



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 83-11

State Police Officer's Outside Employment
as Real Estate Sales Representative

The Ethics Commission has been asked whether a State Police officer may engage in outside employment as a real estate sales representative without creating problems under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

State Police officers, as State employees (subsection 1-79(k), General Statutes), are subject to the Code. They hold a special personnel status which makes application of the Code of Ethics to them somewhat different than to most other State employees. They are subject to duty 24 hours a day. Section 1.32, Division of State Police Rules and Regulations. They must perform statutory police duties whether on or off duty, and failure to do so is considered neglect of duty, subjecting them to disciplinary action. Sections 28.2, 29.1, 29.7, 29.13, Rules and Regulations. To be prepared to meet this constant responsibility they are required to be armed at all times, unless it is impractical. Sections 20.27.3, 28.2.1, Rules and Regulations. In addition, they are authorized use of their assigned State Police vehicles while off duty. HQ Special Order 44-A, December 1, 1981. Use of the assigned vehicle allows an officer to be in radio contact with authorities when he is on the road, expedites recall of the State Police force in an emergency, allows off-duty officers to assist disabled motorists better, and makes an off-duty policeman more capable of taking proper enforcement action if he observes or is notified of criminal activity or a flagrant motor vehicle violation.

Also to be considered is the fact that the effectiveness and efficiency of any law enforcement agency depends to a great extent on the respect generated by the honorable conduct of its members. In support of this axiom a member of the State Police Division is directed, for example, to conduct himself in a gentlemanly and courteous manner at all times, whether on off duty. Section 28.6, Rules and Regulations. Of more immediate concern, a State Police officer may not engage in outside employment except as permitted by Headquarters Special Orders. Section 1.38, *id.* It is clear from the directive concerning outside employment, H.Q. Special Order 35-A, June 24, 1974,

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that the Division of State Police strives to promote effectiveness and efficiency by attempting to ensure that outside employment not only does not create conflicts of interests for officers but that even the appearance of a conflict of interest is avoided, bearing in mind that the officer is expected to enforce the law and set an example, off duty as well as on duty, 24 hours a day. The directive imposes certain conditions and restrictions and establishes various criteria which apply to outside employment of members of the Division. Of particular interest to the question which has been posed, the directive declares in part that engaging or participating directly or indirectly as owner, agent, or employee of any concern whose principal business is selling, buying, or leasing real estate has been determined to be incompatible with or adverse to public service insofar as employees of the Connecticut State Police are concerned. The Special Order also forbids State Police officers to use their assigned vehicles in outside employment or while commuting to or from outside employment, with an exception not pertinent. Finally, it notes that its policy will be revised if experience indicates change is needed. The last provision prevents the question regarding outside employment as a real estate sales representative from being moot. Presumably, if the Ethics Commission were to find that such employment caused no problems under the Code of Ethics, there might not be sufficient other reasons to retain the real estate field among the forbidden occupations.

Certain provisions of the Code of Ethics must be considered in determining whether engagement as a real estate sales representative creates ethical problems for a State Police officer. Subsection 1-84(a) and section 1-85, General Statutes, together state in part that a State employee must refrain from having a financial interest in, or engaging in, any business or employment if he has reason to expect that he will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. A State employee may not accept outside employment which will impair his independence of judgment as to his official duties or require or induce him to disclose confidential information gained in State service. Subsection 1-84(b), General Statutes. Subsection 1-84(c), in part, bars a State employee from using his State position, or confidential information gained in it, for his financial benefit or that of a business with which he is associated. Finally, if a State employee such as the police officer here is required to take an official action affecting a significant financial interest of his or of a business with which he is associated, he must take certain formal steps which

will result in his immediate superior assigning the matter to another.

Applying the principles of the Code of Ethics mentioned above to the situation of a State Police officer working off duty as a real estate sales representative, it is difficult for a layman to conjure up circumstances which would create or encourage violation of the principles. It is unlikely that the officer would encounter conflict of interests situations in which he had to choose between enforcing the law, at the risk of jeopardizing his private employment, and shirking his duty in violation of the Rules and Regulations. Should an officer have, or claim to have, information -- for example, patterns of crime -- which had been withheld from the public, he could not utilize it to encourage someone to purchase real estate from him or to discourage someone from purchasing from another. Avoiding such a violation of the Code should pose no problem to persons who have the integrity expected of a State Police officer. A State Police officer working as a real estate sales representative would seem to be as available for emergency recall or enforcement of the law as other officers engaged in outside employment, at no more cost to him than to officers in many other types of private employment.

There may be special circumstances -- the case of a resident trooper, perhaps -- creating exceptional possibilities, not apparent to the layman, for violation of the Code. If so, they can be handled when an individual State Police officer applies for permission to engage in outside employment, as HQ Special Order 35-A requires. Insofar as the Code of Ethics is concerned, accepting employment with a reputable real estate firm as a sales representative does not appear to pose problems in the case of most State Police officers. The Division of State Police may, of course, continue its ban on this or any other outside employment if there are valid personnel or administrative grounds to do so.

By order of the Commission,

Lucille E. Brown
Lucille E. Brown
Chairperson

Dated 18 November 1983

