



STATE OF NEVADA

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Request for Opinion  
Concerning the Conduct of **ANDREW BORASKY**,  
Member, Board of County Commissioners, Nye County,  
State of Nevada.

**Request for  
Opinion No. 10-12C**

**Subject.**

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**PANEL DETERMINATION**

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

Facts and Jurisdiction

The Nevada Commission on Ethics received an Ethics Complaint regarding the conduct of Andrew Borasky, Commissioner, Nye County, State of Nevada, alleging certain violations of the Ethics in Government Law set forth in NRS 281A . Commission staff presented the Investigatory Panel with the allegations in the Complaint that Borasky violated:

- 1) NRS 281A.400(2) by using his position in government to secure unwarranted preferences for himself and his business interests, as well as for the benefit of his commitment to the interests of Nationwide Homes, his former client;
- 2) NRS 281A.400(7) by using governmental time and property to benefit his personal interest in correcting elevation certificates for jobs he previously completed for Nationwide Homes; and
- 3) NRS 281A.400(9) by seeking to benefit his personal interest through the influence of a subordinate, the Nye County Manager of Building Safety and Code Compliance.

At the time of the alleged conduct, Borasky was, and still is, a member of the Nye County Board of County Commissioners, a public officer as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public officers as outlined in NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

### Panel Proceeding

On May 13, 2010, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners George M. Keele and John T. "JT" Moran, III reviewed the following: 1) Ethics Complaint; 2) Mr. Borasky's response to the Ethics Complaint, 3) the Investigator's Report; and 4) the Executive Director's Recommendation and Approval of Investigator's Report. The following are the Panel's unanimous findings and conclusions as to each of the allegations:

1. Just and sufficient cause exists for the Commission to render an opinion regarding whether Borasky used his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, his business interests, or to others in violation of NRS 281A.400(2). The panel found that a minimum level of reliable and competent evidence exists to support a reasonable belief that on October 6, 2008, Borasky directed Richard Johnson, the Nye County Manager of Building Safety and Code Compliance, to inspect properties at 4701 and 4671 W. Dyer in Pahrump, evaluate the elevations found and recommend corrections regarding alleged issues with two garage pads previously excavated by Borasky or his company.

Therefore, this allegation is referred to the Commission for a hearing.

2. Just and sufficient cause exists for the Commission to render an opinion regarding whether Borasky violated NRS 281A.400(7) by using governmental time, property, equipment or other facility to benefit his personal or financial interest. The panel found that a minimum level of reliable and competent evidence exists to support a reasonable belief that on October 6, 2008, Borasky used Johnson's time during work hours (governmental time) for his personal benefit when he directed Johnson to cease his other duties to inspect the properties in question, analyze the elevations and recommend corrections regarding alleged issues with Borasky's former client's two garage pads.

Therefore, this alleged violation is referred to the Commission for a hearing.

3. Just and sufficient cause exists for the Commission to render an opinion regarding whether Borasky attempted to benefit his own personal interest through the influence of a subordinate in violation of NRS 281A.400(9). The panel finds that a minimum level of reliable and competent evidence exists to support a reasonable belief that on

October 6, 2008, Borasky directed Johnson to cease his other duties to inspect the properties in question, analyze the elevations and recommend corrections regarding alleged issues with Borasky's former client's two garage pads.

Therefore, this alleged violation is referred to the Commission for a hearing.

Each of the allegations in Request for Opinion 10-12C is referred to the Commission for hearing and the rendering of an opinion.

Dated: 05/21/10

  
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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. 10-12C**, in an envelope and caused same to be mailed via certified mail, return receipt requested, through the State of Nevada Mailroom to Andrew Borasky's counsel, Lillian J. Donohue, Esq., and a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-12C** to Andrew Borasky, and the Requester, Richard Johnson, via regular mail through the State of Nevada Mailroom addressed as follows:

Lillian J. Donohue, Esq.  
Law Office of Lillian J. Donohue  
2240 E. Calvada Blvd.  
Pahrump, NV 89048

**Cert. No. 7002 2030 0005 8442 5123**

*Counsel for Andrew Borasky*

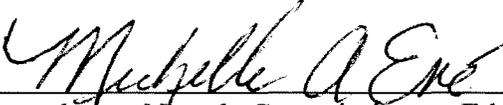
Andrew Borasky  
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1640 E. Manse Rd.  
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First Class Mail

Richard Johnson  
5021 N. Jerry Avenue  
Pahrump, NV 89060

First Class Mail

DATED: 05/21/10

  
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An employee, Nevada Commission on Ethics