



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Public Officer**, Public Entity,
State of Nevada,

Advisory Opinion No. 21-002A

_____ Public Officer. /

ABSTRACT OPINION

I. STATEMENT OF THE CASE

Public Officer ("Public Officer") requested this advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.675 regarding the propriety of Public Officer's anticipated future conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in Chapter 281A of the Nevada Revised Statutes. Pursuant to NAC 281A.352, a quorum of the Commission reconsidered this matter by submission, without holding an advisory-opinion hearing.¹ The Commission considered the request for an advisory opinion, a list of proposed facts that were affirmed as true by Public Officer and publicly available information.

Public Officer sought an opinion from the Commission regarding conflicts of interest between Public Officer's public employment and private pecuniary interests and commitments associated with a private employer ("Private Employer"), and the associated business interest of Private Employer. After fully considering Public Officer's request and analyzing the facts and circumstances presented, the Commission advises Public Officer about the disclosure and abstention duties under NRS 281A.420 and the compliance obligations with the Code of Ethical Standards set forth in NRS 281A.400.

The Commission now renders this abstract opinion stating its formal findings of fact and conclusions of law. The facts in this matter were obtained from documentary evidence provided by Public Officer. For the purposes of the conclusions offered in this opinion, the Commission's findings of fact set forth below accept as true those facts Public Officer presented. Facts and circumstances that differ from those presented to and relied upon by the Commission may result in different findings and conclusions than those expressed in this opinion.² Although a full written opinion was served on Public Officer, for confidentiality reasons, this abstract opinion redacts certain findings of fact, provides a summary of issues and removes other identifying information to protect the confidentiality of the requester.

¹ The following Commissioners participated in this opinion: Chair Wallin, Vice Chair Duffrin and Commissioners Gruenewald, Lowry, Towler and Yen.

² The Commission reserves its statutory authority should an ethics complaint be filed presenting contrary circumstances. See *In re Howard*, Comm'n Op. No. 01-36 (2002) (notwithstanding first-party opinion, public is not precluded from bringing ethics complaint) and *In re Rock*, Comm'n Op. No. 94-53 (1995) (reservation of right to review until time issue is raised).

II. QUESTIONS PRESENTED

Public Officer seeks guidance on the application of the Ethics Law in performance of public duties for Public Entity when these duties intersect with the associated private pecuniary interests and commitments to Private Employer. In particular, Public Officer requests direction on Public Officer's public duties to consider and direct matters under the authority of Public Entity, including certain contracts.

III. FINDINGS OF FACT

- A. Public Officer serves on the governing board ("Board") for Public Entity.
- B. Public Entity has authority over certain matters that relate to the business interests and contracts of Private Employer.
- C. Among numerous other responsibilities and decision making, the Board votes on contracts that are with or directly relate to the business interests of Private Employer or its clients, which clients are a select or limited group of businesses. In doing so, the Board most often relies upon the information and recommendations from staff of the Public Entity to assist in its decision making.
- D. The business interests of Private Employer may include contracts and promotion of other business interests. It is possible for these interests to intersect or impact the interests of other competing businesses and may include litigation matters. Such impacts could be categorized as more direct and others could be categorized as remote.
- E. In a private capacity, Public Officer has held various job duties for Private Employer and such job duties, at times, directly related to contracts between Private Employer and Public Entity. At other times, Public Officer's job duties related to the interests of the clients or competitors of Public Employer.
- F. To eliminate perceived conflicts of interest, Public Employer has separated Public Officer from the job duties that directly relate to contracts between Private Employer and Public Entity and matters pertaining to client's business interests with Public Entity. Further, Public Officer will not use a public position to obtain any Public Entity information for the benefit of Private Employer or its clients or otherwise secure any advantage from it.
- G. Public Officer anticipates the Board of Public Entity will be involved with or be voting upon agenda items related to the interests of Public Employer or its clients. Further, the Board may consider items associated with business competitors of Public Employer or its clients.

