



STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion Request for Opinion No.: 10-55C
Concerning the Conduct of SCOTT RAINE,
Commissioner, Nevada Department of Wildlife,
State of Nevada,

Subject. /

INVESTIGATOR'S REPORT (Tab A)

Introduction.

1. Request for Opinion No. 10-55C (Ethics Complaint). (Tab B):

On June 23, 2010, Requester David McNinch filed an Ethics Complaint against public officer Scott Raine, member of Nevada Board of Wildlife Commissioners, alleging that Raine violated various provisions of the Ethics in Government Law set forth in NRS 281A including: 1) NRS 281A.400(2) when he allegedly used his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for a person to whom he had commitment in a private capacity to the interests of that person, by voting to approve numerous matters initiated by Nevada Alliance 4 Wildlife, an organization presided over by Mike Laughlin's son, Pat Laughlin, 2) NRS 281A.420(1) by failing to disclose his relationship with Pat Laughlin, a member of Nevada Alliance 4 Wildlife who presented numerous projects before the Wildlife Commission, Heritage Wildlife Committee and Wildlife Damage Management Committee of which Raine is a member, 3) NRS 281A.420(3) by failure to abstain from the vote on the above mentioned projects.

The allegations are based on a relationship between Scott Raine and Pat Laughlin, the son of Mike Laughlin, who is in a romantic relationship with Raine's mother, Arlene Raine. The Complaint alleges that the relationship between Raine's mother and Mike Laughlin results in family-like relationship between Raine and Pat Laughlin that is equivalent to step-brothers and as such, causes a conflict of interest due to Pat Laughlin's appearances before the Wildlife Commission.

1 **2. Jurisdiction:**

2 The Nevada Commission on Ethics has jurisdiction over public officers, pursuant to
3 NRS 281A.280. As a member of the Nevada Board of Wildlife Commissioners, Raine is a
4 public officer as defined in NRS 281A.160. Therefore, the Commission has jurisdiction to
5 investigate and take appropriate action in this matter pursuant NRS 281A.280 and NRS
6 281A.440.

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8 **3. Issues:**

9 The issues are whether Raine violated:

- 10 I. NRS 281A.400(2) when he allegedly used his position in
11 government to secure or grant unwarranted privileges, preferences,
12 exemptions or advantages for Pat Laughlin.
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- 14 II. NRS 281A.420(1) by failing to disclose his relationship with Pat
15 Laughlin before the vote on numerous project presented by Nevada
16 Alliance 4 Wildlife, an organization presided over by Laughlin.
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- 18 III. NRS 281A.420(3) by failing to abstain from a vote or advocating the
19 passage of a matter to which his independence of judgment would
20 be materially affected by a commitment in a private capacity to the
21 interest of Pat Laughlin or Raine's mother Arlene Raine.

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23 **4. Notices to Subject. (Tab C):**

24 A Notice to Subject of RFO 10-55C was issued to Raine on July 6, 2010. A postal
25 service record indicates that Raine received the Notice on July 12, 2010. (Tab C).

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27 **5. Response to Ethics Complaint. (Tab D):**

28 Raine's response to the Ethics Complaint was submitted by his legal counsel, Bryan

1 Stockton, Esq., on August 16, 2010. The response indicated that Raine did not violate any
2 provisions of NRS 281A. Raine stated that allegations are unfounded as he has no
3 commitment in a private capacity to the interest of Pat Laughlin as provided in NRS 281A.420,
4 and he does not consider him a step-brother as alleged in the Complaint. Furthermore, Raine
5 noted that his mother is not married to Mike Laughlin, they do not consider their relationship to
6 be similar to a husband and wife, and Raine does not consider Mike Laughlin to be his step-
7 father. Additionally, Raine stated that his alleged relationship with Pat Laughlin is not
8 contemplated by NRS 281A.420; they are not related by any degree of consanguinity or affinity
9 and their relationship cannot be construed as substantially similar¹ as alleged. Furthermore,
10 Raine noted that the Nevada Supreme Court in *Carrigan v. Commission on Ethics*, 126 Nev.
11 Adv. Op. 28 (July 29, 2010) has declared the subsection 5 of NRS 281A.420²
12 "unconstitutionally overbroad." (Tab G, section II). Finally, Raine stated that his mother does
13 not benefit in any way from decisions he has made as a member of the Wildlife Commission.

