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

**In the Matter of the Request for Opinion  
Concerning the Conduct of CAL STARK,  
Councilman, City of Wells,  
State of Nevada,**

**Request for Opinion No.: 10-30C**

**Subject. /**

**INVESTIGATOR'S REPORT (Tab A)**

**Introduction.**

**1. Request for Opinion No. 10-30C (Ethics Complaint). (Tab B):**

On April 28, 2010, Requester David Linge filed an Request for Opinion against public officer Cal Stark, a member of the City of Wells City Council, alleging that Stark violated various provisions of the Ethics in Government Law set forth in NRS 281A, including: 1) NRS 281A.400(1), when he sought an economic opportunity which would tend to improperly influence a reasonable public officer to depart from the faithful discharge of his duties by applying for and receiving earthquake-related compensation to which he was not entitled, 2) NRS 281A.400(2) when he received an unwarranted privileges, preferences, exemptions or advantages by receiving compensation for earthquake-related damages on his house to which he was not entitled, and 3) NRS 281A.400(9) when he attempted to influence subordinate Jolene Supp to assist him to file an insurance claim.

**2. Jurisdiction:**

The Nevada Commission on Ethics has jurisdiction over public officers and public employees pursuant to NRS 281A.280. As a City of Wells councilman, Stark is a public officer as defined in NRS 281A.160. Therefore, the Nevada Commission on Ethics has jurisdiction to investigate and take appropriate action in this matter pursuant

1 NRS 281A.280 and NRS 281A.440.

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3 **3. Issues:**

4 The issues are whether Stark violated:

- 5  
6 **1.** NRS 281A.400(1) by seeking an economic opportunity which would  
7 tend to improperly influence a reasonable public officer to depart from  
8 the faithful discharge of his duties by applying for and receiving  
9 earthquake-related compensation to which he was not entitled.
- 10 **2.** NRS 281A.400(2) by receiving an unwarranted privileges,  
11 preferences, exemptions or advantages by accepting compensation  
12 for earthquake-related damages on his house to which he was not  
13 entitled to.
- 14 **3.** NRS 281A.400(9) by attempting to influence subordinate Jolene  
15 Supp to assist him with filing an insurance claim.

16  
17 **4. Notices to Subject: (Tab C):**

18 The Commission issued a Notice to Subject of RFO 10-30C on May 7, 2010. A  
19 postal service record indicates that Stark received the Notice on May 12, 2010. (Tab C).

20  
21 **5. Response to Ethics Complaint. (Tab D):**

22 Stark's legal counsel, Rebecca Bruch Esq., of Erickson, Thorpe et al., submitted  
23 a response to the Ethics Complaint on July 12, 2010. The response indicated that  
24 Stark did not violate any provisions of NRS 281A as he did not seek or receive any  
25 compensation to which he was not entitled. Stark stated that he applied for financial  
26 help through the local Earthquake Committee and through Nevada Department of  
27 Emergency Management (DEM) after his home was damaged in a February 2008  
28 earthquake. He received a payment from the Earthquake Committee but assistance

1 from Nevada DEM was not granted as his property did not qualify. (Response, Tab D,  
2 p.2). As to the allegation of influencing City Manager Supp, Stark denied the allegation.  
3 He claims he never pressured or attempted to influence anyone; he only asked for  
4 assistance with filing the proper documents as many other residents did.

### 5 6 **Investigation Resources:**

7 I interviewed the following individuals and reviewed their responses:

#### 8 9 **1. Witnesses interviews and responses. (Tab E):**

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11
- 12 • Cal Stark, subject, telephone interview on August 16, 2010. (Investigator's  
13 Report, Tab A, pp. 4-5), and Response, Tab D.
  - 14 • David Linge, requester, telephone interview on August 9, 2010.  
15 (Investigator's report, Tab A, p. 5).
  - 16 • Jolene Supp, witness, telephone interview on August 16, 2010.  
17 (Investigator's Report, Tab A, p. 5).

#### 18 **2. Documents. (Tab F):**

19 I obtained and reviewed the following relevant documents and materials:

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- 22 • City of Wells Resolution 08-04. (Exhibit 1).
  - 23 • Letter from City Manager Supp to Nevada Department of Emergency  
24 Management dated May 5, 2008. (Exhibit 2).
  - 25 • Minutes from the Wells Earthquake Committee on May 12, 2008 and June 2,  
26 2008. (Exhibit 3).
  - 27 • Minutes from the City of Wells Council meeting on June 10, 2008. (Exhibit 4).
- 28



1 from Nevada DEM because his property did not qualify. (Response, Tab D, pp. 2-4).

