



**STATE OF NEVADA**  
**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party Requests for Opinion concerning the conduct of <b>PUBLIC OFFICERS</b> <sup>1</sup> , State of Nevada,	<b>Requests for Opinion Nos.:</b> <b>11-19C</b> <b>11-21C</b> <b>11-22C</b> <b>11-24C</b>
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Subjects. /

**JURISDICTIONAL ORDER ON SUBJECTS' MOTION TO DISMISS**

In or about February 2011, Requester filed several Requests for Opinion (RFOs) alleging that certain public officers of a local government entity violated the Ethics in Government Law (NRS Chapter 281A). Pursuant to Nevada Administrative Code (NAC) 281A.405, the Executive Director and Commission Counsel reviewed the RFOs and determined that the requests were properly filed and the Commission had jurisdiction to investigate. The allegations involved matters within the statute of limitations and a minimal amount of credible evidence was provided that the Subjects' alleged conduct violated NRS Chapter 281A. The Commission staff consolidated the RFOs and sent written notices of the RFOs to the Subjects in March 2011.

After significant discussion, upon the invitation of the Executive Director, counsel for the Subjects sought a review of the Commission staff's jurisdictional determination, applying the due process procedures made available to the requester of an opinion in NAC 281A.405(4).

On July 28, 2011, the Commission convened a two-member jurisdictional panel comprised of Commissioners George Keele and Paul Lamboley to review the request for jurisdictional review. After reviewing the Subjects' request, and considering the RFOs, supporting documents and the Executive Director and Commission Counsel's findings, the Panel concluded that it lacked authority to review a grant of jurisdiction sought by the Subject of an RFO. NAC 281A.405 provides jurisdictional review rights

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<sup>1</sup> Requests for Opinion filed with the Nevada Commission on Ethics are confidential until a Commission *Investigatory* Panel issues its determination. NRS 281A.440. This Jurisdictional Order was rendered before the determination of a Panel of the merits of the allegations, and therefore, the identities of the Subjects of these RFOs remain confidential.

only to the requester of an opinion, and only if the Executive Director in conjunction with the Commission Counsel determines that the RFO was not properly filed or that the Commission lacks jurisdiction over the subject-matter of the RFO. As a result, the Panel rejected the Subjects' request that it review the staff's determination.

On or about November 17, 2011, in response to the Panel's determination regarding the Subjects' jurisdictional appeal, and prior to an investigation or Panel determination on the merits of the allegations, the Subjects filed a Motion to Dismiss the RFOs with the Commission alleging that the Commission lacked jurisdiction to investigate the RFOs and/or pursue a hearing on the matter. The Subjects argued that the RFOs were attacks upon the policies and legislative enactments of the entity rather than allegations concerning whether any individual public officer violated Nevada's Ethics in Government Law. As such, the Subjects argued that the relief sought by the Requester exceeded the Commission's authority.

The Commission held a hearing on the Subjects' Motion to Dismiss on January 18, 2012 and issued an oral decision. In accordance with the Commission's oral ruling, it is hereby **ORDERED** that **Subjects' Motion to Dismiss is granted, in part, and denied, in part.**

The Commission lacks authority to consider the legality of policies adopted by a public body. The Motion to Dismiss is therefore granted, in part, regarding any allegations which concern the adoption and/or ratification of such policies. However, jurisdiction does extend to allegations of misconduct by individual public officers under such policies. Accordingly, the Motion is denied, in part, regarding any such allegations of individual misconduct.

Because the Motion to Dismiss was presented pre-panel, the Motion and the Commission's deliberations remain confidential pursuant to NRS 281A.440(8) until a Panel issues its determination on any outstanding allegations.

DATED: December 12, 2012

/s/ Erik Beyer

Erik Beyer  
Chair