



STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of MARK MANENDO,
State Assemblyman,
State of Nevada,

Request for Opinion No. 10-31C

Subject.
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EXECUTIVE DIRECTOR'S RECOMMENDATION

And Approval Of Investigator's Report

Panel Members: Chairman John T. Moran III and Commissioner Magdalena Groover

The following is the Executive Director's recommendation based on consideration and investigation of the Ethics Complaint filed against Assemblyman Mark Manendo ("Subject"), a public officer, and on the Subject's written response to the Complaint, attached to the Investigator's Report. That Report and its exhibits are approved and are attached for the consideration of the two-commissioner investigatory panel.

Allegations:

The main allegation is that Assemblyman Manendo, by having his legislative email address on a campaign website, used government resource to further his personal interest in being re-elected and used his position in government to gain an unwarranted privilege - - a free email address for his campaign purposes.

Facts:

The Requester provided a screen shot of a campaign website at www.VoteManendo.com in which Manendo's legislative email address is listed as his contact email. Manendo explained that a web developer created the site and listed Manendo's public information from the legislative website to promote Manendo's campaign for re-election to the Assembly in 2004. Manendo was not aware that the site was accessible on the internet in 2010, and had asked the web developer years ago to "take it down" or disable the site. He had assumed that the site was rendered inoperable shortly thereafter. Manendo's current campaign site is www.MarkManendoForSenate7.com.

Nevada Revised Statutes (NRS) and case law:

The applicable statutes are NRS 281A.400(2) and (8) which provide that a public officer, and particularly a State Legislator, shall not use his position in government to secure unwarranted privileges, and shall not use state property and resources to further a personal interest except under certain limited circumstances.

NRS 281A.280 imposes a 2-year statute of limitations on violations of the Ethics in Government Laws. If the Panel determines that a violation of the Ethics in Government Laws may have occurred when the website was posted in 2004, the matter may be time-barred.

Recommendation:

After reviewing the evidence and NRS 281A.400, and NRS 281A.280, I recommend that the Panel find just and sufficient cause DOES NOT EXIST to forward this matter to the Commission for an opinion on the allegations that Manendo used his position in government to gain an unwarranted privilege or used state resources to further a personal interest by listing his legislative email address on a campaign website in violation of NRS 281A400(2) and (8). This matter is time-barred by NRS 281A.280 which bars a complaint regarding a violation of the provisions of NRS 281A more than 2 years from the date of the alleged violation or the date the violation could reasonably have been discovered.

Analysis:

NAC 281A.435 Basis for finding by panel; unanimous finding required for determination that no just and sufficient cause exists. (NRS 281A.290)

1. A finding by a panel as to whether **just and sufficient cause** exists for the Commission to render an opinion on an ethics complaint **must be based on credible evidence.**

2. A finding by a panel that no just and sufficient cause exists for the Commission to render an opinion on an ethics complaint must be unanimous.

3. As used in this section, **“credible evidence” means the minimal level of any reliable and competent form of proof** provided by witnesses, records, documents, exhibits, concrete objects, and other such similar means, **that supports a reasonable belief by a panel that the Commission should hear the matter and render an opinion.**

Conclusion:

The Recommendation is that the Panel find just and sufficient cause **DOES NOT EXIST** for the Commission render an opinion on all of the above allegations against Mark Manendo including the alleged violations of NRS 281A.400(2) and NRS 281A.400(8).

I hereby approve the attached Investigator’s Report and provide this, my recommendation, to this honorable panel.

Dated this 30th day of June, 2010.



Caren Jenkins, Esq.
Executive Director