



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Public Officer**, Member,
Public Body, State of Nevada,

Advisory Opinion No.19-050A

Public Officer. /

ABSTRACT OPINION

I. STATEMENT OF THE CASE

Public Officer ("Public Officer"), a member of Public Body ("Public Body"), State of Nevada, requested this confidential advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.675, regarding the propriety of Public Officer's anticipated future conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in Chapter 281A of the Nevada Revised Statutes ("NRS"). Pursuant to Section 13 of the Commission's approved regulation, LCB File No. R108-18, a quorum of the Commission considered this matter by submission, without holding an advisory-opinion hearing.¹ The Commission considered the request for an advisory opinion, information provided by Public Officer that was affirmed as true and available public information.

Public Officer sought an opinion from the Commission regarding Public Officer's responsibilities under the Ethics Law, including Public Officer's disclosure and abstention obligations associated with Public Officer's private employment for several private employers who have an interest in matters to be acted upon by the Public Body.

After fully considering Public Officer's request and analyzing the facts, circumstances and information presented, the Commission deliberated and advises Public Officer that, in performing Public Officer's public duties as a member of the Public Body, Public Officer must comply with all disclosure and abstention requirements of NRS 281A.420, which may include consideration of the presumption set forth in NRS 281A.420(3) and (4). Further, Public Officer must remain vigilant not to use Public Officer's public position to seek or acquire unwarranted private benefits for Public Officer or any private employers to whom Public Officer holds a private commitment.

Public Officer has elected to retain confidentiality with respect to the Commission's proceedings. Therefore, the Commission publishes this Abstract Opinion. The facts in this matter were obtained from documentary evidence provided by Public Officer and available public information. For the purposes of the conclusions offered in this opinion, the Commission's findings of fact are set forth below. Facts and circumstances that differ from those presented in the record and relied upon by the Commission may result in different findings and conclusions than those expressed in this opinion. Although the full written opinion was served on Public Officer, for confidentiality reasons, this Abstract

¹ The following Commissioners participated in this opinion: Chair Lau, Vice-Chair Weaver and Commissioners Duffrin, Gruenewald, Lowry, O'Neill, Wallin and Yen.

Opinion redacts certain Findings of Fact, provides a summary of issues and removes other identifying information to protect the confidentiality of the Public Officer.²

II. QUESTION PRESENTED

Public Officer seeks guidance on Public Officer's disclosure and abstention requirements pursuant to NRS 281A.420 when matters are considered by the Public Body that pertain to Private Employers, and any associated implications under the Ethics Law.

III. FINDINGS OF FACT

1. Public Officer is a member of the Public Body and is a public officer pursuant to NRS 281A.160.
2. In Public Officer's private capacity, Public Officer is employed by private employers that operate for-profit and not-for-profit businesses who in varying respects conduct business with Public Body (nonprofit employing businesses may be referred to as "Nonprofit Private Employers").
3. Public Officer's employment with the Nonprofit Private Employers was established prior to becoming a member of Public Body, and Public Officer recognizes the allegiance and private commitment owed to Nonprofit Private Employers, given the aspects of such employment.
4. Due to the types of business conducted between Public Body and the private employers, the official legal counsel for Public Body has advised Public Officer regarding the disclosure and abstention requirements of the Ethics Law associated with matters that affect for-profit private employers, but questions application of the Ethics Law to Nonprofit Private Employers.

IV. STATEMENT AND DISCUSSION OF ISSUES AND RELEVANT STATUTES

A. OVERVIEW OF ISSUES

The citizens of Nevada have a right to be assured to the fullest possible extent that the private financial dealings of their governmental representatives present no conflict of interest between public trust and private gain. The Ethics Law promotes the appropriate separation between public duties and private interests. The Commission has long maintained the intent of the Ethics Law, currently set forth in NRS Chapter 281A, as follows:

The apparent intent of the provisions of NRS Chapter 281 [now NRS Chapter 281A]...is to prevent public officers and employees from becoming involved in situations generating conflicts between private and public interests so as to preserve and enhance impartiality of public office and faith in the integrity of government. Policy objectives for ethics in government laws in general include:

- Impartiality, fairness and equality of treatment toward those dealing

² The Commission reserves its statutory authority should an ethics complaint be filed presenting contrary circumstances. See *In re Howard*, Comm'n Op. No. 01-36 (2002) (notwithstanding advisory opinion, public is not precluded from bringing ethics complaint) and *In re Rock*, Comm'n Op. No. 94-53 (1995) (reservation of right to review until time issue is raised).

