



STATE OF NEVADA
COMMISSION ON ETHICS

BEFORE THE NEVADA COMMISSION ON ETHICS

IN THE MATTER OF THE REQUEST FOR OPINION
CONCERNING THE CONDUCT OF
JOHN HAWK, Member, State Board of Education.

Opinion No. 04-34

This matter came before a quorum¹ of the Nevada Commission on Ethics (hereinafter the “Commission”) for hearing on August 18, 2004, pursuant to a Request for Opinion filed on May 19, 2004, on the Commission’s own motion pursuant to NRS 281.511(2)(c), and a determination on July 16, 2004, by a Commission panel finding just and sufficient cause for the Commission to hold a hearing on the matter and render an opinion on whether State Board of Education Member John Hawk’s conduct violated the provisions of NRS 281.481(1), NRS 281.482(2), NRS 281.501(2), and/or NRS 281.501(4).

The following issues are before the Commission in this matter:

1. Did John Hawk, as an elected member of the State Board of Education, “seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties,” in violation of NRS 281.481(1), by serving as an elected member of the State Board of Education (the public body to which John Hawk

¹ The quorum consisted of Chairman Hsu and Commissioners Berman, Cashman, Flangas, and Keele. Commissioners Mark Hutchison and Caren Jenkins served as the panel in this matter. Pursuant to NRS 281.462(4), panel members are prohibited from participating in any further proceedings of the Commission relating to the matter.

submitted his Nevada State High School charter application for sponsorship after the Clark County School District denied sponsorship) while concurrently participating in the Nevada State High School charter school application process and receiving a salary for his employment with Nevada State High School charter school?

2. Did John Hawk, as an elected member of the State Board of Education, “use his position in government to secure or grant unwarranted² privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person”³ with regard to the Nevada State High School charter school application, in violation of NRS 281.481(2)?

3. Did John Hawk, as an elected member of the State Board of Education, vote upon or advocate the passage or failure of a matter (specifically, the Nevada State High School charter school application) with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by (a) his acceptance of a gift or loan; (b) his pecuniary interest; or (c) his commitment in a private capacity to the interests of others,”⁴ in violation of NRS 281.501(2)?

4. Did John Hawk, as an elected member of the State Board of Education, “approve, disapprove, vote, abstain from voting or otherwise act upon any matter (a) regarding which he has accepted a gift or loan; (b) which would reasonably be affected by his commitment in a private capacity to the interest of others; or (c) in which he has a pecuniary interest, without

² As used in NRS 281.481(2), “unwarranted” means without justification or adequate reason.

³ As used in NRS 281.481(2) and NRS 281.501, “commitment in a private capacity to the interests of that person” means a commitment to a person (a) who is a member of his household; (b) who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity; (c) who employs him or a member of his household; (d) with whom he has a substantial and continuing business relationship; or (e) any other commitment or relationship that is substantially similar to a commitment or relationship described in (a) through (d).

⁴ See, fn 2 above.

disclosing (in public to the Chairman and other members of the State Board of Education at the time the matter was considered) sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest,” with regard to the Nevada State High School charter school application, in violation of NRS 281.501(4)?

Notice of the hearing was properly posted and served. John Hawk was present with his counsel, Bruce M. Judd, Esq., of the law firm of Wright Judd & Winckler, and provided sworn testimony. The following individuals appeared as witness and provided sworn testimony: Tom McCormack, Charter School Consultant, Nevada Department of Education; Keith Rheault, Superintendent of Public Instruction, Nevada Department of Education; Wendi Hawk, John Hawk’s spouse and co-director of Nevada State High School Charter School; Richard Segerblom, Esq., legal counsel for Nevada State High School Charter School.

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. In his public capacity, John Hawk is an elected member of the State Board of Education. He was elected in November 2000 and assumed office in January 2001. His elected term expires in 2004.

2. In his capacity as an elected member of the State Board of Education, John Hawk was a member of the State Board of Education’s charter school subcommittee until August 15, 2003, when he was officially replaced on the subcommittee by another member of the State Board of Education.

