



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **JoAnna Tran**, Member,
Board of Cosmetology,
State of Nevada,

Ethics Complaint
Case No. **19-044C**

Subject. /

**DEFERRAL AGREEMENT
NRS 281A.740**

1. On October 14, 2019, a Review Panel authorized the Executive Director of the Nevada Commission on Ethics (“Commission”) and JoAnna Tran (“Tran”), a member of the Nevada State Board of Cosmetology (“Board”), to develop this Deferral Agreement (the “Agreement”) to address the alleged conduct at issue in Ethics Complaint No. 19-044C (“Complaint”) instead of referring the Complaint to the Commission for further proceedings.

2. At all material times, Tran served as a member of the Board and was a public officer as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over Tran as a public officer for conduct alleged to have violated the provisions of NRS Chapter 281A within 2 years of the filing of the complaint. See NRS 281A.280.

3. This Agreement is entered into based upon the October 14, 2019 Review Panel Determination that Tran’s alleged conduct may be appropriately addressed through the terms and conditions of a deferral agreement instead of referring the Complaint to the Commission for further proceedings.

4. The Review Panel Determination was based on facts establishing sufficient evidence to support just and sufficient cause for the Commission to render an opinion in this matter. The facts relied upon by the Review Panel to make its determination are summarized in Appendix A (“Facts Relied Upon by the Review Panel”).¹

¹ The Facts Relied Upon by the Review Panel do not constitute part of the “Investigative File” as that term is defined by NRS 281A.755. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Agreement.

5. The parties acknowledge that no findings have been made by the Review Panel or the Commission that Tran violated the Ethics Law, and it is understood that this Agreement does not constitute an admission by Tran of any violation of the Ethics Law.

6. As authorized by NRS 281A.785(2), publication of this Agreement serves as a public admonishment, expressing the Review Panel's disapproval of Tran's use of her public position to seek improper favors or secure or grant unwarranted advantages for herself by attempting to influence Board members and staff in regard to a Board citation against her private nail salon and her involvement in a complaint against a competitor for personal reasons.

Procedural History

7. On or about June 5, 2019, the Commission received Ethics Complaint No. 19-044C from a member of the public ("Requester").

8. On July 22, 2019, the Commission issued an *Order on Jurisdiction and Investigation* directing the Executive Director to conduct an investigation regarding Tran's alleged violations of the following provisions of the Ethics Law:

NRS 281A.400(1) – Seeking or accepting a gift, service, favor, economic opportunity for oneself or any person to whom she has a commitment in a private capacity.

NRS 281A.400(2) – Using her public position to secure or grant unwarranted privileges, preferences or advantages to benefit herself, any business entity in which she has a significant pecuniary interest, or any person to whom she has a commitment in a private capacity.

NRS 281A.420(7) – Using governmental time, property or equipment or other facility to benefit her significant personal or pecuniary interest.

NRS 281A.420(9) – Attempting to benefit a personal or pecuniary interest of her or any person to whom she has a commitment in a private capacity through the influence of a subordinate.

9. On July 22, 2019, the Executive Director provided a *Notice of Complaint and Investigation* pursuant to NRS 281A.720 and NAC 281A.410² and provided Tran with an opportunity to submit a response to the allegations.

²See Approved Regulation of the Commission on Ethics, LCB File No. R108-18, effective August 30, 2018.

10. On August 29, 2019, Tran provided a written response.
11. On October 14, 2019, the Executive Director presented a recommendation relating to just and sufficient cause to a three-member review panel pursuant to NRS 281A.725.
12. A Panel Determination issued on October 14, 2019 concluded that:
 - There is sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding violations of NRS 281A.400(1), (2), (7), and (9); and
 - Tran's conduct may be appropriately addressed through corrective action under the terms and conditions of a deferral agreement instead of referring this Complaint to the Commission for further proceedings.

Terms and Conditions

13. This Agreement shall be in effect for a period of five years (the "Deferral Period") from the date of approval by the Review Panel.

14. If Tran accepts a future appointment as a public officer or employee during the Deferral Period, she must comply in all material respects with the provisions of NRS Chapter 281A during the Deferral Period without being the subject of another ethics complaint arising from an alleged violation which occurs during the Deferral Period and for which the Review Panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter.

