



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Stavros Anthony**, Lieutenant
Governor, State of Nevada,

Advisory Opinion No. 23-050A
Confidential

Public Officer. /

OPINION

I. STATEMENT OF THE CASE

Stavros Anthony ("Anthony") requested this confidential advisory opinion from the Nevada Commission on Ethics ("Commission"), regarding the propriety of his conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in Chapter 281A of the Nevada Revised Statutes ("NRS"). Pursuant to NAC 281A.352, a quorum of the Commission considered 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 Anthony and publicly available information.

Anthony sought an opinion from the Commission regarding the applicability of the Ethics Law under circumstances involving his request as the Lieutenant Governor of Nevada ("LG") to attend a trade mission to Israel with expenses paid for by the State Government Leadership Foundation ("SGLF"). After fully considering Anthony's request and analyzing the facts and circumstances presented by Anthony, the Commission deliberated and has advised Anthony of its decision that the Ethics Law does not preclude Anthony from seeking or accepting funds available to government attendees to support the trade mission attendance.

The Commission now renders this final written opinion stating its formal findings of fact and conclusions of law. The facts in this matter were obtained from documentary and evidence provided by Anthony. For the purposes of the conclusions offered in this opinion, the Commission's findings of fact set forth below accept as true those facts Anthony 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

II. QUESTION PRESENTED

As LG, Anthony questions whether seeking and accepting a sponsorship for costs associated with attending the trade mission would be precluded by the Ethics Law.

¹ The following Commissioners participated in this opinion: Chair Wallin, Vice-Chair Duffrin and Commissioners Gruenewald, Lowry, Oscarson, 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).

III. FINDINGS OF FACT

1. Anthony is the LG of the State of Nevada.
2. As part of his role as LG, Anthony serves as the Chair of the Nevada Tourism Commission ("Tourism"). He also serves as a member of the board for the Governor's Office of Economic Development ("GOED"). In addition, Anthony serves as President of the Nevada State Senate, Vice Chairman of the Board of the Nevada Department of Transportation, a Member of Governor's Sub Cabinet to oversee the Department of Tourism, and Chairman of the Advisory Board on Outdoor Recreation.
3. Each year, Nevada's Division on Tourism ("Travel Nevada") conducts and/or participates in several sales and media missions to each of our identified international markets. These missions provide a cost-effective way to connect with travel professionals, influencers and the media in target regions. In addition, these missions offer an ideal opportunity to showcase several experiences available to individual travelers, groups and journalists writing about the destination, as well as to offer partners opportunities to meet with leading travel agents, tour operators, airlines and the media in key growth markets.
4. GOED's International Trade division programs and funding assistance are aimed at both assisting Nevada businesses to begin or expand activities in international markets and attracting foreign investment to the state. Trade missions, trades show, and international marketing efforts are designed to assist Nevada companies to enter a specific market while working closely with the Nevada GOED International Division and partners. The focus is on finding distributors and buyers for Nevada products and services.
5. The collaborative efforts by the GOED International Trade Division, and through feedback from international partners, it was determined there is a need for a global business recruiting platform that will enhance Nevada's position as an entry point to the U.S. market.
6. Nevada has entered into agreements with several government and economic development institutions, agreeing to cooperate on building such a recruiting platform. Program was launched in June 2018.
7. Anthony has been invited by the SGLF to attend an Israel Trade Mission along with other Lieutenant Governors in November 2023.
8. According to their introductory letter SGLF is a "501(c)(4) social welfare organization that develops conservative policies and supports principled state leadership to tackle America's immense challenges."
9. Their website includes positions on issues such as agriculture, criminal justice reform, economic prosperity, education, energy and environment, judicial fairness, health care, and technology and innovation.
10. SGLF will pay for all of Anthony's trip-related expenses including travel, lodging, cultural visits, and food/beverages offered as part of the official itinerary. SGLF estimates the value of these expenses to be \$12,500.