3. In his private capacity, John Hawk is an employee of the Clark County School District. John Hawk and his wife, Wendi Hawk, also a Clark County School District employee, have been actively involved in seeking sponsorship approval of a charter school application for Nevada State High School.

4. The charter school subcommittee participates in drafting the state regulations that govern charter schools in Nevada. All business relating to charter schools goes to the charter school subcommittee before it goes before the State Board of Education. The charter school subcommittee makes recommendations to the State Board of Education regarding charter school applications. Members of the charter school subcommittee are expected to learn and know the nuances of the charter school rules and regulations.

5. The State Department of Education's charter school consultant participates in proposing and writing regulations that affect charter schools for the State Board of Education, acts as the primary contact person between the State Department of Education and charter school applicants in the charter school application process, and participates in the review of charter school application for completeness determination.

6. Once the State Board of Education determines that a charter school application is complete, the application is submitted by the applicant to the proposed sponsor, which is one of Nevada's seventeen (17) school districts. A charter school application cannot be submitted to a local school district for sponsorship until the State Board of Education has determined that the application is complete.

7. The local school district reviews the charter school application for both completeness and compliance with the law and regulations and makes a determination of whether it is interested in sponsoring the charter school. By statute, local school district approval is discretionary.

8. If the local school district declines to sponsor the charter school, the applicant may revise the charter school application and resubmit it to the local school district for reconsideration. If the local school district, for any reason, again declines to sponsor the charter school, the applicant may submit the charter school application to the State Board of Education for sponsorship.

9. If the charter school application is determined to be complete and compliant, the State Board of Education, by law, “shall” approve the application. The State Board of Education has no discretion otherwise.

10. The State Board of Education has never rejected a charter school application submitted to it after sponsorship of the charter school has been declined twice by a local school district.

11. If the State Board of Education approves an application to form a charter school, it shall grant a written charter to the applicant and it shall be deemed the sponsor of the charter school. The written charter is a contract between the charter school sponsor and the applicant and is signed by both.

12. The charter may be granted under Subsection 2 or Subsection 4 of NRS 386.527, depending on whether the charter school applicant is prepared to commence operation on the date of issuance of the written charter. A charter issued under either subsection is a valid charter and constitutes sponsorship by the State Board of Education.

13. Charter Schools in Nevada are funded with public money, private donations, and private and public grants. Charter Schools in Nevada receive a publicly funded distribution of approximately \$5,000 per student.

14. Once a Subsection 2 or a Subsection 4 charter has been issued, the charter school applicant may apply for grant funds through the State Department of Education from a federal grant received by the State of Nevada from the U. S. Department of Education.

15. John Hawk's first application for the Nevada State High School charter school was submitted to the Department of Education for initial review on September 18, 2003. Although John Hawk and Wendi Hawk were involved in the charter school application process, John Hawk was the primary contact person with Tom McCormack, the charter school consultant for the State Department of Education, regarding the Nevada State High School charter school application.⁵

16. Tom McCormack felt no pressure from John Hawk to approve the charter school application.

17. John Hawk's charter application for Nevada State High School charter school went through the charter school subcommittee process prior to going before the State Board of Education.

18. On November 13, 2003, John Hawk appeared before the Nevada Commission on Ethics for a closed hearing on his Request for Advisory Opinion No. 03-45 regarding whether his private interest in the proposed Nevada State High School charter school conflicts with his public duties as an elected member of the Board of Education in violation of Nevada's Ethics in Government Law.

⁵ John Hawk, two-thirds; Wendi Hawk, one-third.

19. Following the November 13, 2003, hearing, the Commission rendered the following opinions based upon its interpretation of the relevant statutes:

- a. When a matter is before the Board of Education that implicates Nevada State High School charter school and/or charter schools in general, NRS 281.501 requires Dr. Hawk to ***disclose his private commitments and his pecuniary interests and the effect those commitments and interests can have on the decision-making process***. In making a disclosure, Dr. Hawk ***must disclose sufficient information concerning his commitments in a private capacity and his pecuniary interests to inform the public of the potential effect of his action as required by NRS 281.501(4)***.

