



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of
KELLY CUSANELLI, Staff member,
Washoe County District Attorney's Office
State of Nevada,

Request for Opinion No.: 10-120C

Subject.

PANEL DETERMINATION

NRS 281A.440(5); NAC 281A.440

Facts and Jurisdiction

The Nevada Commission on Ethics received an Ethics Request for Opinion regarding the conduct of Kelly Cusanelli, Law Office Manager, Washoe County District Attorney's Office, State of Nevada, alleging certain violations of the Ethics in Government Law set forth in NRS 281A.

The main allegation is that Mr. Cusanelli violated NRS 281A.400(7), which prohibits a public officer or employee to use government resources to further a personal or financial interest, by using his county business card to further his personal interest in D.A. Gammick's re-election.

At the time of the alleged conduct, Mr. Cusanelli was, and still is, the Law Office Manager of the office of the Washoe County District Attorney, a public employee as defined in NRS 281A.150. The Commission has jurisdiction over the conduct of public officers and public employees, pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction to consider and take action regarding Mr. Cusanelli's conduct.

Panel Proceeding

On March 7, 2011, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners George M. Keele and James Shaw reviewed the following: 1) Request for Opinion; 2) Mr. Cusanelli's response to the Request for

Opinion; and 3) Executive Director's Report and Recommendation. Based on the materials presented to the Investigatory Panel, the following are the Panel's unanimous findings and conclusions as to each of the allegations:

A. The Requester failed to provide the minimal level of reliable or competent form of proof, other than supposition, that Mr. Cusanelli gave his business card to Ms. Powell to enhance Mr. Gammick's campaign or to further his own personal interest. Mr. Cusanelli explained his view in his Response, and Ms. Powell's subsequent visit to the D.A.'s office bolsters his credibility.

Mr. Cusanelli also suggested that credible evidence exists that 1) a policy has been established authorizing employees of the D.A.'s office to distribute business cards for nearly any purpose, 2) the use of his business card in this circumstance did not interfere with his public duties, 3) the cost or value of one business card is nominal, and 4) providing a business card to a person interested in the programs of the District Attorney's office did not create the appearance of impropriety. The Requester has provided only conjecture that the opposite is true.

B. Credible evidence does not exist to support a finding of just and sufficient cause for the Commission to render an opinion whether Mr. Cusanelli violated NRS 281A.400(7) by providing his business card to Ms. Powell. The panel found that the evidence failed to meet the minimum level of reliable and competent evidence required to support a reasonable belief that Mr. Cusanelli improperly used government resources to further his personal interest.

C. The Investigatory Panel will not refer these allegations to the Commission for a hearing and the rendering of an opinion, and the Request for Opinion will be dismissed.

Dated: March 13, 2011



Caren Jenkins, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I placed a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-120C**, in an envelope and caused same to be mailed via certified mail, return receipt requested, through the State of Nevada Mailroom to Kelly Cusanelli's counsel, Nathan J. Edwards, Esq., and a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-12C** to Kelly Cusanelli, and the Requester, Tonja Brown, via regular mail through the State of Nevada Mailroom addressed as follows:

Nathan J. Edwards, Esq.
Deputy District Attorney
P. O. Box 30083
Reno, NV 89520-3083

Cert. No. 7010 0780 0001 0973 8014

Counsel for Kelly Cusanelli

Kelly Cusanelli
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P. O. Box 30083
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First Class Mail

Tonja Brown
2907 Lukens Lane
Carson City, NV 89701

First Class Mail

DATED: 3/19/2011


An employee, Nevada Commission on Ethics