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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 TERRI JANISON,
President, Clark County School Board of
Trustees, Clark County School District,
State of Nevada,**

Request for Opinion No.: 10-56C

Subject. /

INVESTIGATOR'S REPORT (Tab A)

Introduction

1. Request for Opinion No. 10-56C (Ethics Complaint). (Tab B):

On June 25, 2010, Requester Ken Small filed a Request for Opinion regarding public officer Terri Janison, president of Clark County School District (CCSD) Board of Trustees, alleging that Janison violated various provisions of the Ethics in Government Law set forth in NRS 281A including: 1) NRS 281A.400(2) when she granted unwarranted privileges preferences, exemptions or advantages to her husband, Kevin Janison, an employee of Sunbelt Communications, by the virtue of her participation in the search for the CCSD superintendent, 2) NRS 281A.400(3) when she acted as an agent of government in the negotiation or execution of a contract between the CCSD and a business entity in which she has a significant pecuniary interest, 3) NRS 281A.420(1) when she failed to disclose the relationship between her husband and an applicant for the superintendent position, 4) NRS 281A.420(3) when she failed to abstain from voting during the CCSD superintendent search process.

1 **2. Jurisdiction:**

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

8
9 **3. Issues:**

10
11 The issues are whether Janison violated:

- 12
13 **I.** NRS 281A.400(2) by granting unwarranted privileges preferences,
14 exemptions or advantages to her husband, Kevin Janison, during the
15 CCSD superintendent search.
- 16 **II.** NRS 281A.400(3) by acting as an agent of government during the
17 negotiation of a contract for the new CCSD superintendent.
- 18 **III.** NRS 281A.420(1) by failing to disclose her relationship with her husband's
19 employer during discussions related to a search for the new CCSD
20 superintendent.
- 21 **IV.** NRS 281A.420(3) by failing to abstain from voting during matters related to
22 the CCSD superintendent search.

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

25
26 The Commission issued a Notice to Subject of RFO 10-56C to Janison on July 6,
27 2010. A postal service record indicates that Janison received the Notice on July 9,
28 2010. (Tab C).

1 one of the 50 applicants for the CCSD superintendent position. The Complaint also
2 alleges that Janison failed to disclose the relationship between her husband and
3 Rogers and failed to abstain from the discussions and voting on matters related to the
4 superintendent search. The requester further alleges that should Janison oppose
5 Rogers as an applicant, she may experience detriment to her husband's employment.
6 (Complaint, Tab B).

7 According to the requester, violations occurred on several occasions between
8 April and September 2010. Upon further review of CCSD Board agendas, minutes and
9 video recordings, the dates of alleged violations of the Ethics in Government Law
10 appear to have occurred between April 8, 2010 and August 26, 2010. (Exhibit 1).

11 The subject claims that the complaint is frivolous, as her involvement could not
12 have advanced or caused detriment to any particular individual and that the names of
13 candidates remained confidential until the public announcement of the three finalists on
14 September 16, 2010. Furthermore, Janison stated that she relied on the advice of
15 CCSD Board counsel that she could participate unless Rogers was announced a
16 finalist. (Response, Tab D, p.2).

17
18 **Interview with Requester Ken Small on September 21, 2010.**

19 I spoke to Requester Ken Small on September 21, 2010 and asked him about
20 the allegations in his complaint. Small stated that, in his opinion, Janison violated
21 multiple provisions of NRS 281A.400 due to her involvement in the CCSD
22 superintendent search. Small stated that Janison's husband, Kevin Janison, is
23 employed as the weatherman at Channel 3 TV, which is owned by Sunbelt
24 Communications, a corporation presided over and owned by Jim Rogers. Since Rogers
25 publicly announced his interest in the CCSD superintendent position (Response, Tab
26 D, pp.56-57) and subsequently filed an application with the search firm, Small believes
27 the situation created a conflict of interest and Janison should have disclosed her
28 relationship and remove herself from any participation in the search process after a

1 petition to support Rogers was made public during the April 8, 2010 CCSD Board
2 meeting. (Complaint, Tab B, p.3), (Exhibit 2 c).

3 Small also stated that he is running for the CCSD Board, however, not for
4 Janison's seat and noted that his complaint has nothing to do with his campaign. Small
5 has been attending CCSD meetings for several years and he is an avid critic of the
6 Board's performance. Aside from CCSD board meetings, Small has no other contacts
7 with Janison.

