



## ORE THE NEVADA COMMISSION ON ETHICS

In re **Public Officer**, Director,  
Public Entity, State of Nevada,

Advisory Opinion No.20-011A

\_\_\_\_\_ Public Officer. /

### **ABSTRACT OPINION**

#### **I. STATEMENT OF THE CASE**

Public Officer ("Public Officer"), Public Entity, 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 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 NAC 281A.352, a quorum of the Commission considered this matter by submission, without holding an advisory-opinion hearing.<sup>1</sup> The Commission considered the request for an advisory opinion, a list of proposed facts that were affirmed as true by Public Officer and publicly available information.

Public Officer sought an opinion from the Ethics Commission regarding applicable conflicts of interest between Public Officer's public employment and a private business jointly owned by Public Officer and Public Officer's family member related within the third-degree of consanguinity ("Private Business"), which business also employs the relative. Specifically, Public Officer requests guidance on the application of the Ethics Law because Private Business provides certain services benefiting Client A that interacts with Public Entity on matters directly relating to Public Officer's public duties. Unrelated to these services, the Private Business provides other services to Client A and other private clients.

After fully considering Public Officer's request and analyzing the facts, circumstances and documentation presented by Public Officer, the Commission advises Public Officer of the duties of disclosure and abstention under NRS 281A.420 and Public Officer's compliance obligations with the Code of Ethical Standards set forth in NRS 281A.400.

The Commission now renders this Abstract Opinion stating its formal findings of fact and conclusions of law. The facts in this matter were obtained from documentary evidence provided by Public Officer. For the purposes of the conclusions offered in this Abstract Opinion, the Commission's findings of fact set forth below accept as true those facts Public Officer presented. Facts and circumstances that differ from those presented to and relied upon by the Commission in this opinion may result in different findings and conclusions than those expressed in this opinion.<sup>2</sup> Although a full written opinion was served on Public Officer, for confidentiality reasons, this Abstract Opinion redacts certain

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

<sup>2</sup> 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 an advisory opinion, public is not precluded from bringing ethics complaint) and *In re Rock*, Comm'n Op. No. 94-53 (1995) (Commission reservation of right to review until time issue is raised).

Findings of Fact, provides a summary of issues and removes other identifying information to protect the confidentiality of the requester.

## **II. QUESTION PRESENTED**

Public Officer seeks guidance on the application of the Ethics Law in performing Public Officer's public duties for Public Entity when such duties intersect with Public Officer's private pecuniary interests and commitments to Public Officer's relative and Private Business, including its clients.

## **III. FINDINGS OF FACT**

1. Public Officer serves in an appointed position for Public Entity.
2. Public Officer's public duties relate to operations of Public Entity and appearances before Public Entity and other governmental agencies.
3. Private Business provides certain private services to Client A that intersect with Public Officer's public duties.
4. Public Officer has made a disclosure relating to such private services to the organizational head of Public Entity. After Public Officer's disclosure, Public Officer was not provided any particular direction on how to handle the situation given Public Officer's public duties. Nevertheless, Private Business has rejected providing any services to Client A thereby terminating the business relationship, including those services that intersect with Public Officer's public duties.
5. Private Business continues to accept other business that could have the potential to affect certain public duties of Public Officer.
6. Public Entity has established certain personnel policies that govern conflict situations including, without limitation, precluding any employment, activity or enterprise that has been determined to be inconsistent, incompatible or in conflict with public duties or with the duties, functions or responsibilities of Public Entity.
7. Public Officer will comply with the personnel policies established by Public Entity, which compliance may include proactively seeking direction from the organizational head of Public Entity and legal advice from the official counsel serving Public Entity.

