



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion Concerning
the Conduct of **Michael Buckley, Esq.**, Chairman,
Commission on Common Interest Communities and
Condominium Hotels,
State of Nevada,

Request for Opinion No. **11-49C**

Subject.

PANEL DETERMINATION

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

Facts and Jurisdiction

The Nevada Commission on Ethics received an Ethics Request for Opinion (RFO) regarding the conduct of Michael Buckley, Esq., Chairman, Commission on Common Interest Communities and Condominium Hotels (CCICCH), a public officer, 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 Request for Opinion that Buckley violated:

- 1) NRS 281A.020 by failing to avoid conflicts between his private interests and those of the general public whom he served.
- 2) NRS 281A.420(1) and (3) by failing to properly disclose a conflict of interest and undertake the abstention analysis before participating in the December 6, 2010 CCICCH meeting in which regulations related to imposing a cap on the total costs that may be passed on to a common interest or condominium owner in a foreclosure.

At the time of the alleged conduct, Mr. Buckley, as Chairman of the CCICCH, was a public officer as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public officers pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

The allegations center on Buckley's conduct related to the disclosure of a pecuniary interest in his law firm and the abstention analysis he must undertake when a matter that affects his pecuniary interest comes before the CCICCH. The RFO alleges

that Buckley violated several provisions of the Nevada Ethics in Government Law, including NRS 281A.420(1) by failing to disclose a conflict of interest with one of his law firm's clients, RMI Management LLC ("RMI") and its subsidiary Red Rock Financial Services ("Red Rock Financial")¹ and violated NRS 281A.420(3) as well by failing to abstain from acting on a matter in which a conflict of interest existed.

The RFO specifically alleges that, during Agenda Item No. 5 of the December 7, 2010 CCICCH meeting, Buckley failed to disclose his pecuniary interest as a shareholder in his law firm, which received fees from its client, RMI, and undertake the abstention analysis before voting to adopt CCICCH Regulation R199-09 which imposed a cap on the costs passed through to a homeowner by association managers and collection agencies in a foreclosure.

The investigation showed that Buckley's firm, Jones Vargas, had been engaged to represent RMI in the 2011 Legislative Session and advocated to protect the interests of Common-Interest Community managers. Buckley was uninvolved in any such lobbying efforts during the legislative session. However, as a person intensely involved in the development and application of Chapter 116 of NRS, the Common-Interest Communities laws, he was aware of his firm's participation in the issue.

Panel Proceeding

On July 28, 2011, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners George M. Keele, Esq. and James Shaw reviewed the following: 1) Ethics Request for Opinion; 2) Subject's response to the Ethics Request for Opinion, 3) The Executive Director's Report and Recommendation.

The Panel found that insufficient credible evidence was present to support a reasonable belief that the Commission should hear this matter and render an opinion regarding any violation of NRS 281A.420(1) and (3) because no evidence was presented or discovered of any effect on Mr. Buckley's pecuniary interest in Jones Vargas by the adoption of a regulation imposing a cap on fees assessed to a homeowner in a common-interest community assessment-related foreclosure. No credible evidence was presented that the pecuniary interest of a shareholder in a law firm that lobbied on behalf of an association management company in one Nevada Legislative session would be affected by the regulation.

¹ RMI Management, LLC is an association management firm that provides services to homeowner and condominium associations. Its subsidiary, Red Rock Financial Services, offers collection services to community associations.

Further, the Panel determined that insufficient credible evidence was presented to conclude that placing a cap on the pass-through of collection-related fees to homeowners in common-interest community foreclosures would have a material effect on the independence of judgment of a reasonable shareholder in a law firm whose limited engagement client works in common-interest community management, even if that client engaged in activities related to foreclosing against homeowners whose assessments are delinquent, when that shareholder sits as a member of the CCICCH and considers whether to adopt, modify or reject the proposed regulation.

Based on these findings, the Panel dismissed the RFO in its entirety.

Dated: October 4, 2011



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 deposited for mailing, via U.S. Postal Service, through the State of Nevada mailroom, a true and correct copy of the **PANEL DETERMINATION IN REQUEST FOR OPINION No. 11-49C**, addressed as follows:

Jonathan Friedrich
2405 Windjammer Way
Las Vegas, NV 89107

Cert. No. 7010 0780 0001 0973 5112

Michael Buckley, Esq.
2501 East Sahara Avenue
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First Class Mail

DATED: October 24, 2011

Valerie Carter
Valerie Carter, Nevada Commission on Ethics