- b. If the State Board of Education sponsors Nevada State High School charter school for which Dr. Hawk and his wife serve as co-directors, Dr. Hawk, as an elected member of the State Board of Education, is in a position of being able to exercise authority over and exert pressure on the person who has the power to exercise authority over the charter school's charter. Consequently, ***should the Clark County School District reject sponsorship and the State Board of Education becomes Nevada State High School charter school's sponsor, Dr. Hawk's dual positions as an elected member of the State Board of Education and as a co-director with his wife of Nevada State High School charter school would create an impermissible conflict of interest between his public duties and his private interests under Nevada's Ethics in Government law based upon the potential for Dr. Hawk to use his public office to benefit the charter school in which he and his wife have personal and pecuniary interests***.

Therefore, ***should the State Board of Education ultimately sponsor Nevada State High School charter school and Dr. Hawk and his wife serve as the charter school's co-directors***, to avoid an inherent conflict of interest under Nevada's Ethics in Government law, ***Dr. Hawk will be required to resign his position as an elected member of the State Board of Education***.

See, Advisory Opinion No. 03-48.

20. John Hawk understood that he had the right to appeal Advisory Opinion No. 03-48 to the District Court for judicial review pursuant to the provisions of NRS 233B. John Hawk did not appeal the Commission's opinion.

21. On or about November 17, 2003, John Hawk, as the “Authorized Designee” for Nevada State High School charter school, submitted to the State Department of Education a request for grant funds in the amount of \$100,000.00. The full amount of the request was approved by the State Department of Education on January 29, 2004.

22. On February 12, 2004, the Clark County School District approved the charter for the Nevada State High School charter school.

23. On March 11, 2004, the Clark County School District rescinded its charter approval based upon concerns about unlicensed teachers, a proposed 142-day of instruction versus the required 180 days of instruction, and issues related to costs to the State of Nevada.

24. On March 25, 2004, Clark County School District denied the Nevada State High School charter for the second time.

25. Beginning in April 2004, John Hawk and Wendi Hawk began receiving salaries from Nevada State High School charter school through a federal start-up grant. The salaries John Hawk and Wendi Hawk received totaled \$34,320 for April, May, and June 2004.

26. On April 5, 2004, after being twice denied by the Clark County School District, John Hawk’s application for State Board of Education sponsorship for the Nevada State High School was received by the Nevada Department of Education.

27. On May 3, 2004, John Hawk filed his candidacy for re-election to the State Board of Education.

28. At its meeting on Friday, May 7, 2004, the State Board of Education’s subcommittee on charter schools unanimously approved a recommendation for a Subsection 4 charter for Nevada State High School charter school.

29. At its meeting on May 8, 2004, by majority vote, the State Board of Education approved the recommendation of the charter schools subcommittee to grant a Subsection 4 charter to Nevada State High School charter school. John Hawk abstained from voting on the matter, stating:

“I will be abstaining from voting on this particular item because of my closeness as a member of the Committee to Form the Nevada State High School. But I would be very open to answering any particular questions that any Members of this particular Board have concerning the high school.”

30. When the State Board of Education approved a Subsection 4 charter for Nevada State High School charter school, the State Board of Education became the charter school’s sponsor, and the school’s committee to form the charter school dissolved to allow the school’s governing body to be put in place.

31. After receiving State Board of Education sponsorship for the Nevada State High School charter school, John Hawk and Wendi Hawk remained Clark County School District employees.

32. As of July 6, 2004, John Hawk indicated that he was undecided regarding whether to continue his service as an elected member of the State Board of Education.

33. On July 25, 2004, John Hawk verbally resigned from the State Board of Education.

CONCLUSIONS OF LAW

1. John Hawk is a public officer as defined in NRS 281.4365.
2. The Commission has jurisdiction to render an opinion in this matter pursuant to NRS 281.465 and NRS 281.511, Subsection 2(c).