11. GOED facilitated Governor Brian Sandoval's Trade Mission to Israel in 2013, and the Director of International Trade for Nevada frequently traveled there from 2013-2016. During the mission, the Governor met with Prime Minister Netanyahu and former President Shimon Peres (he died in 2016). GOED has visited all the major regions of the country and Ben Gurion University with community partners and NSHE institutions. The City of Las Vegas has had an agreement with the Ministry of Science and Technology and has facilitated a program where companies from Israel can test new technology with the city. SNWA has had many interactions with Mekorot, the national water agency for Israel. The Lieutenant Governor would continue building those relationships during the upcoming trip and promote Nevada as an attractive place to do business.
12. According to the LVCVA international report, there were 4,890 inbound visitors from Israel to Las Vegas in 2021. As chairman of the Commission on Tourism, the Lieutenant Governor would promote Las Vegas and other parts of Nevada to grow these numbers. He would engage in conversations on visitor interests (gaming, entertainment, retail, outdoor recreation, western culture).
13. SGLF will not pay for flights, lodging, cultural visits or food and beverage costs for spouses on the trade mission. Anthony intends to have his spouse attend.
14. Other staff are not invited to attend the trade mission.
15. A sample agenda for the trade mission includes special meals with guest speakers, guided tours of important landmarks, meeting with top Israel government officials, state trade mission offices, agricultural projects, and briefings regarding Israel's security situation.
16. Based on the sample agenda, Anthony has identified the following experience as relevant to his work as LG as follows:
 - a. Meetings with members of the Israeli Knesset and top government officials (Chair of Tourism Commission and Board Member of GOED).
 - b. Visit state trade mission offices in Tel Aviv and meet with offices and headquarters of American companies (Board Member of GOED).
 - c. Delegation breakfasts and dinners with various guest speakers (promote travel to Nevada as Chair of Tourism and Chair of Outdoor Recreation Board),
 - d. Encourage businesses in Israel to locate to Nevada or do business with Nevada companies (Board Member of GOED).
17. SGLF is not a current vendor of the LG, Tourism, or any other State of Nevada entity.

IV. STATEMENT AND DISCUSSION OF RELEVANT STATUTES AND ISSUES

A. OVERVIEW OF ISSUES

The Commission considers the implications under the Ethics Law where an Executive Director of a state agency would like to use a gift or subsidy to attend a conference hosted by a business that is motivated to expand its products into Nevada, for purposes of obtaining information about industry operations and providing key networking with established leaders and stakeholders.

Under NRS 281A.020, a public officer must commit himself to avoid actual and perceived conflicts of interest, and he must comply with those preclusions as established

in the Ethics Law associated with seeking and accepting gifts and economic opportunities, which are set forth in NRS 281A.400(1) and (2).

A. RELEVANT STATUTES

1) Public Policy - NRS 281A.020(1) 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) Seeking Gifts or Economic Opportunity that would Improperly Influence a Public Officer to Depart from the Faithful and Impartial Discharge of Public Duties - NRS 281A.400(1) and (2) provide:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity 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 to the interests of that person. As used in this subsection, "unwarranted" means without justification or adequate reason.

IV. COMMISSION DECISION

A. Prior Commission Opinions - Gifts for Conference Attendance

The Commission has issued fact-specific opinions addressing the propriety of receiving gifts or economic opportunities associated with educational conference fees, transportation, lodging and meals. Most recently in *In Re Brown*, Comm'n Op. No. 22-064A (2022), the Commission held that in certain circumstances when the costs to attend an event are covered by a private entity, such payment of costs don't violate NRS 281A.400(1) or (2) when the education experience is closely related to the public official's duties and there are no factual indications of quid pro quo concerns.

In *In re Schwartz*, Comm'n Op. No. 16-13A (2016), the Commission applied its opinion precedent to confirm that Schwartz could accept funding from the Nevada Association of Realtors to attend a conference sponsored by the Association of Real Estate License Law Officials. Previously *In re Public Officer*, Comm'n Opinion No. 11-36A (2012), the Commission reviewed prior opinions and application of NRS 281A.400(1) and (2) to circumstances where a vendor, who had an existing contract³ with a State Agency,

³ At the time, Vendor had already been awarded the contract based upon competitive bidding statutes, so it was not offered as an incentive to contract.

offered an expense-paid trip for an agency representative to attend a symposium sponsored by the vendor. The vendor invited clients to the annual symposium to receive feedback on its products and services and also to share perspectives and experiences relevant to industry trends. The Commission determined the symposium was directly related to the State's interests in administering and promoting its programs as the conference was educational in nature and, importantly, that the invitation would not tend to improperly influence a reasonable public servant to depart from his official duties. See NRS 281A.400(1).

The Commission has recognized "that even under circumstances where the gift has an educational component and/or is beneficial to the public, there is a perceived quid pro quo. "Consequently, the Commission is careful to review requests for opinions regarding such invitations on facts specific to the request to ensure the propriety of the intended travel and to encourage agencies to adopt 'TOI' [Travel on Industry] policies appropriate to their needs." *Id.* at pgs. 4-6. The circumstances which were reviewed by the Commission in issuing its Opinion included: (1) the purpose of the conference; (2) whether the education provides insight into current and future issues facing the Agency and assists in fulfillment of public duties; (3) whether the gift is merely a show of appreciation; (4) whether the gift would influence a public officer to depart from his public duties; and (5) whether the gift is warranted rather than unwarranted and does not detract from maintaining appropriate industry relationships and avoids ethical concerns." *In re Schwartz*, at p.5.