8
9 **Interview with Subject Terri Janison on September 20, 2010.**

10 I interviewed Janison on September 20, 2010 and questioned her as to the
11 allegations brought by Small. Janison stated that indeed, her husband is employed as
12 the weatherman at Channel 3 TV, which is owned by Jim Rogers. As to her
13 relationship with Rogers, Janison stated that she and Rogers only see each other
14 occasionally at fundraising events and no other relationship exists.

15 Janison described the search process and added that she could not possibly
16 have any influence on the selection of the superintendent finalists. Janison explained
17 that for that very reason (to avoid any conflicts), CCSD hired a search firm to assist
18 them with hiring the new superintendent. The search firm was selected via competitive
19 bid process and the matter was properly posted and voted on. Initially, 6 search firms
20 responded to the RFP and on June 1, 2010, McPherson & Jacobson of Omaha,
21 Nebraska was selected as the finalist. (Exhibit 2 f), (Exhibit 3 f), (Exhibit 4), (Exhibit 6).

22 Janison further stated that McPherson & Jacobson received 50 applications for
23 the position; out of the 50 applicants, 26 met the basic criteria. (Exhibit 2 k). Although
24 Rogers publicly announced his interest in the position (Response, Tab D, p.56),
25 Janison was not aware whether he filed an application with the search firm or whether
26 he was one of the 26 candidates that met the criteria.

27 I asked Janison to explain the e-mail from Rogers addressed to her and dated
28 June 9, 2010. (Complaint, Tab B, p.5). Janison stated that the e-mail indicated Rogers'

1 interest and asked for directions how to proceed with the application process. Upon
2 receiving the e-mail, Janison forwarded it to McPherson & Jacobson and she is not
3 aware what actions followed. McPherson & Jacobson did not disclose the names of all
4 applicants to ensure confidentiality and prevent any interference with their current
5 employment; only the finalists' names were announced. (Exhibit 2 j), (Investigator's
6 Report, Tab A, Interview with Jacobson, p.9).

7 In addition, Janison stated that her involvement in the preliminary stages of the
8 search could not have resulted in advancement or detriment of any candidate since the
9 names were confidential until the three finalists were announced on September 16,
10 2010. Janison also stated that her participation in the search process was discussed
11 with CCSD legal counsel and she was advised that "unless and until Rogers was
12 presented as a finalist to the Board, she could continue to participate in the search."
13 (Response, Tab D, p.2). However, at the September 16, 2010 Board meeting, Janison
14 made a disclosure related to her husband's employer (Rogers) before the vote to
15 accept the finalists and she abstained from the vote. Janison stated that although
16 Rogers was not one of the finalists, she disclosed her husband's employment and
17 abstained from the vote as a precaution upon the advice of her legal counsel.

18 Furthermore, Janison claims that any and all communication between the
19 search firm and the trustees occurred at public meetings; she made no
20 recommendations to the search firm or to other trustees. As to why her name was
21 noted on all relevant documents as the "point of contact," Janison stated simply
22 because she is the Board's president. Finally, Janison stated that she received an e-
23 mail recommending an applicant from Dallas, Texas but she forwarded it to the search
24 firm as she did with the e-mail from Rogers.

25
26 **Telephone interview with Andreas Mendoza on September 22, 2010.**

27 I spoke to Andreas Mendoza on September 22, 2010 and asked him about his
28 knowledge of the search process and his involvement in the petition to hire Rogers as

1 the superintendent. Mendoza stated that sometime in January 2010, he learned from
2 "inside sources" in the CCSD that the current superintendent Walt Rulfes was planning
3 to retire. As a result, Mendoza created a petition and started to collect signatures to
4 support Rogers as the replacement superintendent. Subsequently, in early March
5 2010, Mendoza approached Rogers and asked him to apply for the position; Rogers
6 agreed. Mendoza stated that the predominantly Hispanic community, which he
7 represents, agreed that Rogers would make a great superintendent mainly because of
8 his experience as the former Chancellor of Nevada System of Higher Education. At the
9 March 8, 2010 CCSD Board meeting, Mendoza presented the petition that included
10 over 3000 signatures in Rogers' support. (Exhibit 2 c). Mendoza stated that within
11 several weeks, the number of signatures on the petition had grown to 7000. Mendoza
12 explained that he wanted Rogers to serve as the new superintendent because the
13 community respects him and trusts him, and because the community disagrees with
14 hiring a search firm to find a new superintendent.

