

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**ADVISORY OPINION NO. 166**

This advisory opinion is in response to a request for the Ethics Commission [Commission] to determine whether an information specialist at the Board of Water Supply [BWS], has violated or appeared to violate the City's standards of conduct through outside activities as a part-time reporter and as a director of a non-profit corporation that is suing the City.

The Commission believes that the employee has not violated the standards of conduct.

This opinion is based on the following facts:

The employee is an information specialist in the Community Relations section of BWS. His duties include researching and writing news releases for dissemination by the media. He also needs to maintain effective relationships with the media and community groups in order to implement the public relations program of BWS.

The employee currently has two outside interests. First, he is a part-time reporter with a commercial radio station, which has had a short-term contract to broadcast public service announcements for the BWS. Second, he is also a director of and, occasionally, a media consultant to a non-profit corporation [corporation] concerned with land use issues.

According to a brochure published by the corporation, it acts as a resource for information exchange, educates through meetings and lectures, advises public and private decision-makers on proposed legislation and changes in land use, and opposes unsound or disruptive development. The corporation is also the plaintiff in a civil action against the City and County of Honolulu concerning the development of real property. Under the corporation's bylaws, directors may not participate in matters related to other employment they may have, and the information specialist states he did not vote in favor of this suit.

According to the information specialist, as a director of the corporation he attends meetings of the board, provides input on public interest issues, and hopes to improve the dialogue between the corporation and City agencies like BWS without taking a position on the corporation's board that conflicts with his obligations at BWS. In addition, he represented the corporation regarding the proposed H-3 freeway in Washington, D. C., but the corporation did not pay his travel or other expenses.

The ethical questions are whether an employee violates or appears to violate ethical standards when he also works

1. as a reporter with a radio station that has had a contract with the employee's Department; or
2. as a media consultant to or as a director and representative of a non-profit corporation that is suing the City.

The brief answers are that 1) the employee's work as a reporter does not violate or appear to violate any standard of conduct; and 2) his continued association with the non-profit corporation may create the appearance of a violation because the organization is suing the City, but there is no actual violation.

Relevant standards of conduct prohibit any public employee from

1. accepting any gift in any form under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties, Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH], Section 11-102.1;
2. disclosing or using confidential information gained through such employment for the benefit or gain of anyone, RCH Section 11-102.2;
3. engaging in any business activity or having 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, RCH Section 11-102.3;
4. representing private interests in any action or proceeding against the interests of the City or County or appearing in behalf of private interests before any governmental unit of the City or County, RCH Section 11-102.5; Revised Ordinances of Honolulu 1978 (1983 Ed.) [ROH], Section 6-1.2(3); or
5. acquiring a financial interest in business enterprises which he has reason to believe may be directly involved in official action to be taken by him. ROH Section 6-1.2(2).

"Financial interests" include a directorship in a business. ROH Section 6-1.2(6), and a "business" includes non-profit corporations, ROH Section 6-1.2(2).

Based on the employee's position description and answers to the Commissions questions, the Commission concludes that his work as a reporter has not violated ethical standards. The radio station contracted with BWS to advertise water conservation in

(date), eight months after he began working there, but he does not have the authority to contract or the power to influence who receives contracts for such advertisements.

The employee's association with the corporation raises closer questions under the standards of conduct. He is engaging in a business activity in which he has a financial interest because a non-profit corporation like the corporation is a business and a directorship is a financial interest. As an information specialist, he may be privy to confidential information, which he must not disclose or use in his input as a director or advice as a media consultant. Also, his interest may at some time appear to be incompatible with the City's and BWS's public relations efforts, and he may appear to represent the corporation before the City because the corporation may receive input from him regarding advice to public decisionmakers. Therefore, his association with the corporation creates the potential for conflicts of interest.

The employee has not, however, violated the standards of conduct. When he represented the corporation in Washington, D.C., he did not do so at its expense and thus did not accept a gift in the form of a trip under the standards of conduct. In addition, although the corporation is suing the City, he states he did not vote as a director to initiate this or any other action against the City. Moreover, his association with the corporation is consistent with his duty to maintain effective relations with community groups, and his goal to improve the dialogue between the corporation and government agencies like BWS is appropriate to his official duties. Therefore, the appearance of a conflict may be the result of the employee's pursuing the duties of his official work through being a director of the corporation.

In summary, the employee has not violated the standards of conduct, but he may appear to have done so because he represented the corporation in Washington, D. C., and has continued as a director since the corporation filed suit against the City. Although being a director of the corporation may be a means to pursue his official duties, he may wish to contact the Commission or its counsel should any questions arise under the standards of conduct.

Date: January 26, 1987

JANE B. FELLMETH  
Chair, Ethics Commission