## **IV. STATEMENT OF ISSUES AND RELEVANT STATUTES**

### **A. OVERVIEW OF ISSUES**

Public Officer seeks guidance on the requirements of the Ethics Law associated with public duties and private pecuniary interests and private commitments. Private Business is jointly owned by Public Officer and Public Officer's relative and the business employs Public Officer's relative. Private Business had provided consulting services to at least one client, Client A, on matters related to Public Officer's public duties. Private Business terminated these particular services to Client A when Public Officer learned about the conflict. Public Officer requests direction from the Commission on the requirements of the Ethics Law applicable to Private Business's prior services provided

to Client A and whether there are any constraints on Private Business providing other services to Client A or other similarly impacted clients.

The Ethics Law promotes the appropriate separation between public duties and private interests. Public Officer is currently a public officer and has specific public responsibilities that Public Officer must separate from Public Officer's private business interests and commitments in order to preserve the public trust. In protecting the public trust in conflict situations, the Ethics Law requires compliance with the disclosure and abstention requirements of NRS 281A.420 and the Code of Ethical Standards set forth in NRS 281A.400. The public trust must be protected when a person has a pecuniary interest in a private business or a commitment in a private capacity under NRS 281A.065, which statute lists a number of relationships deemed to be private commitments. Private pecuniary interests and commitments can lead to conflict situations with public duties. Consequently, these conflict situations must be recognized and properly navigated to assure compliance with the Ethics Law, including the policy of the State of Nevada to avoid conflicts and appearances of impropriety, as set forth in NRS 281A.020.

## **B. RELEVANT STATUTES**

The following provisions of the Ethics law are relevant to this matter.

### **1) Duty to Avoid Conflicts of Interest**

#### **NRS 281A.020 provides in relevant part:**

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) "Commitment in a private capacity" and "Pecuniary interest" Defined**

#### **NRS 281A.065 provides, in relevant part:**

"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:

...

4. Who employs the public officer or employee, the relative 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; . . .

#### **NRS 281A.139 provides:**

"Pecuniary interest" means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:

1. Anything of economic value; and

2. Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.

### **3) Improper Use of Government Position**

#### **NRS 281A.400(1) provides:**

A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity 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.

#### **NRS 281A.400(2) provides:**

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 to the interests of that person. As used in this subsection, "unwarranted" means without justification or adequate reason.

#### **NRS 281A.400(7) provides:**

Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

↳ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

**NRS 281A.400(9) provides:**

A public officer or employee shall not attempt to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the influence of a subordinate.

**NRS 281A.400(10) provides:**

A public officer or employee shall not seek other employment or contracts through the use of the public officer's or employee's official position.

**4) Disclosure and Abstention**

**NRS 281A.420(1) and (3) provide, in relevant part:**

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; or

(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,

↳ without disclosing information concerning the gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of the 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, or upon the person to whom the public officer or employee has a commitment in a private capacity. 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.

\* \* \*

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.



## **V. COMMISSION DECISION**

### **A. PECUNIARY INTERESTS AND COMMITMENTS IN A PRIVATE CAPACITY**

The Legislature has determined that private pecuniary interests and certain private relationships form the foundation for conflicts of interest. Public Officer has a significant pecuniary interest in Private Business, a jointly owned business with Public Officer's relative, which business also employs Public Officer's relative and provides a source of income to Public Officer. See NRS 281A.139 (definition of "pecuniary interest"). Further, NRS 281A.065 details the types of relationships to which public officers and employees have statutory private commitments to include a relative, relative's employer/business, a secondary employer of the public officer/employee (including one's own business), and any person to whom the public officer has a substantial and continuing business relationship. See NRS 281A.065(1), (4) and (5), respectively.

Public Officer is not a paid employee of Private Business. Nevertheless, Public Officer has an ownership interest in Private Business and, receives compensation as a result of this interest. In addition, the provision of unpaid services to the business establishes a substantially similar relationship to an employment relationship under the circumstances presented. See NRS 281A.065(6). As a result of Public Officer's private commitments, the interests of Public Officer's relative, Private Business and the clients of Private Business are statutorily attributed to Public Officer, which interests/commitments can form a conflict of interest when they intersect with public duties. In *In re Brown*, Comm'n Op. No. 13-28A (2013), the Commission explained: "[t]he Ethics Law recognizes various conflicts or perceived conflicts between public duties and a person with whom public officers and employees have employment commitments." *Id.*, at 9.

