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2 COUNTY OF MAUI, STATE OF HAWAII
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7 BOARD OF ETHICS
8 REGULAR MEETING
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14 Held at the Planning Department Conference Room,
15 250 South High Street, Wailuku, Maui, Hawaii, commencing
16 at 12:30 p.m., on Wednesday, January 9, 2013.
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1 ATTENDANCE
2 BOARD MEMBERS PRESENT:
3 Michael Westfall, Chair
4 Marti Wukelic, Vice-Chair (In, 12:35 p.m.)
5 Donald Sheridan, Secretary
6 C. Gretchen Guy, Member
7 Randol Leach, Member
8 Norman Franco, Member
9 Lois Prey, Member
10 Lilah Inaba, Member
11 STAFF PRESENT:
12 Gary Y. Murai, Deputy Corporation Counsel
13 Angela Andrade, Executive Secretary
14 ALSO PRESENT:
15 Archie Kalepa
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1 (Wednesday, January 9, 2013, 12:30 p.m.)
2 * * *
3 CHAIR WESTFALL: Call to order the meeting of
4 Wednesday, January 9th, 2013, of the Maui County Board
5 of Ethics. Regular Session, Item A, call to order.
6 2, Attendance. Lilah Inaba -- did I say that
7 right?
8 MS. INABA: Lilah.
9 CHAIR WESTFALL: I am not going to -- it takes
10 me a little while. Carolann knows I am slow on these
11 things. Lois Prey, Norman Franco, Randol Leach, C.
12 Gretchen Guy, Don Sheridan, Michael Westfall are all in
13 attendance. Sydney Kikuchi is excused. And we will
14 probably see Marti in a little bit.
15 Minutes of December 12th, 2012. Do I have a
16 motion to accept those?
17 MEMBER GUY: Move to accept those.
18 MEMBER PREY: Second.
19 CHAIR WESTFALL: Moved and seconded. Any
20 discussion? Seeing none, all those in favor, signify by
21 saying "aye."
22 (Response.)
23 CHAIR WESTFALL: Any opposition?
24 (No response.)
25 CHAIR WESTFALL: Seeing none, those are

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1 unanimously approved.
2 Do we have any public testimony on agenda
3 items?
4 MS. ANDRADE: No.
5 CHAIR WESTFALL: Old Business: Financial
6 Disclosures, none. Communication Items, Item b, none.
7 Item c, d, e and f, I don't think we have any
8 discussion. Members, any discussion on any of those?
9 (No response.)
10 CHAIR WESTFALL: Okay. New Business:
11 Financial Disclosures, none. We'll move into Item b,
12 which is Communication Items, Public Hearing Regarding
13 Amendments to Chapter 04-101, Rules of the Maui County
14 Board of Ethics. The public hearing is now in session.
15 Do we have anyone wishing to testify?
16 MS. ANDRADE: No.
17 CHAIR WESTFALL: Seeing none, we'll close
18 public testimony. Discussion. I guess I need a motion
19 at this point. All right. Let's open up Item b for
20 Members' discussion. And I will just open by saying
21 that we began this process in 2010, which I believe was
22 Randol Leach's year. So this has been a long process,
23 about three years. Nane Aluli, former chairman
24 participated in it; Marti, our Vice-Chairman, has
25 participated in it; Randol, you participated in it; Don,

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1 Frank Moe; we've had Adrienne, our former Deputy
 2 Corporation Counsel review these and give us a draft on
 3 it; we've had Gary review these and give us a draft on
 4 it; and we've had Mr. Wong, the head of Corporation
 5 Counsel, also chime in and give us his draft approval.
 6 So these things have been scrubbed and looked at pretty
 7 closely.
 8 The premise when we went to change or update
 9 rules was primarily from the standpoint of making the
 10 rules easier for the general public and everyone else,
 11 if you will, to comprehend. The rules were very
 12 legalistic previously, and we wanted to be able to
 13 describe certain terminology and processes and whatnot.
 14 We reviewed other jurisdictions and got comments from
 15 Honolulu, both the State Ethics Commission as well as
 16 Honolulu Ethics Commission. They both have full-time
 17 staffs and very able attorneys that have worked on their
 18 stuff. So there's been a lot of input into the rules.
 19 MR. MURAI: I'm sorry. Mr. Chair, I don't
 20 mean to interrupt you, but the record should reflect
 21 that Marti Wukelic has joined us.
 22 CHAIR WESTFALL: Let the record reflect that.
 23 So I think, at this point, if there's any
 24 discussion, any Member wants to change the rules or
 25 modify something, this would be the time to speak. If

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1 not, what we will ask for is a motion to approve the
 2 rules for the Mayor's approval. That's the last step.
 3 Then once he signs off, then they are the formal rules.
 4 MEMBER FRANCO: Just one comment.
 5 CHAIR WESTFALL: Sure.
 6 MEMBER FRANCO: On the definition of conflict
 7 of interest, it says conflict of interest means a real
 8 or seeming incompatibility between ones private interest
 9 and ones public or fiduciary duties. The word "seeming
 10 incompatibility." Who determines if that is in fact a
 11 situation where there's a conflict? Seems like the word
 12 seems too general. Seeming incompatibility means a hint
 13 of any kind of incompatibility or direct
 14 incompatibility. I think we have a situation now of an
 15 employee who also has a business. How are we going to
 16 determine if there's a real conflict of interest? It's
 17 kind of broad.
 18 CHAIR WESTFALL: Sure. I am going to let Gary
 19 take that.
 20 MEMBER FRANCO: Anybody can be in a conflict
 21 of interest, especially if you're in private practice.
 22 MR. MURAI: Well, it's for the -- that's the
 23 Board's ultimate determination, whether a conflict
 24 exists. And the Board will take into account the Code
 25 of Ethics, the facts of the case, and the circumstances

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1 that surround, you know, that situation.
 2 MEMBER FRANCO: There's no real guidelines, so
 3 case-by-case basis?
 4 MR. MURAI: No. Well, each case is handled,
 5 is judged on its own merit. And I am not sure -- you
 6 know, I am not sure, you know, what your concern is. Is
 7 it because the word "seeming" is not defined well
 8 enough?
 9 MEMBER FRANCO: Well, there's no definite
 10 guidelines. The statement "seeming incompatibility,"
 11 there is room for interpretation. If there is not -- if
 12 it is, there's certain guidelines that we have to say
 13 that -- the question is, in my mind -- like I am going
 14 to -- I am an appraiser, real estate appraiser. So if I
 15 appraise some County property and, you know, you have
 16 them on the Board of Ethics, would I have to excuse
 17 myself? Is there a conflict of interest there if I am
 18 in private practice while also on a board? A lot of
 19 situation likes that, I can see there might be some
 20 problem. So I just wanted to see how would we determine
 21 that conflict of interest. Has there got to be a
 22 monetary compensation or --
 23 MR. MURAI: Well, normally, like as in any
 24 situation, if you're concerned whether the action you
 25 are contemplating violates the Code of Ethics, then you

