



In the Matter of the Request for Opinion
Concerning the Conduct of CARL ROWE,
former Interim Executive Director, Southern
Nevada Regional Housing Authority,
State of Nevada,

Request for Opinion No.: 10-95C

Subject. /

EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION

The following is the Executive Director's recommendation based on consideration and investigation of the Request for Opinion attached as Tab B hereto regarding the conduct of Carl Rowe, former Interim Executive Director of the Southern Nevada Regional Housing Authority (SNRHA), a public officer, and on Rowe's written response to the Complaint, attached as Tab D. Additional information compiled by the Commission's Investigator is attached for the Investigatory Panel's consideration.

Facts:

Carl Rowe served as the interim Executive Director of the Southern Nevada Regional Housing Authority. In that capacity, he provided staff services to the Authority, serving as the group's "Secretary." At no time was Mr. Rowe a voting member of the 9-member Authority.

The RFO contains numerous allegations regarding the actions of the SNRHA unrelated to the authority of the Nevada Commission on Ethics. It also contains allegations regarding the conduct of individuals other than the interim Executive Director. ***I remind the Panel that those allegations are not properly before this body and need not be considered in this proceeding.***

In reviewing the RFO for the Commission's jurisdiction, the Executive Director and Commission Counsel were generous to allow the investigation of what they believed to be four allegations regarding **Mr. Rowe's conduct**.

The main allegations are:

1. **NRS 281A.400 (2)** - that Mr. Rowe used his position to secure or grant unwarranted privileges, preference or advantages to himself or a business entity in which he has a significant pecuniary interest.

Mr. Rowe was not found to have any pecuniary interest in any business that is even marginally related to the work of the SNRHA. And the RFO is completely devoid of evidence - or even a clear allegation - of conduct Rowe undertook to secure or grant anything at all for himself, other than earning his salary for performing his job.

2. NRS 281A.400 (6) - that Mr. Rowe suppressed a government report or other document because it might tend to affect unfavorably his pecuniary interests.

The RFO fails to identify what government report or document Rowe is alleged to have suppressed, other than vague references to "illegal activities". The only document discussed at length in the RFO is an informal "bid protest" that Rowe treated as though it conformed to the more formal requirements, and that Rowe distributed to the members of the SNRHA. These acts do not seem to fit the allegation of suppressing documents. Again, the only pecuniary interest the Executive Director can imagine Rowe acting to protect is the salary he derives from performing his employment with the SNRHA.

3. NRS 281A.420 (1) and (3) - that Rowe should have disclosed and abstained from voting on various issues.

The Investigator confirmed that Mr. Rowe is not a voting member of the SNRHA and therefore he has no reason to disclose conflicts of interest and undertake the abstention analysis required by this statute. The sole reason these allegations were forwarded for investigation is the notation on one document that Rowe served as "Secretary" to the SNRHA, which might have been a Board position.

Analysis and Recommendation:

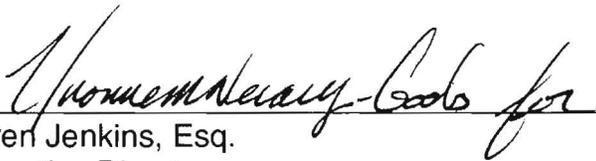
NAC 281A.435 Basis for finding by panel; unanimous finding required for determination that no just and sufficient cause exists. (NRS 281A.290)

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.

Based on the foregoing, I recommend that the Investigatory Panel find that the RFO was not accompanied by, and the investigation was unable to discover, any credible evidence to support a conclusion that just and sufficient cause exists to forward this matter to the full Commission for hearing. Therefore, I recommend that the Panel dismiss all allegations in the RFO as it relates to Carl Rowe.

 Date: 1/27/2011
Caren Jenkins, Esq.
Executive Director