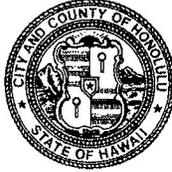


**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

925 DILLINGHAM BOULEVARD, SUITE 190 • HONOLULU, HAWAII 96817
PHONE: (808) 768-9242 • FAX: (808) 768-7768 • EMAIL: ethics@honolulu.gov • INTERNET: www.honolulu.gov/ethics

KIRK CALDWELL
MAYOR



JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

ADVISORY OPINION NO. 2021-1

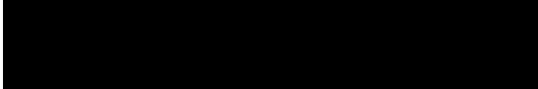
On August 19, 2020, the Honolulu Ethics Commission adopted Findings of Fact and Conclusions of Law (Exhibit A), determining that a city employee violated the city's standards of conduct by taking a city vehicle to a commercial establishment to watch football games three weekends in a row.

The Commission recommends appropriate disciplinary action after reviewing the totality of the circumstances.

Aggravating factors include that the Respondent was a working supervisor of at least two other employees; intentionally misused the city truck during three consecutive weekends; attended ethics training in October 2014; and did not report side trips using the city vehicle on required paperwork.

Mitigating factors are that the Respondent has been fully cooperative and appears to have been sincere and honest in Respondent's responses. Respondent has been very patient in that the case has taken almost three years to resolve. Respondent has taken responsibility for these actions and has no prior disciplinary actions.

The Commission determines that it is reasonable, fair, and in the public interest to resolve the complaint by recommending to Respondent's appointing authority that Respondent be disciplined by a 6-day unpaid suspension for said violations. The Ethics Commission believes that this behavior is reprehensible and gives a black-eye to the city. The Commission strongly condemns using city vehicles for personal purposes.


VICTORIA S. MARKS, Chair
Honolulu Ethics Commission

DATED: September 16, 2020

Of Counsel:

JAN K. YAMANE 4661
Executive Director and Legal Counsel
LAURIE A. WONG-NOWINSKI 8502
Associate Legal Counsel
925 Dillingham Boulevard, Suite 190
Honolulu, Hawaii 96817
Tel: (808) 768-9242
Fax: (808) 768-7768
Email: jan.yamane@honolulu.gov
Email: lwong4@honolulu.gov

HONOLULU
ETHICS COMMISSION
RECEIVED

'20 AUG -3 P12:50

Attorneys for Complainant

CONFIDENTIAL

**THE ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

JAN K. YAMANE, in Her Capacity
as Executive Director and Legal Counsel,
Honolulu Ethics Commission,

Complainant,

vs.

[REDACTED],
[REDACTED], Department of [REDACTED]
[REDACTED], City and County of Honolulu,
For Alleged Misuse of City Resources
and/or City Position [in Violation of
Revised Charter of Honolulu Section 11-
104],

Respondent.

) Case No.: EC No. [REDACTED]

) ~~PROPOSED~~ STIPULATED FINDINGS
) OF FACT AND CONCLUSIONS OF
) LAW

~~PROPOSED~~ STIPULATED FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINDINGS OF FACT

