



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: February 18, 2015 at 9:30 a.m.
PLACE OF MEETING: This meeting will be held at the following location:

**Public Utilities Commission
Hearing Room A
1150 East William Street
Carson City, NV 89706**

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

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.

OPEN SESSIONS:

	1. Call to Order , Roll Call, and Pledge of Allegiance to the Flag.
	2. 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	3. Open Session for consideration and approval of Minutes from the January 21, 2015 Commission meeting.
	4. Open Session for report by the Executive Director on agency status and operations; including an update on the Commission's legislative measures (A.B. 60) and budget presentations before the Nevada Legislature.

For Possible Action	5. Open session for interviews and consideration of candidates for the Commission Counsel position, and appointment of a candidate as the Commission Counsel. Under NRS 241.020(2)(d)(5), the Commission may consider the character and professional competence of the following applicants for appointment as the Commission Counsel: 1.) Tracy Chase, 2.) Jill C. Davis, 3.) Angie Elquist and 4.) Mark Krueger
*For Possible Action	6. 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).
	7. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.
For Possible Action	8. Open Session for discussion and consideration of Commission's appointment processes and procedures for Commission staff.
	9. 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.
	10. Adjournment.

CLOSED SESSIONS:

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

*	A. 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).
	B. Closed Session to discuss potential or pending litigation.

***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, The Open Meeting Law. As a result, these agenda items, or any portion of them, may be heard in closed session.**

NOTES:

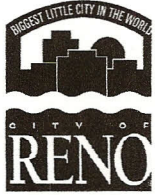
- ❖ The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada Commission on Ethics, in writing at 704 W. Nye Lane, Ste. 204, Carson City, 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 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. 2

AGENDA ITEM NO. 2



CIVIL SERVICE COMMISSION City of Reno

February 9, 2015

To Whom It May Concern:

As Chairperson for the Reno Civil Service Commission, it is my pleasure to provide this letter of recommendation for Ms. Tracy Chase. I have known Ms. Chase in her capacity as a Deputy City Attorney, and later as the Chief Civil Deputy City Attorney, for the City of Reno for many years. During this time, I have had the privilege of working with her, both as legal counsel for the Reno Civil Service Commission, as well as in her role of legal counsel representing the interest of the Reno City Council and the City of Reno.

In my opinion, Ms. Chase is one of the finest attorneys with whom I have had the pleasure of working. Based on my experience, the opposing party's willingness to listen and engage in discussions aimed at solving problems, rather than simply restating viewpoints, was due to Ms. Chase's influence in the room.

It is also my experience that Ms. Chase brings the highest level of professional integrity to her work. She is diligent, thoughtful, and resourceful; she is principled; and her advice and instruction is delivered in a clear, concise manner designed to enlighten and elucidate.

Through her example and instruction, I have become a much better public servant and I believe it is fair to state that the Commission as a whole (past and present) would join me in this sentiment. It is, therefore, with the highest regard for Ms. Chase that I would recommend her for any position you may have.

If I can be of further service to you in this matter, please do not hesitate to call. I can be reached at 775-787-7892.

Sincerely,

Jean E. Atkinson

Chairperson, Reno Civil Service Commission

AGENDA ITEM NO. 3

AGENDA ITEM NO. 3



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

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

January 21, 2015

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, January 21, 2015, at 9:00 a.m. 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**

OPEN SESSION:

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

Chairman Lamboley called the meeting to order at 9:05 a.m. Present in Carson City, Nevada were Chairman Paul H. Lamboley, Esq. and Commissioners Cheryl A. Lau, Esq. and James M. Shaw. Also present in Carson City were Executive Director/Commission Counsel Yvonne M. Nevarez-Goodson, Esq. and Senior Legal Researcher Darci Hayden.

Present in Las Vegas Nevada were Vice-Chairman Gregory J. Gale, CPA and Commissioners Timothy Cory, Esq., Keith A. Weaver, Esq. and Magdalena Groover. Also present in Las Vegas, Nevada was Associate Counsel Jill C. Davis, Esq.

Commissioner John C. Carpenter appeared via telephone.

CLOSED SESSION:

Chairman Lamboley called the meeting into Closed Session at 11:18 a.m.

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).

This agenda item was held in closed session and will not be available to the public.

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.

This agenda item was held in closed session and will not be available to the public.

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.

This agenda item was held in closed session and will not be available to the public.

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).

This agenda item was deferred to the February 18, 2015 meeting of the Commission.

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).

This agenda item was held in closed session and will not be available to the public.

OPEN SESSION:

The Chairman called the meeting back into Open Session at 11:18 a.m.

8. Open Session for Public Comment.

After going back into Open Session after a lengthy Closed Session, Chairman Lamboley opened the session for Public Comment.

No public comment.

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).

This agenda Item was called out of order. Appearing before the Commission was Rew Goodenow, Esq., of Parsons, Behle and Latimer, counsel for Subject Tim Kuzanek, and Subject, Mr. Kuzanek. Chairman Lamboley stated that the Commission members had reviewed the proposed Stipulated Agreement ("Agreement") in closed session and were prepared to move forward with the Agreement. The Chairman asked Mr. Goodenow if he had any comments and Mr. Goodenow responded that he had no comments and understood that the Commission was ready to vote on the Agreement. Chairman Lamboley followed with an inquiry regarding comments from Associate Counsel, Jill Davis, and Ms. Davis had none.

Commissioner Lau moved to approve the stipulated agreement and Commissioner Shaw seconded the motion. Executive Director Nevarez-Goodson submitted the Agreement and the motion was put to a vote and carried unanimously.

CLOSED SESSION:

Chairman Lamboley temporarily called the meeting back into Closed Session at 11:27 a.m.

Commissioner Carpenter was excused from the remainder of the meeting.

6. Closed Session to discuss potential or pending litigation.

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

OPEN SESSION:

Chairman Lamboley called the meeting back into Open Session at 12:22 p.m.

8. Open Session for Public Comment.

No public comment.

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).

This agenda item was taken out of order and deferred to the February 18, 2015 meeting of the Commission.

11. Open Session for consideration and approval of Minutes from the November 19, 2014 Commission Meeting.

Commissioner Lau moved to approve the November 19, 2014 Commission Meeting minutes and Commissioner Shaw Seconded the motion. The Commission voted and approved the minutes.

12. Open Session for discussion regarding the recruitment process for the Commission Counsel position.

Chairman Lamboley stated that the Commission should notice and post the Commission Counsel vacancy and job announcement and asked Executive Director Nevarez-Goodson to report on which lawyer applicants from the previous Executive Director interview process wished to remain on the list for the Commission Counsel position. Ms. Nevarez-Goodson reported that three of the interviewees remained on the list pending a confirmation of one of the three.

The Commission discussed the recruitment timelines and determined that applicant interviews and appointment of the new Commission Counsel would occur at the next scheduled Commission meeting on February 18, 2015, after the Personnel Subcommittee evaluated the applications on or about February 9 or 10, 2015. The Commission discussed and approved the job description to be posted. Ms. Nevarez-Goodson concluded the item by confirming the February 18, 2015 Commission meeting date for selection of the final candidate.

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

Chairman Lamboley introduced the item and turned it over to Executive Director Nevarez-Goodson.

Executive Director Nevarez-Goodson directed the Commission to the copy of AB 60, prefiled and referred to the Assembly Committee on Legislative Operations and Elections ("Assembly Committee") on December 20, 2014, previously Bill Draft Request No. 23-309. Ms. Nevarez-Goodson noted that AB 60 was scheduled for Committee introduction on February 5, 2015, and was presently scheduled as the only bill up for consideration at the meeting, and the Committee staff requested a presentation on the provisions of the Bill and the Ethics Commission in general. Ms. Nevarez-Goodson stated that she had discussed AB 60 with Joseph Reynolds,

the Commission's liaison with the Governor's office, and he would advise her of any concerns or issues the Governor may have but that there is not likely to be any concerns since they had already reviewed and approved the bill draft prior to prefiling as AB 60.

Ms. Nevarez-Goodson moved next to the Commission's budget update noting that this was part of the new quarterly review process of the budget as requested by the Chair. Ms. Nevarez-Goodson noted the reference to a salary savings created by the recent Executive Director vacancy and stated that her goal was to target some of the funds to hire a temporary employee to provide staff assistance during the Executive Assistant's upcoming maternity leave.

Ms. Nevarez-Goodson also reported on her goal to meet with all of the Assembly Committee members individually prior to her presentation on February 5, 2015. She also shared her plans to meet with members of the budget committees because the budget committee meetings would likely occur early in Session and she wanted to address individual concerns and questions about the Commission's budget prior to the budget committee meetings.

Ms. Nevarez-Goodson reported on the status of pending Ethics in Government Law training that is specifically targeted for the Southern Nevada local jurisdictions and other training and collaborations with the universities. Ms. Nevarez-Goodson reported that Northern Nevada had been fairly well covered to date between her efforts and those of Associate Counsel Jill Davis, and that they had not been required to turn down any requests to date.

Ms. Nevarez-Goodson asked the Commission if they had any questions regarding the budget. Ms. Nevarez-Goodson then inquired whether the BDR subcommittee established previously for the drafting of AB 60 would continue to be available for questions by the Executive Director and staff throughout the Legislative Session.

Commissioner Gale asked about the removal of furloughs as mentioned by the Governor in his State-of-the-State address. Ms. Nevarez-Goodson confirmed that the Governor did include removal of furloughs when speaking about his proposed budget but it will not be certain until the budget is passed in June. Ms. Nevarez-Goodson took this opportunity to mention that she had also spoken to Joseph Reynolds at the Governor's office about our requested budget salary adjustments and he responded that, though he could not offer any assurances, he would readdress the request and confirm the Governor's position before budget committees.

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

Commissioner Lau asked to change the June meeting from June 15 to June 24, 2015. Chairman Lamboley asked the Commissioners to check their calendars and report back to Ms. Nevarez-Goodson.

15. Open Session for Public Comment.

No public comment.

9. Adjournment.

The meeting adjourned at 12:50 p.m.

Minutes prepared by:

Minutes approved: February __, 2015:

Darci Hayden
Senior Legal Researcher

Paul H. Lamboley, Esq.
Chairman

AGENDA ITEM NO. 4

AGENDA ITEM NO. 4

EXECUTIVE AGENCY
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: January 29, 2015

Agency Submitting: Nevada Commission on Ethics

Items of Revenue or Expense, or Both	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Effect on Future Biennia
Expense - Section 3: Potential increased staff resources (Expense)				
Total	0	0	0	0

Explanation

(Use Additional Sheets of Attachments, if required)

A.B. 60 (BDR 23-309) clarifies various provisions of the Ethics in Government Law (NRS 281A). Primarily, the bill clarifies various legal distinctions and timelines for the filing and disposition of requests for opinion from the Nevada Commission on Ethics.

Section 3 authorizes the Commission to accept anonymous complaints (third-party requests for opinion). This may result in increased filings with the Commission with public requests for the Commission to investigate allegations of misconduct by public officers and employees. However, the same minimum evidentiary threshold will remain required for the Commission to accept jurisdiction and initiate an investigation of such a complaint. The anonymity simply means that a person requesting the opinion does not need to be identified if the request is filed with sufficient evidence to warrant an investigation. The provisions are also discretionary such that the Commission is not mandated to accept jurisdiction or undertake an investigation of all such complaints. It is anticipated that the Commission will receive more complaints and increased case-load as a result of this amended language, but it has established staff practices to properly evaluate those requests for sufficiency to investigate. It is not anticipated or requested that the Commission will require additional staff to accommodate this function and the Commission has the current resources to absorb the additional staff time it will take to evaluate such requests. No other provisions of the bill impose any new obligations on the Commission. Therefore, the Commission has determined that this bill does not create a fiscal impact on the Commission.

Name /s/ Yvonne M. Nevarez-Goodson

Title Executive Director

DEPARTMENT OF ADMINISTRATION'S COMMENTS

Date Thursday, January 15, 2015

The agency's response appears reasonable.

Name Julia Teska

Title Director



**EXECUTIVE AGENCY
FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: January 29, 2015

Agency Submitting: Department of Administration

Items of Revenue or Expense, or Both	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Effect on Future Biennia
Tota	0	0	0	0

Explanation

(Use Additional Sheets of Attachments, if required)

The agency has reviewed the bill and determined that there is no fiscal impact

Name Evan Dale

Title Administrator

DEPARTMENT OF ADMINISTRATION'S COMMENTS

Date Friday, January 16, 2015

The agency's response appears reasonable.

Name Julia Teska

Title Director

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**LOCAL GOVERNMENT
FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: February 7, 2015

Agency Submitting: Local Government

Items of Revenue or Expense, or Both	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Effect on Future Biennia
Tota	0	0	0	0

Explanation

(Use Additional Sheets of Attachments, if required)

See attached.

Name Michael Nakamoto

Title Deputy Fiscal Analyst

The following responses from local governments were compiled by the Fiscal Analysis Division. The Fiscal Analysis Division can neither verify nor comment on the figures provided by the individual local governments.

Local Government Responses
A.B. 60 / BDR 23 - 309

City/County: Carson City Approved by: Nickolas A. Providenti, Finance Director Comment: No fiscal impact to Carson City.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: Churchill County Approved by: Eleanor Lockwood, County Manager Comment: If BDR 23-309 passes, the County would be required to train all employees on the avoidance of conflict of interest requirements in ethics law. This would create an added burden on staff time to provide training and answer questions when issues arise. While the fiscal impact is unknown, it is not anticipated to be material or significant.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Cannot Be Determined	\$0	\$0	\$0	\$0

City/County: Clark County Approved by: David Dobrzynski, Assistant Director of Finance Comment: No Fiscal Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: Douglas County Approved by: Mark B. Jackson, District Attorney Comment: This legislation would have no fiscal impact on Douglas County.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: Eureka County Approved by: Michael Mears, Budget Director Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: Pershing County Approved by: Karen Wesner, Admin. Assist. Comment: There should not be an impact.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: Washoe County Approved by: Liane Lee, Government Affairs Manager Comment: Washoe County has several dozen public officers who are subject to the requirement to abstain from voting or acting on a matter when the independence of judgment would be affected by a gift, loan, significant pecuniary interest or commitment to the interest of others. Section 2 would make those restrictions applicable to the roughly 2000 employees of the county. That would greatly multiply (perhaps by 50 times) the number of analyses of potential conflicts of interests by the county's legal advisors. That would significantly burden the District Attorney's Office.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Has Impact	\$0	\$0	\$0	\$0

City/County: White Pine County Approved by: Elizabeth Frances, Finance Director Comment: It is difficult to estimate the impact that would be seen if NRS 281A.420 was expanded to include employees in the manner being proposed. The question of potential liability, amendment to personnel policies and employee education could all be areas of potential cost to the County.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Cannot Be Determined	\$0	\$0	\$0	\$0

City/County: City of Elko Approved by: Curtis Calder, City Manager Comment: The City of Elko has no comments and/or concerns at this time. It appears there is little to no fiscal impact for the City of Elko.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: City of Henderson Approved by: Mike Cathcart, Business Operations Manager Comment: This legislation could increase costs for the City of Henderson by possibly adding additional cases to be reviewed by the City Attorney's Office. However, the volume of cases to be reviewed is unknown at this time.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Cannot Be Determined	\$0	\$0	\$0	\$0

City/County: City of Las Vegas Approved by: Michelle Thackston, Administrative Secretary Comment: Minor costs associated with compliance, but unable to estimate.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Cannot Be Determined	\$0	\$0	\$0	\$0

City/County: City of Reno Approved by: Ryan High, Budget/Strat. Initiatives Mgr. Comment: After initial review, there is no fiscal impact to the City of Reno.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: City of Sparks Approved by: Jeff Cronk, Financial Services Director Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: Carson City School District Approved by: Andrew J. Feuling, Director of Fiscal Services Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: Clark County School District Approved by: Nikki Thorn, Deputy CFO Comment: CCSD expects impact to the district in terms of the need to hire an additional in-house general counsel staff member to ensure adequate staff access to attorney legal advice prior to decision making. The estimate cost of the additional staff including benefits is \$134,726.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Has Impact	\$0	\$134,726	\$134,726	\$269,452

School District: Douglas County School District Approved by: Holly Luna, CFO, Business Services Comment: The proposed changes to this bill are grammatical in nature. The potential Fiscal Impact does not change with the language changes proposed except to make any penalties discretionary by the Commission. Since Fiscal Impact is due to any violations of ethics by employees or public officers, the Fiscal Impact is difficult to ascertain, but does not specifically change with the language changes. Section 4 has changes that make civil penalties discretionary instead of mandatory by the Commission				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Cannot Be Determined	\$0	\$0	\$0	\$0

School District: Esmeralda County School District Approved by: Monie Byers, Superintendent Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: Lincoln County School District Approved by: Steve Hansen, Superintendent Comment: To abstain from voting by elected Board of Trustees because of a conflict of interest does not appear to have a fiscal impact for our District.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: Lyon County School District Approved by: Philip Cowee, Director of Finance Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: Nye County School District Approved by: Kerry Paniagua, Executive Secretary Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: Pershing County School District Approved by: Dan Fox, Supt Comment: This does not appear to place a fiscal impact on the district.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: Storey County School District Approved by: Robert Slaby, Superintendent Comment: Attorney fees for defense.				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
Has Impact	\$0	\$0	\$0	\$0

School District: Washoe County School District Approved by: Lindsay E. Anderson, Director of Government Affairs Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

School District: White Pine County School District Approved by: Paul Johnson, CFO Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

City/County: Lincoln County Approved by: Denice Brown, Admin Assistant Comment: No Impact				
Impact	FY 2014-15	FY 2015-16	FY 2016-17	Future Biennia
No Impact	\$0	\$0	\$0	\$0

The following cities, counties, and school districts did not provide a response: Elko County, Esmeralda County, Humboldt County, Lander County, Lyon County, Mineral County, Nye County, Storey County, Boulder City, City of Mesquite, City of North Las Vegas, Churchill County School District, Elko County School District, Eureka County School District, Humboldt County School District, Lander County School District, and Mineral County School District.

