



HOUSE OF REPRESENTATIVES

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STATE OF HAWAII  
STATE CAPITOL  
HONOLULU, HAWAII 96813

May 20, 2006

STATE OF HAWAII  
STATE ETHICS COMMISSION

COMPLAINANT

Representative Bev Harbin  
House of Representatives  
District 28  
Iwilei, Chinatown, Downtown, Keeaumoku/Kakaako

RESPONDENT

HMSA Foundation

VIOLATIONS

Complaint for failure to register as Lobbyists and/or comply with the State's Lobbyists Law, Chapter 97, HRS

Complaint for failure to comply with the registration requirements of the State Ethics Code, Chapter 84, HRS

Complaint for failure to disclose a conflict of interest and operating to the benefit of the HMSA Foundation and the Hawaii Medical Service Association while placing their employee (Mark L. Forman) "on-loan" as an "intern" for the House of Representatives, House Consumer Protection & Commerce Committee of the 2006 Legislature.

Complaint for involvement with their employee (Mark L. Forman) while "on loan" or "embedded" in the Consumer Protection & Commerce committee in "Legislative Action" by sponsoring, drafting introducing, considering, modifying, enacting, or defeating any bill, resolution, amendment, report, nomination, appointment, or any other matter pending or proposed in the legislature. (Chapter 97-1(5))

Complaint for participating in lobbying activities while a private foundation and exempt from paying State and City and County taxes.

## BACKGROUND

The HMSA Foundation was established in 1986 by the Hawaii Medical Service Association to stimulate research of issues that confront Hawaii's health care industry. The HMSA Foundation became a private foundation in 1997. Mark L. Forman is the Executive Administrator of the HMSA Foundation. Robert P. Hiam is the President of the HMSA Foundation and is also a member of the Board of Directors for the HMSA Foundation.

Hawaii Medical Service Association (HMSA) is a nonprofit, mutual benefit society founded in 1938 and is the most experienced provider of health care coverage in the state of Hawaii. Of the 2.4 billion dollars a year paid by Hawaii's businesses, HMSA receives approximately 1.8 billion.

Robert P. Hiam, while the President and a member of the Board of Directors of the HMSA Foundation, is also the President & Chief Executive Officer of HMSA and a member of the Board of Directors for HMSA.

The HMSA Foundation, HMSA, and/or its interlocking directors, placed Mark L. Forman as a full time "embedded lobbyist or intern" in the Consumer Protection & Commerce Committee.

The HMSA Foundation, HMSA, and/or its interlocking directors, through the HMSA Foundation, paid the full time salary and benefits of Mark L. Forman as their employee while "loaning" or "embedding" him as an intern or lobbyist in the CPC Committee to their benefit.

The Respondent is a Private Foundation, commonly known as a 501(c)(3). It is exempt from paying State Corporate Tax, State Gross Excise Tax, Premium Tax, City and County Property Tax and possibly other federal and local taxes. Any organization that has this status is barred from influencing legislation (commonly known as lobbying). The IRS considers a variety of factors, including the time devoted (by both compensated and volunteer workers) and the expenditures devoted by the organization to the activity, when determining whether the lobbying activity is substantial. The paying of the salary of an Executive of the Foundation while working full time at the House of Representatives should be considered lobbying by the Foundation.

The Respondent and HMSA are engaging in interlocking directorships to control the outcomes of legislation to the benefit and gain of HMSA.


The CPC committee had the oversight or leadership control over numerous measures that impacted HMSA. Among some of the more important measures are as follows:

1. Extension of the Health Care Rate Regulation oversight by the Insurance Commissioner.
2. Patient's Bill of Rights and the rights of government employees and retirees to appeal a denial of benefits by HMSA to the Insurance Commissioner.
3. Non-Profit, member-owned health plans (such as HMSA) should be reviewed by the Insurance Commission to insure that the plans are governed by the members for the benefit of the members.
4. Expansion of coverage to part time workers and sole proprietors.
5. Medical Malpractice Reform.

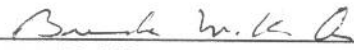
STATE OF HAWAII )

CITY AND COUNTY OF HONOLULU ) :

BEV HARBIN being first duly sworn on oath deposes and says that she ha read the foregoing Complaint against the HMSA Foundation, knows the contents, and verifies that the statements are true to her personal knowledge and belief.

  
(Bev Harbin)

Subscribed and sworn to before me  
This \_\_\_\_ day of 2006 **MAY 24 2006**

  
Notary Public **BRENDA AU**

*My Commission Expires* **MAY 17 2008**

*c.s.*