In *In re Public Officer*, Comm'n Opinion No. 10-72A (2012), the Commission found no violation of NRS 281A.400(1) when an industry company offering programs to a regulatory agency offered to pay for attendance to an industry conference and opined that:

A review of the proposed program shows that the conference is intended to be a working conference, with little or no entertainment provided. In addition, no State money will be expended for the conference and COMPANY X's offer is limited to reimbursement of travel expenses and does not include any compensation to DEPUTIES. Payment of the expenses of any guest is also excluded.

We therefore conclude that PUBLIC OFFICER's acceptance of COMPANY X's invitation on behalf of DEPUTIES, and DEPUTIES' acceptance of the invitation, would not violate NRS 281A.400(1). The gift and/or economic opportunity of an all-expenses-paid trip to attend the conference, without payment of compensation or discretionary expenses, would not tend to improperly influence a reasonable person in the Public Officer or the Deputies' situations to depart from their official duties.

The Commission reviewed whether the public officer or his deputies used their public offices to secure unwarranted privileges or advantages for themselves pursuant to the provisions of NRS 281A.400(2) and determined from the evidence that the Company had offered to pay the conference expenses with the intent to further the State's interests relating to managing a new Nevada State Program and to offer training and collaborations related to the State's interests. The invitation was not an enticement or encouragement related to the vending contract or to extend the vending contract. Further, management of the vending contract was not directly under the authority of the agency. *Id.*

The Commission's opinions in *In re Looney and Crowley*, Comm'n Opinion No. 92-17 (1993), provides an important consideration when reviewing any gifts or reimbursements in that care should be taken not to permit private funding of public salaries and benefits. Although the facts as presented do not appear to implicate private funding of public salaries and benefits; nonetheless, the Commission reviewed these opinions to assure itself that there were no implications based upon the facts presented. The opinions instruct that:

The public policy, which is the premise of NRS 281.481(4) (now NRS 281A.400(4)), is that the publicly elected Board of Regents is charged with responsibility for the mission, goals, policies and administration of the University of Nevada, its universities and community colleges. The execution of that responsibility requires the undivided and undiluted accountability of the officers and employees to the Board of Regents of the University. The jurisdiction to direct those officers and employees must be solely in the Board of Regents, just as must be the jurisdiction to pay, reward, and provide benefits to such officers and employees, whatever the original source of the funds to do so, whether public or private.

Implicit in this principle is the notion that just as the Regents have the duty to define the duties and policies of UNR officers and employees, the Regents retain the power to (i) judge and enforce their performance of such duties and policies, and (ii) determine the appropriate compensation, rewards and benefits for such performance, as distinct from a private party.

This is based upon the practice that only the government normally should compensate employees for government work, so that third parties do not reward, compensate, control or influence a government or public employee's decision or service. Accordingly, it is usual for the law to forbid a supplement to a public employee's salary from private or outside sources. It is this same principle which restricts, prohibits or requires disclosure of the receipt of gifts, honoraria or other economic benefits from others when given or paid for activity related to public or government employment. [Citing *Northwestern University Law Review*, Vol. 87 at page 57 (Fall 1982).

B. Acceptance of Gifts - NRS 281A.400(1)

In reviewing the record as presented, including the purpose for seeking sponsorship for the trade mission, the Commission determines that the purpose of the trade mission is in furtherance of the Anthony's duties as LG related to Tourism, GOED, and the Outdoor Recreation Board. The sponsorship is provided to LGs of many states and Anthony's position as LG qualifies him for the trade mission. Further, the SGLF has no contractual or other business with any of the agencies that Anthony oversees and does not have any contracts or business before any other Nevada agencies. The sponsorship is limited to covering only fees associated with flights, lodging, transportation to meetings and official itinerary meal costs. Although SGLF allows spouses to attend, Anthony confirms spouses are responsible for their own costs.

