



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

NOTICE OF PUBLIC MEETING

NAME OF ORGANIZATION: NEVADA COMMISSION ON ETHICS
DATE & TIME OF MEETING: Wednesday, January 21, 2015 at 9:00 a.m.
PLACE OF MEETING: This meeting will be held at the following locations:

**Grant Sawyer State Office Building
Gaming Control Board Room
Room 2450
555 E. Washington Avenue
Las Vegas, NV 89101**

and via Video Conference to

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

Members of the public may attend any open session at the above locations.

AGENDA

NOTES:

- Two or more agenda items may be combined for consideration.
- At any time, an agenda item may be taken out of order, removed, or delayed.
- Public comment will be accepted at the beginning of the open session and again before the conclusion of the open session of the meeting. Comment and/or testimony by the public may be limited to three (3) minutes. No action may be taken on any matter referred to in remarks made as public comment.

CLOSED SESSIONS:

These matters are exempt from the provisions of NRS Chapter 241, the Open Meeting Law.

*	1. Closed Session pursuant to NRS 281A.440(7) to hear testimony, receive evidence, deliberate and render an advisory opinion regarding Confidential First-Party Request for Advisory Opinion No. 14-78A submitted pursuant to NRS 281A.440(1).
*	2. Closed Session pursuant to NRS 281A.440(8) for consideration of Jurisdictional Appeals by the Requester of Third-Party Requests for Opinion Nos. 14-74N and 14-84N , submitted pursuant to NAC 281A.405.

*	3. Closed Session pursuant to NRS 281A.440(8) for consideration of a Jurisdictional Appeal by the Requester of Third-Party Request for Opinion No. 14-80N , submitted pursuant to NAC 281A.405.
*	4. Closed Session for discussion and consideration of a Proposed Stipulation concerning Third-Party Request for Opinion No. 14-15C regarding Gary Lambert, Commissioner, Nevada Commission on Off-Highway Vehicles , submitted pursuant to NRS 281A.440(2).
*	5. Closed Session for discussion and consideration of a Proposed Stipulation concerning Third-Party Request for Opinion No. 14-61C regarding Tim Kuzanek, Undersheriff, Washoe County , submitted pursuant to NRS 281A.440(2).
*	6. Closed Session to discuss potential or pending litigation.

OPEN SESSIONS:

	7. Call to Order , Roll Call, and Pledge of Allegiance to the Flag.
	8. Open Session for Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.
*For Possible Action	9. Open Session pursuant to NRS 281A.440(8) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-15C regarding Gary Lambert, Commissioner, Nevada Commission on Off-Highway Vehicles , submitted pursuant to NRS 281A.440(2).
*For Possible Action	10. Open Session pursuant to NRS 281A.440(8) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-61C regarding Tim Kuzanek, Undersheriff, Washoe County , submitted pursuant to NRS 281A.440(2).
For Possible Action	11. Open Session for consideration and approval of Minutes from the November 19, 2014 Commission meeting.
For Possible Action	12. Open Session for discussion regarding the recruitment process for the Commission Counsel position.
	13. Open Session for report by Commission Counsel and Executive Director on agency status and operations.
	14. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.
	15. Open Session for Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.
	16. Adjournment.

*** A meeting or hearing held by the Commission pursuant to NRS 281A.440 to receive information or evidence regarding the conduct of a public officer or employee, and deliberations of the Commission regarding such a public officer or employee, are exempt from the provisions of NRS Chapter 241, known as The Open Meeting Law. As a result, these agenda items, or any portion of them, may be heard in closed session.**

NOTES:

- ❖ The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada Commission on Ethics, in writing at 704 W. Nye Lane, Ste. 204, Carson City, Nevada 89703; via email at ncoe@ethics.nv.gov or call 775-687-5469 as far in advance as possible.
- ❖ To request an advance copy of the supporting materials for any open session of this meeting, contact Acting Executive Director Yvonne Nevarez-Goodson, Esq. at ncoe@ethics.nv.gov or call 775-687-5469.
- ❖ This Agenda and supporting materials are posted and are available not later than the 3rd working day before the meeting at the Commission's office, 704 W. Nye Lane, Ste. 204, Carson City, Nevada, or on the Commission's website at www.ethics.nv.gov. A copy also will be available at the meeting location on the meeting day.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020 before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City
- Nevada Commission on Ethics' website: <http://ethics.nv.gov>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas

AGENDA ITEM NO. 9

AGENDA ITEM NO. 9

NRS 281A.440(2)

**COMMISSION
ON ETHICS**

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☒ if additional pages are attached.

NAME and TITLE: (Person #1)		Charlie Cox, Commissioner	
ADDRESS:		550 W. Pioneer Blvd. #144	CITY, STATE, ZIP Mesquite, NV 89027
TELEPHONE:	Work: 970-379-0362	Other: (Home, cell)	E-MAIL: ckblinds@hotmail.com
NATURE OF TESTIMONY:	was present at the Commission meetings in question		

NAME and TITLE: (Person #2)		Darin Elmore, Commissioner	
ADDRESS:		3230 Green River Dr.	CITY, STATE, ZIP Reno, NV 89503
TELEPHONE:	Work: 775-742-1968	Other: (Home, cell) 775-747-4777	E-MAIL: dmelmor@att.net
NATURE OF TESTIMONY:	was present at the Commission meetings		

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) _____.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Paul Jackson		
YOUR ADDRESS:	3870 Royer CT	CITY, STATE, ZIP:	Reno, NV 89509
YOUR TELEPHONE:	Day: 775-219-5764	Evening: 775-219-5764	E-MAIL: photo1215@aol.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.



Signature:

February 15, 2014

Date:

Paul Jackson

Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

3870 Royer CT
Reno, NV 89509

Nevada Commission on Ethics
704 West Nye Lane, Suite 204
Carson City, NV 89703

February 15, 2014

Dear Honorable Commissioners:

It is with great regret that I must inform you of the actions of Commissioner Gary Lambert, Vice Chairman of the Nevada Commission on Off Highway Vehicles.

The NCOHV is a Commission appointed by the Governor and created by NRS 490. One of its principal responsibilities is to distribute grant monies gathered from the sale of Off Highway Vehicle Registration decals. The grants are to be used in promotion of Off Highway vehicle activities in Nevada.

There are a number of issues that need to be brought to your attention.

At a grant meeting on 1/31/14 held at LCB Carson, Commissioner Lambert gave a presentation to the NCOHV as part of 3 grant requests in the amount of \$167,000 for an organization, Nevada Trail Stewards. Commissioner Lambert moved from his seat with the other Commissioners to the presentation table to present grant requests from the Nevada Trail Stewards.

Mr. Lambert told the Commission that he was the founder and President of the Nevada Trail Stewards.

He was also the sole representative of the Trail Stewards at the Grant meeting. Commissioner Lambert signed all documentation on the grant application and supporting documentations that were presented to the Commission for review for a grant. He was also the only person to give a presentation to the Commission on behalf of the Nevada Trail Stewards at this meeting. During his presentation Commissioner Lambert made the unsolicited statement that the Trail Stewards were a 501c3 (See DVD created by LCB). He first said they are a 501 and then added C3. As part of my due diligence, I checked the corporate status of all of the grant applicants. There is no record of the Nevada Trail Stewards being a 501c3 or having any other Federal tax exempt status. They have filed as a domestic non-profit, per the Secretary of State's web site; there are no officers listed, and the listing is past due and the

corporation is marked as being in Default. The Corporate paperwork was filed in 2013 by Scot Gerz, who is also listed as the registered agent. Commissioner Lambert also claimed the group had been around and doing projects since 2010. I could find no record of them until 2013.

Mr. Gerz was formerly employed by the Commission and left our employ in 2013 on bad terms. In fact he still has property belonging to the Commission.

At the February 1st grant meeting during deliberations, Mr. Lambert did not vote on votes concerning the Trail Stewards, but he actively used his position as a Commissioner and as Vice Chairman, to push the other Commissioners to vote for his grants. After the Commissioners denied the first grant request that he presented, he attempted to intimidate the other Commissioners saying that his supporters would be upset (see tape of February 1st meeting) and would challenge all of the other decisions and grants that had been awarded earlier that day. Commissioner Richardson then made a motion to get an Attorney General's opinion concerning the situation of the other two grants that were being advocated by Mr. Lambert for his organization.

That action was rescinded at the next meeting on February 6 as we were told by counsel that this matter needed to go to the Ethics Commission.

At the February 1st meeting, Commissioner Lambert also threatened that if the Commission funded the grant request of the Friends of Nevada Wilderness, his supporters and others in the OHV community would be outraged, adding "I will not vote for any organization with wilderness in the name". Friends of Nevada Wilderness were awarded 2 grants for OHV friendly projects.

As a point of disclosure, I, Paul Jackson, have volunteered for them 9 times over the past 4 years. I did not vote on their grant requests. I also handed off the gavel when the group of grants they were slotted in, came up for presentation or discussion.

Mr. Lambert has been asked many times including on the record at the Friday, January 31st meeting if he has or would have a financial interest or other gain, from the funding of this grant. He answered, "no, but they may buy him a gallon of gas". There are salaries included in his grant requests, but there is not a clear indication on the application, as to who would receive said salaries. There is a concern that he would benefit monetarily from this grant.

On February 6th, the Commission held a meeting to confirm its grant awards. Commissioner Lambert was accompanied by a Mr. Quade, an attorney for the Nevada Trail Stewards who during public comment put the Commission on notice that he intended to file suit or seek a TRO if the Commission attempted to fund any of the Grants. We, the Commission, have taken the matter under

advisement. The Commission also received many letters and public comments very few of which contain factually correct statements about what happened at the 2 day Grant meeting, criticizing the decision not to fund Commissioner Lambert's Nevada Trail Stewards, and funding the Friends of Nevada Wilderness. All of these letters and comments came before any tapes or minutes of the meetings were available. Upon checking the records, none of the authors of the letters attended any part of the grant meeting, and as far as I can see only one of the persons giving public comment criticizing the Commissions' action attended the meeting.

In closing, Commissioner Lambert has not acted in the best interests of the NCOHV. His actions representing a group asking for grants while sitting on that Commission, and speaking on behalf of that same, while in deliberation, falls well below the ethical standards expected. The fact that he misrepresented to the Commission on the record that the group he founded and was president of was a 501C3 is concerning. He has clearly tried to unduly influence the Commissioners to award grants to the organization that he founded and was Chairman of at the time of the grant meetings.

In a letter received by the Commission Feb 12th, Commissioner Lambert has resigned as president of the N.T.S.

I bring my concerns to you as I and most of the Commissioners are uncomfortable and concerned given their comments during the public meetings about potential personal gain and the exercise of undue influence in the granting of public monies. Add to that the concerns that Mr. Lambert deliberately misrepresented the Nevada Trail Stewards as being an active 501c3 corporation. The Nevada Trail Stewards corporation is in Default status according to the Secretary of States' website as of February 15, 2014.

Please do not hesitate to contact me for any concerns.

Thank you for your consideration of this matter.



Paul Jackson

Chairman of the NCOHV

Persons who have knowledge of facts and circumstances related to Ethics Third Party Request

Sue Baker, Commissioner
702-758-6661



NEVADA TRAIL STEWARDS

[New Search](#)
[Manage this Business \(/businessSearch/manageT7Business?businessEntityNumber=E0175112013-2\)](#)
[Calculate Fees](#)
[Print \(\)](#)

Business Entity Information			
Status:	Default	File Date:	03/29/2013
Type:	Domestic Non-Profit Corporation	Entity Number:	E0175112013-2
Qualifying State:	NV	List of Officers Due:	04/30/2013
Managed By:		Expiration Date:	
Foreign Name:		On Admin Hold:	No
NV Business ID:	NV20131213434	Business License Exp:	

Registered Agent Information			
Name:	SCOTT GERZ	Address 1:	555 WEST PLUMB LANE STE B, UNIT 274
Address 2:		City:	RENO
State:	NV	Zip Code:	89501
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		
View all business entities under this registered agent ()			

Officers	<input type="checkbox"/> Include Inactive Officers
No officers found for this company	

Actions/Amendments
Click here to view 1 actions/amendments associated with this company ()

[Disclaimer \(\)](#)

Caren Jenkins

From: photo1215@aol.com
Sent: Sunday, February 16, 2014 12:31 PM
To: Caren Jenkins
Subject: Re: Request for third party review

Yes it was mailed. I will also have the DVD and audio cd sent to your attention.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Caren Jenkins
Sent: Sunday, February 16, 2014 7:43 AM
To: paul jackson
Subject: Re: Request for third party review

Thank you for your submission. May I assume it will be mailed or delivered to the Commission office along with evidence to support the allegations? The letter references a CD, for example.

I look forward to receiving the same.

Caren Cafferata-Jenkins, Esq.
Executive Director
Nevada Commission on Ethics
775-687-4313

This message was sent from my iPhone, so please pardon my brevity.

On Feb 16, 2014, at 1:39 AM, "paul jackson" <photo1215@aol.com> wrote:

Thank you in advance for reviewing these concerns. I am available for any clarifications or discussions that you need to review this case.

Paul Jackson
<ethics third party lambert.PDF>

Caren Jenkins

From: paul jackson <photo1215@aol.com>
Sent: Sunday, February 16, 2014 1:39 AM
To: Nevada Commission on Ethics
Subject: Request for third party review
Attachments: ethics third party lambert.PDF

Thank you in advance for reviewing these concerns. I am available for any clarifications or discussions that you need to review this case.

Paul Jackson

Caren Jenkins

From: Karen Boeger <kboeger1011@gmail.com>
Sent: Tuesday, February 18, 2014 8:20 AM
To: governor@governor.state.ms.us
Cc: Nevada Commission on Ethics
Subject: OHV Commission ethics issue

February 15, 2014

Dear Governor Sandoval,

I am writing on behalf of the Nevada Chapter of Backcountry Hunters and Anglers (BHA) concerning a current ethics issue related to the OHV Commission grant process.

BHA was a participant of the many long years in the struggle to pass an OHV registration bill. Finally, when we came together as a disparate group of "stakeholders" to craft a bill we could all live with and accomplish goals we had in common, we were able to get a bill passed.

Our BHA organization has many members who own and use OHVs to get to their hunt/fish areas and then proceed afoot, as is our tradition.

Our members have increasing stories of hunts ruined or solitude of fishing trips disturbed by irresponsible and even illegal OHV use. Not only have our opportunities dwindled by this phenomenon, but wildlife habitat as well has been increasingly fragmented and impacted by such OHV use. Responsible OHV users, such as many of our members, were heartened by the OHV bill with it's hope for a highly visible ID on OHVs as well as projected funds for such needed programs as education, restoration, signage and enforcement.

We have been closely following the actions of the OHV Commission since it's formation. We have both spoken and submitted comments where we felt they were needed. As the grant process was being developed, we were encouraged by the amount of appropriate data required of applicants, as well as the transparency of the decision process. The first round of grants were just awarded. The process was entirely open and the grants awarded, to a diverse group of entities, were across a range of projects such as were set out in the language of the bill.

BHA is concerned that there is a pending ethics question regarding 2 of the grant applications by NV Trail Stewards. Our primary concern is the threat of having all grants put on hold and/or the applicants having to once again go through the selection process. This result would be a significant waste of time and money for all concerned, as well as erosion of public faith in a fair process. Our hope is that there will be a speedy decision by the Ethics Committee that will allow the current approved grants to go forward and begin their much needed projects.

From the account of a BHA member who attended the grant applicant presentation meeting of the Commission, the Commissioners who had any remote connection with any of the applicant organizations carefully abstained from voting on those proposals. The chairman, Mr. Jackson, even went so far as to relinquish the gavel during discussion of requests in the same category as an organization of which he is a member.