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1 look at the rules. If the rules are clear, you follow
 2 the rules. You can also look at other opinions to see
 3 whether there's similar facts and how the Board has
 4 ruled before. You could also, even though you are also
 5 a Board member, ask the Board for an advisory opinion.
 6 MEMBER FRANCO: So that's the step you go
 7 through, yeah?
 8 CHAIR WESTFALL: Norman -- and I will turn to
 9 Marti -- I did go through my notes and note that -- I
 10 will make a copy for you. This is from a guideline on
 11 what conflicts of interest are.
 12 MEMBER FRANCO: Okay.
 13 CHAIR WESTFALL: I can make a copy of this.
 14 It does dictate that. I think what Gary is saying, just
 15 to repeat it, it's still the discretion of the Board. I
 16 will make a copy of this, and anyone else that wants to
 17 look at it --
 18 MEMBER PREY: I would like a copy.
 19 CHAIR WESTFALL: It talks about -- for
 20 instance, we've had class conflicts of interest versus
 21 individual conflicts. So it's a pretty good precursor
 22 to what that means. We didn't include it in the rules,
 23 but I will make copies.
 24 Marti.
 25 VICE-CHAIR WUKELIC: I was going to say, to

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1 kind of piggyback on what both Michael and Gary have
2 said, that, in the past, what we've experienced is
3 finding the balance between being specific enough to
4 give us a guideline, but general enough not to block off
5 things that we didn't mean to block off. So there's
6 always that discretionary element in there. And the
7 other thing we can refer to is past practice. We look
8 into that a lot and do a little research. And perhaps,
9 Michael, what you're referring to could be something if
10 we ever get into the educational question of the --
11 CHAIR WESTFALL: Yeah.
12 VICE-CHAIR WUKELIC: -- website.
13 CHAIR WESTFALL: I think where I got this from
14 was the Honolulu website. And you just put, what is a
15 conflict of interest, they've got descriptions of that
16 stuff. But there is, along the lines of what you're
17 asking, a description of what that meant or a standard.
18 MEMBER FRANCO: What Gary said, I guess the
19 course of action in my case, I may be doing work with
20 the County, is to ask for an opinion before actually
21 doing it?
22 MR. MURAI: Well, if you look at the rules
23 and, you know, say I can't tell one way or the other,
24 then if you look at other opinions and you still can't,
25 you know, decide whether what they're thinking about is

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1 appropriate, then the last stop would be to come here to
2 request an advisory opinion.
3 MEMBER FRANCO: Okay.
4 CHAIR WESTFALL: Any other comments? Okay.
5 It's been a long haul.
6 VICE-CHAIR WUKELIC: It has.
7 CHAIR WESTFALL: Congratulations, Members. Do
8 I have a motion to approve this?
9 VICE-CHAIR WUKELIC: I move that we approve
10 and send to the Mayor.
11 MEMBER SHERIDAN: Second.
12 MEMBER PREY: I second.
13 CHAIR WESTFALL: I will call for a vote. All
14 those in favor, signify by saying "aye."
15 (Response.)
16 CHAIR WESTFALL: Any opposition?
17 (No response.)
18 CHAIR WESTFALL: Seeing none, thank you.
19 MR. MURAI: I'm sorry. For the record,
20 Mr. Chair, we should note that the vote was unanimous,
21 it was a voice vote. And I do ask that the record also
22 reflect that, pursuant to Chapter 91-3, Hawaii Revised
23 Statutes, that a minimum of 30 days notice was provided
24 to the public of this hearing and that the proposed
25 rules were published in The Maui News on December 3rd,

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1 2012, and that, upon approval, a copy of the proposed
2 rules will be sent to the Mayor for his approval.
3 I will also be asking the Board -- I believe
4 we've done this before, but I want to renew my request
5 that, in case my office catches any typos or, you know,
6 errors in the citations, my office be allowed to make
7 those corrections, make technical and nonsubstantive
8 corrections without the Board's having to review or
9 approve those grammatical or typographical errors.
10 MEMBER GUY: Agreed.
11 MEMBER PREY: I agree.
12 CHAIR WESTFALL: Added to the motion. If you
13 can just add it to the minutes to reflect that.
14 MR. MURAI: Other than that, I don't have
15 anything further.
16 CHAIR WESTFALL: Okay. We'll move forward.
17 Thank you.
18 MR. MURAI: I thank the Board for its patience
19 and attention to dealing with this. I join Michael that
20 it's been a long haul that has survived two Chairs,
21 maybe even three Chairs. Right, Randol?
22 MEMBER LEACH: Yeah.
23 MR. MURAI: And two deputy Corporation
24 Counsels. It is a comprehensive review that should last
25 us for a while.

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1 MEMBER FRANCO: Good work.
2 CHAIR WESTFALL: Thank you.
3 MEMBER GUY: Yes.
4 CHAIR WESTFALL: On to Item c, Lobbyist
5 Registration, Dawn Bicoy. Any comment? I guess I need
6 a motion to acknowledge receipt of the Lobbyist
7 Registration.
8 MEMBER SHERIDAN: I move that we acknowledge
9 the receipt of the Lobbyist Registration.
10 MEMBER PREY: I second.
11 CHAIR WESTFALL: Any discussion?
12 (No response.)
13 CHAIR WESTFALL: All those in favor, signify
14 by saying "aye."
15 (Response.)
16 CHAIR WESTFALL: Any opposition?
17 (No response.)
18 CHAIR WESTFALL: Seeing none, that's been
19 acknowledged.
20 On to Item d, a request by Maui County Ocean
21 Safety Officer Archie Kalepa for review to determine
22 whether a violation was committed by him when testing
23 equipment he now sells, and by using the Maui County
24 Ocean Safety Department to participate in the research
25 and development of the product. Mr. Kalepa further

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1 requests review as to whether he can now sell his rescue
 2 equipment to Maui County.
 3 Mr. Kalepa, you can come up to the microphone
 4 there, if you would.
 5 And I am going to ask everyone to indulge me
 6 for a few minutes here as we go through this. There's a
 7 few housekeeping items we have to do here with this, so
 8 I am going to ask you to answer a couple questions, then
 9 have you take a seat for a minute, then I will have you
 10 come back up.
 11 Okay. Basically, we got a letter, as you've
 12 all seen, from Mr. Kalepa. And I am not trying to be, I
 13 don't know what the term is, tricky here or anything,
 14 but, in your letter, you asked for a request for review.
 15 MR. KALEPA: Yes.
 16 CHAIR WESTFALL: Our rules, we really don't
 17 have any provision for "review." What we do have is
 18 something called an advisory opinion. And I am thinking
 19 that's what you want.
 20 MR. KALEPA: Correct.
 21 CHAIR WESTFALL: Essentially, all that is, is
 22 a memorandum that we would send you, or any interested
 23 party, that outlines the background, the facts and what
 24 are our thoughts.
 25 MR. KALEPA: That's exactly correct.

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1 CHAIR WESTFALL: So I want the record to
 2 reflect that even though he's using the word "review" in
 3 the letter, he's asking us for an advisory opinion.
 4 Okay. All the Members okay with that, rather than
 5 having him redraft something? Okay.
 6 So now you can sit down for just a few minutes
 7 and come back.
 8 MR. KALEPA: Okay.
 9 CHAIR WESTFALL: Under the rules -- and I
 10 guess I will have everyone turn to Subchapter 4,
 11 Advisory Opinions. These are a little different than
 12 complaints, but there are some processes here that are
 13 the same. We first have to approve for form and
 14 substance if we even want to address it. And I believe
 15 the two questions -- and you can just shake your head
 16 there -- he's asking us for two questions; one, did he
 17 violate the code of conduct in the prior activities,
 18 and, two, can he sell this equipment to the County. So
 19 there's two separate, related but separate, questions
 20 here. So does everybody have Subchapter 4 open?
 21 MEMBER SHERIDAN: What pages?
 22 CHAIR WESTFALL: 101-22. And it's titled
 23 Advisory Opinions. Again, I am doing housekeeping here,
 24 but I just want to make sure that we're going through
 25 the process correctly here is.

