



HAWAII
STATE
ETHICS
COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

MEMORANDUM

TO: The Honorable Shan S. Tsutsui

Senate President

Hawaii State Capitol, Room 409

Honolulu, Hawaii 96813

(sentsutsui@capitol.hawaii.gov)

The Honorable Calvin K. Y. Say

Speaker of the House

Hawaii State Capitol, Room 431

Honolulu, Hawaii 96813

(repsay@capitol.hawaii.gov)

FROM:

Leslie H. Kondo *LK*

Executive Director and General Counsel

SUBJECT: NCSL Legislative Summit Dinner Invitation

DATE: August 9, 2011

Yesterday, our office was made aware of a dinner for Hawaii State legislators and staff who are attending the NCSL Legislative Summit in San Antonio, Texas, hosted by The Chamber of Commerce of Hawaii, Outrigger Enterprises Group, Hawaii Medical Services Association, Island Insurance Companies, Goodwill Anderson Quinn & Stifel, and Coca Cola. We understand that the dinner was planned for yesterday evening at the Silo Elevated Cuisine restaurant, with bus transportation from the Grand Hyatt Riverwalk Hotel. We were asked whether the dinner was an "improper" gift.

In response to this inquiry, we spoke with Ms. Sherry Menor-McNamara, the Chamber's Chief Operating Officer and Senior Vice President, Government Affairs, who confirmed that the dinner was for the Hawaii delegation and guests, was intended as a social event, and the per person cost of the dinner exceeded \$25. Based upon that information, we explained our concern to Ms. Menor-McNamara that the State Ethics Code likely did not allow legislators or staff to accept the dinner. We discussed options and possible modifications to the event with Ms. Menor-McNamara. Ms. Menor-McNamara subsequently informed us that the event had been cancelled.

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We understand that many of the legislators and staff who had intended to attend the dinner were disappointed. The State Ethics Code, however, prohibits a legislator or a state employee from receiving or accepting a gift, including food and drink, if it can reasonably be inferred that the gift is being offered to influence or reward the employee or legislator.¹ As you know, the statute is violated if there is a reasonable appearance that the gift is offered with the intent to influence or reward official action.

In this case, given the per person cost of the dinner and the fact that the host organizations are involved in lobbying activities, in our opinion, there appeared to be a reasonable inference that the dinner was intended to influence or reward the legislators and staff. As noted above, we were informed that the dinner was a social event for the Hawaii delegation and guests. We were not provided with any information to indicate that attendance at the dinner by legislators and staff served a state benefit or state purpose. Under these circumstances, we felt it was important to convey our concerns about this dinner, prior to the event.

The State Ethics Commission previously has concluded that, generally, for events such as the dinner, if the actual cost per person is less than \$25, there is no reasonable inference that the invitation is intended to influence or reward the invitee; however, where the per person cost exceeds \$25, the State Ethics Code, generally, requires there to be a legitimate and significant state benefit, i.e., a close nexus between the event and the invitee's official duties, to accept the gift.

We are providing this memorandum to Senate President Tsutsui and House Speaker Say to advise them of the concern that we conveyed to Ms. Menor-McNamara about the dinner and to remind all legislators about the State Ethics Commission's interpretation of the gifts law.

Please contact us if you have any questions or would like to discuss this matter further.

c: Hawaii State Legislators (sens@capitol.hawaii.gov; reps@capitol.hawaii.gov)

¹ Specifically, HRS section 84-11 provides:

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.