That said, it is highly concerning to us that Commissioner Lambert, president and founder of NV Trail Stewards, was the sole person to sign their 3 grant applications, as well as to present and advocate for those proposals to the Commission. To have a sitting Commissioner be the advocate of grant proposals from an organization of which he is president and founder, to our mind, exceeds the bounds of propriety for a Commission charged with dispensing monies from owners of all registered OHVs. It is imperative that the grant disposition process be completely free of any shadow of unethical actions. Such behavior only threatens the entire worthy program.

We urge you to resolve this questionable situation as speedily and fairly as possible so that the public will see good things happening on the ground right now from their fee monies. We look forward to news of the resolution.

Thank you for your prompt attention to this troubling situation,

Karen Boeger
Board member, NV Chapter, Backcountry Hunters and Anglers
6205 Franktown Rd.
Washoe valley, NV 90704

R E C E I V E D

FEB 19 2014

COMMISSION
ON ETHICS

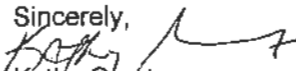
Nevada Commission on Ethics
Caren Cafferata-Jenkins, Esq.
704 West Nye lane.
Suite 204
Carson City NV 89703

To the Nevada Commission on Ethics:

Please find enclosed the audio CD from the Legislative Counsel Bureau and the thumb drive containing the audio recording from the February 1st meeting of the Nevada Off-Highway Vehicle Commission meeting. Neither recording has been altered in any way.

If you have any questions or problems with either of these recordings please feel free to call me.

Sincerely,



Kathy Grost

Executive Secretary

Nevada Commission on Off-Highway Vehicles

(517) 944-0632

kgrost@nvohv.com



JURISDICTIONAL DETERMINATION

RFO NO.: 14-15C	NAME: Gary Lambert - Vice-Chairman
DATE REC'D: 2/19/14	POSITION: NV Commission on Off Highway Vehicles

The complaint was received ☒ **IN PROPER FORM** or ☐ **NOT IN PROPER FORM.**

If “not in proper form” state reason:

- ☐ Insufficient evidence which supports the allegation (NAC 281A.400(6)) ☐ Not on NCOE form
☐ Does not include appropriate amount of copies.

ALLEGATIONS:


OHV Commissioner advocated for a grant to an entity he formed and is involved with and did not disclose or abstain. He signed the applications for the grants (3) despite others engaging in ethics compliant abstentions and disclosures.

DETERMINATION BY EXECUTIVE DIRECTOR:


<input type="checkbox"/>	IS public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS NOT public employee as defined in NRS 281A.150	
<input type="checkbox"/>		
<input checked="" type="checkbox"/>	IS a public officer as defined in NRS 281A.160	
<input type="checkbox"/>	IS NOT a public officer as defined in NRS 281A.160	
<input type="checkbox"/>		
<input checked="" type="checkbox"/>	Complaint DOES contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	NRS 281A.400(7)(9)(3)(10) add 281A.420(1) and (3)
<input type="checkbox"/>	Complaint DOES NOT contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	281A.020 and 400(1) and (2) and 281A.430

Based upon the foregoing analysis, I have determined that the Commission ☒ **DOES** or ☐ **DOES NOT** have the jurisdiction to investigate and take appropriate action in the above referenced matter.

Dated: 2/19/14


Executive Director

GENERAL COUNSEL REVIEW:

<input checked="" type="checkbox"/> DO CONCUR or <input type="checkbox"/> DO NOT CONCUR
<u>General Counsel comments:</u>
Dated: <u>2/24/14</u>
 _____ General Counsel

Dated: 2/24/14


General Counsel

JURISDICTIONAL DETERMINATION

RFO NO.: 14-15C	NAME: Gary Lambert
DATE REC'D: 2/19/14	POSITION: Vice-chairman, NW Commission on

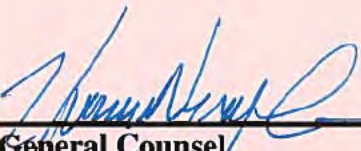
STATUTORY BASIS FOR COMPLAINT *OFF Highway Vehicles*
EXECUTIVE DIRECTOR DETERMINATION:

√	Statute	Behavior alleged that implicates this statute:
✓	NRS 281A.400(1)	
✓	NRS 281A.400(2)	
✓	NRS 281A.400(3)	
	NRS 281A.400(4)	
	NRS 281A.400(5)	
	NRS 281A.400(6)	
✓	NRS 281A.400(7)	
	NRS 281A.400(8)	
✓	NRS 281A.400(9)	
✓	NRS 281A.400(10)	
	NRS 281A.410	
✓	NRS 281A.420(1)	
✓	NRS 281A.420(3)	
✓	NRS 281A.430	application is "bid" for the grant
	NRS 281A.500	
	NRS 281A.510	
	NRS 281A.520	
	NRS281A.550	
	NRS 281A.620	
✓	OTHER: .020	
	NO IMPLICATION OF VIOLATION OF ETHICS CODE:	Because:

Dated: 2/19/14


Executive Director

GENERAL COUNSEL REVIEW:

<input checked="" type="checkbox"/> DO CONCUR or <input type="checkbox"/> DO NOT CONCUR
<u>General Counsel comments:</u>
Dated: <u>2/24/14</u>
 _____ General Counsel



**STATE OF NEVADA
COMMISSION ON ETHICS**
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

In the Matter of the Request for Opinion
Concerning the Conduct of **Gary Lambert**,
Vice Chairman, Nevada Commission on
Off-Highway Vehicles, State of Nevada,
Public Officer. /

Request for Opinion No.: 14-15C

NOTICE TO SUBJECT OF REQUEST FOR OPINION

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law (see sections checked below).

✓	Statute	Essence of Statute:
✓	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
✓	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
✓	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
✓	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.
	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.
✓	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)

	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
√	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
√	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
√	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
√	NRS 281A.420(3)	Acting on a matter in which abstention was required.
√	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached, together with a copy of the relevant provisions of the NRS and the Nevada Administrative Code (NAC). You may also find the relevant provisions of NRS and NAC and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the receipt of a request for opinion, the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.

2. Within 15 days after the Executive Director provides her written recommendation, the panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.

3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

Pursuant to NRS 281A.440(3), should you wish to respond to these allegations, the Commission must receive your written response no later than 30 days after the date you receive this notice. A lack of response on your part is not deemed an admission that the allegations are true.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time form is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source any public information until the investigatory panel has completed its review has rendered its determination. You will be provided notice of the Panel Determination.

If you have any questions regarding this notice, please contact me on my direct line at (775) 687-4313.

Dated this 26th day of February, 2014.


Caren Cafferata-Jenkins, Esq.
Executive Director


CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Gary Lambert
1050 Columbia Way
Reno, NV 89502-2011

Cert. Mail No.: 7008 0150 0002 6137 3993

Dated: February 26, 2014.


Darci Hayden, Senior Legal Researcher

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Gary Lambert</u></p> <p>C. Date of Delivery <u>Feb 27 2014</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, (enter delivery address below):</p> <p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
1. Article Addressed to: GARY LAMBERT 1050 COLUMBIA WAY RENO NV 89502-2011	
2. Article Number (Transfer from service)	7008 0150 0002 6137 3993 14-15C
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540

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FEB 27 2014
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AGENDA ITEM NO. 10

AGENDA ITEM NO. 10

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AUG 04 2014

COMMISSION
the ONE for the E

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. ***(If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)***

NAME: <small>(Last, First)</small>		Tim Kuzanek		TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>		Undersheriff	
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>		Washoe County Sheriff's Department					
ADDRESS: <small>(Street number and name)</small>		911 Parr Blvd.		CITY, STATE, ZIP CODE		Reno, NV 89512	
TELEPHONE:		Work: 775-382-3001		Other: <small>(Home, cell)</small>		E-MAIL: tkuzanek@washoecounty.us	

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. ***(You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)***

Check here ☒ if additional pages are attached.

[illegible]

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body?
If yes, describe:

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

	Statute	Essence of Statute:
<input checked="" type="checkbox"/>	NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/>	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input checked="" type="checkbox"/>	NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/>	NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input checked="" type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☐ if additional pages are attached.

NAME and TITLE: (Person #1)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:			
NAME and TITLE: (Person #2)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:			

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 12.

7. REQUESTER'S INFORMATION:

YOUR NAME:	John Litz		
YOUR ADDRESS:	752 Stewart Street	CITY, STATE, ZIP:	Reno, NV 89502
YOUR TELEPHONE:	Day: 775-742-4544	Evening:	E-MAIL: nostra.ferratu@hotmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.


Signature:

7/30/14
Date:

JOHN LITZ
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

We are taught as children that members of law enforcement can be trusted to uphold the law and keep communities safe. Tim Kuzanek, by blatant use of his position as Washoe County Undersheriff, has created the perception campaign contributions can buy favor with the Undersheriff and, possibly, the sheriff-elect.

NRS 281A.170 "Willful violation" defined. "Willful violation" means a violation where:

1. The public officer or employee:
 - (a) Acted intentionally and knowingly; or
 - (b) Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter; and
2. The Commission determines, after applying the factors set forth in NRS 281A.475, that the public officer's or employee's act or failure to act resulted in a sanctionable violation of this chapter.

Undersheriff Tim Kuzanek is a candidate for Washoe County Sheriff and is violating NRS 281A by deliberately using his position and title of Undersheriff, and potentially WCSO resources, to generate support for his candidacy. Considering the mission of the Washoe County Sheriff's Office is to earn the public's confidence, Undersheriff Kuzanek should have been aware that he is creating an appearance of nepotism while undermining the integrity and impartiality of law enforcement.

NRS 281A.020(1) – Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.

NRS 281A.020(1) b states, "A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves." Tim Kuzanek, Undersheriff of the Washoe County Sheriff's Office and candidate for Washoe County Sheriff, has not made the required effort to avoid the perception of conflicts while campaigning for a position, which could result in a pay increase and other future political or career opportunities.

Most political candidates are cautious in how they use titles; however, Tim Kuzanek is blatantly using his position as a public employee to gain political favor, especially by creating a perception that his badge is related to campaign contributions on the campaign website (Exhibit 1).

Each of the violations listed below connect back to a public employee's responsibility to separate their public and private lives, and not to imply that his role in the public sector is an endorsement for other positions.

Use of badge:

- Use of Undersheriff badge on www.Kuzanek.com "Contribute" page (Exhibit 1)
- Use of Undersheriff badge on "Kuzanek for Sheriff" Facebook page (Exhibit 2)
- Use of Undersheriff badge on "@Kuzanek" Twitter page (Exhibit 3)

Use of position:

- January 28, 2014: Announcement press release with the headline, "Undersheriff Tim Kuzanek Announces Candidacy for Washoe County Sheriff" (Exhibit 4)
- Fundraiser Invitation for "Undersheriff Tim Kuzanek" (Exhibit 5)
- Photo in uniform as his profile picture on "Kuzanek for Sheriff" Facebook page (Exhibit 6)
- Photo in uniform on the home page of www.Kuzanek.com (Exhibit 7).

Use of images or videos in uniform:

- June 21, 2014: Photos in uniform at the Reno Rodeo Parade on "Kuzanek for Sheriff" Facebook page (Exhibit 8)
- June 19, 2014: Photos in uniform at the Reno Rodeo Cattle Drive on "Kuzanek for Sheriff" Facebook page (Exhibit 9)
- June 18, 2014: Article posted on "Tim Kuzanek for Sheriff" Facebook page featuring himself at a press conference for a homicide case (Exhibit 10)

NRS 281A.400(2) – Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.

Tim Kuzanek is using his position of Undersheriff of the Washoe County Sheriff's Office to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself to gain campaign donations and favor with the goal of being elected to the office of Sheriff, which could result in a pay increase and other future political or career opportunities.

Kuzanek deliberately used his position in the following instances, which are documented in corresponding exhibits:

- Use of Undersheriff badge on www.Kuzanek.com "Contribute" page (Exhibit 1)
- Use of Undersheriff badge on "Kuzanek for Sheriff" Facebook page (Exhibit 2)
- Use of Undersheriff badge on "@Kuzanek" Twitter page (Exhibit 3)
- January 28, 2014: Announcement press release with the headline, "Undersheriff Tim Kuzanek Announces Candidacy for Washoe County Sheriff" (Exhibit 4)
- Fundraiser Invitation for "Undersheriff Tim Kuzanek" (Exhibit 5)

Additionally, Kuzanek has used images and videos of him in his Washoe County Sheriff's Office uniform to further create the appearance of incumbency with the goal of securing or granting unwarranted privileges, preferences, exemptions or advantages, which are documented in corresponding exhibits:

- Photo in uniform as his profile picture on "Kuzanek for Sheriff" Facebook page (Exhibit 6)
- Photo in uniform on the home page of www.Kuzanek.com (Exhibit 7).
- June 21, 2014: Photos in uniform at the Reno Rodeo Parade on "Kuzanek for Sheriff" Facebook page (Exhibit 8)
- June 19, 2014: Photos in uniform at the Reno Rodeo Cattle Drive on "Kuzanek for Sheriff" Facebook page (Exhibit 9)
- June 18, 2014: Article posted on "Tim Kuzanek for Sheriff" Facebook page featuring himself at a press conference for a homicide case (Exhibit 10)

NRS 281A.400(7) – Using governmental time, property, equipment or other facility to benefit his personal or financial interest.

Kuzanek is using his department-issued uniform and department-issued badge to benefit a significant personal interest, in this case, being elected.

Governmental time – It is understood that employees are allocated personal time throughout the day; however, by using photos and videos in uniform on campaign materials, Kuzanek is creating the perception that he is campaigning during the course of his work for the Washoe County Sheriff's Office to benefit his personal or financial interest, which could result in a pay increase and other future political or career opportunities.

Governmental property/equipment – Because his uniform and badge are department-issued, by using them for campaign purposes, Kuzanek is creating a perception of using governmental property and equipment to benefit his personal or financial interest, which could result in a pay increase and other future political or career opportunities. The placement of his badge adjacent to a request for political contributions on his campaign website creates the perception a donation is warranted because of his position.

Examples of use of governmental time, property, equipment or other facility:

- Use of Undersheriff badge on www.Kuzanek.com "Contribute" page (Exhibit 1)
- Use of Undersheriff badge on "Kuzanek for Sheriff" Facebook page (Exhibit 3)
- Use of Undersheriff badge on "@Kuzanek" Twitter page (Exhibit 3)
- Photo in uniform as his profile picture on "Kuzanek for Sheriff" Facebook page (Exhibit 6)
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- June 19, 2014: Photos in uniform at the Reno Rodeo Cattle Drive on "Kuzanek for Sheriff" Facebook page (Exhibit 9)

NRS 281A.400(10) – Seeking other employment or contracts through the use of his official position.

Tim Kuzanek is using his position of Undersheriff of the Washoe County Sheriff's Office to better position himself for other employment as Washoe County Sheriff. He has unique access to the title and position of Undersheriff and has on multiple occasions used his official position to better his ability to be selected as the next Washoe County Sheriff.