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1 The first one, who may request. And it does
 2 mention that any current or former employee of the
 3 County, (1), can request. So we've met that.
 4 His name is -- 04-101-41, I won't read
 5 everything, but he essentially meets that standard, too.
 6 04-101-42 is where I have some concerns. And
 7 I will just bring it to the attention of the Commission
 8 and let you folks discuss it and see where we go. Under
 9 item 3, and this would be only for the first question
 10 that he's asking, it basically says that we can elect to
 11 not address the question if the request primarily
 12 involved the past conduct of an employee or officer as
 13 opposed to the employee or officer's ongoing or future
 14 conduct. Basically, he already did it. The rules say
 15 we don't have to address that if the Board accepts that.
 16 I am putting that out just for housekeeping, to let
 17 everyone know that's what the rules say.
 18 Is there any thoughts or pleasure of the
 19 Commission on addressing the first question that he has?
 20 VICE-CHAIR WUKELIC: I would not have had an
 21 issue with addressing it had you not mentioned that.
 22 CHAIR WESTFALL: I am not taking a side either
 23 way. I just want to mention it so it doesn't come up
 24 later on.
 25 MR. MURAI: Mr. Chair, may I?

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1 CHAIR WESTFALL: Sure.
 2 MR. MURAI: For the Members, I believe that
 3 the Chair points out something that is significant here.
 4 If the requester, not just Mr. Kalepa, but anyone who
 5 asks for an advisory opinion, is asking whether a past
 6 action -- is asking for an advisory opinion on past
 7 action, the Board may decline to hear it, hear the
 8 request because it's purely about something that
 9 happened in the past. Now, if the requester were to
 10 say, "Well, I've done this in the past and I am thinking
 11 about doing it again in the future," then the Board may
 12 say, "Well, you know, we're not going to examine what
 13 you did in the past, but if you're thinking about doing
 14 it again, then here is what we think. This is what we
 15 recommend or we suggest you do."
 16 So when Mr. Kalepa comes back up, one of the
 17 things the Board may want to ask him, you know, whether,
 18 you know, utilizing County personnel to assist in, you
 19 know, giving him feedback on his product in the future,
 20 whether -- you know, whether he's planning on doing that
 21 again, and whether he wants guidance from the Board on
 22 his future conduct.
 23 CHAIR WESTFALL: I think you clarified it
 24 better.
 25 MR. MURAI: And, of course, the second part of

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1 the request is fairly straightforward. I believe he's
2 asking whether there's any problem with his company C4
3 Waterman, you know, doing business with the County of
4 Maui.
5 CHAIR WESTFALL: Any other comments or
6 thoughts? Okay. Mr. -- I'm sorry. Marti.
7 VICE-CHAIR WUKELIC: I was just going to say I
8 don't mind addressing the first issue. To get the big
9 picture, it might be good. Just my opinion.
10 CHAIR WESTFALL: Come on up.
11 MR. KALEPA: Good afternoon, Members.
12 CHAIR WESTFALL: I guess the process now is
13 you can tell us your -- sort of describe what you're
14 doing, and we'll ask some questions.
15 MR. KALEPA: He's exactly right. I think, you
16 know, I want to get clarification for the future
17 purposes if -- if I was able to utilize Maui's Ocean
18 Safety for product testing or product evaluation, number
19 one. And, also, to see -- if it's possible to see if
20 Maui County Ocean Safety is able to purchase that
21 product.
22 CHAIR WESTFALL: That's the second question.
23 I think we're fine with the second question. The first
24 one is a little gray. Again, it's not you. It's just
25 if we get other people coming in later on, we don't want

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1 to have a precedent that suggests something, only reason
2 we're putting it out there. So I think the record is
3 going to reflect that he is asking his question --
4 MR. KALEPA: I am seeking advice.
5 CHAIR WESTFALL: -- for the future, not
6 necessarily for the past, even though the actions have
7 happened.
8 VICE-CHAIR WUKELIC: If I may add, although
9 the past may -- I mean, we need the context of the past.
10 CHAIR WESTFALL: That's no problem. Any other
11 comments? Carolann?
12 MEMBER GUY: I would like to direct some
13 questions to him. Happy New Year, Mr. Kalepa.
14 MR. KALEPA: Thank you.
15 MEMBER GUY: It's nice to meet someone who
16 made a difference in Maui County, front page of the
17 newspaper.
18 MR. KALEPA: Thank you.
19 MEMBER GUY: Thanks very much for taking the
20 initiative. We appreciate that. Would you do me a
21 favor?
22 MR. KALEPA: Sure.
23 MEMBER GUY: And we're very informal. I just
24 want to get a sense, if you could go through the
25 chronology as, you know, in 2010, you were contacted by

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1 C4 to test some equipment that was being contemplated,
2 just to give us a sense of what happened and how that --
3 MR. KALEPA: So a couple of years ago -- how
4 this all started was when -- I am going to give you guys
5 some history, how this all came about with the
6 inflatable products. In 2009, I went down the Grand
7 Canyon on an inflatable board. And then a light bulb
8 went off. And it was -- it was -- the inflatable bed
9 was made through our company. And it was -- there was
10 no rescue in mind or anything, but because of the
11 durability factor of the board, a light bulb went off.
12 And I said, "Eh, you know, this is a perfect product for
13 the rescue world." And so forth, we started developing
14 rescue sleds, rescue boards in an inflatable capacity.
15 And we needed the people who really are rescue
16 people to test the product. And so what happened was I
17 did the testing in my own back yard, so to speak.
18 And I wanted to get -- because the lifeguards
19 and the firemen are probably the most critical when it
20 comes to giving feedback about a particular type of
21 rescue equipment. So that's what I was trying to seek,
22 real -- you know, tell me the truth what's going on
23 here. And the feedback came back was very positive.
24 And since then, we've introduced a rescue
25 line, and have -- have sold it in different parts of the

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1 world, from Australia to it's now endorsed by the USLA,
2 United States Lifesaving Association, which is the only
3 product they've ever endorsed and which is the standard
4 for ocean rescue training.
5 And so with that being said, that's how the
6 development of this product came forth.
7 Does that answer your question?
8 And, you know, from there, we went into the
9 sleds, to the rescue boards, and to other rescue
10 apparatuses. So that's -- that's, basically, how it all
11 started.
12 Yes?
13 VICE-CHAIR WUKELIC: If I might, at the time
14 when you did the testing, I am curious, what was your
15 title, and was it this okayed by your supervisor, that
16 kind of stuff?
17 MR. KALEPA: No. And because we get a lot of
18 people that come and give us products to test, because
19 Hawaii's kind of like the testing ground for water
20 rescue products.
21 And so, you know, my intention was never to
22 sell it to the department that I work for, which is
23 Ocean Safety. That has never been my intention. Until
24 today, it's not my intention. Strictly because I -- you
25 know, I kind of head up the Ocean Safety section. And I

