



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of GARY BACOCK,
Former City Manager, City of Fernley,
State of Nevada,

Request for
Opinion No. 09-20C

Subject.

**NOTICE OF HEARING
and
PANEL DETERMINATION**
NRS 281A.440(3),(8) and NAC 281A.450

NOTICE OF HEARING

PLEASE TAKE NOTICE, that a hearing has been set to consider the allegations listed below against Gary Bacock (Bacock) in accordance with Chapters 233B and 281A of the Nevada Revised Statutes and Chapter 281A of the Nevada Administrative Code.

The purpose of the hearing is to determine whether a violation of the Nevada Ethics in Government Law occurred. Further, if a violation is found, whether such violation was willful and whether the Commission, pursuant to NRS 281A.480, will impose any penalties.

THE HEARING WILL TAKE PLACE:

August 13, 2009 beginning at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following location:

**Nevada Legislative Building
401 S. Carson Street
Room No. 3143
Carson City, NV.**

Bacock must be present when this matter is called. If Bacock is not present when this hearing is called, the Commission may consider as true the alleged violations specified in the Panel Determination below. Please direct any hearing scheduling matters to Patricia D. Cafferata, Executive Director, Esq., (775) 687-5469, ext. 222.

The hearing is open to the public under Nevada's Open Meeting Law. A record will be made by a certified court reporter. Bacock has the right to appear, be represented by legal counsel, hear evidence presented, respond, and present evidence on his behalf.

Bacock has the right to request that the Commission issue subpoenas on his behalf to compel witnesses to testify and/or produce evidence. In making this request, he may be required to demonstrate the relevance of the witness' testimony and/or evidence. Other rights are found in NRS 281A, NRS 233B, and NAC 281A. A finding by the Commission of a violation of NRS 281A must be supported by a preponderance of the evidence.

PANEL DETERMINATION

Facts and Jurisdiction

An Ethics Complaint was filed against Bacock alleging that he violated NRS 281A.400(2) when he used a City of Fernley credit card (credit card) to benefit himself on various occasions, as described more fully below.

During the course of the investigation, the Commission's investigator discovered additional facts and issues relating to alleged violations of NRS 281A.400(2). A Notice of Additional Issues and Facts was mailed to Bacock and his legal counsel Brent Kolvet, Esq., on April 20, 2009. The notice alleged additional violations of NRS 281A.400(2) when Bacock: (1) used a city credit card to pay for expenses unrelated to his position; (2) when he requested and received reimbursement for mileage that he was not entitled to receive.

At all times relevant to this matter, Bacock was the City Manager for the City of Fernley (Fernley), a public officer as defined in NRS 281A.160. Additionally, the allegations pertain to NRS 281A (Ethics in Government Law). Therefore, the Commission has jurisdiction over this matter.

Panel Proceeding

On May 7, 2009, Bacock and his attorney Brent Kolvet, Esq. were present at the panel proceeding in the Commission's Carson City office. Pursuant to NRS 281A.440(3), a Panel consisting of Commissioners Erik Beyer and Jim Shaw reviewed the following: the Ethics Complaint; Bacock's responses to the Complaint; the Investigator's Report; the Executive Director's Recommendation, the evidence collected and Bacock's answers to questions from the panel members.

The following is the panel's unanimous conclusion:

- 1.) Just and sufficient cause exists for the Commission to hold a hearing and render an opinion on whether Bacock violated NRS 281A.400(2) on or about May 21, 2008, when he charged \$37.33 on the credit card for lunch at the Chamber of Commerce meeting for himself and others at the Silverado Restaurant in Fernley.

Therefore, this allegation was referred to the Commission for a hearing to render an opinion.

- 2.) Just and sufficient cause exists for the Commission to hold a hearing and render an opinion on whether Bacock violated NRS 281A.400(2) on or about May 6, 2008, when he charged \$10.58 on the credit card for his and the Fernley Mayor's lunch at the Wigwam Restaurant in Fernley.

Therefore, this allegation was referred to the Commission for a hearing to render an opinion.

- 3.) Just and sufficient cause exists for the Commission to hold a hearing and render an opinion on whether Bacock violated NRS 281A.400(2) on or about September 25, 2007, when he charged \$36.91 on the credit card for lunch for himself and others at the La Fiesta Restaurant in Fernley.

Therefore, this allegation was referred to the Commission for a hearing to render an opinion.

- 4.) Just and sufficient cause exists for the Commission to hold a hearing and render an opinion on whether Bacock violated NRS 281A.400(2) in December of 2008, when he received reimbursement for mileage for Fiscal Years 2005-2006 and 2006-2007 in the amount of \$2,583.61.

Therefore, this allegation was referred to the Commission for a hearing to render an opinion.

- 5.) Just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion on whether Bacock violated NRS 281A.400(2) on or about November 7, 2007, when he charged \$6.81 on the credit card for the Fernley Mayor's breakfast at the Fernley Builders Association at the Wigwam Restaurant in Fernley.

Therefore, this allegation was dismissed.

- 6.) Just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion on whether Bacock violated NRS 281A.400(2) on or about March 11, 2008, when he charged \$968.33 on the credit card at the Embassy Suites Hotel in Washington, D.C., on behalf of the Fernley Mayor.

Therefore, this allegation was dismissed.

The Request for Opinion is, therefore, REFERRED TO THE NEVADA COMMISSION ON ETHICS for hearing to render an opinion on the first, second, third and fourth allegations described above on whether Babcock used his position to secure unwarranted privileges or advantages for himself in violation of NRS 281A.400(2).

The fifth and sixth allegations described above were dismissed.

The investigation materials that the panel relied upon for reaching its conclusion was provided to Brent Kolvet, Esq. Babcock's attorney at the end of the panel proceeding

_____ Dated: May 12, 2009

Erik Beyer

Erik Beyer, Commissioner
Panel Member

_____ Dated: May 13, 2009

James M. Shaw

Jim Shaw, Commissioner
Panel Member

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this 14th day of May, 2009, in Carson City, Nevada, I placed a true and correct copy of the **NOTICE OF HEARING AND PANEL DETERMINATION ON RFO No. 09-20C** in an envelope and caused same to be mailed via certified U.S. MAIL through the State of Nevada Mailroom Mail to Bacock and via Reno Carson Messenger to his counsel at the following addresses:

Gary Bacock
1520 Truckee Lane
Fernley, NV 89408

Cert No. 7008 0150 0002 6137 4914

Brent T. Kolvet, Esq.
Thorndal, Armstrong, Delk, Balkenbush &
Eisinger, P.C.
6590 S. McCarran Blvd., Suite B
Reno, NV 89509

DATED: 05/14/09


An employee, Nevada Commission on Ethics

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this 15th day of May, 2009, in Carson City, Nevada, I placed a true and correct copy of the **NOTICE OF HEARING AND PANEL DETERMINATION ON RFO No. 09-20C** in an envelope and caused same to be mailed via certified U.S. MAIL through the State of Nevada Mailroom to the following address:

Sandra Mathewson, Complainant
PO Box 2619
Fernley, NV 89408

Cert No. 7008 0150 0005 8442 3815

DATED: 05/15/09

Margelle A. Ervi
An employee, Nevada Commission on Ethics