Use of badge:

- Use of Undersheriff badge on www.Kuzanek.com "Contribute" page (Exhibit 1)
- Use of Undersheriff badge on "Kuzanek for Sheriff" Facebook page (Exhibit 2)
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Additionally, Kuzanek has used images and videos of him in his Washoe County Sheriff's Office uniform to further create the appearance of incumbency with the goal of securing or granting unwarranted privileges, preferences, exemptions or advantages, which are documented in corresponding exhibits:

- June 21, 2014: Photos in uniform at the Reno Rodeo Parade on "Kuzanek for Sheriff" Facebook page (Exhibit 8)
- June 19, 2014: Photos in uniform at the Reno Rodeo Cattle Drive on "Kuzanek for Sheriff" Facebook page (Exhibit 9)
- June 18, 2014: Article posted on "Tim Kuzanek for Sheriff" Facebook page featuring himself at a press conference for a homicide case (Exhibit 10)

Exhibit 1

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ELECT
Kuzanek
FOR SHERIFF

CONTRIBUTE



If you would like to donate, please send checks
to:
Committee to Elect Tim Kuzanek for Sheriff
P.O. Box 19183
Reno, NV 89511

Donate with PayPal



Exhibit 2

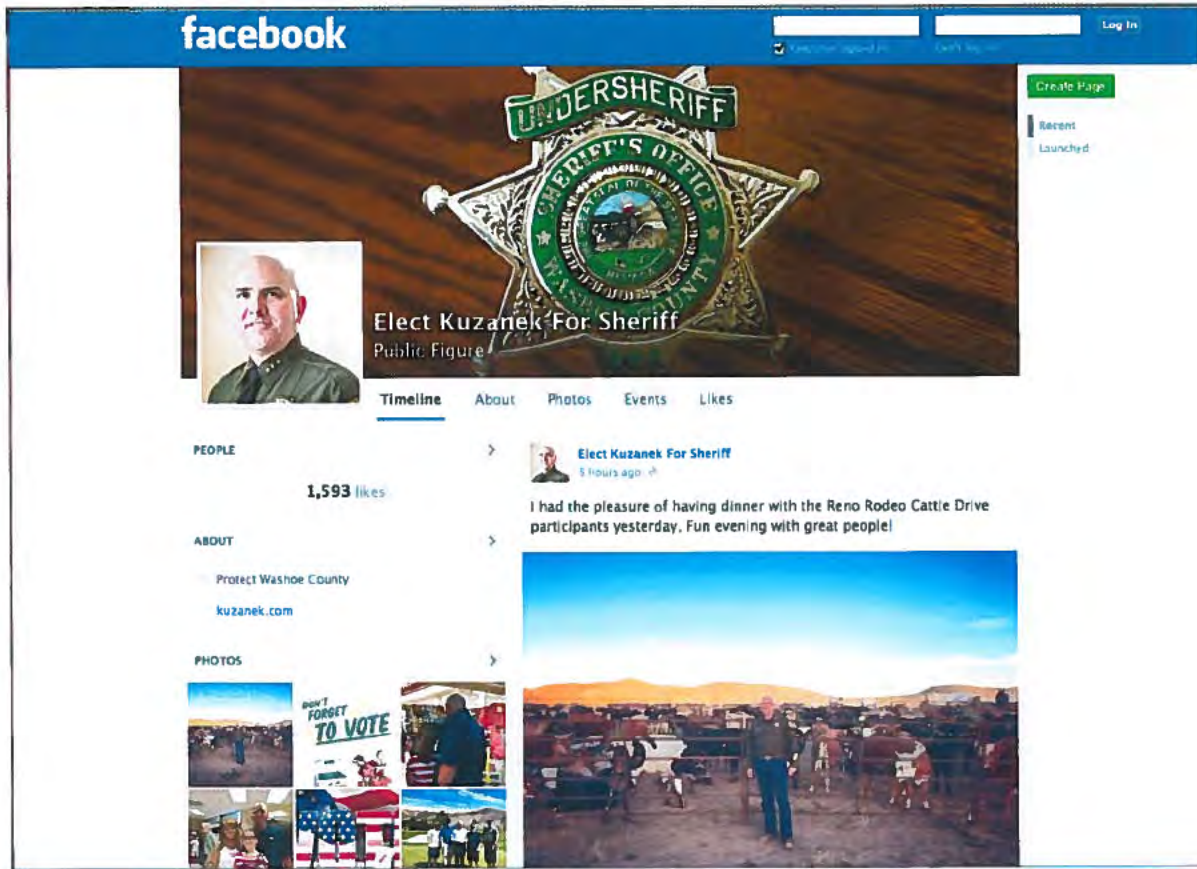


Exhibit 3



Exhibit 4

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UNDERSHERIFF TIM KUZANEK ANNOUNCES CANDIDACY FOR WASHOE COUNTY SHERIFF

Posted by campaign - January 29, 2014

Credentials are Closed

Undersheriff Tim Kuzanek, a 20-year veteran of the Washoe County Sheriff's Office, announced his candidacy today for the office of Sheriff of Washoe County at a news conference at the Boys and Girls Club of Truckee Meadows in Reno.

Endorsing Kuzanek's bid were Nevada state Sen. Greg Brower, Washoe County Sheriff Mike Haley, City of Reno Mayor Bob Cashell, City of Sparks Mayor Geno Martini, Washoe County District Attorney Dick Gammick, Reno City Councilman Oscar Delgado and former Washoe County Sheriffs Dennis Balaam and Richard Kirkland.

"I have the experience to lead the Washoe County Sheriff's Department and I look forward to earning the trust of the voters," said Undersheriff Tim Kuzanek. "I will do everything to ensure that the crime rate remains low in Washoe County."

Currently serving as second-in-command, Kuzanek has line and command experience in all three Sheriff's Office Bureaus: Detention, Operations and Administration. Kuzanek has received awards for his service in Patrol, Detention, Response Team, SWAT, Field Training Officer, Undercover Narcotic Operations, Hostage Negotiations, Investigations and Special Operations.

In addition, Kuzanek received the Sheriff's Meritorious Service Medal and has been awarded special recognition from the Nevada Legislature, the Office of Homeland Security, the Department of Defense and the Pentagon.

"Tim is experienced in all areas of law enforcement and I think he is exceptionally well-qualified to be our next Sheriff," said Washoe County Sheriff Mike Haley. "His dedication to public service, his leadership and his core values, make him the ideal candidate for the position. I am very proud to endorse Tim Kuzanek."

With the safety of Washoe County citizens as his top priority, Kuzanek has vowed to use a proactive approach to fight crime. Kuzanek's strategy includes implementing preventative measures in anticipation

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Exhibit 5



Please Join

Alfredo Alonso, Mike Alonso, Chuck Alvey, Chris Aramini,
William Asmar, Chris Benna, Chuck Bluth,
Assemblywoman Teresa Benitez-Thompson,
Assemblyman David Bobzien, Randy Brown, Piero Bullentini,
Mario Bullentini, Bernie Carter, Mayor Bob Cashell,
Brent Coleman, George Del Carlo,
Reno City Councilman Oscar Delgado, Mike Dianda, Chris Ferrari,
Michael Fleiner, Richard Gammick, Garrett Gordon,
Jesse Haw, Assemblyman Pat Hickey, Jim House,
Assemblyman Randy Kirner, Peter Krueger, Jan Laggett,
Sparks City Councilman Ed Lawson, Keith Lee, Frank Lepori,
Geoff and Chrystie Lowden, Joseph Martin Jr., Greg Martinelli,
Mayor Geno Martini, Gino and Nino Pedrini, Nick Rossi,
Mike Scolari, Senator Debbie Smith, Bi Springer,
Assemblyman Mike Sprinkle, Ted Stoeber, B.J. Sullivan,
Ward Sutton, Stephanie Tyler, Margaret Van Dyken, and Kris Wells

at a Fundraising Reception for

Undersheriff Tim Kuzanek Candidate for Washoe County Sheriff

July 31, 2014

5:30pm - 7:30pm

Peppermill Resort and Spa
Sierra Room #1748
17th Floor Peppermill Tower
2707 South Virginia Street
Reno, NV 89502

Suggested Contribution
\$500

Please Make Checks Payable to
Committee to Elect Tim Kuzanek for Sheriff
P.O. Box 19193 - Reno, NV 89511

Please RSVP to Fong Menante at
rsvp@kuzanek.com or 775-770-0678



www.kuzanek.com

Paid for and Authorized by
Committee to Elect Tim Kuzanek for Sheriff
P.O. Box 19193 Reno, NV 89511
www.kuzanek.com

Exhibit 6




Tim Kuzanek For Sheriff
April 29 '14

Exhibit 7

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LATEST NEWS



Washoe County Sheriff Interview Series Part 2
Released on June 3, 2014


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GET TO KNOW TIM KUZANEK




Currently serving as second-in-command, Tim holds more than two decades worth of line and command experience in all three Sheriff's Office Bureaus. A highly decorated officer during his tenure in law enforcement, Tim has received awards for his service in Patrol, Detention, Response Team, SWAT, Field Training Officer, Undercover Narcotic Operations, Hostage Negotiations, Investigations and Special Operations.


CONTRIBUTE



Please send checks to:
Committee to Elect Tim Kuzanek for Sheriff
P.O. Box 10193
Reno, NV 89511

OR
Donate with PayPal

 **Donate**



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Powered by the Committee to Elect Tim Kuzanek.
Website created by Adam Tauschgruber. 2014

Exhibit 8

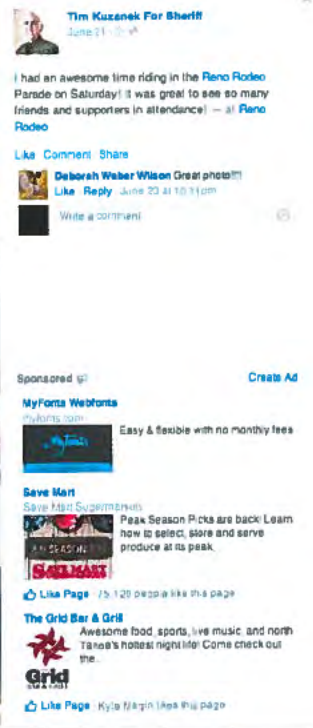
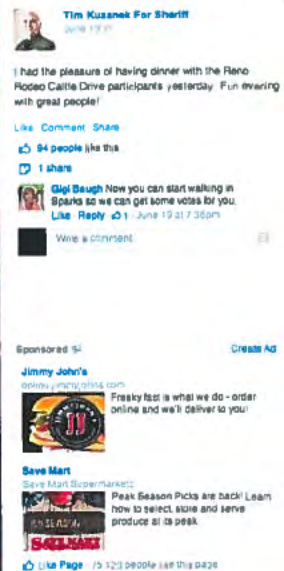


Exhibit 9



FAQ

1. What plans do you have for the Sheriff's Office's budget?

The Washoe County Sheriff's Office has a large budget with the majority being dedicated to the salaries and benefits for 420 commissioned, 151 civilian and 36 hourly employees. Of the limited funds that are not committed to personnel, I will review to ensure they are used effectively to provide the highest level of service possible to the residents of Washoe County. I want to see accountability and transparency in the Sheriff's Office budget. I will work to ensure the taxpayers' money is being well spent wisely.

As a Board member of the Nevada Humane Society I have practical experience administering a multi-million dollar budget with similar obligations and restrictions as those impacting the Sheriff's Office Budget.

2. What is your position on the 2nd Amendment?

I strongly support the 2nd Amendment and will work to protect your rights to own and use firearms in Washoe County. Many of our firearms laws are dictated by the Nevada Legislature and are listed in the Nevada Revised Statutes, Chapter 202.

I support concealed carry and will work to reduce the bureaucracy and red tape of getting and renewing a permit. I will work with staff to reduce the wait time and extend the hours to apply in person. I will work to do away with the \$15 change of address fee because I believe it is more important to have up-to-date information than money.

I support Nevada's open carry law; however, I urge gun owners to use common sense when carrying firearms in sensitive environments. Constitutional Carry (which allows for concealed carry without a permit) is an issue that must be determined by the Nevada Legislature. As the role of the Sheriff is to uphold the law, I would defer to the Legislature to determine if Nevada's firearms laws should include Constitutional Carry.

I support our rights to practice shooting in safe locations. One of my first priorities will be to review our congested areas and make recommendations to the Washoe County Commission. This may include proposing changes that would reduce the congested areas in some places and extend them in others. Any

Exhibit 10

Protect Washoe County

<http://kuzanek.com/>

[Suggest Edits](#)

PHOTOS



POSTS TO PAGE



Ed Burns

June 17 at 8:26am

Congratulations! I asked Chuck Allen this too. Would you as sheriff... [See More](#)



Tim Kuzanek For Sheriff shared a link

June 18



Twist in Washoe Valley homicides and shootout

www.rgj.com

Another person has been found dead in Tucson, Ariz. The suspect in the homicides had been released from an Arizona prison.

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Write a comment.



Bryon Thornton Good work Tim! Sounds like a real mess.

[Like](#) [Reply](#) · June 18 at 5:30pm



Angela Bruce Bunyard A mess indeed

[Like](#) [Reply](#) · June 18 at 4:51pm



Tim Kuzanek For Sheriff

[Chat \(Off\)](#)



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JURISDICTIONAL DETERMINATION

RFO NO.: <u>14-610</u>	NAME: <u>Tim Kuzanek</u>
DATE REC'D: <u>8/4/14</u>	POSITION: <u>Undersherff, Washoe County</u>

The complaint was received ☒ **IN PROPER FORM** or ☐ **NOT IN PROPER FORM.**

If "not in proper form" state reason:

☐ Does not include appropriate amount of copies. ☐ Not on NCOE form

DETERMINATION BY EXECUTIVE DIRECTOR:

ALLEGATIONS:

- Kirkland
Opn No. 98-41*
- Using position to gain unwarranted advantage for candidacy by using his title of "Undersheriff" in campaign press release, fundraising invitations, photos in uniform on website, Facebook, etc (Twitter);
NRS 281A.400(2)

 - Using gov't resources for personal benefit - Dept issued uniform & badge - by using photos of on-duty activities, he creates appearance of sanctioned campaigning on duty; his badge next to request for donation appears improper
NRS 281A.400(7)

 - Seeking other employment using official position - pay increase from Undersheriff position, use of title & badge as above - creating "appearance of incumbrancy". He has unique access to the title Undersheriff.
NRS 281A.400(10)

 - 281A.020 - failing to avoid ^{appearance of impropriety &} conflicts generally - flaunting his badge in his campaign website, Facebook & Twitter

<input checked="" type="checkbox"/>	IS public employee as defined in NRS 281A.150	
<input type="checkbox"/>	IS NOT public employee as defined in NRS 281A.150	
<input type="checkbox"/>	IS a public officer as defined in NRS 281A.160	
<input checked="" type="checkbox"/>	IS NOT a public officer as defined in NRS 281A.160	
<input checked="" type="checkbox"/>	Complaint DOES contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	
<input type="checkbox"/>	Complaint DOES NOT contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	

JURISDICTIONAL DETERMINATION

Alleged Statute Violation	Behavior alleged/credible evidence provided to support claim:
NRS 281A. 400(2)	See pg 1 - Reverse
NRS 281A. 400(7)	
NRS 281A. 400(10)	
NRS 281A. 020	
NRS 281A.	
Other:	

Based upon the foregoing analysis, I have determined that the Commission ☒ DOES or ☐ DOES NOT have the jurisdiction to accept the RFO and the evidence required to take appropriate action regarding NRS 281A. 020, 400(2)(7) + (10)

Dated: 8/4/14


Executive Director

COMMISSION COUNSEL REVIEW:

☒ DO CONCUR or ☐ DO NOT CONCUR

In addition to Comm'n Op. No. 98-41 (Kirkland), see also Panel Determination in RFO No. 10-81C (White) + Comm'n Opinion No. 10-71C (Gammick) -

- lack of evidence of violation when White left crime scene in uniform while on duty to attend campaign-related event to give speech.

Lack of evidence of use of gov. ppty (police vehicle) in the course of official duties which carried over into private campaign events.

Dated: 8/4/14


Commission Counsel



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Tim Kuzanek, Undersheriff, Storey
County, State of Nevada,

Request for Opinion No. **14-61C**

Public Officer. /

NOTICE TO SUBJECT OF REQUEST FOR OPINION

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law (see sections checked below).

✓	Statute	Essence of Statute:
✓	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
✓	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
✓	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.

	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.
√	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)
	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
√	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached, together with a copy of the relevant provisions of the NRS and the Nevada Administrative Code (NAC). You may also find the relevant provisions of NRS and NAC and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the receipt of a request for opinion, the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.

2. Within 15 days after the Executive Director provides her written recommendation, the panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.

3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

Pursuant to NRS 281A.440(3), should you wish to respond to these allegations, the Commission must receive your written response no later than 30 days after the date you receive this notice. A lack of response on your part is not deemed an admission that the allegations are true.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time form is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination when the Panel's investigation and consideration is completed.

If you have any questions regarding this notice, please contact me on my direct line at (775) 687-4313.

