the voters in favor;
- Rendered 3 formal Advisory Opinions, including:
 - Preventing City employee from selling cosmetics and household products to other City employees during City work time;
 - Concluding that the Charter authorizes the Commission to accept and investigate oral, as well as written, ethics complaints;
 - Finding that the Managing Director did not misuse his position or have a conflict of interest in City work obtained by the firm that employed his son;
- Published Guidelines on Gifts to City Agencies and Procedures for Handling Requests for Advice and Complaints.

2007

- Published Guidelines on the Use of City Resources;
- Drafted and advocated before City Council for law imposing civil fines on elected officials, officers and exempt employees with one of the toughest penalty provisions in the country (fines up to the greater amount between \$5,000 per violation or 3 times the financial benefit sought or received per violation). Law enacted;
- Rendered 3 formal Advisory Opinions:
 - Finding Councilmember Todd Apo had conflicts of interest regarding bills he introduced and his private employment;
 - Clarified that a City supervisor may not use his subordinates for private non-City work;

- Proved that a City supervisor misused his position and City resources by scavenging and cashing in recyclable metals during City work time. Employee discharged from City employment.

2008

- Rendered 5 formal Advisory Opinions, including:
 - A seminal opinion describing the standards to be used in determining personal conflicts of interest;
 - Shutting down Councilmember Romy Cachola's City website which unlawfully linked the user directly to his campaign website;
 - Stopping an employee from misusing City resources to pick up his supervisor's laundry, going to the movies and going home during City work time.

2009

- Rendered 6 formal Advisory Opinions, including:
 - After investigating several complaints alleging political campaign activities by employees in the Council and Administration, finding no serious misconduct;
 - Finding that the Administration did not violate the prohibition against the use of City resources for campaign activities in sending the public materials supporting the rail project.

2010

- Drafted and advocated for a bill before Council that would clarify the procedures the Commission must follow in all matters, as well as maintain confidentiality of Commission investigative records. Bill enacted into law;
- Rendered 5 formal Advisory Opinions, including:
 - Finding Councilmember Rod Tam misused City funds to pay for meals that were for his personal benefit. Tam reimbursed the City about

\$12,000 and paid a \$2,000 civil fine. He also pled guilty to criminal theft.

2011

- Discontinued use of part-time private attorney and created the full-time Associate Legal Counsel position. Staff: Executive Director/Legal Counsel, Associate Legal Counsel and Legal Clerk;
- Published Key Ethics Rules for Board and Commission Members;
- Rendered 8 formal Advisory Opinions, including:
 - Directing Councilmember Todd Apo and other councilmembers to publicly disclose their conflicts of interest regarding bills at the earliest time a conflict is detected. Commission imposed \$500 fine on Councilmember Apo;
 - Imposed a \$650 civil fine on a member of the Planning Commission for failing to follow the guidance of Commission staff to disclose and recuse himself from a Planning Commission case where he had a conflict of interest. Member resigned from the Planning Commission;
 - Stating that because Mayor Carlisle's wife was not a City officer or employee, funds gifted to the City may not be used to pay for her travel;
 - Settling allegations of misuse of City resources with Patty Teruya by spending significant blocks of work time on websites not related to her City job and other misconduct. Teruya was required to leave City employment.

2012

- Advocated before City Council for mandatory ethics training for all 10,000 City officers and employees. Bill becomes law;
- Drafted and advocated for a completely overhauled Ethics Commission Rules of Procedure ensuring efficient and fair process for all subjects of misconduct complaints. New rules are adopted;

- Published Revised Guidelines on [Political] Campaign Activities and Policy and Procedure for the Release and Publication of Formal Advisory Opinions (ensuring that the Commission would publish the name and misconduct of City officers and employees consistent with the Hawaii Open Records Law);
- Rendered 8 formal Advisory Opinions, including:
 - Councilmember Ikaika Anderson misused his City position by threatening the employment of a City employee;
 - Settled a complaint against Councilmember Nestor Garcia for failing to disclose his conflicts of interest resulting from his private employer's interest in bills (e.g., rail, Kapolei development) coming before him for discussion and vote. Garcia fined \$6,500;
 - Settling a complaint against former HPD Deputy Chief Delbert Tatsuyama for misuse of HPD resources for his personal benefit. Tatsuyama fined \$2,800;
- Investigated misuse of City work time, overtime and vehicle leading to the discharge of a City supervisor and guilty plea for 2nd degree felony theft;

