

1 **3. Issues:**

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3 The issues are whether Manendo violated:

4 **I.** NRS 281A.400(2) by using his position in government to secure unwarranted
5 privileges, preferences, exemptions or advantages by listing his government-issued
6 legislative e-mail address on his campaign website as a means of contact.

7 **II.** NRS 281A.400(8) by using governmental time, property, equipment or other
8 facility for a nongovernmental purpose or for the private benefit of the State
9 Legislator or any other person by using his government-issued legislative e-mail
10 address for campaign purposes.

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12 **4. Notices to Subject: (Tab C):**

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14 A Notice to Subject of RFO 10-31C was issued to Manendo on May 7, 2010. A postal
15 service record indicates that Manendo received the Notice on May 20, 2010. (Tab C).

16
17 **5. Response to Ethics Complaint. (Tab D):**

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19 Manendo submitted his response to the Ethics Complaint on June 23, 2010. Manendo
20 denied violating any provisions of NRS 281A.400. Manendo acknowledged that his legislative
21 e-mail address was placed on a campaign website, but explained that the website in question
22 and its screenshot provided as evidence with the Complaint is that of a website developed
23 during his 2004 campaign for re-election; the website he used for his 2010 election campaign is
24 www.MarkManendoForSenate7.com. (Exhibit 1). (Response, Tab D). Furthermore, Manendo
25 stated that he was not aware that the 2004 website was still operational or accessible via the
26 internet since it was created 6 years ago and he asked that it be disabled and thought it was
27 closed down.

1 **Investigation Resources:**

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3 I interviewed the following individuals and reviewed their responses:

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5 **1. Witnesses interviews and responses. (Tab E):**

- 6
7 • Mark Manendo, subject of RFO 10-31C. (Response, Tab D), telephone interview on June
8 11, 2010 incorporated in the report. (Investigator's Report, Tab A, pp. 4-5).
9 • Kyle Knight, requester of RFO 10-31C, telephone interview on June 21, 2010
10 incorporated in the report. (Investigator's Report, Tab A, pp. 5-6).
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12 **2. Documents. (Tab F):**

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14 I obtained and reviewed the following relevant documents and materials:

- 15
16 • Print out of Manendo's 2010 campaign website www.MarkManendoForSenate7.com on
17 June 21, 2010. (Exhibit 1).
18 • Print out of Manendo's Facebook page on June 11, 2010. (Exhibit 2).
19 • Screen shot of Manendo's 2004 campaign website www.VoteManendo.com on
20 (unspecified date) and a screen shot of the same on June 21, 2010. (Exhibit 3).
21 • Certain election-related documents filed by Manendo on March 10, 2010. (Exhibit 4).
22

23 **3. Relevant Statutes and Commission Opinions. (Tab G):**

- 24
25 • NRS 281A.400(2) and (8).
26 • NRS 281A.420(8).
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1 **Investigative findings:**

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3 Manendo was first elected as the assemblyman for Clark County District 18 in 1994.
4 Currently, he is a candidate for State Senate District 7. In addition to his elected position,
5 Manendo is employed by Collision Authority, a vehicle repair company, as the assistant director
6 for client services.

7 On June 15, 2010, I spoke to Deputy Secretary of State for Elections Matt Griffin, and
8 requested copies of all election-related documents filed by Manendo. After receiving and
9 reviewing the documents, I learned the following: as a means of contact on all election-related
10 forms, Manendo used his private telephone, private e-mail and a website
11 www.MarkManendoForSenate7.com. (Exhibit 1).

12 The complaint alleges that by listing a government-issued legislative e-mail address on
13 his campaign website, Manendo violated provisions of NRS 281A because he used government
14 time, equipment, property or other facility as part of his campaign for election, and therefore, he
15 received an unwarranted benefit.

16 The complaint includes a screen shot of the website www.VoteManendo.com; however,
17 the date of the screenshot is unknown. It is likely, and we can assume, that the screen shot was
18 taken shortly before filing the Complaint with the Commission. Upon the first review of the
19 Complaint on May 10, 2010, I successfully accessed www.VoteManendo.com. Based on the
20 information found, it appears that the website was not created to support Manendo's 2010
21 campaign. The information provided was related to Manendo's campaign for State Assembly
22 District 18. However, Manendo is not currently a candidate for the State Assembly District 18
23 in 2010; he is a candidate for the State Senate District 7. (Exhibit 1). In addition, the website
24 www.VoteManendo.com was disabled shortly after Manendo received the Notice to Subject of
25 RFO 10-31C (Tab C), and it remains disabled as of June 23, 2010. (Exhibit 3, p.2).

26
27 **Telephone interview with Mark Manendo on June 11, 2010.**

28 I spoke with Manendo on June 11, 2010 and questioned him as to the use of his

1 government-issued legislative e-mail address on the alleged 2010 campaign website. Manendo
2 responded that the website screen shot included in the Complaint is not that of his 2010
3 campaign website. The website www.VoteManendo.com was created sometime in 2004 and
4 Manendo was unaware that the website was still operational in 2010; he thought it was disabled
5 several years ago as he never made any payments for its operation subsequent to 2004 election,
6 and no one contacted him with questions related to this website.

7 As to the e-mail address listed on the website, Manendo responded that he never
8 intended to receive any unwarranted privileges and he never used this e-mail for campaign-
9 related business. The e-mail address in question was placed on the website by its creator who
10 most likely obtained the information from the Nevada State Legislature website. In addition,
11 Manendo does not recall receiving any campaign-related e-mails via the government-issued e-
12 mail address and there were no legislative employees reviewing or using the account.

