STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter Of The Request for Advisory Opinion Concerning The Conduct Of WILLIAM EISELE, Trustee, Indian Hills General Improvement District, State of Nevada.

Request for Opinion No. 07-40A

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OPINION

This matter came before a quorum[1] of the Nevada Commission on Ethics (Commission) for a telephonic hearing on October 10, 2007. William Eisele (Eisele), Trustee for the Indian Hills General Improvement District (IHGID) Board of Trustees filed a request for an advisory opinion, pursuant to NRS 281A.440.1.[2]

Requests for an advisory opinion are confidential unless waived by the public officer. Eisele waived confidentiality on this matter. Eisele provided sworn testimony and after fully considering the request for an advisory opinion, all of the facts and circumstances and testimony presented, the Commission deliberated and orally advised Eisele of its decision in the matter. The Commission now renders this written opinion.

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[1] The quorum consisted of Vice Chairman Hutchison and Commissioners Capurro, Cashman, Hsu and Jenkins.
[2] At the time of the hearing on this matter the Ethics in Government Law could be found in NRS 281.411 through 281.581. The Ethics in Government Law has been re-codified and is now Chapter 281A of NRS.

FINDINGS OF FACT

1. Eisele was recently elected as a trustee for the IHGID Board of Trustees (Board).

2. Eisele's daughter-in-law is employed by the IHGID. She reports directly to the IHGID general manager who in turn reports to the Board.

3. The Board recently reorganized certain employment positions, including Eisele's daughter-in-law's position. Eisele disclosed his relationship to his daughter-in-law when this reorganization matter came before the Board and he voted for the reorganization.

CONCLUSIONS OF LAW

1. As an elected trustee of IHGID, Eisele is a public officer pursuant to NRS 281A.160.

2. The Commission has jurisdiction to render an advisory opinion, pursuant to NRS 281A.440.1 and NRS 281A.460.

3. Public officers are required to disclose their private interests prior to taking any action on a matter where a conflict may exist between their private interest and their public duty, pursuant to NRS 281A.420.4.

4. After making proper disclosure, a public officer shall determine whether abstention is required under NRS 281.420.2 and Commission Opinion 99-56 (*Woodbury*).[3]

DISCUSSION

The first issue is whether Eisele must disclose his relationship to his daughter-in-law each time that a matter comes before the Board that affects her IHGID employment.

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[3] In *Woodbury*, the Commission set out the steps that a public officer must take whenever a matter that may affect his independence of judgment comes before the public body in which he sits: first, disclosure is required whenever a public officer's actions would "***reasonably*** be affected by his private commitment"; and second, before abstention is also required, a reasonable person's independence of judgment "must be ***materially*** affected" by that private commitment. *In re Woodbury*, CEO 99-56 (12-22-1999).

A public officer is required to disclose his private interests and determine whether abstention is required on matters where a conflict may exist between his private interests and his public duties, pursuant to NRS 281A.420.4 and .2 and the *Woodbury* opinion.

The Commission advises Eisele that whenever matters affecting his daughter-in-law's employment with IHGID are before the Board, he must continue to disclose his relationship to her and then determine whether his abstention is required pursuant to NRS 281A.420.2 and *Woodbury*.

The second issue concerns the IHGID general manager. The question is whether Eisele needs to disclose his relationship to his daughter-in-law and abstain from acting on matters affecting the general manager's employment. The Commission advises Eisele that he should disclose his relationship to his daughter-in-law since she reports directly to the general manager who in turn reports to the Board on which Eisele sits. Due to this reporting relationship, Eisele is advised to be mindful of his official position and be cognizant not to unduly influence the proceedings and the decisions made concerning the general manager.

With regard to abstention from voting, Eisele needs to make a case-by-case analysis in the eyes of a reasonable person, in accordance with *Woodbury*. He would need to abstain where a reasonable person's independence of judgment would be materially affected.

CONCLUSION

WHEREFORE, the Commission unanimously finds that Eisele must apply the standards set out in NRS 281A.420, as interpreted in the Commission's *Woodbury* opinion. He is required to disclose his relationship to his daughter-in-law on matters relating to her employment with the IHGID and on matters affecting the IHGID general manager's employment. Further, Eisele

must assess the need for his abstention on a case-by-case basis. Finally, the Commission advises Eisele to be mindful of his official position and not unduly influence decisions pertaining to the general manager.

NOTE: this matter is a first-party advisory opinion request. For purposes of a first-party advisory opinion requested pursuant to NRS 281A.440.1 and NRS 281A.460, all facts in the matter are provided by the public officer requesting the advisory opinion. The commission makes no independent investigation as to the truth of those facts. The record, therefore, consists solely of facts provided by the public officer. This opinion is based solely upon those facts. Facts and circumstances that differ from those provided by the public officer and used by the commission in this advisory opinion may result in an opinion contrary to this opinion.

DATED: 14 FEBRUARY 2008. NEVADA COMMISSION ON ETHICS

By: _____
MARK HUTCHISON, Vice Chairman