



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion  
Concerning the Conduct of **RICHARD J. CHERCHIO**,  
Councilman City of North Las Vegas,  
State of Nevada,

**Request for Opinion No. 10-99C**

Subject.  
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**STIPULATED AGREEMENT**

1. **PURPOSE**: This stipulated agreement resolves Request for Opinion No. 10-99C before the Nevada Commission on Ethics ("Commission") concerning Richard J. Cherchio ("Cherchio") and serves as the final opinion in this matter.

2. **JURISDICTION**: At all material times, Cherchio served as an appointed member of the North Las Vegas City Council in the State of Nevada, making him a public officer pursuant to NRS 281A.160. Nevada Revised Statute ("NRS") 281A.280 gives the Commission jurisdiction over elected and appointed public officers. Therefore, Cherchio is a public officer subject to the jurisdiction of the Commission.

3. **PROCEDURAL STATUS AND HISTORY:**

The following events are relevant to the matter:

- a. Cherchio was appointed to the North Las Vegas City Council on July 15, 2009.
- b. At all times relevant to this matter, in his private capacity, Cherchio owned various properties in and around North Las Vegas and received retirement income from the United States Postal Service as well as the United States Social Security Administration.
- c. On December 8, 2010, the Commission received a third-party request for opinion (RFO) regarding Cherchio filed by Jay L. King, a private citizen. The RFO alleged that Cherchio violated the Ethics in Government Law set forth in NRS 281A by improperly filing a financial disclosure statement for calendar year 2009.
- d. The Commission provided Cherchio with proper notice of the allegations and an opportunity to file a written response. Cherchio was fully advised of the allegations asserted in the RFO and filed a written response to the allegations on February 3, 2011.
- e. Cherchio's response admitted his inadvertent failure to properly file the financial disclosure statement for calendar year 2009. Upon notice of the RFO, Cherchio filed an amended financial disclosure statement for calendar year 2009 with the proper information.
- f. In lieu of having the Commission engage an investigatory panel or hearing regarding these alleged violations of NRS 281A, Cherchio now enters into this stipulation

acknowledging his duty as a City Councilmember to complete and file a financial disclosure statement in accordance with NRS 281A.600 and 281A.620.

4. **RELEVANT STATUTES:** The following excerpts from Nevada Revised Statutes are relevant to the allegations giving rise to this stipulated agreement:

a. NRS 281A.600, in relevant part – Filing Financial Disclosure Statement

1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, the public officer shall file with the Commission a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after the public officer's appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

- The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

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b. NRS 281A.620, in relevant part – Required Information for Financial Disclosure Statement:

1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such form as the Commission otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) The candidate's or public officer's length of residence in the State of Nevada and the district in which the candidate for public office or public officer is registered to vote.

(b) Each source of the candidate's or public officer's income, or that of any member of the candidate's or public officer's household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which the candidate for public office or public officer or a member of the candidate's or public officer's household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom the candidate for public office or public officer or a member of the candidate's or public officer's household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which the candidate for public office or public officer or a member of the candidate's or public officer's household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by the candidate for public office or public officer for which this statement of financial disclosure is required.

2. The Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.

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c. NRS 281A. 170 - Willfulness

“Willful violation” means a violation where the public officer or employee:

1. Acted intentionally and knowingly; or
2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter.

5. **FINDINGS/STIPULATIONS OF FACT:**

- a. Cherchio was appointed to the North Las Vegas City Council on July 15, 2009 to fill a vacant unexpired term.
- b. On July 27, 2009, within 30 days of his appointment, Cherchio properly filed a financial disclosure statement required by NRS 281A.600(1)(a) and disclosed his required financial interests required by NRS 281A.620.
- c. Pursuant to NRS 281A.600(1)(b), Cherchio was required to file an additional financial disclosure statement on or before January 15, 2010 disclosing the financial information required pursuant to NRS 281A.620 for the full calendar year immediately preceding the date of filing (2009).
- d. Misunderstanding the requirement to file the additional year-end statement, and believing his financial information to have already been fully disclosed, Cherchio filed a financial disclosure statement on January 14, 2010 listing his annual compensation as a councilman, but marking “not applicable” in the rest of the disclosure categories on the form.
- e. Upon receiving notice of the RFO, Cherchio immediately filed an amended financial disclosure statement for calendar year 2009 repeating the income sources and properties held from his initial 2009 filing after his appointment to office.

6. **TERMS:** Based on the foregoing, Cherchio and the Commission agree as follows:
- a. Each of the facts enumerated in section 5 is deemed to be true and correct.
  - b. Cherchio acknowledges that he misunderstood the requirements concerning the financial disclosure statement required at the end of the calendar year in which he was appointed. Consequently, he inadvertently failed to disclose his income and property ownership on January 14, 2010, for calendar year 2009, believing that information had already been disclosed in his earlier statement.
  - c. Although Cherchio failed to properly disclose the required information on his financial disclosure statement for calendar year 2009, the information required for the statement was identical to the information he disclosed on the statement filed on July 27, 2009. Upon learning of his error, he filed an amended financial disclosure statement containing accurate information.
  - d. Cherchio acknowledges that it is his responsibility as a public officer to understand the Ethics in Government Law, and, in particular the requirements for financial disclosure set forth in NRS 281A.600 and 281A.620.
  - e. Cherchio's failure to properly disclose the required information on his financial disclosure statement for calendar year 2009 constitutes a single violation of the Ethics in Government Law (implicating NRS 281A.600 and 281A.620).
  - f. Cherchio's violation of NRS 281A was **NOT** willful under NRS 281A.170. Cherchio neither knowingly nor intentionally failed to properly disclose his relevant financial interests. In fact, upon learning of his mistake, he immediately filed an amended

financial disclosure statement which was identical to the financial disclosure statement filed upon his appointment to office.

- g. This agreement applies only to the specific facts, circumstances and law related to this RFO. Any facts or circumstances that are in addition to or differ from those contained in this agreement may create an entirely different resolution of this matter.

7. **WAIVER:**

- a. Cherchio knowingly and voluntarily declined to retain legal counsel in this matter and waived his right to a panel determination and full hearing before the Commission on the allegations against him and of any and all rights he may be accorded pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B), and the laws of the State of Nevada.
- b. Cherchio knowingly and voluntarily waives his right to any judicial review of this matter as provided in NRS 281A, 233B or any other provision of Nevada law.

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8. **ACCEPTANCE**: We, the undersigned parties, have read this agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during a regular meeting of the Commission on February 11, 2011.

DATED this 1st day of MARCH, 2011.

  
Richard Cherchio  
Public Officer

DATED this 9th day of March, 2011.

  
Erik Beyer, Presiding Officer  
Nevada Commission on Ethics

The above Stipulated Agreement is approved:

  
Yvonne M. Nevarez-Goodson, Esq.  
Commission Counsel  
Nevada Commission on Ethics