2  
3 **Telephone Interview with David Linge on August 9, 2010.**

4 I spoke to David Linge on August 9, 2010 and asked him about the allegations  
5 against Stark. Linge reiterated the allegations in the Complaint and stated that Stark  
6 was not entitled to the amount of payment he received and that he used his public  
7 position to influence City Manager Supp to apply for additional benefits through  
8 Nevada DEM.

9  
10 **Telephone Interview with Jolene Supp on August 16, 2010.**

11 I interviewed Supp on August 16, 2010 and asked her about her involvement in  
12 Councilman Stark's claim. Supp stated that she only assisted Stark to apply for funds  
13 from the Nevada Department of Emergency Management by writing a letter and added  
14 that she did the same for other residents whose property was damaged. However,  
15 Stark's claim was denied by the Nevada DEM, therefore, he did not receive any  
16 benefits as was alleged. He received compensation from the Earthquake Committee  
17 but the matter was discussed, voted on and approved by that entity; Supp had no  
18 influence on that decision. (Exhibits 3 and 4).

- 19  
20 **1. Allegation one: Between May 5, 2008 and June 10, 2008<sup>2</sup>, Stark**  
21 **violated NRS 281A.400(1) when he sought earthquake-related**  
22 **compensation to which he was not entitled which would tend to**  
23 **improperly influence a reasonable public officer to depart from the**  
24 **faithful discharge of his duties.**

25 NRS 281A.400(1) provides in relevant part.

26 A public officer or employee shall not seek or accept any gift,  
27 service, favor, employment, engagement, emolument or economic  
28 opportunity which would tend improperly to influence a reasonable  
person in the public officer's or employee's position to depart from

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<sup>2</sup> The period from May 5, 2008 to June 10, 2008 refers to the following: May 5, 2008: date of letter to Nevada DEM. May 12, 2008 and June 2, 2008: the Earthquake Committee meetings. June 10, 2008: Final approval of reimbursements proposed by the Earthquake Committee.

1 the faithful and impartial discharge of the public officer's or  
2 employee's public duties.

3 As to the allegation that Stark sought an improper economic opportunity, the  
4 evidence is as follows:

5 The Complaint alleged that Stark asked City Manager Supp to assist him with  
6 filing a claim for earthquake-related compensation with the Nevada Department of  
7 Emergency Management. Subsequently, the complaint somewhat implies that because  
8 of Supp's assistance, Stark would be influenced to favor Supp in the discharge of his  
9 public duties. Stark asked for assistance with filing the claim with Nevada DEM but so  
10 did many other residents of Wells. The evidence shows that Stark did not receive any  
11 compensation from Nevada DEM, as his property did not qualify.

12 Furthermore, the compensation Stark received from the Earthquake Committee  
13 appears to have been awarded under the proper procedures and there is no evidence  
14 that Stark or anyone else influenced the Committee to approve Stark's claim or grant  
15 him any special consideration.

16  
17 **2. Allegation two: Between May 5, 2008 and June 10, 2008, Stark**  
18 **violated NRS 281A.400(2) by using his position in government to**  
19 **secure unwarranted privileges, preferences and exemptions by**  
20 **filing a claim with Nevada DEM and Earthquake Committee.**

21 NRS 281A.400(2) provides in relevant part:

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

25 As to the allegation that Stark applied for and received unwarranted  
26 compensation from Nevada DEM and Earthquake Committee, the evidence is as  
27 follows:

1 Stark received no compensation from Nevada DEM. The Earthquake Committee  
2 appears to have followed the proper procedure and there is no evidence that Stark or  
3 anyone else influenced the Committee to approve Stark's claim or grant him any  
4 special consideration affecting the outcome or the size of his award.

5  
6 **3. Allegation three: On May 5, 2008, Stark attempted to influence**  
7 **subordinate Jolene Supp by requesting assistance with filing an**  
8 **earthquake-related claim with Nevada DEM.**

- 9 ■ NRS 281A.400(9) provides, in relevant part:

10 A public officer or employee shall not attempt to benefit the public  
11 officer's or employee's personal or financial interest through the influence  
12 of a subordinate.

13 As to the allegation that Stark attempted to influence City Manager Jolene Supp  
14 requesting her to assist his filing of an earthquake-related claim with the Nevada DEM,  
15 the evidence is as follows:

16 Stark vehemently denies pressuring or any way influencing Supp into filing his  
17 claim with Nevada DEM. Stark stated that he and many other residents asked for  
18 Supp's assistance to ensure they followed the proper filing procedure. Importantly,  
19 Supp denied being pressured or influenced by Stark in any way; she stated that  
20 assisting residents in need was her public duty and Stark was only one of many who  
21 asked her for assistance.

22  
23 Dated this 31 day of August 2010.

24 NEVADA COMMISSION ON ETHICS

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28 Mike Vavra, MPA, Investigator