IV. STATEMENT AND DISCUSSION OF ISSUES AND RELEVANT STATUTES

A. OVERVIEW OF ISSUES

Pursuant to NRS 281A.139 and NRS 281A.065(4), Public Officer has both a significant pecuniary interest in maintaining private employment and a commitment in a private capacity to the interests of Private Employer ("conflicts"), including the employer's associated clients and business interests. *In re Public Officer*, Comm'n Op. No. 15-74A (2018), p. 8. This means that the Public Officer's own financial interests and the interests

of Private Employer and its clients and affiliates, are imputed to Public Officer for purposes of the application of the Ethics Law. See *In re Public Officer*, Comm'n Op. No. 20-011A (2020); *In re Romero*, Comm'n Op. No. 19-059A (2019); and *In re Public Officer*, Comm'n Op. No. 19-049A (2019).

The questions Public Officer poses relating to the connectivity between such pecuniary interests in the private commitment to Private Employer or its clients, and Public Officer's public duties, implicate the provisions of NRS 281A.420 (disclosure and abstention requirements associated with conflicts of interest); NRS 281A.400(1) (seeking a favor for any person to whom the public officer has a commitment in a private capacity); NRS 281A.400(2) (use of government position to secure or grant unwarranted privileges, preferences, etc. to a person to whom the public officer has a commitment in a private capacity); and NRS 281A.400(9) (improper influence of a subordinate for a personal purpose).

The Ethics Law requires appropriate separation between public duties and these private interests or conflicts. See NRS 281A.020. As a public officer, Public Officer has specific public responsibilities that must be separate from private business interests and commitments in order to preserve the public trust. In protecting the public trust in conflict situations, the Ethics Law requires compliance with the disclosure and abstention requirements of NRS 281A.420 and the Code of Ethical Standards set forth in NRS 281A.400.

The public trust must be protected when a person has a pecuniary interest in their own private business or a commitment in a private capacity under NRS 281A.065 (list of types of relationships constituting conflicts and deemed to be a private commitment). Pecuniary interests and private commitments form the basis of conflict situations that may affect performance of public duties. Consequently, these conflict situations must be recognized and properly navigated to assure compliance with the Ethics Law, including the policy of the State of Nevada to avoid conflicts and appearances of impropriety, as set forth in NRS 281A.020.

B. RELEVANT STATUTES

1. Public Trust and Duty to Avoid Conflicts of Interest - NRS 281A.020, in relevant part, provides:

1. It is hereby declared to be the public policy of this State that:
 - (a) A public office is a public trust and shall be held for the sole benefit of the people.
 - (b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

2. "Commitment in a Private Capacity" Defined - NRS 281A.065 provides:

"Commitment in a private capacity," with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;

3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption or marriage or domestic partnership within the third degree of consanguinity or affinity;

4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;

5. With whom the public officer or employee has a substantial and continuing business relationship; or

6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subparagraphs 1 to 5, inclusive.

3. Standards of Conduct – NRS 281A.400(1), (2) and (9) provide:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity. As used in this subsection, "unwarranted" means without justification or adequate reason.

9. A public officer or employee shall not attempt to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the influence of a subordinate.

4. Disclosure - NRS 281A.420(1) provides:

1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;

(b) In which the public officer or employee has a significant pecuniary interest;

(c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person; or

(d) Which would reasonably be related to the nature of any representation or counseling that the public officer or employee provided to a private person for compensation before another agency within the immediately preceding year, provided such representation or counseling is permitted by NRS 281A.410,

↳ without disclosing information concerning the gift or loan, the significant pecuniary interest, the commitment in a private capacity to the interests of the other person or the nature of the representation or counseling of the private person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, upon the person to whom the public officer or employee has a commitment in a private capacity or upon the private person who was represented or counseled by the public officer or employee. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

5. Abstention - NRS 281A.420(3) and (4) provide:

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, 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 the public officer's situation would be materially affected by:

- (a) The public officer's acceptance of a gift or loan;
- (b) The public officer's significant pecuniary interest; or
- (c) The public officer's commitment in a private capacity to the interests of another person.