Dated this 5th ay of August, 2014.


Caren Caferata-Jenkins, Esq
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Tim Kuzanek
P.O. Box 19193
Reno, NV 89511

Cert. Mail No.: 7011 2970 0000 0438 8387

Dated: 8/5/14



Employee, Nevada Commission on Ethics



A Professional
Law Corporation

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SEP 04 2014

COMMISSION
ON ETHICS

50 West Liberty Street, Suite 750
Reno, Nevada 89501
Main 775.323.1601
Fax 775.348.7250

Rew R. Goodenow
Attorney at Law
Direct 775.789.6543
RGoodenow@parsonsbehle.com

September 4, 2014

Via Hand Delivery
Caren Cafferata-Jenkins, Esq.
Executive Director
State of Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

**Re: In the Matter of the Request for Opinion Concerning Tim Kuzanek,
Opinion No. 14-61C**

Director Cafferata- Jenkins:

Enclosed please find the original and one copy of the Response to Request for Opinion (Ethics Complaint) and Affidavit of Tim Kuzanek regarding the above matter. Please return a file-stamped copy with our runner.

Please call me if you have any questions.

Very truly yours,

Rew R. Goodenow

RRG:ks
Enclosure

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SEP 04 2014

COMMISSION
ON ETHICS

Rew R. Goodenow (SBN 3722)
PARSONS BEHLE & LATIMER
50 W. Liberty Street, Suite 750
Reno, NV 89501
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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 Tim Kuzanek,
Undersheriff, Washoe County, State of
Nevada,

Request for Opinion No. 14-61C

Subject.

RESPONSE TO REQUEST FOR OPINION (ETHICS COMPLAINT)

Washoe County Undersheriff Tim Kuzanek ("Mr. Kuzanek") hereby responds, by and through his undersigned counsel, Rew R. Goodenow, of Parsons Behle & Latimer, pursuant to NRS 281A.440(3), to the Request for Opinion filed on or about August 4, 2014, by John Litz ("Ethics Complaint").

Introduction

The Ethics Complaint and Notice of Subject to Request for Opinion ("Notice") was served on and received by Mr. Kuzanek on August 5, 2014. This response is timely, since NRS 281A.440(3) and the Notice provide thirty days to respond (the deadline is September 4, 2014).

Washoe County is a political subdivision of the State of Nevada. Mr. Kuzanek began his service with the Sheriff's office of Washoe County in 1993. He presently serves as Undersheriff. He is not a public officer, as defined in NRS 281A.160. Therefore, the Commission does not have jurisdiction over this matter, pursuant to NRS 281A.440(2).

Should the Commission decide that it must reach the merits of this matter, the standard of

1 review is preponderance of the evidence. See In the Matter of the Request for Opinion
2 Concerning the Conduct of Bob Loux, Opinion No. 08-57C, page 2 (5-11-09).

3 Just and sufficient cause does not exist for the Commission to schedule a hearing on the
4 Ethics Complaint. NAC 281A.435(3). Mr. Kuzanek denies all allegations of unethical conduct.
5 This Response begins with an analysis of the public officer element of jurisdiction and then
6 contains a discussion of each of the four enumerated allegations contained in the narrative
7 attached to the Ethics Complaint. The Response addresses each statute checked in the Notice and
8 attempts to match each checked statute to the corresponding allegations.
9

10 Discussion

11 A. *Jurisdiction*

12 Mr. Kuzanek is not a public officer, as defined in NRS 281A.160(1). The position of
13 undersheriff is not created by the Constitution of the State of Nevada, a statute of this State or a
14 charter or ordinance of any county, city or other political subdivision, as required in order to
15 satisfy subsection 1(a). The elements of NRS 281A.160(1)(a) and (b) are conjunctive. In the
16 Matter of the Request for Advisory Opinion by Richard Mendes, Advisory Opinion No. 10-19A,
17 pp. 3 and 5 (10/13/10). Failure to satisfy subsection 1(a) precludes jurisdiction.
18

19 The power of the sheriff, under NRS 248.045, to delegate to the undersheriff certain
20 duties, including participation on certain public boards as a voting member could involve the
21 exercise of a public power, trust or duty within the meaning of subsection (1)(b). Whether the
22 sheriff has exercised the power to delegate to the undersheriff a power that may satisfy NRS
23 281A.160(1)(b) would require a fact-specific evaluation of the specific instances of delegation
24 and of whether the board makes public policy decisions. Undoubtedly, the undersheriff's job
25 involves the expenditure of public money and the administration of State and Washoe County
26 rules, but his authority is nondiscretionary, other than the participation on public boards, as a
27
28

1 stand-in for the sheriff. Therefore, a finding concerning this element is not necessary for the
2 resolution of the present matter and a generalized statement concerning the element would not
3 provide much guidance.

4 B. *Substantive claims*

5 1. Discussion of unwarranted benefits claim, NRS 281A.400(2): Photos of Mr.
6 Kuzanek in Uniform and Photos of Badge on Website, Facebook and Twitter.
7

8 In order to find a violation of NRS 281.400(2), the Commission would need to find by "a
9 preponderance of the evidence" the following elements: (1) a public officer or public employee;
10 (2) secured or granted; (3) an unwarranted benefit; (4) to himself, or business entity in which he
11 has a significant pecuniary interest, or any person to whom he has a private commitment; (5) by
12 using; (6) his position in government. In the Matter of the Request for Opinion Concerning the
13 Conduct of Lynette Boggs-McDonald, Opinion No. 04-77, page 7 (9/15/06) (under former NRS
14 281A.481(2) now NRS 281A.400(2)).
15

16 There is nothing unwarranted about a candidate like Mr. Kuzanek informing the voters of
17 his current position and qualifications. As was observed in the Executive Director's
18 Recommendation in the Matter of Dean Heller, Request for Opinion No. 06-52, p. 9 (March 1,
19 2007), "it is common for a candidate seeking election to public office to communicate and
20 identify who they are through images of the candidate conducting business activities within the
21 context of their job or profession." As the found in The Matter of the Request for Opinion
22 Concerning Richard Kirkland, Washoe County Sheriff, Opinion No. 98-41, p. 3 (5/7/99), the use
23 of Mr. Kuzanek's position, title, badge, and uniform in advertisements does not violate subsection
24 2.
25
26
27
28

1 2. Discussion of use of Government Resources claim, NRS 281A.400(7): Use of
2 Uniform and/or Badge.

3 The use of the badge does not violate NRS 281A.400(7) as alleged in the Ethics
4 Complaint. Mr. Kuzanek's conduct is consistent with the exceptions contained in NRS
5 281A.400(7)(a), which allows for "a limited use of governmental property, equipment or other
6 facility for personal purposes if" the officer meets the four criteria. Mr. Kuzanek is required to
7 wear his uniform and badge for identification purposes. He is on call 24 hours a day, 7 days a
8 week. The website and other materials presented with the Ethics Complaint were produced
9 during his time off, without the use of public funds. See Affidavit of Tim Kuzanek, paragraph 6.
10 Departmental policies permit the wearing of the uniform and badge at all times. Id. So, much like
11 the Executive Director's Recommendation in the Matter of Dean Heller, Request for Opinion No.
12 06-52, p. 9 (3/1/07), "the same costs of operating the office would have continued whether or not
13 this personal use occurred."

14 No argument or evidence was presented in the Ethics Complaint that any rules for
15 personal use of county equipment were implicated in this matter. Mr. Kuzanek's use is protected
16 by and complies with NRS 281A.520(4). The use of uniform and badge is not inherently related
17 to Mr. Kuzanek's campaign, but rather serves the public function of providing information
18 concerning his position, function and public service.

19 3. Discussion of Use of Public Office to Seek Employment claim, NRS
20 281A.400(10).

21 The campaign website materials described in the Ethics Complaint were produced outside
22 work hours, without cost to Washoe County, without involvement of Washoe County personnel,
23 and on Mr. Kuzanek's personal time. See Affidavit of Tim Kuzanek, paragraph 5. This is
24 permitted by Washoe County Code § 5.341, governing political activities of Washoe County

1 employees.

2 It is necessary to be in uniform in Mr. Kuzanek's position with Washoe County during all
3 work hours and before and after work since he is on call for emergencies. Therefore, the use is
4 permitted by the de minimis use portions of Washoe County Code § 5.340. The use of the
5 uniform and badge did not interfere with the performance of Mr. Kuzanek's job duties. There
6 was no additional charge or cost associated with the use of the badge or uniform. The use did not
7 create the appearance of impropriety.
8

9 4. Discussion of Conflict between public and private interest claim, NRS
10 281A.020(1).

11 A severe and disproportionate burden would be imposed upon Mr. Kuzanek, if he were
12 prohibited from demonstrating his job qualifications by reference to his current employment. The
13 Commission found in The Matter of Request for Opinion Concerning Robert White, Captain,
14 Carson City Sheriff's Office, Opinion No. 10-18C) that no ethics rule was violated when Captain
15 White gave a campaign speech while wearing his uniform. The circumstances in this matter are
16 not materially different.
17

18 The rationale for permitting this type of speech is recognized by the exceptions to the
19 Hatch Act and Washoe County's "little Hatch Act". Mr. Kuzanek did not use his office to endorse
20 another candidate, so as to create the impression to the voters that the Sheriff's office supports a
21 particular candidate, but rather he graphically and accurately depicted his background, to inform
22 the voters. Certainly a typographical reference in campaign literature to Mr. Kuzanek's service as
23 undersheriff, the fact that he is honored to wear the badge, etc., would not be improper under the
24 Hatch Act, or NRS 281A.020(1). There is no logical distinction between that and the
25 photographic representations involved in this matter.
26

27 The office of sheriff is nonpartisan. The Hatch Act does not apply to nonpartisan races. 5
28

1 U.S.C. 1502(3). Therefore, it does not apply to Mr. Kuzanek's use of the uniform and badge in
2 the subject materials.

3 Even if the Hatch Act did apply, Mr. Kuzanek's use would be proper. On April 19, 2011,
4 the U.S. Office of Special Counsel ("OSC") issued an opinion in *William R. Tomkins* (HA-10-
5 3151), holding that elected officials whose elected position is their principal employment do not
6 violate the Hatch Act by using the title of their elected office while engaging in political activity.
7 The OSC also stated that elected officials, such as sheriffs, did not violate the Hatch Act by
8 wearing an official uniform or insignia while engaged in political activity.
9

10 **Conclusion**

11 The Commission should conclude that the Ethics Complaint fails to establish a factual or
12 legal basis for the finding that any ethics violation has occurred.

13 Dated this 4th day of September, 2014.

14
15 PARSONS BEHLE & LATIMER

16
17 By: 
18 Rew R. Goodenow

RECEIVED

SEP 04 2014

COMMISSION
ON ETHICS

1 Rew R. Goodenow (SBN 3722)
2 PARSONS BEHLE & LATIMER
3 50 W. Liberty Street, Suite 750
4 Reno, NV 89501
(775) 323-1601
RGoodenow@parsonsbehle.com

5
6 STATE OF NEVADA

7 BEFORE THE NEVADA COMMISSION ON ETHICS

8 In the Matter of the Request for Opinion
9 Concerning the Conduct of Tim Kuzanek,
10 Undersheriff, Washoe County, State of
Nevada,

Request for Opinion No. 14-61C

11 Subject.

12
13 AFFIDAVIT OF TIM KUZANEK

14 STATE OF NEVADA)
15) : ss
COUNTY OF WASHOE)

16 I, Tim Kuzanek, affirm under the penalties of perjury and the laws of the State of Nevada
17 that I have read the contents of this affidavit and that the same are true and correct of my own
18 personal knowledge, except where stated on information and belief and, as to such statements, I
19 believe them to be true:

20 1. I make this affidavit in support of my Response to Request for Opinion
21 Concerning the Conduct of Tim Kuzanek, Undersheriff, Washoe County, State of Nevada, filed
22 contemporaneously herewith.

23 2. I am currently a candidate for the non-partisan elective office of Washoe County
24 Sheriff and employed by Washoe County, Nevada, a political subdivision of the State of Nevada.
25 My job title is "Undersheriff." I have held that position since July 1, 2013, when I was appointed
26 by Sheriff Mike Haley. The Undersheriff's position is not described in or created by the Washoe
27 County Code, Statutes of Nevada or the Constitution of the State of Nevada. The Undersheriff
28

1 serves at the pleasure of the Sheriff. In fact, several years ago, Sheriff Haley dispensed with the
2 Undersheriff position, for a period of time and there was no Undersheriff.

3 3. The duties of the Undersheriff are described in Exhibit "1" attached to this
4 affidavit.

5 4. I have reviewed the statements contained in Mr. Litz' Request for Opinion. I did
6 not intentionally or knowingly violate any ethics rules contained in NRS Chapter 281A, nor have
7 I failed to act in conformity with the ethics law.

8 5. With respect to the narrative description attached to the Request for Opinion, all of
9 the materials referenced were produced without cost to Washoe County, without involvement of
10 Washoe County personnel and on my own time, not during work hours.

11 6. I am always subject to call, so I am seldom out of uniform, but try to wear civilian
12 clothes while campaigning, so long as I can do so in a manner that is consistent with performing
13 my official duties. The photographs of me and my badge depicted in the copies of electronic
14 media attached as exhibits to the Request for Opinion depict and demonstrate my qualifications
15 for office and are not designed to indicate the endorsement of the Sheriff or his office for my
16 campaign. No public funds were expended to produce these photographs or images, as that
17 would be prohibited by NRS 281A.400(7).

18 7. I do not believe that utilizing these images in my campaign is an
19 unwarranted use of my position to obtain a preference, nor does it result in a conflict of interest
20 between my employment as Undersheriff and my campaign for Sheriff.

21 FURTHER YOUR AFFIANT SAYETH NAUGHT.

22 DATED this 3rd day of September, 2014.

23 
Tim Kuzanek

24 SUBSCRIBED and SWORN to before me
25 This 3rd day of September, 2014
26 by *** Timothy Stanley Kuzanek ***.

27 
28 NOTARY PUBLIC



EXHIBIT 1

EXHIBIT 1



CLASS SPECIFICATION

Class Code: 17025
Date Est: 6/2011
Last Rev:
Last Title Chg:
FLSA: Exempt
Probation: 12 months

UNDERSHERIFF

DEFINITION

Incumbent is second in command of the department, acting in the capacity of Chief Administrator and Executive Officer to the Sheriff while guiding and overseeing strategic operations of the department. Plans, organizes, coordinates, directs, and supervises all Divisions of the Sheriff's Office; and performs related work as required.

EXPERIENCE AND TRAINING REQUIREMENTS

The appointing authority may determine the training and experience guidelines as requirements.

A Bachelor's degree from an accredited college or university with a major in Police Science, Criminal Justice, Business or Public Administration or a related field and five years of full-time progressively responsible law enforcement experience in an agency having general public law enforcement powers, including three years equivalent to the rank of Captain or above; OR An Associate's degree from an accredited college or university with a major in Police Science or a related field and seven years of full-time progressively responsible law enforcement experience in an agency having general public law enforcement powers, including five years equivalent to the rank of Captain or above; OR ten years of full-time progressively responsible law enforcement experience in an agency having general public law enforcement powers, including seven years equivalent to the rank of Sergeant or above;

OR

An equivalent combination of training and experience.

LICENSE OR CERTIFICATE

A valid driver's license is required at the time of appointment.

Possession of a Nevada Management POST Certificate is required at the time of application.

DISTINGUISHING CHARACTERISTICS

The position is appointed by the Sheriff from the rank of Captain or above and is not subject to the competitive requirements of the Merit Rules of Washoe County.

