

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 265

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether your employment creates a conflict of interest with certain aspects of your role as a City officer.

The Commission understands the facts relative to your inquiry to be as follows:

You serve on a City board and, therefore, you are a City officer. Among your board's responsibilities is the administration of Handi-Van operations.

On September 27, 1992, as a result of a public request for proposals, your board contracted with a company ("XYZ") to operate the City's Handi-Van service. On March 31, 1995, another company ("ABC") purchased controlling interest in XYZ.

A New York City based investment banking division of a large securities firm has traditionally been the banker for ABC, and it may have served in that role in this transaction. Despite diligent effort, you have been unable to verify whether the investment banking division was involved in this particular matter or not.

For 32 years you have worked in the area of securities. You are currently senior vice president and branch manager of securities brokerage for the large securities firm in Honolulu with a staff of 75 people. Investment banking and securities brokerage are entirely separate divisions of the large securities firm. You did not personally receive any remuneration as a result of the XYZ sale nor did anyone under your jurisdiction.

The ethical question presented is whether your employment with the large securities firm creates a conflict of interest with XYZ. If a conflict of interest exists, it would require you to abstain from participation in any board business that involves XYZ.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.), Section 11-102(c) which states in pertinent part:

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.

Based on the evidence presented, the Commission finds that your employment does not create a conflict of interest with your service to the board in relationship to decisions that involve XYZ. It cannot be determined whether the large securities firm even participated in ABC's purchase of XYZ. If the large securities firm's investment banking division was involved in the transaction, its connection to you is so remote that the Commission does not believe it creates a conflict of interest.

Dated: January 24, 1996

SAMUEL L. DOMINGO
Chair, Ethics Commission