



**STATE OF NEVADA  
COMMISSION ON ETHICS**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

**IN THE MATTER OF THE REQUEST FOR OPINION  
CONCERNING THE CONDUCT OF  
FRANCES DEANE, Recorder, Clark County.**

**Opinion No. 03-47**

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**STIPULATION**

WHEREAS, on October 14, 2003, a Request for Opinion (ethics complaint) was filed with the Nevada Commission on Ethics (hereinafter the "Commission"), alleging that Clark County Recorder Frances Deane violated the provisions of NRS 281.481 as set forth in Attachment A hereto; and

WHEREAS, Frances Deane acknowledges that the Commission has provided her with notice of the allegations against her and an opportunity to file a written response thereto and that she is fully advised as to the allegations asserted against her in the Complaint; and

WHEREAS, on January 8, 2004, Frances Deane filed with the Commission her written responses to the allegations against her; and

WHEREAS, pursuant to NRS 281.511, the Commission's Executive Director investigated the complaint and rendered a written recommendation that just and sufficient cause exists for the Commission to conduct a public hearing and render an opinion in this matter; and

WHEREAS, on March 4, 2004, a two-member Commission panel reviewed the Complaint, the written responses thereto filed by Frances Deane, and the written report and recommendation of the Executive Director, and determined that just and sufficient cause existed

for the Commission to conduct a public hearing and render an opinion in this matter on the items set forth in Attachment B; and

WHEREAS, Frances Deane represents that she has retained legal counsel in this matter and is fully aware of her right to a Hearing before the Commission on the allegations against her and of any and all rights she may be accorded pursuant to NRS Chapter 281, the regulations of the Commission (NAC Chapter 281), the Nevada Administrative Procedures Act (NRS Chapter 233B), and the laws of the State of Nevada; and

WHEREAS, Frances Deane hereby freely and voluntarily waives her right to a Hearing and any and all rights which she may be accorded herein by NRS Chapter 281, NAC Chapter 281, NRS Chapter 233B, and the laws of the State of Nevada; and

WHEREAS, this Stipulation is for the purpose of resolving this matter and rendering an opinion as stipulated herein in lieu of holding a hearing on the specific facts and circumstances before the Commission. No inferences regarding the findings or statutes quoted herein may be drawn to apply generally to any other facts, circumstances, or laws;

NOW, THEREFORE, in consideration of the foregoing, the Nevada Commission on Ethics and Frances Deane, Recorder of Clark County, do hereby stipulate to the Following Findings of Fact, Conclusions of Law, and Opinion in this matter:

#### **FINDINGS OF FACT**

1. Frances Deane holds the elected office of Recorder of Clark County, Nevada, and is a public officer as defined by NRS 281.005 and NRS 281.4365.
2. Frances Deane was elected to office as the Recorder of Clark County on January 6, 2003. Prior to her election as Recorder of Clark County, she held no other public office.

3. On or about July 24, 2003, a limited liability company (LLC) was formed by Articles of Organization filed with the Nevada Secretary of State. Frances Deane was listed as a member of the LLC on the Articles of Organization.

4. The purpose of the LLC was to establish an internet web site to sell to the public certain publicly recorded documents which would be obtained from a private company's database of public documents which had been obtained from the Clark County Recorder's Office. The private company consists of a private consortium including title companies.

5. Frances Deane publicly stated that she would seek a profit for herself from her interest in the LLC.

6. Frances Deane took no action to create a business plan for the LLC. She received no profit from her interest in the LLC. The LLC was placed in delinquent status by the Nevada Secretary of State on September 2, 2003. The LLC is presently in default status.

7. No evidence was presented that Frances Deane deliberately declined to perform her official duties.

8. Frances Deane as Clark County Recorder at no time sought an advisory opinion from the Nevada Commission on Ethics pursuant to NRS 281.511(1).

### **CONCLUSIONS OF LAW**

1. Frances Deane 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(1)(a) and NRS 281.511(2)(b).

### **OPINION**

1. NRS 281.481(1) requires that "[a] public officer or employee shall not seek or accept 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.”

2. NRS 281.481(10) provides that “a public officer or employee shall not seek other employment or contracts through the use of his official position.”

3. NRS 281.4375 defines “willful violation” to mean that a public officer or employee knew or reasonably should have known that his conduct violated the provisions of Nevada’s Ethics in Government Law provided in NRS 281.411 through 281.581.

