



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

**In the Matter of the Request for
Advisory Opinion Concerning
the Conduct of PUBLIC OFFICER,
Board Member
State Board of Nevada**

**Abstract of
Request for Opinion No. 07-45A**

OPINION

This confidential matter came before a quorum¹ of the Nevada Commission on Ethics (Commission) for a telephonic hearing on November 20, 2007. Public Officer filed a request for an advisory opinion, pursuant to NRS 281A.440.1.²

Public Officer provided sworn testimony and after fully considering the request for an advisory opinion, all of the facts and circumstances and testimony presented, the Commission deliberated and orally advised Public Officer of its decision in the matter. The Commission now renders this written opinion.

¹ The quorum consisted of then Chairman Kosinski and Commissioners Capurro, Cashman and Jenkins.

² 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 has been re-codified and is now Chapter 281A of NRS.

FINDINGS OF FACT

1. In his private capacity, Public Officer is a professional doing business in a city in Nevada. In his public capacity, Public Officer is a Board member.
2. Company is a company that conducts mass media advertising campaigns for professionals in a certain field. Professionals who contract with Company are charged a fixed amount for Company to refer business to the professional. Board approval of Company allows it to do business in Nevada.
3. At a Board meeting, the Board voted to approve Company to do business. Public Officer made the motion for the approval of Company and voted for its approval.
4. Public Officer was not aware of Company's existence or the services it provides prior to the Board meeting.
5. Four days after the meeting, Public Officer entered into a contract with Company for the exclusive referral/advertising service in the areas where Public Officer does business. Public Officer contracted with Company for Company to advertise solely for Public Officer and not for any other professional in the field. Since Company would have only one client (Public Officer) in these areas, Company guaranteed Public Officer more referrals.
6. Approximately seven months after entering into contract with Company, Public Officer terminated his contract with Company.

CONCLUSIONS OF LAW

1. As an appointed member of the Board, Public Officer is a public officer pursuant to 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 and employees must commit themselves to avoid conflicts between their private interests and those of the general public whom they serve. Further, 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 roles of persons who are both public servants and private citizens. NRS 281A.020.
4. The Code of Ethical Standards prohibits public officers from using their public office for private gain. NRS 281A.400.

DISCUSSION

The issue before the Commission is whether Public Officer violated the Ethics in Government Law by entering into a contract with Company four days after Public Officer, in his capacity as Board member, voted to approve Company to do business.


The Ethics in Government Law is concerned with public officers using their official position to personally benefit. The Commission finds that nothing in the record or testimony provided by Public Officer demonstrates that he used his position on the Board to benefit his private company. Public Officer was not aware of Company's existence or the services it provides prior to the Board meeting. Although Public Officer did not violate any of the provisions of the Code of Ethical Standards contained within the Ethics in Government Law, the Commission advises Public Officer to exercise caution in the future when he is entering into contracts with entities that the Board regulates, as the potential for conflict exists.

CONCLUSION

WHEREFORE, the Commission unanimously finds that Public Officer did not violate the Ethics in Government Law when he entered into a contract with Company.

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. 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.

DATED: 3/01/08 . NEVADA COMMISSION ON ETHICS

By: 
Jim Kosinski, Presiding Officer