1. At all relevant times herein RESPONDENT was an employee of the City as a [REDACTED] [REDACTED] [REDACTED] (I [REDACTED]), [REDACTED], Department of [REDACTED] (" [REDACTED]").
2. RESPONDENT's normal City work hours are Thursday through Monday from 6:30 a.m. – 3:00 p.m.; Tuesdays and Wednesdays are [REDACTED] normal days off.
3. RESPONDENT's City job duties include supervising and participating in [REDACTED] and [REDACTED] maintenance of [REDACTED] and unmanned [REDACTED] in the [REDACTED] District; and supervising the work of a small crew of [REDACTED] personnel and [REDACTED] personnel.
4. RESPONDENT supervises four subordinate [REDACTED].
5. RESPONDENT primarily uses one of two trucks made available to [REDACTED]: (1) Ford F-250 pickup, equipment No. [REDACTED] and license plate No. CC [REDACTED]; (2) Ford F-250 pickup truck equipment No. [REDACTED], license plate No. CC [REDACTED].
6. On the weekends, RESPONDENT usually opens the [REDACTED] gate at 7:00 am. Then, [REDACTED] checks on nine other [REDACTED] from [REDACTED] to [REDACTED] and [REDACTED] to [REDACTED].
7. It takes RESPONDENT about three hours to complete checking, cleaning, restocking and reporting these nine other [REDACTED].
8. After lunch, RESPONDENT cuts [REDACTED] in three areas: [REDACTED] and [REDACTED].
9. RESPONDENT is a huge [REDACTED] fan and is the [REDACTED]. The club partners with [REDACTED] to support non-profit organizations from food and drink sold at [REDACTED] during [REDACTED] games.
10. RESPONDENT attended city ethics training class on October 6, 2014.
11. On Sunday, September 24, 2017, RESPONDENT reported that [REDACTED] worked at [REDACTED] City job from 6:30 a.m. to 3:00 p.m on [REDACTED] 9/24/2020 Time Sheet.
12. On that same day, RESPONDENT watched the [REDACTED] Week 3 game which was televised at 1pm Eastern Daylight Time ("EDT") (7am Hawaii Standard Time ("HST")) at [REDACTED].
13. On that same day, at 7:05 am, RESPONDENT' assigned C&C Truck, Ford F-250, license

plate No. CC [REDACTED] was photographed at the far end of the [REDACTED] parking lot closest to [REDACTED] Street.

14. On Sunday, October 1, 2017, RESPONDENT reported that [REDACTED] worked at [REDACTED] City job from 6:30 a.m. to 3:00 p.m. on [REDACTED] 10/1/2017 Time Sheet.
15. On that same day, RESPONDENT watched the [REDACTED] Week 4 game which was televised at 1pm EDT (7am HST) at [REDACTED], [REDACTED].
16. On that same day, at 7:36 am, RESPONDENT' assigned C&C Truck, Ford F-250, license plate No. CC [REDACTED] was photographed at the far end of the [REDACTED] parking lot closest to [REDACTED] Street.
17. On Sunday, October 8, 2017, RESPONDENT reported that [REDACTED] worked at [REDACTED] City job from 6:30 a.m. to 3:00 p.m. on [REDACTED] 10/8/2017 Time Sheet.
18. On that same day, RESPONDENT watched the [REDACTED] Week 5 game which was televised at 1pm EDT (7am HST) at [REDACTED], [REDACTED].
19. On that same day, at 7:44 am, RESPONDENT's assigned C&C Truck, Ford F-250, license plate No. CC [REDACTED] was photographed at the far end of the [REDACTED] parking lot closest to [REDACTED] Street.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction for purposes of investigation and taking appropriate action over this matter.
2. At all relevant times herein RESPONDENT was required to follow the City's standards of conduct, Revised Charter of Honolulu ("RCH") Article XI.
3. At all relevant times herein, RESPONDENT was subject to the jurisdiction of the Honolulu Ethics Commission ("Commission").
4. RESPONDENT knew or should have known that [REDACTED] misused [REDACTED] city position by using the city truck to go to [REDACTED] to watch the [REDACTED] Week 3 game on September 24, 2017, in violation of RCH Sec. 11-104.
5. RESPONDENT knew or should have known that [REDACTED] misused [REDACTED] city position by using a city truck to go to [REDACTED] to watch the [REDACTED] Week 4 game on October 1, 2017, in violation of RCH Sec. 11-104.
6. RESPONDENT knew or should have known that [REDACTED] misused [REDACTED] City position by using the city truck to watch the [REDACTED] Week 5 game on October 8, 2017, at [REDACTED] in violation of RCH Sec. 11-104.

STIPULATED:

[REDACTED]

DATED: 8/3/2020

JAN K. YAMANE
LAURIE A. WONG-NOWINSKI
Attorneys for Complainant

[REDACTED]

DATED: 8/10/20

[REDACTED]
Respondent. Pro se

APPROVED:

[REDACTED]

DATED: 8/20/20

VICTORIA S. MARKS
Chair, Honolulu Ethics Commission