- with government.
- Assurance that decisions of public importance will not be influenced by private considerations.
- Maintenance of public confidence in government (wherein enters the matters of appearances).
- Prevention of use of public office for private gain.

A conflict of interest (either actual or potential) is a situation requiring a public officer to serve two masters, presenting a potential; rather than an actuality, of wrongdoing. The wrongdoing does not have to actually occur in order for a prohibited conflict to exist. A public official may have done no wrong in the ordinary sense of the word, but a conflict of interest may put Public Officer in danger of doing wrong. It is avoiding even the potential of doing wrong which is the focus of ethics in government laws.

For this purpose, ethics in government laws identify certain types of conflicts of interest and prohibit conduct by public officials that would allow these conflicts to affect decisions of the public official...

In re Public Officer, Comm'n Op. No. 99-57 (2000), at p. 3, cited by *In re Dressler*, Comm'n Op. No. 00-12 (2000), *In re Public Officer*, Comm'n Op. No. 01-14 (2001) and *In re Public Officer*, Comm'n Op. No. 02-01 (2002).

In this opinion, the Commission advises on the disclosure and abstention requirements set forth in NRS 281A.420 applicable to Public Officer, as a member of Public Body, to ensure that proper separation is maintained between Public Officer's public duties and Public Officer's private employment interests and commitments. In doing so, the Commission references other implicated provisions of the Ethics Law including those contained in NRS 281A.400, the Code of Ethical Standards.

B. RELEVANT STATUTES

1. Public Trust and Duty to Avoid Conflicts of Interest

NRS 281A.020 provides:

1. It is hereby declared to be the public policy of this State that:
 - (a) A public office is a public trust and shall be held for the sole benefit of the people.
 - (b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.
2. The Legislature finds and declares that:
 - (a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interests.
 - (b) To enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.
 - (c) In interpreting and applying the provisions of this chapter that are applicable to State Legislators, the Commission must give appropriate weight and proper deference to the public policy of this State under which State Legislators serve as "citizen Legislators" who have other occupations

and business interests, who are expected to have particular philosophies and perspectives that are necessarily influenced by the life experiences of the Legislator, including, without limitation, professional, family and business experiences, and who are expected to contribute those philosophies and perspectives to the debate over issues with which the Legislature is confronted.

(d) The provisions of this chapter do not, under any circumstances, allow the Commission to exercise jurisdiction or authority over or inquire into, intrude upon or interfere with the functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or NRS 41.071.

2. Misuse of Public Position for Personal Purpose

NRS 281A.400(1), (2), (3), (9) and (10) provided:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity. As used in this subsection, "unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity.

9. A public officer or employee shall not attempt to benefit the public officer's or employee's personal or financial interest through the influence of a subordinate

10. A public officer or employee shall not seek other employment or contracts for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the use of the public officer's or employee's official position.

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3. Disclosure

NRS 281A.420(1) provides:

1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;

(b) In which the public officer or employee has a significant pecuniary interest;

(c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person; or

(d) Which would reasonably be related to the nature of any representation or counseling that the public officer or employee provided to a private person for compensation before another agency within the immediately preceding year, provided such representation or counseling is permitted by NRS 281A.410,

↳ without disclosing information concerning the gift or loan, the significant pecuniary interest, the commitment in a private capacity to the interests of the other person or the nature of the representation or counseling of the private person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, upon the person to whom the public officer or employee has a commitment in a private capacity or upon the private person who was represented or counseled by the public officer or employee. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

4. Abstention

NRS 281A.420(3) and (4) provide:

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

(a) The public officer's acceptance of a gift or loan;

(b) The public officer's significant pecuniary interest; or

(c) The public officer's commitment in a private capacity to the interests of another person.

