

BEFORE THE BOARD OF ETHICS

COUNTY OF HAWAI'I

In the Matter of the Petition by

SAMUEL NELSON,

Petitioner.

PETITION NO. 2023-03

INFORMAL ADVISORY OPINION

Initial Review: March 15, 2023

INFORMAL ADVISORY OPINION

By Petition dated February 18, 2023, with the Hawai'i County Board of Ethics (hereinafter "the Board"), Petitioner Samuel Nelson (hereinafter referred to as "Petitioner") who is a newly appointed member of the County of Hawai'i Salary Commission (hereinafter "Salary Commission"), requested an Informal Advisory Opinion from the Board. Petitioner sought guidance as to whether Petitioner could participate on specific discussions related to the salary Deanna Sako, as County of Hawai'i (hereinafter "COH") Finance Director, without a conflict of interest arising in violation of Hawai'i County Code Section 2-84 (Conflicts of Interests), or whether Petitioner should recuse himself.

At its duly noticed meeting on May 11, 2022, the Board reviewed and considered the above-captioned Petition pursuant to Rule 4 of the *Rules and Practice and Procedure of the Board of Ethics*. Petitioner attended the meeting, provided testimony, and further expounded on the potential conflicts of interest. Petitioner identified he is employed fulltime as a Regional Compliance and Contract Officer for Hilo Medical Center, that is required to report and seek approval for contracts from the East Hawai'i Region of the Hawai'i Health Systems Corporation, of which Deanna Sako is Chair of the Finance Committee. The Petitioner as a Commission

Member of the Salary Commission is one of fourteen members that would determine the appropriate salary for the various County Department heads, which would include Deanna Sako, as Finance Director. Petitioner purposed that he would recuse himself from specific discussions related to Deanna Sako's salary specifically as Finance Director. Petitioner related that he would not recuse himself from general discussions of the salaries of the department heads generally.

The Board, having deliberated and considered and giving appropriate weight to the testimony and evidence submitted by the Petitioner, and having considered the arguments presented, hereby renders the following Findings of Fact, Conclusions of Law, and Order.

#### FINDINGS OF FACT

1. To the extent that any of these Findings of Fact are Conclusions of Law, they are to be so construed.

##### A. The Petition

2. Petitioner is a commissioner member of the Salary Commission, which establishes the salaries of all County elected officials and appointed directors and deputy directors of departments.
3. Petitioner is employed as a Regional Compliance and Contract Officer for Hilo Medical Center.
4. Deanna Sako is the Director of the COH Department of Finance, and is the Chair of the Finance Committee of the East Hawai'i Region of the Hawai'i Health Systems Corporation Board.
5. Petitioner, as a Regional Compliance and Contract Officer, is required to report and seek approval for contracts from the East Hawai'i Region of the Hawai'i Health Systems Corporation Board, of which Deanna Sako is the Chair of the Finance Committee.

B. Board's Ruling

6. Based on the evidence and testimony presented, the Board finds that there is no conflict of interest for the Petitioner to participate in the salary review process of the Salary Commission, provided he is not engaged in the salary review process alone.
7. Based on the evidence and testimony presented, the Board finds that there is no conflict of interest for the Petitioner, provided that Petitioner recuses himself from discussions regarding the specific salary of Deanna Sako, while she holds the dual roles of COH Finance Director, and the Finance Chair of the East Hawai'i Region of the Hawai'i Health Systems Corporation Board.
8. Board Member Eric Allende moved that the Board find that there is no conflict of interest under Section 2-84 of the Hawai'i County Code of Ethics for Petitioner, Samuel Nelson, to participate in the salary review process along with other members of the Salary Commission, provided that Petitioner recuses himself from discussions regarding the specific salary of Deanna Sako, as COH Finance Director, for as long as Deanna Sako is both a Director of the COH Department of Finance and Chair of the Finance Committee of the East Hawai'i Region of the Hawai'i Health Systems Corporation.
9. Board Member Kelly Valenzuela seconded the motion. The motion passed 4-0.

CONCLUSION OF LAW


Based upon the evidence presented and the Board's review of the Hawai'i County Code of Ethics and the *Rules and Practice and Procedure of the Board of Ethics*, the Board finds and concludes that Petitioner can participate as a member of the Salary Commission in the salary review process provided the above provisions are adhered to.

ORDER

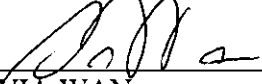
Pursuant to Board Rule 4.9, this Informal Advisory Opinion shall be filed and a copy shall be sent to the Petitioner.

Dated: Hilo, Hawai'i, APR 14 2023, 2023.

BOARD OF ETHICS, COUNTY OF HAWAI'I

By   
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RACHEL SHORT  
Chair

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
SYLVIA WAN  
Deputy Corporation Counsel