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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.

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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 ~~the~~ *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.



AGENDA ITEM NO. 5

AGENDA ITEM NO. 5



COMMISSION ON ETHICS

UNCLASSIFIED JOB ANNOUNCEMENT

Posted – January 21, 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 assists in drafting and recommending 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.

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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:

0

Number of indirect reports:

4 positions: All Commission staff other than the Commission Counsel report directly to the Executive Director. However, many job duties of the Associate Counsel and Senior Legal Researcher are assigned and supervised by the Commission Counsel.

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

4. Report legal status of all matters to Commission in closed meetings or open public meetings, as appropriate.
5. Ensure meetings and public hearings are prepared and conducted in accordance with appropriate laws and guidelines, including the Nevada Open Meeting Law.
6. Prepare all legal documentation on behalf and in support of Commission business.
7. Communicate regularly and work closely with Commission Chair to organize Commission's activities and legal caseload.
8. Supervise all legal activities of Commission unrelated to investigations of Third-Party RFOs.
9. Work with Executive Director on legal/administrative issues as necessary.
10. Administer all activities related to Commission's legal matters.
11. Assign, review and supervise various job duties of Commission's Senior Legal Researcher and Associate Counsel related to legal matters other than Third-Party RFOs.
12. Prepare written evaluations of job performance of Senior Legal Researcher and Associate Counsel on duties as assigned and report same to the Executive Director.

PUBLIC INFORMATION AND EDUCATION

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

REQUESTS FOR OPINIONS:

16. **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.
17. **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:

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

LITIGATION:

- 19. 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:

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

RESTRICTIONS

- 23. In accordance with NRS 281A.250(4), the Commission Counsel may not participate in any other employment.
- 24. 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

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TO APPLY:

SUBMIT A LETTER OF INTEREST, A RESUME, YOUR SALARY REQUIREMENTS, ANY LETTERS OF RECOMMENDATION 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, 2015**. 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.

NCOE COMMISSION COUNSEL-BASIC BACKGROUND INVESTIGATION

Various Internet searches and review of social media revealed the following public information and/or records.

The same basic search criteria was used equally for all candidates for this limited background investigation.

Tracy Chase

- Most recent employment City of Reno-Chief Deputy City Attorney since 1998
- Ran for Reno City Attorney (2014) Withdrew from race on 3/24/14. *See attached campaign flyer*
- University of the Pacific law School 1986
- Provided legal counsel to various subjects in confidential NCOE First-Party opinions, including NCOE Opinion No. 13-54A (Dortch), confidentiality waived; *see attached opinion*

Jill C. Davis

- Currently Serving as Associate Counsel for NCOE
- Previously vetted for NCOE Executive Director position
- Limited social media exposure available to the public

Angie Elquist

- AKA Angela M. Elquist
- California Western School of Law 2002
- Former Lander Co. DA (2010-2014)
- Provided legal counsel to subject in NCOE Opinion No. 13-85C (Bullock). *See attached opinion*
- Previously a listed Officer in Elquist Mining Co, Inc., and Coleshill Mountain, LLC.
- Currently a Managing Member of Filippini Properties LLC.
- Limited social media exposure available to the public

Mark J. Krueger

- Unsuccessful bid for Carson City District Court Judge (2008)
- Lost election bid for Carson City DA (2014)
- Currently applicant with Judicial Selection Committee for judicial appointment in 9th Judicial District Court. (Interviews to be held on 2/24/15 & 2/25/15 prior to Governors selection for vacant seat) *See attached application*
- Previously vetted for NCOE Executive Director position
- Most recent employment- Assistant DA for Carson City
- California Western School of Law 1998
- Limited social media exposure available to the public

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ELECT TRACY CHASE

RENO CITY ATTORNEY


[Welcome/News](#)
[About Me](#)
[Issues](#)
[Volunteer/Donate](#)

Independent Advocate

City of Reno is a wonderful city and is my hometown. Please join me in the effort to make our neighborhoods safer and our government accountable and fiscally responsible. If elected, I will operate the City Attorney's office in an efficient and professional manner which is responsive to the needs of the citizens.

Protect our City by ensuring local business, safety, emergency response, and prosecution focus on the rights of victims and witnesses. We do for our family community is what we do for us.



It is an honor to receive your support for Reno City Attorney.

To receive emails from or to volunteer for the campaign, please send an email to tracychase@ymail.com

Latest News

February 21, 2014

Please join Tracy for Coffee at Kimmies on March 5, 2014, between 3:00 and 6:00 p.m.

January 22, 2014

Tracy announces her candidacy for Reno City Attorney!

Who is the City Attorney?

The City Attorney is elected to serve the public as the official counsel for the City of Reno. It is the City Attorney's job to represent the City's interests in all legal matters both civil and criminal.

A vast majority of the City Attorney's expertise is directed at providing legal services for litigation, risk, code, business licenses, land use, public works projects, contracts, and government purchasing with millions of taxpayer dollars on the line.

Importantly, the City Attorney advises the City Council, giving opinions on compliance with laws, including Nevada's Ethics in Government Code, Open Meeting Law, and other statutes that protect the rights of the public.

The City Attorney's office prosecutes misdemeanor crimes, has established victim advocates, and maintains programs for victims of domestic violence, including educational seminars and providing cell phones to enable victims to contact needed help.







STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the First-Party Request for
Advisory Opinion Concerning the Conduct
of **Dwight Dortch**, Member, City Council
City of Reno, State of Nevada,

Request for Opinion No. **13-54A**
CONFIDENTIAL

Public Officer. /

CONFIDENTIAL OPINION

I. STATEMENT OF THE CASE

Reno City Council Member Dwight Dortch ("Dortch") requested this confidential advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.440(1) regarding the propriety of his anticipated future conduct as it relates to the Ethics in Government Law (Ethics Law) set forth in Chapter 281A of the Nevada Revised Statutes ("NRS"). A quorum¹ of the Commission heard this matter on July 17, 2013. Dortch appeared in person and provided sworn testimony.

Dortch sought an opinion from the Commission regarding his disclosure and abstention obligations concerning a matter expected to appear before the City Council affecting the interests of his homeowner's association.

After fully considering Dortch's request and analyzing the facts, circumstances and testimony presented by Dortch, the Commission deliberated and orally advised Dortch of its decision that he must disclose his relationship with and the interests of his homeowner's association before voting on related measures before the Reno City Council, but he need not abstain from voting. The Commission now renders this final written Opinion stating its findings of fact and conclusions of law.

Dortch elected to retain confidentiality with respect to the Commission's proceedings. Therefore, the Commission will publish an abstract of this Opinion.

The facts in this matter were obtained from documentary and testimonial evidence provided by Dortch. For the purposes of the conclusions offered in this Opinion, the Commission's findings of fact set forth below accept as true those facts Dortch presented. Facts and circumstances that differ from those presented to and relied upon by the

¹ The following Commissioners participated in this opinion: Chairman Paul Lamboley, Vice-Chairman Gregory Gale and Commissioners John Carpenter, Timothy Cory, Magdalena Groover, Cheryl Lau, James Shaw and Keith Weaver.

Commission may result in different findings and conclusions than those expressed in this Opinion.

II. QUESTION PRESENTED

Dortch questions whether his membership in a homeowner's association establishes a commitment in a private capacity to the interests of the homeowner's association or creates a significant pecuniary interest in matters under consideration by the City Council which affect the homeowner's association and therefore require his disclosure and/or abstention.

III. FINDINGS OF FACT

1. In his public capacity, Dortch has served as the Councilman representing Ward 4 of the City Council since 2002, and he also serves as the City Council's member-representative on the Reno Redevelopment Agency ("RDA"). As Councilman, Dortch's duties generally include formulation, administration and enforcement of policies, codes and ordinances, approval of City agreements and budgets, and implementation of administrative, economic development, public safety, recreational and cultural matters.
2. Dortch owns property subject to the University Ridge Homeowner's Association ("URHOA") in Reno, Nevada. As a property/home owner, Dortch automatically serves as a member of the URHOA. Membership in a homeowner's association ("HOA") is not voluntary; it is an obligation running with the land to the current property owner.
3. Dortch does not serve on the URHOA Board of Directors.
4. Dortch pays approximately \$30 in monthly dues to the URHOA. The URHOA maintains common areas of the association and enforces the CC&Rs. The URHOA engages legal representation for matters affecting the legal rights of the homeowners and may assess special fees against its members to pay such expenses.
5. NRS 116.3115 permits an HOA to assess its members for any judgments against the HOA, in proportion to the liabilities for common expenses. The URHOA issues uniform (or equal) assessments of its members. The statute does not establish individual authority for an aggrieved applicant of a Special Use Permit or other administrative action to sue any individual member of an HOA, including Dortch.²

² **NRS 116.3115 Assessments for common expenses; funding of adequate reserves; collection of interest on past due assessments; calculation of assessments for particular types of common expenses; notice of meetings regarding assessments for capital improvements.**

1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.3115. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

6. An applicant's recourse against the denial of a Special Use Permit or other administrative action by the City is judicial review of the City Council's final decision. To the contrary, if an application for a Special Use Permit or other administrative action is granted and the HOA is aggrieved by the decision, the HOA may seek judicial review of the City's decision. The adverse parties to the application may otherwise participate in the judicial review litigation. In any judicial proceeding, there is a potential for attorney's fees, costs or other judgments against any party.
7. In January/February 2013, C4 Equity LLC, a private entity, submitted an application to the Reno Planning Commission for a Special Use Permit to allow the operation of a truck terminal and outdoor processing center on a parcel of land which is located adjacent to properties within the URHOA. This application is hereafter referred to as "Gaslight Lane #1."

2. Except for assessments under subsections 4 to 7, inclusive, or as otherwise provided in this chapter:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. Except as otherwise provided in the governing documents:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense benefiting fewer than all of the units or their owners may be assessed exclusively against the units or units' owners benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If damage to a unit or other part of the common-interest community, or if any other common expense is caused by the willful misconduct or gross negligence of any unit's owner, tenant or invitee of a unit's owner or tenant, the association may assess that expense exclusively against his or her unit, even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

8. The Planning Commission makes decisions concerning applications for Special Use Permits which are appealable to the City Council.
9. Gaslight Lane #1 requested the Special Use Permit to allow the operation of a truck terminal, outdoor processing center for various materials, including vegetative materials, asphalt and concrete crushing and grade cuts, and other related land uses. The truck terminal and processing center were intended to be operational from Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. The anticipated land use would have included traffic from the project trucks and public sales of processed materials.
10. URHOA and certain members of the public were opposed to Gaslight Lane #1, alleging nuisance complaints and declining property values. The Planning Commission considered the application during its February 6, 2013 meeting and recommended approval of the application. Several private citizens (individual homeowners) and the URHOA appealed the Planning Commission decision to the City Council. The URHOA was represented by legal counsel, retained at costs to be paid by the homeowners either through existing dues or special assessments. Only certain homeowners whose properties were directly adjacent to the proposed land use were directly affected and prompted the URHOA to represent their interests.
11. The City Council considered the appeal of Gaslight Lane # 1 at its March 13, 2013 meeting. The City Council agendas are posted within the week prior to each meeting. After reviewing the agenda and learning that the URHOA was an appellant in the matter, Dortch sought legal advice from the Reno City Attorney's Office regarding his disclosure and abstention obligations as a member of the URHOA. Based upon the limited information available at the time, the City Attorney's Office advised Dortch to disclose his membership in the HOA and abstain from voting on the appeal. The City Attorney's Office based its abstention advice upon a concern that NRS 116.3115 authorized an HOA Board to assess the property owners for any judgments against the HOA. Since the URHOA was an appellant in the matter, it was subject to potential judgments and therefore created significant pecuniary interests for Dortch in the matter.
12. During its March 13, 2013 meeting, the City Council reversed the Planning Commission's decision, with Dortch disclosing and abstaining and the remaining six members of the City Council voting to deny Gaslight Lane #1. The applicant did not seek judicial review of the City Council's final decision.
13. Due to the short notice between the receipt of the agenda and the meeting, Dortch received conservative, last minute advice from the City Attorney's Office. Upon reconsideration, Dortch and the City Attorney acknowledge his responsibility to disclose his membership in the URHOA, but question whether abstention was necessary considering the similar impact on all members of the URHOA. Dortch anticipates a similar issue appearing before the City Council in the immediate future.

14. In May 2013, C4 Equity LLC submitted a new application to the Reno Planning Commission for a Special Use Permit to divide the same parcel of land which is located adjacent to residential properties within URHOA. This application is hereafter referred to as "Gaslight Lane #2."
15. The developer of Gaslight Lane #2 requested a Special Use Permit³ to divide a parcel of land into four separate parcels. The property is presently zoned as "Industrial." A division of a parcel is deemed to be development according to the Reno Municipal Code. Any development of land adjacent to residentially zoned property, such as the properties within the URHOA, was originally deemed to require a Special Use Permit. After the parcel is divided, each new parcel may have different Code requirements for development because not all parcels will remain adjacent to the residentially zoned property.
16. The URHOA opposes the development application by Gaslight Lane #2 to divide the parcel of land adjacent to its properties.
17. Dortch's property is not within the geographically-defined area which requires notice of the proposed development (division) of the parcel. Accordingly, Dortch does not believe that parceling of the adjacent industrially-zoned property would affect the value of his property. Dortch does not claim to have, nor does he intend to pursue, any individual rights against the developer-applicant as a citizen living near the requested development. Dortch believes that he is similarly situated as any other member of the public and members of his homeowners association with regard to any potential appeal before the City Council.
18. Dortch anticipates that *any* decision by City staff and the Planning Commission will be appealed to the City Council by the aggrieved party and ultimately subject to judicial review. Accordingly, Dortch understands that URHOA will have attorneys' fees in either event, to bring the appeal or otherwise defend against the appeal.

IV. STATEMENT AND DISCUSSION OF ISSUES AND RELEVANT STATUTES; COMMISSION DECISION

A. ISSUES

Dortch must commit himself to avoid actual and perceived conflicts of interest by disclosing sufficient information concerning any private relationships and interests which would reasonably affect matters before the City Council. NRS 281A.420(1). He is also required to abstain from voting or otherwise acting on matters in which such relationships and related interests would clearly and materially affect the independence of judgment of

³ Although the developer originally submitted an application for a Special Use Permit ("SUP"), the City later determined that the SUP would not be required. Rather, the City determined that the Developer could submit an application for a parcel map adjustment and the City staff could make an administrative decision regarding the application which would be appealable to the City Planning Commission and then to the City Council. Regardless of the procedure, the City Council is ultimately expected to consider the matter on appeal.

a reasonable person in his position. NRS 281A.420(3). The Ethics law presumes that certain relationships and/or interests do not require abstention where the matter does not impact the public officer or employee any more or less than others who are similarly situated. NRS 281A.420(4).

Dortch owns property which is subject to a homeowner's association ("HOA"). A private developer has submitted an application to the City seeking to divide a parcel of land into four separate parcels. The land is located adjacent to properties within Dortch's HOA and is presently zoned for industrial use. Any development of land adjacent to residentially zoned property, such as the properties within the HOA, requires City action (staff or Planning Commission), which may be appealed to the City Council and subject to judicial review. If Dortch's HOA becomes an interested party in the matter expected to be appealed to the City Council, Dortch requests advice concerning his disclosure and abstention obligations.