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially

affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of another person, accruing to the other person, is not greater than that accruing to any other member of any general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the duty of the public officer to make a proper disclosure at the time the matter is considered and in the manner required by subsection 1.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer makes a proper disclosure at the time the matter is considered and in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

5. "Commitment in a Private Capacity" Defined.

NRS 281A.065

"Commitment in a private capacity," with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;
3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption or marriage or domestic partnership within the third degree of consanguinity or affinity;
4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subparagraphs 1 to 5, inclusive.

V. COMMISSION DECISION

A. INTRODUCTION

Nevada's Ethics Law mandates that public officers and employees hold public office for the public benefit and avoid conflicts of interest. NRS 281A.020. The Code of Ethical Standards set forth in NRS 281A.400 and other requirements of the Ethics Law are applicable to public officers and employees and serve to assist in determining the boundaries of prohibited conduct where conflicts of interest are presented between public duties and personal interests. In particular, the Ethics Law has disclosure and abstention obligations applicable to public officers and public employees that must be complied with when a matter affects the public officer's or employee's pecuniary interests or commitments in a private capacity under NRS 281A.420.

As a member of Public Body, Public Officer must commit to avoid conflicts between Public Officer's private interests or commitments and those of the general public whom Public Officer serves. In furtherance thereof, Public Officer has a duty to avoid actual and perceived conflicts of interest, and Public Officer may not use Public Officer's position in government to seek or accept improper economic opportunities or secure or grant unwarranted privileges, preferences, exemptions or advantages for Public Officer or for any person to whom Public Officer has a commitment in a private capacity. NRS 281A.020, NRS 281A.065 and NRS 281A.400.

Public Officer identifies certain matters associated with private employers that implicate Public Officer's public duties. Pursuant to NRS 281A.065(4), the employer relationships constitute commitments in a private capacity for Public Officer. In addition, Public Officer receives salary and benefits from private employers, whether they be for-profit or nonprofit businesses, that constitute significant pecuniary interests for purposes of application of the Ethics Law.³ In the employment context, the extent of significant pecuniary interests and private commitments, at a minimum, includes the private interest in maintaining employment and salary, as well as a commitment in a private capacity to the interests of each private employer and associated business interests and clients. See *In re Public Officer*, Comm'n Op. No. 14-74A (2018), at p. 9.

B. DISCLOSURE AND ABSTENTION REQUIREMENTS

NRS 281A.420 requires a proper disclosure when the public officer or employee is carrying out public duties to approve, disapprove, vote, abstain or otherwise act upon a matter: (a) regarding a gift or loan, (b) in which public officer or employee has a significant pecuniary interest, (c) which would reasonably be affected by public officer's or employee's commitment in a private capacity to the interests of another person, or (d) which would be related to any representation or counseling of a private person for compensation before another agency within the preceding year.

³ NRS 281A.139 defines a pecuniary interest as any beneficial or detrimental interest measured in money or is otherwise related to money. The term "significant" is provide its plain meaning as having or likely to have influence or effect, important or probably caused by something other than mere chance. Merriam-Webster's Collegiate Dictionary 1159 (11th ed. 2003). Senate Bill ("SB") 228 added the term "significant" to several subsections of the Ethics Law and associated testimony confirmed that the purpose of the addition was to eliminate a *de minimis* interest from being seen as a true conflict. See Exhibit C submitted at Hearing on SB 228 before the Assembly Legislative Operations & Elections Comm., 77th Leg. (Nev. May 14, 2013). Therefore, a significant pecuniary interest means that the associated benefits or detriments are important and not incidental, trivial or *de minimis*.

