



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

**In the Matter of
the Request for Advisory Opinion
by PUBLIC OFFICER,
Member of Governing Body,
State of Nevada.**

**Abstract of Request for
Advisory Opinion
No. 08-02A**

OPINION

This matter came before a quorum¹ of the Nevada Commission on Ethics (Commission) for hearing on February 14, 2008, regarding the request of Public Officer for an advisory opinion, pursuant NRS 281A.440.1. The matter was noticed as a confidential matter. Public Officer appeared in person and provided sworn testimony.

Public Officer seeks an opinion from the Commission regarding whether he may represent clients in light of conflicting provisions in the law.

After fully considering the request for advisory opinion and analyzing 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 renders this written Opinion.

¹ The quorum consisted of Chairman Hutchison and Commissioners Cashman, Hsu and Kosinski.

FINDINGS OF FACT

1. Public Officer was appointed to the governing body on which he serves by his appointing authority.
2. Public Officer took his oath of office.
3. Public Officer was advised of the law as interpreted by the governing body in which he serves.
4. Public Officer signed his Acknowledgement of Ethical Standards.

CONCLUSIONS OF LAW

1. Public Officer, as a member of the governing body, is a public officer as defined by NRS 281A.160.
2. The Commission has jurisdiction to render an advisory opinion in this matter, pursuant to NRS 281A.440.1 and NRS 281A.460.
3. NRS 281A.020.1(b) declares that a public officer or employee must commit himself to avoid conflicts between his private interests and those of the general public whom he serves.
4. Public Officer is prohibited from representing clients which may conflict with his public duties. NRS 281A.020.1(b).

DISCUSSION

The issue is whether Public Officer is may represent clients for compensation which may conflict with his public duties. The Ethics in Government Law contains provisions at issue which are conflicting.

The Commission painstakingly reviewed the terms used in the statutes at issue. To determine the meaning, the Commission analyzed other statutes, looked at legislative history and legislative intent and definitions from case law.

To verify the Legislature's intent in adopting the Ethics statutes at issue, the Commission reviewed legislative history. The pertinent Legislative Committee did not discuss the conflicting terms at issue.

Further, the Commission examined case law from other states. However, definitions there provided no guidance, as they are not wholly consistent with the definitions found in the statutes at issue.

Finally, the Commission looked to the policy and spirit of the Ethics in Government Law in order to avoid an absurd result. The 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... A public officer... must commit himself to avoid conflicts between his private interests and those of the general public whom he serves."² It would be contrary to the policy and the spirit of the Ethics in Government Law to interpret the conflicting statutes in a manner that would allow a public officer to represent clients for compensation that would conflict with his public duties.

CONCLUSION

WHEREFORE, the Commission finds by a majority vote³ that neither Public Officer nor any other similarly situated public officer may represent clients for compensation that would conflict with his public duties.

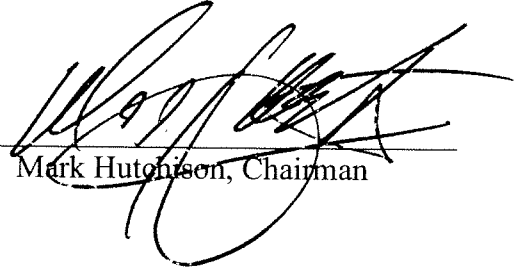
² See NRS 281A.020.1

³ The vote was 3 to 1 with Commissioners Cashman, Hutchison and Kosinski voting aye and Commissioner Hsu voting nay.

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, this opinion is based on the facts provided by the public officer and by the Commission's investigation. If facts and circumstances differ from those used by the Commission in this advisory opinion, an opinion contrary to this opinion may be the result.

DATED: 3/9/08.

NEVADA COMMISSION ON ETHICS

By: 
Mark Hutchison, Chairman