Dortch's membership in the HOA constitutes a commitment in a private capacity to the interests of the HOA and establishes a significant pecuniary interest in the matter before the City Council based on the nature of the HOA's legal representation. Dortch pays monthly dues and other assessments for his HOA to maintain common areas, enforce CC&Rs and otherwise represent the legal interests of the HOA and homeowners in various development matters. As a member of the HOA, Dortch may also be liable for any potential judgments levied against the HOA. NRS 116.3115.

Based on his membership and pecuniary interests in the HOA, and the interests of the HOA in matters before the City Council, Dortch is advised to disclose the nature of his membership and all pecuniary interests in the HOA before voting on such City matters. However, based on the nature of the interests, he need not abstain from participating and voting because the interests in and commitments to the HOA would not materially affect the objectivity of a reasonable person in his situation.

B. RELEVANT STATUTES

1. Public Policy

NRS 281A.020(1) provides:

1. It is hereby declared to be the public policy of this State that:
 - (a) A public office is a public trust and shall be held for the sole benefit of the people.
 - (b) 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.

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2. "Commitment in a Private Capacity" Defined

NRS 281A.065 provides:

"Commitment in a private capacity," with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;
3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

3. Disclosure/Abstention

NRS 281A.420(1), (3) and (4) provide:

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.

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

- (a) The public officer's acceptance of a gift or loan;
- (b) The public officer's significant pecuniary interest; or
- (c) The public officer's commitment in a private capacity to the interests of another person.

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

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

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of

a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

C. COMMISSION DECISION

The Ethics Law seeks sufficient separation between private interests and public duties to promote the public trust. NRS 281A.020. The Legislature has deemed certain pecuniary interests and relationships to establish the types of conflicts which require disclosure and abstention, such as relationships with entities with which a public officer or employee shares significant business and similar relationships. NRS 281A.420(1)(3) and (4). In the present case, Dortch's membership in the URHOA constitutes a commitment in a private capacity to the interests of the URHOA and establishes a significant pecuniary interest in the HOA which may conflict with the public interests of the City in its consideration of the Gaslight Lane #2.

In its interpretation of commitments and/or relationships which are substantially similar to business relationships, the Commission has held that volunteer service on the board of directors, or other fiduciary responsibility, of nonprofit and other private entities constitutes a commitment in a private capacity to the interests of that entity within the meaning of NRS 281A.420(8)(e) (now NRS 284.065(6)). See *In re Public Officers*, Comm'n Opinion Nos. 12-15A (2012) and 12-46A (2012). The Commission in this case extends its view of commitments to include the membership in an HOA where the HOA is an interested party in a matter before the public body.

The Commission likewise concludes that Dortch has significant pecuniary interests in the activities and interests of the URHOA before the City Council. He pays dues to URHOA to support and promote the value of his property. Likewise, URHOA's activities and interests have the potential to cost Dortch significant money in assessments for attorney's fees if any judgments are levied against it during its pursuit of litigation. URHOA's interests in Gaslight Lane #2 are directly related to matters over which Dortch has significant influence as a Council member.

Dortch testified that he doesn't believe his personal property values will be impacted by the proposed development set forth in Gaslight Lane #2 and he doesn't anticipate or expect to assert any personal rights against the proposed development. However, the URHOA does oppose the project and anticipates asserting rights against the developer, which has a very tangible and significant effect on Dortch's interests, both pecuniary and personal. Although his membership in the URHOA is not voluntary and runs with the land, he maintains his ownership rights in the property and its related association to the URHOA.

There are various rights and responsibilities associated with membership in an HOA that necessarily implicate pecuniary interests and commitments in a private capacity. Because the URHOA is interested in and adverse to the Gaslight Lane #2, Dortch should disclose the full nature and extent of his membership and interests in the URHOA pursuant to the provisions of NRS 281A.420(1). See *In re Woodbury*, Comm'n

Opinion No. 99-56 (1999). The extent of these interests include the potential impact on his property that may be separate and apart from the properties directly adjacent to the proposed development. His interests may also include the benefits he receives from the URHOA, as well as the extent of any potential assessments/liability for the HOA's participation in the litigation. Without disclosing these interests, Dortch's vote on the matter may be perceived to be wrought with conflict as supporting the efforts of his HOA to enhance his property value or otherwise protect him from potential assessments for HOA liabilities.

Dortch testified that the URHOA would participate in the litigation regardless of the City's determination of the Gaslight Lane #2 application. If the application is approved, URHOA will appeal the decision and if the application is denied, URHOA will participate in the litigation to support the City's determination. In either event, the URHOA will incur attorney's fees that will otherwise be assessed against the homeowners. Therefore, Dortch asserts that his pecuniary interests will not be affected any more or less than any other member of the HOA which is affected by the matter. Accordingly, Dortch is presumed to have independent judgment in matters affecting the Gaslight Lane #2 and abstention is not required. See NRS 281A.420(3).

The Ethics Law presumes the independence of judgment of a public officer where the official matter will not affect his private interests any more or less than any other person affected by the matter. Likewise, the potential for liability is speculative and dependent upon various factors that may take place after the City's action. On this basis, Dortch's pecuniary interests and commitments do not clearly and materially affect the independence of judgment of a reasonable person in his situation and he need not abstain from participating or voting on the matter. The Commission is mindful of the public policy which encourages public officers to represent their constituents' voice on governmental affairs and abstain from voting only in clear cases in which their private interests materially affect their public duties.

V. CONCLUSIONS OF LAW

1. At all times relevant to the hearing of this matter, Dortch was a public officer as defined by NRS 281A.160.
2. Pursuant to NRS 281A.440(1) and NRS 281A.460, the Commission has jurisdiction to render an advisory opinion in this matter.
3. Pursuant to NRS 281A.020 and 281A.420(1), Dortch is advised to disclose sufficient information concerning the nature and extent of his pecuniary interests in and commitments to URHOA and how or whether his relationship and interests, and those of URHOA, affect the City Council's consideration of the Gaslight Lane #2.
4. Applying NRS 281A.420(3) and (4), Dortch is not required to abstain from participating or acting on matters affecting URHOA based on its involvement in the Gaslight Lane #2.

Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law hereafter construed to constitute a Finding of Fact, is hereby adopted and incorporated as such to the same extent as if originally so designated.

The Following Commissioners Participated in this Opinion:

Dated this 1st day of July, 2014.

NEVADA COMMISSION ON ETHICS

By: /s/ Paul H. Lamboley
Paul H. Lamboley
Chairman

By: /s/ Gregory J. Gale
Gregory J. Gale
Vice-Chairman

By: /s/ John C. Carpenter
John C. Carpenter
Commissioner

By: /s/ Magdalena Groover
Magdalena Groover
Commissioner

By: /s/ Timothy Cory
Timothy Cory
Commissioner

By: /s/ Cheryl A. Lau
Cheryl A. Lau
Commissioner

By: /s/ James M. Shaw
James M. Shaw
Commissioner

By: /s/ Keith A. Weaver
Keith A. Weaver
Commissioner





STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Dean Bullock, Member, Board of County
Commissioners, Lander County,
State of Nevada,

Request for Opinion No. **13-85C**

Subject. /

STIPULATED AGREEMENT

1. **PURPOSE:** This stipulated agreement resolves Third-Party Request for Opinion ("RFO") No. 13-85C before the Nevada Commission on Ethics ("Commission") concerning Dean Bullock ("Bullock"), member of the Board of County Commissioners in Lander County, State of Nevada, ("Lander County Commission") and serves as the final opinion in this matter.

2. **JURISDICTION:** At all material times, Bullock served as a member of the Lander County Commission. As such, Bullock is an elected public officer, as defined in NRS 281A.160. The Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A provides the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Bullock in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION**

- a. On or about November 25, 2013, the Commission received this RFO from Brian Garner, another member of the Lander County Commission, alleging that Bullock's failure to abstain from participating in matters before the Lander County Commission which affected his son's business interests violated NRS 281A.400(1), (2), (3), (5), (6) and (10) and NRS 281A.420(3).

- b. As required by NAC 281A.410, the Commission gave Bullock notice of the RFO by mail. Pursuant to NRS 281A.440(3), Bullock was provided an opportunity to respond to the allegations.
- c. Bullock waived his right to submit a response and his entitlement to a panel determination pursuant to NRS 281A.440, and acknowledges that credible evidence establishes just and sufficient cause for the Commission to render an opinion regarding the allegations implicating NRS 281A.400(2) and (5) and NRS 281A.420(3). The allegations pertaining to violations of NRS 281A.400(6) lack sufficient evidence to support a violation by a preponderance of evidence and are therefore dismissed through this Stipulated Agreement.¹
- d. In lieu of a hearing, Bullock now enters into this Stipulated Agreement acknowledging his duty as a public officer to commit himself to protect the public trust and conform his conduct to Chapter 281A of the Nevada Revised Statutes.

4. **STIPULATED FACTS:**

The following events are relevant to this matter:

Parties

- a. Bullock is a member of the Lander County Commission and, during the relevant timeframe, served as Chairman. As such, Bullock is an elected public officer, as defined in NRS 281A.160.
- b. Lander County is a political subdivision as defined in NRS 281A.145.
- c. Scott Bullock is Commissioner Dean Bullock's son.
- d. Angie Elquist, Esq. is a licensed Nevada attorney employed as the District Attorney for Lander County, and serves as counsel to the Lander County Commission. She advised Commissioner Bullock that he should disclose his relationship to Scott Bullock, and that he could participate and vote on issues pertaining to Scott Bullock during County Commission meetings without violating NRS Chapter 281A.

¹Pursuant to NAC 281A.405, the Commission Counsel and Executive Director dismissed allegations pertaining to NRS 281A.400(1), (3) and (10) for lack of evidence. NRS 281A.400(6) applies only to the pecuniary interests of the public officer or employee who is the subject of the matter, and not others, and therefore is not supported by the factual evidence.

- e. Scott Bullock contracts with Lander County to serve as the manager of the Mountain View Golf Course ("Golf Course") owned by Lander County.
- f. Scott Bullock also owns a heating and air conditioning business.

Golf Course and Porta Air Cooler – August 22, 2013 Meeting

- g. In the spring/summer of 2013, the air conditioning at the Golf Course was malfunctioning, and Scott Bullock installed a Porta Air Cooler (evaporator cooler) from his heating and air conditioning business when the County would not remedy the issue.
- h. During the Lander County Commission Meeting on August 22, 2013, Agenda Item No. 17: "Discussion, for possible action for usage of Porta Air Cooler at the Mountain View Golf Course Clubhouse" came before the Lander County Commission, in which Scott Bullock sought reimbursement of approximately \$4,500 for the use of the Porta Air Cooler he had installed.
- i. Bullock made a disclosure on the record, drafted by the County District Attorney Angie Elquist, that stated:

Before we get started, pursuant to NRS 281(A).420, I am disclosing that I may have an interest in a private capacity in this decision because of my son is Scott Bullock. And his company has a lease with the golf course. Even though I have an interest in a private capacity in this matter because my son is Scott Bullock, I believe my decision will not be affected by that interest. And any decision would not give me any more financial and/or personal gain or loss than anyone else that would be affected by this decision; therefore, I will not be abstaining from this decision.

(Minutes of Lander County Commission meeting, August 22, 2013)

- j. During the meeting Bullock advocated for the Lander County Commission to pay his son for the usage of the air cooler, and voted for the same.

Renewal of the Golf Course Management Contract

- k. Scott Bullock's existing contract with Lander County to manage the Golf Course was set to expire in March 2014.

- l. The Lander County Commission, through the Public Works Department ("Public Works"), received two letters of intent to bid on the management contract at the Golf Course for the 2014-2015 seasons.
- m. On September 23, 2013, Fallon Hill ("Hill") submitted a letter of intent to Public Works.
- n. On October 1, 2013, Brian Garner "(Garner)" submitted a letter of intent to Public Works.
- o. On or about September 30, 2013, Scott Bullock submitted a letter, via hand-delivery to Jacob Edgar, an employee of Public Works, to renew his management contract, which included a request for a payment increase.
- p. On October 1, 2013, Aly Guaman, an employee of Public Works, emailed the letters of intent submitted by Hill and Garner to Donna Bohall ("Bohall"), Deputy Clerk for the Lander County Commission.
- q. After Bohall received Guaman's email with the letters, Bohall met with the County Commission's agenda-setting committee, including Chairman Bullock, to inquire whether the two letters from Hill and Garner should be placed on the next meeting agenda. The committee rejected the placement of the letters on the Agenda and informed Bohall that the terms of the current golf course management contract provided the Contractor with an opportunity to request a renewal of the contract.
- r. However, the contract's renewal terms lacked any specific provisions that permitted a right of first refusal or unilateral right to request a renewal of the contract and stated:

Term: This Agreement shall remain in effect from the date it is approved by both parties to the 1st day of March 2014. Upon expiration of the term, this Agreement may be renewed for an additional two year period if agreed upon by both parties.

(Scott Bullock's Golf Course Contract)

- s. The meeting packet for the October 10, 2013 meeting agenda contained only Scott Bullock's September 30, 2013 letter requesting renewal of his contract to manage the Golf Course and a copy of his prior contract.

Golf Course Management Renewal and October 10, 2013 meeting

- t. On October 10, 2013, Chairman Bullock called Agenda Item Number 19 regarding discussion for possible action pertaining to renewal of the Mountain View Golf Course Management contract between Lander County and Scott Bullock, d/b/a Bullock Management Services, and other matters properly related thereto. Bullock made another disclosure drafted by District Attorney Angie Elquist.

Pursuant to NRS 281A.420, I am disclosing that have an interest in a private capacity in this decision because of my son is Scott Bullock, and his company has a lease with the golf course. Even though I have an interest in a private capacity in this matter, because my son is Scott Bullock, I believe my decision will not be affected by that interest. And any decision would not give me any more financial and/or personal gain or loss than anyone else that would be affected by this decision. Therefore, I will not be abstaining from this decision.

(Minutes of Lander County Commission meeting, October 10, 2013)

- u. Bullock continued his disclosure in response to a comment by Commissioner Garner pertaining to opening the contract up for bids. Bullock stated:

It's no -- this -- now that I've said that. This is no different than the lawns, the airport, the janitorial. We give them to (sic) option to renew. And that's the way -- that's -- that's kind of the precedence (sic) that's been set. I mean, it's up to the Commission if they want to renew it or go back out for bids. That's why it's here.

(Minutes of Lander County Commission meeting of October 10, 2013)

- v. At the meeting, Chairman Bullock advocated for the renewal of the contract with Scott Bullock's proposed revision to increase the payment by the County from \$10,000 to \$16,000 per year. The proposed revision of the contract included the lease of five golf carts from Scott Bullock to the County, which accounted for the 6,000-dollar increase.
- w. Chairman Bullock called for a vote on the motion to renew the contract with the change in terms, and voted in favor of the motion. The motion passed.

///

5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Bullock and the Commission agree as follows:

- a. Each of the findings of fact enumerated in section 4 is deemed to be true and correct.
- b. Bullock holds a public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the people of Lander County).
- c. Bullock has a commitment in a private capacity to the interests of Scott Bullock, because Scott Bullock is his son. See NRS 281A.065(3).
- d. Bullock failed to avoid conflicts of interest between his private relationships/interests and public duties and violated the provisions of NRS 281A.020, NRS 281A.400(2) and (5), and NRS 281A.420(3) by advocating for his son's interests in the Golf Course contract, and failing to abstain from voting during the August 22, 2013 and October 10, 2013 Lander County Commission meetings and the October 2013 agenda-setting committee meeting.
- e. At the time of his actions in August and October of 2013, Bullock sought and relied upon District Attorney Elquist's legal advice regarding disclosure, participation and abstention. However, as the nature of the conflict was clear, and an absolute requirement for abstention exists despite the incorrect legal advice offered, Bullock violated the Ethics Law. As a public officer, Bullock has an obligation to understand the requirements of the Ethics Law. The "safe harbor" provision set forth in NRS 281A.480(5) requires reliance upon counsel's advice to be in good faith, and the advice must not be contrary to the Ethics Law or prior, published Commission opinions. No "safe harbor" is available here.
- f. The disclosure should have included information regarding the potential effect of Bullock's action or abstention on the agenda items and the effect it may have had on Scott Bullock's interests. See *In re Woodbury*, Comm'n Opinion No. 99-56 (1999) and *In re Derbidge*, Comm'n Opinion No. 13-05C (2013).