15. The Executive Director does not acquire any new or additional information relevant to the facts and circumstances relied upon by the Review Panel herein that would warrant further proceedings by the Commission.

16. After the Review Panel's approval of the deferral agreement, the Executive Director or her designee shall provide a copy of the approved deferral agreement to the appointing authority and Board. Tran acknowledges and accepts the public admonishment. However, Tran's acceptance of the aforementioned public admonishment does not constitute an admission by Tran of any violation of the Ethics Law.

17. The Executive Director shall monitor Tran's compliance with this Agreement. Should the Executive Director discover that Tran has not complied with any term or condition of this Agreement, the Executive Director shall:

- a. Inform the Commission of any alleged failure of Tran to comply with the Agreement;
- b. Give Tran written notice of any alleged failure to comply with the Agreement; and
- c. Allow Tran not less than 15 days to respond to such a notice.

18. Although Tran has resigned from the Board, the Commission acknowledges that Tran may serve as a public officer or employee during the term of this Agreement, and the Commission retains jurisdiction over Tran for purposes of ensuring compliance with this Agreement.

19. The Commission may vacate this Agreement and conduct further proceedings in the matter, including an adjudicatory hearing, if the Commission finds that there is substantial evidence that Tran failed to comply with the terms and conditions of the Agreement.

20. If Tran complies with the terms and conditions of this Agreement, the Commission shall dismiss the matter with prejudice.

21. This Agreement applies only to the alleged conduct related to this Complaint.

Acceptance: We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this 13 day of Feb, 2020.

FOR JOANNA TRAN


JoAnna Tran, Subject

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.
Executive Director,
Nevada Commission on Ethics

DATED this 20th day of Feb, 2020.


Casey A. Gillham, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 20th day of February, 2020.

/s/ Tracy L. Chase

Tracy L. Chase, Esq.
Commission Counsel

The above Deferral Agreement is approved by the review panel.

DATED February 20, 2020.

By: /s/ Cheryl A. Lau

Cheryl A. Lau, Esq.
Commission Chair/
Presiding Officer

By: Vacant³

Kim Wallin, CPA
Vice-Chair

By: /s/ Philip K. O'Neill

Philip K. O'Neill
Commissioner

³ Pursuant to NRS 281A.220(2), a vacancy has occurred on the Review Panel due to Commissioner Wallin's appointment as Vice-Chair of the Commission. Pursuant to NAC 281A.177(2), if there is a single vacancy on a review panel after the Executive Director has presented her written recommendation, the remaining panel members shall serve and have authority to act upon any pending issues.

Appendix A – Facts Relied Upon by the Review Panel

At all times relevant to the allegations in Ethics Complaint 19-044C:

- A. Tran was a member of the Nevada Board of Cosmetology (“Board”).
- B. The Board consists of seven members appointed by the Governor, which licenses and regulates cosmetologists, hair designers, estheticians, nail technologists, and other hair and cosmetic trades and instructors pursuant to NRS Chapter 644A and NAC Chapter 644.
- C. Tran, in her private capacity, is a nail technician who owns and operates a licensed nail salon in Las Vegas, Nevada.
- D. On or about June 26, 2018, an inspector for the Board conducted a routine inspection of Tran’s nail salon and issued a citation.
- E. Following the issuance of the citation, Tran contacted several Board employees by telephone to protest the citation and request that the citation be rescinded. In her conversations with Board employees, Tran repeatedly stated that she could not be cited and deserved special treatment because she was a member of the Board.
- F. From on or about June 26 to July 1, 2019, Tran usurped hours of Board staff time in her unsuccessful attempts to have the citation rescinded.
- G. On or about March 4, 2019, Tran contacted the Board’s Compliance Coordinator to complain about a competitor’s nail salon and asked the Compliance Coordinator to initiate a complaint.
- H. The totality of the circumstances surrounding Tran’s March 4, 2019 contact with the Compliance Coordinator suggest that her actions were motivated by a desire to harass another nail salon owner due to a personal grievance. Moreover, it appears that Tran used her position on the Board to have an investigation and inspection initiated, outside of normal protocols, so that Tran’s name would not appear on the complaint.
- I. On or about August 22, 2019, Tran resigned from the Board.