4. By a preponderance of the evidence in this matter, Frances Deane willfully violated NRS 281.481(1) as she knew or should have known that the act of creating a private company or allowing a private company to be created on her behalf to sell access to certain publicly recorded documents to the general public for a fee which would have benefited her financially amounted to seeking an economic opportunity which would have tended improperly to influence a reasonable person in her position to depart from the faithful and impartial discharge of her duties.

5. By a preponderance of the evidence in this matter, Frances Deane willfully violated NRS 281.481(10) as she knew or should have known that the act of creating a private company or allowing a private company to be created on her behalf to sell access to certain publicly recorded documents to the general public for a fee amounted to the use of her official position to seek other employment or contracts.

6. The willful violations by Frances Deane of NRS 281.481(1) and NRS 281.481(10) are based upon the same act or event and, therefore, collectively constitute one willful violation of the Ethics in Government law provided in NRS Chapter 281.

7. Pursuant to NRS 281.551(1), the Nevada Commission on Ethics imposes against Frances Deane, as the sole and exclusive penalty in this matter, a civil penalty of Five Thousand

Dollars (\$5,000.00) for one willful violation of the provisions of Nevada's Ethics in Government Law provided in NRS Chapter 281.

8. Frances Deane shall satisfy the civil penalty imposed herein by remitting payment in the amount of Five Thousand Dollars (\$5,000.00) to the Nevada Commission on Ethics in ten (10) consecutive monthly installments of Five Hundred Dollars (\$500.00) per month commencing July 1, 2004, and due on the first day of each month thereafter until the civil penalty is paid in full. All such payments must be received at the office of the Nevada Commission on Ethics, 3476 Executive Pointe Way, Suite 16, Carson City, Nevada 89706-7946, no later than the first day of each month.

9. The willful violations of Frances Deane resulted in no financial benefit that would implicate the provisions of NRS 281.551(3).

10. The willful violations of Frances Deane do not constitute a criminal offense subject to referral pursuant to NRS 281.551(8).

11. The Nevada Commission on Ethics will take no action pursuant to NRS 281.551(5) to file a proceeding in any court for removal of Frances Deane from office.

12. This stipulation resolves all matters before the Nevada Commission on Ethics with regard to Request for Opinion No. 03-47.

13. Frances Deane represents that she has gained an understanding of the Legislature's declaration in NRS 281.421 that given the increased complexity of state and local government, more and more closely related to private life and enterprise, there is an enlarged potentiality for conflict of interests; that a public office is a public trust and shall be held for the sole benefit of the people; and that she must commit herself to avoid conflicts between herself as a private citizen and as a public servant and those of the general public whom she serves.

14. Frances Deane further represents that she is committed to enhance the people's faith in the integrity and impartiality of public officers.

15. Since the transition period following her election, Frances Deane represents she better understands her public duties and ethical obligations, the need to seek advice of legal counsel retained by Clark County to represent the Clark County Recorder in the performance of her duties, her right to obtain an advisory opinion pursuant to NRS 281.511(1) from the Nevada Commission on Ethics prior to taking action, and her ability to use as guidance opinions previously published by the Nevada Commission on Ethics and available on the Commission web site.

16. Frances Deane acknowledges that she has read and understands the Code of Ethical Conduct for public officers provided in NRS Chapter 281.411 through 281.581, and that she will hereafter comply therewith.

17. This Opinion applies only to the specific facts and circumstances defined herein. Facts and circumstances that 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.

### **CONTINGENCY**

This Stipulation is subject to the approval of the Nevada Commission on Ethics in open meeting. If the Commission does not adopt this Stipulation as its Opinion, the matter will proceed to a Hearing before the Nevada Commission on Ethics September 15-17, 2004, and this Stipulation shall be of no force or effect for either party, nor shall it be admissible for any purpose, nor shall the Stipulation or any transcript related thereto be disclosed to any party other than the Nevada Commission on Ethics, Frances Deane, and her legal counsel.

**ACCEPTANCE**

I have read the above Stipulation, understand each and every provision therein, and agree to be bound thereby.

DATED this 9<sup>th</sup> day of June 2004.

