



STATE OF NEVADA  
COMMISSION ON ETHICS

**BEFORE THE NEVADA COMMISSION ON ETHICS**

**IN THE MATTER OF THE  
REQUEST FOR ADVISORY OPINION OF  
BARBARA K. CEGAVSKE, Nevada State Senator.**

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**Advisory Opinion No. 05-16**

This matter came before the Nevada Commission on Ethics (hereinafter the "Commission") for hearing on Thursday, March 9, 2005, on the request for advisory opinion filed pursuant to NRS 281.511(a) by Barbara K. Cegavske, Nevada State Senator.

The hearing was closed pursuant to NRS 281.511, Subsection 5. Ms. Cegavske appeared in person with private counsel and legislative counsel. Following the hearing, Ms. Cegavske expressly waived the confidentiality provisions of NRS 281.511(5) and requested that this matter be public.

Ms. Cegavske requests the Commission's advisory opinion "confirming that no ethics provisions prohibit the consulting position" in which she is engaged with Sunbelt Communications Co., a Las Vegas media organization.

Through her written advisory opinion request and testimony, Senator's Cegavske provided the following facts to the Commission.

**FACTS**

1. In her public capacity, Ms. Cegavske is an elected member of the State Legislature representing District 8 in the Nevada State Senate. She began serving her present term in January 2003.

2. Ms. Cegavske was an elected member of the Nevada State Assembly during the period 1996 to 2002, representing Assembly District 5.

3. In her capacity as a member of the Nevada State Senate, Ms. Cegavske is a member of the Senate Finance Committee and chairs two Senate Finance subcommittees. She also chairs the Legislative Operations and Elections Committee and serves as vice chair of the Human Resources and Facilities Committee, which addresses education and health care issues.

4. Each biennium Ms. Cegavske receives a salary of approximately \$7,800 for her service as a member of the Nevada Legislature.

5. In her private capacity, since approximately January 2004, Ms. Cegavske has been engaged in a consulting arrangement with Sunbelt Communications, a media company, for which she is paid \$3,000 per month.

6. As a consultant, Ms. Cegavske researches and provides to Sunbelt Communications information on education, health care, and legislative issues.

7. Sunbelt Communications is owned by Jim Rogers.

8. Jim Rogers is currently the Interim Chancellor of the University and Community College System of Nevada. He was appointed Interim Chancellor on May 7, 2004.

9. Ms. Cegavske has known Jim Rogers and his wife, Beverly, for approximately three or four years.

10. Beverly and Jim Rogers contributed \$1,000 to Ms. Cegavske's campaign when she was a candidate for the Nevada State Assembly.

11. Ms. Cegavske was employed by Westcare Foundation as Director of PR/Development from 2000 to 2003. During the month of January 2004, Ms. Cegavske was engaged by Westcare Foundation as a consultant.

12. Since some time in the 1980s, Ms. Cegavske has been involved as a private citizen in issues relating to education.

13. As a legislator, Ms. Cegavske has frequently expressed her opposition to providing funding for Nevada State College in Henderson, Nevada, favoring instead to support and improve the University and Community College System of Nevada. Nevada State College was established in

Henderson in 2002. A community college also exists in Henderson. Ms. Cegavske's opposition to funding the state college at Henderson has been the subject of media reports.

14. In or about Fall 2003 (in November or December), Kerry Romesburg, president of Nevada State College at Henderson, asked Ms. Cegavske to meet with him and Bill Martin, chairman of the Nevada State College Foundation, to talk about the state college in Henderson. Jim Rogers, a supporter of Nevada State College, was also present at the meeting.

15. A week or two following the Fall 2003 meeting, at the request of Jim Rogers, Ms. Cegavske and her husband met with Beverly and Jim Rogers at The Coffee Pub, a coffee shop in Las Vegas, to discuss Ms. Cegavske's background in education and whether she had an interest in consulting with Sunbelt Communications on education and health issues and the legislative process. Ms. Cegavske told Jim Rogers she was interested and agreed to his offer of compensation in the amount of \$3,000 per month. Mr. Rogers then directed Ms. Cegavske to meet with Jamie Ioos, the television station's news director, and the station's staff.

