

**Abstract of Advisory Opinion No. 93-08**  
**BEFORE THE NEVADA COMMISSION ON ETHICS**

This opinion is in response to a first party opinion request filed with the Nevada Commission on Ethics (Commission) by an employee of a statutorily created county district (District) that renders emergency prevention and care services. The opinion requestor has a personal pecuniary interest in a private business which provides travel arrangement services to the District.

The issue presented is whether the opinion requestor's public employment and private business interests constitute a conflict of interest under the Code of Ethical Standards at NRS 281.411, *et seq.*

At a hearing on the merits of the opinion request, the opinion requestor and his spouse were present and testified in the matter. The hearing was confidential pursuant to the provisions of NRS 281.511(4) and (9) and, therefore, not open to the public. At the conclusion of the hearing, the Commission provided the opinion requestor with oral guidance relating to his opinion request, the substance of which is incorporated into this Opinion.

The Commission has jurisdiction over this matter pursuant to the provisions of NRS 281.511(1).

The Commission makes the following Findings and renders the following Opinion.

**FINDINGS**

1. The opinion requestor is the subject of this Opinion and is a public employee as defined in NRS 281.436. The opinion requestor is publicly employed by the District where he has served as its chief training officer for several years. In his capacity as chief training officer, the opinion requestor recruits and encourages District members to attend various training programs, some of which require airline transportation. Decisions relating to the District's budget, business, travel policies and arrangements are the responsibility of the opinion requestor's supervisor or the deputy chief in charge of administration; not that of the opinion requestor.
2. The opinion requestor and his spouse each own 25% of the shares of a travel agency incorporated and doing business in Nevada. The opinion requestor is vice-president of the corporation and has little involvement in the day-to-day operations or management of the business. The opinion requestor's spouse is president of the corporation and works full-time at the agency. The District oftentimes books travel arrangements for District members with the opinion requestor's travel agency. Three other travel agencies conduct business within the municipal area where the agency is located and several other agencies operate in the regional vicinity of the District.
3. In December, 1989, the Commission issued a confidential opinion, identified as Opinion No. 89-07, in which it determined that a public agency secretary whose job duties included the purchase of supplies, and whose spouse worked as a commissioned salesman for a company that sold such supplies, was required to recuse herself from any job function normally performed in the purchasing process whenever her spouse's employer was a bidder or potential vendor on a supply contract. The secretary was also prohibited from discussing purchasing needs of the public agency with her spouse. Upon becoming privy to this opinion, and believing his business interest in the travel agency to be analogous to that case, the opinion requestor relied upon the dictates of Opinion No. 89-07 to govern his conduct in the performance of his duties as deputy chief and chief training officer for the District.
4. When District members need to make travel arrangements, the opinion requestor explains the rules regarding travel days and times, ground transport procedures, paperwork requirements, etc., and then refers them to the District secretary to make specific travel arrangements. The travel agency sells one or two tickets per month to the District at an average cost of \$300.00 to \$1,000.00 per month, earning 10% of the ticket costs as commission.
5. The opinion requestor requested this Opinion after being told by the District secretary that she, for purposes of expediency and convenience, had been making exclusive use of the travel agency in which the opinion requestor owns a partial interest, in all District personnel training and non-training travel arrangements. Based upon that circumstance, of which he was not previously aware, the opinion requestor believed he needed more specific conflict of interest guidelines than those contained in Opinion No. 89-07 and submitted a request for opinion to this Commission.

## OPINION

Based on the foregoing findings, the Commission concludes that, at the time of the hearing, the opinion requestor was a public employee in his position as deputy chief for the District, as such employment is defined in NRS 281.436.

The issue presented in this matter is whether the opinion requestor had or continues to have a pecuniary interest in the travel agency in his private capacity which constitutes a conflict of interest between his private interest and his public employment.

NRS 281.481 is relevant to this issue and provides in pertinent part the following:

A code of ethical standards is hereby established to govern the conduct of public officers and employees:

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any member of his household, any business entity in which he has a significant pecuniary interest, or any other person

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

The Commission finds that the potential for a conflict of interest exists between the opinion requestor's private pecuniary business interest in the travel agency and his public employment, as training coordinator for the District.

In order for the opinion requestor to avoid conflict between his private interests in the travel agency and the general public whom he serves as District chief deputy and training coordinator, the opinion requestor must continue to refrain from any involvement in specific travel arrangements for the District; including, but not limited to, all decision-making regarding travel agency selection and the manner in which such decisions are made.

Specifically, the Commission advises that: (1) the opinion requestor neither disclose nor privately use or convey any confidential information, gained in his public capacity, that could give the subject travel agency a business advantage over competing travel agencies; (2) the opinion requestor should not be involved in any District travel decisions, or matters relating thereto, including the selection of the mode of transportation, the travel agency to be used, or the creation or revision of District travel policy; (3) the opinion requestor should not be involved in determining competitive bidding policies or requests for proposals from travel agencies; and (4) the opinion requestor should meet with the District chief, his supervisor, and all other deputy chiefs to develop internal policies for the District which would be consistent with these guidelines.

## GUIDELINES

A specific conflict of interest must be apparent from the circumstances or established by sufficient evidence in order to justify a finding that the Code of Ethical Standards has been violated. A potential for conflict is apparent from the circumstances identified in this opinion request. Accordingly, though no specific violation by the opinion requestor is found to have yet occurred, the opinion requestor is directed to follow the guidelines contained in this Opinion in order to ensure continued compliance with the Code of Ethical Standards.

## COMMENT

It is specifically noted that the foregoing Opinion applies only to these specific circumstances, and may not apply to other circumstances. The provisions of NRS 281.481 quoted and discussed above must be applied on a case-by-case basis, the results of which will vary depending on the specific facts and circumstances involved.

DATED: August 15, 1994.

NEVADA COMMISSION ON ETHICS

By: /s/ THOMAS R. C. WILSON, Chairman