

OPINION NO. 367

A researcher employed by the legislature was approached by the principal broker of a contracting real estate sales firm and was asked if he would like to assist in the marketing and sale of housing units in a particular state program. In his work for the legislature the employee had been assigned to assist various legislative committees by providing technical, non-policy making legislative services such as the research and development of an idea into legislation under the direction of the committee chairman. One of the committees which he had been assigned to deal with legislation which affected a specific state agency and its programs and operations. The real estate project was a program of that agency. Because of his duties within the legislature, he asked this Commission if he might become involved in the unit sales of this project.

We noted that the acquisition of a financial interest after one became an employee of the State was covered by the language of HRS §84-14(b). That section states:

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

We stated that if he transferred his real estate license to this firm and began selling real estate he would have a financial interest in the firm by virtue of this employment. The statute would prohibit his becoming employed by the firm if it was likely that it would be directly involved in official action he would expect to take in his state capacity.

It appeared to us that through his duties at the legislature he did take action which affected the state agency involved; we were also aware that the agency might contract with the real estate firm to sell this project. We found, however, that his work with the legislature would not directly affect the firm. Therefore, the statute did not prohibit him from becoming an employee of this business.

There were other considerations in this request. We understood that the agency had not yet entered into a developers agreement for this project. The real estate sales firm would be named in that agreement. Since this was the case, we stated to this employee that he should be aware that HRS §84-13 prohibited a state employee from using his or her position to gain an unwarranted advantage for himself or others. To avoid even an appearance of use of position, we indicated that he should not allow the fact that he worked for the legislature to be used in securing the real estate sales portion of the agreement.

In addition, we pointed out that if this firm or any other real estate firm which employed him should secure this contract, he should not use state time, equipment, and facilities to pursue these real estate sales. While the legislature was in session we saw that it might be very difficult for him to engage in sales to any significant extent. His work during this period was certainly task-oriented rather than time-oriented, and, therefore, he would have to discuss the hours that he might devote to this endeavor with his supervisor. We emphasized that his state work must take precedence over his outside employment. Once the session was over, however, we saw that he should be able to more easily schedule his sales responsibilities without allowing his work for the legislature to suffer.

We commended this employee for his foresight in seeking this opinion before agreeing to become involved in the sale of units in a project of this state agency.

Dated: Honolulu, Hawaii, March 2, 1979.

STATE ETHICS COMMISSION
Gary B.K.T. Lee, Chairman
Paul C.T. Loo, Vice Chairman
Audrey P. Bliss, Commissioner
Dorothy K. Ching, Commissioner

Note: There was one vacancy on the Commission.