



HAWAII STATE ETHICS COMMISSION

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Statement by the Hawaii State Ethics Commission Concerning Its Investigation of the Bureau of Conveyances

The Hawaii State Ethics Commission (the “Commission”) recently completed its investigation of allegations of ethical improprieties at the Bureau of Conveyances (the “Bureau”). Although the Commission’s investigations are confidential by law, information that the Commission was investigating the Bureau became public in 2007 when the Commission’s private investigator at the time was subpoenaed to testify during the Senate confirmation hearings of Peter Young, then-Chairperson of the Department of Land and Natural Resources. Additional information about the Commission’s investigation became public during subsequent legislative hearings in 2007 by the Joint Senate-House Investigative Committee on the Bureau of Conveyances. Because questions have been publically raised about the possibility of serious violations of the State’s ethics laws by employees of the Bureau, the Commission believes that basic principles of fairness require that the Commission issue a public statement concerning the resolution of its investigation.

In late December of 2006, and in the early part of 2007, the Commission’s executive director received information from a Bureau employee concerning what appeared to be egregious violations of the State Ethics Code, chapter 84, Hawaii Revised Statutes. Because of the very serious nature of the allegations raised, the executive director asked its private investigator at the time to initiate an investigation.

Among the serious allegations of unethical conduct brought to the Commission's attention were the following:

1. Gifts. Allegations were made that employees of the Bureau received very expensive gifts from title companies and others who file documents for recordation at the Bureau. These gifts, it was alleged, included the payment of hotel lodging and travel expenses for trips to Las Vegas.
2. Preferential treatment and favoritism. Allegations were made that certain title companies and individuals received preferential treatment from employees of the Bureau. Multiple allegations of preferential treatment were reported. It was alleged, for example, that Bureau employees performed work for a certain title company in a preferential manner. It was also alleged that the same title company was allowed to maintain its own computer at the Bureau and was accorded preferential access to documents maintained by the Bureau. It was also alleged that certain title company employees received special access to certain Bureau employees and were accorded special treatment by these employees.

Allegations of improper gifts to state employees raise ethics concerns under HRS section 84-11, the Gifts section of the State Ethics Code. This section states as follows:

§84-11 Gifts. No legislator or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the legislator or employee in the performance of the legislator's or employee's official duties or

is intended as a reward for any official action on the legislator's or employee's part.

Allegations of preferential treatment or favoritism by state employees raise ethics concerns under HRS section 84-13, the "Fair treatment" section of the State Ethics Code. This section states in part as follows:

§84-13 Fair treatment. No legislator or employee shall use or attempt to use the legislator's or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others. . . .

The Commission's private investigator conducted an investigation of this matter between February and early May of 2007. Due to the expenditure of all funds for a private investigator in early May, 2007, the investigation by the investigator was stopped in early May, 2007, with the thought that the investigation would be continued primarily by the Commission's staff attorneys. In response to information later received by the Commission's executive director, the Commission set aside the initial investigation of this case and, in July of 2007, initiated a new investigation of this case. The new investigation was conducted almost exclusively by the Commission's attorneys, with some assistance provided by another private investigator who specializes in computer forensics. With the start of the new fiscal year on July 1, 2007, the Commission had funds to expend for private investigative services.

The Commission's new investigation included interviews of current and former employees of the Bureau, as well as employees of title companies and other representatives of the title industry. Approximately twenty witnesses were interviewed during the course of the investigation. Some of the witnesses were represented by legal counsel during these interviews. During these interviews, the Commission's

attorneys questioned witnesses about allegations of ethical violations by various employees of the Bureau.

On April 9, 2008, the results of the investigation of the Bureau were reviewed by the Hawaii State Ethics Commission at its adjudicatory meeting of that day, April 9, 2008. After deliberation, the Commission concluded that the allegations of ethical misconduct in this case were not substantiated. The allegations appeared to be based more on suspicion and speculation rather than on specific, credible evidence. There appeared to be significant differences of opinion among employees at the Bureau as to how the Bureau's work should be performed and what the correct protocol should be when dealing with title companies and others who record documents at the Bureau. These differences of opinion constituted management issues for the Bureau or for the Department of Land and Natural Resources to address. These issues were not matters that fell within the jurisdiction of the State Ethics Commission.

The initial allegations that were presented to the Commission were serious and resulted in an extensive and lengthy investigation. During its investigation, the Commission was cognizant of the fact that many of these allegations had been made public and that certain employees of the Bureau and certain members of the title industry had been mentioned publically in connection with this investigation and had claims of ethical misconduct publically levied against them. Due to the public nature of these allegations, the Commission determined that basic fairness required that the Commission publically disclose the fact that its investigation found that there was a lack of evidence to sustain the allegations of violations of the Hawaii State Ethics Code by any of these individuals.

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