Public Officer is commended for recognizing Public Officer's private interests and commitments by proactively obtaining advice from the official legal counsel for Public Body, who has issued direction regarding Public Officer's duty to disclose and abstain on all matters associated with Public Officer's for-profit private employers. The Commission agrees with the advice of official legal counsel and confirms it complies with the provisions of the Ethics Law, including its disclosure and abstention requirements, and therefore advises on the application of the Ethics Law to the identified Nonprofit Private Employers.

C. DISCLOSURE AND ABSTENTION REQUIREMENTS – NONPROFIT PRIVATE EMPLOYERS

On matters affecting Nonprofit Private Employers to be considered by Public Body, the Public Body's official legal counsel advised Public Officer to disclose and abstain on most, but not all matters. The Commission confirms this advice regarding a proper disclosure will be required on all matters pertaining to the Nonprofit Private Employers and provides guidance to Public Officer on the associated abstention requirements under NRS 281A.420.

1. Matter affecting Nonprofit Private Employers

Private Employers that are nonprofit organizations have certain matters that are considered by Public Body, some of which are informational presentations and others seeking or requiring action by Public Body. If the item is purely informational and not an action item, the Commission has stated: "[t]he provisions of NRS 281A.420 contemplate formal actions (or decisions) by public officers which affect the public trust and the Commission has not interpreted the provisions to extend to meetings at which no action is taken." *In re Buffington*, Comm'n Op. No. 16-59C (2017), citing *In re Stark*, Comm'n Op. No. 10-48C (2012).

Even though the disclosure and abstention requirements of NRS 281A.420 would not be implicated on items designated purely as non-action items, Public Officer has obligations to avoid conflicts (NRS 281A.020) and to comply with the requirements of the Code of Ethical Standards (NRS 281A.400). Public Officer is directed to pay attention to the requirements of these statutes when commenting, in Public Officer's capacity as a member of Public Body, in a public meeting on any matters pertaining to Private Employers. The Commission has confirmed that even on a "no action" item, comments by public officials on personal matters that would include private commitments "may be afforded greater significance and weight when they are delivered by a public official, especially when referencing Public Officer's public position or acting in an official capacity." *In re Gilman*, Comm'n Op. No. 14-73C (2016), at 7. Therefore, the Commission advises Public Officer to be cautious in making any comments in Public Officer's public capacity in a public meeting either in support of or to the detriment of Private Employers, because it could be perceived as a misuse of public office, which is regulated by NRS 281A.400. The Commission confirms that if the matter is an action item for Governing Body's approval or even acceptance, even if it is a consent item, the item is not considered to be an informational item. See *In re Kim*, Comm'n Op. No. 09-11 (2012). Consequently, the disclosure and abstention requirements of NRS 281A.420 would apply.

Any matter materially affecting Public Officer's pecuniary interests associated with employment for Nonprofit Private Employers or the interests of such employers requires disclosure and abstention. To further expand on the requirements of NRS 281A.420, the Commission explains that in matters associated with private commitments, the nature of the relationship, especially in a nonprofit employment context, usually necessitates abstention because the interests of the nonprofit are "statutorily attributed" to Public

Officer. See *In re Buffington*, Comm'n Op. No. 16-59C (2017); *In re Public Officer*, Comm'n Op. No. 15-74C (2018). In *In re Bagwell*, Comm'n Op. No. 17-47A (2017), the Commission confirmed that in certain circumstances where the Public Officer is appointed by a public body to serve a nonprofit organization that is created by or contractually affiliated with the public agency, there may be a hybrid of public and private services and obligations when the services to the nonprofit are provided solely as part of the public officer's public duties rather than having attributes of private employment.