SUPERVISION EXERCISED

Receives direction from the Sheriff; exercises direct supervision over Assistant Sheriffs, Finance, Office of Professional Integrity and Public Information. (Community Relations)

EXAMPLES OF DUTIES *(The following is used as a partial description and is not restrictive as to duties required.)*

Plan, assign, supervise, and direct the operations of the Bureaus in the Sheriff's Department, including oversight and participation in criminal and administrative investigations, detention and patrol activities and/or the preparation of both criminal and civil cases for submission to the District Attorney or the courts

Recommend proposed laws and ordinances to appropriate authorities

Evaluate Division performance, reviewing work methods and procedures, and developing and implementing changes in work processes and/or equipment used to improve efficiency

Supervise staff including training, work assignment and review, employee discipline, and performance evaluation, conducting internal investigations as necessary

Oversee the development and preparation of reports and records

Plan and assist the Sheriff in developing the overall Department budget; monitor the status of designated funding and expenditures during the fiscal year, ensuring proper maintenance of fiscal controls and reviewing/approving purchase orders and recommending purchase, repair, or replacement of equipment

Directly supervises assistant sheriffs, legal counsel, finance and public information; coordinates their work; identifies training needs; assist the Sheriff with recruitment, selection, and training of new employees

Participate in the development of strategic plans; approve and oversee the implementation of goals, objectives, policies, and procedures

Oversees an effective and corrective disciplinary system

May serve as a team leader for complex, multi-year projects

Reviews current and projected trends of crime; evaluates effectiveness of crime prevention and law-enforcement activities

Works with legal advisors to ensure operations are legal and ethical

Serves as liaison with heads of other law-enforcement agencies, other jurisdictions, business, and labor; represents the Sheriff at private and government functions

Makes presentations to police and citizen groups; meets with the media to report and comment on significant issues affecting the department

Consults with employee representatives; serve as Sheriff's management representative during labor negotiations

Chairs committees and boards as directed by the Sheriff

Acts as Sheriff when the Sheriff is unavailable

Exemplifies the leadership, values and competencies identified for Executive Staff of the Washoe County Sheriff's Office

JOB RELATED AND ESSENTIAL QUALIFICATIONS

Knowledge of:

Modern law enforcement methods and procedures, including patrol, crime prevention, traffic control, and records development and maintenance

Principles, practices, and procedures of law enforcement administration, including budget development, fiscal management and fiscal controls

Principles of leadership management, supervision, training, and work evaluation

Laws applicable to the apprehension, retention, and treatment of juveniles

Washoe County Sheriff's Office policies and procedures

Countywide personnel policies

Computer software specific to the department/division

Organization, functions, procedures, powers, jurisdiction, and responsibilities of the Sheriff's Department

• Organization and functions of city, county, state, and federal law enforcement and law enforcement regulatory and licensing agencies

The general geography and topography of Washoe County

Leadership styles

Management planning and control

Supervisory principles and practices

Legal terminology

Current trends and practices in law enforcement

Current trends and practices in employment laws, including EEO, CRA, ADA, FMLA, FLSA

Commissioned and Civilian labor agreements

Modern office procedures and methods

Local law enforcement and criminal justice systems; and Federal, state, and local laws and regulations on law enforcement

Ability to:

Plan, organize, direct, manage, supervise, and evaluate the work of subordinates

Evaluate work priorities and processes to determine their effectiveness and efficiency

Prepare and review reports, manuals, and guides

Interpret, explain, apply, and enforce a variety of laws, regulations, policies, and procedures

Make independent judgments and adopt quick, effective, and responsible courses of action during emergencies

Skillfully and safely use firearms

Communicate effectively, both orally and in writing

Effectively represent the Sheriff's Office in contacts with the public and other law enforcement agencies, including making effective public presentations

Maintain effective working relationships with division staff and representatives of other departments

Supervise personnel, including training, assigning, and reviewing work, administering discipline, and conducting performance evaluations

Plan, coordinate, and direct a Division of the Sheriff's Office to accomplish established goals and objectives and optimize efficiency

Implement work methods and procedures that promote a safe, harassment and hostile free working environment for and ensure proper staff training in work safety

Assist with planning, organizing, and coordinating the functions and activities of the Sheriff's Office

Lead by example and motivate others

Build cooperative relations with other government entities and law enforcement agencies

Exercise tact, compassion, and self-restraint, as well as establish rapport, in dealing with a variety of people in stressful and non-stressful situations

Use appropriate leadership styles to build teams and guide others to accomplish tasks

Maintain confidentiality and ensure the same from subordinates

Interpret legal documents

Research and analyze a variety of information to recommend programmatic changes; prepare clear and concise reports

Interpret and explain department policies and procedures

Participate in the development and administration of department budget

Exemplify the leadership competencies identified for Executive Staff

Maintain physical and mental conditions necessary for the performance of assigned duties

SPECIAL REQUIREMENTS

Essential duties require the following physical skills and work environment.

Ability to sit, stand, walk, run, kneel, push, pull, bend, crouch, stoop, squat, crawl, twist, climb, drive, lift, use tools requiring dexterity, distinguish between colors

Ability to tolerate exposure to cold, heat, noise, vibration, confining work space, chemicals, explosive materials, mechanical hazards, electrical hazards, dust, dirt, grease, infectious disease and other environmental conditions in the performance of duties assigned

Must be willing to use protective devices (e.g., bullet-resistant vests, masks, goggles, gloves, etc.) in the course of performing duties and responsibilities

NOTE: Failure to conform to the following standards will result in termination:

- 1) Must successfully complete on-the-job training
- 2) Must maintain POST-mandated continuing education

This class specification is used for classification, recruitment and examination purposes. It is not to be considered a substitute for work performance standards.

AGENDA ITEM NO. 11

AGENDA ITEM NO. 11



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

November 19, 2014

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts of the open sessions are available for public inspection at the Commission's office in Carson City.

The Commission on Ethics held a public meeting on
Wednesday, November 19, 2014, at 9:00 a.m. at the following locations:

**Nevada State Contractors Board
9670 Gateway Drive, Ste. 100
Reno, NV 89521**

and via video-conference to:

**Nevada State Contractors Board
2310 Corporate Circle, Ste. 200
Henderson, NV 89074**

OPEN SESSIONS:

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Chairman Lamboley called the meeting to order at 9:04 a.m. Present in Reno, Nevada were Chairman Paul H. Lamboley, Esq., Vice-Chairman Gregory J. Gale, CPA and Commissioners Cheryl A. Lau, Esq., James M. Shaw, and Tim Cory, Esq. Also present in Reno were Commission Counsel and Acting Executive Director Yvonne M. Nevarez-Goodson, Esq., Executive Assistant Valerie M. Carter, Senior Legal Researcher Darci Hayden and Senior Investigator Anthony Freiberg. Present in Henderson, Nevada was Associate Counsel Jill C. Davis, Esq.

Commissioner John C. Carpenter appeared via telephone.

Commissioners Magdalena Groover and Keith A. Weaver, Esq. were excused from this meeting.

2. Open Session for Public Comment.

No public comment.

3. Open Session for consideration and approval of Minutes from the August 20, 2014 and September 10, 2014 Commission meetings.

Commissioner Lau moved to approve the minutes of the August 20, 2014 and September 10, 2014 Commission meetings. The motion was seconded by Commissioner Shaw.

Commissioner Gale noted a typo in the September 10, 2014 minutes on pg. 2, under agenda item no. 5; October 15, 2015 should be October 15, 2014. The maker of the Motion and the second adopted the change. The motion was put to a vote and carried unanimously.

4. Open Session for ratification of appointment of acting interim Executive Director and discussion regarding recruitment process for Executive Director position.

Chairman Lamboley stated he had taken the initiative to appoint Commission Counsel Yvonne Nevarez-Goodson, Esq. as the Acting Executive Director with the resignation of Caren Cafferata-Jenkins, Esq., and the decision had to be ratified by the full Commission. Commissioner Cory moved to ratify the Chairman's decision to appoint Ms. Nevarez-Goodson as Acting Executive Director. Commissioner Lau seconded the motion. The motion was put to a vote and carried unanimously.

Chairman Lamboley discussed the Climate Study which was requested by the Commission through the State of Nevada Division of Human Resource Management (HR). Mr. Ron Grogan with HR discussed the process of the climate study. He then gave a presentation summarizing the results of the climate study and the recommended steps for the Commission to take going forward. The presentation is attached hereto as "Attachment A".

Chairman Lamboley discussed the process for selecting a new Executive Director and appointed a Subcommittee consisting of Commissioners Tim Cory, Gregory Gale and Cheryl Lau to review the current job description for the position and form a job announcement for posting. He stated that he would like a solicitation in place by the first of December.

A brief recess was taken at 9:55 a.m. The Commission went into closed session at 10:05 a.m.

11. Closed Session for presentation, discussion and consideration of a proposed Motion concerning Third-Party Requests for Opinion Nos. 14-21C and 14-22C, submitted pursuant to NRS 281A.440(2).

This agenda item was called out of order, was held in closed session and will not be available to the public.

12. Closed Session for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-43C regarding Mark Hutchison, State Senator, submitted pursuant to NRS 281A.440(2).

This agenda Item was called out of order, was held in closed session and will not be available to the public.

13. Closed Session for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-15C regarding Gary Lambert, Commissioner, Nevada Commission on Off Highway Vehicles, submitted pursuant to NRS 281A.440(2).

This agenda Item was called out of order, was held in closed session and will not be available to the public.

The Commission took a lunch recess at 12:30 p.m. The meeting reconvened in closed session at 1:50 p.m.

The Chairman called the meeting into Open Session at 2:03 p.m.

7. Open Session for consideration and approval of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-43C regarding Mark Hutchison, State Senator, submitted pursuant to NRS 281A.440(2).

This agenda Item was called out of order. Appearing before the Commission was Jacob Reynolds, counsel for the subject Mark Hutchison. Commissioner Cory disclosed that he had contributed to the recent campaign of Mark Hutchison for Lt. Governor but did not believe such a contribution constituted a pecuniary interest or established a bias such that he could remain neutral and will participate in the proceedings as usual.

Commission Counsel Yvonne Nevarez-Goodson, Esq. summarized the RFO and the terms of the Stipulation as presented to the Commission and amended by the parties.

Jacob Reynolds, counsel for Subject stated that he agreed to the terms of the Stipulation as summarized by Commission Counsel. Jill Davis, Esq., Associate Counsel for the Commission also stated she was in agreement with Stipulation as presented.

Commissioner Lau moved to accept the stipulated agreement as presented in RFO 14-43C; seconded by Commissioner Shaw. The Motion was put to a vote and carried unanimously.

8. Open Session for consideration and approval of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-15C regarding Gary Lambert, Commissioner, Nevada Commission on Off Highway Vehicles, submitted pursuant to NRS 281A.440(2).

This agenda Item was called out of order. This agenda item was tabled until the next Commission meeting.

5. Open Session for report by Commission Counsel and Acting Executive Director on agency status and operations.

Yvonne Nevarez-Goodson, Esq., Commission Counsel and Acting Executive Director reported on several topics. She gave an update on the recent Ethics in Government Law trainings she and Associate Counsel Jill Davis have been presenting to various entities over the last month and discussed upcoming trainings. She briefly discussed the updated draft of the agency's Organizational Chart that had been developed as well as the updated job descriptions for each of the Staff members. She asked that Commissioners review each of those items for discussion at a future meeting.

Ms. Nevarez-Goodson introduced the Informal Codification of the Regulations LCB File: (R048-14) which were provided to the Commission in hard copy. She also discussed the new jurisdictional appeal process which is outlined in the new regulations and how those changes will affect the appeal process going forward.

Ms. Nevarez-Goodson reported to the Commission that the Chairman has requested she complete the EEO training as well as the mandatory supervisory courses which she is in the process of completing. The Chairman asked that she remind all Commissioners that they will be requested to take online training as well, and she will forward that information to Commission members in the near future.

Ms. Nevarez-Goodson reported that all changes to the FY14 Annual Report suggested by the Commission had been made and the updated version was provided to the members. She reported that she plans to make the document final and available on the Commission's website barring any additional changes brought forward.

Ms. Nevarez-Goodson discussed the RFO log and gave an update on the status of pending RFOs.

Ms. Nevarez-Goodson gave an update on the agency's budget request for fiscal years 2016 and 2017. She specifically discussed the salary increases and title changes that were put forward in the agency's final request.

6. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.

Chairman Lamboley reminded the Subcommittee to review the current job description for Executive Director so that the announcement can be posted by Dec. 1, 2014. He requested the recruitment remain open for 3 weeks.

9. Open Session for Public Comment.

No public comment.

10. Adjournment.

The open portion of the meeting was adjourned at 2:39 p.m.

Minutes prepared by:

Minutes approved: January __, 2014:

Valerie M. Carter
Executive Assistant

Paul H. Lamboley, Esq.
Chairman

Public Doc

State of Nevada Commission on Ethics

○

EMPLOYEE OPINION SURVEY
2014 CLIMATE STUDY
CONDUCTED BY THE
DIVISION OF HUMAN RESOURCE
MANAGEMENT
SEPTEMBER 2014



Ethic Commission Climate Study

○

- Objectives
 - Assess current workplace climate
 - Determine drivers
 - Offer recommendations for improvement
- Process
 - Face to face interviews
 - Used a 40 question survey (used previously with 1200 employees)
 - Discussion with employees to further understand key issues

Survey Components

○

- The Department
- Communication
- Leadership
- Culture and Attitude
- Overall Satisfaction

The Department

• Key Issues

- Unprofessional behavior
- Disrespectful treatment
- Lack of consistency (favoritism)
- No training for new hires

• Drivers

- Conflict in leadership
- Bullying by Commission
- Leadership structure (access to the board)
- Employee input not sought on key issues
- Employees prohibited from speaking with the Board

Communications

• Key Issues

- Communication ineffective
- Disrespectful treatment
- Lack of consistency (favoritism)
- No training for new hires

• Drivers

- Conflict in leadership
- Employee unsure who to address problems with (E.D. or Counsel)
- Processes not in place (staff meetings are rare)
- Leadership response sometime inappropriate and disrespectful
- Employee input not sought on key issues
- Employee prohibited from speaking with the Board
- E.D. interface and communication good externally

Leadership

• Key Issues

- Leadership mood swings impact climate
- Relationship between office leaders
- Relationship between E.D. and Board (Chair)
- Not comfortable discussing issues with E.D.
- Lack of consistency (favoritism)
- Lack of guidance
- E.D. lack of availability/lack of responsiveness

• Drivers

- Inconsistent treatment and response by E.D.
- Lack of knowledge of good management practices
- Conflicts in leadership obvious to employees
- E.D. does not support teamwork
- Employee uncomfortable addressing problems with E.D.
- Direction is not provided/relationship discourages seeking advice
- Leadership response sometime inappropriate and disrespectful
- Employee prohibited from speaking with the Board

Culture and Attitude

- Key Issues
 - Climate not respectful
 - Lack of fairness and equity
 - Teaming not encouraged
 - Employees don't feel they are empowered to resolve problems
 - Lack of recognition for accomplishments
 - Lack of guidance
 - Morale at work negative
- Drivers
 - Inconsistent treatment and response by E.D.
 - Lack of consistency, policy, guidance and communications (E.D. and Board)
 - E.D. does not really want to be here
 - Decision making not collaborative
 - Lack of clarity of roles and responsibilities
 - Employees Prohibited from speaking with the Board
 - Ambiguous chain of command

Satisfaction

- Key Issues
 - Same as cited in previous area
 - Staff frustrated:
 - "There is turmoil going on."
 - "If things stay the way they are, I would not stay with the commission, I dread coming into the office."
 - "The practices tie in with the Executive Director."
 - "The staff are committed to the commission. Everyone works hard!"
 - "...they are deflecting issues instead of dealing with it, staff can feel it."
 - "If there are issues, we should be able to talk directly to them."

Summary and Recommendations

Based on our findings, organizational change will need to be embraced at the top of the organization and considerable time and energy will need to be taken to engage all employees—especially the Executive Director—in changing the environment in order to realize any meaningful improvements in the workplace climate. Employees will have to see Leadership taking action to change the work environment, or the organization will become more dysfunctional.

