

Opinion No. 02-10

BEFORE THE NEVADA COMMISSION ON ETHICS

IN THE MATTER OF THE REQUEST FOR OPINION OF

**JAMES J. JIMMERSON, Esq., Former Chairman and Member,
Board of Directors, Nevada Taxicab Authority**

This matter came before a quorum of the Nevada Commission on Ethics (hereinafter the "Commission") for hearing on July 11, 2002, pursuant to a Request for Opinion submitted to the Commission in proper form by James J. Jimmerson, Esq., former Chairman and Member of the Board of Directors of the Nevada Taxicab Authority, pursuant to the provisions of NRS 281.236, Subsection 4. Mr. Jimmerson seeks an opinion from the Commission (1) confirming that he may be employed by a business or industry whose activities are governed by regulations adopted by the Nevada Taxicab Authority (i.e., a taxicab company) subsequent to December 31, 2002, one year after the termination of his service as a members of the Board of Directors of the Nevada Taxicab Authority, without violating the provisions of NRS 281.236, Subsection 3; (2) confirming that he may, prior to January 1, 2003, without violating the provisions of NRS 281.236, Subsection 3, appear before the Nevada Transportation Services Authority as legal counsel for a client seeking a license for a new limousine company from the Nevada Transportation Services Authority; and (3) confirming that he may acquire an ownership interest in a new limousine company, either by virtue of contributing capital or receiving compensation for his expertise and services, prior to January 1, 2003, without violating the provisions of NRS 281.236, Subsection 3.

Notice of the hearing was properly posted and served. Mr. Jimmerson appeared in person and provided sworn testimony.

The Commission, after hearing testimony and considering the evidence presented herein, makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. James J. Jimmerson, Esq., was formerly the Chairman and a member of the Board of Directors of the Nevada Taxicab Authority. Mr. Jimmerson was appointed to serve on the Nevada Taxicab Authority Board on August 18, 1995, by then Governor Miller and subsequently re-appointed by Governor Guinn. He served as a member of the Nevada Taxicab Authority Board until December 31, 2001. He served as Chairman for four of those years.
2. The Nevada Taxicab Authority was created by statute^[1] in 1969 to regulate the operation (including fares) of taxicabs in certain counties.^[2] The Nevada Taxicab Authority has no authority over the limousine business.
3. The Transportation Services Authority was created by statute^[3] in 1997 and regulates the operation (including fares) of limousines and other transportation businesses. The Transportation Services Authority has no regulatory authority over taxicabs.^[4]
4. The Nevada Taxicab Authority has no authority to formulate policies or procedures that affect the Transportation Services Authority, and Mr. Jimmerson's principal duties as a member or Chairman of the Nevada Taxicab Authority did not include the formulation of policy contained in the regulations governing businesses regulated by the Transportation Services Authority.
5. During the immediately preceding year, Mr. Jimmerson performed no activities, nor did he control or influence

an audit, decision, investigation or other action, which significantly affected any business regulated by the Transportation Services Authority.

6. As a result of his service on the Nevada Taxicab Authority Board, Mr. Jimmerson neither possessed nor acquired trade secrets^[5] related to the limousine business.

7. The new limousine company in which Mr. Jimmerson may potentially acquire an ownership interest does not yet exist; rather, if the company is actually organized, it will be a new venture at some future date and no one who has an existing license for a taxicab business will be affiliated in any way with the new limousine company.

CONCLUSIONS OF LAW

1. Mr. Jimmerson is a former public officer as defined by NRS 281.005 and NRS 281.4365.
2. NRS 281.236, Subsection 4, authorizes the Commission to render an opinion in this matter.

WHEREFORE, the Commission unanimously renders the following Opinion:

OPINION

The intent of the Nevada Legislature when it provided the one-year "cooling off" period in NRS 281.236 was to prevent public officers who served as major staff members or board members of the Nevada Public Utilities Commission, the Nevada Gaming Commission, and other regulatory commissions from immediately appearing in a private capacity before the board on which they served and the members with whom they served after terminating their public service to the board. That situation does not exist in this matter. Mr. Jimmerson seeks to appear before a board (the Nevada Transportation Services Authority) of which he was never a member and for which he never served in a staff capacity. Therefore, neither Mr. Jimmerson's involvement and/or ownership interest in a new limousine company nor his representing clients before the Nevada Transportation Services Authority prior to January 1, 2003, would violate the provisions of NRS 281.236, Subsection 3.

Further, based upon the provisions of NRS 281.236, Subsection 3, Mr. Jimmerson may be employed by a business or industry whose activities are governed by regulations adopted by the Nevada Taxicab Authority (i.e., a taxicab company), and may, in a private capacity, appear before the Nevada Taxicab Authority, subsequent to December 31, 2002, one year after the termination of his service as a members of the Board of Directors of the Nevada Taxicab Authority, without violating the provisions of NRS 281.236, Subsection 3.

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 IN 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: August 8, 2002.

NEVADA COMMISSION ON ETHICS

By: /s/ TODD RUSSELL, Chairman

[1] NRS 706.8818.

[2] The regulatory authority of the Nevada Taxicab Authority is limited (a) to those counties whose population is 400,000 or more, and (b) for whom regulation by the taxicab authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the taxicab authority.

[3] NRS 706.1511

[4] However, since 1997 (pursuant to NRS 706.8819, Subsection 2), appeals from final decisions of the Nevada Taxicab Authority must be made to the Transportation Services Authority. Since 1997, the Transportation Services Authority has heard three (3) such appeals.

[5] Pursuant to Nevada's Trade Secrets Uniform Act (NRS Chapter 600A), "trade secret" means information, including, without limitation, a formula, pattern, compilation, program, device, method, technique, product, system, process, design, prototype, procedure, computer programming instruction or code that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other persons who can obtain commercial or economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. NRS 600A.030(5).