With regard to contract services for the client, Public Officer has confirmed that Private Business ceased providing these services once Public Officer learned about the conflict. Even so, Private Business has a continuing business relationship with the client on other matters. Consequently, a substantial and continuing business relationship exists between Private Business and the client resulting in the interests of client being imputed to Public Officer for purposes of application of NRS 281A.420. In synopsis, based upon the facts confirmed by Public Officer, Public Officer has a pecuniary interest in Private Business (and its clients) and private commitments to Public Officer's relative, and Private Business. When pecuniary interests and private commitments relate to public duties, public officers and employees must comply with the Code of Ethical Standards (NRS 281A.400) and the disclosure and abstention requirements of NRS 281A.420, as more particularly detailed below.

### **B. DISCLOSURE REQUIREMENTS – NRS 281A.420(1)**

The disclosure requirements of NRS 281A.420(1) apply to Public Officer every time Public Officer's pecuniary interests or private commitments relate to Public Officer's public duties. NRS 281A.420(1) requires a proper disclosure when the public officer or employee is carrying out his public duties to approve, disapprove, vote, abstain or otherwise act upon a matter: (a) regarding a gift or loan, (b) in which they has a significant pecuniary interest, (c) which would reasonably be affected by their 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.

When any significant pecuniary interest of a public officer/employee or any of the identified relationships set forth in NRS 281A.065 intersect with and/or are reasonably affected by public duties, the nature of these interests and relationships requires a proper disclosure, which is extended to the business endeavors and clients to whom there is a private commitment. See *In re Romero*, Comm'n Op. No. 19-059A (2019), at p. 6. The interests of the person to whom there is a private commitment, such as an employer, client or business affiliate are statutorily attributed to the public officer/employee based on the presumption that a person lacks independent judgment toward the interests of those persons to whom there are private commitments. See *In re Public Officer*, Comm'n Op. No. 13-71A (2014).

Therefore, when Public Officer's pecuniary interests or private commitments intersect with Public Officer's public duties, Public Officer must properly disclose, and then conduct the abstention analysis to determine whether a reasonable person in Public Officer's situation would be materially affected by the associated interests and commitments in performing public duties.<sup>3</sup> Public officers/employees who are not members of a body that makes decisions shall make the required disclosure to the supervisory head of the organization under NRS 281A.420(1). In addition, should the public officer/employee be participating in a public meeting that implicates a disclosable conflict, the Commission recommends the conflict also be disclosed to the public given the requirements of NRS 281A.420(1) to properly inform the public. See *In re Murnane*, Comm'n Op. No. 15-45A (2016), at p. 13.

Public Officer is reminded that the Ethics Law does not recognize a continuing disclosure or a disclosure by reference. The purpose of disclosure is to provide sufficient information regarding the conflict of interest to inform the supervisory head of the organization and the public of the nature and extent of the conflict and the potential effect of the action or abstention on the public officer's/employee's private interests and commitments. Silence based upon a prior disclosure fails to inform the public or supervisory head of the organization about the nature and extent of the conflict. See *In re Buck*, Comm'n Op. No. 11-63C (2011) (holding that incorporation by reference of a public officer's prior disclosure, even though based upon the advice of counsel, did not satisfy the disclosure requirements of NRS 281A.420(1)). Here, the disclosure should at a minimum identify the relevant personal interests and private commitments to Public Officer's relative and their joint business, including associated interests of business clients and affiliates, and explain to the supervisory head of Public Entity, or possibly the public in certain circumstances, of the potential effect these interests have on each and every matter related to Public Officer's public duties.