14 15 **Investigation Resources:**

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17 I interviewed the following individuals and reviewed their responses:

18 19 **1. Witnesses interviews and responses. (Tab E):**

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21 • David McNinch, requester, on August 23, 2010. (Investigator's Report, Tab A, pp. 5-6).
22 • Scott Raine, subject, Response, Tab D. (Telephone interview on August 25, 2010
23 incorporated in Investigator's Report, Tab A, pp. 6-7).
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28 ^{1,2} Any other commitment or relationship that is substantially similar to a commitment or relationship described in
subparagraphs (1) to (4), inclusive, of this paragraph. (NRS 281A.420(8)(a)(5)).

1 Pat Laughlin's appearances before the Wildlife Commission.

2 Pat Laughlin is a proponent of several wildlife projects through Nevada Alliance 4
3 Wildlife, a Nevada-based non-profit organization which he presides. (Exhibit 4). As the
4 president of the organization, Laughlin appears frequently before the Wildlife Commission and
5 his organization was granted funds for several wildlife projects (Complaint, Tab B, pp. 81-88).

6 In addition, the Complaint alleges that this family-like relationship must have some
7 influence on Raine's support of the proposals Laughlin has made to the Wildlife Commission
8 and if Raine fails to support Laughlin's proposals, it could disrupt his relationship with Pat
9 Laughlin, as well as his relationship with his mother and her companion Mike Laughlin.
10 However, Raine stated in his response and the subsequent interview that there is no such
11 relationship with Pat Laughlin. He barely knows him and they do not socialize in any way.
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13 **Telephone interview with Requester David McNinch on August 24, 2010.**

14 I interviewed David McNinch on August 24, 2010 and asked him about his involvement
15 with the Nevada Wildlife Commission and the allegations against Raine brought in his
16 Complaint. McNinch stated that he served as a member of the Wildlife Commission from his
17 first appointment in 2000 until July 1, 2009 when his last term expired; his last meeting was
18 June 26, 2009. (Complaint, Tab B, p. 29).

19 As to the allegations against Raine, McNinch stated that Raine should disclose his
20 relationship with Pat Laughlin as he believes they are "effective equivalents of step-brothers"
21 based on the relationship between Raine's mother Arlene and Pat Laughlin's father Mike.
22 McNinch stated that he and the other members of the Board questioned Raine as to his
23 relationship with Laughlin but Raine insisted there is no family-like relationship between the two
24 and that his family's personal relationships are none of anyone's business. (Complaint, Tab B,
25 pp. 15, 16, 30, 31, 39 and 50).

26 In addition, McNinch stated that his concern is not only the relationship between Raine
27 and Laughlin but also the fact that Raine's independence of judgment may be affected by the
28 commitment to his mother who is in a relationship with Laughlin's father; therefore, a

1 reasonable person may assume that Raine feels compelled to approve Laughlin's contracts to
2 continue having a good relationship with his mother. Furthermore, McNinch stated that the
3 issue is not simply disclosure, abstention, or possible unwarranted benefits granted to Laughlin
4 in the form of approving Nevada Alliance 4 Wildlife contracts. It is the public officer's
5 responsibility to maintain the public trust, and Raine fails to do so by the failure to disclose his
6 relationship.

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8 **Telephone Interview with Subject Scott Raine on August 25, 2010.**

9 I interviewed Scott Raine on August 25, 2010, and questioned him as to the multiple
10 allegations of violations of Ethics in Government Law noted in the Complaint.

