



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the First-Party Request for
Advisory Opinion Concerning the Conduct
of **CHRISTOPHER P. BLACKBURN**,
Employee, Clark County Fire Department,
State of Nevada,

Request for Opinion No. 09-90A

Public Employee. /

OPINION

Public employee Christopher P. Blackburn requested a confidential advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.440(1) regarding the propriety of his anticipated future conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A. Blackburn appeared before a quorum¹ of the Commission on January 15, 2010, and provided sworn testimony. At the conclusion of the hearing, and after full consideration of the facts, circumstances and testimony presented, the Commission orally advised Blackburn of its decision that the Ethics Law allows a business in which he has an interest

to enter into a contract with a governmental entity pursuant to the exception set forth in NRS 281A.430(4).

The Commission subsequently issued a letter to Blackburn setting forth its decision. Blackburn waived confidentiality with respect to this proceeding. Therefore, the Commission now publishes this letter as its written Opinion.²

I. QUESTIONS PRESENTED

Whether NRS 281A.430(1) prohibits you, as a public employee and one-half owner in a private mortuary business, from entering into a contract with the Clark County Coroner.

¹ The following Commissioners participated in this opinion: Chairman George M. Keele, Esq., and Commissioners Erik Beyer, Gregory J. Gale, CPA, Paul H. Lamboley, Esq., John T. Moran, III, Esq., and James M. Shaw.

² Section II. Discussion, in relevant form and substance, reproduces the Commission's letter to the requester.

II. DISCUSSION

You asked the Commission to determine whether the Ethics Law prohibits you, as a public employee and one-half owner in a private mortuary business (La Paloma Funeral Services), from entering into a contract with the Clark County Coroner. Specifically, Clark County offers a "Professional Services Agreement" to any qualifying mortuary to participate in the Coroner's "rotation schedule" to provide transportation and mortuary services for bodies and human remains within the Coroner's jurisdiction.

NRS 281A.430(1) prohibits a public employee from entering into a contract with a governmental entity and any business entity in which the public officer has a pecuniary interest. However, NRS 281A.430(4) creates an exception under which a public employee may enter into such a contract. Based on this exception, the Commission unequivocally held that you, an owner of La Paloma Funeral Services and a public employee, would NOT violate the Ethics Law by entering into the Professional Services Agreement with the Clark County Coroner.

The Commission determined that the Professional Services Agreement between Clark County and the mortuaries constitutes a contract within the meaning of NRS 281A.430(1). However, the exception applies because: 1) the Professional Services Agreement is not subject to open competitive bidding since every mortuary satisfying the Coroner's inspection

criteria is permitted to engage in the contract; 2) the sources of supply for these mortuary services in Clark County, having a population of nearly 2 million people, are limited to a mere five to seven qualified mortuaries; 3) neither you nor La Paloma Funeral Services had any involvement in developing plans for or the specifications of the Professional Services Agreement; and 4) neither you nor La Paloma Funeral Services have any part in deciding which mortuaries will be allowed to enter into these contracts.

The decision of the Commission was effective on January 15, 2010.

Dated this 4th day of April, 2012.

NEVADA COMMISSION ON
ETHICS

By: 
Erik Beyer
Chairman³

³ At the time this written opinion was issued, the presiding officer in this matter, then-Chair Keele, no longer served on the Commission. Therefore, Chair Beyer signed this opinion on behalf of the participating Commissioners.

NRS 281A.430 Contracts in which public officer or employee has interest prohibited; exceptions.

1. Except as otherwise provided in this section and NRS 281A.530 and 332.800, a public officer or employee shall not bid on or enter into a contract between a governmental agency and any business entity in which the public officer or employee has a significant pecuniary interest.

* * *

4. A public officer or employee, other than a public officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if:

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;

(b) The sources of supply are limited;

(c) The public officer or employee has not taken part in developing the contract plans or specifications; and

(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.

- If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.