



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

**In the Matter of the Request for Opinion  
Concerning the Conduct of JIMMY VIGILANTE,  
Member, Southern Nevada Health District,  
State of Nevada,**

**Request for Opinion No.: 12-16C**

**a Public Officer. /**

**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 Jimmy Vigilante, a member of the Southern Nevada Health District (SNHD) Board of Health, alleging certain violations of the Ethics in Government Law set forth in NRS 281A. Commission staff presented the Investigatory Panel with the following information and allegations.

Vigilante owns JVC Food Safety Specialists Inc., which offers consultation services to the restaurant industry to aid compliance with health and safety regulations. Vigilante was first appointed to the Board in May 2006 as an alternate member representing regulated business/industry and accepted appointment as the environmental specialist at-large member in July 2010. The SNHD Board of Health is the regulatory entity in Southern Nevada with jurisdiction over the food service industry. The main allegations in the RFO are that Vigilante's position on the Board created a number of conflicts, and that he advertised his position on the SNHD Board on his company website and in "tweets" and used his public officer status to gain contracts and new clients.

SNHD is a cooperative body that, according to its by-laws, is comprised of representatives of Clark County, the cities and towns within the county and various interest groups involved in health-related issues in southern Nevada, including a member representing the "environmental specialist" community. The SNHD promulgates regulations through a public process and enforces them within its jurisdiction. Health and environmental regulations affecting the food service industry fall within SNHD's authority.

The RFO alleges that Vigilante, by serving SNHD as a public officer (as defined in NRS 281A.160) and simultaneously being engaged in businesses subject to the SNHD's authority, created a problematic conflict of interest. The RFO alleges that by listing his SNHD position on his company website and using Twitter and e-mail to inform clients of regulatory changes, Vigilante used his position to gain employment or contracts or to gain an unwarranted personal benefit in violation of NRS 281A.400(2) and (10).

Vigilante admits making 7 to 10 posts using Twitter to promote awareness that the new SNHD regulations made changes that would affect the industry. His tweets provided general information such as: "SNHD's new regulations will be implemented in November...if you need training, please call JVC."

The RFO alleges Vigilante violated NRS 281A.410 by failing to disclose his representation and counseling of private persons before a Board of which he was a member.

Finally, the RFO alleges and infers a number violations of law that do not come within the Commission's jurisdiction, such as those related to Robert's Rules of Order, Nevada's Open Meeting Law, and others. It challenges the propriety of the testimonials on Vigilante's website and makes general allegations unrelated to any provision of NRS 281A. With regard to these general allegations, the Requester provides no evidence in support of his claims other than the allegations themselves.

### Panel Proceeding

On June 21, 2012, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners James Shaw and Magdalena Groover reviewed the following: 1) Ethics Request for Opinion; 2) Vigilante's Response to the Ethics Request for Opinion, and 3) The Executive Director's Report and Recommendation.

The evidence provided with the RFO and that gathered in the Commission's investigation showed that, indeed, Vigilante listed his position on the SNHD on the JVC Food Safety Specialists, Inc. website. He admitted making 7 to 10 tweets to his contact list notifying the industry of upcoming SNHD regulatory changes. He also advertised via his website the availability of his consulting services to entities regulated by the SNHD.

However, no evidence was presented or found that Vigilante accepted compensation from any private person for representation or counseling on an issue pending before the SNHD (indicating a potential violation of NRS 281A.410). Additionally, merely stating facts related to his service as a public officer and notifying an industry of regulatory changes and offering information related to training cannot be used to support an allegation of a violation of either the letter or the spirit of NRS 281A.400(2) and (10). Vigilante did not offer assistance or suggest that he would deliver leniency for his clients appearing before the SNHD if charged with a regulatory violation. He did not offer to use his position to obtain unwarranted benefits for his

clients, or to "grease the wheels" using his power or influence in any way. He merely stated facts and enhanced the public's knowledge of changes to the law.

As an industry representative, Vigilante's appointment to the SNHD brought with it inherent conflicts. But his conduct as alleged and the evidence available does not meet even the minimal level of evidence required to move an alleged violation of any provision of the Ethics in Government Law forward.

Therefore, 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 Jimmy Vigilante's alleged violations of NRS 281A.400(2) and (10) and NRS 281A.410. The body also determined that none of the other allegations expressed or inferred in the RFO fell within the Commission's authority. Accordingly, **the Panel dismissed the RFO in its entirety.**

Dated: July 11, 2012

  
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, certified mail, return receipt requested, and First Class Mail as noted, through the State of Nevada mailroom, a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 12-16C** addressed as follows:

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DATED: July 11, 2012

Valerie Carter  
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