- Leadership
- Accountability
- Communication
- Alignment

Summary and Recommendations

- **Accountability** needs to be addressed on multiple levels, including leadership. Management behavior and consistency in application of policies and procedures is imperative. Implementation of changes must be top-down.
- The agency leadership must create an environment where respectful, professional discussion can occur at all levels, free from fear of retaliation.
- The Executive Director must create an environment where ALL employees understand and practice standards of acceptable behavior to address poor treatment, and an environment that holds all employees accountable for these standards of professional behavior and conduct.
- The Executive Director and Agency Counsel must communicate and consistently adopt and apply policies and/or procedures to bring the Commission into compliance with rules and regulations.
- There will need to be a meaningful discussion between the Chair, the Board, and Executive Director a roles and responsibilities.
- **Communication** is multi-level and the following will need to be considered and addressed:
 - Consideration should be given to holding employee staff meetings.
 - One-on-one meetings between management and employees need to be held consistently.
 - Staff need to be reassured they can go to the Executive Director instead of Agency Counsel to communicate their workplace concerns/issues, without reprisal.
 - The Executive Director and Agency Counsel need to have more positive interactions with each other and all of the employees.

Summary and Recommendations

- **Alignment** is imperative at all levels: from the Board, the Chair, Executive Director, Agency Counsel, and all employees.
- As part of this alignment process, the agency policies and practices, once developed, must be consistent with the mission and objectives of the organization and will need to be widely communicated.
- Leadership will need to embrace the issues identified by staff and develop action plans to address the issues and concerns expressed by Commission employees.

Given the extent of the problems and the mistrust within the Department, outside assistance may be necessary in order to establish a healthy work environment. With that said, the organizational change necessary to correct the current climate will require commitment and participation from the leadership and all employees of the office in order to be successful. No outside consultant can or should independently develop a plan to "solve" the Department's problems.

It is critical that the agency leadership team take action. As a recommended next step in the process the Division of Human Resource Management is prepared to partner with the Commission on Ethics to facilitate the development of an action plan with solutions.

AGENDA ITEM NO. 12

AGENDA ITEM NO. 12



COMMISSION ON ETHICS

UNCLASSIFIED JOB ANNOUNCEMENT

Posted – January __, 2015

COMMISSION COUNSEL

RECRUITMENT OPEN:

This unclassified, exempt position is appointed by and reports to the Commission. This position serves as the legal advisor to the Commission and its staff in all legal matters and drafts the Commission's opinions concerning the applicability of the statutory ethical standards to Nevada's public officers and employees.

AGENCY RESPONSIBILITIES:

The Nevada Commission on Ethics provides advisory opinions to public officers and employees and responds to inquiries from the public alleging violations of the Ethics in Government Law (NRS 281A) by public officers and public employees. The Commission engages in outreach and education to the entire State, providing its services to all State entities as well as counties, cities and other political subdivisions throughout Nevada.

APPROXIMATE ANNUAL SALARY AND BENEFITS:

Up to \$95,650 plus benefits.* *(Salary range reflects retirement (PERS) contributions by both the employee and employer. An employer paid contribution plan is also available with a reduced gross salary.)*

The Commission on Ethics maintains a 4-day work week (Monday through Thursday) with ten-hour workdays from 7:00 a.m. to 5:30 p.m.

*Please note: Furlough Leave is mandatory for Nevada State employees and will result in a reduction of income of approximately 2.3% (or 4 hours per month) through June 30, 2015. The salary listed above does not reflect the reduction from the required furlough. The State benefits package includes a retirement system, paid health, vision, dental, life and disability insurance; 11 paid holidays; and paid sick and annual leave. Other employee paid benefits such as deferred compensation plans are available.

POSITION DESCRIPTION:

In addition to its advisory role, the Commission Counsel drafts and recommends administrative regulations and statutory provisions under the Commission's jurisdiction, provides outreach and education to Nevada's public officers and employees and public attorneys, and guides and represents the Commission's interests in all legal arenas, including administrative, legislative and judicial. In particular, Commission Counsel defends the Commission in all litigation, including judicial review of the Commission's administrative opinions.

Education and Experience Required to Perform the Duties of the Position:

Graduation from an ABA accredited law school and active membership in the Nevada State Bar Association. Must have substantial experience in administrative law, litigation and Nevada legislative process.

Knowledge, Skills and Abilities Required to Perform the Job Functions:

Must possess superior legal research, writing, and oral presentation skills and the ability to represent the Commission in litigation, administrative and regulatory matters, whether in the courts of the State of Nevada or the United States and in all federal and state administrative agencies. The Commission Counsel conducts legal research and advises the Commission and staff on all legal matters, in particular the application of Nevada's Ethics in Government Law.

Required licensure/certification:

License to practice law in the State of Nevada.

Statutes and Regulations Administered by this Position:

NRS and NAC Chapters 281A, 233B, 241 and 239.

Number and titles of staff that directly report to position:

2 positions, along with the Commission's Executive Director: Associate Counsel and Senior Legal Researcher.

Number of indirect reports:

2 positions: Executive Assistant and Senior Investigator

JOB DESCRIPTION:

COMMISSION MEETINGS; HEARINGS; PANELS

1. In coordination with Executive Director, prepare and coordinate Commission meetings, including agendas, scheduling and meeting materials, and provide briefings of agency status and operations during Commission meetings.
2. Confer with Executive Director regarding jurisdictional evaluations of all requests for opinion and notifications of parties and interested persons concerning requests for opinions, including the allegations and/or implicated statutes, jurisdictional determinations and appeals, investigatory procedures and scheduling.
3. Develop and prepare legal memoranda and/or presentations of Requests for Opinion in hearings before the Commission and Commission panels, and/or supervise the same by Associate Counsel, including the development and presentation of legal motions and arguments, evidentiary documents, and negotiations for potential stipulations.

ADMINISTRATION AND SUPERVISION

5. Report legal status of all matters to Commission in closed meetings or open public meetings, as appropriate.
6. Ensure meetings and public hearings are prepared and conducted in accordance with appropriate laws and guidelines, including the Nevada Open Meeting Law.
7. Prepare all legal documentation on behalf and in support of Commission business.

8. Communicate regularly and work closely with Commission Chair to organize Commission's activities and legal caseload.
9. Supervise all legal activities of Commission unrelated to investigations of Third-Party RFOs.
10. Work with Executive Director on legal/administrative issues as necessary
11. Administer all activities related to Commission's legal matters.
12. Assign and supervise workload of Commission's Senior Legal Researcher and Associate Counsel related to legal matters other than Third-Party RFOs.
13. Evaluate performance of Senior Legal Researcher and Associate Counsel.
14. Review and assign legal matters to Commission's Associate Counsel, as needed.

PUBLIC INFORMATION AND EDUCATION

15. Confirm compliance with all Public Records Requests.
16. Provide Outreach and Education via training programs to Public officers and employees.
17. Provide training to government attorneys regarding interpretation and applicability of Ethics in Government Law.

REQUESTS FOR OPINIONS:

18. First-Party Requests for Advisory Opinions:

- a) Review request and determine Commission's jurisdiction of matter.
- b) Initiate and interview Requester for additional factual information.
- c) Research and/or assign legal research to SLR and/or Associate Counsel.
- d) Analyze and apply the law to the facts presented and discovered.
- e) Approve draft Notices of Hearing, make edits and direct service of notices.
- f) Prepare draft opinions and/or bench memos to the Commission in preparation for hearings.

19. Third-Party Requests for Opinions (complaints):

- a) Review request and determine Commission's jurisdiction of matter.
- b) Assign and approve notices to Subject and/or Requester regarding jurisdiction.
- c) Provide legal advice to Commission's Associate Counsel and/or Investigator related to legal issues during course of investigation.
- d) Approve any legal forms such as subpoenas during course of investigation.
- e) Evaluate ED recommendations to Panels and Advise Investigatory Panels of legal issues.
- f) Advise Commission of procedural progress of investigations.
- g) Stipulations:
 - i. Advise Associate Counsel and Subject regarding acceptable terms and conditions of stipulations on behalf of Commission.
 - ii. Review draft language and coordinate legal considerations between Associate Counsel, Subject and Commission.
- h) Hearings:
 - i. Serve Associate Counsel and Subject with notices and scheduling orders.
 - ii. Schedule hearings, deadlines and other requirements on behalf of Commission.

- iii. Initiate and research additional relevant factual and legal information related to the requests.
- iv. Preside over pre-hearing conferences between parties and Chair of Commission.
- v. Prepare legal bench memos to the Commission advising on legal considerations of case, including legal motions.
- vi. Assist Commission to address legal considerations during hearings; respond to legal questions, i.e., legal objections, motions and other rulings.
- vii. Assist the Commission in its deliberations of evidence and law.

OPINIONS:

- 20. Draft all final written opinions of the Commission related to RFOs.

LITIGATION:

- 21. Represent the Commission in all litigation before any local, state and federal courts, including drafting legal memoranda to the courts, appearing and presenting arguments before the courts and cooperating in related cases.

LEGISLATION/REGULATIONS:

- 22. Recommend, review and draft all proposed administrative regulations and legislation.
- 23. Represent Commission before regulatory and legislative bodies regarding proposed regulations and legislation.
- 24. Consider regulations and legislation from other jurisdictions of relevance to Commission's Mission.

RESTRICTIONS

- 25. In accordance with NRS 281A.250(4), the Commission Counsel may not participate in any other employment.
- 26. In accordance with NRS 281A.250(5), the Commission Counsel may not be actively involved in the work of any political party or political campaign.

POSITION LOCATION:

Carson City, Nevada

TO APPLY:

SUBMIT A LETTER OF INTEREST, A RESUME, YOUR SALARY REQUIREMENTS and the names and daytime telephone numbers of, and a brief description of your relationship with THREE PROFESSIONAL REFERENCES to:

**Yvonne M. Nevarez-Goodson, Esq., Executive Director
Nevada Commission on Ethics**

Via email (preferred method): ynevarez@ethics.nv.gov

Via U.S. mail or other delivery: 704 W. Nye Lane, Suite 204
Carson City, NV 89703

Via FAX: 775-687-1279

Applications must be **RECEIVED by 5:00 p.m., February 4, 2014.** Late applications will not be considered.

*Please note all documents submitted will be deemed public records and any interviews that take place will be held in an open, public meeting of the Commission.

The State of Nevada is an Equal Opportunity Employer.

AGENDA ITEM NO. 13

AGENDA ITEM NO. 13

ASSEMBLY BILL NO. 60—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED DECEMBER 20, 2014

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to ethics in government.
(BDR 23-309)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted

AN ACT relating to ethics in government; revising provisions relating to ethics in government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the Nevada Ethics in Government Law, the requirement to disclose a conflict of interest applies to public officers as well as public employees, but the requirements relating to abstention only apply to public officers. (NRS 281A.420) **Section 2** of this bill extends to public employees the requirements relating to abstention from taking action on matters on which a public employee has a prescribed conflict of interest.

Under the Ethics Law, the Commission on Ethics is required to determine whether it has jurisdiction over a request for an opinion. (NRS 281A.280; NAC 281A.360, 281A.405) The Ethics Law also imposes time limits on the Commission to carry out certain duties. With respect to a request for an opinion from a public officer or employee regarding his or her own past, present or future conduct as a public officer or employee, the Commission is required to render an opinion within 45 days after receiving the request, unless the public officer or employee waives the time limit. With respect to a request for an opinion regarding the conduct of a public officer or employee from a third party or on the Commission's own motion, the Executive Director of the Commission is required to complete an investigation of and make a recommendation regarding the request within 70 days after receipt of the request, unless the public officer or employee waives the time limit. (NRS 281A.440) To accommodate the time required for the Commission to determine whether it has jurisdiction concerning a request for an opinion, **section 3** of this bill moves the commencement of these time limits until the date on which the Commission determines that it has jurisdiction concerning the request instead of the date on which the request was received by the Commission.



24 The Ethics Law prohibits the Commission from initiating a request for an
25 opinion based on an anonymous complaint. (NRS 281A.440) **Section 3** removes
26 this prohibition, thereby allowing the Commission to initiate a request for an
27 opinion if it has sufficient information to do so based on an anonymous complaint.

28 Under the Ethics Law, the investigative file relating to a request for an opinion,
29 which includes any information obtained by the Commission during the course of
30 an investigation related to the request, is confidential. (NRS 281A.440) **Section 3**
31 clarifies that the investigative file includes information provided to or obtained by
32 an investigatory panel of Commission members or the staff of the Commission.

33 Under the Ethics Law, the Commission is required to consider various
34 aggravating and mitigating factors when determining whether a violation of the
35 Ethics Law is a willful violation and, if so, the amount of any civil penalty to be
36 imposed for such a willful violation of the Ethics Law. (NRS 281A.475) **Section 4**
37 of this bill makes consideration of these factors discretionary instead of mandatory
38 by the Commission.

39 The Ethics Law includes a "safe harbor" provision, whereby any act or failure
40 to act by a current or former public officer or employee is deemed to not be a
41 willful violation if the public officer or employee establishes by sufficient evidence
42 that: (1) the public officer or employee relied in good faith upon the advice of the
43 legal counsel retained by his or her public body, agency or employer; and (2) the
44 act or failure to act by the public officer or employee was not contrary to a prior
45 published opinion issued by the Commission. (NRS 281A.480) **Section 5** of this
46 bill clarifies that to qualify for protection under the "safe harbor" provision, the
47 advice of the legal counsel must have been: (1) requested by and provided to the
48 public officer or employee before he or she acted or failed to act; and (2) based on a
49 determination by the legal counsel that the act or failure to act would not be
50 contrary to any prior published opinion issued by the Commission.

51 With certain exceptions, the Ethics Law imposes a 1-year "cooling off" period
52 on former public officers and employees during which they are prohibited from
53 soliciting or accepting employment from a business or industry over which they
54 had regulatory authority in some capacity. However, the Ethics Law authorizes a
55 current or former public officer or employee to request an opinion from the
56 Commission to obtain relief from the strict application of the prohibition. The
57 Ethics Law also authorizes a current public officer or employee to request the
58 Commission to render an opinion providing guidance regarding his or her past,
59 present or future conduct as a public officer or employee, which is known as a first-
60 party request for an opinion. Under the Ethics Law, a request for an opinion
61 regarding the application of the "cooling-off" prohibition or a first-party request for
62 an opinion, as well as any opinion rendered by the Commission in response to such
63 a request and any motion, determination, evidence or record of a hearing relating to
64 such a request, are confidential unless, in part, the public officer or employee
65 discloses the request for an opinion, opinion or related motion, evidence or record.
66 (NRS 281A.440, 281A.550) **Sections 3 and 6** of this bill allow a public officer or
67 employee who made such a request to disclose the request for the opinion, the
68 opinion and any motion, evidence or record related to the opinion to certain persons
69 without waiving the confidentiality of the request for the opinion, opinion and any
70 related motion, evidence or record.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 281A.170 is hereby amended to read as follows:

281A.170 “Willful violation” means a violation where ~~the~~

~~1. The~~ *the* public officer or employee:

~~[(a)]~~ 1. Acted intentionally and knowingly; or

~~[(b)]~~ 2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter. ~~the and~~

~~2. The Commission determines, after applying the factors set forth in NRS 281A.475, that the public officer’s or employee’s act or failure to act resulted in a sanctionable violation of this chapter.]~~

Sec. 2. NRS 281A.420 is hereby amended to read as follows:

281A.420 1. 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 significant pecuniary interest; or

(c) Which would reasonably be affected by the public officer’s or employee’s commitment in a private capacity to the interests of another person,

↳ without disclosing information concerning the gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of the person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer’s or employee’s significant pecuniary interest, or upon the person to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer’s or employee’s organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:



1 (a) Any campaign contributions that the public officer reported
2 in a timely manner pursuant to NRS 294A.120 or 294A.125; or

3 (b) Any contributions to a legal defense fund that the public
4 officer reported in a timely manner pursuant to NRS 294A.286.