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of another person, accruing to the other person, is not greater than that accruing to any other member of any general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the duty of the public officer to make a proper disclosure at the time the matter is considered and in the manner required by subsection 1.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer makes a proper disclosure at the time the matter is considered and in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a

reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

V. DECISION

A. **PECUNIARY INTERESTS AND COMMITMENTS IN A PRIVATE CAPACITY**

The Legislature has determined that private pecuniary interests and certain private relationships form the foundation for conflicts of interest. Public Officer has a significant pecuniary interest associated with employment with Private Employer. See NRS 281A.139. Separately, NRS 281A.065 details the types of relationships to which public officers and employees have statutory private commitments to include an employer of the public officers and employees. See NRS 281A.065(4).

"Employers of public officers and employees are included among the statutorily recognized relationships regarding which the Ethics Law establishes conflicts because of the obvious and tangible interests in maintaining employment for professional and pecuniary reasons."

In re Public Officer, Comm'n Op. No. 13-77A (2014), at p. 5.

The Commission has instructed in cases involving a statutory private commitment under NRS 281A.065, such as an employer, substantial and continuous business relationships or substantially similar relationships, that the interests of the person to whom there is a private commitment such as an employer, business affiliate or client, are statutorily attributed or imputed to the public officer based on the presumption that a person lacks independent judgment toward the interests of those persons to whom the public officer has such commitments. See *In re Public Officer*, Comm'n Op. No. 13-71A (2014). Here, Public Officer has both a significant pecuniary interest related to maintaining private employment and associated benefits and a commitment in a private capacity to Private Employer.³ See also *In re Public Officer*, Comm'n Op. No. 17-10A (2017), at p. 6.

Accordingly, Private Employer's business interests and endeavors including those of the Private Employer's associated clients or business affiliates, as applicable, are imputed to Public Officer for purposes of applying the Ethics Law, even if the Private Employer's interests do not directly relate to the particular duties that Public Officer performs for Private Employer. See *In re Public Officer*, Comm'n Op. No. 20-011A (2020); *In re Public Officer*, Comm'n Op. No. 15-74A (2018). Therefore, Public Officer has an affirmative duty under the Ethics Law to complete due diligence to ascertain the extent of Private Employer's interests and the potential effect of these interests on agenda items and other matters that come before the Board for purposes of complying with the requirements of the Ethics Law, including NRS 281A.420 (disclosure and abstention requirements) and NRS 281A.400 (Code of Ethical Standards requirements), which statutes are individually addressed below.

³ A significant pecuniary interest means that the associated benefits or detriments are important and not incidental, trivial or de minimis. See NRS 281A.130; *In re Public Officer*, Comm'n Op. No. 20-036A (2020). NRS 281A.065(4) establishes that the relationship with an employer constitutes a commitment in a private capacity.

B. DISCLOSURE REQUIREMENTS – NRS 281A.420(1)

NRS 281A.420(1) requires a proper disclosure when the public officer or employee is carrying out their public duties to approve, disapprove, vote, abstain or otherwise act upon a matter: (a) regarding a gift or loan, (b) in which they have a significant pecuniary interest, (c) which would reasonably be affected by a commitment in a private capacity to the interests of another person or entity, or (d) which would be related to any representation or counseling of a private person for compensation before another agency within the preceding year. Each disclosure event is separately enforceable.

Foremost, Public Officer must be vigilant to avoid conflicts and to fulfill the duties to the public. In doing so, Public Officer is obligated, in accordance with the Ethics Law and interpretive opinions, to properly disclose the full nature and extent of the client relationships with Private Employer, as related to an agenda item or other matter that is considered by the Board or by Public Officer, and abstain on any actions or decisions that materially affect Private Employer's or its client's interests.⁴ Public Officer generally recognizes the duty of disclosure under NRS 281A.420 and confirms that Public Officer will disclose on matters relating to Private Employer under the guidance of Public Entity's legal counsel. Obtaining guidance from Public Entity's legal counsel is encouraged because preventative advice may afford safe harbor protections from a violation of the Ethics Law under NRS 281A.790.