\_\_\_\_\_  
/S/

**FRANCES DEANE**  
Clark County Recorder

THE ABOVE STIPULATION HAS BEEN REVIEWED BY:

**MORAN AND ASSOCIATES**

**NEVADA COMMISSION ON ETHICS**

\_\_\_\_\_  
/S/

**JOHN T. MORAN, JR., Esq.**  
Nevada Bar No. 2271  
**LEW BRANDON, JR., Esq.**  
Nevada Bar No. 5880  
Counsel to FRANCES DEANE

\_\_\_\_\_  
/S/

**NANCY LEE VARNUM, Esq.**  
Nevada Bar No. 4720  
Counsel to the Nevada Commission on Ethics

The foregoing Stipulation is hereby adopted as the Findings of Fact, Conclusions of Law and Opinion of the Nevada Commission on Ethics in this matter and shall become effective June 9, 2004.

**NEVADA COMMISSION ON ETHICS**

\_\_\_\_\_  
/S/

**Rick R. Hsu, Esq.**  
Chairman





3. Check the specific provisions(s) of Nevada's Ethics in Government Law (NRS Chapter 281) you allege were violated. *(The Nevada Commission on Ethics has no jurisdiction to render an opinion regarding any other provision of the Nevada Revised Statutes.)*

☒ NRS 281.481(1)

☐ NRS 281.481(6)

☐ NRS 281.491

☒ NRS 281.481(2)

☒ NRS 281.481(7)

☐ NRS 281.501(2)

☐ NRS 281.481(3)

☐ NRS 281.481(8)

☐ NRS 281.501(4)

☐ NRS 281.481(4)

☒ NRS 281.481(9)

☐ NRS 281.505

☒ NRS 281.481(5)

☒ NRS 281.481(10)

☐ NRS 281.553

☐ NRS 281.554

4. Identify all persons who might have knowledge of the facts and circumstances you have described. Include the address and telephone number for each person.

CHECK HERE ☐ IF ADDITIONAL PAGES ARE ATTACHED.

Jackie Bartakian 841 Coastal Beach Road, Henderson, NV 89015

Dale Murrell 1858 Blue Ribbon Drive, Las Vegas NV 89142 (702) 457 - 4974

Esther Hayashi 4812 Anchorage, Las Vegas, NV 89117 (702) 252 - 8578

Deonne Enns 553 Barbara Way, Las Vegas, NV 89195 (702) 477-6798

5. Attach copies of all documents you believe provide credible evidence to support your allegations. *A newspaper article or other media report is not "credible evidence" if the article or report is offered by itself without some other reliable and competent form of proof, such as witness statements, records, documents, exhibits, concrete objects, etc.*

SUBMITTED BY:

Wicki J Hedderman  
Signature

Oct 10, 2003  
Date

Please return completed form with all supporting documents to:

Executive Director  
Nevada Commission on Ethics  
3476 Executive Pointe Way, Suite 16  
Carson City, Nevada 89706-7945

