



HAWAI‘I STATE ETHICS COMMISSION

State of Hawai‘i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai‘i 96813

Resolution of Investigation **2022-1**

(COMPL-I-21-00185)

Hawai‘i Senate, Senator Jarrett Keohokalole, Alleged Violations of Fair Treatment Law

March 16, 2022

The Hawai‘i State Ethics Commission (“Commission”) has resolved an investigation of Jarrett Keohokalole (“Respondent Keohokalole”), Senator, Hawai‘i State Senate, for alleged violations of the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.

I. Facts

Respondent Keohokalole admitted and declared, under penalty of perjury, that the following facts are true and correct:¹

- (a) Respondent Keohokalole, at all times relevant herein, was an elected member of the Hawai‘i State Senate (“Senate”).
- (b) The Senate is a “state agency” as defined by HRS § 84-3. Respondent Keohokalole, at all times relevant herein, was a state legislator and was therefore required to comply with the State Ethics Code.
- (c) Members of the State Legislature receive an annual allowance (“allowance” or “legislative allowance”) to cover incidental expenses connected with their legislative duties as provided by Article III, Section 9 of the Hawai‘i State Constitution and HRS § 24-1. The use of the legislative allowance is subject to reporting and accounting requirements administered by each house of the Legislature. Each house also has adopted policies and guidelines for its members concerning the use of their allowances.

¹ This Resolution does not make formal findings; instead, the Commission relies on the facts admitted by Respondent Keohokalole.

- (d) The Senate maintains an allowance account for each of its members. Senators must submit a completed claim form (Claim for Disbursement from Legislative Allowance Fund) to the Senate's Chief Clerk ("Senate Clerk") when requesting reimbursement from their allowance accounts for expenses connected with their legislative duties.
- (e) The Senate permits its members to use their legislative allowances to pay for travel-related expenses when such travel is authorized by the Senate President.
- (f) In November 2018, Respondent Keohokalole received authorization from the Senate President to travel to Colorado Springs, Colorado, to attend the Council of State Governments ("CSG") Western Legislative Academy ("CSG Academy"). The CSG Academy was held on November 28 - December 1, 2018.
- (g) On November 9, 2018, Respondent Keohokalole used a debit card for his candidate committee, Friends of Jarrett Keohokalole ("Friends"), to pay \$894.89 for his roundtrip airfare from Honolulu to Colorado Springs to attend the CSG Academy. The debit card used by Respondent Keohokalole was linked to Friends' checking account such that \$894.89 in campaign funds was deducted from the account to pay for this transaction. Friends later reported this payment as a campaign expenditure on a report filed with the Campaign Spending Commission.
- (h) On December 4, 2018, Respondent Keohokalole submitted a claim for reimbursement from his legislative allowance account in the amount of \$1,013.89 for travel-related expenses for his trip to the CSG Academy. Respondent Keohokalole's claim for reimbursement included his airfare (\$894.89), which had been paid with campaign funds, and other travel-related expenses, which had been paid with his personal credit card.
- (i) Respondent Keohokalole's claim for reimbursement was approved by the Senate Clerk and a state check was issued to Respondent Keohokalole in the amount of \$1,013.89, which amount was charged against Respondent Keohokalole's legislative allowance account for 2018. Respondent Keohokalole deposited this check into his personal bank account.
- (j) Respondent Keohokalole did not use any of the funds he requested and received from his legislative allowance to reimburse Friends for the payment of his airfare for the 2018 CSG Academy trip.
- (k) In May 2019, Respondent Keohokalole received authorization from the Senate President to travel to San Jose, California, to attend the National Conference of State Legislatures ("NCSL") Emerging Leaders West Conference ("NCSL Conference"). The NCSL Conference was held on June

13-15, 2019. Respondent Keohokalole also attended meetings in San Jose and the San Francisco Bay area on official business as Chair of the Senate Committee on Technology. The purpose of the meetings was to discuss workforce development in Hawai'i with former Hawai'i residents who were working for technology companies in Silicon Valley and who could serve as mentors in Hawai'i's technology community.