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1 know that is a conflict of interest. For me, it was
 2 purposely seeking the testing. And as part of the
 3 testing, because it ended up being in our brochure, I
 4 became concerned that this could be a conflict. So --
 5 VICE-CHAIR WUKELIC: But, I mean, just the
 6 testing. When you tested, did you do it in the same
 7 manner that any other equipment would be tested?
 8 MR. KALEPA: Yeah. Yeah.
 9 VICE-CHAIR WUKELIC: That's what I was looking
 10 for.
 11 MEMBER GUY: Okay. So --
 12 MR. KALEPA: Our department was well aware
 13 that we were using it for testing.
 14 VICE-CHAIR WUKELIC: That's what I wanted.
 15 COMMISSION GUY: So when you said that, you
 16 know, we do all kinds of testing, what you're saying is
 17 that the fire safety [sic] department is approached all
 18 the time with products --
 19 MR. KALEPA: Yes, correct.
 20 MEMBER GUY: -- for rescue, et cetera?
 21 CHAIR WESTFALL: Lois.
 22 MEMBER PREY: Well, was the testing approved
 23 by the Fire Department? And the lifeguards, is that the
 24 only people who had tested it?
 25 MR. KALEPA: The lifeguard -- Ocean Safety and

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1 the Fire Department is two different departments.
 2 MEMBER PREY: Well, yes. Approved by both, am
 3 I right?
 4 MR. KALEPA: Well, no, not really. We did the
 5 testing in-house with our own -- with Maui County Ocean
 6 Safety and with other lifeguard agencies throughout the
 7 state and United States. And once we came up with the
 8 product, Maui Fire Department actually purchased a
 9 couple of them. But that was after our testing was
 10 done. And then, by them purchasing it, they did their
 11 own testing.
 12 MEMBER PREY: So no one else tested it and
 13 approved it? No other --
 14 MR. KALEPA: Australia. Australia tested it
 15 and approved it.
 16 MEMBER PREY: Okay. Have you had any
 17 casualties?
 18 MR. KALEPA: No, we have not.
 19 CHAIR WESTFALL: Randol.
 20 MEMBER LEACH: A couple questions. When you
 21 did the testing, it was with County resources and time?
 22 MR. KALEPA: That's correct. Yes.
 23 MEMBER LEACH: And are you a full-time
 24 employee now?
 25 MR. KALEPA: Yes. Yes.

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1 MEMBER LEACH: Are you working today?
 2 MR. KALEPA: Actually, I am on my lunch break.
 3 MEMBER LEACH: Okay. Do you wear that shirt
 4 every day to work?
 5 MR. KALEPA: No. I am wearing it because I am
 6 on my lunch break and here representing -- and I want to
 7 -- for the record, I want to clarify, when I was
 8 introduced, I was introduced as head of Ocean Safety.
 9 And right now, I am not; I am representing the company
 10 of C4.
 11 MEMBER LEACH: I just wanted to be clear, but
 12 thank you. When you say "we," are you the sole owner of
 13 the company?
 14 MR. KALEPA: No. There's a few different
 15 owners. Todd Bradley, who is the CEO; Brian Keaulana,
 16 who is also one of the inventors; and Dave Parmenter.
 17 MEMBER LEACH: Okay.
 18 MR. KALEPA: And myself.
 19 MEMBER LEACH: Do you think, because of your
 20 position with the County, that your company had an
 21 advantage in getting the product tested because you know
 22 people?
 23 MR. KALEPA: No. I think based on my
 24 experience, but not using my job to -- to -- to propel
 25 that.

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1 MEMBER LEACH: Do you think, in the future,
 2 the product would really be beneficial to Maui County,
 3 that Maui County should look at purchasing some of your
 4 products?
 5 MR. KALEPA: Absolutely. So I want to share a
 6 little bit more with you guys. Australia is the only
 7 lifeguard agency that evaluates all of their equipment
 8 annually. And when we went to -- when I went to
 9 Australia, I went down the whole coast and did --
 10 introduced the product. And they -- they have a annual
 11 product evaluation. And the evaluation came back so
 12 high, it caused the Australian lifeguards to reevaluate
 13 their current equipment. And, you know, personally, I
 14 think it's the leading -- for many reasons, it's the
 15 leading -- it's probably going to become the leading
 16 device, rescue device in the future because of it has so
 17 many capabilities.
 18 MEMBER LEACH: Thank you.
 19 MEMBER GUY: Mr. Kalepa, I have three
 20 questions.
 21 MR. KALEPA: Yes.
 22 MEMBER GUY: When did you become an owner of
 23 C4, what year?
 24 MR. KALEPA: I became an owner of C4 in 2009,
 25 part of the Rescue division.

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1 MEMBER GUY: What is your percentage of
 2 ownership?
 3 MR. KALEPA: Right now, I give it all back to
 4 the company. My ownership is 12 percent of the company.
 5 MEMBER GUY: And the last question that I have
 6 is can anyone bring equipment to you for testing --
 7 MR. KALEPA: Yes.
 8 MEMBER GUY: -- as head of ocean safety?
 9 MR. KALEPA: Correct. Yes.
 10 MEMBER GUY: Okay. So that's --
 11 MR. KALEPA: And I invite that because we're
 12 all about looking for new ideas and, you know, to make
 13 our job easier and safer for the people we rescue, but,
 14 more importantly, the people to do the job.
 15 CHAIR WESTFALL: Norman.
 16 MEMBER FRANCO: I have a question.
 17 MR. KALEPA: Yes, sir.
 18 MEMBER FRANCO: During the evaluation process,
 19 Mr. Kalepa, who was involved in it? Did you have any
 20 input as to the --
 21 MR. KALEPA: No.
 22 MEMBER FRANCO: So it was people from other
 23 parts of the --
 24 MR. KALEPA: Yeah. It was -- we -- the
 25 Australian Lifeguard Association, which is an

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1 organization that oversees all of Australia's lifeguard
 2 services, they -- they had a product evaluation that was
 3 sent out to the lifeguards.
 4 MEMBER FRANCO: So when you did the testing in
 5 Maui County, who gave it the seal of approval? Was it
 6 other input from like Australian groups and stuff?
 7 MR. KALEPA: Yes. Australian lifeguards and
 8 Maui lifeguards gave me their feedback and input. And,
 9 basically, how I did it was I gave each district two
 10 weeks to utilize the equipment and --
 11 MEMBER FRANCO: You had some kind of
 12 evaluation score sheet or something like that?
 13 MR. KALEPA: Basically, just personal
 14 feedback.
 15 CHAIR WESTFALL: Don, do you have any
 16 questions?
 17 MEMBER SHERIDAN: No.
 18 CHAIR WESTFALL: Marti?
 19 VICE-CHAIR WUKELIC: Yeah, I have a couple
 20 more.
 21 MR. KALEPA: Sure.
 22 VICE-CHAIR WUKELIC: Having nothing to do with
 23 the C4 product. Who makes the decision -- purchasing
 24 decisions for the department?
 25 MR. KALEPA: I would be part of that process.