## #2 – Details of Conduct

1. Ms. Deane violated the Code of Ethical Standards (NRS 281.481(1)) by seeking economic opportunity that would have tended to improperly influence a reasonable person in her position to depart from the faithful and impartial discharge of her public duties. She did so by attempting to create a company that would sell access to documents from the Recorder's Office to the public, a service the Recorder's Office currently provides to the public for a minimal fee. Ms. Deane filed some of the necessary paperwork with the Secretary of State in July of 2003 to begin this endeavor and admitted to doing so in an interview with the press. See attached information – Tab 1.
  2. Ms. Deane violated the Code of Ethical Standards (NRS 281.481(2)) by using her position in government to secure, or grant unwarranted privileges, preferences, and exemptions for any other person. She did so in August of 2003 by waiving fees for specific Title Companies but did not waive those same fees for the public in general. In March and April of 2003, she also cut off phone access for the public but continued to allow access for the Title Companies. Finally, Ms. Deane allowed title companies to fax in requests but did not provide the same privilege for the general public. See attached information – Tab 2.
  3. Ms. Deane violated the Code of Ethical Standards (NRS 281.481(2)) by using her position in government to secure, or grant unwarranted privileges, preferences, and exemptions for any other person. She did so by allowing a backlog to build of documents to be recorded that were mailed in – in favor of recording those documents for title companies that came to the office in person. The result of this action was to delay the recording of documents from the public. In a "notice" state such as Nevada, this could have significant legal consequence should any of these titles being subject to litigation. In addition, it potentially increased recordation of time for documents from the public, as those that needed to be corrected had to be returned to the sender who then had to make the corrections and mail them back again, facing an even longer wait. Title companies were given the opportunity to make corrections when a document was brought in person. See attached information – Tab 3.
  4. Ms. Deane violated the Code of Ethical Standards (NRS 281.481(5)) by attempting to use information acquired through her public duties not available to people generally to further her pecuniary interests, as well as the pecuniary interests of other people. She did so through her knowledge as Recorder and familiarity with the work of AMCAD. She purposely delayed and/or interfered the work of AMCAD. At the same time AMCAD was working towards providing information on line to the public for free, Ms. Deane was attempting to set up a business that would provide those same services to the public for a fee. See attached information – Tab 4.
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5. Ms. Deane violated the Code of Ethical Standards (NRS 281.481(7)) by using government time, property, equipment or other facility to benefit her personal or financial interest. She did so by using county equipment and personnel to provide unwarranted assistance to Title Companies whom, by her admission, would provide the documents for the company she intended to start, as well as having provided her with campaign contributions. Remember also, that Ms. Deane was providing those same contributors with privileges that members of the general public did not have access to. See attached information – Tab 5.
6. Ms. Deane violated the Code of Ethical Standards (NRS 281.481(9)) by attempting to benefit her personal and financial interest through the influence of a subordinate. In August of 2003, She used the employees of the department to waive fees for title companies. In addition, in July of 2003 she used subordinates to assist her in setting up a company that would sell services to the public, which again the recorder's office provides for a minimal fee. See attached information – Tab 6.
7. Ms. Deane violated the Code of Ethical Standards (NRS 281.481(10)) by seeking other employment or contracts through the use of her office, County Recorder. In July of 2003, She attempted to set up a company that would provide services to the public for a fee, which is currently provided for a minimal fee. She would not have been able to do this other than in her position as recorder. See attached information – Tab 7.

STATE OF NEVADA



COMMISSION ON ETHICS

3476 Executive Pointe Way, Suite 16  
Carson City, Nevada 89706-7946  
(775) 687-5469 • FAX (775) 687-1279

**COMMISSION PANEL DETERMINATION  
REGARDING JUST AND SUFFICIENT CAUSE  
NRS 281.511(3)**

**COMMISSION PANEL: GEORGE KEELE AND JIM KOSINSKI**

**IN THE MATTER OF THE REQUEST FOR OPINION  
CONCERNING THE CONDUCT OF  
Frances Deane, Clark County Recorder**

**Request for Opinion  
No. 03-47**

On March 4, 2004 pursuant to NRS 281.462, a Commission Panel reviewed the Executive Director's Report and Recommendation Regarding Just and Sufficient Cause, the request for opinion filed herein, and all related documents and determined that just and sufficient cause exists for the Commission to hold a hearing and render an opinion on the allegations that Ms. Deane violated the provisions of NRS 281.481(1), NRS 281.481(2), NRS 281.481(5), NRS 281.481(9), and NRS 281.481(10). The Panel further determined that just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion on the allegations that Ms. Deane violated the provisions of NRS 281.481(7).

The Request for Opinion is, therefore, REFERRED TO THE NEVADA COMMISSION ON ETHICS, and is scheduled for hearing on Wednesday, April 14, 2004 at 9:30 a.m. in Henderson, Nevada.

DATED: March 4, 2004

\_\_\_\_\_  
Stacy M. Jennings, MPA, Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day at Carson City, Nevada, I placed a true and correct copy of the Commission Panel Determination Regarding Just and Sufficient Cause in an envelope and deposited same in the mail, postage prepaid, addressed as follows:

Frances Deane, Clark County Recorder  
4282 Ridgecrest Drive  
Las Vegas, NV 89121

Lew Brandon, Jr.  
Moran & Associates  
630 South 4<sup>th</sup> Street  
Las Vegas, NV 89101

Dated: March 4, 2004

\_\_\_\_\_  
Emily Nunez, Administrative Assistant III

## ***Clarification Regarding Panel Determination***

**Allegation #1:** The panel found credible evidence exists, in the form of Ms. Deane's personal statements as recorded in a transcript of a televised interview on Face-to-Face with Jon Ralston, that Ms. Deane sought an economic opportunity contrary to the ethics in government law; and based on such evidence the information in Allegation #1 is referred to the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(1).

**Allegation #2:** The panel concurred with the recommendations of the Executive Director.

**Allegation #3:** The panel concurred with the recommendations of the Executive Director, and would recommend the Commission consider Allegation #3 in conjunction with Allegation #2.

