

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 238

This is an advisory opinion issued as a result of a City officer's ("A") failure to appear before the Ethics Commission as requested on May 9, 1994, to explain why A did not file a 1993 financial disclosure form, as required by law.

The Commission understands the facts relative to this matter to be as follows:

A is a member of the board of trustees of a pension fund for the benefit of certain City employees. On January 4, 1994, A was sent a copy of the City's financial disclosure form, instructions for filling it out, and a cover letter stating that the deadline established by law for filing the form is January 31 of each year. On February 16, 1994, A was sent a reminder letter requesting that the form be returned to the Ethics Commission immediately. On March 15, 1994, A was sent a second reminder letter and asked to return A's financial disclosure form to the Ethics Commission no later than March 25, 1994. That letter stated that if A did not return the form by then, A would be required to attend an Ethics Commission meeting to explain why A had not complied with the law. On April 11, 1994, A was sent a letter requesting A's attendance at the May 9, 1994, meeting of the Commission, for the purpose of explaining why A had not filed the financial disclosure form due on January 31, 1994. In addition, A was contacted by telephone by the Commission's legal clerk on May 2. At A's request A was mailed a copy of A's 1992 filing and another blank disclosure form, which A assured the clerk A would file prior to the May 9 meeting. A did not appear at the Commission meeting as requested, and to date A has not filed a 1993 financial disclosure form.

The ethical question presented is whether A failed to comply with the legal requirement for all appointed members of boards and commissions to file an annual financial disclosure form with the Ethics Commission.

The general rule in relation to this case is found in the Revised Ordinances of Honolulu 1990 [ROH] Section 3-8.4(b)(2), which states in pertinent part:

Any officer of the Executive or Legislative Branch shall file a financial disclosure as prescribed herein within twenty working days after taking the oath of office and annually thereafter on or before January 31, of each year until the end of the term of office.

The word "officer" is given the same meaning as is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.), Section 13-101.4, which states in pertinent part, "the term 'officer' shall include...[a]ny person appointed...as a member of any board or commission." Based on the evidence available, the Ethics Commission finds that A has violated ROH Section 3-8.4(b)(2). Further, pursuant to ROH Section 3-8.5(a), the Commission recommends to the Mayor that A be removed from A's position as a member of the board of trustees of the pension

fund.

Dated: May 25, 1994

SAMUEL L. DOMINGO
Chair, Ethics Commission