



**HAWAII
STATE
ETHICS
COMMISSION**

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

April 16, 2007

CONFIDENTIAL

Via: Hand Delivery

The Honorable Russell S. Kokubun
Senator, District 2
Hawaii State Capitol, Room 407
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Senator Kokubun:

Per your request made during the executive session held on April 13, 2007, during which our investigator, Mr. Hilton Lui, testified per subpoena, I am forwarding to you ten (10) copies of the following documents:

- (1) Letter from Carl Watanabe to me, dated October 31, 2005
- (2) Letter from me to Carl Watanabe, dated October 20, 2005, copied to Governor Lingle and Mr. Peter Young, Chair, BLNR
- (3) Memo regarding call from Harriet Enriques, dated September 27, 1996
- (4) Memo regarding call from Maile Haliniak, dated October 22, 1996
- (5) Memo regarding call from Harriet Enriques, dated October 30, 1996

Please note that items 2 through 5 are confidential, in accordance with the State Ethics Code, chapter 84, Hawaii Revised Statutes. If you have any questions regarding the above, please do not hesitate to contact me at 587-0460.

Very truly yours,

A handwritten signature in cursive script that reads "Daniel J. Mollway".

Daniel J. Mollway
Executive Director
and General Counsel

200767

LINDA LINGLE
GOVERNOR OF HAWAII



CARL T. WATANABE
REGISTRAR OF CONVEYANCES

TELEPHONE (808) 587-0120

FAX (808) 587-0136

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
BUREAU OF CONVEYANCES

P. O. BOX 2867

HONOLULU HAWAII 96803

October 31, 2005

Mr. Daniel J. Mollway, Executive Director
Hawaii State Ethics Commission
1001 Bishop Street, ASB Tower 970
Honolulu, Hawaii 96813

STATE OF HAWAII
STATE ETHICS COMMISSION

05 NOV -2 11:00

Re: Ethics Inquiry

Dear Mr. Mollway:

I went over your correspondence of October 20, 2005 regarding an inquiry to your office on October 14, 2005 with my immediate supervisors. They were asked to inform their respective sections that soliciting "rewards" for what we are entrusted to do is inappropriate and unacceptable. Comments, as those reflected in your letter, even in jest, should never be made.

We do receive periodic "tokens of appreciation" from members of the public, i.e. title companies, developers, attorneys, primarily to recognize the efforts of our receiving section. The items, gift baskets, boxes of candy, manapua and malasadas arrive unannounced and are shared by the entire office.

Should you require additional information, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Carl T. Watanabe".

Carl T. Watanabe
Registrar of Conveyances

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

October 20, 2005

CONFIDENTIAL

Mr. Carl Watanabe
Registrar of Conveyances
Bureau of Conveyances
Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Watanabe:

The Hawaii State Ethics Commission recently received a telephone call from a member of the public who does business with the Bureau of Conveyances. According to the caller, on Friday, October 14, 2005, a person who also does business with the Bureau allegedly brought in pizza for the entire staff of the Bureau. The caller also claimed to have overheard a female Bureau employee state that she wondered "what they should ask for next time," i.e., what gift they should solicit from the person, next time. The caller claimed that people and companies that do business with the Bureau have, with some frequency, given gifts of food to the staff of the Bureau.

As you may recall, the issue of gifts frequently given to the Bureau of Conveyances came up around September of 1996. On October 25, 1996, I spoke with you from 8:53 a.m. to 9:45 a.m. regarding the gifts section of the State Ethics Code. On October 25, you indicated to me that you were confused by what appeared to be contrary advice on a couple of occasions from our office. When we talked, you mentioned that after a serious gifts complaint arose you had adopted a "no-gifts" rule, only to find out that our office does allow some gifts. You indicated that you were confused. I explained to you that not all gifts are banned, and that "tokens of aloha" are permissible. You stated that you were inclined to make all "tokens of aloha" shared by the office.

We did receive a letter from Colbert Sasano, Conveyance Branch Chief, dated October 25, 1996, complaining about inconsistent advice from our office. However, it seems that I had indicated to you on October 25, 1996, what the gifts law of the State Ethics Code would and would not allow. At that time, I indicated that an occasional "token of aloha" was acceptable, and that the Commission's policy was that such gifts should be shared with the office. For example, such a gift might be a moderately priced box of candy. It is certainly beyond a "token of aloha" to accept from a donor food for the whole office. The complaint that was raised a few days ago, if true, suggested gifts of food being given to your office that go way beyond an occasional "token of aloha."

