

Abstract of Advisory Opinion No. 99-08

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Advisory Opinion of Public Officer

This Opinion is in response to a first-party opinion request filed with the Nevada Commission on Ethics (Commission) by Mr. A. Mr. A is employed by the State of Nevada.

As a hobby, while not acting in his official public capacity, Mr. A races, builds and maintains race cars. The vehicles, trailers, and all assets associated with this hobby are owned by Corporation W (Corporation). Mr. A is not an officer or shareholder in this Corporation. As a driver, Mr. A is not paid or compensated in any manner. All prize money obtained is deposited into the corporate account.

Because auto racing is expensive, the Corporation accepts sponsorships from local businesses, corporations and associations in order to offset expenses. These sponsorships come in many forms; monetary, in-kind services, and parts. All sponsorships are made directly to the Corporation.

Mr. A requested an opinion concerning NRS 281.481(2) dealing with unwarranted privileges. Specifically, Mr. A asked:

1. If he could participate in local racing events that award prize money;
2. If he could participate in local racing events while driving a car that is sponsored by local businesses; and
3. If he exercises the normal duties of driving a corporate car, has he, in any way, violated the proscription in NRS 281.481(2) against using his position in government to secure an unwarranted privilege.

A hearing on the opinion request was held on April 15, 1999. Mr. A appeared and presented testimony. He did not waive his statutory confidentiality, so the proceeding was not open to the public.

Based on the foregoing, the Commission makes the following Findings of Fact, Conclusions of Law, and Opinion.

FINDINGS OF FACT

1. Mr. A is employed by the State of Nevada as a public officer.
2. As a hobby, Mr. A races cars for a corporation.
3. Mr. A is not compensated for driving the vehicle. All purses won are paid directly to the corporation.
4. Mr. A is not an officer or shareholder in the Corporation.

OPINION

The Commission has jurisdiction in this matter pursuant to NRS 281.511(1). Based upon the Findings of Fact, the Commission concludes that Mr. A is a public officer as defined in NRS 281.4365.

NRS 281.481(2), the relevant statutory provision in this matter, provides in pertinent part that:

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.

Based on the above and the testimony presented, the Commission determines that it is not a violation of NRS 281.481(2) for Mr. A to continue with his auto racing hobby as long as funds are not solicited from industries that Mr. A regulates in his capacity as a public officer.

CONCLUSION

The Commission finds that it would not be a violation of NRS 281.481(2) for Mr. A to continue with his hobby of racing cars for Corporation. However, Mr. A must be careful to ensure that funds are not solicited from industries he regulates in his capacity as a public officer.

COMMENT

It is specifically noted that the foregoing Opinion applies only to these specific circumstances. The provisions of the NRS 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: January 3, 2000.

NEVADA COMMISSION ON ETHICS

By: /s/ MARIO RECANZONE, Vice Chairman