

Hypothetical Opinion No. 83-1
BEFORE THE EXECUTIVE ETHICS COMMISSION OF THE STATE OF NEVADA

The Nevada Executive Ethics Commission issues this opinion in accord with NRS S 281.511(1)(b).

One member of a multi-member state regulatory body has requested the advice of this Commission. The requester is a public officer within the meaning of NRS 281.431(11). The requester does not perform any legislative functions within the meaning of NRS 281.431(7) and therefore is a member of the executive branch as defined in NRS 281.431(8).

The requester has provided documents and testimony to the Commission which establish that the requester has certain marital, familial, legal and financial relationships to a corporation which is subject to regulation by the state regulatory body of which the requester is a member. The Commission has evaluated this evidence and finds it to be insufficient to support a finding or conclusion that the ethical standards of NRS 281.481(3) have application to the requester. The Commission finds that NRS 281.481(3) has potential application to the requester if it can be established that ten percent or more of the household income of the requester is attributable to fees earned for professional services rendered to the corporation by a member of the requester's household.

The Commission may, in rendering an advisory opinion pursuant to NRS 281.511(1), give guidance to the requester on the issues enumerated in NRS 281.521. The Commission chooses to give this guidance in the circumstances of this request. The Commission concludes that the marital, familial, legal and financial relationships of the requester to the corporation which is subject to regulation by the state regulatory body of which the requester is a member creates an appearance of impropriety. The Commission concludes that this appearance of impropriety constitutes a conflict between the requester's personal interest and the requester's official duty within the meaning of NRS 281.521(1). The Commission also concludes that the conflict described in the preceding two sentences also constitutes a conflict which materially affects the independence of a reasonable person in the requester's circumstance within the meaning of NRS 281.521(3).^[1]

It is the opinion of the Commission that the requester make public disclosure of the full nature and extent of the requester's marital, familial, legal and financial relationships with the corporation which is subject to regulation by the state regulatory body of which the requester is a member. It is also the opinion of the Commission that the requester abstain from participation in any matter coming before this state regulatory body which directly impacts this corporation.

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^[1] In issuing the confidential opinion in this matter, the Commission used a standard of "apparent conflict" rather than "conflict" as required by NRS 281.521. Based on advice from the Commission's legal counsel, that opinion is modified in accord with the text of this opinion.