**Allegation #4:** The panel found that alleged interference by Ms. Deane in the authorization and implementation of the AmCad contract may further constitute a violation of NRS 281.481(2). Thus, the information in Allegation #4 is referred to the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(2) and NRS 281.481(5).

**Allegation #5:** The panel concurred with the recommendation of the Executive Director to dismiss this allegation.

**Allegation #6:** The panel recommended the Commission consider two separate violations of NRS 281.481(9). In relation to former Assistant County Recorder Dan Hoffman, the panel found credible evidence exists for the Commission to consider whether Ms. Deane may have used her position in government to influence subordinate Hoffman to benefit her own financial interest. Further, the panel found credible evidence exists for the Commission to consider whether Ms. Deane used her position in government to personally benefit, by allegedly inducing worker Christopher Campbell to file false workplace violence complaints against two employees of the County Recorder's office.

**Allegation #7:** The panel found credible evidence exists, in the form of Ms. Deane's personal statements as recorded in a transcript of a televised interview on Face-to-Face with Jon Ralston, that Ms. Deane expressly used her position in government to seek other employment or contracts contrary to the ethics in government law; and that based on such evidence the information in Allegation #7 is referred to the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(10).

*Stacy M. Jennings*  
Executive Director  
Nevada Commission on Ethics  
March 4, 2004



**NEVADA COMMISSION ON ETHICS  
EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION  
REGARDING JUST AND SUFFICIENT CAUSE**

REQUEST FOR OPINION NO. 03-47

SUBJECT: FRANCES DEANE  
CLARK COUNTY RECORDER

**A. JURISDICTION:**

Recorder Deane is a public officer as defined by NRS 281.005 and NRS 281.4365. As such, the Commission has jurisdiction over this complaint.

**B. REPORT OF INVESTIGATIVE ACTIVITIES:**

- Reviewed Request for Opinion #03-47 (see Tab H).
- Reviewed subject's response received January 8, 2004 (see Tab B).
- Reviewed Limited Liability Company filing information received from Secretary of State's office on January 21, 2004 (see Tab C).
- Reviewed Clark County Audit Department audit of Clark County Recorder's office dated December 19, 2003 (see Tab D).
- Reviewed 2002 and 2003 campaign contribution and expenditure reports for Frances Deane (see Tab E).
- Reviewed financial disclosure statements filed by Frances Deane on May 30, 2002 and March 31, 2003 (see Tab F).
- Interviewed Thom Reilly, Clark County Manager, on January 28, 2004.
- Reviewed documents submitted to the Commission by Thom Reilly, Clark County Manager (see Tab G).

**C. RECOMMENDATIONS:**

1. Based on investigative activities, the Executive Director recommends that the Panel find that just and sufficient cause **DOES EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

NRS 281.481(1)      NRS 281.481(2)      NRS 281.481(5)

NRS 281.481(9)      NRS 281.481(10)

**SPECIFIC REASON(S):**

Sufficient credible evidence exists to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether the subject of the complaint violated the above provisions of NRS Chapter 281.

2. Based on investigative activities, the Executive Director recommends that the Panel find that just and sufficient cause **DOES NOT EXIST** for the Commission to render an opinion in this matter relating to the provisions of:

NRS 281.481(7)

**SPECIFIC REASON(S):**

No allegation or credible evidence of any fact that amounts to or supports a violation by any public officer of the above provisions of NRS Chapter 281.

**D. SUMMARY OF REQUEST FOR OPINION**

This request for opinion alleges violations of NRS 281.481(1), 281.481(2), 281.481(5), 281.481(7), NRS 281.481(9), and 281.481(10) by Clark County Recorder Frances Deane. The complaint alleges Ms. Deane violated the ethics in government law by:

1. Seeking an economic opportunity which would have tended to improperly influence a reasonable person in her position to depart from the faithful and impartial discharge of her duties in violation of NRS 281.481(1). It is alleged she did this by attempting to create a limited liability corporation, of which she was one of five initial members, to create a web site to sell access to documents from the Recorder's Office to the general public for a fee which would benefit her financially;
2. Using her position in government to grant unwarranted privileges, preferences, or exemptions for another person in violation of NRS 281.481(2). It is alleged she did this by showing preference to title companies over members of the general public by waiving certain fees for title companies, by allowing title companies to fax in requests, and by