Accordingly, the central issue to be determined by the Commission is whether the trade mission sponsorship would constitute a gift which would create an appearance of impropriety or tend to influence a public officer to depart from the faithful and impartial discharge of his public duties in violation of NRS 281A.400(1). The itinerary of the trade mission is relevant to Anthony's position as LG and his role with GOED, Tourism, and the Outdoor Recreation Board. The funding is specifically limited to funding conference

expenses for the attending public official and is not for guests. Although the conference may provide networking opportunities, there is no indication that the sponsorship is provided to seek favoritism or a quid pro quo with respect to Nevada providing any grants, support, tax abatements or other opportunities to SGLF.

Based upon the record and the limitations placed upon the funding to be limited to expenses required to attend the trade mission and limited only to Anthony, the Commission determines that the acceptance of the funding does not create an appearance of impropriety and would not violate NRS 281A.400(1) because, even though it is a gift or economic opportunity, the gift would not tend to improperly influence a reasonable person in the public official's situation to depart from his official duties.

C. Securing Unwarranted Privileges or Advantages

NRS 281A.400(2) mandates that 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. Anthony has not asked SGLF provide the sponsorship. Instead, he located the sponsorship pursuant to a general email promoting the event, that was forwarded to him from another agency. The Commission determines that Anthony may apply for the sponsorship for the conference fees and such action would not violate the provisions of NRS 281A.400(2) because the funding is not sought for a private purpose, the conference is educational, related to the GOED's mission and goals, is consistent with Anthony's public duties, and the facts presented do not directly implicate quid pro quo concerns, such actions do not rise to the level of seeking an unwarranted privilege under the Ethics Law. NRS 281A.400(2) defines "unwarranted" as without justification or adequate reason, which is not demonstrated by these facts. Further, the record does not establish or reference the existence of the other types of relationships mentioned in NRS 281A.400(2).

D. Other Implicated Laws & Recommended Policies

If, in the future, the SGLF has business before a body in which Anthony has decision-making authority, he must be cognizant of the disclosure and abstention requirements found in NRS 281A.420.

Although the Commission is not charged with the enforcement of other State laws and regulations, it may reference such laws in its opinions even though it is not required to under the provisions of NRS Chapter 281A. Public officers and employees have an independent duty to determine the existence of other applicable laws, regulations and policies associated with their own situations. An advisory opinion issued by the Commission does not excuse the duty to comply with the requirements of the law. In this regard, the Commission references the existence of laws and regulations instituted by the State,⁴ separate than those set forth in NRS Chapter 281A, establishing certain protocols for acceptance of gifts by state agencies.

⁴ This reference should not be deemed to be a complete search of applicable law and does not constitute legal advice.

Separately, the Commission encourages Anthony to establish internal agency policies and procedures for GOED, Tourism, and the Outdoor Recreation Board in coordination with State Administration regarding travel funding for public officials and employees at the expense of private industry, including non-profits. Adoption of a travel-on-industry policy “would aid in balancing the overall interests of the agency, and that of its employees, in obtaining work-related skills and training with the agency’s need to be informed of and maintain appropriate industry relationships and avoid ethical concerns outlined herein.” See *In re Public Employee*, Comm’n Opinion No. 11-36A (2012).

V. CONCLUSIONS OF LAW

1. At all times relevant to the hearing of this matter, Anthony was 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 any such opinion may include guidance from the Commission to the public officer or employee under NRS 281A.665.
3. Pursuant to NRS 281A.400(1), the acceptance of the sponsorship to attend the trade mission hosted by SGLF under these particular circumstances, within the limitations expressed in this opinion, does not create an appearance of impropriety and would not violate NRS 281A.400(1) because, even though it is a gift or economic opportunity, the gift would not tend to improperly influence a reasonable person in the public official’s situation to depart from his official duties.
4. Anthony may accept a sponsorship to attend the trade mission from SGLF without violating the provisions of NRS 281A.400(2) because the record establishes the direct connectivity of the conference to performance of public duties as well as the gift’s detachment from any associated quid pro quo concerns. Therefore, Anthony’s action would not rise to the level of seeking an unwarranted privilege under the Ethics Law, which NRS 281A.400(2) defines as “without justification or adequate reason.”

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.

Dated this 27th day of April, 2023.

NEVADA COMMISSION ON ETHICS

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

By: /s/ James Oscarson
James Oscarson
Commissioner

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

By: Absent
Damian R. Sheets, Esq.
Commissioner

By: /s/ Barbara Gruenwald
Barbara Gruenewald, Esq.
Commissioner

By: /s/ Thoran Towler
Thoran Towler
Commissioner

By: /s/ Theresa Lowry
Teresa Lowry, Esq.
Commissioner

By: /s/ Amanda Yen
Amanda Yen, Esq.
Commissioner