- g. Bullock now fully understands that he should have disclosed sufficient information regarding his relationship with his son, Scott Bullock, a person to whom he had a commitment in a private capacity through a blood relationship in the first degree, to inform the public of the nature and extent of his relationship and Scott Bullock's interests in the Golf Course matter before the Lander County Commission.
- h. Bullock also understands that he must fully disclose and abstain from voting upon any matters regarding Scott Bullock based upon his commitment in a private capacity to Scott Bullock's interests. Bullock's lack of personal pecuniary interest in Scott Bullock's businesses does not nullify his commitment in a private capacity to the interests of his son. Accordingly, Bullock's disclosure in this matter is insufficient. Bullock now understands that counsel provided incorrect advice that Bullock could participate and vote on matters before the County Commission pertaining to Scott Bullock's contract.
- i. Bullock fully understands that he may not participate or vote on matters that pertain to Scott Bullock's interests, including setting the agenda, reviewing competing bid letters and any other matter that impacts a person to whom he has a commitment in a private capacity, such as his son. Such actions provide the person to whom Bullock has a commitment in a private capacity with an unwarranted advantage in obtaining a public contract (NRS 281A.400(2)) through the use of information that is only available through his government position as Chairman of the Lander County Commission (NRS 281A.400(5)).
- j. Bullock's actions pertaining to the August 22, 2013 and October 10, 2013 meetings were willful, and the acts constitute a single course of conduct resulting in a single wilful violation of the Ethics in Government Law, implicating NRS 281A.020, NRS 281A.400(2) and (5) and NRS 281A.420(3).
- k. Pursuant to NRS 281A.480, Bullock will pay a total civil penalty of \$2,000 on or before 90 days from his receipt of the fully executed stipulated agreement in this matter. Bullock may pay the penalty in one lump sum payment or in

monthly installment payments as negotiated with the Commission's Executive Director.

- l. This agreement depends on and applies only to the specific facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.
- m. This agreement applies only to these matters before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal, regarding Bullock.

6. **WAIVER:**

- a. Bullock knowingly and voluntarily waives a full hearing before the Commission on the allegations in this RFO (No. 13-85C) and of any and all rights he may be accorded pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedure Act (NRS Chapter 233B), and the laws of the State of Nevada.
- b. Bullock knowingly and voluntarily waives his right to any judicial review of this matter as provided in NRS 281A, NRS 233B or any other provision of Nevada law.

7. **ACCEPTANCE:** We, the undersigned parties, have read this agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of Commission on April 16, 2014.

DATED this 18th day of APRIL, 2014. Dean Bullock
Dean Bullock

The above stipulated agreement is approved by:

DATED this 2nd day of May, 2014. Rebecca Bruch
FOR DEAN BULLOCK, Subject
Rebecca Bruch, Esq.
Counsel for Subject

FOR CAREN CAFFERATA-JENKINS,
Executive Director, Commission on
Ethics

DATED this 5 day of May, 2014.


Jill C. Davis, Esq.
Associate Counsel

FOR NEVADA COMMISSION ON
ETHICS

DATED this 5th day of May, 2014.


Yvonne M. Nevarez-Goodson, Esq.
Commission Counsel

The above stipulated agreement is accepted by the Commission.²

DATED April 16, 2014.

By: /s/ Paul H. Lamboley
Paul H. Lamboley
Chairman

By: /s/ Gregory J. Gale
Gregory J. Gale
Vice-Chairman

By: /s/ Timothy Cory
Timothy Cory
Commissioner

By: /s/ Magdalena Groover
Magdalena Groover
Commissioner

By: /s/ James M. Shaw
James M. Shaw
Commissioner

By: /s/ Cheryl A. Lau
Cheryl A. Lau
Commissioner

By: /s/ Keith A. Weaver
Keith A. Weaver
Commissioner

² Bullock waived his right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220. Commissioner Carpenter did not participate in this Stipulated Agreement.

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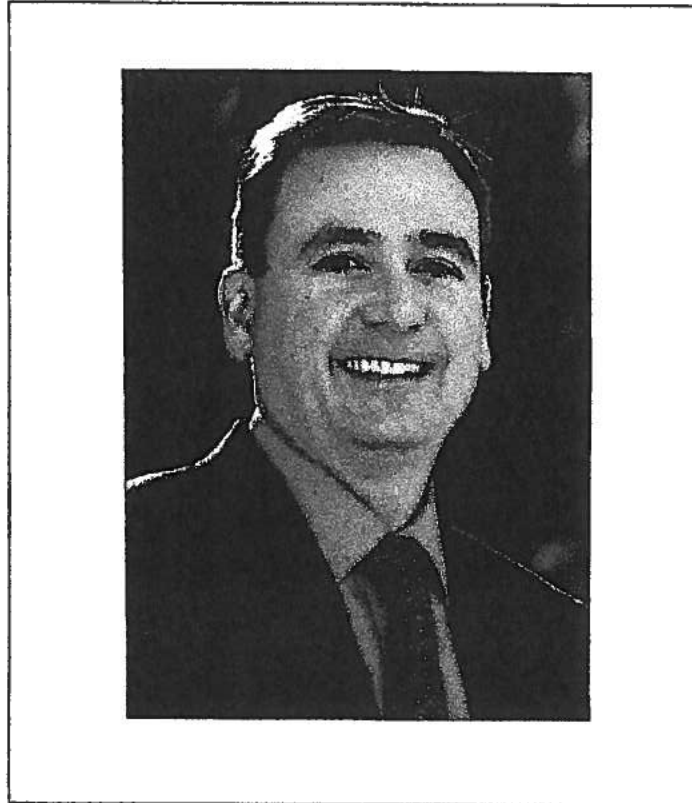
COMMISSION ON JUDICIAL SELECTION

APPLICATION

**NINTH JUDICIAL DISTRICT COURT
DEPARTMENT 2**

By

Mark J. Krueger
(Insert applicant name)



**SECTION I: PUBLIC INFORMATION
(QUESTIONS 1 THROUGH 47)**

Personal Information

1. Full Name:

Mark John Krueger

2. Have you ever used or been known by any other legal name?

No. If so, state name and reason for the name change

3. Work Address:

n/a

4. How long have you been a continuous resident of Nevada?

14 years, 7 months

5. Age:

45

(NRS 3.060 states that a district judge must be at least 25 years old.)

Employment History

6. Using the format provided in Attachment "A" please start with your current employment or most recent employment, self-employment, and periods of unemployment for the 20 years immediately preceding the filing of this Application.

Current or Last Employer: Carson City District Attorney

Phone Number: (775) 887-2072

Address: 885 E. Musser Street, Suite 2030, Carson City, NV 89701

From: September 2012 **To:** January 2015

Supervisor's Name: Neil A. Rombardo

Supervisor's Job Title: District Attorney

Your Title: Assistant District Attorney

Specific Duties: Chief of Staff for the Carson City District Attorney's Office. Supervised criminal and civil divisions. Managed office personnel issues, staff, and budget matters. Chief prosecutor and supervisor for criminal matters in all courts. Prosecuted numerous criminal jury trials including murder, sexual assault, child abuse, and drug related crimes. Liaison to public and press for the office. Provided legal advice to the Board of Supervisors, City Manager, and City departments and advisory boards. Drafted contracts and handled negotiations and disputes, zoning, planning, land use, and assisted in civil litigation. Drafted and defended City Municipal Code.

Reason for Leaving: Change of administration

Previous Employer: Lyon County District Attorney

Phone Number: (775) 463-6511

Address: 31 S. Main Street, Yerington, NV 89447

From: January 2007 **To:** September 2012

Supervisor's Name: Robert L. Auer

Supervisor's Job Title: District Attorney

Your Title: Assistant District Attorney

Specific Duties: Supervised the civil, criminal, and child support enforcement divisions of the Lyon County District Attorney's Office. Developed and administered the office budget. Managed office staff and personnel issues. Chief civil deputy district attorney providing legal advice to the County Commission, County Manager, and County departments and advisory boards. Drafted contracts and handled negotiations and disputes, zoning, planning, land use, and handled all civil litigation. Drafted and defended County Ordinances. Appeared and testified before the Nevada Legislature. Liaison to public and press for the office. Chief prosecutor and supervisor for criminal matters in all courts including prosecution of numerous criminal jury trials including murder, sexual assault, child abuse, and drug related crimes.

Reason for Leaving: Opportunity at the Carson City District Attorney's Office

Previous Employer: Nevada Attorney General

Phone Number: (775) 684-1100

Address: 100 N. Carson Street, Carson City, NV 89701

From: January 2001 **To:** January 2007

Supervisor's Name: Randal R. Munn

Supervisor's Job Title: Assistant Attorney General

Your Title: Senior Deputy Attorney General

Specific Duties: Attorney for the State of Nevada. Represented the Department of Business and Industry, Financial Institutions Division and Mortgage Lending Division, the Office of the Treasurer, Pooled Collateral Program and Unclaimed Property Division, the Office of the Governor, Nevada Office of Energy, the Division of Building and Grounds, the Department of Information Technology, and the Board of Dispensing Opticians as well as other State agencies, departments, boards and commissions. Represented the State of Nevada before the Nevada Legislature, drafted provisions and amendments to the Nevada Administrative Code, drafted contracts and handled negotiations and disputes, represented the State of Nevada in all courts and administrative law bodies, provided legal guidance and advice concerning the open meeting law, licensing and regulation matters including discipline of licensees and employee personnel issues.

Reason for Leaving: Opportunity in Lyon County

Previous Employer: First Judicial District Court

Phone Number: (775) 882-1619

Address: 885 E. Musser Street, Suite 3057, Carson City, NV 89701

From: August 1999 **To:** January 2001

Supervisor's Name: Honorable William A. Maddox and Honorable Michael E. Fondi

Supervisor's Job Title: District Judge

Your Title: Law Clerk

Specific Duties: Observed and assisted each Judge in the performance of his judicial duties; Assisted in trials, hearings, motions, and law and motion (criminal) calendars; reviewed, researched and drafted orders and letters in criminal and civil cases; conducted and oversaw jurors during voir dire and jury trials; interacted with and assisted attorneys and individuals, court clerks, court reporters, and bailiffs with cases, motions, settings, jury duty and other matters.

Reason for Leaving: Opportunity with the Office of the Nevada Attorney General

Previous Employer: Supreme Court of Nevada

Phone Number: (775) 684-1600

Address: 201 South Carson Street, Suite 250, Carson City, NV 89701-4702

From: June 1999 **To:** August 1999

Supervisor's Name: Honorable A. William Maupin

Supervisor's Job Title: Supreme Court Justice

Your Title: Extern

Specific Duties: Assisted law clerks in researching and drafting bench memorandums and in reducing bench memorandums to orders of the Court; assisted in preparation for panel and en banc sessions; provided Court tours.

Reason for Leaving: Opportunity to clerk with the First Judicial District Court

Previous Employer: Seeley Union School District

Phone Number: (760) 352-3571

Address: 1812 W Rio Vista, Seeley, CA 92273

From: Approximately December 1998 to June 1999

Supervisor's Name: David Watson

Supervisor's Job Title: Superintendent and Principal

Your Title: Substitute Teacher

Specific Duties: Substitute teacher for kindergarten through eighth grade.

Reason for Leaving: Temporary employment, opportunity with the Nevada Supreme Court

Previous Employer: California Western School of Law

Phone Number: (619) 239-0391

Address: 225 Cedar Street, San Diego, CA 92101

From: August 1996 **To:** December 1998

Supervisor's Name: n/a

Supervisor's Job Title: n/a

Your Title: Student

Specific Duties: Law student

Reason for Leaving: Graduated

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

University of Wisconsin, Milwaukee, Wisconsin
P.O. Box 413, Milwaukee, WI 53201
January 1992 to May 1994
Bachelor of Arts, History - Graduated

Loyola University, New Orleans, Louisiana
6363 St. Charles Avenue, New Orleans, LA 70118
August 1988 to June 1991
Transferred to the University of Wisconsin

Loudoun County High School, Leesburg, Virginia
415 Dry Mill Road SW, Leesburg, VA 20175
Approximately 1984 to June 1988
High School Diploma - Graduated

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

I was regularly employed with my family's business during high school, and worked to put myself through undergraduate school, therefore I did very little extracurricular activities or special projects in high school or college.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

California Western School of Law, San Diego, California
225 Cedar Street, San Diego, CA 92101
Juris Doctor, December 1998

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

Not employed

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, extracurricular activities.

Participated in ProBono work at the Legal Aid Society of San Diego
Recipient of the ProBono Honors Society Award
Recipient of the State Bar of California Wiley W. Manuel Award

Law Practice

12. State the year you were admitted to the Nevada Bar.

2000

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

n/a

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last 5 years has involved litigation matters, distinguishing between trial and appellate courts. **For judges**, answer questions 16-20 for the 5 years directly preceding your appointment or election to the bench.

90 percent trial, 10 percent appellate

16. Estimate percentage of time spent on (1) domestic/family and juvenile law matters, (2) civil litigation, (3) criminal matters, and (4) administrative litigation.

(1) domestic/family and juvenile - 10 percent
(2) civil litigation - 5 percent
(3) criminal matters - 75 percent
(4) administrative litigation - 10 percent

17. In the past 5 years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

80 percent

18. Give the approximate number of jury cases tried to a conclusion during the past 5 years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

Approximately 9 jury trials during this time period
Approximately 50 non-jury trial during this time period

19. List courts and counties in any state where you have practiced in the past 5 years.

Carson City, Nevada

Nevada Supreme Court

First Judicial District Court

Carson City Justice and Municipal Court

Lyon County, Nevada

Third Judicial District Court

Dayton Justice Court

Canal Township Justice Court

Walker River Justice Court

Douglas County, Nevada

East Fork Justice Court

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), and list or describe:
- a. case name and date,
 - b. court and presiding judge and all counsel
 - c. the importance of each case to you and the impact of each case on you,
 - d. your role in the case.

a. *State v. David Stone*, Sentencing: December 15, 2014

b. First Judicial District Court, Judge James T. Russell
Counsel for the State: Mark J. Krueger and Iris Yowell
Counsel for the Defense: Robert B. Walker

c. This case involved allegations of two counts of child sexual assault by the defendant against a 12 year old male child. This case went to jury trial and the jury convicted the defendant on both counts of sexual assault on a child under the age of 14 years. During the course of the investigation of this case, the State discovered that there were prior allegations that the defendant had sexually assaulted at least four other boys prior to assaulting the victim in this case. One of the prior victims made a report to the Sheriff's Office in 2006 in Carson City. It was forwarded to the District Attorney's Office with a request that charges be filed, but inexplicably charges were never filed in 2006.

I have spent my career as a prosecutor reviewing these types of cases, making decisions to charge or not to charge, and prosecuting many of those cases I charged through jury verdict. They are not easy cases. They are emotional and often have little evidence other than the statements by the victim. However, they are important cases. Too often prosecutors have a fear of charging these types of cases for a variety of reasons. As this case demonstrates, the importance of seeking justice is paramount for a prosecutor. It is not about numbers and indeed the ABA standards for a prosecutor are unequivocal for this reason: "The duty of a prosecutor is to seek justice, not merely convict."

In this case, I reviewed the 2006 report and I determined that I would have charged the crime of sexual assault in 2006. The prosecutor's decision at the time not to charge allowed the defendant to perpetrate the same crimes of sexual assault upon four additional young male victims before this case was charged by me in 2012 which brought the defendant to justice. Listening to the testimony of these other boys (now young men) encouraged my resolve to educate prosecutors, law enforcement, and the defense, to properly evaluate the facts of each case. With such preparation, they are better equipped to investigate, and make appropriate charging decisions in these cases. Justice is not one sided and it is incumbent upon the parties to ensure fairness throughout the process.

As I mentioned, this case is also important to me in realizing my goal to educate. I spent time teaching two deputy district attorneys how to present a trial with sexual assault charges to a jury and properly question victims of sexual abuse. One of them handled questioning the victim in the preliminary hearing and the other in the trial. I learned concision, patience and understanding as I assumed the role of teacher. But I also felt pride in watching these young prosecutors build confidence, skill, character, and professionalism while ensuring justice was being met. My sense of pride was confirmed by discussions with the jury after the verdict where they informed the deputy district attorney that she did an excellent job with the victim.

d. I was lead counsel.

a. *State v. James Johnson*, Sentencing: June 30, 2014

b. First Judicial District Court, Judge James T. Russell
Counsel for the State: Mark J. Krueger and Iris Yowell
Counsel for the Defense: Noel Waters

c. This case involved allegations of three counts of lewdness upon a child under the age of 14 years, three counts of sexual assault upon a child under the age of 14 years, and one count of sexual assault upon a child under the age of 16 years. The assaults occurred by the defendant against the child from the time she was 8 years old until she was 16 years old. The case went to jury trial and the jury convicted on all seven counts.