11 As to the allegation of failure to disclose his relationship with Pat Laughlin and a failure
12 to abstain from the vote on projects proposed by Laughlin's organization, Nevada Alliance 4
13 Wildlife, Raine reiterated his written response stating that he has no family-like relationship with
14 Laughlin. (Response, Tab D), (Investigator's Report, Tab A, pp. 2-3). According to Raine, he
15 has no step-brother-like relationship with Laughlin; they do not socialize in any way, they know
16 of each other but their interaction is limited to Wildlife Commission meetings.

17 Raine stated that the Complaint also erroneously implied that his mother could
18 terminate his employment if he fails to accept Pat Laughlin's proposals. Rained stated that
19 although his mother is the president of the family trust that owns the Raine's Market, she has
20 no independent authority to terminate his employment. (Exhibit 5). Even if she had the
21 authority, terminating his employment would make little sense as she would need to assume
22 responsibility for the Market. That is surely not her objective; generally, she comes to the
23 market only occasionally to operate the store when Raine attends Wildlife Commission
24 meetings.

25 Raine stated that the alleged family-like connection simply does not exist and he cannot
26 comprehend how his vote on the Wildlife Commission could possibly benefit Laughlin or his
27 (Raine's) mother. Raine stated that during Wildlife Commission meetings on several occasions
28 he had explained that he has no relationship with Laughlin. He believes that he is not required

1 to disclose or abstain as provided in Nevada Revised Statutes. (Complaint, Tab B, pp. 15, 16,
2 30, 31, 39 and 50). Furthermore, Raine stated that his alleged relationship with Pat Laughlin
3 may be analyzed under the "substantially similar" category in NRS 281A.420(8)(a)(5) but that
4 section was recently declared "unconstitutionally overbroad" in *Carrigan v. Commission on*
5 *Ethics*, 126 Nev. Adv. Op. 28 (July 29, 2010).

6 As to the implied and rather complex scenario that Raine's vote against Laughlin's
7 projects could upset his [Raine's] mother or that Raine supports Laughlin's projects to make his
8 mother happy, Raine stated that this connection is wholly exaggerated. His mother does not
9 get involved in any wildlife projects and has no authority over Raine's employment status.
10 (Complaint, Tab B, p. 39). Finally, Raine stated that the wildlife projects in question do not
11 benefit individuals; rather, the preservation of Nevada wildlife benefits every resident of
12 Nevada. These projects involve numerous hours of volunteer work with no monetary
13 compensation.

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15 **1. Allegation one: Raine violated NRS 281A.420(1) when he improperly
16 disclosed or failed to disclose his relationship with Pat Laughlin before
17 voting on several wildlife projects presented by Nevada Alliance 4 Wildlife,
18 an organization in which Laughlin serves as president.**

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- NRS 281A.420(1) provides, in relevant part:

Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;

(b) In which the public officer or employee has a pecuniary interest; or

(c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interest of others,

As to the allegation that Raine improperly disclosed or failed to disclose his relationship with Pat Laughlin before voting on projects proposed by Nevada Alliance 4 Wildlife, the dates of the allegations are as follows:

- I. May 14, 2009, Heritage Committee meeting.

- 1 II. June 26, 2009, Wildlife Damage Management Committee meeting
- 2 and Nevada Wildlife Commission meeting (discussion only, no
- 3 vote).
- 4 III. November 24, 2009, Wildlife Damage Management Committee
- 5 meeting.
- 6 IV. December 5, 2009, Nevada Wildlife Commission meeting.
- 7 V. May 13, 2010, Heritage Committee meeting.
- 8 VI. May 15, 2010, Nevada Wildlife Commission meeting.
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10 Raine maintains that his relationship with Pat Laughlin does not fit under NRS
11 281A.420, which defines a commitment in a private capacity; they are not related by any
12 degree of consanguinity or affinity and their relationship cannot be construed as substantially
13 similar to any such relationship. While Raine stated that his alleged relationship with Pat
14 Laughlin may fit in the same "substantially similar" category as provided in NRS
15 281A.420(8)(a)(5) that definition was recently declared "unconstitutionally overbroad" in
16 *Carrigan v. Commission on Ethics*, 126 Nev. Adv. Op. 28 (July 29, 2010).