Disclosure and abstention matters are determined on a case-by-case basis by the Commission. This request does not present the hybrid scenario identified in *Bagwell*. *Bagwell* represents service to a nonprofit as a member of the board appointed by the public agency. Here, Public Officer is an employee of the affected Nonprofit Private Employer, whose position is under the supervision of the organization's manager. Public Officer was employed by Nonprofit Private Employer prior to becoming a member of public body and has distinct private employment duties for the nonprofit, separate and apart from public duties. The allegiance and private commitment that Public Officer has to Nonprofit Private Employers is recognized, as well as, the effect of the interests of the Nonprofit Private Employers pertaining to the identified matters that Public Officer anticipates will intersect with public duties. In *In re Public Officer*, Comm'n Op. No. 16-49A (2016), the Commission recognized the duty to abstain under circumstances confirming, as is the case here, that the independence of judgment of a reasonable person in Public Officer's situation would materially be affected by Public Officer's commitment to Nonprofit Private Employer and to Public Officer's own significant pecuniary interests in maintaining private employment. Based upon the presented circumstances, the Commission advises Public Officer to avoid any associated conflict by disclosing it to the Public Body and its official legal counsel and refrain from participation, unless an opinion is received that such participation would be entitled to the application of the presumption set forth in NRS 281A.420(3) from Public Agency's official legal counsel that is consistent with the requirements of NRS 281A.790(5), or by utilization of the Commission's advisory opinion process. Examples of necessary abstention include matters before Public Body related to funding for the Nonprofit Private Employers, joint legal or property issues, appointment of member to serve on the board of directors of the nonprofit (as such members would oversee Public Officer's supervisor at the nonprofit or other employment matters affecting Public Officer).

2. Appearances Before Public Body on Behalf of Private Employers

Although Public Officer does not indicate that Public Officer has been requested to make any appearances before the Public Body on behalf of any private employers, the Commission takes this opportunity to provide educational guidance pursuant to NRS 281A.665 on the difference between participation and advocacy and providing factual background, when the subject is a member of a governing body. The boundary between advocating or participating on a matter verses providing factual information should be reviewed under consultation with legal counsel for Public Body, who is in the best position to ascertain the difference based upon the facts and circumstances at the time the matter is to be heard. In *In re Brown*, Comm'n Op. No. 13-28A (2014), at p. 13, the Commission cautioned against the practice by advising:

...Brown's desire to otherwise provide factual information, i.e., participate, is laced with serious, potential public trust implications. See *In re Kubichek*, Comm'n Opinion No. 97-07 (1997) ("an elected official who has already disclosed and abstained from a matter because of a disabling conflict of interest should always consider whether what she has to say really needs

to be said, and if she thinks so, then she must be very careful with what she says and how she says it. Prudential forethought, common sense, and concern for appearances of impropriety will be the best prophylaxis”); see also *In re Buck*, Comm’n Opinion No. 11-63 (Public officer’s assertion of factual information in matter regarding which she had conflict of interest and disclosed and abstained was determined to constitute advocacy in violation of Ethics Law). Brown should be aware that his efforts to convey what Public Officer believes to be factual information related to these matters may be construed as advocacy by virtue of his personal stake in the matter.

Under the circumstances presented, it is highly likely there could be similar potential and serious public trust implications if Public Officer provides factual background for matters to Public Body associated with the for-profit or nonprofit private employers. The conflict and associated appearance of impropriety appears to be completely avoidable if there is any other person that can provide this information and provided Public Officer properly discloses and abstains, as set forth herein. However, if Public Officer is the only person who may provide factual data, Public Officer should consult the official legal advisor for Public Body to ascertain how to proceed to secure the “safe-harbor” protections in order to avoid a willful violation, which protections are available if there is compliance with NRS 281A.790(5).

D. USE OF GOVERNMENT POSITION

The Commission takes this opportunity to commend Public Officer for Public Officer’s early recognition and appreciation of the Ethics Law, and to generally advise Public Officer about the requirements of NRS 281A.400 pertaining to improper use of a public position, which reinforces the guidance provided in this opinion. A review of this statute will assist Public Officer in properly performing Public Officer’s public duties. For example, NRS 281A.400(2) does not prohibit a public officer from acting in a manner consistent with public officer’s personal interests. Rather, the intent of this statute prohibits a public officer from acting in a manner that creates unwarranted privileges, preferences or advantages for a personal interest, including nonprofits or other persons to which the officer has a commitment in a private capacity. See *In re Public Officer*, Comm’n Opinion No. 12-15A (2012).