- (l) Respondent Keohokalole used a personal credit card to pay for his airfare from Honolulu to San Jose and for hotel and ground transportation expenses for his trip. On June 4, 2019, Respondent Keohokalole used Friends' debit card to pay \$303.60 for his return airfare from San Francisco to Honolulu; \$303.60 in campaign funds was deducted from Friends' checking account to pay for this transaction. Friends later reported this payment as a campaign expenditure on a report filed with the Campaign Spending Commission.
- (m) On July 8, 2019, Respondent Keohokalole submitted a claim for reimbursement from his legislative allowance account in the amount of \$902.04 for travel-related expenses for his trip to the NCSL Conference. Respondent Keohokalole's request for reimbursement included his return airfare (\$303.60), which had been paid with campaign funds, and other travel-related expenses, which had been paid with his personal credit card.
- (n) Respondent Keohokalole's request for reimbursement was approved by the Senate Clerk and a state check was issued to Respondent Keohokalole in the amount of \$902.04, which amount was charged against Respondent Keohokalole's legislative allowance account for 2019. Respondent Keohokalole deposited this check into his personal bank account.
- (o) Respondent Keohokalole did not use any of the funds he requested and received from his legislative allowance to reimburse Friends for the payment of his return airfare for the 2019 NCSL Conference trip.
- (p) The Senate also permits its members to use their legislative allowances to pay for expenditures that will assist them in communicating with the community and constituents concerning legislative matters.
- (q) On January 22, 2020, Respondent Keohokalole participated with other elected officials in a town hall meeting in his district to discuss a dog park for windward Oahu.
- (r) Respondent Keohokalole's office manager purchased two platters of food from Zippy's for the town hall meeting. Respondent Keohokalole used Friends' debit card to pay \$65.55 for the food; \$65.55 in campaign funds was deducted from Friends' checking account to pay for this transaction. Friends later reported this payment as a campaign expenditure for a "campaign meeting" on a report filed with the Campaign Spending Commission.

- (s) Respondent Keohokalole maintains that the food purchased for the town hall meeting on January 22, 2020, was erroneously reported to the Campaign Spending Commission as an expenditure for a “campaign meeting.” Respondent Keohokalole maintains that the expenditure was misclassified by Friends and should have been reported as an expenditure for a community meeting.
- (t) On January 22, 2020, Respondent Keohokalole submitted a claim for reimbursement from his legislative allowance account in the amount of \$65.55 for food purchased for the town hall meeting.
- (u) Respondent Keohokalole’s request for reimbursement was approved by the Senate Clerk and a state check was issued to Respondent Keohokalole in the amount of \$65.55, which amount was charged against Respondent Keohokalole’s legislative allowance account for 2020. Respondent Keohokalole deposited this check into his personal bank account.
- (v) Respondent Keohokalole did not use any of the funds he received from his legislative allowance to pay for the food purchased for the town hall meeting on January 22, 2020, or to reimburse Friends for this payment.
- (w) In total, Respondent Keohokalole received \$1,264.04 from his legislative allowance for expenses that were paid by him using Friends’ debit card and campaign funds. Respondent Keohokalole did not use any of his legislative allowance funds to reimburse Friends for its payment of these expenses. Respondent Keohokalole instead deposited the allowance funds that should have been allocated for these expenses into his personal bank account.
- (x) Respondent Keohokalole maintains that it was financially difficult to personally pay for all expenses related to his official duties upfront and then await reimbursement from his legislative allowance, particularly for travel-related expenses such as airfare. Respondent Keohokalole also maintains that the Hawai’i Campaign Spending Commission allows campaign funds to be used to pay for “ordinary and necessary expenses” connected to his state duties as an elected official. Respondent Keohokalole maintains that he used campaign funds to pay for some of his expenses with the intention of later reimbursing his campaign by depositing payments from his legislative allowance into Friends’ checking account. Respondent Keohokalole maintains that he mistakenly converted the allowance payments to his personal use by depositing the payments into the wrong bank account. Respondent Keohokalole recognizes that his actions were improper.
- (y) Respondent Keohokalole attributes his actions to inattention in his handling of legislative allowance payments. He acknowledges that he failed to keep track of his payments for the expenses in question and should have been more

attentive when handling allowance payments. However, he recognizes that this is not an excuse and accepts full responsibility for failing to use legislative allowance funds for their intended purpose and for treating allowance funds as personal funds.

II. The State Ethics Code, HRS Chapter 84

A. Constitutional Mandate and Statutory Purpose

The State Ethics Code arises from the declaration contained in the State Constitution that “[t]he people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government.”² To this end, the Hawai‘i Constitution further directs that the Legislature enact a code of ethics that applies to all appointed and elected state officers and employees.

In accordance with this constitutional mandate, the Legislature enacted the State Ethics Code and charged the Commission with administering and enforcing the law “so that public confidence in public servants will be preserved.”³ Additionally, the Legislature explicitly directed that the State Ethics Code be liberally construed to promote high standards of ethical conduct in state government. HRS § 84-1. It is in this context that the Commission examines every legislator’s actions.

B. Application of the State Ethics Code to Respondent Keohokalole

As a legislator, Respondent Keohokalole is required to comply with the State Ethics Code.⁴ The Fair Treatment Law, HRS § 84-13(a), states: “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 Fair Treatment law prohibits a legislator from using his or her official position to obtain unwarranted benefits.

Article III, Section 9 of the Hawai‘i State Constitution establishes an allowance “reasonably related to expenses as provided by law” for members of the State Legislature. HRS § 24-1 provides that each legislator “shall receive an annual allowance . . . to cover incidental expenses connected with legislative duties.”

