

# HAWAI'I COUNTY BOARD OF ETHICS

## MINUTES

January 14, 2004 ~ 10:17 a.m.  
County Building, Elections Conference Room  
25 Aupuni Street, Room 105B, Hilo, Hawai'i

**Present:** Leroy Victorine, Chairman  
Sharon Cislo, Vice Chairman  
Kerry Inouye  
Patricia K. O'Toole, Deputy Corporation Counsel  
Paulette Cainglit, Secretary

**Absent:** Reeve Williams  
Joel Gimpel

CHAIR: Good morning, it's 10:17 a.m. on January the 14<sup>th</sup>. The meeting of the Board of Ethics, of the Hawai'i County shall come to order. For the record, there is no other public present...excuse me...from the public. Next we have...we have on the agenda, the Approval of the Minutes from the December 10<sup>th</sup> meeting.

SC: I make a motion to approve the minutes from the regular session of the December 10, 2003 meeting.

CHAIR: To approve and file?

KI: Second.

CHAIR: This is to approve and file?

SC: Approve and file, yes.

CHAIR: It's moved and seconded that we approve and file the minutes of the regular December 10<sup>th</sup> session. All in favor say aye.

SC: Aye.

KI: Aye.

CHAIR: The Chair votes aye. The minutes of the December 10<sup>th</sup> Executive Session.

SC: I make a motion to approve and file.

KI: Second.

CHAIR: It's been moved and seconded that we approve and file the Executive Session minutes of December 10. All in favor say aye.

SC: Aye.

KI: Aye.

CHAIR: The Chair votes aye.

BLT: Mr. Chairman, I would like to mention, there had been a request at the last meeting, that I find out when Mr. Lauby was a County employee. He was the Financial Disclosure that you reviewed.

SC: Yes.

BLT: Mr. Lauby is no longer a County employee and has moved to Las Vegas. And I think that might have been like a post employment disclosure, which is sometimes required of certain County employees.

CHAIR: Communications. 2004-1, Privatization letter from the Corporation Counsel Lincoln Ashida, to All County Boards and Commissions which includes us.

SC: I make a motion to file communication number 2004-1.

KI: I second.

CHAIR: It's moved and seconded that we file 2004-1 communication. All in favor say aye.

SC: Aye.

KI: Aye.

CHAIR: The Chair votes Aye. Passed. Communication 2004-2 is the December Issue from the High Road from the Hawai'i States Ethics Commission.

SC: I make a motion to file Communication 2004-2.

KI: I second.

CHAIR: It's moved and seconded that we file 2004-2. All in favor say aye.

SC: Aye.

KI: Aye.

CHAIR: The Chair votes aye. Passed. Communication 2004-3 is a letter from Thomas Russi and Christine Paul. It includes a letter from the Ombudsman withdrawing their complaint against the...concerning the Board of Ethics, County of Hawai'i, in regards to be put on our agenda and hear such. I need a statement of a motion to accept and file.

SC: I make a motion to accept and file Communication 2004-3.

KI: I second.

CHAIR: For the record, before we take the vote, is a letter from Joel Gimpel, relative to this. Mr. Gimpel's opinion, in effect, says he doesn't see a problem with it as long as there are no gifts that follow, so forth down the line. I'm sorry, I'm sorry, I'm getting ahead of myself.

SC: That's for the... yes.

CHAIR: I'm ahead of myself. I withdraw that portion. All in favor of accepting and filing 2004-3.

SC: Aye.

KI: Aye.

CHAIR: The Chair votes aye. It is passed. So, now, New Business. Petition 2003-09 from Mr. Andrew Levin. Are there any questions? Our looking into the proposition that he proposes to give flyers from AT&T to County Department Heads at a cabinet meeting. And his letter says:

“ I would appreciate your letting me know whether it is permissible to distribute the enclosed flyer, either through the department heads or in any other manner. I have no financial interest in AT&T nor would I benefit in any way if any government employee signed on for AT&T Wireless Service.”

