

July 13, 1995

TO: ALL CITY AGENCIES

FROM: SAMUEL L. DOMINGO, CHAIR, AND ETHICS COMMISSIONERS

SUBJECT: REVISED GUIDELINES FOR APPEARANCES IN ADVERTISEMENTS

The Ethics Commission issues these guidelines for appearances in advertisements for private businesses so that elected or appointed officers and employees may avoid conflicts of interest under the City's Standards of Conduct.

Section 11-102(c), Revised Charter of the City & County of Honolulu 1973 (1994 Ed.), 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 such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties. Under Section 11-102(c), an advertisement is a business activity because businesses use advertisements to foster a public market for their services or products."

Under Section 11-102(c), an advertisement is a **business activity** because businesses use advertisements to foster a public market for their services or products.

## **I. Use of Official Position**

**Use of official position** means use of City titles with the names of officers or employees, pictures of officers or employees in City offices, pictures of officers or employees with official staff members designated as such, or any other situation in which officers or employees are expressly identified with their City positions.

### **A. Use of Official Position in Advertisements for Businesses Operated for a Profit**

When City officers or employees receive compensation for appearing as such in advertisements, they have engaged in a **business transaction** and have a direct **financial interest** through employment in the advertisement by the business advertised. They may also have an indirect **financial interest** if there is a relationship between the business advertised and family members or personal assets such as real property or stock owned.

### **B. Use of Official Position in Advertisements for Non-profit Businesses**

If officers or employees wish to lend their name and status as public servants to advertisements for non-profit businesses or charities, the meaning of **business transaction or activity** and **financial interest** explained above still applies because non-profit organizations are also defined as businesses in Section 3-8.1 of the Revised Ordinances of Honolulu, 1990.

## **II. Appearing in Advertisements for Businesses, Whether or Not Operated for Profit, Without Express Identification of Official Positions**

If officers or employees wish to appear in advertisements without express indications of their official positions, they should consider in advance whether or not their status is so well-known that the public may not need a title or other indication to associate the position with the business being advertised. The Commission notes that businesses regularly pay entertainment, sports, and political figures to physically appear in endorsements that do not include titles because the persons are public figures who can be identified by physical appearance alone. If well-known officers or employees are compensated for appearing in advertisements without express indications of official positions, they may still have used their official status in a business transaction under the standards of conduct.

In summary, if City officers or employees appear in advertisements for businesses, whether or not operated for profit, they have engaged in a **business activity** under the City's Standards of Conduct. When advertisements include express indications of official positions, participants have engaged in a business activity that may be incompatible with the proper discharge of official duties. When participants receive direct or indirect compensation, they have also engaged in a **business transaction** and have a **financial interest** that may be incompatible with official duties. Therefore, officers and employees should exercise great care and consider opportunities to appear in advertisements in light of the Standards of Conduct.

If you have any questions, please call the Commission office at 768-7786.

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Chair, Ethics Commission

SLD/CLS:jg

APPROVED:  
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