WHEREFORE, based upon a preponderance of the evidence in this matter, the Commission renders the following Opinion:

OPINION

As explained in the Commission's Advisory Opinion No. 03-48 regarding John Hawk's first party opinion request, the Nevada Legislature's declaration of public policy concerning Nevada's Ethics in Government Law (NRS 281.411-281.581) offers important guidance to public officers. In enacting Nevada's Ethics in Government Law, the Nevada Legislature declared it to be the public policy of this state that a "public office is a public trust and shall be held for the sole benefit of the people" and that a "public officer or employee must conduct himself to avoid conflicts between his private interests and those of the general public whom he serves." Further, the Nevada Legislature has declared that, "to enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the role of persons who are both public servants and private citizens." NRS 281.421.

The apparent intent of the ethical standards provided in NRS Chapter 281 is to prevent public officers and employees from becoming involved in situations generating conflicts between private and public interests so as to preserve and enhance impartiality of public officers and faith in the integrity of government. In performing their public duties, therefore, public officers must be mindful of the Nevada Legislature's public policy declarations of NRS 281.421 and conduct themselves to avoid conflicts between their private interests and those of the general public whom they serve.

Despite being specifically advised by the Commission of his responsibilities and duties under NRS Chapter 281 in reference to his elected position on the State Board of Education and

his efforts to open a charter school, John Hawk engaged in conduct that was directly contrary to the Commission's advice which resulted in violations of his ethical duties: (1) not to seek an economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; and (2) to disclose sufficient information to the public about his pecuniary interest in his charter school when its application was considered by the State Board of Education. John Hawk's violations were willful as defined in NRS 281.4375, and warrant the imposition of a \$1,000.00 fine pursuant to NRS 281.551(1).

A. **NRS 281.481 IMPOSES THE ETHICAL STANDARDS BY WHICH ELECTED OFFICIALS MUST CONDUCT THEMSELVES.**

NRS 281.481 establishes the general code of ethical standards that govern public officers and employees.

1. John Hawk Violated the Provisions of NRS 281.481(1).

NRS 281.481(1) states:

“A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.”

A charter granted pursuant to NRS 386.527 is a charter whether it is granted pursuant to Subsection 2 or Subsection 4. According to the statute, once a charter of any type is approved by the State Board, the State Board becomes the school's sponsor. This was confirmed by both Tom McCormack, charter school consultant, and Keith Rheault, Superintendent of Public Instruction. During the November 13, 2003, hearing on Request for Advisory Opinion No. 03-48, the Commission advised John Hawk that his service on the Board of Education would create an inherent conflict if the State Board of Education sponsored Nevada State High School charter

school. When the Subsection 4 charter for the Nevada State High School Charter School was approved by the State Board of Education on May 8, 2004, and the State Board of Education became the charter school's sponsor, John Hawk's position on the Board became inherently and impermissibly in conflict with his duties to the charter school. In particular, John Hawk had a financial interest in the written charter approved by the State Board of Education, which was a legal contract between the Board and the charter school. Once the grant monies that were paying the salaries of John Hawk and his wife were expended, neither he nor his wife would be able to continue receiving a salary from the charter school without the Board's sponsorship of the school and approval of the charter. Because of the significant pecuniary interest that John Hawk had in this contract with the State Board of Education, he could only avoid this impermissible conflict by resigning from the Board, which he refused to do. By retaining his position as a member of the Board, John Hawk would have the untenable power to exert undue influence over the Superintendent of Public Instruction, as discussed in the Commission's Advisory Opinion No. 03-48.