This case is important for two very distinct reasons. First, it represents confidence by law enforcement, district attorney team members, advocates, victims, witnesses, and the public, that justice can be obtained where crimes are committed in secret. Second, it represents an ideological change in the investigation, review, charging, and prosecution of sexual assault cases in Carson City.

When I came to the Carson City District Attorney's office in 2012, I discovered that sexual assault cases were very rarely charged. All too often, time passed and the cases were closed without charges ever being filed. The passage of time is devastating to the successful prosecution of these cases. As time passes, the memory, the emotions, and the ability of a victim to heal are all adversely impacted. Time changes the dynamics of the witnesses and testimony. Time impacts the ability of law enforcement to properly gather evidence or conduct follow-up. The successful prosecution of this case demonstrated my ability to overcome concerns about the lack of physical evidence, invigorated law enforcement to learn how to properly investigate these crimes, and provided proof that these abuses would not be tolerated in our community.

The jury, after conviction, stated that they observed that we, the prosecutors, believed the victim and believed in the case. That statement resounded with me as my belief in the victim is an essential basis for my decision to charge a case involving these types of crimes committed in secrecy. Being a child should not have to hurt. When a child faces their abuser to explain what happened to a jury, and that jury believes them, it brings peace to the child and paves a way for the child to truly begin healing.

d. I was lead counsel.

a. *State v. Joshua Lockwood*, Sentencing: August 29, 2011

b. Third Judicial District Court, Judge David Huff
Counsel for the State (second trial): Mark J. Krueger and Chelsea Warner
Counsel for the Defense (second trial): Jacob Sommers
Counsel for the State (first trial): Jeremy Reichenberg and Mark J. Krueger
Counsel for the Defense (first trial): Chet Kafchinski

c. This case involved allegations of three counts of child sexual assault by the defendant against a child under the age of 16 years. This case went to jury trial in 2007. It was reversed on appeal by the Nevada Supreme Court for juror error. After the verdict and at the time of sentencing, a juror pronounced that she did her own independent investigation on an issue in the case. The victim was 7 years old when she testified at the first trial. She was 11 years old when I asked her to testify again for the second trial. The jury convicted on all counts in both trials.

This case is important because it taught me that it is incumbent upon the prosecutor and judge to ensure fairness, avoid error, and maintain control over the process. Even though there was no way for the judge, State, or defense to know the juror had done independent investigation during deliberations in the first trial, the reversal made me realize the importance of making sure that admonishments were given, that prosecutors avoided misconduct, and that the judge ensured the process was fair throughout the entire trial.

During the second trial, when I asked the victim questions about what occurred, she was distant and emotionally detached. She clearly did not want to testify again after so much time had passed but yet she was there doing just that. It was in this moment that I asked her a question: "What did you think about when he did these things to you?" The reaction was sudden, emotional, and nearly overwhelming. The victim froze, as if she had been hit and was stunned, tears welled in her eyes, she shook and blurted out "I put myself in a fantasy land and I had a pet dragon and the dragon's name was ..." and she went on and on. I felt terrible for having to put her through that emotional testimony but there is no doubt that she suffered far worse during the assaults than she could ever put into words. It reminds me of a quote by DaVinci, "nothing strengthens authority so much as silence." Her testimony demonstrated an overwhelming conviction that these crimes occur and the proper investigation and prosecution of them, ever mindful of error, results in justice.

d. I was second chair during the first trial and lead counsel during the second trial.

- a. *State v. Kevin Kegal*, Sentencing: March 24, 2008
- b. Third Judicial District Court, Judge David Huff
Counsel for the State: Robert L. Auer and Mark J. Krueger
Counsel for the Defense: Thomas Vilorio

c. This case involved the consensual sex between a 16 year old girl and an adult athletic director of a high school. This case was not unusual in the facts. The sexual relationship was discovered by the girl's mother. However, the facts surrounding the conduct by school employees, members in the community, and the state of the law, make this case important to me.

This case was investigated by the Nevada Division of Investigations (NDI) as the Lyon County Sheriff's Office asked them to investigate due to a conflict. When NDI officers initiated the investigation they found the Lyon County School District became an impediment to their investigation. The Lyon County School District commenced its own investigation fearing civil liability and would not cooperate with NDI. In addition, the principal of the high school told the defendant to not speak with NDI officers or school investigators and to leave the area. Moreover, a local accountant hid the defendant at his home and transported the defendant to Reno to avoid meeting with NDI officers. To make matters worse, we discovered that there was a loophole in the law that did not ensure confidentiality of the victim in this case and the local newspaper printed the victim's photograph.

This case is important to me for two reasons. First, I learned the importance of moving quickly to secure evidence in a case and that anyone can have a motive to thwart the investigation into a case. Second, this case prompted me to seek and obtain legislation in 2009, through AB 328, which closed the loophole in the law and now provides confidentiality protection to the victims of these crimes.

- d. I was second chair and the author, proponent and advocate of the adopted legislation.

a. *State v. Justin Carrigan*, Sentencing: October 21, 2013

b. First Judicial District Court, Judge James T. Russell
Counsel for the State (second trial): Mark J Krueger and Amy Steelman
Counsel for the Defense (second trial): Robert B. Walker
Counsel for the State (first trial): Gerald Gardner and Dan Adams
Counsel for the Defense (first trial): Robert B. Walker

c. This case involved allegations of child abuse and neglect causing substantial bodily harm, and is perhaps the most challenging case I have ever tried. This case went to trial twice and my interaction was only with the second trial. The first trial was reversed on appeal by the Nevada Supreme Court for error in a jury instruction. The jury in the first trial acquitted the defendant of a charge of child abuse causing substantial bodily harm and found the defendant guilty on a charge of child neglect causing substantial bodily harm. During pretrial motions before commencement of the second trial, the presiding Judge restricted the State's ability to present any evidence of the child abuse, the charge the defendant was acquitted on. In brief, the facts were that the defendant had smothered a 3 year old child with a pillow, and then failed to render aid to the child, which caused the child to suffer permanent brain damage rendering the child unable to care for herself for the rest of her life.

The challenge to the State was having to try the case a second time without being permitted to present evidence about what may have happened to the child when the defendant found the child not breathing. In addition, the State was faced with the task of proving the defendant had a duty to act under the law but failed in that duty. This necessitated a new trial strategy that was different from the ideology of the former prosecutors.

In addition, emotions from family members and law enforcement were high because of the reversal and subsequent retrial, the permanent brain damage to the child, and a recent death in their family. To make matters worse, in preparing for trial, the District Attorney's Office misplaced the medical information for the child (which had been turned over to the defense before the first trial), and copies could not be received until the weekend before the second trial. Moreover, the medical doctor who testified to the substantial bodily harm of the child was infuriated that he could not discuss how this child suffered harm but was limited to testifying only that the child did suffer substantial bodily harm.

In face of these challenges, the State obtained a guilty verdict. I am particularly proud of the verdict because it was just. However, this case had an impact on me in different way than other cases. As in many prosecutions, there were no winners: the victim's life will not be better, the family members will always remember (but time will heal their suffering), and the defendant will spend additional time in prison. In preparing for the case, I kept a photograph of the victim behind my desk. I looked at it often with the knowledge that the State was the only one able to get justice for the child, justice that little girl will never know. I spent countless hours, weekends and nights reviewing each and every fact in this case, developing a strategy to present the facts to the jury without violating the court's order. During this time, I discovered a piece of information even law enforcement missed; the defendant changed his story about what happened in the same interview to the same law enforcement officer and it was all recorded.

I chose a bright young attorney in the office to assist me in presenting the trial and to provide her with a teaching moment of how to do a criminal jury trial. I take pride in teaching the prosecutors I supervise. We spent time ensuring the process was fair, thereby reducing error and potential reversal. It is my hope that I taught her a sense of justice, fairness, respect and candor for the law, the justice system, the court and opposing counsel.

d. I was lead counsel for the second trial.

21. Do you now serve or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

No

22. Describe any pro bono or public interest work as an attorney.

Routinely volunteered at Volunteer Attorneys for Rural Nevadans and the Nevada Supreme Court Lawyer in the Library programs.

Presented on various topics including sexual abuse of children, predatory lending, financial crimes and crimes against the vulnerable and elderly.

Actively participated in a multi-disciplinary team community outreach programs, such as the SAVE (Stop Abuse of the Vulnerable and Elderly) and BPP (Better Business Protection) programs, and presented on various topics. Assisted agencies and people to collaborate for community causes.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

American Inns of Court (approximately 2000-2005), Prior Associate
First Judicial Bar Association (approximately 2000-2006), Former Member
Washoe County Bar Association (approximately 2000-2002), Former Member
Volunteer Attorneys for Rural Nevadans (on-going from 2000), Participant
Lawyer in the Library (approximately 2000-2007), Prior Participant
Volunteer Income Tax Assistant (approximately 2005), Prior Participant
Children's Museum of Northern Nevada (approximately 2006-2010), Past Board Member and
Past President
Sigma Phi Epsilon fraternity (approximately 1989-1991), Former Member and Controller

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past 5 years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

I am in compliance with continuing legal education.

12/04/2014 - Investigation & Prosecution of Child Abuse and Sexual Assault (teaching)
06/04/2014 - TIPS Mentorship 2
05/07/2014 - Nevada Government Civil Attorney's Conference
03/03/2014 - TIPS Mentorship 1
10/07/2013 - Domestic Violence and Strangulation
10/04/2013 - Elder Abuse Identification and Prosecution
11/14/2012 - 5th Annual Gang Symposium
05/01/2011 - Evidence for Prosecutors
09/14/2011 - Nevada Prosecutors Conference
09/22/2010 - Nevada Prosecutors Conference
10/01/2010 - Domestic Violence Fatality Conference

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

I do not have Professional Liability Insurance at this time as I formally worked for a governmental agency.

Business and Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

Other than the following, my employment prior to my profession as an attorney was for purposes of putting myself through undergraduate school:

I was employed part time as a substitute teacher with the Seeley Union School District
Approximately December 1998 to June 1999

I was employed full time as a banker with Wells Fargo Bank, N.A.
Approximately July 1995 to November 1996

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

- a. the nature of the business,
- b. the nature of your duties,
- c. the extent of your involvement in the administration or management of the business,
- d. the terms of your service,
- e. the percentage of your ownership.

- a. District Attorney's Office
- b. Supervised personnel and managed the budget
- c. 95 percent
- d. 2007 through 2014
- e. None

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

None

Civic, Professional and Community Involvement

29. Have you ever held an elective or appointive public office in this or any other state? Have you been a candidate for such an office? If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

I have not held an elective or appointive public office in any state. I have been a candidate for Justice of the Peace in Carson City, Nevada, a candidate for District Judge in the First Judicial District Court, Nevada, and a candidate for District Attorney in Carson City, Nevada.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

Carson City District Attorney's Office
Assistant District Attorney, September 2012 to January 2015

Lyon County District Attorney's Office
Assistant District Attorney, January 2007 to September 2012

Children's Museum of Northern Nevada
Past Board Member and Past President, Approximately 2006 to 2010

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

I have not taught courses at law schools, however, I have lectured on continuing education programs involving the sexual and physical abuse, financial crimes, predatory lending, and crimes against the elderly and vulnerable.

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

Knights of Columbus

33. List honors, prizes, awards, or other forms of recognition.

I received numerous recognition from organizations, agencies, colleagues, peers, co-workers, professionals, victims and people in the community for my work at the Attorney General's Office, as a prosecutor, my community involvement, ProBono involvement, and interaction and assistance to the community and victims of crime.

34. Have you at anytime in the last 12 months belonged to or do you currently belong to any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

Attorney General Opinion, AGO 2002-23

Official Opinions of the Attorney General, May 21, 2002

Currently drafting a chapter on forensic interviewing and prosecution of child sexual abuse cases for a book being published and authored by psychiatrist and UNR professor, William O'Donohue Ph.D.

Various press releases and interviews concerning cases and matters handled by the Carson City District Attorney's Office, Lyon County District Attorney's Office, and Attorney General's Office

36. During the past 10 years, have you been registered to vote? Have you voted in the general elections held in those years?

I have been registered to vote for the past 10 years and have voted in every general election during those years.

37. List avocational interests and hobbies.

Currently hiking, outdoor activities, reading, and spending time with my family.

Conduct

38. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges and dispositions.

No (other than minor traffic citations)

39. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to question 71.

No

40. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

41. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

42. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

43. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

Other

44. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

n/a

45. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good district court judge. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.)

Attached

46. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

I am one of the oldest in a family of twelve children. My parents were graduates of Georgetown University, active members of the community and business owners. My father is now deceased but he survived a heart transplant and lived an additional five years. My brothers and sisters have various degrees and are employed in different careers throughout the United States. I grew up on U.S. Highway 50 in Virginia and came to Northern Nevada in 1999. The only other connections I previously had to Northern Nevada were the anecdotes my father told me about visiting an uncle of his who owned a business around Lake Tahoe. However, I fell in love with this area and made my home here.

I am proud of my accomplishments and profession as an attorney practicing in northern Nevada and gratified by the work I accomplished while at the Carson City District Attorney's Office, the Lyon County District Attorney's Office and the Attorney General's Office. My contributions to Nevada history are my legacies: I was the first prosecutor in state history to have the Chief Justice of the Nevada Supreme Court on a jury and I helped pass laws through the Nevada Legislature to protect citizens and ensure victim confidentiality. I am honored to have assisted citizens, victims and professionals through my civil service. Accordingly, I am confident I will make you proud as a District Court Judge.

47. Attach a sample of no more than 10 pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past 5 years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

Attached

- - INSERT PAGE BREAK HERE TO START SECTION II
(CONFIDENTIAL INFORMATION) ON NEW PAGE - -

[Page Break Inserted]

Attachment: Answer to Question 45

45. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good district court judge. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.)

Attached

Dear Judicial Selection Committee Members:

It is my belief that a good lawyer embodies the virtues of prudence, justice, temperance, and courage. These are the same virtues that make a good district court judge. Therefore, it is no surprise that the four Canons of Judicial Conduct mirror these virtues. I am not perfect. I have grown as a person and an attorney throughout the years. However, I have never forgotten lessons I learned clerking for Judge Michael E. Fondi, who personified these virtues. He instilled in me what it means to be a fair judge, a just judge. He taught me to always look to the law. I took these lessons and aspired to uphold these virtues.

As a prosecutor, when I approach the review and decision to charge a crime, I do my best to employ the wisdom, experience and discretion to decide whether a charge is appropriate under the law and whether the charge should be filed under the facts of the case. In some cases, especially where drugs are involved, a user may benefit from diversion or a treatment program, but a dealer who perpetuates the use of drugs may need imprisonment. In horrific crimes, where a murder has occurred and the perpetrator shows no sign of remorse, it may be appropriate for the perpetrator to be punished as provided for in the law. Each case is factually driven. I found that as a leader and teacher I had to find the wisdom to understand the difference and the strength to make the right decision.

The decision to charge, prosecute and bring a case to jury verdict is a different decision than the one made at the time of sentencing. I believe that at sentencing, there are times that it was incumbent upon me to seek the maximum sentence: for example, in a case where a woman beat her child without remorse and left him with substantial bodily harm. In other cases, I felt it was more important to seek leniency under the law and leave the argument for more severe punishment to the emotions of the victims. In some cases I have handled, the just result is clear.

In others, the just result is illusory. In all cases I have done my best to exercise fairness and confront any uncertainty with strength and fortitude. I do my best to come to a reasoned decision and confidently make those arguments.

Most of the family law matters I have been involved with dealt with juvenile crimes, child removal or placement under NRS chapter 432B, child support, and guardianships of the elderly or vulnerable. As a law clerk, I assisted the judges I worked for with many divorce matters. I believe that in family law matters it is imperative that the best interest of the child or children be the overriding focus. As a law clerk, I will never forget the frustration a mother felt at the hands of her ex-husband who used the system to make her life miserable and ultimately ruined any chance of relationship with his children. During that time, I learned patience, endurance and restraint as I assisted the judge in dealing with that case.

There were also two occasions in my career facing NRS 432B matters where I disagreed with the Division of Family Services' refusal to place children. I voiced my disagreement when I learned that the Division's decisions were based upon money and not about doing what was just, and I felt compelled to file actions to force the Division to place the children. During that time, while facing intimidation, I stood by my convictions. Ultimately the Court agreed with me. These decisions were not popular but I remained professional and continued to work well with the Division.

As Senior Deputy Attorney General representing the Financial Institutions Division, I was often faced with civil matters that commanded the utmost confidentiality for the protection of the financial integrity of the State and its citizens. This organization was the regulatory agency over banks and credit unions and it was necessary to act swiftly and confidently to ensure any failures were repaired and consumer deposits remained intact before the opening of business

the next day. I learned to be responsive and sensitive while taking appropriate actions in challenging situations.

