

BEFORE THE NEVADA COMMISSION ON ETHICS

**In the Matter of the Request for Opinion concerning the conduct of
WILLIAM RAGGIO, Senator, State of Nevada**

This Opinion is in response to a third-party opinion request filed with the Nevada Commission on Ethics by Ralph Tingley regarding the conduct of Senator William Raggio. The issue presented was whether Mr. Raggio used his office as a state senator to gain an unwarranted privilege of a helicopter trip to his hunting lodge in the Winnemucca area.

A hearing on the opinion request was held on Saturday, March 9, 1996 in Carson City, Nevada. At the hearing, the following witnesses were sworn and gave testimony: William Raggio, John Sande, William Molini, Jack Logan, John Remlinger and Ralph Tingley. After hearing the testimony in closed session, the Commission determined that just and sufficient cause existed to issue an opinion, at which time the Commission made public all of the proceedings and records of this matter, including this opinion. Based upon the foregoing, the Commission makes the following Findings of Fact, Conclusions of Law, and Opinion.

FINDINGS OF FACT

1. William Raggio is a state senator from Reno and as such is a public officer pursuant to NRS 281.4365(1). William Molini is the director of the Nevada Division of Wildlife of the Department of Conservation and Natural Resources (NDOW) and as such is a public officer pursuant to NRS 281.4365(1). John Sande is a partner in the law firm of Vargas & Bartlett in the firm's Reno office, the same office in which Mr. Raggio is also a partner. Mr. Sande is also a prominent legislative lobbyist, but he is not a state officer or employee.
2. At the times pertinent hereto Senator Raggio served as Chairman of the Senate Finance Committee. NDOW comes before this committee on budget issues and requests for capital expenditures, including the purchase of helicopters.
3. Senator Raggio is also a chukar hunter and is a member of the Humboldt Hunting Club in northern Humboldt County, near the Montana Range.
4. During budget hearings there was regularly a great deal of discussion regarding chukar hunting and the count of chukar. NDOW reported yearly on the numbers of chukar as well as other game. Senator Raggio was skeptical when advised that one of the uses for one of the original helicopters NDOW sought approval for the purchase of was to count chukar, and indicated that he would very much like to take a trip sometime and see first-hand how chukar could be counted from a helicopter. Senator Raggio made this request on a number of occasions over a period of several years. In the 1991 session, NDOW sought and obtained approval for the purchase of a second Jet Ranger, similar to the one taken on the trip which is the subject of this opinion.
5. After that legislative session ended, in July, 1991, Mr. Molini contacted Senator Raggio and told him they were planning a trip to the chukar hunting area in the helicopter and asked if the Senator would like to accompany them. The Senator agreed and asked if his law partner, John Sande, who is also an avid hunter and lobbyist for the Nature Conservancy, could accompany them. Mr. Molini agreed.
6. The trip occurred August 21 and 22, 1991. Four people took the trip: Mr. Remlinger, the pilot, Mr. Sande, Mr.

Raggio and Mr. Molini. When Mr. Raggio found out that they would be gone overnight and would stay in Winnemucca, he offered the use of his double-wide at the Humboldt Hunting Club. He also offered to supply dinner for the four of them. It is not unusual for helicopters from NDOW to park overnight at the hunt club and for members of NDOW to stay there overnight. The hunt club tries to encourage the best possible rapport with the Department.

7. The group left Reno and headed for Winnemucca where they took on fuel and then flew to the club where they spent the night at the double-wide of Mr. Raggio. As promised, Mr. Raggio did provide both food and lodgings for all four men. The next day they arose and toured the Montanas and the Jacksons, both mountain ranges. The pilot gave demonstrations of how the helicopter would traverse the canyons, flushing up chukar so that they would be counted. The Senator asked many questions about the aircraft and the pilot demonstrated its capabilities. A number of other areas of concern and/or interest to NDOW were also shown to Mr. Raggio and Mr. Sande in the course of the two day trip, including wildlife guzzlers installed toward Lovelock, the Humboldt Sink which was at the time seriously suffering from the drought, the new wildlife area established by the Amex Gold Sleeper Mine outside of Winnemucca and wild burros.

8. After the helicopter left Winnemucca the first day, on the way to the hunt club, the passengers could see two wildfires burning north of their position. A pilot of an aircraft involved in fighting the fire contacted the NDOW helicopter indicating there was at least one injured firefighter and they could use assistance. Originally, Mr. Molini indicated they would go, but ultimately they did not assist after they learned that Care Flight was on its way from Reno. Although there was some dispute between the testimony of Mr. Molini and that of the pilot, Mr. Remlinger, regarding the exact sequence of events involving the decision not to respond to the fire, the evidence was clear and undisputed that neither Mr. Raggio nor Mr. Sande had any part in that decision.

8. At no time was this a hunting trip. It should be noted that the trip occurred in August, and chukar hunting season is in October. No guns were brought on board.

9. This was also not an official chukar counting trip, nor was it intended to be such. Those trips have a designated flight area and specified patterns. In addition, biologists perform the surveys. Further, Mr. Molini had not flown chukar surveys in a jet helicopter and he wished to double check the data his employees had been collecting.

10. It is usual and customary for legislators to go to agencies whose activities and budgets they oversee and have their equipment demonstrated. Legislators have taken helicopter rides for other purposes as well. NDOW has also taken members of wildlife advisory boards, count commissioners and, less frequently, members of the public up in the helicopters.

ANALYSIS AND OPINION

The Commission has jurisdiction in this matter pursuant to NRS 281.511(2). Based upon the Findings of Fact, the Commission concludes that at all pertinent times, Mr. Raggio and Mr. Molini were public officers as defined in NRS 281.4365(1).

NRS 281.481 (2) provides: "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." The question presented in this matter is whether Mr. Raggio received an unwarranted privilege or advantage by accepting Mr. Molini's invitation to go on the NDOW flight. We conclude that the evidence presented does not establish a violation of the foregoing statute. The trip had legitimate legislative purposes. It had been discussed as a possibility for some time. It was made in the context of a history of appropriations for NDOW, including helicopters. The uses that NDOW put the helicopters to as well as the Department's general game management were well-illustrated by this trip.

It is not unusual for, and, indeed, is a legitimate expectation of, a legislator such as Mr. Raggio, to undertake to observe the functioning of state agencies and departments and to see first-hand to what use these agencies and departments put the tools and assets paid for by the tax payers of this state.

In addition, the evidence shows that there was no connection between the decision by Mr. Molini to not proceed to the fires and Mr. Sande, Mr. Raggio and the purpose of the trip.

COMMENT

It is specifically noted that the foregoing Opinion applies only to these specific circumstances. The provisions of NRS 281.481 quoted and discussed above must be applied on a case-by-case basis, with results which may vary depending on the specific facts and circumstances involved.

DATED: December 2, 1996.

NEVADA COMMISSION ON ETHICS

By: /s/ MARY BOETSCH, Chairwoman