Public Officer confirms that Private Business provided services to benefit Client A in the past and desires to continue providing work on other matters for this client that do not relate to Public Officer's public duties. Even though Private Business no longer provides the particular contract services for Client A that intersect with Public Officer's public duties, Private Business has a continuing business relationship providing other services to Client A. Therefore, the Commission recommends Public Officer revisit the prior disclosure made to the supervisory head of Public Entity regarding Private Business and associated commitments to Client A to include details of the continuing business

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<sup>3</sup> The jurisdiction of the Ethics Commission does not extend to directing private businesses on their policies and operations. The Ethics Law governs public officers and employees in properly fulfilling their public duties when a conflict situation is present including maintaining proper separation between the public duties and private interests and commitments, and this opinion is so limited.

relationship that exists.<sup>4</sup> Also, Public Officer should disclose sufficient information regarding the connectivity between Public Officer's public duties and Client A's business interests. A proper disclosure is advised based upon the past and current relationship with Client A. Moreover, a proper disclosure is important even where the conflict is remote in some respects. In *In re Weber*, Comm'n Op. No. 09-47C (2009), the Commission held:

In keeping with the public trust, a public officer's disclosure is paramount to transparency and openness in government. The public policy favoring disclosure promotes accountability and scrutiny of the conduct of government officials. ...Such disclosures dispel any question concerning conflicts of interest and may very well ward off complaints against the public officer based on failure to disclose.

In addition, Public Officer is advised to make a proper disclosure to the supervisory head of Public Entity each time Public Officer's private commitments and relationships pertain to Public Officer's public duties. For any client that Private Business seeks to attain either directly or via subcontracting services, Public Officer will need to assess whether disclosure is required under NRS 281A.420(1) based upon connectivity to Public Officer's public duties.

This means that Public Officer must be diligent and review each relationship and associated interests to determine whether there is a reasonable connection to Public Officer's public duties. Public Officer is advised to make a proper disclosure under NRS 281A.420 on any private interests or commitments that have any potential to reasonably affect Public Officer's public duties, and then conduct the required abstention analysis to ascertain whether a reasonable person in Public Officer's situation would be required to abstain under NRS 281A.420(3) and (4), as detailed below. If Public Officer has a question on whether disclosure is required under NRS 281A.420(1) for a particular matter, Public Officer may consult the Public Entity's official legal counsel or seek an advisory opinion from the Commission under NRS 281A.675.

### **C. ABSTENTION REQUIREMENTS – NRS 281A.420(3) AND (4)**

NRS 281A.420(3) and (4) detail the abstention requirements to be considered after a proper disclosure has been made by the public officer/employee. NRS 281A.420(3) mandates that a public officer shall not participate on a matter when the independence of judgment of a reasonable person in a similar situation would be materially affected by the disclosed conflict. NRS 281A.420(4) creates a presumption against abstention and authorizes participation in limited circumstances. After a proper disclosure, the presumption permits the public officer to participate if the matter would not result in any form of benefit or detriment accruing to the public officer (or persons/entities to whom there is a private commitment) that is greater or less than that accruing to any other member of the general business profession, occupation or group that is affected by the matter. For example, if the public officer is voting upon a general business license increase and his/her business would be subject to the increase and pay the same amount as other businesses similarly situated, public officer may make a proper disclosure and explain to the public why the legal presumption permits his participation. As the Commission explained:

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<sup>4</sup> An ancillary purpose of a proper disclosure is to provide the supervisory head of the organization the ability to determine whether the subject public officer/employee should be directed to recuse themselves from participation on matter pertaining to the disclosable conflict based upon agency policy, operational or other business reasons.