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1 VICE-CHAIR WUKELIC: Part of the process, but
 2 not like the only person?
 3 MR. KALEPA: Correct. Yes.
 4 VICE-CHAIR WUKELIC: So -- okay. That's good.
 5 MR. KALEPA: And just to be clear, it was
 6 because everybody was asking my boss, "Eh, we want the
 7 product, we want the product." And she came to me and I
 8 said, "No, I am not going to sell it to the County, to
 9 the Ocean Safety, as long as I am here." And that's
 10 part of why I am here, was I don't feel comfortable
 11 because I don't want anybody to come after me because I
 12 am in my position that I -- you know, I had a influence
 13 in purchasing this piece of equipment.
 14 VICE-CHAIR WUKELIC: So you say --
 15 MR. KALEPA: To be neutral, I wanted to be
 16 avoid that.
 17 VICE-CHAIR WUKELIC: Who are you referring to,
 18 your boss?
 19 MR. KALEPA: Marian Feenstra.
 20 VICE-CHAIR WUKELIC: She wants to purchase it?
 21 MR. KALEPA: Correct.
 22 VICE-CHAIR WUKELIC: The department does?
 23 MR. KALEPA: Correct. Yes.
 24 CHAIR WESTFALL: Any other questions?
 25 MEMBER LEACH: This might be an easier one.

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1 What does C4 stand for?
 2 MR. KALEPA: It stands for the four core
 3 values of our company, which is strength, endurance,
 4 flexibility and tradition.
 5 MEMBER LEACH: Oh, okay. And, also, I want to
 6 thank you for bringing this to our attention.
 7 MR. KALEPA: Thank you.
 8 MEMBER LEACH: In the brochure, there's a
 9 picture of you, Maui lifeguard. And do you kind of
 10 think that's okay?
 11 MR. KALEPA: Well, when we were doing the
 12 language for the -- for the brochure, I wanted to make
 13 sure it left out the word Maui County.
 14 MEMBER LEACH: Uh-huh.
 15 MR. KALEPA: Because I can go get -- I can be
 16 a lifeguard -- anybody can be a lifeguard as long as
 17 they have their credentials, but I cannot represent Maui
 18 County.
 19 MEMBER LEACH: Yeah. I just want to make sure
 20 it didn't imply that it was an endorsement --
 21 MR. KALEPA: Yeah.
 22 MEMBER LEACH: -- from the County.
 23 MR. KALEPA: When we were doing the brochure,
 24 I made it real clear that I didn't want it to say Maui
 25 County lifeguard. So I hope that answers your question.

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1 MEMBER LEACH: Thank you.
 2 MEMBER FRANCO: Mr. Kalepa, I just wondered,
 3 when the County buys it, do they send a purchase order
 4 to you or someone else in the corporation? Who decides
 5 the pricing and delivery and all that kind of stuff?
 6 MR. KALEPA: If we were to buy it, is that
 7 what you're saying?
 8 MEMBER FRANCO: If the County were to buy it.
 9 You're not making a decision for the County, that's your
 10 superior, but on the company side, wearing your
 11 corporate hat, who decides the pricing, the delivery and
 12 those items? Who signs the authorization?
 13 MR. KALEPA: Our CEO, Todd Bradley, yes. We
 14 have a price sheet, a price point sheet.
 15 CHAIR WESTFALL: Along those lines, what is
 16 the cost of this equipment? Just in a round --
 17 MR. KALEPA: Our sleds are \$889 that we sell
 18 only to -- we sell it at a special price for fire
 19 departments, lifeguard services. We give them a special
 20 price point. So --
 21 CHAIR WESTFALL: Then --
 22 MR. KALEPA: It doesn't matter what fire
 23 agency or lifeguard agency.
 24 CHAIR WESTFALL: Two other questions. You
 25 mentioned that other vendors approach you to test

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1 equipment in your role as the head of the Ocean Safety
 2 area?
 3 MR. KALEPA: Yes.
 4 CHAIR WESTFALL: Do you have a process on how
 5 you would accept or -- I am not sure how to describe
 6 it -- just a process that one would go through to get
 7 that?
 8 MR. KALEPA: No, but that's a good question.
 9 CHAIR WESTFALL: So you're consistent with
 10 everyone, so to speak?
 11 MR. KALEPA: Yes. You know, in -- we've never
 12 had anybody come and apply. It's more, hey, look, I
 13 came up with this idea, you know. It's like surfboard
 14 shapers, you know, it's pretty -- I don't think there's
 15 that great of a market.
 16 CHAIR WESTFALL: The last question, this is
 17 maybe a little out of the box, but I know you're a
 18 famous guy. And in the water world, you know, guys live
 19 on endorsements and things like that. Is it not unheard
 20 of that water safety organizations do give out
 21 endorsements and receive compensation and things of that
 22 nature?
 23 MR. KALEPA: Yeah, but it goes to an
 24 association. Like every island has an association, so
 25 that they can accept funds to support the -- such as

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1 junior lifeguard programs, because a lot of islands --
 2 you know, like for us, we don't charge here on Maui for
 3 junior lifeguard program. So we have a lifeguard
 4 association that if people want to make donation, or we
 5 accept funds, it goes into that. And that's how we
 6 offset the cost of our programs. So it doesn't directly
 7 go.
 8 Does that answer your question?
 9 CHAIR WESTFALL: Yeah, more or less. Kind of
 10 an on-the-side question.
 11 Any other questions?
 12 MEMBER FRANCO: I was wondering if this
 13 product is available to the general public or is it only
 14 for public --
 15 CHAIR WESTFALL: You can ask him.
 16 MEMBER FRANCO: Mr. Kalepa?
 17 MR. KALEPA: No. It is available to the
 18 general public. We -- we sell it to guys that go tow
 19 surfing or people that provide their own lifeguard
 20 services. We have sold it to them.
 21 MEMBER FRANCO: Is that done on the internet?
 22 MR. KALEPA: Yeah. You can go to C4, our C4
 23 website, c4waterman.com.
 24 MEMBER FRANCO: The product is made where? In
 25 America?

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1 MR. KALEPA: No. Our products are made in
 2 China and Korea, unfortunately. It's the cheap way.
 3 We're not a big company; we're a small company. But
 4 there's a lot of R&D that goes into our product. And I
 5 think that's one of the things that we don't just make
 6 it, we test it, we approve it before we send it out to
 7 the public to be able to buy it. So it's -- we run it
 8 through the wringer, so to speak.
 9 MEMBER GUY: Mr. Kalepa, the ownership, 2009
 10 is when you became a partner. Did the company begin in
 11 2009?
 12 MR. KALEPA: No. Actually, the company began
 13 in 2007.
 14 MEMBER GUY: How did they approach you about
 15 ownership interest?
 16 MR. KALEPA: Well, when the company first got
 17 started, they said, "Archie, we want you to be a part of
 18 this company." And I kinda just -- you know, I didn't
 19 take it serious. And then, in 2009, after going down
 20 the Grand Canyon -- kind of what happened was, prior to
 21 then, everybody was riding fiberglass boards. Then this
 22 whole thing exploded when I went down the Grand Canyon.
 23 Now everybody is going down rivers. And so this whole
 24 inflatable thing exploded. Then they said, "Eh, Archie,
 25 we want you to be a part of this company. We're going

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1 to give you a percent of this company." And so that's
 2 how it started. That's how it started for me.
 3 MEMBER FRANCO: So you kind of invented
 4 inflatable --
 5 MR. KALEPA: Yes.
 6 MEMBER FRANCO: -- surfboard?
 7 MR. KALEPA: Yes.
 8 MEMBER FRANCO: Very good.
 9 CHAIR WESTFALL: Any other -- Randol.
 10 MEMBER LEACH: Just a practicality. If Maui
 11 County had this product, how often would it be used?
 12 MR. KALEPA: Well, the Fire Department has --
 13 I, actually, sold two boards to Maui County Fire
 14 Department. And when the Fire Department first
 15 purchased the Board, they're, "Archie, where should we
 16 put these boards?" I told them, "You should put it in
 17 your most remote areas, your most rugged coastlines."
 18 And the beauty of it is, is the durability factor.
 19 Like when we went to Australia, I threw the
 20 board off a 200-foot cliff. The board bounced off the
 21 cliff, then the lifeguard was on the bottom, jumped on
 22 the board and paddled across the bay. If you were to do
 23 that with a fiberglass board, by the time the board got
 24 to the bottom, it would be all broken in pieces.
 25 So I told 'em, "You should put one in Hana."