Although Public Officer generally recognizes the disclosure requirements of NRS 281A.420 associated with Private Employer matters, Public Officer requests particular guidance on whether the commitment to Private Employer and its interests would extend to Private Employer's clients from which Public Employer removed Public Officer from performing any duties as part of the private employment of Public Officer. This separation is important and commended by the Commission because it may well serve to assist Public Officer in providing a defense against potential ethics complaints should they be filed in the future.

Nevertheless, given Public Officer's significant pecuniary interest in such private employment and in consideration of the interests of Private Employer, the Commission does not perceive that the lack of assignment of or separation of duties by an employer would change the fact that Public Officer has a private commitment to Private Employer, and all of its varied interests. When any significant pecuniary interest of a public officer/employee or any of the identified relationships set forth in NRS 281A.065 intersects with and/or is reasonably affected by public duties, the nature of these interests and relationships requires a proper disclosure, which interests include the business endeavors of the employer and those held by the employer's clients or business affiliates. See *In re Romero*, Comm'n Op. No. 19-059A (2019), at p. 6. Under the Ethics Law, the interests of the person to whom there is a private commitment, such as an employer, business affiliate or client, are statutorily attributed to the public officer based on the presumption that a person lacks independent judgment toward the interests of those persons to whom the public officer has such commitments. See *In re Public Officer*, Comm'n Op. No. 13-71A (2014).

In determining the extent of Public Officer's commitment to Private Employer, for purposes of making a proper disclosure under NRS 281A.420, the Commission discerns

⁴ The Commission's published opinions interpreting disclosure requirements include, but are not limited to; *In re Woodbury*, Comm'n Op. No. 99-56 (1999), *In re Public Officer*, Comm'n Op. No. 13-86A (2014), *In re Public Employee*, Comm'n Op. No. 13-78A (2014), *In re Public Officer*, Comm'n Op. No. 13-72A (2014), citing *In re Weber*, Comm'n Op. No. 09-47C (2009) and *In re Murnane*, Comm'n Op. No. 15-45A (2016).

no marked difference between a matter directly applicable to Private Employer and a matter applicable to its clients based upon the facts provided in this matter. The reassignment of duties from one employee to another does not invalidate Private Employer's interests in providing client services and there remains a tangible and direct connection between the interests of Private Employer and the clients.

Given the intricacy of Private Employer's interests including those associated with its clients, the Commission advises Public Officer to comply with the disclosure requirements of NRS 281A.420 when a public matter reasonably affects Public Officer's own pecuniary interests in employment or the interests of Private Employer, including those applicable to clients, and then to conduct the abstention analysis set forth below. Moreover, a proper disclosure is important even where the conflict is remote in some respects. The Commission has instructed:

In keeping with the public trust, a public officer's disclosure is paramount to transparency and openness in government. The public policy favoring disclosure promotes accountability and scrutiny of the conduct of government officials. ...Such disclosures dispel any question concerning conflicts of interest and may very well ward off complaints against the public officer based on failure to disclose.

In re Public Officer, Comm'n Op. No. 20-011A (2020) at p. 8, citing *In re Weber*, Comm'n Op. No. 09-47C (2009), at p. 6.

Public Officer is reminded that a disclosure required by the Ethics Law during a public meeting must occur "each time the matter is considered." NRS 281A.420(1). Further, NRS 281A.420 precludes any participation or voting or otherwise acting upon a matter prior to a proper disclosure and determination of whether abstention is required by NRS 281A.420(3) and (4). The purpose of disclosure is to provide sufficient information regarding the conflict of interest to inform the public of the nature and extent of the conflict and the potential effect of the action or abstention on Public Officer's private interests. Silence based upon a prior disclosure at a prior meeting fails to inform the public of the nature and extent of the conflict at the meeting where no actual disclosure occurred. See *In re Buck*, Comm'n Op. No. 11-63C (2011) (holding that incorporation by reference of a prior disclosure, even though based upon the advice of counsel, did not satisfy the disclosure requirements of NRS 281A.420(1)).