17 **2. Allegation two: Raine violated NRS 281A.420(3) when he failed to abstain**
18 **from voting on wildlife projects presented by Nevada Alliance 4 Wildlife.**

- 19 ■ NRS 281A.420(3) provides, in relevant part:

20 Except as otherwise provided in this section, in addition to the
21 requirements of subsection 1, a public officer shall not vote upon
22 or advocate the passage or failure of, but may otherwise
23 participate in the consideration of, a matter with respect to which
24 the independence of judgment of a reasonable person in the
25 public officer's situation would be materially affected by:

- 26 (a) The public officer's acceptance of a gift or loan;
- 27 (b) The public officer's pecuniary interest; or
- 28 (c) The public officer's commitment in a private capacity to
the interests of others.

As to the allegation that Raine failed to abstain from voting on projects proposed by
Nevada Alliance 4 Wildlife, the dates of the allegations are as follows:

- I. May 14, 2009, Heritage Committee meeting.

- 1 II. June 26, 2009, Wildlife Damage Management Committee meeting
2 and Nevada Wildlife Commission meeting (discussion only, no
3 vote).
- 4 III. November 24, 2009, Wildlife Damage Management Committee
5 meeting.
- 6 IV. December 5, 2009, Nevada Wildlife Commission meeting.
- 7 V. May 13, 2010, Heritage Committee meeting.
- 8 VI. May 15, 2010, Nevada Wildlife Commission meeting.

9 Raine maintains that his relationship with Pat Laughlin is not a commitment in a private
10 capacity as provided in NRS 281A.420; they are not related by any degree of consanguinity or
11 affinity and their relationship cannot be construed as substantially similar to any such
12 relationship. Raine stated that his alleged relationship with Pat Laughlin may fit in the same
13 "substantially similar" category as provided in NRS 281A.420(8)(a)(5) but that definition was
14 recently declared "unconstitutionally overbroad" in *Carrigan v. Commission on Ethics*, 126
15 Nev. Adv. Op. 28 (July 29, 2010).

17 **3. Allegation three: Raine violated NRS 281A.400(2) when he used his**
18 **position in government to secure or grant unwarranted privileges,**
19 **preferences, exemptions or advantages for Pat Laughlin.**

- 20 ■ NRS 281A.400(2) provides, in relevant part:

21 A public officer or employee shall not use the public officer's or
22 employee's position in government to secure or grant unwarranted
23 privileges, preferences, exemptions or advantages for the public
24 officer or employee, any business entity in which the public officer
25 or employee has a significant pecuniary interest, or any person to
26 whom the public officer or employee has a commitment in a
27 private capacity to the interests of that person. As used in this
28 subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281A.420.

(b) "Unwarranted" means without justification or adequate reason.

1 As to the allegation that Raine used his position in government to secure or grant
2 unwarranted privileges, preferences, exemptions or advantages for Pat Laughlin, a person to
3 whom he has a commitment in a private capacity, the dates of the allegations are as follows:

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- 5 I. May 14, 2009, Heritage Committee meeting.
 - 6 II. November 24, 2009, Wildlife Damage Management Committee
7 meeting.
 - 8 III. December 5, 2009, Nevada Wildlife Commission meeting.
 - 9 IV. May 13, 2010, Heritage Committee meeting.
 - 10 V. May 15, 2010, Nevada Wildlife Commission meeting.
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12 As noted herein, Raine denies having any family-like relationship with Pat Laughlin. In
13 addition, Raine stated that the approval of projects proposed on behalf of Nevada Alliance for
14 Wildlife did not result in any benefit to Laughlin or anyone to whom Raine has a commitment in
15 a private capacity.

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17 Dated this 25 day of August, 2010.

18 NEVADA COMMISSION ON ETHICS

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22 Mike Vavra, MPA, Investigator

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