1 especially if it's coming from somebody within. And
 2 they said, "Archie, I ride on this sled all day. I
 3 cannot ride on that other sled all day." What they mean
 4 is if they have to respond to a rescue and ride on the
 5 back, they could do it all day versus the other one,
 6 which is -- it's like a -- it's hard foam, so it doesn't
 7 have any flexibility. This thing is like a waterbed.
 8 It's still very hard, but when you're going that fast,
 9 it feels like it absorbs.
 10 And then we just did some -- some other
 11 testing when the surf was like 10 feet at Pier One, and
 12 told everybody, okay, pick what board you want, there's
 13 a hard board, there's the regular boards that we use,
 14 and then the inflatable board. And everybody grabbed
 15 the other board, I grabbed the inflatable board. Then
 16 when they saw what I was doing, that's all everybody
 17 wanted to ride, was the inflatable. They said it's so
 18 much safer, so much more forgiving. If you lose the
 19 board, somebody gets hit in the head, it's not going to
 20 hurt anybody versus the hard board. So --
 21 CHAIR WESTFALL: Okay. At this point what I
 22 think we're going to do is have a discussion as to what
 23 we will do. You can stick around, or you can go back
 24 and what we'll do is have somebody from staff call you
 25 later today to give you a verbal rundown on what we

1 They put one in Hana. Then they put the other one on
 2 the Rescue 10 truck.
 3 And then the first week after they got the
 4 board in Hana, they made a rescue where they had to jump
 5 off the cliff and paddle out, get the person. And they
 6 actually paddled right onto the rocks and actually kept
 7 the person at the board and hiked them up the mountain.
 8 So -- and I got a call from the chief and said, "Oh,
 9 this thing is awesome," you know. So --
 10 And what's really hard is people have a hard
 11 time accepting change. Where everybody thinks a
 12 fiberglass board is the only way to do things, it's
 13 until they think outside of the box and see what the --
 14 what contributions the inflatable can have, then the
 15 light bulb goes off and everybody starts waking up and
 16 seeing how good the piece of equipment is.
 17 VICE-CHAIR WUKELIC: How does your staff feel
 18 about it?
 19 MR. KALEPA: They're -- they're kind of bummed
 20 because they want to get the product.
 21 VICE-CHAIR WUKELIC: That's what I mean, how
 22 do they feel about the product.
 23 MR. KALEPA: They -- they like the product.
 24 When they did the testing, I told them, "I want your
 25 honest opinions." And I know they're the most critical,

1 decided.
 2 MR. KALEPA: Okay.
 3 CHAIR WESTFALL: And then you'll get something
 4 in writing -- I think within 30 days is the rule.
 5 MR. KALEPA: I appreciate that.
 6 CHAIR WESTFALL: We appreciate you coming
 7 here, also.
 8 MR. KALEPA: Okay. Thank you very much.
 9 VICE-CHAIR WUKELIC: Mahalo.
 10 MR. KALEPA: Appreciate you guys' time. Thank
 11 you. Thank you.
 12 CHAIR WESTFALL: Why don't we take a
 13 five-minute break?
 14 (Recess, 1:13 p.m. to 1:18 p.m.)
 15 CHAIR WESTFALL: On Mr. Kalepa's request for
 16 an advisory opinion, I am going to go backwards here and
 17 take the easy question first, which is the second
 18 question, can he sell the equipment to the County. I
 19 think the answer to that is pretty clear. It's in
 20 Section 10-4, Prohibitions, Number 3.
 21 MEMBER LEACH: What page?
 22 CHAIR WESTFALL: 39. 39.
 23 MR. MURAI: County Code, Code of Ethics.
 24 MEMBER LEACH: Hold on.
 25 CHAIR WESTFALL: Anyway, I will just read it

1 because it's clear. Basically says that the County
 2 shall not enter into any contract of a value in excess
 3 of \$500. He mentioned the stuff was \$899.
 4 MEMBER GUY: \$889.
 5 CHAIR WESTFALL: With an officer or employee,
 6 or with a firm in which an officer or employee has a
 7 substantial interest involving services or property
 8 unless the contract is made after competitive bidding.
 9 So what that means is he can sell it to the County, it
 10 just has to go through the County process. And as I
 11 think you were kind of mentioning, it's not our purview
 12 to know what the process is, but they've got a process
 13 somehow. I think that's the answer there.
 14 Are we all comfortable with that? Carolann,
 15 you had something?
 16 MEMBER GUY: No, no, no.
 17 VICE-CHAIR WUKELIC: I would want to cite that
 18 as far as the -- the bid thing.
 19 MR. MURAI: So, in other words, if they
 20 want --
 21 MEMBER GUY: Here's where the catch might come
 22 in, though. What if competitive bidding only comes into
 23 play for items of \$2,000 or more?
 24 CHAIR WESTFALL: Well, it says \$500 already,
 25 so there's already that.

1 very comfortable with declining a review of past
 2 behavior.
 3 CHAIR WESTFALL: But I think we rearticulated
 4 it. Anyone can correct me, we rearticulated his first
 5 question to can he continue in the future to test
 6 equipment. Because these guys -- this stuff changes
 7 constantly. He is going to continually have new stuff
 8 he's going to want to test. So he is rearticulating his
 9 question to a future activity. So we're not even
 10 looking at the past anymore.
 11 Yes.
 12 MS. INABA: As long as he's -- I mean, I would
 13 think as long as the company, or any other company,
 14 wants to have their equipment tested by water safety, if
 15 that's -- you know, whether they can have it tested, as
 16 long as they're going through the same process and
 17 there's no picking and choosing of people or playing
 18 favoritism.
 19 MR. MURAI: If I may, Mr. Chair, we need to
 20 consider what the rule says. The rule says, Section
 21 10-4(1)(d), "No officer or employee of the County shall
 22 use County property or personnel for other than public
 23 activity or purpose." So what the Board needs to
 24 consider is doing product testing for a private firm, is
 25 that a public activity or a public purpose? In other

1 MEMBER GUY: No. What I mean is --
 2 VICE-CHAIR WUKELIC: That's the only way they
 3 can do it, though, according to us.
 4 CHAIR WESTFALL: What I am reading here is the
 5 rules we just changed, that's not there. This is the
 6 County's rules. The \$500 amount is already in law.
 7 It's not our commission or board, so we're all
 8 comfortable with the answer to question two. You can
 9 draft that.
 10 Now back to question one, which is the future,
 11 if he would -- okay.
 12 MEMBER GUY: That was the question.
 13 CHAIR WESTFALL: No. I answered question two.
 14 His second question was, you know, can he sell the
 15 equipment from his for-profit company to the County.
 16 And the answer is yes as long as it goes through
 17 competitive bidding.
 18 So now we're back to question one, which is
 19 he's been using County personnel to test the equipment,
 20 can he continue to do that in the future. And I am open
 21 to if anyone wants to rearticulate what I just said as
 22 far as question one.
 23 MEMBER GUY: I appreciated that you spoke of
 24 the options that we have available, and that we can
 25 decline to review a question about past behavior. I am

