

Opinion No. 58-62

March 26, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Mr. George A. Kenyon, Executive Secretary, New Mexico Real Estate Board,
Room 511, Simms Building, Albuquerque, New Mexico

QUESTION

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Is it permissible under the New Mexico Real Estate License Law for an individual to serve as the qualifying broker for a partnership, association, or corporation while at the same time the person is licensed as an individual broker?

CONCLUSION

Yes.

OPINION

ANALYSIS

It is our understanding that there are certain individuals who are the qualified real estate brokers for a partnership, association or corporation and are so licensed while at the same time they are also licensed as individual brokers. For the purpose of this opinion, it is assumed that these individuals have secured a license for each category and have also secured the required bond in each instance.

The New Mexico Supreme Court in **State v. Spears**, 57 N.M. 400 259 P.2d 356 (1953), in construing the New Mexico Real Estate Act held that the purpose of the Legislation is to regulate the business of real estate brokers and dealers by the exercise of the State's police powers because of the intimate connection of that business with the public welfare. Keeping this basic premise in mind, we turn to the Real Estate Act to determine the issue raised in the question above.

Sec. 67-24-1, NMSA, 1953 Comp., states that it shall be unlawful for any person, co-partnership, association or corporation to act as a real estate broker in this State without first obtaining a license pursuant to the provisions of the Real Estate Act. (Sec. 67-24-1 to Sec. 67-24-18, NMSA, 1953 Comp.) Sec. 67-24-8, supra, relates in part that broker's license may be issued to a partnership, association or corporation provided that at least one member, officer or employee of the entity meets the requirements of the Act. In other words, any partnership, association or corporation may be issued a license after it

has a qualified broker in its employment. Sec. 67-24-10, supra, states that every real estate broker shall maintain a place of business in the State and the license shall show the name and address of the licensee.

Based upon the above sections, the Real Estate Board, we are told, have issued brokers' licenses to associations, partnerships and corporations when the said organizations have had a qualified broker in their employ. Pursuant to Attorney General's Opn. 57-288, a surety bond has been required for each individual associated with the entity who serves as a real estate broker. The question raised in the instant case is whether the qualifying broker may also be licensed as an individual broker and maintain his own separate real estate business. We believe he may do so if his separate business is licensed in accordance with the Act, and is secured by a bond as is required by the said Act. Certainly, the public is protected by the licensing act and by the bonding provisions when it deals with either business engaged in by selling or leasing real estate. Acts performed by people associated with either business pursuant to their respective licenses come under the purview of the Real Estate Board.

By way of summary, we have found no provision of the Real Estate Act which prohibits a person from serving as a qualified broker for a partnership, association or corporation while at the same time being licensed as an individual broker. In the absence of such a provision and being satisfied that the public is adequately protected, we answer the question above in the affirmative.