C. ABSTENTION REQUIREMENTS – NRS 281A.420(3) and (4)

NRS 281A.420(3) and (4) detail the abstention requirements to be considered after a proper disclosure has been made by the public officer/employee. NRS 281A.420(3) mandates that a public officer shall not participate on a matter when the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the disclosable conflict.

NRS 281A.420(4) creates a presumption against abstention and authorizes participation in limited circumstances. After a proper disclosure, the statutory presumption permits a public officer to participate if the matter would not result in any form of benefit or detriment accruing to the public officer (or persons/entities to whom the public officer has a private commitment) that is greater or less than that accruing to any other member of the general business profession, occupation or group that is affected by the matter. For example, if the public officer is voting upon a general business license fee increase, and the public officer's business would be subject to the increase and pay the same amount

as other businesses similarly situated, the public officer may make a proper disclosure and explain to the public why the legal presumption permits the public officer's participation. The Commission has previously explained that:

...[W]ithout a public disclosure, the Commission is hindered from application of the presumption, and the Public Officer is left without the benefit of the public policy presumption set forth in NRS 281A.420(3) and (4). A proper disclosure acts as a condition precedent to recognition of the public policy attributes of NRS 281A.420(3) and (4), which instruct that appropriate weight and proper deference be given to the public policy of this State, which favors the right of a public officer to perform the duties for which the public officer was appointed and to otherwise act upon a matter, provided the public officer has properly disclosed the public officer's commitment in a private capacity to the interests of another person in the manner required, and the independence of judgment of a reasonable person would not be clearly and materially affected by the private interests.

In re Public Officer, Comm'n Op. No 15-74A (2018), at pgs. 9-10.

Here, the presumption would not permit Public Officer to participate on matters affecting Public Officer's pecuniary interests and private commitments to Private Employer under the circumstances presented, and abstention is advised. The Commission has confirmed that abstention is required on matters materially affecting the interests of a private business and any business affiliates or clients. See *In re Rapson*, Comm'n Op. Nos. 16-11C and 16-20C (commitment in a private capacity to business affiliates/clients is established in NRS 281A.065(4), (5), or (6)).

Further, the facts, as presented, do not establish that the interests of a particular group or collective of similarly situated persons are affected by these circumstances. Consequently, the analysis of whether Public Officer's participation on such matters would affect the interests of other persons similarly situated more or less than those to whom there is a private commitment does not appear to be germane to this situation. The presumption set forth in NRS 281A.420(4) applies to the general business, profession, occupation, or group affected by a matter, and is not determined based upon commonality of business interests, endeavors, or affiliations particular to Public Officer's private employer and its clients.

Although not perceived from the matters presented, if the facts substantiate that other matters or agenda items to be considered by Public Entity or the Board are remote to the associated interests of Private Employer or its clients, the matter should be reviewed with a focus on whether the independence of judgment of a reasonable person in Public Officer's situation would be clearly and materially affected by the private interests or commitments so as to require abstention. See NRS 281A.420(3) and (4). In remote situations, abstention may not be required under the Ethics Law based upon application of the reasonable person standard to the situation and determination of materiality; however, the best course of action is for Public Officer to provide a sufficient disclosure as required by NRS 281A.420, and then ascertain the extent of the involved interests, which analysis is encouraged to be considered with the advice of Public Entity's official legal counsel or obtained through the Commission's advisory opinion process. See *In re Romero*, Comm'n Op. No. 19-059A (2019) and *In re Weber*, Comm'n Op. No. 09-47C (2009) (remoteness analysis).