1 words, how does using water safety officers to test and
 2 develop private products for -- I mean, products for a
 3 private firm who will sell these all over the world for
 4 a profit, how does that benefit the County? That's what
 5 the Board should consider.
 6 CHAIR WESTFALL: I would offer that we did
 7 receive a letter from the prosecuting attorney, maybe a
 8 year ago, six months ago, where a product company wanted
 9 to sell a product to the Prosecutor's Office. And for
 10 that, they would be able to use the County as an
 11 endorsement. The Prosecutor did not want to get into
 12 that arrangement, so he had us write an opinion in which
 13 we cited what he just essentially cited.
 14 MR. MURAI: Now, this is not -- these concerns
 15 are not the Board's kuleana, but there's going to be
 16 other ramifications, too. Like what if a lifeguard is
 17 testing a product and gets hurt?
 18 MEMBER GUY: Gets hurt, that was my concern.
 19 MR. MURAI: Or what if the County -- what if
 20 the product fails and the --
 21 MEMBER FRANCO: County gets sued.
 22 MR. MURAI: Says, "County, you guys tested
 23 this, you are negligent in your testing of the product
 24 that hurt me." So there are other considerations that
 25 are not necessarily the Board's considerations, but --

1 so, again, you know, I suppose it could be because when
2 you're weighing whether, you know, product testing for a
3 private company is a public activity or purpose, I guess
4 then the larger questions of what is a government --
5 what is a public purpose comes into play.

6 MEMBER FRANCO: I like what he said about what
7 they did in Australia. It seems like it takes away from
8 possible conflict of interest of using personnel, by
9 having a more objective presentation of the product,
10 where the head of this ocean center -- or ocean
11 department can evaluate it along with the general
12 public. But to be specific and tied in, to me, like he
13 just said, could be a problem. If he's just testing it
14 to one group, and that group, if they decide favorably,
15 he's going profit financially from that, to me, it's not
16 a very good approach to go on his part. And that puts
17 shades of conflict of interest.

18 Outside that --

19 MR. MURAI: I am not sure it's a conflict of
20 interest so much as a violation --

21 MEMBER FRANCO: Violation, yeah.

22 MR. MURAI: -- of paragraph (d) --

23 MEMBER FRANCO: Right.

24 MR. MURAI: -- using County personnel for a
25 non-public activity.

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1 MEMBER GUY: Mr. Chair, I am looking at this
2 very narrowly. I've reread the letter. And it says
3 request whether a violation was committed by him when
4 testing equipment he now sells, and by using the Maui
5 County department to participate in research and
6 development. In other words, we're talking about the
7 past.

8 CHAIR WESTFALL: No. I understand that.

9 MEMBER GUY: Okay.

10 CHAIR WESTFALL: That's why I had him come up
11 here. And said we're doing housekeeping to clarify what
12 you're requesting. And Marti asked him a few questions.
13 And he said that he is amending that statement, what you
14 just read, to include going forward.

15 MEMBER SHERIDAN: Then I think that it would
16 behoove us to suggest to him that he cannot use County
17 employees and County time, but he can use them when
18 they're off hours.

19 CHAIR WESTFALL: I think that's his call.

20 MEMBER SHERIDAN: That's right.

21 MEMBER GUY: Yeah.

22 MEMBER FRANCO: Just be specific and state.

23 MEMBER GUY: Just cite that, if we're going to
24 deal with it.

25 CHAIR WESTFALL: And, also, because I go down

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1 MEMBER SHERIDAN: Well, my question is where
2 else would he get these things tested? I understand
3 what you're saying.

4 MR. MURAI: He could hire -- he could hire
5 these guys when they're off duty. In other words, why
6 does it have to be on duty?

7 Now, if you're testing a sled, you need a jet
8 ski to tow it. Are they using their own jet skis or are
9 they using County jet ski? Maybe we should have asked
10 him that, but, I mean, I guess -- I mean, that's my
11 concern, as counsel for the Board, that -- you know, in
12 other words, even if you could not find anyone else to
13 test it, that's not the Board's problem.

14 But, in fact, there are -- as he's pointed
15 out, there are private lifeguards. He could go to
16 another jurisdiction. In other words, he could take his
17 products to the City and County of Honolulu and ask them
18 to test it for him. I am not sure that they would, but
19 it is not the Board's problem that he may or may not
20 have a pool of testers.

21 And as you know, as pointed out, you know,
22 Australian lifeguards do testing for him, too.

23 MEMBER SHERIDAN: Or, as you say, he could
24 have his testers here do it in their off hours, not --

25 MEMBER FRANCO: Right, not using County time.

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1 there, I also looked at 10-4(b), which is disclose
2 information by which law -- by law or practice not
3 available to the public. He is not the only person
4 making this equipment. There's other guys out there.
5 And the other vendors are not going to be looking at the
6 County happily when they see the head selling his stuff.
7 That's proprietary information.

8 I also was a little -- I am concerned that
9 there doesn't seem to be a process on how they test
10 stuff.

11 MEMBER GUY: Except.

12 CHAIR WESTFALL: When a vendor approaches
13 them, it just seems to be buddy-buddy kind of call. If
14 there was something more formal, I think I would be much
15 more comfortable for him to say go ahead, but, at this
16 point, I think we have to stick with what the rules are.

17 Lois.

18 MEMBER PREY: No. I am listening to what you
19 say. I agree.

20 CHAIR WESTFALL: Randol, do you have anything
21 to --

22 MEMBER LEACH: Just that using the County time
23 and personnel is something that isn't looked favorably
24 by the Code.

25 CHAIR WESTFALL: Yeah. To me, on the surface,

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1 irrespective of the person and what they're trying to
2 do, it doesn't look good.
3 MEMBER GUY: Right.
4 CHAIR WESTFALL: Any other comments?
5 MEMBER LEACH: But I do think in the
6 procurement process, you know, they -- you know, Ocean
7 Safety probably does have to, you know, test the
8 merchandise that they're going to be purchasing. That
9 would be on County -- County time.
10 CHAIR WESTFALL: Yes.
11 MEMBER LEACH: I think there's a fine line
12 between, you know, the R&D part, or why don't you look
13 at this, I think we might want to use this in our, you
14 know, daily activities.
15 CHAIR WESTFALL: Marti, do you have anything?
16 VICE-CHAIR WUKELIC: No. I am pretty good
17 with it. I was a little iffy about whether he should be
18 able to test or not, but I hear what you're saying. I
19 agree with what you said. And, yes, we should cite that
20 section and just say --
21 CHAIR WESTFALL: Do you have anything?
22 MS. INABA: No.
23 CHAIR WESTFALL: So I think the consensus on
24 the first question is that, no, he cannot continue to
25 test on County time with County personnel. And we'll

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1 cite Section 10-4, Prohibitions, applicable issues
2 there. Are we all okay with that?
3 MEMBER FRANCO: Okay.
4 CHAIR WESTFALL: All right. Move on. So you
5 will draft something, then we'll get it at the next
6 meeting.
7 MR. MURAI: You know what, we should probably
8 formally vote to authorize me to draft the opinion along
9 the lines as was moved and approved.
10 CHAIR WESTFALL: Do I have a motion to --
11 MEMBER GUY: Do we vote on every advisory
12 opinion? Do we? Okay.
13 MEMBER SHERIDAN: I so move.
14 MEMBER FRANCO: Second.
15 MEMBER PREY: Second.
16 CHAIR WESTFALL: And you know what the motion
17 is, we don't have to repeat it, as stated by our Deputy
18 Corporation Counsel?
19 Announcements. Moving on to Item 7,
20 announcements, none. Next meeting.
21 VICE-CHAIR WUKELIC: Do we vote?
22 CHAIR WESTFALL: Oh, I'm sorry. Okay. Okay.
23 I want to be out in the water.
24 All those in favor of the motion as stated,
25 signify by saying "aye."