If a matter affecting Private Employers is to be handled by staff supervised by Public Body, Public Officer would be placed in a unique position to violate the public trust, which implicates an improper use of a public position to benefit private interests and personal commitments. See NRS 281A.400(1) and (2). Any direction or contact with a subordinate on such matters would call into question the application of NRS 281A.400(9) prohibiting the attempt or actual influence of a subordinate on a matter affecting Public Officer’s significant pecuniary interests or the interests of those to whom Public Officer has a private commitment. If a matter creates a question in the future, Public Officer may seek legal advice from Public Body’s official legal counsel or seek an advisory opinion from the Commission. Further, if there is a circumstance requiring the delegation of any Nonprofit Private Employer matter under the authority of Public Officer (instead of the public body), Public Officer should refrain from use of public office to influence the delegation decision. The official legal counsel can instruct on the proper way to delegate such functions. See *In re Public Officer*, Comm’n Op. No. 17-41A (2017) (delegation of matters pertaining to private interests and commitments of a Public Officer, by the official legal counsel is appropriate, provided sufficient protocols are established to protect the public trust by assuring the affected public officer is not consulted or advised on such matters and does not participate in the selection of the designee).

VI. CONCLUSIONS OF LAW

The public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed. The people have a right to expect that every public official and employee will conduct himself in a manner that will tend to preserve public confidence in and respect for the government Public Officer represents. Such confidence and respect can best be promoted if every public official and employee uniformly avoids both actual and potential conflicts between their private interests and the interests of the public. Helping public officials and employees achieve these goals is one of the objectives of the Ethics Law and therefore the Commission concludes:

1. Public Officer is a public officer as defined by NRS 281A.160.
2. Pursuant to NRS 281A.675, the Commission has jurisdiction to render an advisory opinion in this matter and such opinion may include guidance from the Commission to the public officer or employee under NRS 281A.665.
3. Public Officer has a significant pecuniary interest in Public Officer's private employment for the nonprofit and for-profit private employers.
4. Pursuant to NRS 281A.065(4), Public Officer has a commitment in a private capacity to both the nonprofit and for-profit private employers.
5. Pursuant to NRS 281A.420(1) Public Officer must make a proper public disclosure on all matters considered by Public Body associated with Public Officer's pecuniary interests or Public Officer's private commitments to the private employers detailing sufficient information concerning Public Officer's private interests and those of private employers, including the potential effect of such interests on Public Officer's participation on the matter.
6. Pursuant to NRS 281A.420(3), abstention is advised on the identified matters that influence Public Officer's pecuniary interests and private commitments, as identified in this opinion, because the impartiality of a reasonable person under the same circumstances would be materially affected by such matters. In reaching this conclusion, the Commission confirms that Public Officer has not presented any facts that would support application of the presumption set forth in NRS 281A.420(3) and (4).
7. Public Officer is advised to confer with Public Body's official legal counsel on any other questions related to legal implications of Public Officer's actions.

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Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law hereafter construed to constitute a Finding of Fact, is hereby adopted and incorporated as such to the same extent as if originally so designated.

Dated this 11th day of December, 2019.

NEVADA COMMISSION ON ETHICS

By: /s/ Cheryl A. Lau
Cheryl A. Lau, Esq.
Chair

By: /s/ Teresa Lowry
Teresa Lowry, Esq.
Commissioner

By: /s/ Keith A. Weaver
Keith A. Weaver, Esq.
Vice-Chair

By: /s/ Philip K. O'Neill
Philip K. O'Neill
Commissioner

By: /s/ Brian Duffrin
Brian Duffrin
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By: /s/ Kim Wallin
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By: /s/ Barbara Gruenewald
Barbara Gruenewald, Esq.
Commissioner

By: /s/ Amanda Yen
Amanda Yen, Esq.
Commissioner