15
16 **Telephone interview with Jim Rogers on September 23, 2010.**

17 I spoke to Jim Rogers on September 23, 2010 and asked him about his intent to
18 become the new CCSD superintendent, and about any possible communication with
19 Janison. Rogers stated that a representative from the No Parent Left Behind
20 organization came to his office sometime in early April 2010 and asked him if he was
21 willing to apply for the CCSD superintendent position. Upon learning that the
22 organization had collected over 3000 signatures to support Rogers, he agreed. As to
23 the application process, Rogers stated that he sent an e-mail to Janison asking her for
24 directions how start the application process, and then he filed and submitted an
25 application to McPherson & Jacobson. Rogers also stated that Janison had called him
26 and he assumed it was to discuss the superintendent position. Rogers does not recall
27 the date but stated that he terminated the call before Janison could say anything as he
28 found the call inappropriate because his interest in the superintendent position.

1 Subsequent to the call, Rogers contacted his attorney, who in turn contacted Janison
2 and asked her not to call Rogers again.

3
4 **Interview with Dr. Thomas Jacobson on October 12, 2010.**

5 I spoke to Dr. Thomas Jacobson of McPherson and Jacobson LLC on October
6 12, 2010 and asked him to describe the search for CCSD superintendent. As to the
7 search firm selection and the candidate search process, Jacobson's testimony
8 concurred with all available public records. McPherson & Jacobson responded to a
9 RFP publicly announced by CCSD; the firm was selected as the finalist and awarded
10 the contract on June 1, 2010. (Exhibit 2 f), (Exhibit 6).

11 The invitation (Exhibit 5) resulted in 50 applications; 26 applicants met the
12 criteria and 3 applicants were selected as finalists. Subsequently, one applicant
13 (James Browder of Florida) withdrew from the list of finalists, leaving Michael Hinojosa
14 of Dallas, Texas and Dwight Jones of Colorado as the two finalists. As to the public
15 nature of the search, Jacobson stated that McPherson & Jacobson properly responded
16 to the RFP and was selected during a public meeting. In addition, Jacobson stated that
17 aside from the three finalists announced during September 16, 2010 CCSD Board
18 meeting (Exhibit 2 j), McPherson & Jacobson did not reveal names of the remaining
19 applicants; no applicant was aware whether he was "number four or number fifty" after
20 the announcement of the three finalists. Some applicants (such as Rogers) may have
21 publicly announced their interest in the position but the information was released by the
22 applicant(s), it was not released by McPherson & Jacobson.

23
24 **1. Allegation one: Between April 8, 2010 and August 26, 2010³**
25 **Janison violated NRS 281A.400(2) by granting privileges to her**
26

27
28 ³ The time period between April 8, 2010 and August 26, 2010 refers to the time when petition to support Rogers was presented to the CCSD Board and the time of the last discussion related to superintendent search before announcing the finalists. The next discussion related to CCSD superintendent search was during September 16, 2010 Board meeting when three finalists were announced. (Janison disclosed information related to her husband's employer and abstained from voting).

1 husband Kevin Janison by her participation in the search for CCSD
2 superintendent.

- 3
4 ■ NRS 281A.400(2) provides, in relevant part:

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

12 As to the allegation that Janison granted unwarranted privileges, preferences,
13 exemptions or advantages to her husband Kevin Janison by her participation in the
14 CCSD superintendent search process, the evidence is as follows:

15 Janison participated in the selection process and voted on several matters
16 related to the search. (Exhibits 1-3). The employer of Janison's husband, Jim Rogers
17 (Sunbelt Communications), had publicly announced his interest in the position.
18 (Response, Tab D, pp. 56-57). However, until the September 16, 2010 CCSD Board
19 meeting, it was not known whether he was one of the finalists and Janison had no
20 involvement in the selection of the finalists. When McPherson & Jacobson announced
21 the three finalists, Rogers was not among them. Still, Janison disclosed that her
22 husband works for a company owned by one of the applicants (Rogers) and abstained
23 from the vote to accept the three finalists.

24
25 **2. Allegation two: Between April 8, 2010 and August 26, 2010 Janison**
26 **violated NRS 281A.400(3) by acting as an agent of government in**
27 **the negotiation or execution of a contract when she participated in**
28 **the CCSD superintendent search.**

- 1 ▪ NRS 281A.400(3) provides, in relevant part:

2
3 A public officer or employee shall not participate as an agent of
4 government in the negotiation or execution of a contract between the
5 government and any business entity in which the public officer or
6 employee has a significant pecuniary interest.