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1 (Response.)
2 CHAIR WESTFALL: Any opposition?
3 (No response.)
4 CHAIR WESTFALL: Seeing none, it is approved
5 unanimously.
6 Moving on to Item 7, Announcements, none.
7 Item 8, our next meeting will be Wednesday,
8 February 13th.
9 And now we need to go into Executive Session.
10 MEMBER GUY: I will read it. With reference
11 to the agenda items listed below, one or more executive
12 meetings are anticipated. In particular, the Board of
13 Ethics anticipates it will consider the evaluation,
14 dismissal or disciplining of an officer or employee of
15 the County of Maui, where considerations of matters
16 affecting privacy will be involved. The Board may also
17 consult with the Board's attorney on questions and
18 issues pertaining to the Board's powers, duties,
19 privileges, immunities and liabilities. Therefore,
20 pursuant to HRS Sections 92-5(a)(2) and (4), the
21 following items may be considered in Executive Session.
22 The Board may also convene in adjudicatory session
23 pursuant to HRS Section 92-6.
24 (Recess to Executive Session, 1:32 p.m. to
25 1:34 p.m.)

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1 CHAIR WESTFALL: We're out of Executive
2 Session, back to Regular Session. And under New
3 Business, Financial Disclosure Statement for Joseph
4 Pontanilla, do I have a motion to acknowledge receipt?
5 MEMBER SHERIDAN: I --
6 MEMBER PREY: Second.
7 MEMBER FRANCO: Second.
8 MEMBER SHERIDAN: -- acknowledge receipt.
9 CHAIR WESTFALL: We had several seconds. Any
10 discussion?
11 MEMBER SHERIDAN: I think he did a great job
12 filling it out, after seeing all the over ones.
13 MEMBER PREY: I detect maybe, perhaps, an
14 error, but, in Item 3, he checked none and then he
15 filled it in. So is that --
16 MEMBER GUY: In other words, no change, but --
17 MEMBER PREY: Was that just an error in Item
18 3?
19 CHAIR WESTFALL: Yeah, I see that.
20 MEMBER FRANCO: Additional sheet attached.
21 MEMBER LEACH: Just accept it.
22 MEMBER PREY: He checked none, but then he
23 began to fill in.
24 CHAIR WESTFALL: That "none" is the thing
25 we're taking out, right?

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1 MEMBER GUY: Yes.
 2 MS. ANDRADE: No.
 3 MEMBER GUY: That was the first thing I looked
 4 at.
 5 MS. ANDRADE: The "none" we're taking out is
 6 the box up here.
 7 MEMBER GUY: No. All of the nones, right?
 8 MR. MURAI: No. Only the one that says no
 9 changes at all.
 10 MEMBER GUY: Oh, no. I thought we were taking
 11 out all of them so they had to fill out a whole new form
 12 every single time.
 13 MS. ANDRADE: That's what the top does.
 14 MEMBER GUY: Yeah, but --
 15 MEMBER LEACH: This "none" we're talking here,
 16 he might be thinking he's answering the question that
 17 there's no additional sheets attached, none of those.
 18 So it's kind of misleading.
 19 MS. ANDRADE: Yeah, or no information to put.
 20 MEMBER LEACH: No extra information.
 21 CHAIR WESTFALL: Well, he's not in office
 22 anymore, so this is just nothing.
 23 MEMBER GUY: No. But he's required to file
 24 it, so --
 25 CHAIR WESTFALL: Let's just let it -- we'll

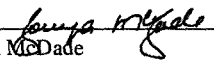
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1 just go ahead and acknowledge it.
 2 MEMBER GUY: Yes. Yes.
 3 CHAIR WESTFALL: All those in favor of
 4 acknowledging receipt of Joseph Pontanilla, signify by
 5 saying "aye."
 6 (Response.)
 7 CHAIR WESTFALL: Any opposition?
 8 (No response.)
 9 CHAIR WESTFALL: Seeing none, this form is
 10 acknowledged.
 11 MEMBER LEACH: Mr. Chair?
 12 CHAIR WESTFALL: Yes.
 13 MEMBER LEACH: Just before we adjourn, I had
 14 one question. Back to the advisory opinion. Are we
 15 issuing two advisory opinions or just one?
 16 MR. MURAI: Just one, as far as I know.
 17 CHAIR WESTFALL: That's a good question.
 18 There's two questions. So just one, we can do it in
 19 one?
 20 MR. MURAI: Yeah.
 21 CHAIR WESTFALL: Let me just ask them. Does
 22 anyone have any issue with issuing one advisory for the
 23 two questions?
 24 MEMBER FRANCO: Save paper.
 25 CHAIR WESTFALL: Save paper.

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1 VICE-CHAIR WUKELIC: Actually, I thought two
 2 sounds a little cleaner, but I am not wedded to either
 3 way.
 4 MEMBER FRANCO: One is sufficient. It answers
 5 the questions.
 6 CHAIR WESTFALL: Any thoughts on two?
 7 MEMBER LEACH: One advisory opinion, but with
 8 two issues.
 9 CHAIR WESTFALL: I guess because the finding
 10 of facts is all similar, so there's some association
 11 there.
 12 MEMBER GUY: Some overlap.
 13 CHAIR WESTFALL: All right. We'll issue one
 14 advisory opinion for the two questions. Okay. Do I
 15 have a motion to adjourn the meeting?
 16 VICE-CHAIR WUKELIC: I so move.
 17 MEMBER FRANCO: Second.
 18 CHAIR WESTFALL: All those in favor, "aye."
 19 (Response.)
 20 CHAIR WESTFALL: Any opposition?
 21 (No response.)
 22 CHAIR WESTFALL: "No, I don't want to
 23 adjourn." Meeting is adjourned.
 24 (Meeting adjourned, 1:38 p.m.)
 25

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1 CERTIFICATE
 2
 3
 4 I, TONYA MCDADE, Certified Court Reporter of
 5 the State of Hawaii, do hereby certify that the
 6 proceedings contained herein were taken by me in machine
 7 shorthand and thereafter was reduced to print by means
 8 of computer-aided transcription; and that the foregoing
 9 represents, to the best of my ability, a true and
 10 accurate transcript of the proceedings had in the
 11 foregoing matter.
 12 I further certify that I am not an attorney
 13 nor an employee of any of the parties hereto, nor in any
 14 way concerned with the cause.
 15 DATED this 7th day of February, 2013.
 16
 17
 18 
 19 Tonya McDade
 20 Certified Shorthand Reporter #447
 21 Registered Professional Reporter
 22 Certified Realtime Reporter
 23 Certified Broadcast Reporter
 24
 25

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