5 3. Except as otherwise provided in this section, in addition to
6 the requirements of subsection 1, a public officer *or employee* shall
7 not vote *or otherwise act* upon or advocate the passage or failure of,
8 but may otherwise participate in the consideration of, a matter with
9 respect to which the independence of judgment of a reasonable
10 person in the public officer's *or employee's* situation would be
11 materially affected by:

12 (a) The public officer's *or employee's* acceptance of a gift or
13 loan;

14 (b) The public officer's *or employee's* significant pecuniary
15 interest; or

16 (c) The public officer's *or employee's* commitment in a private
17 capacity to the interests of another person.

18 4. In interpreting and applying the provisions of subsection 3:

19 (a) It must be presumed that the independence of judgment of a
20 reasonable person in the public officer's *or employee's* situation
21 would not be materially affected by the public officer's *or*
22 *employee's* acceptance of a gift or loan, significant pecuniary
23 interest or commitment in a private capacity to the interests of
24 another person where the resulting benefit or detriment accruing to
25 the public officer ~~is~~ *or employee*, or if the public officer *or*
26 *employee* has a commitment in a private capacity to the interests of
27 another person, accruing to the other person, is not greater than that
28 accruing to any other member of any general business, profession,
29 occupation or group that is affected by the matter. The presumption
30 set forth in this paragraph does not affect the applicability of the
31 requirements set forth in subsection 1 relating to the disclosure of
32 the acceptance of a gift or loan, significant pecuniary interest or
33 commitment in a private capacity to the interests of another person.

34 (b) The Commission must give appropriate weight and proper
35 deference to the public policy of this State which favors the right of
36 a public officer *or employee* to perform the duties for which the
37 public officer was elected or appointed *or the duties which the*
38 *public employee was assigned* and to vote or otherwise act upon a
39 matter, provided the public officer *or employee* has properly
40 disclosed the public officer's *or employee's* acceptance of a gift or
41 loan, significant pecuniary interest or commitment in a private
42 capacity to the interests of another person in the manner required by
43 subsection 1. Because abstention ~~{by a public officer}~~ disrupts the
44 normal course of representative government *and governmental*
45 *operation* and deprives the public ~~{and the public officer's~~



1 ~~constituents~~] of a voice in governmental affairs, the provisions of
2 this section are intended to require abstention only in clear cases
3 where the independence of judgment of a reasonable person in the
4 public officer's *or employee's* situation would be materially affected
5 by the public officer's *or employee's* acceptance of a gift or loan,
6 significant pecuniary interest or commitment in a private capacity to
7 the interests of another person.

8 5. Except as otherwise provided in NRS 241.0355, if a public
9 officer declares to the body or committee in which the vote is to be
10 taken that the public officer will abstain from voting because of the
11 requirements of this section, the necessary quorum to act upon and
12 the number of votes necessary to act upon the matter, as fixed by
13 any statute, ordinance or rule, is reduced as though the member
14 abstaining were not a member of the body or committee.

15 6. The provisions of this section do not, under any
16 circumstances:

17 (a) Prohibit a member of a local legislative body from
18 requesting or introducing a legislative measure; or

19 (b) Require a member of a local legislative body to take any
20 particular action before or while requesting or introducing a
21 legislative measure.

22 7. The provisions of this section do not, under any
23 circumstances, apply to State Legislators or allow the Commission
24 to exercise jurisdiction or authority over State Legislators. The
25 responsibility of a State Legislator to make disclosures concerning
26 gifts, loans, interests or commitments and the responsibility of a
27 State Legislator to abstain from voting upon or advocating the
28 passage or failure of a matter are governed by the Standing Rules of
29 the Legislative Department of State Government which are adopted,
30 administered and enforced exclusively by the appropriate bodies of
31 the Legislative Department of State Government pursuant to Section
32 6 of Article 4 of the Nevada Constitution.

33 8. As used in this section, "public officer" and "public
34 employee" do not include a State Legislator.

35 **Sec. 3.** NRS 281A.440 is hereby amended to read as follows:

36 281A.440 1. The Commission shall render an opinion
37 interpreting the statutory ethical standards and apply the standards to
38 a given set of facts and circumstances within 45 days after
39 ~~receiving~~ *determining that it has jurisdiction concerning* a
40 request ~~is~~ *received*, on a form prescribed by the Commission, from
41 a public officer or employee who is seeking guidance on questions
42 which directly relate to the propriety of the requester's own past,
43 present or future conduct as a public officer or employee, unless the
44 public officer or employee waives the time limit. The public officer
45 or employee may also request the Commission to hold a public



1 hearing regarding the requested opinion. If a requested opinion
2 relates to the propriety of the requester's own present or future
3 conduct, the opinion of the Commission is:

4 (a) Binding upon the requester as to the requester's future
5 conduct; and

6 (b) Final and subject to judicial review pursuant to NRS
7 233B.130, except that a proceeding regarding this review must be
8 held in closed court without admittance of persons other than those
9 necessary to the proceeding, unless this right to confidential
10 proceedings is waived by the requester.

11 2. The Commission may render an opinion interpreting the
12 statutory ethical standards and apply the standards to a given set of
13 facts and circumstances:

14 (a) Upon request from a specialized or local ethics committee.

15 (b) Except as otherwise provided in this subsection, upon
16 request from a person, if the requester submits:

17 (1) The request on a form prescribed by the Commission;
18 and

19 (2) All related evidence deemed necessary by the Executive
20 Director and the investigatory panel to make a determination of
21 whether there is just and sufficient cause to render an opinion in the
22 matter.

23 (c) Upon the Commission's own motion regarding the propriety
24 of conduct by a public officer or employee. ~~[The Commission shall
25 not initiate proceedings pursuant to this paragraph based solely upon
26 an anonymous complaint.]~~

27 ➔ The Commission shall not render an opinion interpreting the
28 statutory ethical standards or apply those standards to a given set of
29 facts and circumstances if the request is submitted by a person who
30 is incarcerated in a correctional facility in this State.

31 3. Upon ~~[receipt of]~~ *a determination by the Commission that*
32 *it has jurisdiction concerning* a request for an opinion ~~[by the~~
33 ~~Commission]~~ or upon the motion of the Commission pursuant to
34 subsection 2, the Executive Director shall investigate the facts and
35 circumstances relating to the request to determine whether there is
36 just and sufficient cause for the Commission to render an opinion in
37 the matter. The Executive Director shall notify the public officer or
38 employee who is the subject of the request and provide the public
39 officer or employee an opportunity to submit to the Executive
40 Director a response to the allegations against the public officer or
41 employee within 30 days after the date on which the public officer
42 or employee received the notice of the request. The purpose of the
43 response is to provide the Executive Director with any information
44 relevant to the request which the public officer or employee believes
45 may assist the Executive Director and the investigatory panel in



1 conducting the investigation. The public officer or employee is not
2 required in the response or in any proceeding before the
3 investigatory panel to assert, claim or raise any objection or defense,
4 in law or fact, to the allegations against the public officer or
5 employee and no objection or defense, in law or fact, is waived,
6 abandoned or barred by the failure to assert, claim or raise it in the
7 response or in any proceeding before the investigatory panel.

8 4. The Executive Director shall complete the investigation and
9 present a written recommendation relating to just and sufficient
10 cause, including, without limitation, the specific evidence or reasons
11 that support the recommendation, to the investigatory panel within
12 70 days after the ~~receipt of~~ *determination by the Commission that*
13 *it has jurisdiction concerning the request* or *after* the motion of the
14 Commission for the request, *as applicable*, unless the public officer
15 or employee waives this time limit.

16 5. Within 15 days after the Executive Director has provided the
17 written recommendation in the matter to the investigatory panel
18 pursuant to subsection 4, the investigatory panel shall conclude the
19 investigation and make a final determination regarding whether
20 there is just and sufficient cause for the Commission to render an
21 opinion in the matter, unless the public officer or employee waives
22 this time limit. The investigatory panel shall not determine that there
23 is just and sufficient cause for the Commission to render an opinion
24 in the matter unless the Executive Director has provided the public
25 officer or employee an opportunity to respond to the allegations
26 against the public officer or employee as required by subsection 3.
27 The investigatory panel shall cause a record of its proceedings in
28 each matter to be kept.

29 6. If the investigatory panel determines that there is just and
30 sufficient cause for the Commission to render an opinion in the
31 matter, the Commission shall hold a hearing and render an opinion
32 in the matter within 60 days after the determination of just and
33 sufficient cause by the investigatory panel, unless the public officer
34 or employee waives this time limit.

35 7. Each request for an opinion that a public officer or employee
36 submits to the Commission pursuant to subsection 1, each opinion
37 rendered by the Commission in response to such a request and any
38 motion, determination, evidence or record of a hearing relating to
39 such a request are confidential unless the public officer or employee
40 who requested the opinion:

41 (a) Acts in contravention of the opinion, in which case the
42 Commission may disclose the request for the opinion, the contents
43 of the opinion and any motion, evidence or record of a hearing
44 related thereto;



(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto ~~to~~ *in any manner except to:*

(1) The public body, agency or employer of the public officer or employee; or

(2) A person to whom the Commission authorizes the current or former public officer to make such a disclosure; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

8. Except as otherwise provided in subsection 9, all information, communications, records, documents or other material in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the record of the proceedings of the investigatory panel made pursuant to subsection 5, are confidential and not public records pursuant to chapter 239 of NRS until:

(a) The investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter and serves written notice of such a determination on the public officer or employee who is the subject of the request for an opinion submitted or initiated pursuant to subsection 2; or

(b) The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 authorizes the Commission in writing to make its information, communications, records, documents or other material which are related to the request publicly available,

↳ whichever occurs first.

9. Except as otherwise provided in this ~~section,~~ *subsection,* the investigative file ~~[of the Commission]~~ *related to a request for an opinion regarding a public officer or employee, as described in subsection 16,* is confidential. At any time after being served with written notice of the determination of the investigatory panel regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter, the public officer or employee who is the subject of the request for an opinion may submit a written discovery request to the Commission for a copy of any portion of the investigative file that the Commission intends to present for consideration as evidence in rendering an opinion in the matter and a list of proposed witnesses. Any portion of the investigative file which the Commission presents as evidence in rendering an opinion in the matter becomes a public record as provided in chapter 239 of NRS.



10. Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on the person's own behalf.

➔ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

11. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

12. If a person who requests an opinion pursuant to subsection 1 or 2 does not ~~[-~~

~~-(a) Submit~~ *submit* all necessary information to the Commission, ~~[-~~ and

~~-(b) Declare by oath or affirmation that the person will testify truthfully;~~

➔ the Commission may decline to render an opinion.

13. For good cause shown, the Commission may take testimony from a person by telephone or video conference.

14. For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

15. A meeting or hearing that the Commission or the investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

16. For the purposes of this section, the investigative file ~~for the Commission~~ which relates to a request for an opinion regarding a public officer or employee includes, without limitation, any information *provided to or* obtained by the Commission, *its staff or an investigatory panel* through any form of communication during the course of an investigation and any records, documents or other material created or maintained during the course of an investigation



1 which relate to the public officer or employee who is the subject of
2 the request for an opinion, *including, without limitation, a*
3 *transcript*, regardless of whether such information, records,
4 documents or other material are obtained by a subpoena.

5 **Sec. 4.** NRS 281A.475 is hereby amended to read as follows:

6 281A.475 1. In determining whether a violation of this
7 chapter is a willful violation and, if so, the amount of any civil
8 penalty to be imposed on a public officer or employee or former
9 public officer or employee pursuant to NRS 281A.480, the
10 Commission ~~shall~~ *may* consider ~~[-],~~ *without limitation:*

11 (a) The seriousness of the violation, including, without
12 limitation, the nature, circumstances, extent and gravity of the
13 violation;

14 (b) The number and history of previous warnings issued to or
15 violations of the provisions of this chapter by the public officer or
16 employee;

17 (c) The cost to the Commission to conduct the investigation and
18 any hearing relating to the violation;

19 (d) Any mitigating factors, including, without limitation, any
20 self-reporting, prompt correction of the violation, any attempts to
21 rectify the violation before any complaint is filed and any
22 cooperation by the public officer or employee in resolving the
23 complaint;

24 (e) Any restitution or reimbursement paid to parties affected by
25 the violation;

26 (f) The extent of any financial gain resulting from the violation;
27 and

28 (g) Any other matter justice may require.

29 2. In applying the factors set forth in this section, the
30 Commission shall treat comparable situations in a comparable
31 manner and shall ensure that the disposition of the matter bears a
32 reasonable relationship to the severity of the violation.

33 **Sec. 5.** NRS 281A.480 is hereby amended to read as follows:

34 281A.480 1. In addition to any other penalties provided by
35 law, ~~[and in accordance with the provisions of NRS 281A.475,]~~ the
36 Commission may impose on a public officer or employee or former
37 public officer or employee civil penalties:

38 (a) Not to exceed \$5,000 for a first willful violation of this
39 chapter;

40 (b) Not to exceed \$10,000 for a separate act or event that
41 constitutes a second willful violation of this chapter; and

42 (c) Not to exceed \$25,000 for a separate act or event that
43 constitutes a third willful violation of this chapter.

44 2. In addition to any other penalties provided by law, the
45 Commission may, upon its own motion or upon the motion of the



1 person about whom an opinion was requested pursuant to NRS
2 281A.440, impose a civil penalty not to exceed \$5,000 and assess an
3 amount equal to the amount of attorney's fees and costs actually and
4 reasonably incurred by the person about whom an opinion was
5 requested pursuant to NRS 281A.440 against a person who
6 prevents, interferes with or attempts to prevent or interfere with the
7 discovery or investigation of a violation of this chapter.

8 3. If the Commission finds that a violation of a provision of
9 this chapter by a public officer or employee or former public officer
10 or employee has resulted in the realization of a financial benefit by
11 the current or former public officer or employee or another person,
12 the Commission may, in addition to any other penalties provided by
13 law, require the current or former public officer or employee to pay
14 a civil penalty of not more than twice the amount so realized.

15 4. In addition to any other penalties provided by law, if a
16 proceeding results in an opinion that:

17 (a) One or more willful violations of this chapter have been
18 committed by a State Legislator removable from office only through
19 expulsion by the State Legislator's own House pursuant to Section 6
20 of Article 4 of the Nevada Constitution, the Commission shall:

21 (1) If the State Legislator is a member of the Senate, submit
22 the opinion to the Majority Leader of the Senate or, if the Majority
23 Leader of the Senate is the subject of the opinion or the person who
24 requested the opinion, to the President Pro Tempore of the Senate;
25 or

26 (2) If the State Legislator is a member of the Assembly,
27 submit the opinion to the Speaker of the Assembly or, if the Speaker
28 of the Assembly is the subject of the opinion or the person who
29 requested the opinion, to the Speaker Pro Tempore of the Assembly.

30 (b) One or more willful violations of this chapter have been
31 committed by a state officer removable from office only through
32 impeachment pursuant to Article 7 of the Nevada Constitution, the
33 Commission shall submit the opinion to the Speaker of the
34 Assembly and the Majority Leader of the Senate or, if the Speaker
35 of the Assembly or the Majority Leader of the Senate is the person
36 who requested the opinion, to the Speaker Pro Tempore of the
37 Assembly or the President Pro Tempore of the Senate, as
38 appropriate.

39 (c) One or more willful violations of this chapter have been
40 committed by a public officer other than a public officer described
41 in paragraphs (a) and (b), the willful violations shall be deemed to
42 be malfeasance in office for the purposes of NRS 283.440 and the
43 Commission:

44 (1) May file a complaint in the appropriate court for removal
45 of the public officer pursuant to NRS 283.440 when the public



1 officer is found in the opinion to have committed fewer than three
2 willful violations of this chapter.

3 (2) Shall file a complaint in the appropriate court for removal
4 of the public officer pursuant to NRS 283.440 when the public
5 officer is found in the opinion to have committed three or more
6 willful violations of this chapter.

7 ➔ This paragraph grants an exclusive right to the Commission, and
8 no other person may file a complaint against the public officer
9 pursuant to NRS 283.440 based on any violation found in the
10 opinion.

