

## OPINION NO. 304

An employee who held an administrative liaison position with a department on one of the neighbor islands had passed the state real estate exam and had applied for a state sales license. He had not yet begun selling real estate but upon receiving his license he wanted to associate himself with a real estate brokerage firm on the island where he lived. He asked the Commission to determine if his engaging in real estate sales would involve any violations of the state ethics code.

In his liaison position he was responsible for providing year-round supervision of the five department facilities on the island. He coordinated planning, development, installation and evaluation of department programs; coordinated local support services; represented the department in providing liaison with elements of his community in certain types of problems; reviewed all of the department's operations on his island; and served as principal staff advisor to his immediate supervisor on all matters concerning the needs of the public which his department was to fulfill on his island as well as providing miscellaneous field services.

As part of his duties in maintaining liaison with his community he attended hearings, community action group meetings, and other public events as the spokesperson for the department. In addition he received complaints from citizens and verified those complaints through personal interviews and visitations. On more serious matters he conveyed complaints and recommendations to his superior on another island. Generally these matters were resolved locally.

We stated to the employee that as a state employee he was, of course, subject to the requirements of the ethics code. We explained that because his interest in becoming involved in the real estate business followed his state employment his acquisition of any interest in this area was subject to the requirements found in HRS §84-14(b) (Supp. 1975). That section provides:

No employee shall acquire financial interests in any business or other undertaking which he has reason to believe maybe directly involved in official action to be taken by him.

Initially he would be employed with a real estate brokerage firm. While he would not have an ownership interest in that firm, his employment with such an office nevertheless constituted a financial interest pursuant to HRS §84-3(6)(C). Therefore, we stated to the employee that he could not accept that employment position if it were likely that the business that employed him would be directly involved in official action he took in his state capacity. In our view, however, his business relationship with a real estate brokerage firm would not constitute a violation of this section. His state duties did not encompass real estate transactions. Therefore, it was highly unlikely that the real estate firm he chose to become associated with would become involved in action he took as a state employee. The employee's immediate supervisor confirmed that the employee's position as a real estate agent would not conflict with his state duties. The supervisor had no objection to his acquiring this private interest. We therefore found that he could acquire such an interest.

We brought to the employee's attention the provisions of HRS §84-13 which prohibit a state employee from using state time or state facilities for private business purposes. He had advised us that his work in this real estate office would be confined to the weekends and that he would not use state time, equipment or facilities for his private business purposes. We indicated that this would be in conformance with the requirements of the ethics code. We emphasized additionally,

however, that all functions incident to his private employment should also be performed solely on his own time and at his own business place or residence.

In addition, we noted that HRS §84-13 also prohibits an employee from using his state position to secure unwarranted contracts and treatment for himself. Accordingly, we stated that he should not solicit business from individuals with whom he had dealt in a state capacity whether those individuals be those receiving the services of the department and their immediate families, department personnel or other individuals with whom he dealt in his day-to-day functioning as administrative liaison. Conversely, he was also to abstain from taking action in any matter that involved individuals with whom he happened to have dealt with in his private capacity as a real estate salesman.

We indicated to the employee that should situations arise in the future which raised some questions within the guidelines we set forth to him in this opinion, he should advise the Commission promptly.

We commended the employee for his concern for the ethics of state employees that he had shown by bringing this matter to the Commission's attention at an early time.

Dated: Honolulu, Hawaii, July 13, 1977.

STATE ETHICS COMMISSION  
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