16. The terms of the consulting arrangement between Ms. Cegavske and Sunbelt Communications do not appear in a written contract.

17. Jim Rogers was quoted in the March 4, 2005 issue of the *Las Vegas Sun* as stating, "I said to her [Ms. Cegavske], 'I think our news department might be able to use you as a consultant on issues coming up in the legislature.'" Ms. Cegavske testified that Jim Rogers did not make that statement to her at the time, but had no reason to question whether he was accurately quoted by the newspaper.

18. Jim Rogers was also quoted in the same *Las Vegas Sun* article as stating that Sunbelt Communications hired Ms. Cegavske "so we know if something big is happening." Again Ms. Cegavske had no reason to question whether Jim Rogers was accurately quoted by the newspaper.

19. Jim Rogers did not testify at the hearing regarding statements attributed to him by the newspaper.

20. Ms. Cegavske began working as a paid consultant for Sunbelt Communications on January 1, 2004, providing, upon request, information about the legislative process and gathering and

providing general local and national information relating to education and health issues. She continued to be employed in that capacity through the date of the Commission hearing.

21. With respect to the issue of education, Ms. Cegavske has discussed with and/or provided to Sunbelt Communications general information on the federal “No Child Left Behind” Act; school improvement issues such as class size reduction, space availability, construction, and bonding; how Nevada charter school legislation differs from that in other states; and certain school pilot programs.

22. Ms. Cegavske has used no Legislative Counsel Bureau legal or research division employees to obtain information for her that would assist her as a consultant to Sunbelt Communications. She obtained her information from Internet websites that are readily available to the general public and through her contacts she established prior to being elected to the Nevada legislature.

23. Pursuant to NRS 281.501, when participating in legislative matters involving education and/or the University and Community College System, Ms. Cegavske has disclosed her consulting relationship with Sunbelt Communications, which is owned by Jim Rogers, Acting Chancellor of the University and Community College System, in accordance with a written opinion from the Legislative Counsel that is filed with the Director of the Legislative Counsel Bureau.

24. Ms. Cegavske has not disclosed to Sunbelt Communications any information, sources, or resources which are not otherwise available to the public generally.

25. With the exception of the one-month verbal contract with Westcare in January 2004, Ms. Cegavske has not been retained as a consultant by anybody other than Sunbelt Communications.

#### **CONCLUSIONS OF LAW**

1. In her capacity as an elected member of the Nevada Legislature, Ms. Cegavske is a “public officer” pursuant to NRS 281.4365.

2. The Commission has jurisdiction to render an advisory opinion in this matter pursuant to NRS 281.511, Subsection 1, and NRS 281.521.

**WHEREFORE**, on motion duly made, seconded, and unanimously approved,<sup>1</sup> the Commission renders the following advisory opinion:

**OPINION**

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.

In declaring the above public policy, the Nevada Legislature found, *inter alia*, that:

Members of the Legislature serve as "citizen Legislators" who have other occupations and business interests. Each Legislator has particular philosophies and perspectives that are necessarily influenced by the life experiences of that Legislator, including, without limitation, professional, family and business experiences. Our system assumes that Legislators will contribute those philosophies and perspectives to the debate over issues with which the Legislature is confronted. The law concerning ethics in government is not intended to require a member of the Legislature to abstain on issues which might affect his interests, provided those interests are properly disclosed and that the benefit or detriment accruing to him is not greater than that accruing to any other member of the general business, profession, occupation or group.

NRS 281.421(2)(c).

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 public officers' impartiality and the public's faith in the integrity of government. See, NRS 281.421(2)(a) and (b).

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<sup>1</sup> The vote was 7-0.

In performing their public duties, therefore, public officers must be mindful of the intent of the ethics in government law and conduct themselves to avoid conflicts between their private interests and those of the general public whom they serve.

In that regard, the Code of Ethical Standards provided in Nevada's ethics in government law (NRS 281.481, *et seq.*) prohibits public officers and public employees from engaging in certain conduct that may engender an impermissible conflict of interest. The Commission particularly directs Ms. Cegavske's attention to the following provisions of Nevada's Code of Ethical Standards.

