

Opinion No. 99-64

BEFORE THE NEVADA COMMISSION ON ETHICS

IN THE MATTER OF THE REQUEST FOR OPINION concerning the conduct of NEIL HARRIS, Sheriff of Elko County

This matter came before the Nevada Commission on Ethics (hereinafter "Commission") on May 25, 2000, on a third-party Request for Opinion (ethics complaint) submitted on December 29, 1999, by Ron Dickenson concerning the conduct of Neil Harris, Sheriff of Elko County, Undersheriff Steve Bishop, and Lt. William Cunningham. The complaint alleges that Sheriff Harris, Undersheriff Bishop and Lt. Cunningham violated NRS 281.230 by purchasing firearms for the Elko County Sheriff's Office from Neil's Powder House, a firearms business owned by Sheriff Harris and his wife.

On May 10, 2000, Sheriff Harris filed a *Motion to Dismiss Proceedings Against Undersheriff Bishop and Lt. Cunningham*. For good cause shown, the Commission granted the motion and dismissed the matter as to Undersheriff Bishop and Lt. Cunningham. Sheriff Harris and the Commission stipulated to resolve the matter as against Sheriff Harris without a hearing. The Stipulation entered into between Sheriff Harris and the Commission is attached hereto and its terms are incorporated herein by reference and reflects the following:

FINDINGS OF FACT

1. Sheriff Harris and his wife own Neil's Powder House in Elko, Nevada, a retail firearms business.
2. Undersheriff Bishop and Lt. Cunningham have no financial interest in Neil's Powder House.
3. In July 1999, the Elko County Sheriff's Office purchased Mossberg weapons from Neil's Powder House. The transaction resulted in a profit to Neil's Powder House in the amount of \$4.51. Neil Harris subsequently paid the \$4.51 profit to Elko County.
4. Sheriff Harris erroneously assumed that the Elko County Sheriff's Office had received three bids on the Mossberg weapons prior to purchasing them from Neil's Powder House.
5. Undersheriff Bishop and Lt. Cunningham report directly to Sheriff Harris, but Sheriff Harris was not involved in the bid process which resulted in the Elko County Sheriff's Office purchasing the Mossberg weapons from Neil's Powder House.
6. Sheriff Harris relied in good faith on the advice of legal counsel pursuant to NRS 281.551, Subsection 6(a).
7. The purchase of the Mossberg weapons by the Elko County Sheriff's Office from Neil's Powder House occurred prior to [Advisory Opinion No. 99-32](#) rendered by the Commission.
8. The Elko County Sheriff's Office has transacted no business with Neil's Powder House since [Advisory Opinion No. 99-32](#) was rendered.

CONCLUSIONS OF LAW

1. Sheriff Harris is a public officer as defined by NRS 281.005 and NRS 281.4365.

2. The Commission has jurisdiction to render an opinion in this matter pursuant to NRS 281.465, Subsection 1 (a); and NRS 281.51 1, Subsection 2(b).

WHEREFORE, on motion duly made, seconded, and unanimously approved, the Commission renders the following Opinion:

OPINION

Sheriff Harris violated NRS 281.230 in July 1999 when the transaction between Neil's Powder House and the Elko County Sheriff's Office resulted in a profit of \$4.51 to Neil's Powder House, a business owned by Sheriff Harris.

However, Neil Harris has paid the \$4.51 profit to Elko County and the matter has been resolved pursuant to the attached Stipulation wherein Sheriff Harris acknowledges the violation of NRS 281.230 and agrees that, so long as he simultaneously is Sheriff of Elko County and he and his wife have any ownership interest in Neil's Powder House, the Elko County Sheriff's Office will not purchase any goods or services from Neil's Powder House.

Sheriff Harris relied in good faith upon the advice of legal counsel concerning the transaction between the Elko County Sheriff's Office and Neil's Powder House in this matter.

NOTE: THIS OPINION APPLIES ONLY TO THE SPECIFIC FACTS AND CIRCUMSTANCES DEFINED HEREIN. FACTS AND CIRCUMSTANCES WHICH DIFFER FROM THOSE IN THIS OPINION MAY RESULT IN AN OPINION CONTRARY TO THIS OPINION. NO INFERENCES REGARDING THE PROVISIONS OF NEVADA REVISED STATUTES QUOTED AND DISCUSSED IN THIS OPINION MAY BE DRAWN TO APPLY GENERALLY TO ANY OTHER FACTS AND CIRCUMSTANCES.

DATED: June 15, 2000.

NEVADA COMMISSION ON ETHICS

By: /s/ Peter C. Bernhard, Chairman

STIPULATION

The Nevada Commission on Ethics and Neil Harris, Sheriff of Elko County, hereby stipulate to the following as, and for, the resolution of Opinion Request No. 99-64:

1. Neil Harris, Sheriff of Elko County, violated NRS 281.230 in July of 1999, when the Elko County Sheriff purchased Mossberg weapons from Neil's Powder House, a business owned by Neil Harris and his wife.
2. The sale of the Mossberg weapons resulted in some profit to Neil's Powder House, and pursuant to NRS 281.230(6), Harris will pay to Elko County said profit, in the amount of \$4.51, on or before June 30, 2000.
3. Steve Bishop and William Cunningham, having no financial interest in Neil's Powder House, did not violate NRS 281.230 in the Elko County Sheriff's purchase of Mossberg weapons from Neil's Powder House in July, 1999.

The Nevada Commission on Ethics finds the following mitigating factors:

1. Neil Harris erroneously assumed that three bids had been received and that all the bidders had an opportunity to submit a bid on the Mossberg weapons, as well as the Remington weapons;
2. While Neil Harris directly supervised Undersheriff Steve Bishop and Lt. William Cunningham, Harris was not

involved in the bid process which resulted in the Sheriff's purchase of Mossberg weapons from Neil's Powder House;

3. Neil Harris relied in good faith on the advice of legal counsel retained by the public body which the public officer represents, pursuant to NRS 281.551(6)(a); and

4. The Elko County Sheriff has transacted no business with Neil's Powder House since the Commission's opinion in [99-32](#), an advisory opinion relating to the Elko County Sheriff's purchase of services from Neil's Powder House.

Neil Harris agrees that, so long as he simultaneously is Sheriff of Elko County and he and his wife have any ownership interest in Neil's Powder House, the Elko County Sheriff will not purchase any services or supplies from Neil's Powder House. Harris has paid to Elko County \$4.51, the profit from this transaction.

The conduct of Neil Harris falls within the criteria of NRS 281.551(6)(a), therefore the Commission will impose no civil penalty.

Dated: June 9, 2000.

/s/ Neil Harris, Sheriff, Elko County

/s/ Kristin A. McQueary, Chief Civil Deputy, Elko County District Attorney

/s/ Kenneth A. Rohrs, Executive Director, Nevada Commission on Ethics

/s/ Peter Bernhard, Chairman, Nevada Commission on Ethics