



**In the Matter of the Request for Opinion
Concerning the Conduct of JOLENE SUPP,
Manager, City of Wells
State of Nevada,**

Request for Opinion No.: 10-28C

Subject. /

**EXECUTIVE DIRECTOR'S RECOMMENDATION
AND APPROVAL OF INVESTIGATOR'S REPORT**

The following is the Executive Director's recommendation based on consideration and investigation of the Ethics Complaint filed against Jolene Supp, City Manager of the City of Wells, NV ("Subject"), a public officer, and on the Subject's written response to the Complaint, attached to the Investigator's Report. I hereby approve that Report and attach it for the consideration of the two-commissioner investigatory panel.

I. Allegations:

H.E.A.R.T.

The request for opinion, filed April 28, 2010, alleges that between 2002 and 2007, Supp violated:

1. NRS 281A.400(1) by accepting an economic opportunity in Humboldt Environmental and Renewable Technologies (H.E.A.R.T.) a corporation in which she has a pecuniary interest.
2. NRS 281A.400(2) by using her position in government to further interest of H.E.A.R.T.
3. NRS 281A.400(3) by participating as an agent of government in the negotiation of a contract between the City of Wells and H.E.A.R.T.
4. NRS 281A.400(7) by using governmental time, property, equipment or other facility to benefit her personal and financial interest as the president of H.E.A.R.T.

5. NRS 281A.400(9) by attempting to influence a subordinate to further her interest in H.E.A.R.T.
6. NRS 281A.400(10) by using her position in government to seek a contract on behalf of H.E.A.R.T.
7. NRS 281A.410 by failing to file disclosure of representation of a private person before public agency.
8. NRS 281A.420(1) by failing to disclose her pecuniary interest in H.E.A.R.T during numerous City council meetings.
9. NRS 281A.420(3) by failing to abstain from H.E.A.R.T- related discussion during numerous City council meetings.
10. NRS 281A.430 by entering into a contract with the City of Wells.

STARK

11. NRS 281A.400(2) by using her position in government to grant an unwarranted insurance privileges, preferences and exemptions to Councilman Cal Stark.

HANGAR

12. NRS 281A. 400(2) by using her position in government to grant unwarranted insurance privileges, preferences and exemptions to her father-in-law Bud Supp.

II. Analysis:

NAC 281A.435 Basis for finding by panel; unanimous finding required for determination that no just and sufficient cause exists. (NRS 281A.290)

1. A finding by a panel as to whether **just and sufficient cause** exists for the Commission to render an opinion on an ethics complaint **must be based on credible evidence.**

2. A finding by a panel that no just and sufficient cause exists for the Commission to render an opinion on an ethics complaint must be unanimous.

3. As used in this section, **“credible evidence” means the minimal level of any reliable and competent form of proof** provided by witnesses, records, documents, exhibits, concrete objects, and other such similar means, **that supports a reasonable belief by a panel that the Commission should hear the matter and render an opinion.** The term does not include a newspaper article or other media report if the article or report is offered by itself.

LIMITATIONS STATUTE

NRS 281A.280 provides in relevant part:

The Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of this chapter by a public officer or employee or former public officer or employee ***in any proceeding commenced by:***

- (a) ***The filing of a request*** for an opinion with the Commission; or
- (b) The Commission on its own motion, ***within 2 years after the alleged violation*** or reasonable discovery of the alleged violation. (Emphasis added).

On consideration of only the emphasized portion of NRS 281A.280, i.e., the Commission has jurisdiction in any proceeding commenced by the filing of a request within 2 years after the alleged violation. Therefore any conduct to be considered by this body must have taken place on or after April 29, 2008.

Based on the evidence, the panel must conclude that the conduct related to Supp's involvement with H.E.A.R.T. allegedly took place between 2002 and 2007. The alleged repairs to the hangar likely took place prior to April 29, 2008 as well'. The request did not allege that any of the conduct could not have been reasonably discovered at the time it was undertaken.

As a result, the Commission's "statute of limitations" removes the alleged acts from the Commission's jurisdiction because it took place more than two years prior to the filing of the request in April 2010.

Only the Stark allegation took place within the limitations period. It states that on May 5, 2008, approximately one week shy of the expiration of the limitation period, Supp violated NRS 281A.400(2) by using her position in government to grant unwarranted insurance privileges, preferences and exemptions to Councilman Cal Stark.

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

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

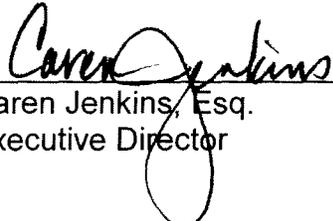
However, the investigation revealed evidence that Supp assisted Councilman Stark to apply for or receive unwarranted insurance benefits. Stark's home was severely damaged by the 2008 earthquake, and Stark was justified in applying for assistance related to the damage. Supp wrote letters to assist every resident of Wells who wished to apply for the funds available. Unfortunately Stark's request was denied, as his unconverted mobile home was not considered real property, so he did not receive any benefits as a result of Ms. Supp's letter, much less unwarranted benefits.

III. Conclusion:

I recommend that the Panel find that sufficient credible evidence DOES NOT EXIST to find just and sufficient cause for the Commission render an opinion on the allegation that Jolene Supp violated NRS 281A.400(2) as it relates to Cal Stark.

Further, the Panel should find that ALL of the remaining allegations are barred by the 2-year statute of limitations outlined in NRS 281A.280, and as a result, the Commission lacks jurisdiction to consider those allegations, and therefore they are dismissed.

I hereby approve the attached Investigator's Report and provide this, my recommendation, to this honorable panel.



Caren Jenkins, Esq.
Executive Director

Date: 9/2/10

ⁱ In addition, the insurance adjuster's notes referred Bud Supp's hangar/ Hangar 13, but evidence was produced to show that the City's insurance carrier made no repairs to Supp's hangar at all. Further, no evidence showed that Jolene Supp took any action to attempt to place her family's hangar on the list of buildings covered under the City's insurance policy.