While representing state agencies and different local governments, I learned politics could play a role in an elected official's decision to perform their duties under their oath of office. I am loyal to my oath of office. I believe that loyalty means standing up for what is just and right even in the face of fear, intimidation and political threat. I have been gratified to practice self-control and restraint to do what is fair and just, rather than do what is easy for the sake of politics. I am proud to adhere to these qualities and character traits.

I have also had my fair share of failures. I am satisfied with my recent candidacy for District Attorney. I attained nearly fifty percent of the vote with only \$12,000 against my opponent who had over \$74,000. I am proud of my children for their dedication and hard work as they walked to over 6,000 homes with me in an effort to get the vote of the people. I have had my defeats in the courtroom. I have lost friends, some from my own actions. However, I have always owned my mistakes and attempted to learn from them. I have tried to better myself but, at the same time, I have always remained true to myself. These failures have impacted me but I viewed them through the eyes of an optimist as an opportunity to build wisdom, fairness, restraint and fortitude. And, in the words of Aristotle, I have grown every day, always learning.

In closing, I would like to share a memory with you. When I was in high school, I had many friends from different walks of life. One day one of them told me that he admired that I did not fit into any one clique but rather stood on my own, that I was not quick to judge and was accepting of people for who they were. I was surprised at how candid this individual was but as years went by and I reflected upon his words, I realized that his observations were accurate.

I believe I would be a good district court judge albeit not a perfect one.

Attachment for Question 47: Sample Order

1 Case No. 13 CR-00098 1B

2 Dept. No. 1

REC'D & FILED

2014 JUN 23 PM 2:41

ALAN GLOVER
BY  CLERK

3
4
5
6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY
8

9 STATE OF NEVADA,

10 Plaintiff,

11 v.

12 DAVID ALAN STONE,

13 Defendant.
14

ORDER RE BAD ACTS
AFTER PETROCELLI HEARING

15 This matter comes before the Court upon the State's Motion to Admit Prior Bad Acts of
16 the Defendant and Request for a Petrocelli Hearing filed on April 22, 2014. The Defendant
17 filed an Opposition on May 5, 2014. The Court held a hearing pursuant to Petrocelli on the
18 admissibility of the bad acts of the Defendant on May 6, 2014.

19 The Defendant has also asked for a continuance of the trial that was scheduled to
20 commence on May 14, 2014. The State opposes a continuance.

21 **RELEVANT PROCEDURAL HISTORY**

22 The State alleges that David Stone sexually assaulted and/or committed lewd acts
23 upon B.M. in violation of NRS 200.366(2)(c). When this crime occurred, B.M. was 12 years
24 old. Stone sexually assault B.M. and committed other lewd acts upon him while B.M. was
25 staying with Stone at Stone's house. Stone had invited B.M. over to spend several nights at
26 Stone's house so he could take B.M. to the Nevada Day Parade, purchase him gifts, wrestle
27 with him, play a game of pool, play video games and purchase online video games for B.M.
28 Stone was bound over to stand trial on these charges after a preliminary hearing on April 25,

1 2013.

2 During the Petrocelli Hearing, the Court heard testimony of prior bad acts of the
3 Defendant. Specifically, the Court heard testimony of prior bad acts of the Defendant from
4 three (3) individuals, C.S., J.N. and N.B.. Each witness testified to specific bad acts
5 perpetrated upon them by the Defendant.

6 **CONCLUSIONS OF LAW**

7 The admission of evidence falls within this court's sound discretion. See Petrocelli v.
8 State, 101 Nev. 46, 52, 692 P.2d 503, 508 (1995), modified on other grounds by Sonner v.
9 State, 112 Nev. 1238, 930 P.2d 707 (1996). NRS 48.045(2) provided the following: Evidence
10 of other crimes, wrongs or acts is not admissible to prove the character of a person in order to
11 show that he acted in conformity therewith. It may, however, be admissible for other
12 purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity,
13 or absence of mistake or accident.

14 A presumption of inadmissibility attaches to all prior bad acts but such presumption
15 may be rebutted prior to admission after a hearing and application of three factors as
16 described below. Rosky v. State, 121 Nev. 184 (Nev. 2005). However, the trial court's
17 determination of whether to admit or exclude such evidence will not be disturbed on appeal
18 absent manifest error. Id.

19 Prior to the admission of bad act evidence under NRS 48.045(2), this Court is required
20 to determine during a Petrocelli hearing held outside the presence of jurors that the following
21 three factors are satisfied: (1) the evidence is relevant to the crime charged and for a purpose
22 other than proving the defendant's propensity; (2) the act is proven by clear and convincing
23 evidence; and (3) the probative value is not substantially outweighed by the danger of unfair
24 prejudice. Tavares v. State, 117 Nev. 725, 731, 30 P.3d 1128, 1131 (2001); Qualls v. State,
25 114 Nev. 900, 902, 961 P.2d 765, 766 (1998); Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d
26 1061, 1064-65 (1997); see also Petrocelli, 101 Nev. at 52, 692 P.2d at 50, as amended by
27 Bigpond v. State, 128 Nev. Adv. Rep. 10, 17, 270 P.3d 1244, 1250 (2012).

28 Moreover, the Nevada Supreme Court has specifically held that whatever might

1 motivate a person to commit prior bad acts is legally admissible to provide motive under
2 48.3045(2) so long as three factor test for admissibility is satisfied. Ledbetter v. State, 122
3 Nev. at 262, 129 P.3d at 678.

4 The evidence of other bad acts perpetrated upon C.S., J.N. and N.B. prove specific
5 emotional motive of sexual conduct by the Defendant. Evidence of the Defendant's obsession
6 with and involvement with young males with whom he establishes a relationship and a course
7 of conduct is relevant to explain his motive to sexually assault the victims in this case. Here, a
8 review of testimony of all three witnesses reflects a course of conduct and motive on the part
9 of defendant demonstrating that he chose certain vulnerable young males with a clear motive
10 of becoming sexually involved with them. He followed the same steps of befriending them,
11 allowing them in to his home and into his bedroom and then sought to become sexually
12 involved with them.

13 In particular, the Court finds the testimony of C.S. to be credible, who reported the
14 incidents to his mom on several occasions who chose not to believe him. In addition the court
15 finds the testimony of J.N. to be particularly credible in light of the fact he did not want to
16 report to anyone and believes that today. The Court finds it is not unusual for people to not
17 come forward and provide this type of testimony. Moreover, the Court also finds the testimony
18 of N.B. credible, even though he may not remember a few facts from the incidents he
19 described.

20 The Court finds the testimony of all three, C.S., J.N. and N.B is all relevant. The Court
21 finds the testimony of all three is clear and convincing. As to the third factor, the Court
22 understands that there is an argument that the admission of any type of testimony in this
23 manner in these types of cases could have a danger of unfair prejudice. However, the Court
24 specifically finds the probative value of the testimony is not outweighed by the danger of unfair
25 prejudice of the Defendant.

26 Prior to these three (3) individuals testifying, the Court will give a limiting instruction
27 before admission of the evidence explaining the limited purpose for which the evidence was
28 admitted and when the case is submitted to the jury. Ledbetter v. State, 122 Nev. 252, 264

1 n.21, 129 P.3d 671, 680 n.21 (2006), as amended by Bigpond v. State, 128 Nev. Adv. Rep.
2 10, 21, 270 P.3d 1244, 1251 (2012). The limiting instruction will explain that that the evidence
3 is being offered for a limited purpose to show the Defendant's motive only and not for any
4 other purpose, unless the Defendant elects for the Court not to give the instruction. McIellan
5 v. State, 124 Nev. 263, 182 P.3d 106 (2008).

6 The Court further considered the evidence of grooming and specifically found there is
7 evidence of grooming in this case. This evidence exists in the form of befriending which
8 includes taking B.M. to the parade, purchasing B.M. a hat, playing video games and other
9 activities that went to the Defendant's attempt to befriend the victim to set them up for further
10 sexual conduct. See Perez v. State, 313 P.3d 862; 2013 Nev. LEXIS 110; 129 Nev. Adv.
11 Rep. 90. While the testimony is admissible, it will be limited and will further depend upon the
12 testimony of the expert on grooming.

13 Finally, the Court finds that it must grant the continuance to the Defense.

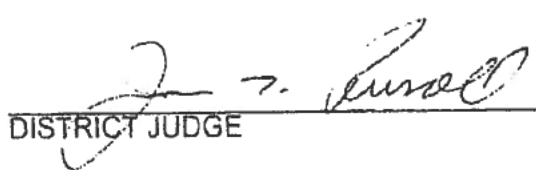
14 **ORDER**

15 The Court finds the prior bad act evidence of C.S., J.N. and N.B. is relevant, clear and
16 convincing, and the prejudicial effect is not outweighed by the probative value. All three of
17 these young men's testimony was very credible and will be permitted in the trial consistent
18 with this order.

19 The Court further finds there is evidence of grooming and will admit the evidence upon
20 the testimony of the expert.

21 The Court grants Defendant's request for a new trial, vacates the May 14, 2014, trial
22 date, and sets a new trial date of October 7, 2014.

23 DATED this 23 day of June, 2014.

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25 
26 DISTRICT JUDGE

27 Submitted by:
28 Mark J. Krueger, Esq.
Nevada Bar. No. 7410
Attorney for the State of Nevada

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☒ By depositing a copy thereof in the United States Mail at Carson City, Nevada, postage paid,
addressed as follows:
Robert Walker, Esq.
415 W Second Street
Carson City, NV 89703

Neil Rombardo, District Attorney

[Signature]

Valerie M. Carter

From: Mark Krueger <mkrueger.esq@gmail.com>
Sent: Wednesday, January 14, 2015 8:40 AM
To: Valerie M. Carter
Subject: Updated Resume
Attachments: Krueger Resume.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Ms. Carter,

It was a pleasure meeting you yesterday. Thank you for your professionalism and kindness during the executive director search process. Pursuant to our conversation yesterday, please find my updated resume attached for consideration for the commission counsel position. Please contact me if you have any questions, need additional information or have difficulty downloading the attachment.

Thank you,
Mark
(775) 225-7159

Mark J. Krueger
2329 Kingsview Way
Carson City, Nevada 89703
(775) 225-7159
mkrueger.esq@gmail.com

Members of the Board
Valerie M. Carter
Executive Assistant
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703

December 24, 2014

Re: Letter of Interest and Resume

Dear Members of the Board and Ms. Carter:

Please accept this letter of interest in consideration for the Executive Director position with The Nevada Commission on Ethics.

I have experience in criminal prosecution, civil litigation, administrative law, open meeting law, and representation of State agencies, departments, boards and commissions throughout Nevada. I am an experienced supervisor and have been successful in promoting a team atmosphere with the staff in the office, implementing policies, goals and objectives, and managing the budget. I have authored legislation, regulations, legal opinions, ordinances and municipal codes, and have appeared before the Nevada Legislature on many occasions throughout my career. I have argued, prepared and drafted briefs for practice before the Ninth Circuit Court of Appeals, the Nevada Supreme Court, various District Courts, numerous Justice Courts, and have participated in Administrative Law proceedings. I recently completed my forty-first jury trial, with successful convictions of various types of crimes including murder and child sexual assault. I am loyal to my oath of office, and am dedicated and committed. I would appreciate the opportunity to become the Executive Director to the Nevada Commission on Ethics.

I have enclosed my resume for your review as well as references who have worked with me, including a doctor who testified as an expert in the prosecution of case, a defense attorney, and a retired deputy district attorney team member from the Carson City District Attorney's Office and previously to that with the Nevada Attorney General's Office. My desired salary is \$96,000.

Thank you for your time and consideration.

Sincerely,



Mark J. Krueger

Enclosures

4 updated 1/14/15

MARK J. KRUEGER

2329 Kingsview Way • Carson City, Nevada 89703

Telephone • (775) 225-7159

E-mail • mkrueger.esq@gmail.com

EXPERIENCE

OFFICE OF THE CARSON CITY DISTRICT ATTORNEY, Carson City, Nevada

Assistant District Attorney, September 2012 • January 2015

Chief of Staff for the Carson City District Attorney's Office. Supervised criminal and civil divisions. Managed office personnel issues, staff, and budget matters. Chief prosecutor and supervisor for criminal matters in all courts. Prosecuted numerous criminal jury trials including murder, sexual assault, child abuse, and drug related crimes. Liaison to public and press for the office. Provided legal advice to the Board of Supervisors, City Manager, and City departments and advisory boards. Drafted contracts and handled negotiations and disputes, zoning, planning, land use, and assist in civil litigation. Drafted and defended City Municipal Code.

OFFICE OF THE LYON COUNTY DISTRICT ATTORNEY, Lyon County, Nevada

Assistant District Attorney, January 2007 • September 2012

Supervised the civil, criminal, and child support enforcement divisions of the Lyon County District Attorney's Office. Developed and managed the office budget. Managed office staff and personnel issues. Chief civil deputy district attorney providing legal advice to the County Commission, County Manager, and County departments and advisory boards. Drafted contracts and handled negotiations and disputes, zoning, planning, land use, and handled all civil litigation. Drafted and defended County Ordinances. Appeared and testified before the Nevada Legislature. Liaison to public and press for the office. Chief prosecutor and supervisor for criminal matters in all courts including prosecution of numerous criminal jury trials including murder, sexual assault, child abuse, and drug related crimes.

NEVADA DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL, Carson City, Nevada

Senior Deputy Attorney General, March 2004 • January 2007

Deputy Attorney General, January 2001 • March 2004

Attorney for the State of Nevada. Represented the Department of Business and Industry, Financial Institutions Division and Mortgage Lending Division, the Office of the Treasurer, Pooled Collateral Program and Unclaimed Property Division, the Office of the Governor, Nevada Office of Energy, the Division of Building and Grounds, the Department of Information Technology, and the Board of Dispensing Opticians as well as other State agencies, departments, boards and commissions. Represented the State of Nevada before the Nevada Legislature, drafted provisions and amendments to the Nevada Administrative Code, drafted contracts and handled negotiations and disputes, represented the State of Nevada in all courts and administrative law bodies, provided legal guidance and advice concerning the open meeting law, licensing and regulation matters including discipline of licensees and employee personnel issues.

FIRST JUDICIAL DISTRICT COURT, Carson City, Nevada

HONORABLE WILLIAM A. MADDON

Law Clerk, August 2000 • January 2001

HONORABLE MICHAEL E. FONDI

Law Clerk, August 1999 • August 2000

SUPREME COURT OF NEVADA, Carson City, Nevada

HONORABLE A. WILLIAM MAUPIN

Extern, June 1999 • August 1999

EDUCATION

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, California

Juris Doctor, December 1998

Recipient: ProBono Honors Society Award

State Bar of California Wiley W. Manuel Award

UNIVERSITY OF WISCONSIN, Milwaukee, Wisconsin

BA History, May 1994

Sigma Phi Epsilon

STATE BAR OF NEVADA, *Admitted*; AMERICAN INNS OF COURT, *Prior Associate*; FIRST JUDICIAL BAR ASSOCIATION AND WASHOE COUNTY BAR ASSOCIATION, *Former Member*; VOLUNTEER ATTORNEY FOR RURAL NEVADANS; VOLUNTEER ATTORNEY FOR LAWYER IN THE LIBRARY; VOLUNTEER INCOME TAX ASSISTANT; CHILDREN'S MUSEUM OF NORTHERN NEVADA, *Past Board Member and Past President*

MARK J. KRUEGER

2329 Kingsview Way • Carson City, Nevada 89703

Telephone • (775) 225-7159

E-mail • mkrueger.esq@gmail.com

REFERENCES

KRISTEN J. MACLEOD, M.D.

4790 Caughlin Parkway, #365

Reno, Nevada 89519

Telephone: (775) 303-7731

Email: kj_macleod@sbcglobal.net

MICHAEL NOVI, ESQ.

Novi & Wilkin

Attorneys at Law

1325 Airmotive Way

Reno, Nevada 89502

Telephone: (775) 786-7721

Email: noviwilkin@gmail.com

RANDAL R. MUNN, ESQ.

Chief Deputy District Attorney, Retired

6542 Breckenridge Way

Reno, Nevada 89523

Telephone: (775) 813-6312

Email: randalmunn@gmail.com

Iris Yowell
iyowell@yahoo.com
775-287-5776

January 2, 2015

To Whom It May Concern:

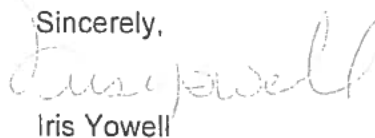
Mark has been my direct supervisor since December 2010, first in Lyon County where I worked as a Deputy District Attorney until February 2013, and again as a Deputy District Attorney at the Carson City District Attorney's Office where I have worked since February 2013. As the Assistant District Attorney, Mark has acquired an impressive range of skills from planner or organizer, to researcher and writer, to litigator or communicator, to listener and advisor. To his team, Mark has been a supervisor, a mentor, and a friend.