Having received the Subsection 4 charter and making the choice not to resign from the State Board of Education, John Hawk continued to advocate for the charter school by seeking a Subsection 2 charter from the State Board of Education. The Board's approval of the Subsection 2 charter would have allowed John Hawk and his wife to continue their economic opportunities as co-directors of the charter school and allow the school to open. Based on these circumstances, therefore, the Commission finds that John Hawk violated the provisions of NRS 281.481(1) by seeking an economic opportunity for himself and his wife that would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. *There is Insufficient Evidence That John Hawk Violated NRS 281.481(2).*

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 business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interest of that person. As used in this subsection:

- (a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281.501.⁶
- (b) “Unwarranted” means without justification or adequate reason.

The Commission finds no evidence that John Hawk used his position as an elected member of the State Board of Education to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whose interest he has a commitment in a private capacity with regard to his participation in preparing the Nevada State High School charter school application for approval consideration by the Clark County School District and the State Board of Education. Therefore, the Commission finds that John Hawk’s conduct in that regard does not violate the provisions of NRS 281.481(2).

B. NRS 281.501 REQUIRES THAT ELECTED OFFICIALS DISCLOSE PRIVATE INTERESTS IN MATTERS BEFORE THEM.

NRS 281.501 requires public officers to adequately disclose private interests and commitments when considering matters before them and, as appropriate, refrain from advocating the passage or failure of matters and abstain from voting on matters when the independence of

⁶ NRS 281.501, Subsection 8: “... ‘commitment in a private capacity to the interests of others’ means a commitment to a person: (a) who is a member of his household; (b) who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity; (c) who employs him or a member of his household; (d) with whom he has a substantial and continuing business relationship; or (e) any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.”

judgment of a reasonable person in their position would be materially affected by such personal commitments and/or interests.

1. *There is no Evidence That John Hawk Violated the Provisions of NRS 281.501(2).*

NRS 281.501, Subsection 2, states, in pertinent part:

...in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

- (a) His acceptance of a gift or loan;
- (b) His pecuniary interest; or
- (c) His commitment in a private capacity to the interests of others.

It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 3 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

The Commission finds no evidence that John Hawk failed to abstain from voting upon and/or advocating the passage or failure of the Nevada State High School charter school application when it came before the Nevada State Board of Education on May 8, 2004. In fact, the evidence is clear that John Hawk affirmatively abstained from voting as a member of the State Board of Education on the Nevada State High School charter school application. Therefore, the Commission finds no violation by John Hawk of NRS 281.501(2).

2. *John Hawk Violated NRS 281.501(4).*

NRS 281.501(4) provides, in relevant part:

A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

- (a) Regarding which he has accepted a gift or loan;
- (b) Which would reasonable be affected by his commitment in a private capacity to the interest of others; or
- (c) In which he has a pecuniary interest, without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest.

The disclosure and abstention provisions of NRS 281.501 are at the heart of Nevada's public policy that requires public officers, who are both public servants and private citizens, to perform their public duties in a manner that will enhance the people's faith in their integrity and impartiality.⁷ When faced with a conflict between his private interests and those of the public whom he serves, NRS 281.501 requires a public officer to disclose sufficient information concerning his private interests and/or commitments to inform the public of the potential effect of his action or abstention upon those private interests and/or commitments. This gives the citizens represented by the public officer the opportunity they deserve to evaluate the nature of the conflict and the public officer's exercise of discretion in determining whether the conflict will materially affect his judgment.

In the Commission's Advisory Opinion No. 03-48, John Hawk was specifically admonished that NRS 281.501(4) required that he, as an elected official who had a pecuniary interest in a charter school application before the State Board of Education, disclose sufficient information to inform the public of his pecuniary and other interests in that charter school.

⁷ See, NRS 281.421.

“When a matter is before the Board of Education that implicates Nevada State High School charter school and/or charter schools in general, NRS 281.501 requires Dr. Hawk to *disclose his private commitments and his pecuniary interests and the effect those commitments and interests can have on the decision-making process*. In making a disclosure, Dr. Hawk *must disclose sufficient information concerning his commitments in a private capacity and his pecuniary interests to inform the public of the potential effect of his action as required by NRS 281.501(4)*.”

See, Commission Advisory Opinion No. 03-48. The Commission also referred John Hawk to the Woodbury Opinion, *supra*, which John Hawk stated he read and understood.

