

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 03-2

May 29, 2003

RE: May employee of the Kentucky Real Estate Commission date a real estate licensee?

DECISION: Yes, but employee should abstain from any matters involving the licensee.

This opinion is in response to your December 11, 2003, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 13, March 25, and May 29, 2003, meetings of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed by the Kentucky Real Estate Commission ("KREC") as the Director of Administration. The KREC licenses and regulates approximately 25,000 real estate licensees. You are currently dating an individual who is a licensed real estate licensee, but whose license is in escrow. Thus, he is not actively engaged in selling real estate. You state that you would recuse yourself from any matter involving the individual you are dating. You ask whether employees of the KREC, including yourself, may date or become involved with real estate licensees.

KRS 11A.020(1)(a) and (d), and KRS 11A.020(3) provide:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

...

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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Page Two

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

In Advisory Opinion 03-1, the Commission concluded that an employee of the KREC whose mother is a real estate licensee should abstain, as part of his official duty, from any KREC matters involving his mother, but did not have to necessarily abstain from all matters involving the firm with which the employee's mother was associated.

Similarly, the Commission believes that you are not prohibited from dating or having a personal relationship with an individual who is licensed by the KREC, provided you abstain from any involvement in matters regarding the individual whom you are dating. Such abstention should be disclosed in writing and maintained in your personnel file. The Commission also advises you not to discuss with others employed by KREC any matters before the KREC involving the individual that you are dating.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Joseph B. Helm, Jr.