D. CODE OF ETHICAL STANDARDS – NRS 281A.400

Public Officer has a duty to protect the public trust and separate public responsibilities from private pecuniary and business interests. Therefore, Public Officer may not use a position in government to seek or gain an economic opportunity which would tend to influence a reasonable person in a similar position to depart from the impartial discharge of public duties. The provisions of NRS 281A.400 serve to assist Public Officer in maintaining a proper separation between private interests and public duties. For each referenced section of NRS 281A.400, Public Officer must be mindful of the following implications:

- NRS 281A.400(1) – Public Officer’s must avoid conflicts that could affect the faithful discharge of public duties such as the conflicts applicable to Private Employer. To avoid these conflicts, Public Officer must not seek, promote, or accept economic opportunities that affect Private Employer’s business should those opportunities implicate Public Officer’s public duties.
- NRS 281A.400(2) – Public Officer’s public employment places Public Officer in a unique position to create an unwarranted benefit for Public Officer’s private interests and commitments if a public position was utilized to access or share confidential information, including information associated with the interests of Private Employer or its clients.
- NRS 281A.400(7) – Public Officer must fully separate any private work from the duties associated with public employment and Public Officer may not use government time, property or equipment for purposes related to private pecuniary interests or commitments. Public Officer is advised to work on matters related to these private interests and commitments on personal time and without using public time, equipment, property, resources, or facilities.
- NRS 281A.400(9) – Public Officer is advised that influencing a subordinate in an attempt to benefit a private interest or commitment is precluded under the Ethics Law.

The Commission commends Public Officer for proactively seeking this opinion on whether the identified private conflicts implicate the Ethics Law. Conflicts stem from Public Officer’s private pecuniary interests and private commitments and preclude Public Officer from utilizing a public position to benefit Private Employer or its clients. Therefore, Public Officer must be proactive and diligent to maintain a proper separation between public duties and private interests by not engaging in conduct that creates unwarranted or improper private benefits for Public Officer, Private Employer or its business affiliates/clients, through the use of a public position.

The Commission advises Public Officer about the statutory requirements of NRS 281A.400, so these requirements of the Ethics Law can be properly applied to personal circumstances. If Public Officer desires specific advice relating to a particular matter not covered by the original written opinion, Public Officer may seek another advisory opinion from the Commission. The Commission further invites Public Officer to review ethics training provided on the Commission’s website and/or connect with the Commission’s Executive Director to obtain Ethics Law training for Public Entity.

VI. CONCLUSIONS OF LAW

1. Public Officer is a public officer as defined by NRS 281A.160.
2. Pursuant to NRS 281A.675, the Commission has jurisdiction to render an advisory opinion in this matter and such opinion may include guidance from the Commission to Public Officer under NRS 281A.665.
3. Given Public Officer's official duties as a member of the Board for Public Entity, Public Officer has potential conflicts of interest that must be recognized and properly separated from public duties.
4. Pursuant to NRS 281A.420(1), Public Officer must disclose the full nature and extent of Public Officer's pecuniary interests and private commitments including those pertaining to Private Employer and its clients, and the associated effect of any actions taken by Public Officer in an official capacity.
5. Pursuant to NRS 281A.420(3) and (4), Public Officer must also abstain from participating in any matter materially affecting Public Officer's own pecuniary interests and private commitments to Private Employer, which commitment captures the employer's interests relating to its clients.
6. The application of the presumption set forth in NRS 281A.420 requires a proper disclosure as a condition precedent. In doing so, the Commission encourages Public Officer to obtain the advice of Public Entity's official counsel prior to issuance of the public disclosure. Further, the circumstances may be detailed and presented to the Commission through its advisory opinion process.
7. Public Officer is advised to comply with all requirements of the Code of Ethical Standards set forth in NRS 281A.400 by maintaining proper separation between Public Officer's public duties and private interests and commitments.

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Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law construed to constitute a Finding of Fact, is hereby adopted, and incorporated as such to the same extent as if originally so designated.

The following Commissioners participated in this opinion.

Dated this 2nd day of June, 2021.

THE NEVADA COMMISSION ETHICS

By: /s/ Kim Wallin
Kim Wallin, CPA, CMA, CFM
Chair

By: /s/ Absent
Damian R. Sheets, Esq.
Commissioner

By: /s/ Brian Duffrin
Brian Duffrin
Vice-Chair

By: /s/ Thoran Towler
Thoran Towler, Esq.
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By: /s/ Barbara Gruenewald
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By: /s/ Amanda Yen
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By: /s/ Teresa Lowry
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