7 As to the allegation that Janison participated as an agent of government in
8 negotiation of contract between the government and entity in which she has a
9 significant pecuniary interest, the evidence is as follows:

10 Janison participated in the discussion and selection of the search firm that
11 assisted the CCSD Board with a search for the superintendent. Janison was named as
12 the "point of contact" on related documents; however, Janison claims that it was only
13 because she is the Board president. All discussions related to the superintendent
14 search occurred during public meetings and were properly posted. In addition, it
15 appears that Janison's participation in the search was equal to the other Board
16 members; there is no evidence that Janison negotiated any terms outside of the public
17 meetings or without the Board's knowledge. Furthermore, it was publicly known that
18 Rogers, who employs Janison's husband was one of the applicants; however, it was
19 unknown whether he was the finalist until the announcement on September 16, 2010.
20 Finally, it appears that Janison relied on the advice of the Board's legal counsel who
21 advised her that until Rogers is named the finalist, she could participate in the search
22 process. (Response, Tab D, p. 2).

23 **3. Allegation three: On May 27, 2010, June 1, 2010 and June 14, 2010
24 Janison violated NRS 281A.420(1) by failing to disclose the
25 relationship between her husband Kevin Janison and his employer
26 Jim Rogers (Sunbelt Communications), an applicant for the position
27 of CCSD superintendent.**

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

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

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

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

9 (c) Which would reasonably be affected by the public officer's or
10 employee's commitment in a private capacity to the interest of others,
11 without disclosing sufficient information concerning the gift, loan, interest
12 or commitment to inform the public of the potential effect of the action or
13 abstention upon the person who provided the gift or loan, upon the public
14 officer's or employee's pecuniary interest, or upon the persons to whom
15 the public officer or employee has a commitment in a private capacity.
16 Such a disclosure must be made at the time the matter is considered. If
17 the public officer or employee is a member of a body which makes
18 decisions, the public officer or employee shall make the disclosure in
19 public to the chair and other members of the body. If the public officer or
20 employee is not a member of such a body and holds an appointive office,
21 the public officer or employee shall make the disclosure to the
22 supervisory head of the public officer's or employee's organization or, if
23 the public officer holds an elective office, to the general public in the area
24 from which the public officer is elected.

25 As to the allegation that Janison failed to disclose the relationship between Jim
26 Rogers, an applicant for the superintendent position, and her husband Kevin Janison,
27 the evidence is as follows:

28 On May 27, 2010 the CCSD Board of Trustees engaged in a discussion
related to the superintendent search and approved the terms of the RFP. Janison did
not disclose that her husband's employer was one of the applicants and voted on the
matter.

On June 1, 2010, the Board voted to award the contract to McPherson &
Jacobson, a search firm selected to assist the Board with the superintendent search.
Janison did not disclose that her husband's employer was one of the applicants and
voted on the matter.

On June 14, 2010, the Board voted to approve a calendar for the
superintendent search. Janison did not disclose that her husband's employer was one
of the applicants and voted on the matter. (Exhibits 1-3). However, it appears that

1 Janison relied on the advice of the Board's legal counsel who advised her that she
2 could participate in the search process unless Jim Rogers was selected as one of the
3 finalists. (Response, Tab D, p. 2).

4
5 **4. Allegation four: On May 27, 2010, June 1, 2010 and June 14, 2010**
6 **Janison violated NRS 281A.420(3) by failing to abstain from voting**
7 **on matters related to superintendent search.**

- 8
9 ■ NRS 281A.420(3) provides, in relevant part:

10 Except as otherwise provided in this section, in addition to the
11 requirements of subsection 1, a public officer shall not vote upon or
12 advocate the passage or failure of, but may otherwise participate in the
13 consideration of, a matter with respect to which the independence of
14 judgment of a reasonable person in the public officer's situation would be
15 materially affected by:

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

20 As to the allegation that Janison failed to abstain from voting on matters related
21 to CCSD superintendent search, the evidence is as follows:

22 On May 27, 2010 the CCSD Board of Trustees engaged in a discussion
23 related to the superintendent search and approved the terms of the RFP. Janison did
24 not disclose that her husband's employer was one of the applicants and voted on the
25 matter.

26 On June 1, 2010, the Board voted to award the contract to McPherson &
27 Jacobson, a search firm selected to assist the Board with the superintendent search.
28 Janison did not disclose that her husband's employer was one of the applicants and
voted on the matter.

On June 14, 2010, the Board voted to approve a calendar for the
superintendent search. Janison did not disclose that her husband's employer was one
of the applicants and voted on the matter. (Exhibits 1-3). However, it appears that

1 Janison relied on the advice of the Board's legal counsel who advised her that she
2 could participate in the search process unless Jim Rogers was selected as one of the
3 finalist. (Response, Tab D, p.2).

4
5 Dated this 22 day of October 2010.

6 NEVADA COMMISSION ON ETHICS

7
8 A handwritten signature in cursive script, appearing to read "Mike Vavra", is written over a horizontal line.

9
10 Mike Vavra, MPA, Investigator