- allowing title companies to access her office via a special telephone number while routing all calls from the general public into an automated system;
3. Using her position in government to grant unwarranted privileges, preferences, or exemptions for another person in violation of NRS 281.481(2). It is alleged she did this by showing preference to title companies over members of the general public by recording documents presented in person by title company representatives prior to recording documents mailed in by the general public;
  4. Attempting to use information acquired through her public duties and not available to the public generally to further her pecuniary interests and the pecuniary interests of others in violation of NRS 281.481(5). It is alleged she did this by delaying and interfering with the work of the Clark County vendor contracted to automate the Recorder's office records and provide access to the public via the internet for free, while simultaneously working to set up a business to provide the same services to the public for a fee;
  5. Using government time, property, equipment, or other facility to benefit her personal or financial interest in violation of NRS 281.481(7). It is alleged she did this by using county equipment and personnel to provide unwarranted assistance to title companies who, in turn, would provide the documents for the company she intended to start. The complaint also alleges the same title companies provided campaign contributions to Ms. Deane;
  6. Attempting to benefit her personal and financial interest through the influence of a subordinate in violation of NRS 281.481(9). It is alleged she did this by using employees to waive fees for title companies, and to assist her in establishing the private company she intended to start; and
  7. Seeking other employment or contracts through the use of her official position in violation of NRS 281.481(10). It is alleged she did this by attempting to establish a private company to provide services to the public for a fee – services which are provided to the public by the Recorder's office for a fee. The complaint states Ms. Deane would not have been in a position to start such a company if she did not hold the official position of Clark County Recorder.

#### **E. SUMMARY OF SUBJECT'S RESPONSE**

In her response, Recorder Deane provides the following information to the seven points outlined above:

1. Subject "merely explored a business prospect presented to her and decided not to go forward with said prospect." She argues the "mere filing of corporation paperwork is not adequate to demonstrate an attempt at economic opportunity."
2. Subject denies granting privileges or preferences to any specific class of persons. Subject relied on advice of counsel and implemented internal policies which allowed all persons recording their documents in person to have an opportunity to make immediate corrections to their documents prior to imposition of the \$25 non-conforming document fee. A similar "unspoken grace period" was given for non-conforming mailed in



documents. Subject shut down telephone lines to “everyone, including title companies.” Subject claims many businesses and individuals utilize the facsimile number.

3. Subject denies granting privileges or preferences to any specific class of persons. Subject denies the existence of business relationships with or a pecuniary interest in any title company.
4. Subject claims records intended to be used in the business she considered were publicly available and the service could be provided by any individual or corporation. Subject stipulates she never attempted to delay or interfere with the work of AmCad in order to further any pecuniary interest.
5. Subject denies using government time, property, or equipment to benefit her personal financial interest by providing unwarranted assistance to title companies, and states the complaint provided no evidence to corroborate what unwarranted privileges the title companies were given in exchange for contributing to her campaign.
6. Subject claims documents were solicited by Clark County Manager Thom Reilly as part of a vendetta against subject. Claims responses are too similar. Claims they do not substantiate an attempt by subject to influence subordinates.
7. Subject denies using her office to seek other employment or contracts, and further states “any person with the time and inclination to access all the documents on record at the Recorder’s Office and make those records available online could have done so just as easily.”

#### **F. PERTINENT STATUTES**

**NRS 281.481 General requirements; exceptions.** A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept 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.

2. A public officer or employee shall not use 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. As used in this subsection:

(a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281.501.

(b) “Unwarranted” means without justification or adequate reason.

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of his public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of his official position.

#### **NRS 281.501**

8. As used in this section, “commitment in a private capacity to the interests of others” means a commitment to a person:

(a) Who is a member of his household;

(b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

(c) Who employs him or a member of his household;

(d) With whom he has a substantial and continuing business relationship; or

(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

#### **G. RESULTS OF INVESTIGATION**

***Allegation 1:*** The Executive Director does not dispute the fact that the business opportunity explored by Recorder Deane did not come to fruition, nor was it ever “doing business” as defined in NRS 281.432. However, the Executive Director does not agree with the supposition

that “the mere filing of corporation paperwork is not adequate to demonstrate an attempt at economic opportunity.” NRS 281.481(1) provides “A public officer or employee shall not seek or accept 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.” At the very least, Recorder Deane’s exploration of the business created both a conflict of interest and the appearance of impropriety. Furthermore, despite those issues, she proceeded forth with the official organization of the limited liability corporation (LLC) on July 24, 2003. The Executive Director finds it hard to believe that Resident Agent Jean V. Hammond organized the LLC without express authorization by some, if not all, of the five initial members – including Ms. Deane. The Executive Director believes the filing of the organization papers provides credible evidence that Ms. Deane was seeking an economic opportunity that would tend improperly to influence a person to depart from the faithful and impartial discharge of public duties. Only the full commission has the authority to determine if the action rises to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(1).

