

STATE ETHICS ADVISORY COMMISSION

ADVISORY OPINION 1984-25

Re: The validity of the policy of the Texas Real Estate Commission that no employee may use a real estate license while employed by the Commission.

This opinion responds to a request (AOR 1984-35) dated July 20, 1984, for a State Ethics Advisory Commission opinion. The request was received by the Commission at its meeting on September 14, 1984, and relates to the following issue:

Is the Texas Real Estate Commission's policy that no employee may use a real estate license while employed by the Commission valid?

Tex. Rev. Civ. Stat. Ann. art. 6573a, S 5 (Vernon Supp. 1984) which establishes the Texas Real Estate Commission states in part:

(b) All members, officers, employees, and agents of the [Texas Real Estate] Commission are subject to the code of ethics and standards of conduct imposed by Chapter 421, Acts of the 63rd legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes).

(e) The [Texas Real Estate] Commission shall have the authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for its licensees in keeping with the purposes and intent of this Act or to insure compliance with the provisions of the Act. . . .

Subdivision (b) expressly makes art. 6252-9b applicable to the employees of the Texas Real Estate Commission and subd. (e) grants the Commission the specific authority to adopt rules necessary to perform its duties regarding conduct which is reasonably likely to violate the standards set out in art. 6252-9b.

Article 6252-9b, § 8 (Vernon Supp. 1984) states in part:

(b) No state officer or state employee should accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclosure confidential information acquired by reason of his official position.

(c) No state officer or state employee should accept other employment or compensation which could reasonably be expected to impair his independence of judgment in the performance of his official duties.

The use of a real estate license by a person employed by the commission may reasonably be expected to impair his independence of judgment in the performance of his official duties. Therefore, it is the opinion of the State Ethics Advisory Commission that the policy established by the Texas Real Estate Commission reflects a reasonable interpretation of art. 6252-9b, V.T.C.S.

The opinion request also raised the question of the contractual validity of an employee information form required by the commission. However, this is not a question for the State Ethics Advisory Commission and is not addressed by this opinion.

SUMMARY

The Texas Real Estate Commission has the power and authority to establish policies of standards of conduct and ethics for its employees, including the establishment of a policy prohibiting employees from using a real estate license while they are employed by the commission. Such a

policy is also valid pursuant to the code of ethics and standards of conduct imposed on employees of the commission by art. 6252-9b.

W. Page Keeton, Chairman
State Ethics Advisory Commission
Adopted this 20th day of November, 1984.