NRS 281.481(1) prohibits a public officer or public employee from seeking or accepting any "gift, service, favor, employment, engagement, emolument or economic opportunity" that would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of her public duties.

NRS 281.481(2) prohibits and public officer or public employee from using her position in government to secure or grant unwarranted "privileges, preferences, exemptions or advantages" for herself, any business entity in which she has a significant pecuniary interest, or any person to whose interests she has a commitment in a private capacity.<sup>2</sup>

NRS 281.481(5) prohibits a public officer or employee from using information acquired through her public duties or relationships, which by law or practice is not at the time available to people generally, to further the pecuniary interests of herself or any other person or business entity.

NRS 281.481(10) prohibits a public officer or public employee from seeking other employment or contracts through the use of her official position.

Ms. Cegavske testified under oath that she has never engaged in a consulting opportunity similar to her consulting arrangement with Sunbelt Communications, despite her many years of experience in the

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<sup>2</sup> "Unwarranted" means without justification or adequate reason [NRS 281.481(2)(b)]; and "commitment in a private capacity" means a commitment to a person (a) who is a member of her household; (b) who is related to her by blood, adoption or marriage within the third degree of consanguinity or affinity; (c) who employs her or a member of her household; (d) with whom she 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) [NRS 281.481(2)(a) and NRS 281.501(8)].

education industry and her extensive work at the legislature both as a private citizen and as an elected legislator. She further stated that no public resources, *e.g.*, legislative counsel or research division employees, have been used to assist her as a paid consultant for Sunbelt Communications, and that all information that she provided was readily available to the general public or through contacts she had established prior to being elected to the Nevada legislature. Nor does it appear that Ms. Cegavske actively used her official position to seek this business opportunity. However, the fact that there is no written contract governing the consulting arrangement between Ms. Cegavske and Sunbelt Communications under which she received \$3,000 per month raises concern with some of the Commissioners. Other concerns expressed by some of the Commissioners could not be answered by Ms. Cegavske alone at the hearing, including the perspective of Sunbelt Communications and Jim Rogers, and whether Ms. Cegavske would have been hired as a consultant had she not held the position of State Senator. This could be a significant factor for the Commission in determining whether Ms. Cegavske's conduct violated any provisions of the Code of Ethical Standards.

The Commission finds that based on the limited testimony presented at the hearing, there are no grounds to find that Ms. Cegavske's conduct violated any of the provisions of the Code of Ethical Standards. However, there is also an insufficient evidentiary basis that would allow the Commission to make an unequivocal finding that Ms. Cegavske has not violated the Code of Ethical Standards.

Ms. Cegavske is generally advised to carefully consider each of her commitments and relationships in light of the restrictions imposed on public officers by Nevada's Code of Ethical Standards (as interpreted by Commission opinions<sup>3</sup>), for the purpose of avoiding actual conflicts between private interests and commitments and her public duties as well as appearances of impropriety.

**NOTE: THIS MATTER IS A FIRST-PARTY ADVISORY OPINION REQUEST. FOR PURPOSES OF A FIRST-PARTY ADVISORY OPINION REQUESTED PURSUANT TO NRS 281.511(1), ALL FACTS IN THE MATTER ARE PROVIDED BY THE PUBLIC OFFICER REQUESTING THE ADVISORY OPINION, AND THE COMMISSION MAKES NO INDEPENDENT INVESTIGATION AS TO THE TRUTH OF THOSE FACTS. THE RECORD HEREIN, THEREFORE,**

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<sup>3</sup> The full text of each Commission opinion is available on the Commission's website, <http://ethics.nv.gov>.

**CONSISTS SOLELY OF FACTS PROVIDED ON THE RECORD BY THE PUBLIC OFFICER, AND THIS OPINION IS BASED SOLELY UPON THOSE FACTS. FACTS AND CIRCUMSTANCES THAT DIFFER FROM THOSE PROVIDED BY THE PUBLIC OFFICER IN THIS ADVISORY 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: June \_\_2\_\_, 2005.

NEVADA COMMISSION ON ETHICS

By: \_\_\_\_\_/s/\_\_\_\_\_  
RICK HSU, Chairman