11 5. Notwithstanding any other provision of this chapter, any act
12 or failure to act by a public officer or employee or former public
13 officer or employee relating to this chapter is not a willful violation
14 of this chapter if the public officer or employee establishes by
15 sufficient evidence that ~~the~~

16 ~~—(a) The~~ *the* public officer or employee relied in good faith upon
17 the advice of the legal counsel retained by his or her public body,
18 agency or employer ~~and that the advice was:~~

19 *(a) Requested by and provided to the public officer or*
20 *employee before the public officer or employee acted or failed to*
21 *act; and*

22 (b) ~~The~~ *Based on a determination by the legal counsel that*
23 *the* act or failure to act by the public officer or employee ~~was~~
24 *would* not *be* contrary to a prior published opinion issued by the
25 Commission.

26 6. In addition to any other penalties provided by law, a public
27 employee who commits a willful violation of this chapter is subject
28 to disciplinary proceedings by the employer of the public employee
29 and must be referred for action in accordance to the applicable
30 provisions governing the employment of the public employee.

31 7. The provisions of this chapter do not abrogate or decrease
32 the effect of the provisions of the Nevada Revised Statutes which
33 define crimes or prescribe punishments with respect to the conduct
34 of public officers or employees. If the Commission finds that a
35 public officer or employee has committed a willful violation of this
36 chapter which it believes may also constitute a criminal offense, the
37 Commission shall refer the matter to the Attorney General or the
38 district attorney, as appropriate, for a determination of whether a
39 crime has been committed that warrants prosecution.

40 8. The imposition of a civil penalty pursuant to subsection 1, 2
41 or 3 is a final decision for the purposes of judicial review pursuant
42 to NRS 233B.130.

43 9. A finding by the Commission that a public officer or
44 employee has violated any provision of this chapter must be



1 supported by a preponderance of the evidence unless a greater
2 burden is otherwise prescribed by law.

3 **Sec. 6.** NRS 281A.550 is hereby amended to read as follows:

4 281A.550 1. A former member of the Public Utilities
5 Commission of Nevada shall not:

6 (a) Be employed by a public utility or parent organization or
7 subsidiary of a public utility; or

8 (b) Appear before the Public Utilities Commission of Nevada to
9 testify on behalf of a public utility or parent organization or
10 subsidiary of a public utility,

11 ➔ for 1 year after the termination of the member's service on the
12 Public Utilities Commission of Nevada.

13 2. A former member of the State Gaming Control Board or the
14 Nevada Gaming Commission shall not:

15 (a) Appear before the State Gaming Control Board or the
16 Nevada Gaming Commission on behalf of a person who holds a
17 license issued pursuant to chapter 463 or 464 of NRS or who is
18 required to register with the Nevada Gaming Commission pursuant
19 to chapter 463 of NRS; or

20 (b) Be employed by such a person,
21 ➔ for 1 year after the termination of the member's service on the
22 State Gaming Control Board or the Nevada Gaming Commission.

23 3. In addition to the prohibitions set forth in subsections 1 and
24 2, and except as otherwise provided in subsections 4 and 6, a former
25 public officer or employee of a board, commission, department,
26 division or other agency of the Executive Department of State
27 Government, except a clerical employee, shall not solicit or accept
28 employment from a business or industry whose activities are
29 governed by regulations adopted by the board, commission,
30 department, division or other agency for 1 year after the termination
31 of the former public officer's or employee's service or period of
32 employment if:

33 (a) The former public officer's or employee's principal duties
34 included the formulation of policy contained in the regulations
35 governing the business or industry;

36 (b) During the immediately preceding year, the former public
37 officer or employee directly performed activities, or controlled or
38 influenced an audit, decision, investigation or other action, which
39 significantly affected the business or industry which might, but for
40 this section, employ the former public officer or employee; or

41 (c) As a result of the former public officer's or employee's
42 governmental service or employment, the former public officer or
43 employee possesses knowledge of the trade secrets of a direct
44 business competitor.



1 4. The provisions of subsection 3 do not apply to a former
2 public officer who was a member of a board, commission or similar
3 body of the State if:

4 (a) The former public officer is engaged in the profession,
5 occupation or business regulated by the board, commission or
6 similar body;

7 (b) The former public officer holds a license issued by the
8 board, commission or similar body; and

9 (c) Holding a license issued by the board, commission or similar
10 body is a requirement for membership on the board, commission or
11 similar body.

12 5. Except as otherwise provided in subsection 6, a former
13 public officer or employee of the State or a political subdivision,
14 except a clerical employee, shall not solicit or accept employment
15 from a person to whom a contract for supplies, materials, equipment
16 or services was awarded by the State or political subdivision, as
17 applicable, for 1 year after the termination of the officer's or
18 employee's service or period of employment, if:

19 (a) The amount of the contract exceeded \$25,000;

20 (b) The contract was awarded within the 12-month period
21 immediately preceding the termination of the officer's or
22 employee's service or period of employment; and

23 (c) The position held by the former public officer or employee at
24 the time the contract was awarded allowed the former public officer
25 or employee to affect or influence the awarding of the contract.

26 6. A current or former public officer or employee may request
27 that the Commission apply the relevant facts in that person's case to
28 the provisions of subsection 3 or 5, as applicable, and determine
29 whether relief from the strict application of those provisions is
30 proper. If the Commission determines that relief from the strict
31 application of the provisions of subsection 3 or 5, as applicable, is
32 not contrary to:

33 (a) The best interests of the public;

34 (b) The continued ethical integrity of the State Government or
35 political subdivision, as applicable; and

36 (c) The provisions of this chapter,

37 ➤ it may issue an opinion to that effect and grant such relief. The
38 opinion of the Commission in such a case is final and subject to
39 judicial review pursuant to NRS 233B.130, except that a proceeding
40 regarding this review must be held in closed court without
41 admittance of persons other than those necessary to the proceeding,
42 unless this right to confidential proceedings is waived by the current
43 or former public officer or employee.

44 7. Each request for an opinion that a current or former public
45 officer or employee submits to the Commission pursuant to



1 subsection 6, each opinion rendered by the Commission in response
2 to such a request and any motion, determination, evidence or record
3 of a hearing relating to such a request are confidential unless the
4 current or former public officer or employee who requested the
5 opinion:

6 (a) Acts in contravention of the opinion, in which case the
7 Commission may disclose the request for the opinion, the contents
8 of the opinion and any motion, evidence or record of a hearing
9 related thereto;

10 (b) Discloses the request for the opinion, the contents of the
11 opinion or any motion, evidence or record of a hearing related
12 thereto ~~H~~ *in any manner except to:*

13 *(1) The public body, agency or employer of the public*
14 *officer or employee or a prospective employer of the public officer*
15 *or employee; or*

16 *(2) Any person to whom the Commission authorizes the*
17 *current or former public officer to make such a disclosure; or*

18 (c) Requests the Commission to disclose the request for the
19 opinion, the contents of the opinion, or any motion, evidence or
20 record of a hearing related thereto.

21 8. A meeting or hearing that the Commission or an
22 investigatory panel holds to receive information or evidence
23 concerning the propriety of the conduct of a current or former public
24 officer or employee pursuant to this section and the deliberations of
25 the Commission and the investigatory panel on such information or
26 evidence are not subject to the provisions of chapter 241 of NRS.

27 9. As used in this section, "regulation" has the meaning
28 ascribed to it in NRS 233B.038 and also includes regulations
29 adopted by a board, commission, department, division or other
30 agency of the Executive Department of State Government that is
31 exempted from the requirements of chapter 233B of NRS.

32 **Sec. 7.** This act becomes effective upon passage and approval.



1343 Ethics Commission
FY 2015 Category 02, Out-of-State Travel

1/14/2015

GL	Description	YTD Actual	Projections	Total Actual & Projected		LO1 Authoriti	Work Program C29583	Work Program Authority	Remaining	Note
6001	Other Travel Expenses	54.75		54.75		-		-	(54.75)	
6100	Per Diem Out of State	1,357.68	-	1,357.68		-	1,901.00	1,901.00	543.32	
6110	MP Daily Rental Out of State			-		-		-	-	
6130	Public Transportation Out of State	111.00		111.00		-		-	(111.00)	
6140	Personal vehicle Out of State	128.13	-	128.13		-	151.00	151.00	22.87	
6150	Comm Air trans Out of State	-	-	-		-	1,057.00	1,057.00	1,057.00	
	Total	1,651.56	-	1,651.56		-	3,109.00	3,109.00	1,457.44	
	BSR	1,651.56								
	Difference	0.00								

1343 Ethics Commission
FY 2014 Category 03, In-State Travel

1/14/2015

GL	Description	YTD Actual	Projections	Total Actual & Projected	LO1 Authoritiy	Work Program C29583	Work Program Authority	Remaining	Note
6005	Travel Advance		-	-	-	-	-	-	
6200	Per Diem In-state	1,197.85	-	1,197.85	16,883.00	(1,901.00)	14,982.00	13,784.15	
6210	MP Daily Rental	578.75		578.75	1,092.00		1,092.00	513.25	
6215	Non MP vehicle	76.66		76.66	257.00		257.00	180.34	
6230	Public Transportation I/S	45.00		45.00	-		-	(45.00)	
6240	Personal vehicle	1,951.88	-	1,951.88	3,202.00	(151.00)	3,051.00	1,099.12	
6250	Comm Air trans	4,407.20	-	4,407.20	16,080.00	(1,057.00)	15,023.00	10,615.80	
	Total	8,257.34	-	8,257.34	37,514.00	(3,109.00)	34,405.00	26,147.66	
	BSR	8,257.34							
	Difference	0.00							

**1343 Ethics Commission
FY 2015 Category 04, Operating**

01/14/15

GL	Description	YTD Actual	Projections	Total Actual & Projected		LO1 Authority	Revised Authority	Remaining
7020	Operating Supplies	368.74	516.24	884.98	669.00	669.00	669.00	(215.98)
7026	Supplies Non-state printing Svcs	94.41	132.17	226.58	0.00	0.00	0.00	(226.58)
7030	Freight	453.57	635.00	1,088.57	2,207.00	2,207.00	2,207.00	1,118.43
7044	Excess Print Charges - Copiers	468.29	655.61	1,123.90	2,373.00	2,373.00	2,373.00	1,249.10
7045	State Printing	25.95	36.33	62.28	78.00	78.00	78.00	15.72
7050	Employee Bond Insurance		16.00	16.00	16.00	16.00	16.00	0.00
7051	Property and Contents Insurance		36.00	36.00	36.00	36.00	36.00	0.00
7054	AG Tort	722.28		722.28	722.00	722.00	722.00	(0.28)
7060	Contracts	160.00		160.00	0.00	0.00	0.00	(160.00)
7080	Legal and Court	20.80		20.80	1,344.00	1,344.00	1,344.00	1,323.20
7100	B&G Rent	1,704.30	1,704.30	3,408.60	3,588.00	3,588.00	3,588.00	179.40
7103	State Owned Meeting Room Rent	212.50	297.50	510.00	2,275.00	2,275.00	2,275.00	1,765.00
7110	Non State Owned Office Rent	13,161.36	13,161.36	26,322.72	24,179.00	24,179.00	24,179.00	(2,143.72)
7240	Host Fund Services			0.00	787.00	787.00	787.00	787.00
7241	Host Fund Food	375.02		375.02	0.00	0.00	0.00	(375.02)
7250	B & G Extra Services	285.00		285.00	0.00	0.00	0.00	(285.00)
7255	Lease Assessment		273.00	273.00	273.00	273.00	273.00	0.00
7285	Postage - Mailroom-Monthly	328.50	657.00	985.50	1,052.00	1,052.00	1,052.00	66.50
7285	Postage - Mailroom-Yearly	3,480.00	0.00	3,480.00	3,480.00	3,480.00	3,480.00	0.00
7290	Phone, Fax	783.49	783.49	1,566.98	1,289.00	1,289.00	1,289.00	(277.98)
7291	Cell Phone	239.97	719.91	959.88	948.00	948.00	948.00	(11.88)
7292	Voice Mail		456.00	456.00	456.00	456.00	456.00	0.00
7294	Conference/Collect Call	54.82	337.18	392.00	392.00	392.00	392.00	0.00
7295	State Phone line		326.00	326.00	326.00	326.00	326.00	0.00
7296	DoIT Long Distance	9.92	234.08	244.00	244.00	244.00	244.00	0.00
7299	Telephone/Data Wiring EITS		0.00	0.00	0.00	0.00	0.00	0.00
7301	Membership Dues		0.00	0.00	0.00	0.00	0.00	0.00
7340	Inspections & Certifications	46.39	0.00	46.39	0.00	0.00	0.00	(46.39)
7370	Publications and Periodicals	212.10	0.00	212.10	0.00	0.00	0.00	(212.10)
7430	Professional Services	80.00	0.00	80.00	0.00	0.00	0.00	(80.00)
7980	Xerox Lease Payments	2,006.25	2,808.75	4,815.00	5,480.00	5,480.00	5,480.00	665.00
	Total	25,293.66	23,785.91	49,079.57	52,214.00	52,214.00	52,214.00	3,134.43
	BSR	25,293.66						
	Difference	-						

Long distance is paid through EITS

Year to date in months
Months remaining

5.00
7.00

Updated 1/14/2015

1343 Ethics Commission
FY 2015 Category 11 Court Reporting

01/14/15		Totaal				
GL	Description	Actual	Projected	Actual/Projected	Authority	Difference
7060	Contracts	4,124.50	8,249.00	12,373.50	36,000.00	23,626.50
7430	Professional Services		0.00	0.00	0.00	0.00
7750	NON EMPLOYEE IN-STATE TRAVEL	551.42	0.00	551.42	0.00	(551.42)
Total		4,675.92	8,249.00	12,924.92	36,000.00	23,075.08
BSR		4,675.92				
Recon.		0.00				

1343 Ethics Commission
FY 2015 Category 15 Investigation/Paralegal costs

		01/14/15		Total			
		Description	Actual	Projected	Actual &		Revised
GL					Projected	Authority	
7030	Freight			0.00	0.00	0.00	0.00
7060	Statewide Contract		1,038.00	1,624.00	2,662.00	1,290.00	1,290.00
7081	Legal & Court			0.00	0.00	0.00	0.00
Total			1,038.00	1,624.00	2,662.00	1,290.00	(1,372.00)
BSR			1,038.00				
Difference			0.00				

1343 Ethics Commission
FY 2015 Category 26, Information Services

01/14/15		Total						Notes	
GL	Description	Actual YTD	*Projections	Projected	Authority	Revised Authority	Remaining		
7020	Supplies	73.85		73.85	155.00	155.00	81.15		
7023	Operating Supplies - Cables			0.00	0.00	0.00	0.00		
	Statewide Contracted								
7060	IT Services	110.00		110.00	1,767.00	1,767.00	1,657.00		
7290	T-1 Line/Data plan	606.00	516.00	1,122.00	1,332.00	1,332.00	210.00		
7460	Equipment < 1,000		0.00	0.00	0.00	0.00	0.00		
7532	Web Hosting	609.90	854.10	1,464.00	1,464.00	1,464.00	0.00		
7533	Email	153.63	255.37	409.00	409.00	409.00	0.00		
7542	EITS Silvernet Access	1,146.30	1,604.70	2,751.00	2,751.00	2,751.00	0.00		
7545	VPN Secure Link		47.00	47.00	47.00	47.00	0.00		
7554	EITS Infrastructure	312.50	312.50	625.00	625.00	625.00	0.00		
7556	EITS Security Assessment	235.00	235.00	470.00	470.00	470.00	0.00		
7771	Computer software			0.00	0.00	0.00	0.00		
8371	Computer Hardware			0.00	0.00	0.00	0.00		
Total		3,247.18	3,824.67	7,071.85	9,020.00	9,020.00	1,948.15		
BSR		<u>3,247.18</u>							
Difference		<u><u>0.00</u></u>							