

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 139

The question is whether or not a part-time legislative aide with the City Council [Council] can also be employed full time as a trust officer with a private banking institution.

Based on the information provided to the Ethics Commission [Commission] the facts are as follows:

The legislative aide is a fiduciary administrator of a private capital banking center of the financial institution where he is employed.

As a fiduciary administrator, his responsibilities include (a) setting up and administering accounts in accordance with applicable laws and internal policies; (b) insuring effective administration of accounts and compliance with applicable laws; (c) maintaining contact with attorneys and other professionals to encourage business referrals; and (d) maintaining a thorough knowledge of investments, real property management and commercial banking services as they relate to existing and prospective trust accounts.

He is a director of an estate which leases and sells property on another island.

He has a real estate license which has never been activated since he obtained it.

Before his present position with the City he was employed in the City Clerk's office.

He is presently a legislative aide working twenty hours per week with the City.

As a legislative aide, his primary responsibilities include mingling with constituents, handling constituent complaints and attending board meetings. His duties are assigned to him by the councilmember for whom he works and are performed on weekends and in the evenings.

In determining whether or not there is any conflict of interest or any appearance of a conflict of interest between his City employment and his other employment, interests or activities, the Commission looks at the standards of conduct provisions set forth in the Revised Charter of Honolulu 1973 (1983 Ed.) [RCH] and the additional standards of conduct set forth in

the Revised Ordinances of Honolulu 1978. The Commission wishes to bring to his attention several relevant provisions of the standards of conduct found in the RCH.

Section 11-102.3, RCH, states:

No elected or appointed officer or employee shall...
[e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which may tend to impair his independence of judgment in the performance of his official duties.

Section 11-104, RCH, states:

No elected or appointed officer or employee shall use his official position to secure or grant special consideration, treatment, advantage, privilege or exemption to himself or any person beyond that which is available to every other person.

Section 11-108, RCH, provides:

The council shall by ordinance provide for the registration of lobbyists, including the classification, issuance, revocation, suspension, and renewal of certificates of registration, the disclosure of information necessary in the public interest, and the investigative procedures and sanctions necessary to effectuate the purposes of the ordinance. As used herein, 'lobbyist' means any person who engages himself for pay or other consideration for the purpose of attempting to influence legislative or administrative action of the city.

Based on the information provided to the Commission, the Commission does not find any conflicts of interest in the legislative aide's situation at present. The Commission has brought these particular standards of conduct to his attention so he will be aware of potential conflicts of interest situations that may arise. For example, he informed the Commission that none of his clients at the banking institution have any matters pending before the Council. He also stated that neither the banking institution nor the estate has any matter before the Council. Should any of his clients, the banking institution or the estate have any matter before the Council in the future, he should be aware that it would be a violation of Section 11-104, RCH, to use his official position to secure special consideration for them beyond that which is available to every other person. Since many of the legislative aide's clients possess real estate which is managed by his department at the banking institution, it is possible for one of them at some point in the future to have a matter (such as a zoning change or variance application, etc.) come before the Council.

The legislative aide should not attempt to influence any legislative or administrative action of the City with respect to any matter regarding the banking institution or he may be deemed to be a lobbyist under Section 11-108, RCH. It would be a conflict of interest under Section 11-102.3, RCH, if he were a lobbyist registered with the City and also an employee of the Council.

If the legislative aide were to activate his real estate salesman's license he should also be aware of Advisory Opinion No. 137 which addresses the issue of Council employees who possess real estate salesman's licenses.

As stated earlier, the Commission does not see a conflict of interest at present. The Commission has presented several standards of conduct should matters arise in the future and has described two hypothetical situations which could arise. If at any time the legislative aide's situation changes and the facts are no longer as described in this opinion, or if a particular question arises, he should contact the Commission again for an opinion based on the changed circumstances.

Dated: July 24, 1984

GILBERT A. GIMA

Chair, Ethics Commission

Note: The Ethics Commission's *Guidelines on Real Estate Licenses*, issued March 21, 1988, supersede Advisory Opinion No. 139.