During the May 8, 2004, hearing in which the State Board of Education voted to approve the Subsection 4 sponsorship for the Nevada State High School charter school, John Hawk abstained based upon his commitment to the school:

“I will be abstaining from voting on this particular item because of my closeness as a member of the Committee to Form the Nevada State High School.”

Notwithstanding the specific directives regarding the information he was statutorily required to disclose, John Hawk disregarded his disclosure requirements by failing to disclose that he and his wife were being compensated in connection with their involvement with the Nevada State High School charter school, and, therefore, had a significant pecuniary interest in the charter school at the time the State Board of Education voted on and approved its sponsorship. Thus, John Hawk violated the disclosure requirements of NRS 281.501(4) as cited and explained to him in Advisory Opinion No. 03-48 and Commission Opinion No. 99-56.

C. JOHN HAWK’S STATUTORY VIOLATIONS WERE WILLFUL.

A public officer’s violation of provisions of Nevada’s Ethics in Government Law is “willful” if the public officer “knew or reasonably should have known” that his conduct violated the provisions of NRS Chapter 281. See, NRS 281.4375.

John Hawk knew or reasonably should have known that his position on the State Board of Education after the Nevada State High School charter school obtained its Subsection 4 charter was a violation of NRS 281.481(1). John Hawk had been previously and specifically advised by the Commission that should his charter school be sponsored by the State Board of Education, his position on the State Board of Education would create an inherent conflict in violation of his statutory duties as an elected official. Despite the fact that John Hawk could have inquired with either Tom McCormack, the charter school consultant for the State Board of Education, and Keith Rheault, the Superintendent of Public Instruction, regarding the relationship between the Nevada State High School charter school and the State Board of Education as a result of the Subsection 4 charter, John Hawk chose to hedge his bets and maintain his elected position. His compulsion to pursue a charter school has overridden his respect for the ethical conduct standards of public officers, and he has steadfastly kept all of his options open by remaining on the State Board of Education and giving the appearance of shepherding the school through the process regardless of the directives provided in Advisory Opinion No. 03-48. As a consequence, John Hawk's violation of NRS 281.481(1) was willful.

John Hawk also knew or reasonably should have known that his failure to disclose that he and his wife were being compensated in connection with their involvement with the Nevada State High School charter school, and, therefore, had a significant pecuniary interest in the charter school at the time the State Board of Education voted on and approved its sponsorship, and his disregard for the Commission's admonition about a proper disclosure in Advisory Opinion No. 03-48, violated the provisions of NRS 281.501(4). In Commission Opinion 03-48, John Hawk was provided very specific guidance regarding what information was required in his disclosure to the public about his pecuniary interest in the Nevada State High School charter

school at the time it was being considered by the State Board of Education for sponsorship. John Hawk was also referred by the Commission to the Woodbury Opinion (Opinion No. 99-56), which was directly relevant and informative on John Hawk's disclosure duties, and which John Hawk said he read and understood. Notwithstanding the plain language of the NRS 281.501(4) and the guidance provided to him, John Hawk violated NRS 281.501(4) by disregarding the guidance he sought and failing to provide the required information in his disclosure regarding the Nevada State High School charter school. His violation of NRS 281.501(4) was, therefore, willful.

D. THE COMMISSION IMPOSES A CIVIL PENALTY OF \$1,000.00 PURSUANT TO NRS 281.551(1) FOR THE TWO WILLFUL VIOLATIONS.

Pursuant to NRS 281.551(1), the Commission imposes a civil penalty of \$1,000.00 against John Hawk for his willful violations of NRS 281.481(1) and NRS 281.501(4). John Hawk shall submit his check payable to the Nevada Commission on Ethics to the Commission's Office, 3476 Executive Pointe Way, Suite 16, Carson City, Nevada 89706-7946, no later than December 31, 2004.

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: December _____, 2004.

NEVADA COMMISSION ON ETHICS

By: _____
RICK HSU, Chairman