...[W]ithout a public disclosure, the Commission is hindered from application of the presumption, and the Public Officer is left without the benefit of the public policy presumption set forth in NRS 281A.420(3) and (4). A proper disclosure acts as a condition precedent to recognition of the public policy attributes of NRS 281A.420(3) and (4), which instruct that appropriate weight and proper deference be given 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 appointed and to otherwise act upon a matter, provided the public officer has properly disclosed the public officer's commitment in a private capacity to the interests of another person in the manner required, and the independence of judgment of a reasonable person would not be clearly and materially affected by the private interests.

*In re Public Officer*, Comm'n Op. No 15-74A (2018), at pgs. 9-10.

Initially, it is noted that the presumption would not permit Public Officer to participate on matters affecting Public Officer's pecuniary interests and private commitments under the circumstances presented in this opinion. No facts are presented establishing that the interests of a particular group or collective of similarly situated persons are affected by these circumstances. The resultant benefit is singularly to those persons/entities to which Public Officer has a private commitment. Consequently, the analysis of whether Public Officer's participation on such matters would affect the interests of other persons similarly situated more or less than those to whom Public Officer has a private commitment is not germane to the situation and would not permit Public Officer to participate on the matter.

Accordingly, the proper abstention focus is not on the application of the presumption but rather on whether the independence of judgment of a reasonable person in Public Officer's situation would be clearly and materially affected by the private interests or commitments to require abstention. The Commission has confirmed that the Ethics Law requires disclosure even if the conflict is remote; however, abstention is required on matters materially affecting a pecuniary interest or private commitment. In this matter, the interests of Public Officer, the relative, Private Business and any business clients or affiliates require disclosure. See *In re Public Officer*, Comm'n Op. No. 16-14A (2016) (*per se* commitment in a private capacity to interests of relative under NRS 281A.065(1)); *In re Derbidge*, Comm'n Op. No. 13-05C (2013) and *In re Rapson*, Comm'n Op. Nos. 16-11C and 16-20C (commitment in a private capacity to business affiliates/clients is established in NRS 281A.065(4), (5), or (6)). Further, the interests of Client A required abstention.

For other clients, the pecuniary interests of Public Officer related to the Private Business and associated private commitments may possibly be remote from Public Officer's public duties. This means that disclosure still would be required but abstention may not be for every client.<sup>5</sup> However, to confirm whether remoteness is present for each affected pecuniary interests and commitments would require additional facts related to the particular conflict and analysis of the impacts of these interests in relation to Public Officer's pecuniary interest, private commitments and public duties. When private interests and commitments intersect with public duties, Public Officer is advised to properly disclose to the supervisory head of Public Entity all associated pecuniary

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<sup>5</sup>In the written opinion served on Public Officer specific advice was rendered in application of the abstention analysis set forth in NRS 281A.420(3); however, that advice was redacted for certain clients to protect the identity of the requester.

interests and private commitments, then conduct the abstention analysis. In the future, should Public Officer need further guidance on Public Officer's abstention requirements relating to a particular conflict, Public Officer may seek an advisory opinion from the Commission based upon the relevant facts.

#### **D. CODE OF ETHICAL STANDARDS – NRS 281A.400**

Public Officer has a duty to protect the public trust and separate Public Officer's public responsibilities from Public Officer's private pecuniary and business interests. Therefore, Public Officer may not use Public Officer's position in government to seek or gain an economic opportunity which would tend to influence a reasonable person in Public Officer's position to depart from the impartial discharge of Public Officer's public duties. The provisions of NRS 281A.400 serve to assist Public Officer in maintaining a proper separation between private interests and public duties. For each referenced section of NRS 281A.400, Public Officer must be mindful of the following implications:

- NRS 281A.400(1) – Public Officer's public duties require Public Officer to represent the Public Entity in its interactions with other public entities, vendors, and other persons, and it is possible that the faithful discharge of Public Officer's public duties could be impacted because Public Officer has a pecuniary interest and private commitment to Public Officer's business and its clients, which conflict must be avoided. To avoid this conflict, Public Officer must not seek or accept economic opportunities that affect Public Officer's private business if those opportunities implicate Public Officer's public duties.
- NRS 281A.400(2) – Public Officer's public duties place Public Officer in a position to create an unwarranted benefit for Public Officer's private interests and commitments if Public Officer utilizes a public position to access or share confidential information. Therefore, Public Officer must not use Public Officer's public position to assist Public Officer's private business or its services. Public Officer also must not use his/her public position as a selling point for purposes of advertising Private Business's consulting services.
- NRS 281A.400(7) – Public Officer must fully separate Public Officer's private work from Public Officer's work as a public officer and Public Officer may not use government time, property or equipment for purposes related to Public Officer's private pecuniary interests or commitments. Public Officer is advised to work on matters related to Public Officer's private interests and commitments on Public Officer's own time and without using public time, equipment, property, resources or facilities.
- NRS 281A.400(9) – Public Officer is advised that influencing a subordinate in an attempt to benefit a private interest or commitment is precluded under the Ethics Law.
- NRS 281A.400(10) – Public Officer is advised that referencing Public Officer's public position in any marketing communications for Public Officer's private business implicates this statutory prohibition.

The Commission commends Public Officer for recognizing the potential implications and proactively seeking this opinion on whether Public Officer's conflicts implicate the Ethics Law. Conflicts stem from Public Officer's private pecuniary interests and private commitments and preclude Public Officer from utilizing Public Officer's public

position to benefit such matters. Public Officer must be diligent to maintain a proper separation between Public Officer's public duties and private interests and commitments.

#### **E. OTHER IMPLICATED LAWS**

Public Officer identifies policies established by Public Entity and other laws and regulations as possibly applicable. The Commission may consider but does not directly enforce other laws or regulations not within NRS Chapter 281A (the Ethics Law), NAC Chapter 281A, such as personnel policies established by governmental entities, even though they are consistent with or implicate the Ethics Law. Enforcement of such matters is as stated in the law, regulation or policy. Therefore, even though there may be consistency between these laws, regulations or policies and the provisions of the Ethics Law, Public Officer must complete Public Officer's own due diligence with respect thereto based upon Public Officer's circumstances. In particular, Public Officer is advised to seek formal advice from the Public Entity's official legal counsel on such matters.

#### **VI. CONCLUSIONS OF LAW**

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 pecuniary interest in Public Officer's private business and a commitment in a private capacity to the interests of Public Officer's relative, Private Business and its clients under NRS 281A.065. Accordingly, Public Officer must not accept economic opportunities that improperly influence public duties and avoid using public position to obtain any unwarranted preferences or advantages to benefit Public Officer or those to whom there is a private commitment. In maintaining proper separation, Public Officer must comply with the Code of Ethical Standards set forth in NRS 281A.400, some of which are referenced in this opinion.
4. Pursuant to NRS 281A.420(1), prior to acting on a matter on behalf of the Public Entity, Public Officer should properly disclose to the supervisory head of the organization the full impact on Public Officer's private interests and commitments that are affected by Public Officer's public duties and comply with the abstention requirements of NRS 281A.420(3) and (4).
5. Pursuant to NRS 281A.020, the Commission further advises Public Officer to take affirmative steps to avoid potential conflicts, which steps favor Public Officer promptly seeking legal advice from the Public Entity's official legal counsel in compliance with NRS 281A.790(5) and/or utilizing the Commission's advisory opinion process.

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Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law 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 22<sup>nd</sup> day of June 2020.

NEVADA COMMISSION ON ETHICS

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

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

By: /s/ Kim Wallin  
Kim Wallin, CPA  
Vice-Chair

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

By: /s/ Brian Duffrin  
Brian Duffrin  
Commissioner

By: /s/ Damian R. Sheets  
Damian R. Sheets, Esq.  
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By: /s/ Barbara Gruenewald  
Barbara Gruenewald, Esq.  
Commissioner

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