As a supervisor, Mark has tried to teach his deputies to seek justice and fairness. Mark views defendants as people, and also cares about the well-being of victims. He is compassionate about rehabilitation, but is not afraid to ask for a sentence on the side of deterrence when he feels it is appropriate.

As a mentor, Mark is a person who consistently sacrifices his own time to help others. I have witnessed Mark enthusiastically mentor other prosecutors, including myself, from misdemeanors to category A felonies. In fact, he has tried to mentor every prosecutor that has come under his supervision, both inexperienced and experienced. He has been someone who always has an open door for questions, no matter how big or small.

As a friend, Mark is someone who will be missed at the office by his team, and is wished the best in his future endeavors. For all of these reasons, I am happy to write this letter of recommendation, and I hope he is considered strongly for a position with your organization. I would be happy to discuss Mark further should you choose to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Iris Yowell", written in dark ink.

Iris Yowell

Melanie A. Porter, Esq.

1326 Grassland Road

Dayton, NV 89403

(775) 230-8930

December 8, 2014

To Whom it May Concern:

I am pleased to write this letter of recommendation on behalf of Mark Krueger. I have worked for Mark for the past two years, and find him to be one of the most hard-working, intelligent and dedicated professionals I have met in my 21 years in the legal community. Mark has what can only be described as a true passion for justice, which permeates every aspect of his career.

When Mark first came to work in the District Attorney's office, I did not know what to expect. I will be the first to admit - I was apprehensive, having previously worked under a man who, many said, was the best in his field. What I learned, very quickly, was that Mark was an invaluable resource for our office and, in many respects, a better leader. Not only does Mark come to work every morning with a positive attitude, ready to take on any challenges that present themselves during the day, but he handles those challenges with skill and grace, always focused on doing the right thing. Mark has always made himself available to spend time with the deputies in our office - to discuss issues, to teach, and to provide sound guidance, advice and decision-making.

Mark is always looking for ways to improve the process and the working environment, and finds creative solutions to do just that. For instance, he helped to implement a new complaint filing process for criminal charging, which streamlined that process to the benefit of all involved. Additionally, Mark implemented electronic discovery practices, again providing faster and easier access to all discovery materials for all attorneys. Beyond the procedural aspects, Mark has very successfully built a solid team of attorneys, who respect each other, work very well together, and enjoy coming to work every day.

Mark is not afraid of a challenge. As I said above, he has a true passion for justice, and takes on tough cases, when appropriate, in an effort to bring justice to victims of crime in our community. He has done so successfully, even when others would have, or did, shy away from the challenge. With approximately 40 jury trials under his belt, Mark is a wealth of knowledge, and has been an invaluable resource for me in furthering my skills as a trial attorney. Being a bit head-strong, I am not always fond of taking advice from others, but I can truly say Mark has never led me astray, and has often pulled me back from the proverbial fire when I was about to fall in.

It has been my pleasure to work with Mark for the past two years, and can say without hesitation that he would be an asset in any position. Should you have any questions whatsoever, please do not hesitate to contact me.

Sincerely,



Melanie A. Porter

Tyson D. League Esq.
1406 Aldersgate Ct.
Gardnerville, NV 89410
949-838-4929
January 6, 2015

To whom it may concern:

I have had the privilege of learning the practice of law from Mark Krueger for the past several months. In that time I have observed a man with more passion for his work than I have ever seen. What makes Mark truly unique among other legal professionals is his desire to see others succeed. He has the ability to recognize and utilize potential when others may have over looked it. This is the sign of a true leader. His dedication to justice combined with his desire to see others better themselves would make him enormously effective in any position. Every organization seeks individuals who will dedicate themselves whole heartedly, and Mark is someone who would do nothing less. As a leader and mentor he gives individuals the tools necessary to succeed while diligently maintaining their accountability for progress. Mark is not afraid to do what he thinks is right, sacrificing personal gain for a clean conscience. I can think of no person I respect more for their dedication and ability within the legal field than Mark Krueger.

Beyond his personal dedication to the field Mark has a wealth of experience. He has handled such a wide variety of cases that he is able to provide valuable insight on nearly every topic that presents itself. There is seemingly no legal topic that escapes him; he has been invaluable as a mentor for every attorney in our office. He has the qualifications and the characteristics to excel in any position and would be an excellent selection.

Sincerely,



Tyson League

NEIL A. ROMBARDO
District Attorney



<http://www.carson-city nv.us>

**OFFICE OF THE DISTRICT ATTORNEY
CARSON CITY**

885 EAST MUSSEY STREET, SUITE 2030
CARSON CITY, NEVADA 89701
Fax: (775) 887-2129

MARK J. KRUEGER
ASSISTANT DISTRICT ATTORNEY

RANDAL R. MUNN
CHIEF DEPUTY DISTRICT ATTORNEY

CRIMINAL DIVISION
(775) 887-2072

VICTIM – WITNESS SERVICES
(775) 887-2268

CIVIL DIVISION
(775) 887-2070

INVESTIGATIONS
(775) 887-2098

December 24, 2014

To Whom It May Concern:

I had the pleasure of working with Mark Krueger while he was Assistant District Attorney for Carson City from 2012 through 2014. My duties as Office Manager are diverse and I knew I could count on Mark to assist me with any task presented. Mark is very creative and innovative and always had helpful suggestions when challenges were presented. He recommended and implemented many programs in the District Attorney's Office to streamline processes – most recently a system for electronic discovery which resulted in a tremendous savings of staff resources and tax dollars for Carson City.

Mark was very focused on team building and encouraged open communication with his staff. He had a large caseload and many administrative responsibilities but always made time to discuss and explain complex issues with the lawyers he supervised and also support staff. I was very impressed by Mark's efforts to encourage and recognize the contribution of others to the team effort.

The passion Mark brought to his work in the District Attorney's Office was contagious, and I was inspired by his passion and work ethic. Mark is undaunted by obstacles and that is a quality I greatly admire. I believe Mark would be an asset to any position that calls for the skills and qualities he demonstrates.

Sincere Regards,

NEIL A. ROMBARDO
District Attorney

By: *Kim Christiansen*
Kim Christiansen
Office Manager

PAUL B. DAVIS, Ph.D.
Professor of International Terrorism and American Politics
Nevada System of Higher Education
UNLV/TMCC
(775) 358-5252
davis775@charter.net

Letter of Recommendation for MARK J. KRUEGER

It is with great pleasure that I write this letter of recommendation for Attorney Mark J. Krueger. I hold Mark in the highest possible esteem. I have worked with him for many years serving on The State Board of Dispensing Opticians where Mark was chief counsel. I was extremely impressed with his knowledge, specifically with his understanding of the law within the State of Nevada and in the overall area of law in general. Mark possesses a razor sharp mind and is extremely persuasive in his presentations and making the law clear and presentable. On numerous occasions I have seen Mark change the minds of those who were in opposition. It is indeed a rare and special talent.

Mark not only meets the requirements for this position but greatly exceeds them as well. The background of Mark is especially strong having served as an Assistant District Attorney in Carson City, Assistant District Attorney in Lyon County and Senior Deputy Attorney General for the Nevada Attorney General's Office to give just a few examples. In addition, he is currently writing a chapter for a book dealing with educating those involved in forensic interviewing of child sexual abuse cases authored by the well known author and professor at UNR, Dr. William O'Donohue.

There is probably no person who is so energetic and dedicated and who is more respected that I have ever been fortunate to serve with. I have been with the NSHE system for over 38 years and currently teach at UNLV and TMCC, while also currently on the Chancellor's task force pertaining to online education. In essence, I have seen a great many individuals in my lifetime and absolutely nobody stands taller than Mark Krueger. He truly has his heart in the right place. In short, I recommend Attorney Mark J. Krueger in the highest possible terms.

Sincerely,

/s/ Paul B. Davis

PAUL B. DAVIS, Ph.D.
Professor of International Terrorism and American Politics
Nevada System of Higher Education
UNLV/TMCC



WASHOE COUNTY

"Dedicated to Excellence in Public Service"



OFFICE OF THE MEDICAL EXAMINER AND CORONER

10 KIRMAN AVENUE
POST OFFICE BOX 11130
RENO, NEVADA 89520
PHONE (775) 785-6114
FAX (775) 785-6163

January 9, 2015

To Whom It May Concern;

I am extremely honored to write this letter of recommendation on behalf of Mr. Mark Krueger. I have worked with Mr. Krueger over the past seven years, and find him to be one of the most hard-working, brilliant and dedicated legal professional that I have met in my sixteen years in the medico-legal community.

I am a Forensic Pathologist who is the Assistant Medical Examiner at the Washoe County Office of Medical Examiner/Coroner in Reno, Nevada. My work includes many homicides and very often I interface with the Judicial System in criminal cases.

I have had opportunity to work with Mr. Krueger on many difficult homicide cases in his capacity as Assistant District Attorney in the jurisdictions Lyon County and Carson City, in criminal prosecution. I have found mark to be brilliant and skillful in aggressively prosecuting homicide cases. In most of these homicide cases, there was an aggressive and contentious defense. Despite of that, Mr. Krueger prevailed in all of these very difficult cases. Definitely, Mr. Krueger's tremendous hard work, devotion to his duties, brilliant legal approach made our state a safer place.

Mr. Krueger's years in prosecution, exceptional personal dedication, and wealth of experience makes him uniquely qualified to fulfill duties in any position.

He is certainly a very strong candidate with his background. Please do not hesitate to call with any questions.

Sincerely,

Piotr A. Kubiczek, M.D.

Assistant Medical Examiner

Washoe County Medical Examiner's Office

Reno, Nevada 89502

775-785-6114

January 9, 2015

Human Resources Agency
State of Nevada

To Whom it May Concern:

I am writing this letter of recommendation in support of Mark J. Krueger in his application for the position of Executive Director of the State of Nevada Ethics Commission. As one of only two Board Certified Child Abuse Pediatricians in the State of Nevada, I have had the pleasure to work directly with Mr. Krueger on numerous occasions both in his position as Assistant District Attorney for Lyon County and in his current position at the Carson City Office of the District Attorney. In the course of the last 7 years Mr. Krueger has become not only a trusted colleague, but also a trusted mentor to me in advocating for children in our community and in honing my skills for evidence based expert testimony and courtroom communications.

In my personal experience of working on cases with Mr. Krueger, I have found him to be exceedingly accessible, approachable and knowledgeable. I have particularly appreciated the dedication and skill with which he has mentored less experienced attorneys in these difficult cases. He maintains extremely high standards in the courtroom and, much to my relief, has always insisted that my testimony be supported by a quality evidence base of research. His commitment to helping the children in our communities and the enthusiasm with which he undertakes that task are both infectious. In fact, no matter how overwhelmed by my own work or strapped for time I am, he seems to be able to convince me to participate when my expertise is needed. Over the last several years, I have found myself contacting Mr. Krueger whenever I have a question about Nevada State Law and how it might apply to an issue on which I am working, be it a particular case or a task in child advocacy. He is always quick and thorough in his responses to me and to any of my colleagues.

Most recently, Mr. Krueger enthusiastically accepted the invitation from the Washoe County Child Protection Enforcement Team to present at our multi-disciplinary child abuse conference in December 2014. The request for Mr. Krueger's participation in the conference came from our local law enforcement agencies and deputy district attorneys. His talk was eagerly anticipated and extremely well-received. The audience of lawyers, social workers, medical personnel and law enforcement representatives were impressed by his engaging presentation style, his wealth of case experience and his in depth knowledge of Nevada Revised Statute's application to child abuse cases. The audience commented that his presentation was the most

informative that we'd had in over 5 years from a lawyer in terms of case law, NRS and judicial procedures with regards to cases of child abuse and neglect.

Mr. Krueger receives my highest recommendation in terms of his wealth of didactic knowledge, his experience in cases of child abuse and neglect, his leadership qualities and his tireless advocacy for the children of Northern Nevada. There is no doubt in my mind that he will continue to serve our community with the same enthusiasm, high standards and responsive, approachable style that I have grown to appreciate so greatly in our work together.

I am honored to have been asked to write a recommendation on his behalf. Please do not hesitate to contact me if I can be of any more assistance to you in his application to this important position.

Respectfully,

Kristen J. MacLeod, MD
Medical Director Washoe County CARES Program
Medical Child Abuse Consultant, DCFS Rural Regions
775-303-7731
Board Certified Child Abuse Pediatrician
Board certified General Pediatrician

Valerie M. Carter

From: Genevieve Hudson on behalf of Agency HR
Sent: Thursday, January 08, 2015 8:59 AM
To: Valerie M. Carter
Subject: FW: Letter of Recommendation - Mark Krueger

Follow Up Flag: Follow up
Flag Status: Completed

Hi Valerie,
Please see the following.
Thanks,

Gennie (Genevieve) Hudson
Agency HR Services
Ph. (775) 684-0247
ghudson@admin.nv.gov

For general inquiries and assistance, or to submit recruiting requests (RTF form), please use our agencyhr@admin.nv.gov e-mail address.

From: Randal Munn [mailto:randalmunn@gmail.com]
Sent: Wednesday, January 07, 2015 4:09 PM
To: Agency HR
Subject: Letter of Recommendation - Mark Krueger

Dear Ethics Commission,

I have been advised that Mark Krueger has applied for the open position of Executive Director of the Nevada Ethics Commission. This is a unique position in State government that requires a strong legal background in government law, civil/criminal investigations, the Nevada Ethics Code and good judgment. Mark has demonstrated to me over many years that he is more than capable and qualified to assume this very important position. Mark and I have worked together for many years. In my former role as the Assistant Attorney General for Brian Sandoval (just prior to his appointment to the federal bench) I was in an oversight role with respect to Mark's civil duties at the Attorney General's Office. I found Mark to be a very capable civil attorney and litigator.

In addition to Mark's broad professional experience in both State and local government civil law and criminal law, he has demonstrated to me that he has an amazing work ethic capable of successfully managing a demanding and varied work calendar without supervision, and that his friendly office demeanor and professional collegiality contributes to a health day-to-day work environment.

Please accept my recommendation of Mark Krueger as someone worthy and qualified to fill your open position. Your consideration of my recommendation is appreciated. If you have any questions, please feel free to contact me on my cell phone [775-813-6312](tel:775-813-6312)

Presenting to large bodies/Legislature:

Mark has testified before the Nevada Legislature and has taught classes in POST training of law enforcement officers. He is a skilled trial lawyer and is very comfortable speaking in public forums.

Responding to media:

As the Assistant District Attorney in Carson City (2nd in Command) Mark was regularly called upon to respond to the Press regarding pending high profile criminal prosecutions. He maintains a healthy relationship with the Press corp in Carson City.

Leadership and supervision:

Mark is a strong team-builder. He was called upon to hire numerous prosecutors, mentor them and assist in their professional development. I personally witnessed a staff of attorneys the worked closely, laughed often as a team in deconstructing the events of each day before the criminal court. His prosecutors responded positively to his strong leadership and supervision.

Knowledge of Ethics Laws and handling Legal Issues:

Mark has experience with the Ethics Laws of Nevada and is skilled at handling Legal issues. He has represented State Agency officers and as Assistant District Attorney for Lyon County he advised the County Commissioners and various public bodies regarding their ethical obligations.

Preparation and monitoring of Budgets:

I'm not familiar with Mark's budget background except as we both were accountable to the Carson City District Attorney for our share of the Office's budget.

Level of Integrity:

Mark is a professional...He works hard, gives the government more than its fair share of his time. He can be trusted with very important work and deadlines. I have never had an occasion where integrity has every been in question regarding Mark.

Additional information supporting the candidate for the Executive Director:

Mark is someone with extensive prosecutorial experience. The judgment between facts that deserve prosecution and those that do not is a critical part of the Ethics Commission's use of limited resources. Mark's skill and experience in this regard will not be found in any other candidate.

Thank You for your consideration.

Sincerely,

Randal R. Munn

Retired: Former Chief Deputy District Attorney - Carson City District Attorneys Office - Civil Division

Valerie M. Carter

From: Yvonne M. Nevarez
Sent: Monday, January 26, 2015 5:12 PM
To: Valerie M. Carter
Subject: FW: Commission Counsel Recruitment
Attachments: Letter-Ethic's.Commission.pdf; Resume.pdf

Follow Up Flag: Follow up
Flag Status: Completed

FYI

From: Tracy Chase [mailto:tracychase@sbcglobal.net]
Sent: Monday, January 26, 2015 4:29 PM
To: Yvonne M. Nevarez
Subject: Commission Counsel Recruitment

Good afternoon Yvonne,

I am interested in the position of Commission Counsel. Please find attached my letter of interest and resume for consideration. References are listed in the Resume, which you are most welcome to contact. Additionally, letters of reference are attached from former Mayor Cashell and former City Attorney Kadlic.