This is in regard to a program that AT&T is offering to County employees...Hawai'i County and State government employees. The flyer is attached. Mr. Gimpel, who's not here with us today, did submit a written indication of his preferences and it basically comes down to:

“In my opinion, the offer of the “privilege” came from AT&T, and was not solicited by a County employee. Nor does the privilege hinge on a County employee's “official position” other than the fact of County employment. Furthermore, similar discounts are often available to the general public. Accordingly, distribution of the flyer by a County employee should not constitute a violation of Section 2-83(b). If, however, the receipt of the “privilege” constitutes, in a particular case,

the acceptance or receipt of a “gift” in any form under circumstances in which it can reasonably be inferred that the gift is intended to influence the person in the performance of the person’s official duties, it may be subject to disclosure pursuant to Section 2-91.5.”

That’s Mr. Gimpel’s comments.

SC: I wonder if he’s saying then, that if these flyers were distributed and somebody wanted to take advantage of this particular offer, that they should file a financial disclosure?

CHAIR: No, I think what he’s saying is that if the flyers are distributed by Mr. Levin and ...

SC: I’m sorry...

CHAIR: Pardon?

SC: I’m sorry, I didn’t mean financial disclosure, I meant a gift disclosure.

CHAIR: Oh, and Mr. Levin distributes this and then receives a gift from this...

SC: I see...

CHAIR: At that time, he would have to get a disclosure which would have to be filed.

SC: Okay. I agree with Joel then.

CHAIR: Do I have a motion to...

KI: Before we go to that...actually I think this whole thing is moot, ‘cause of this date, it says, “Offer good through June 30, 2003” on the very, very bottom of this page.

SC: You’re absolutely correct. Unless it’s been extended.

KI: Yeah.

BLT: Mr. Chairman, if I might offer some insight. Mr. Levin is asking because it’s not just the AT&T offer. Periodically, they do get information from various businesses. It could be Verizon, it could be somebody else, where they have a special rate for government employees. And the question was, whether it was a violation of the ethics code for him to disseminate that information to employees that there are these plans available.

CHAIR: It is my feeling that dissemination of information that is not done for the purposes of either influencing anyone in an official capacity, is merely that. The dissemination of information which could be done in newspapers or radio and so forth down the line. And I frankly, do not see any problem with any of this information, as long as there are no gifts, there are no hooks involved. If somebody were to gain either gifts or monetary advantages or freebies, and so forth down the line.

SC: I agree with you.

CHAIR: What is your pleasure here.

SC: We have to make a motion on this then?

CHAIR: Yes, you make a motion that the petition...

BLT: Mr. Levin is asking whether it's permissible for him to disseminate information of this type.

CHAIR: Would this be a violation of the County Code or not, would be the...

SC: So the motion would be that we do not feel that it would violate the Code of Ethics for him to disseminate.

CHAIR: I think that would be...does this violate Code of Ethics or not.

SC: My motion is that it does not violate it.

KI: I second.

CHAIR: It's moved and seconded that the Petition does not violate the County Code of Ethics. All in favor.

SC: Aye.

KI: Aye.

CHAIR: The Chair votes aye. It is passed. Next item on the Agenda is the announcement of next month's meeting, which is Wednesday, February the 11<sup>th</sup> at 10:00 o'clock a.m. at a location which will be circulated accordingly. The other announcement is that we re-file our disclosure of financial interests. The forms are being passed out...by the end of the month.

SC: And is the pamphlet we received just FYI, for our information only.

CHAIR: Yes. Okay, there being no further business before this...of this body, I'll entertain a motion to adjourn.

SC: So moved.

KI: Second.

CHAIR: It's been moved to adjourn and seconded. All in favor, aye.

SC: Aye.

KI: Aye.

CHAIR: Aye, at 10:29.

(Meeting adjourned at 10:29 a.m.)

Respectfully submitted,

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Paulette Cainglit  
Secretary

**Secretary's Note:** Any blank line indicates inaudible word(s) on audio tape recording.