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Mr. Carl Watanabe
October 20, 2005
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I am including for your reference a letter from Colbert Sasano dated October 25, 1996. We deal with gifts given to state agencies on a frequent basis, and we usually do not have the kind of confusion about our advice that Mr. Sasano indicates in his letter. In any event, it seemed that we had clarified the appropriate standard during the discussion of October 25, 1996.

In 1996, I was informed that your office was receiving substantial gifts from those who do business with the Bureau of Conveyances. The complaint in 1996 dealt with food given to you and shared by a few office people. The complaint stated you requested that companies provide you with food around 4:30 p.m. The suggestion was that your office often dealt with rushes around that time. The food consisted of pizza and buckets of Kentucky fried chicken, with side orders, such as mashed potatoes. Again, we are conveying what we were told, and not asserting its truth.

The Bureau takes significant action with respect to individuals it deals with. For this reason, gift-giving should be closely monitored. The complaint we recently received seems to be similar to the complaint we received in 1996. For this reason, we are somewhat concerned to hear about this issue again. However, we are again keeping an open mind with regard to the allegations made.

As I have indicated before, the gifts section of the State Ethics Code is located in HRS section 84-11. HRS section 84-11 states, in its entirety, 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 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.

The gifts law prohibits a state employee from soliciting or accepting a gift if it can reasonably be inferred that the gift is intended to influence or reward the employee. When determining whether or not a gift is acceptable, our office looks at a number of factors, including the value of the gift, the circumstances under which it is given, and the nature of the relationship between the donor of the gift and the recipient of the gift. The State's gift law is aimed at preventing both the actuality and the appearance of impropriety. Its aim is to preserve the public's confidence in State government.

The Bureau of Conveyances takes significant state action. Members of the public who do business with the Bureau can be profoundly affected by its actions. The relationship between the Bureau and its customers is one that is particularly susceptible

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Mr. Carl Watanabe
October 20, 2005
Page 3

to the appearance of impropriety. In the area of gifts, care should be taken in order to preserve the public's confidence in the integrity of the Bureau of Conveyances.

Our office is concerned about the information that has been recently given to us. Again, however, we would like to stress that we cannot yet verify the information and are not claiming that it is accurate. At this point, we would like to receive information from you as to what gifts, if any, are typically received by the Bureau of Conveyances. How frequently are gifts given? Who is providing these gifts? In addition, we would like to know from you whether or not there are any administrative policies in place that govern the acceptance of gifts by your agency.

We appreciate your cooperation and assistance in this matter. If you have any questions concerning this matter, please do not hesitate to call our office at 587-0460.

Very truly yours,



Daniel J. Mollway,
Executive Director and
General Counsel

Enclosure: Letter from Colbert Sasano,
dated October 25, 1996

c: Governor Linda Lingle
Mr. Peter Young, Chair BLNR

200771

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
BUREAU OF CONVEYANCES

P. O. BOX 2867
HONOLULU, HAWAII 96803

October 25, 1996

CARL T. WATANABE
Acting
REGISTRAR OF CONVEYANCES

TELEPHONE (808) 587-0148
FAX (808) 587-0136

STATE OF HAWAII
STATE ETHICS COMMISSION

96 OCT 28 AM 11:18

RECEIVED

Ms. Stella Kam
State Ethics Commission
Pacific Tower, 970
1001 Bishop St.
Honolulu, HI 96813

Dear Ms. Kam,

Our office is in confusion as to what gifts can or cannot be accepted and I am requesting clarification on this matter.

On Tuesday, October 18, 1996, you called Registrar Carl Watanabe to report a complaint lodged against this office regarding some food sent over from an outside company and that it was inappropriate to accept such gifts.

I later called you on the same day to explain the circumstances that the food was individually paid and you had replied that a gift should not be accepted from an outside company unless it was paid.

Then, on Tuesday, October 22, 1996, you received a call from one of our employee, Maile Kekua-Haliniak, on the types of gifts that can/cannot be accepted and your answer was that as long as the gifts were not in bulk or crates, and can be shared by the whole office, then the gifts can be accepted.

Your opinions to Carl, myself, and to Maile are different and I would like to resolve this matter with your assistance

Thank you.

Yours truly,

A handwritten signature in cursive script, appearing to read "Colbert Sasano".

