

Abstract of Advisory Opinion No. 00-10

BEFORE THE NEVADA COMMISSION ON ETHICS

IN THE MATTER OF THE REQUEST FOR ADVISORY OPINION OF PUBLIC OFFICER

This matter came before the Nevada Commission on Ethics ("Commission") on Thursday, May 25, 2000, for hearing on the first-party opinion request filed with the Commission on May 8, 2000, by Public Officer pursuant to Subsection 1 of NRS 281.511. Notice of the hearing was properly served. The hearing was closed pursuant to NRS 281.511, Subsection 5.

Public Officer seeks an Advisory Opinion from the Commission regarding the ethical implications for him should one of his public officer colleagues become a financial partner in his business as a result of his pursuing a private placement of his business.

Specifically, Public Officer requests the Commission to render an advisory opinion on whether (1) he and other public officer colleagues may form a private business partnership; and (2) if such a private business partnership is formed, will each partner "inherit" all disclosure and abstention obligations of the other partner/partners?

Public Officer appeared in person and with his attorney, presented the facts and circumstances surrounding his advisory opinion request, and answered questions raised by the Commission.

The Commission, after full consideration of the request for advisory opinion and all of the facts and circumstances presented by Public Officer makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Public Officer holds an elected position.
2. In his private capacity, Public Officer is president and owner of Private Company. Private Company owns two local businesses.

CONCLUSIONS OF LAW

1. Public Officer is a public officer as defined by NRS 281.005 and NRS 281.4365.
2. The Commission has jurisdiction to render an opinion in this matter pursuant to NRS 28 1.511(1).

WHEREFORE, on motion duly made, seconded, and approved by unanimous vote, [\[1\]](#) the Commission renders the following Opinion:

OPINION

NRS 281.501 addresses a public officer's disclosure, participation, and voting/abstention ethical obligations in the context of his or her public office. NRS 281.501 mandates broad disclosure requirements for public officers. Further, under NRS 281.501, whether or not a public officer shall vote upon or advocate the passage or failure of and matter before him or her turns on the extent to which the independence of judgment of a reasonable person in the same situation would be materially affected.

The mere formation of a private business partnership as presented in Public Officer's request for advisory opinion does not in and of itself constitute a violation of NRS 281.501, and the Commission has no authority to approve or disapprove any such business relationship. Further, should Public Officer and one of more of his public colleagues

enter into a private business relationship, they will each need to consider the requirements of NRS 281.501 on a case-by-case basis as matters come before them in their public capacities. The Commission cannot render a general advisory opinion on this matter because the facts are broad and will change as particular circumstances change. Rather, the Commission refers Public Officer to Commission Opinion No. [99-56](#) ("the Woodbury Opinion") in which the Commission previously addressed in detail the disclosure/participation/abstention requirements of NRS 281.501.

NOTE: THE FOREGOING OPINION APPLIES ONLY TO THE SPECIFIC FACTS AND CIRCUMSTANCES DEFINED HEREIN. FACTS AND CIRCUMSTANCES THAT DIFFER FROM THOSE IN THIS OPINION MAY RESULT N AN OPINION CONTRARY TO THIS OPINION. NO INFERENCES REGARDING THE PROVISIONS OF NEVADA REVISED STATUTES QUOTED AND DISCUSSED IN THIS OPINION MAY BE DRAWN TO APPLY GENERALLY TO ANY OTHER FACTS AND CIRCUMSTANCES.

DATED: June 30,2000.

NEVADA COMMISSION ON ETHICS

By: /s/ MARIO G. RECANZONE, Vice Chairman

[\[1\]](#) Vice Chairman Recanzone presided over the hearing. Chairman Bernhard disclosed a potential conflict of interest in this matter and recused himself.