***Allegation 2:*** In reviewing whistleblower documents provided to the Commission at my request from Clark County (see Tab G), the Executive Director found credible evidence that Ms. Deane may have used her position in government to grant unwarranted privileges, preferences, or exemptions for another person in violation of NRS 281.481(2). The complaint alleged Ms. Deane gave preference to title companies over members of the general public by recording documents presented in person by title company representatives prior to recording documents mailed in by the general public. Statements by employees Robert Spencer, Daniel Hoffman, Jackie Bartakian, and Dale Murrell indicate Ms. Deane instructed Ms. Bartakian and employee Angie Robinson to waive recording and/or void fees for title companies on at least two instances – in contradiction to both state law and an opinion given to Ms. Deane by the Clark County District Attorney’s Office. The title companies have a relationship with Ms. Deane, as evidenced by significant contributions to her political campaign (see Allegation 5 and Tab E). Additionally, the title companies are the entities which are alleged to have been purchasing records from the Recorder’s Office, and are, presumably, the same entities which Ms. Deane had proposed to enter into business with to establish a web site to offer the same records to the public for a charge. Such a business relationship would constitute a commitment in a private capacity under NRS 281.501(8) – a commitment which is necessary to establish a violation of NRS 281.481(2). Additionally, statements by Sally Groshans and Karen Sarae indicate Ms. Deane may have used her position to hire a campaign worker into a position to which he was not qualified, and further induced the worker to file a false workplace violence complaint against these two workers. Ms. Deane also specifically instructed a title company to waive recording fees for one of her employees (see Clark County Audit, Tab D).

The Executive Director believes the above information constitutes sufficient credible evidence to further explore the allegation. Only the full commission has the authority to determine if Ms. Deane used her position in government to grant unwarranted privileges, preferences, or

exemptions for another person and, if so, the action would rise to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(2).

***Allegation 3:*** Recorder Deane admitted to establishing a policy which would provide walk-in customers priority in recording documents over mailed in documents. Ms. Deane sought an opinion from the District Attorney's Office regarding this policy, and was counseled it violated statute. Whistleblower documents and the Clark County audit of the Recorder's office indicate that, in fact, walk-in traffic was given a preference over mailed documents in the recordation process. A review of the case file indicate that most, if not all, title companies utilize runners and the walk-in process to file documents with the Recorder's Office. The percentage of the general public who utilize the walk-in process versus mail to record documents is unknown.

The Executive Director believes the above information constitutes sufficient credible evidence to further explore the allegation. Only the full commission has the authority to determine if Ms. Deane used her position in government to grant unwarranted privileges, preferences, or exemptions for another person and if so, the action would rise to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(2).

***Allegation 4:*** In her elected position as Clark County Recorder, Ms. Deane was in a unique position to know certain facts and make certain contacts not readily accessible or available to the general public. In the transcript of her television interview with Jon Ralston, Ms. Deane states "They [the title companies] are currently building the website for their own internal use." The Executive Director is unsure how many members of the general public would be aware of this information. Further, though it is likely the AmCad contract was available for public review, the status of contract implementation, project progress, etc., would have only been known by key county employees, including Ms. Deane, who had reason to keep track of the developing project. Further, Ms. Deane took an immediate interest in the contract upon assuming office and appears to have been taking an active role in issues surrounding the contract and the project while simultaneously exploring a personal financial venture to provide similar services to the public via the internet for a fee. Documentation provided by Clark County indicates Ms. Deane, on several occasions, refused to cooperate with the AmCad company while concurrently exploring her own business venture to provide the same records to the public via the Internet for a fee – from which she would financially benefit. The Executive Director believes sufficient credible evidence exists to further explore the allegation. Statute does not require the business venture to actually have been started, merely that a public officer attempted to use information acquired through public duties and not available to the public generally to further their own pecuniary interests and the pecuniary interests of others. Clearly, the LLC was created to further the pecuniary interests of Ms. Deane and her four partners. Only the full commission has the authority to determine if Ms. Deane attempted to use information obtained by virtue of her public office and not publicly available to further such pecuniary interests and if so, whether the action

would rise to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(5).

