

Hypothetical Advisory Opinion No. 86-1

BEFORE THE NEVADA COMMISSION ON ETHICS

FACTS

An attorney is a partner in a law firm. This attorney is also a member of a public regulatory commission. The attorney's law partner decides to run for public office. The candidate will solicit and receive campaign contributions from individuals and corporations within the industry which is regulated by the public commission. It is the policy of the law firm not to represent any clients within the industry which is regulated by this public commission of which the requestor is a member so long as the requestor serves on this commission. The policy explained in the previous sentence has been followed faithfully by all members of the law firm. The concern which prompted the opinion request is that the candidate law partner's solicitation of campaign contributions from individuals and corporations within the regulated industry may be perceived by third parties to create a situation where the contributors would be making those campaign contributions in an attempt to improperly influence the judgment of the requestor on future regulatory matters involving the contributors that may come before the commission.

QUESTION

Do the ethical standards contained in the Nevada Ethics and Government Law require the requestor to resign from his official position as a member of this regulatory commission because of the political campaign activities and campaign solicitation efforts made by his law partner within the industry which the requestor's commission regulates?

ANALYSIS AND OPINION

The requestor cannot control or dictate his law partner's political activities anymore than he may control his law partner's social, cultural, or religious activities. In addition, the requestor cannot force his law partner to exclude himself from traditional sources of political campaign financing that exist in this state. In addition, the requestor cannot dictate to the regulated industry concerning political campaign contributions. The individuals and corporations within the regulated industry will have their own reasons for making campaign contribution decisions. Even if it is assumed that an industry contributor's reason for supporting financially the law partner's candidacy is to make a favorable impression on the requestor, the requestor has no control over that circumstance. These considerations pertain to the conduct, decisions, and motivations of people other than the requestor.

The committee recognizes that this opinion must involve the requestor's course of business. Individuals and corporations within the regulated industry may resort to a variety of devices in an attempt to gain favor with members of the regulatory commission. Any member of this regulatory commission, who is a good public servant will recognize this concern, be guided by his own sense of ethical conduct, recognize these devices for what they are and disregard them. The requestor demonstrates a sound ethical sensitivity in this regard by requesting this opinion.

Based on the facts presented to the Commission, there is no violation of the Code of Ethical Standards, there is no reasonable basis for the impression that the requestor can be improperly influenced, and there is no reason for the requestor to resign his position as a member of this regulatory commission.

This advisory opinion is rendered based upon the facts presented to the Commission. Given other facts, the opinion of the Commission may differ.

COMMISSION ON ETHICS

By: Chairman