13 The website related to the 2010 election is www.MarkManendoForSenate7.com and
14 Manendo's campaign is also promoted via his Facebook page. (Exhibit 2). Neither of the above
15 includes the government-issued legislative e-mail address; the e-mail and telephone number
16 listed there are private and privately funded.

17 As to why the website www.VoteManendo.com was still accessible years after the 2004
18 election, Manendo offered no explanation as he does not possess sufficient technical expertise
19 to do so. The website was created by an acquaintance of Manendo and the information
20 including the government-issued e-mail address was taken from on his biography publicly
21 available on the Nevada State Legislature website. Based on the Investigator's prior experience
22 and technical knowledge, it is not uncommon to locate web pages years after they are believed
23 to have been shut down, primarily due to a lack of expertise on the part of the creator of the site.

24
25 **Telephone interview with Kyle Knight on June 21, 2010.**

26 I spoke to Knight on June 11, 2010 and asked whether he can provide any additional
27 information regarding the complaint he filed with Commission. (Tab B). Knight responded that
28 he simply came across Manendo's website and noticed that he used his government-issued e-

1 mail as his contact. He thought that it was inappropriate and subsequently filed the Complaint.
2 Furthermore, Knight stated that never met Manendo in person and cannot offer any additional
3 information or evidence.

4
5 **1. Allegation one: on an unspecified date or on approximately April 26, 2010,**
6 **Manendo violated NRS 281A.400(2) by placing his government-issued e-mail**
7 **address on the campaign website www.VoteManendo.com as a means of**
8 **contact.**

- 9
10 ■ NRS 281A.400(2) provides, in relevant part:

11 A public officer or employee shall not use the public officer's or employee's
12 position in government to secure or grant unwarranted privileges, preferences,
13 exemptions or advantages for the public officer or employee, any business entity
14 in which the public officer or employee has a significant pecuniary interest, or
15 any person to whom the public officer or employee has a commitment in a
16 private capacity to the interests of that person. As used in this subsection:

17 (a) "Commitment in a private capacity to the interests of that person" has the
18 meaning ascribed to "commitment in a private capacity to the interests of
19 others" in subsection 8 of NRS 281A.420.

20 (b) "Unwarranted" means without justification or adequate reason.

21 As to the allegation that Manendo used his position in government to secure unwarranted
22 privileges, preferences, exemptions or advantages the evidence is as follows:

23 The Complaint provided no evidence that Manendo received campaign-related
24 correspondence via his government-issued e-mail address. Even if so, without further evidence
25 it cannot be determined whether a sender obtained such e-mail address via Manendo's 2004
26 campaign website or the Nevada State Legislature website. Further, the Complaint assumes that
27 the website www.VoteManendo.com is related to a Manendo campaign within the
28 Commission's 2-year statute of limitations, while the evidence shows the website was related to
a 2004 campaign. The 2010 campaign website is www.MarkManendoForSenate7.com, and it
does not include any government-related means of contact.

1 **2. Allegation two: on an unspecified date or on approximately April 26, 2010**
2 Manendo violated NRS 281A.400(8) by using governmental time, property,
3 equipment or other facility for a nongovernmental purpose or for the private
4 benefit of the State Legislator or any other person by using his government-
5 issued e-mail address for campaign purposes.

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7 ▪ NRS 281A.400(8) provides, in relevant part:

8 A State Legislator shall not:

- 9 (a) Use governmental time, property, equipment or other facility for a
10 (b) nongovernmental purpose or for the private benefit of the State
 Legislator or any other person. This paragraph does not prohibit:

11 (1) A limited use of state property and resources for personal purposes if:

12 (I) The use does not interfere with the performance of the State
 Legislator's public duties;

13 (II) The cost or value related to the use is nominal; and

14 (III) The use does not create the appearance of impropriety;

15 (2) The use of mailing lists, computer data or other information lawfully
 obtained from a governmental agency which is available to members of the
 general public for nongovernmental purposes; or

16 (3) The use of telephones or other means of communication if there is
 not a special charge for that use.

17 (b) Require or authorize a legislative employee, while on duty, to perform
 personal services or assist in a private activity, except:

18 (1) In unusual and infrequent situations where the employee's service is
 reasonably necessary to permit the State Legislator or legislative employee to
 perform that person's official duties; or

19 (2) Where such service has otherwise been established as legislative
 policy.

20 As to the allegation that Manendo used governmental time, property, equipment or other
21 facility for a nongovernmental purpose or for the private benefit of the State Legislator or any
22 other person, the evidence is as follows:

23 The Complaint provided no evidence that Manendo received campaign-related
24 correspondence via his government-issued e-mail address or evidence that a member of a
25 legislative staff reviewed or responded to such alleged e-mails. Even so, subsection 8(1) of NRS
26 281A.400 provides that a limited use of state property and resources for personal purposes is
27 permitted if:

28 (I) The use does not interfere with the performance of the State Legislator's
 public duties;

 (II) The cost or value related to the use is nominal; and

 (III) The use does not create the appearance of impropriety. (Emphasis added.)

1 There is no evidence that the government sustained any additional fees for Manendo
2 receiving e-mail related to his campaign or that the use interfered in any way with his legislative
3 duties. We have no evidence other than the complaint, that the listing even created an
4 appearance of impropriety.

5 Furthermore, The Complaint assumes that the website www.VoteManendo.com is
6 related to Manendo's 2010 campaign, while the evidence shows the website was created for the
7 campaign in 2004. The 2010 campaign website is www.MarkManendoForSenate7.com, and it
8 does not list any government-related or legislative contact information for Manendo.

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10 Dated this 23 day of June 2010.

11 NEVADA COMMISSION ON ETHICS

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16 Mike Vavra, MPA, Investigator