It is clear from the Constitution and HRS § 24-1 that the annual legislative allowance must only be used by legislators for expenses that are reasonably related to their legislative duties. In the Commission’s view, a legislator’s use of the allowance for

² Hawai‘i State Constitution, Art. XIV.

³ HRS Chapter 84, Preamble.

⁴ HRS § 84-2.

personal purposes, or other purposes not reasonably related to legislative duties, amounts to a misuse of position resulting in an unwarranted benefit in violation of the Fair Treatment law.⁵

Respondent Keohokalole paid for the following expenses with campaign funds from Friends' checking account: (1) \$894.89 for airfare for the 2018 CSG Academy; (2) \$303.60 for airfare for the 2019 NCSL Conference; and (3) \$65.55 for food for the 2020 town hall meeting.⁶ Respondent Keohokalole then requested and received reimbursement from his legislative allowance account for these expenses, which totaled \$1,264.04.⁷

The Commission believes that these expenses were reasonably related to Respondent Keohokalole's legislative duties and that it was permissible under the Fair Treatment law for him to use his legislative allowance to pay for these expenses. This, however, is not what Respondent Keohokalole did with the allowance payments that he received. Respondent Keohokalole paid for the expenses with campaign funds and then instead of using his allowance payments to reimburse his campaign, he deposited the allowance payments into his personal bank account. The Commission believes that by doing this, Respondent Keohokalole converted legislative allowance funds to personal funds for his personal use.

Respondent Keohokalole admits that he violated the Fair Treatment law, HRS § 84-13(a), by using his legislative allowance for personal purposes. He maintains that he intended to reimburse his campaign by depositing legislative allowance payments allocated for these expenses into Friends' checking account, but that he mistakenly deposited the payments into the wrong bank account. He acknowledges that he failed to keep track of his payments for the expenses in question and should have been more attentive in his handling of his legislative allowance payments.

⁵ In 2014, the Commission issued ethics guidelines to legislators on the use of the legislative allowance. [Guidelines on the Use of Legislators' Annual Allowance](https://ethics.hawaii.gov/wp-content/uploads/2014/07/LegAllowance.pdf) ("Commission Guidelines") discusses the application of the Fair Treatment law to legislators' use of their allowances. The Commission Guidelines are available at: <https://ethics.hawaii.gov/wp-content/uploads/2014/07/LegAllowance.pdf>

⁶ Hawaii's Campaign Spending Law authorizes legislators to use campaign funds for certain expenses related to their official duties as elected officials. Specifically, HRS § 11-381(a)(8) provides that campaign funds may be used "[t]o pay for ordinary and necessary expenses incurred in connection with the candidate's duties as a holder of an office." It is the Ethics Commission's understanding that Respondent Keohokalole's use of campaign funds to pay for the expenses in question was permissible under the Campaign Spending Law. However, the Campaign Spending Commission, rather than the Ethics Commission, has jurisdiction to administer and enforce Hawaii's campaign spending laws such that the Ethics Commission defers to the Campaign Spending Commission's interpretation of HRS § 11-381(a)(8).

⁷ Information, including receipts, submitted to the Senate Clerk by Senator Keohokalole's office verified all of the expenses, but the Senate Clerk had no basis to know that some of the expenses were paid with a campaign debit card using campaign funds.

The Commission is troubled by the fact that Respondent Keohokalole's mishandling of legislative allowance funds occurred not once, but on three separate occasions. The Commission views these actions as an egregious violation of trust. Respondent Keohokalole's personal use of his allowance, even once, was improper. Legislators may not use the allowance for their own financial benefit. As the Commission has previously stated:

Allowance funds are public monies provided to legislators for expenses incurred in carrying out their legislative duties. The allowance is not a salary supplement or subsidy that can be used for any purpose by legislators.⁸

Legislators have a duty to ensure that their legislative allowances are used solely for their intended purpose – to pay for expenses that are reasonably related to their legislative duties. Legislators may not treat allowance funds as their own personal funds to be used for personal purposes.

Respondent Keohokalole acknowledges the ethics concerns in this case and accepts full responsibility for his actions.

III. Resolution of Investigation

Respondent Keohokalole has not previously been the subject of a Commission charge and cooperated with the Commission in its investigation.

Given the violations of the State Ethics Code, the Commission believes it is reasonable, fair, and in the public interest to resolve this investigation by (1) issuing this Resolution of Investigation; (2) requiring Respondent Keohokalole to repay \$1,264.04 to the State of Hawai'i (an amount equal to the legislative allowance payments that he received and kept as personal funds instead of reimbursing Friends, his candidate committee, for its payment of expenses relating to his legislative duties); (3) requiring Respondent Keohokalole to pay an additional administrative penalty of \$1,500.00 to the State of Hawai'i; and (4) referring this matter to the Senate President for further action as appropriate.

⁸Commission Guidelines, p. 2.