2013

- Commission is funded to add an investigator. Staff is now: Executive Director/Legal Counsel, Associate Legal Counsel, Investigator and Legal Clerk;
- Commission rendered 4 formal Advisory Opinions, including:
 - Approving a settlement between staff and a deputy director who misused his department position for his personal benefit. Civil fine of \$2000 paid;
 - Finding that Mayor Kirk Caldwell did not violate gift laws in benefiting from his \$145,000 inaugural luau, but found that a disproportionate amount of the luau funds was donated by persons and businesses that had or were likely to ask for City business. Also, found that the \$51,000 to pay for the transition team from the Carlisle Administration to the Caldwell Administration had to be submitted to the Council as gifts to the City;

- Approving a settlement with Councilmember Ann Kobayashi for failing to disclose her conflict of interest of sitting on the board of a credit union when she introduced legislation regarding taxation of credit unions. \$500 civil fine paid;
- Began what would be a time intensive, three year battle to maintain independence over budgets, expenditures and personnel actions from the Caldwell Administration;

2014

- Began the first mandatory ethics training for all 10,000 City officers and employees, many of whom had no prior ethics training;
- Rendered 7 formal Advisory Opinions, including:
 - Cracked down on gifts of golf outings and prizes to City permitting agency employees from businesses that require permits;
 - Recommended suspension without pay for a City employee who ignored Commission staff warnings not to obtain private business permits while on City work time;
 - Approved a \$50,000 civil fine settlement between staff and former Councilmember Romy Cachola (1) for his misuse of City funds to pay for expenses for his car that had already been paid by his campaign fund, and (2) for receiving dozens of unlawful gifts valued at thousands of dollars over several years from lobbyists and failing to disclose the conflicts of interest created by the gifts. This is the highest civil fine accepted by the Commission to date.
- Worked closely with the Hawaii State Campaign Spending Commission in the Councilmember Cachola case to prevent his attempt to explain that his misuse of taxpayer funds was allowed under the campaign finance laws;
- Began regular liaison with the Federal Bureau of Investigation.

2015

- Commission adds a second Legal Clerk position bringing staff to 5: Executive Director/Legal Counsel, Associate Legal counsel, Investigator and 2 Legal Clerks;
- Staff develops an electronic form for filing annual financial disclosures, which requires the filer to review and sign an Ethics Checklist Refresher form;
- Commission approves its Media Policy;
- Along with the Attorney General's Department, investigated the misuse of City resources by an employee who used his City office and City time to run a private business. Employee immediately removed from City employment;
- Renders 2 formal Advisory Opinions, including
 - An \$8,100 settlement with former Councilmember Nestor Garcia for accepting unlawful gifts from lobbyists and failing to disclose conflicts of interest created by the gifts.

Information About Executive Director and Legal Counsel Charles Totto

- One of the founding members of Cityethics.org, a group of municipal ethics commissions with few agency resources. Purpose: to share best practices in governmental ethical conduct. This is a national organization and includes San Diego, Los Angeles, Chicago, Jacksonville and others.
- Helped create the Compliance and Ethics Alliance to exchange best ethics practices among HECO, HMSA, Hawaiian Telephone and the Honolulu Ethics Commission.
- Serves on the Advisory Board for the University of Hawaii at Manoa's Master's Program in Public Administration and lectures on government ethics.
- One of 3 City officers who set up and steers the City's Integrity Hotline. This is a 24/7 reporting site where City employees may report fraud, waste, abuse and misuse of City resources.
- Drafted or edited 85 formal Advisory Opinions.

- Directed or conducted over 750 investigations into alleged misuse of City resources and conflicts of interest.
- Responded to or reviewed over 5,500 oral and written requests for advice from government personnel, the public and media.
- Developed or taught ethics training for almost 20,000 elected officials, supervisors, managers, board and commission members and non-supervisory employees.
- Worked with 5 mayors, 8 managing directors, 4 heads of Corporation Counsel, dozens of councilmembers and at least 15 members of the Ethics Commission.