Colbert Sasano
Conveyance Branch Chief

cc Carl Watanabe
Maile Kekua-Haliniak

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96-TC-9316

HRS 884-11,13

C

For Research File? **(Y)**

SEC INQUIRY/COMPLAINT CASE

Caller: Harriet Enriques
Department: DLNR
Div./Branch/Office: Bureau of Conveyances
Title: assistant registrar
Tel. No.: 587-0132

FACTS Date: 9/27/96
Time: 587-0132

ADVICE Date: 10/21/96
Time: 10:10 am

Subject (Official): Carl Watanabe

TOPIC: title company bringing in food for certain employees after work hours

FACTS: Ms. Enriques said that they have a policy in the office that food given to the office must be shared with everyone. She said that one of the title companies from time to time brings manapua to share with everyone in the office. Ms. Enriques said that this policy was started because the office has cliques and whoever received the manapua for the office did not share with one person who was on the "outs." Ms. Enriques said the office has about 50 employees. She said some employees (about 5, including Carl Watanabe and his friends) have been working late (overtime) and she has noticed how these people have been asking the title company to bring in food for them at 4:30. She said that the title company has been bringing over pizza and buckets of Kentucky Fried Chicken (this is with the chicken, mashed potato, and vegetable) which the employees then take home for their families.

Ms. Enriques said that the registrar (Carl Watanabe is the acting registrar) has a lot of power. Title companies are required to file docs before 2 pm in order to be recorded for the following day. However, the registrar has the power to waive this 2 pm reqt. Also, title companies are required to put all requests re past recordings in writing. Again, the registrar can waive this written requirement which shortens the response time considerably. The registrar can also waive recording fees. Because of this, the title company bringing food has been permitted to call in their requests, record after 2 pm, and retract their docs even after they are filed.

Ms. Enriques said that Mr. Watanabe has placed restrictions on the Bureau staff. They are not permitted to talk to other State employees, they must log all of their outgoing phone calls, and they cannot talk with other Bureau employees. She said that she's not supposed to be talking with our office because their phone calls are supposed to be reported.

200773

QUESTION: Ms. Enriquez asked for guidelines about the provision of food (such as what would not be acceptable under the ethics code) by a private company to state employees?

ADVICE/DISPOSITION: I discussed this with the ED, then I spoke with Carl Watanabe and told him that we received a complaint that the Bureau was receiving gifts of food from a private business. I explained to him that the gifts of food are unacceptable under 84-11 and 84-13. He said that he understood. A few minutes later, Colbert Sasano, Conveyancing Branch Chief, called me and was very upset. He said that they need to work every night and that they order out food for their dinner. I told him that if they are paying for their own food, that's fine, but they shouldn't be accepting gifts of food from any outside individual or entity. He asked if the complainant identified the private business. I said no. He said that the call was probably a crank call and implied that we shouldn't be taking such calls seriously. I told him that our office receives complaint calls as well as calls for advice and we need to follow up on every call; hence my call to Mr. Watanabe. Again, I told him that if the employees are paying for their own food, there's no problem with the Ethics Code, but they should not be accepting the food if someone or some company outside of the Bureau is paying for it.

I called Ms. Enriquez back later and told her that I talked with Carl and Colbert. She said that they had a staff meeting and Carl and Colbert and the others who were receiving the food were very upset. They said that whoever made the complaint to the Ethics Commission really spoiled it for everyone. I told Ms. Enriquez that if any private business brings in gifts of food, to contact our office again.

Facts by: ra
Advice by: smk

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g:\tc\haliniak

96-TC-9321
HRS §84-11,13
AO

For Research File? Y

SEC INQUIRY/COMPLAINT CASE

Caller: Maile Haliniak
Department: DLNR
Div./Branch/Office: Bureau of Conveyances
Title:
Tel. No.: 587-0135

FACTS Date: 10/22/96
Time: 12:35 pm

ADVICE Date: 10/22/96
Time: 3:15 pm

Subject (Official):

TOPIC: acceptance of gift of candies, popcorn from title companies

FACTS: Maile said that during Christmas time, they receive boxes of candies (Sees candies) and big cans of popcorn from title companies that they share with everyone in the office. Maile said they recently had a meeting in the office where they were told that according to the Ethics Commission, they are not to accept anything from anyone.

QUESTION: Can they accept candies, popcorn from title companies?

ADVICE/DISPOSITION: I told Maile that agencies may accept tokens of appreciation at special times of the year (like Christmas). However, if the administrator makes a decision that no gifts can be accepted at all, then they have to follow that because the Ethics Code is only the minimal requirement and the administrator can make stricter requirements. I also told her that if they receive anything larger than a "token of appreciation," they would have to call us as to whether they may accept it under the Ethics Code because we would have to know what the gift is, who it was directed to, and how much it is worth.

Facts by: ra
Advice by: smk

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QUESTION: none

ADVICE/DISPOSITION: I told Caller that Carl can make an administrative decision that no gifts can be accepted by the office. I told her that I'd check with the ED about whether he can control gifts coming from relatives or personal friends, but it could be that Carl has the power to make such an office policy. As for whether we can ask the Auditors Office to conduct an audit, I'll also ask the ED.

Facts by: smk

Advice by: smk

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