

STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

**In the Matter of the Request
For Advisory Opinion concerning
The Conduct of RICHARD DOUGLAS GENT,
School Board Trustee,
Churchill County, State of Nevada.**

Request for Opinion No.: 07-17A

OPINION

This matter came before the Nevada Commission on Ethics (Commission) for hearing on May 9, 2007. Richard Douglas Gent (Gent), School Board Trustee for Churchill County filed a request for an advisory opinion, pursuant to NRS 281A.440.1.¹

The matter was properly noticed and Gent waived confidentiality in this matter. Gent appeared in person and provided sworn testimony.

Gent sought an opinion whether his purchase of a pickup truck from an employee of the Churchill County School District (CSD) creates a conflict of interest with his public duties as School Board Trustee for CSD.

After fully considering the request for an advisory opinion and considering all of the facts and circumstances and testimony presented, the Commission deliberated and orally advised Gent

¹ At the time of the hearing on this matter the Ethics in Government Law could be found in NRS 281.411 through 281.581. The Ethics in Government Law is now housed in Chapter 281A of NRS.

of its decision in the matter. The Commission incorporates its oral decision and renders this opinion.

FINDINGS OF FACT

1. Gent had been looking for a vehicle for his daughter when a co-worker suggested that he check with Mr. Riley (Riley), a principal at a school in the CSD.
2. Gent's wife learned that Riley had a 2001 Toyota Tundra pickup truck with approximately 90,000 miles for sale for \$8,000.
3. Gent hired a local mechanic to inspect the truck. The mechanic deemed the truck to be mechanically and structurally sound. However, the truck needed some mechanical and cosmetic work.
4. The Kelley Blue Book value for the truck was \$8,480. Gent paid Riley \$8,000 in cash for the truck and purchased it in an "as is" condition.

CONCLUSIONS OF LAW

1. Gent is a public officer as defined in NRS 281A.160.
2. The Commission has jurisdiction to render an advisory opinion, pursuant to NRS 281A.440.1 and NRS 281A.460.
3. Public officers are prohibited under NRS 281A.400.2 from using their official position to secure unwarranted privileges, preferences or advantages for themselves.
4. Public officers are required to disclose their private pecuniary interest prior to taking any action on a matter where a conflict may exist between their private interest and their public duty, pursuant to NRS 281A.420.4.
5. After making proper disclosure, a public officer shall determine whether abstention is required under NRS 281.420.2 and the Commission Opinion 99-56 (*Woodbury*).

DISCUSSION

The issue is whether Gent's purchase of a pickup truck from an employee of the CSD creates a conflict of interest with his public duties as School Board Trustee for CSD.

Gent is a public officer pursuant to NRS 281A.160 because he is elected to the position of School Board Trustee of the CSD.

Under NRS 281A.400.2, a public officer is prohibited using his official position to secure unwarranted privileges, preferences or advantages for himself. A public officer is required to disclose their private pecuniary interest and must determine whether abstention is required on matters where a conflict may exist between his private interest and his public duties, pursuant to NRS 281A.420.4 and .2.

Gent paid Riley the price that he was asking for the pickup truck, which was only \$480 under the Kelley Blue Book value and given the condition of the truck, the Commission found that there was no substantial benefit gained by Gent in this transaction. Therefore, Gent received no unwarranted privilege, preference or advantage as described in NRS 281A.420.2.

The Commission discussed the possible need for disclosure and abstention when any matters pertaining to Riley come before the CSD. Gent should follow the disclosure and abstention rules as set forth in NRS 281A.420.2 and .4 and assess the facts before him on a case-by-case basis when any matters pertaining to Riley come before the CSD.

CONCLUSION

WHEREFORE, the Commission unanimously² finds that in his capacity as School Board Trustee of CSD, Gent did not violate NRS 281A.400.2 when he purchased a truck from an

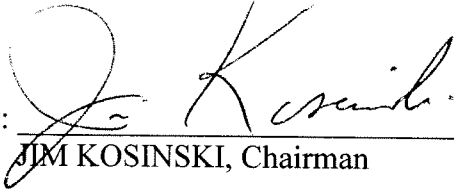
² The quorum consisted of Chairman Kosinski and Commissioners Cashman, Flangas, Hsu, Hutchison and Keele. Commissioner Hsu disclosed his attorney-client relationship with CSD and abstained from participating in this matter in accordance with the provisions of NRS 281A.420.4.

employee of CSD. Further, Gent must apply the standards set forth in NRS 281A.420.2 and .4 when determining whether his disclosure and abstention is necessary on future matters under consideration by CSD relating to Riley.

Note: This matter is a first-party advisory opinion request. For purposes of a first-party advisory opinion requested pursuant to NRS 281A.440.1 and NRS 281A.460, all facts in the matter are provided by the public officer requesting the advisory opinion. The Commission makes no independent investigation as to the truth of those facts. The record herein, therefore, consists solely of facts provided on the record by the public officer. This opinion is based solely upon those facts. Facts and circumstances that differ from those provided by the public officer and used by the commission 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: 1/25/08

NEVADA COMMISSION ON ETHICS

By: 

JIM KOSINSKI, Chairman