

OPINION NO. 210

A state employee inquired whether he might retain an officership interest in a certain realty company and keep his real estate broker's license active.

The employee had been associated with the company as an officer and as its principal broker for many years. He stated that he would like to retain his officership position in the company and to keep his real estate license active, and, further, to participate in the company's sales program during "off-hours and weekends." He would not be the company's principal broker.

It was our opinion that the state ethics law required the employee to resign his position as an officer of the realty company and to put his broker's license on an inactive status.

HRS §84-14(a) (Supp. 1974) states:

No employee shall take any official action directly affecting [a] business or other undertaking in which he has a substantial financial interest

Official action is defined in HRS §84-3(7) as "a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority." Because his officership and employment interests in the company were substantial financial interests, we said that HRS §84-14(a) would require him to disqualify himself on any discretionary matter that directly affected the company or any of its clients.

The employee provided us with his position description. It was our opinion that because almost all actions that he took as a state employee would have a direct effect on the realty company or its clients, it would be impossible for him to carry out his responsibilities and, at the same time, comply with HRS §84-14(a). Therefore, we concluded that the ethics law required him to resign his officership position with the company and to put his broker's license on an inactive status.

We expressed appreciation for his concern for ethics of state employees.

Dated: Honolulu, Hawaii, February 28, 1975.

STATE ETHICS COMMISSION
Vernon F.L. Char, Chairman
Gwendolyn B. Bailey, Vice Chairman
Walters K. Eli, Commissioner

Note: Commissioner Audrey P. Bliss was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.