



**STATE OF NEVADA
COMMISSION ON ETHICS**

BEFORE THE NEVADA COMMISSION ON ETHICS

**IN THE MATTER OF THE REQUEST FOR OPINION
CONCERNING THE CONDUCT OF
MICHAEL MONTANDON, Mayor, City of North Las Vegas.**

Opinion No. 05-11

This matter came before the Nevada Commission on Ethics (hereinafter the “Commission”)¹ for hearing on March 9, 2006, pursuant to a Request for Opinion filed on February 11, 2005, pursuant to NRS 281.511(2)(b), and a determination on November 2, 2005, by a Commission panel² finding just and sufficient cause for the Commission to hold a hearing on the matter and render an opinion on whether City of North Las Vegas Mayor Michael Montandon’s conduct violated the provisions of NRS 281.571(1)(f).

The issues before the Commission in this matter are limited to the following:

1. Did Mayor Montandon violate NRS 281.571(1)(f) by failing to disclose his position as a corporate officer of the Tonopah and Tidewater Railroad Company in his 2005 financial disclosure statement?

2. If Mayor Montandon violated NRS 281.571(1)(f), was the violation “willful” pursuant to NRS 281.4375?

¹ Commission members Randy Capurro, Timothy Cashman, Caren Jenkins and Jim Kosinski constituted the quorum. Commissioner George Keele abstained from discussion and participation due to a conflict. Commissioner Mark Hutchison was absent.

² Commissioner Bill Flangas and Commissioner Rick Hsu served as the panel in this matter and are precluded from participating in this hearing.

3. If Mayor Montandon's violation is deemed a "willful" violation of NRS 281.571(1)(f), does the willful violation warrant the imposition of a civil penalty or any other action pursuant to the provisions of NRS 281.551?

Notice of the hearing was properly posted and served. Mayor Montandon was present and provided sworn testimony.

FINDINGS OF FACT

The Commission, after hearing testimony and considering the evidence presented herein, makes the following Findings of Fact:

1. Michael Montandon holds the elected office of Mayor for the City of North Las Vegas, Nevada, and therefore, he is a public officer as defined by 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).

3. Michael Montandon was first elected Mayor of North Las Vegas in July 1997, and began his second four-year term as Mayor on July 1, 2001. He was re-elected to a third four-year term on July 1, 2005.

4. On or about January 5, 2005, Michael Montandon timely filed his Nevada financial disclosure statement as required by NRS 281.561(1).

5. When he submitted his financial disclosure statement on January 5, 2005, Michael Montandon failed to list his position as an officer with the Tonopah and Tidewater Railroad Company, which was incorporated on July 9, 2004.

6. On February 11, 2005, the Nevada Commission on Ethics received a Request for Opinion (Ethics Complaint) regarding the financial disclosure statement filed

by Michael Montandon and the omission of information regarding his position as an officer with the Tonopah and Tidewater Railroad Company.

7. On March 10, 2005, Michael Montandon filed an amended financial disclosure statement listing his position as an officer with the Tonopah and Tidewater Railroad Company.

8. In March 2005, Michael Montandon resigned his position as an officer of the Tonopah and Tidewater Railroad Company.

CONCLUSIONS OF LAW

1. Michael Montandon is a public officer as defined by 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).

WHEREFORE, based upon a preponderance of the evidence in this matter, on majority vote,³ the Commission renders the following Opinion:

OPINION

Statements of financial disclosure for a public officer must contain a list of each business entity with which the public officer or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity. NRS 281.571(1)(f).

³ The motion as to whether the admitted violation was willful was put to a vote and passed unanimously.

Mayor Montandon testified that he failed to list his position as an officer with the Tonopah and Tidewater Railroad Company in his financial disclosure statement. Thus, he violated NRS 281.571(1)(f).

The threshold question before the Commission is whether Mayor Montandon's conduct of failing to comply with NRS 281.571(1)(f) was willful. "Willful violation" means the public officer or employee knew or reasonably should have known that his conduct violated the Ethics in Government Law. NRS 281.4375.

Although Mayor Montandon offers to the Commission that he forgot he was an officer in a company that never had a meeting, transacted any business or made any money, the Commission points out that a mere six months had passed between the formation of the company and Mayor Montandon's filing of his financial disclosure statement. Had he joined the company years prior, it might be reasonable to have forgotten such a fact. What is more, the Nevada Secretary of State's technology allows one to search business entities by an officer's name.

Mayor Montandon admits that he will search the Nevada Secretary of State's records in the future, as he did after the filing of this complaint and prior to submitting his amended disclosure statement. Mayor Montandon resigned as an officer with the Tonopah and Tidewater Railroad Company.

The Commission concludes that, applying the statutory definition of "willful," Mayor Montandon willfully violated NRS 281.571(1)(f) and imposes a civil penalty of \$500.00.⁴ Further, this Commission comments that omissions in financial disclosure statements are a serious issue that merits more than a token fine. This Commission advises that financial

⁴ Commissioners Randy Capurro, Timothy Cashman, and Jim Kosinski voted to approve the motion, while Chairman Caren Jenkins voted nay.

disclosure statements should be carefully completed and require the full attention of public officers.

CONCLUSION

Based on the foregoing, the Commission finds a willful violation by Mayor Montandon of NRS 281.571(1)(f) and imposes a civil penalty of \$500.00 pursuant to NRS 281.551.

NOTE: THE FOREGOING 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.

DATED: April 28, 2006.

NEVADA COMMISSION ON ETHICS

By: _____/s/
Caren Jenkins, Chairman