***Allegation 5:*** The Executive Director concurs with Ms. Deane's response. No credible evidence was supplied with the complaint to substantiate the allegation that Ms. Deane used government time, property, equipment, or other facility to benefit her personal or financial interest in violation of NRS 281.481(7). The complaint was not specific as to what unwarranted assistance Ms. Deane allegedly provided to title companies.

A review of campaign contribution and expenditure reports filed by Ms. Deane indicates she received \$1,500 directly attributed from title companies in calendar year 2004 and \$12,550 directly attributed from title companies in calendar year 2003. NRS 281.501(4) provides:

“4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;  
(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest, without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. ***This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.***” (Emphasis added.)

Thus, legislative intent indicates campaign contributions do not constitute pecuniary interests if they are properly and legally reported under law. Ergo, the fact that title companies contributed to Ms. Deane's campaign is irrelevant in this context. Therefore, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(7).

***Allegation 6:*** The Executive Director believes that evidence may exist which establishes Ms. Deane attempted to influence Assistant County Recorder Dan Hoffman to establish the proposed web site with her, as evidenced by his name on the partnership filing papers and his subsequent public statements that he did not intend to be involved in the business venture. The business venture would have benefited Ms. Deane financially. Additionally, whistleblower statements by Sally Groshans and Karen Sarae indicate Ms. Deane may have used her position to hire a campaign worker into a position to which he was not qualified, and further induced the worker to

file a false workplace violence complaint against these two workers. It could be gathered that such an effort would benefit Ms. Deane personally, by potentially leading to termination of two workers with whom she did not agree.

The Executive Director believes this constitutes sufficient credible evidence to further explore the allegation. Only the full commission has the authority to determine if Ms. Deane attempted to benefit her personal and financial interest through the influence of a subordinate in violation of NRS 281.481(9) and, if so, the action would rise to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(9).

***Allegation 7:*** The Executive Director acknowledges “any person with the time and inclination to access all the documents on record at the Recorder’s Office and make those records available online could have done so...,” but disagrees with Deane’s supposition that this could be done “just as easily.” In her elected position as Clark County Recorder, Ms. Deane was in a unique position to know certain facts and make certain contacts not readily accessible or available to the general public. In the transcript of her television interview with Jon Ralston, Ms. Deane states “They [the title companies] are currently building the website for their own internal use.” The Executive Director is unsure how many members of the general public would be aware of this information. Further, though it is likely the AmCad contract was available for public review, the status of contract implementation, project progress, etc., would have only been known by key county employees, including Ms. Deane, who had reason to keep track of the developing project. Though Ms. Deane may have been in a position to start such a company if she was not the elected county recorder, proposing to establish such a business when you hold the position of elected county recorder could be instrumental in gaining the support and buy-in of title companies. Clearly, the amount of campaign contributions given to Ms. Deane by title companies establish a relationship between the title companies and Ms. Deane [even though the contributions do not constitute a pecuniary interest pursuant to NRS 281.501(4)(c)]. Such relationships are further substantiated by the fact that title companies were invited to monthly luncheon’s with Recorder Deane’s staff and paid for the catered events. The Executive Director believes this constitutes sufficient credible evidence to further explore the allegation. Only the full commission has the authority to determine if Ms. Deane used the relationships developed by virtue of her public office to seek other employment or contracts and, if so, the action would rise to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion on whether Recorder Deane violated the provisions of NRS 281.481(10).

**H. CONCLUSION**

The Executive Director hereby recommends that the panel find sufficient credible evidence exists to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether the subject of the complaint violated NRS 281.481(1), 281.481(2) 281.481(5), 281.481(9), and NRS 281.481(10).

The Executive Director hereby recommends that the panel find no just and sufficient cause for the Commission to hold a hearing and render an opinion on the allegation that the subject violated NRS 281.481(7), and further that the allegation be dismissed.

DATED: February 5, 2004 \_\_\_\_\_ Stacy M. Jennings  
STACY M. JENNINGS, MPA  
EXECUTIVE DIRECTOR