I have had many opportunities to represent and guide elected officials on ethics issues. In 2013, I appeared before the Ethic's Commission on a First-Party Request for Opinion for Council Member Dortch referred to as Gaslight Lane, which entailed a detailed analysis of provisions of Nevada's Ethic's in Government Code. The resulting Opinion No. 13-54A addressed whether the Council Member's pecuniary interest in the activities of a Homeowner's Association required him to abstain from voting on a land use matter challenged by the Homeowner's Association. Mr. Dortch has waived his confidentiality on the matter, so it may be used as an example of my legal abilities.

If you would like to discuss the position or if you would like additional information, please feel free to email me at this e-mail address or call me on my cell at 775.530.6907. I look forward to hearing from you and learning about this opportunity.

Regards,

Tracy Chase

Tracy L. Chase
8763 Riverfront Ct.
Reno, NV 89523
Cell: 775.530-6907 / E: tracychase@sbcglobal.net

January 26, 2015

Via E-mail ynevarez@ethics.nv.gov

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, suite 204
Carson City, NV 89703

Re: Job Recruitment for Commission Counsel

Dear Yvonne:

I am writing to express my interest in the position of Commission Counsel for the Nevada Commission on Ethics. As you see from my resume, I have extensive experience in representing government clients, including advising and providing legal opinions on all aspects of meetings for the Reno City Council, the Civil Service Commission and many boards and commissions.

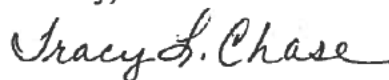
I have provided legal advice on Nevada's Open Meeting Law, ethics, agendas, staff reports, public hearings, contracts and virtually all matters that have been considered by the bodies I have represented. My duties included representing members of the City Council before the Nevada Commission on Ethics and providing advice in furtherance of NRS and NAC Chapters 281A, 241 and 239. For the past three Legislative sessions, I have drafted bills and provided legal analysis including testimony on pending legislation affecting the interests of local government.

Throughout my career, I have gained a reputation for being competent, professional and diligent. My communication skills have served me well in creating and maintaining strong working relationships with my clients and co-workers. I am a team player, willing to work with and assist co-workers.

Since the newly elected Reno City Attorney has made administrative changes to the office, the City of Reno and I have entered into a voluntary separation agreement with my final date of public service established at March 20, 2015.

My experience directly aligns with the requirements you are seeking to fill the position of Commission Counsel. I would be pleased to discuss my qualifications with you at your convenience. Please feel free to call me on my cell at 530-6907 or home at 747-7234.

Sincerely,



Tracy L. Chase

TRACY L. CHASE

8763 Riverfront Ct.
Reno, NV 89523
Cell: 775.530.6907
E: tracychase@sbcglobal.net

Member: State Bar of Nevada,
State Bar of California,
U.S. District Court and
Ninth Circuit Court of Appeals

EXPERIENCE

Reno City Attorney's Office, Chief Civil Deputy – 2006-2015

Represented City Council, City Manager, Civil Service Commission, Charter Committee, other City Boards and all City Departments. Duties focused on Open Meeting Law, public records, ethics, contracts, property, risk, legislation, emergency management, administrative hearings, budget and advice on compliance with state and city laws. Administration and supervision of 14 employees.

Reno City Attorney's Office, Deputy City Attorney III – 1998-2006

Represented Fire Department, Business License Division, City Clerk, Parks and Recreation, Code Compliance, Civil Service Commission and other boards providing legal services for transactions, administrative hearings and litigation. Lead attorney on the ReTRAC project, a design build project lowering train tracks through City of Reno.

Hale, Lane, Peek Dennison, and Howard, Shareholder – 1989-1998

Commercial litigation with concentration in civil, contracts, employment and real property law. Represented clients in all aspects of litigation including case preparation, hearings, trials, and appellate services.

Washoe County District Attorney, Deputy District Attorney – 1987-1989

Duties encompassed all aspects of misdemeanor and felony trial work.

EDUCATION

University of the Pacific, McGeorge School of Law – Juris Doctor.

University of Nevada, Reno – B.S. Business Administration – Finance.

PERSONAL

2014 State of Nevada - James M. Bartley, Distinguished Public Lawyer; 2008 Nevada Women's Fund Achievement; 2007 Girl Scout – Outstanding Service Award; 1998 Nevada MS Society Outstanding Board Member.

Washoe County Bar Association; Northern Nevada Women Lawyer's Association; WIN (Western Industrial Nevada); Girl Scouts of Sierra Nevada.

REFERENCES

Steve Pitts, Reno Police Chief, cell: 775.745.3465.

Brandon Lewis, Wells Fargo Insurance, work: 775.827.2278.

Cadence Matijevich, former assistant City Manager, cell: 775.250.8451.

Robert A. Cashell, Sr. and John J. Kadlic (Letters attached).

Robert A. Cashell, Sr.
4450 Juniper Trail
Reno, NV 89519
(775) 560-7982
bootscashell@gmail.com

January 20, 2015

Re: Reference for Tracy Chase

To Whom It May Concern:

I am writing this letter to give my highest recommendation for Tracy Chase. I know Tracy because she was my trusted legal advisor on the many complex issues faced by the City of Reno during the 12 years that I served the City of Reno as Mayor. Tracy is a trustworthy and talented professional. Her experience, personal skills and teamwork will make her invaluable to any organization.

For over 15 years, Tracy has represented the Reno City Council, Boards and Commissions and every department in the City. Her legal representation, communication and leadership skills have guided and protected her clients. She is knowledgeable in government law including: contracts, policies, ethics, procurement, emergency management, real property, budgeting, and administration-to name a few. Tracy was at my side providing legal services during emergency flood incidents, the Caughlin Fire and the Washoe Drive Fire.

Both the City of Reno and I have recognized Tracy internally for her public service. She has received many community recognitions and was honored as the 2008 Women of Achievement and the 2014 James M. Bartley Distinguished Public Lawyer.

I fully support Tracy in her future endeavors and I know she will continue to provide exceptional service for her next employer. If you have any questions, please feel free to contact me.

Sincerely,



Robert A. Cashell, Sr.
Former Mayor of the City of Reno

John J. Kadlic
P.O. Box 2477
Reno, NV 89505-2477
(775) 853-3478

January 22, 2015

To Whom It May Concern:

I am writing this letter on behalf of Tracy Chase. I first met Ms. Chase over twenty years ago when she started her legal career as a Deputy District Attorney doing criminal prosecutions and I was a Judge in the Reno Justice Court. I knew from the beginning that she had a bright legal career ahead of her.

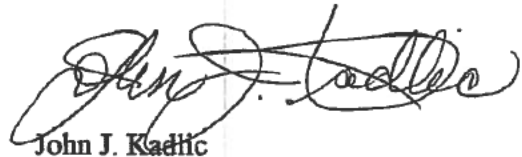
When I ran for City Attorney of Reno in 2006, I knew that if I was elected, I wanted Ms. Chase to be my Chief Civil Deputy. After being elected, I made Ms. Chase my Chief Civil Deputy. She was an excellent leader during the eight years that I was City Attorney.

She led the team that provided professional and competent legal advice to the Mayor, City Council and numerous City Departments. Under her leadership, the City had numerous successes. She prepared the budget for the office, handled hiring personnel and attended City Council meetings to provide advice particularly on open meeting law issues. Her advice was invaluable when I had to down size the office when the City went through budget issues. After the downsizing, under her leadership the office was able to continue to provide competent legal advice despite the lack of personnel.

Ms. Chase is a consummate legal professional. I highly recommend her for any position she may be seeking in the legal field

If you have any questions in this regard, please contact me at the number listed above.

Sincerely,



John J. Kadlic

Valerie M. Carter

From: Yvonne M. Nevarez
Sent: Thursday, January 29, 2015 3:26 PM
To: Valerie M. Carter
Subject: FW: Commission Counsel Position
Attachments: Elquist Ethics Letter.pdf; Elquist Resume.pdf; Elquist List of References.pdf

Follow Up Flag: Follow up
Flag Status: Completed

FYI

From: Angie M. Elquist [mailto:angie.elquist@gmail.com]
Sent: Thursday, January 29, 2015 3:09 PM
To: Yvonne M. Nevarez
Subject: Commission Counsel Position

Dear Ms. Nevarez-Goodson,

Please find attached my resume and corresponding materials for the position of Commission Counsel for the State of Nevada Commission on Ethics. My salary requirement is \$80,000.00 minimum. If you have any questions or concerns, please call me at (775) 374-0745.

Thank you,
Angie Elquist

ANGIE M. ELQUIST

1955 Brisbane Avenue, Reno, Nevada 89503

Telephone: (775) 374-0745

E-mail: angie.elquist@gmail.com

January 29, 2015

VIA E-MAIL: ynevarez@ethics.nv.gov

Yvonne M. Nevarez-Goodson, Esq., Executive Director

Nevada Commission on Ethics

704 West Nye Lane, Suite 204

Carson City, Nevada 89703

Re: Commission Counsel Position

Dear Ms. Nevarez-Goodson:

I am writing to convey my interest in the position of Commission Counsel for the State of Nevada Commission on Ethics.

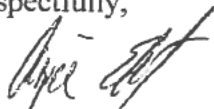
As you can see from my resume, I have a variety of experience to make me a suitable candidate for the position of Commission Counsel. My four years as the District Attorney for Lander County included handling all civil and criminal matters for my office, personnel issues, budgetary issues, collaborating with and providing legal advice and presentations to county departments and boards. I thoroughly enjoyed working as a deputy district attorney and a deputy attorney general in the past. The responsibilities of these positions provided considerable professional fulfillment; therefore, working as Commission Counsel will provide a working environment where I feel best suited.

In addition, my positions with the State of Nevada Division of Child and Family Services (DCFS) and the Nevada Bureau of Consumer Protection (BCP) offered opportunities to work on both administrative and legislative processes. This included cooperating with other agencies, drafting regulations, statutes, Attorney General Opinions, and attending board meetings, workshops and administrative hearings. I've provided daily legal advice to boards and board members, which included advice on ethical issues and how to disclose conflicts of interest.

I am extremely organized and adapt quickly to any new learning environment. I am a loyal and trustworthy employee with a strong work ethic. The combination of my employment history, my passion for continual legal learning, and my high ethical values will enable me to make a valuable contribution to your office.

I believe I have extensive experience in most, if not all, of the requirements listed in the job description. I would greatly appreciate the opportunity to expand upon how my experience can benefit your office. Thank you for your time, and I look forward to hearing from you.

Respectfully,



Angie M. Elquist

ANGIE M. ELQUIST

1955 Brisbane Avenue, Reno, Nevada 89503

Telephone: (775) 374-0745

E-mail: angie.elquist@gmail.com

EXPERIENCE

Lander County District Attorney, Battle Mountain, Nevada; October 2010 – January 2015. *District Attorney*: Handled all criminal and civil matters for Lander County. Managed entire office with one deputy district attorney and three office staff. Managed a yearly budget of over \$530,000.00. Handled all criminal matters, from reviewing reports to appeals. Handled all civil matters, child protective proceedings, juvenile delinquency, public administration of estates, public guardianships, legal counsel for all county departments and boards, county hospital, and school district, drafted and reviewed contracts, offered day-to-day legal advice and legal opinions.

Humboldt County District Attorney's Office, Winnemucca, Nevada; July 2008 – October 2010. *Deputy District Attorney*: Handled all civil matters for Humboldt County, Nevada. Worked closely with county departments and boards.

Office of the Nevada Attorney General, Carson City, Nevada; October 2004 – July 2008. *Deputy Attorney General*: Represented the State of Nevada Division of Child and Family Services; Worked in areas of child welfare, juvenile justice, and children's mental health. Assisted with day-to-day legal advice, drafted statutory language, opinions, and regulations under Chapters 432B of NRS and NAC, worked with open meeting law, personnel issues, legislative issues, and litigation. Previously worked for the Bureau of Consumer Protection on regulatory and legislative issues pertaining to utilities under Chapters 703 and 704 of NRS and NAC; Participated in cases before the Nevada Public Utilities Commission.

Law Offices of Mark Wray, Reno, Nevada; August 2002 - October 2004. *Law Clerk/Associate Attorney*: General practice, business, civil litigation.

Legal Work While in Law School: *Utility Consumers' Action Network (UCAN)*, San Diego, California; April 2000 - December 2000. *Legal Intern*: Legal research and writing: Consumer issues pertaining to utilities; *The Law Firm of McDonald Carano Wilson, LLP*, Reno, Nevada; May 2001 - July 2001. *Summer Law Clerk*: Legal research and writing.

Self-supporting while obtaining education with various jobs; 1989 - 1999.

EDUCATION

California Western School of Law, ABA/AALS, San Diego, California: Juris Doctor, May 2002 **Top 26% based on class standing of 47/183 *Dean's List, Spring 2001 *Received Academic Achievement Awards for Problem Solving/Preventive Law course and Internship *Member of the Pro Bono Honor Society**

University of Nevada, Las Vegas, Las Vegas, Nevada: Bachelor of Arts, Women's Studies, 1999 **3.9 grade point average *Recipient of the Audre Lorde Award for the Outstanding Student in Women's Studies *Who's Who Among Students in American Universities and Colleges *One of three finalists of all undergraduate students for 1999 Regents' Scholar Award**

University of Nevada, Reno, Reno, Nevada: Bachelor of Arts, General Studies, 1994; Studied abroad at Université de Pau, France in 1994.

OTHER CERTIFICATES/SERVICE/TRAINING

Obtained a Human Resources Representative Certificate and an Advanced Certificate, 2014
University of Nevada, Reno (Instructor on Letter of Appointment) - Women's Studies 490: *Gender and Legal Issues*, Fall 2005. Washoe Legal Services: Volunteered as child attorney advocate for abused/neglected children for four years. Volunteered at Salvation Army Family Emergency Shelter (SAFES) and Idaho Women's Network. Volunteered at TADC/Safe Nest domestic violence shelter and completed domestic violence training program, worked over 300 hours at the shelter assisting with emergency protective orders, and crisis calls; Boise State University - Took graduate courses in History from 1995-1997.

ANGIE M. ELQUIST

1955 Brisbane Avenue, Reno, Nevada 89503

Telephone: (775) 374-0745

E-mail: angie.elquist@gmail.com

REFERENCES

- 1) **Kathy L. Ancho, Chair of Lander County Hospital District Board of Trustees**
Battle Mountain General Hospital
535 South Humboldt Street
Battle Mountain, Nevada 89820
Phone: (775) 761-0195
E-mail: klancho07@sbcglobal.net

WORKED WITH MS. ANCHO AS DISTRICT ATTORNEY FOR LANDER COUNTY

- 2) **Letty Norcutt, Union Township Justice of the Peace**
Humboldt County Courthouse
Post Office Box 1218
Winnemucca, Nevada 89446
Phone: (775) 304-6549
E-mail: justice@hcnv.us

*WORKED WITH MS. NORCUTT AS DEPUTY DISTRICT ATTORNEY FOR HUMBOLDT COUNTY
DISTRICT ATTORNEY'S OFFICE*

- 3) **Don Winne, Senior Deputy Attorney General**
Nevada Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701
Phone: (775) 684-1137
E-mail: dwinne@ag.nv.gov

*WORKED WITH MR. WINNE AS DEPUTY ATTORNEY GENERAL FOR NEVADA ATTORNEY
GENERAL'S OFFICE*

- 4) **Pauline Salla-Smith, Juvenile Justice Specialist**
Nevada Division of Child and Family Services
P.O. Box 291
Winnemucca, Nevada 89446
Phone: (775) 225-0321
E-mail: psalla@dcfs.nv.gov

*WORKED WITH MS. SALLA-SMITH AS DEPUTY ATTORNEY GENERAL FOR NEVADA
ATTORNEY GENERAL'S OFFICE*

Valerie M. Carter

From: jill <nyuusc@hotmail.com>
Sent: Tuesday, January 20, 2015 11:09 AM
To: Yvonne M. Nevarez
Cc: Valerie M. Carter
Subject: RE: Application for Executive Director of Nevada Commission on Ethics

Follow Up Flag: Follow up
Flag Status: Completed

Dear Yvonne:

In response to Chairman Lamboley's letter, I am responding via email regarding the position of Commission Counsel. I am interested in the position of Commission Counsel and wish for the Commission to consider my application in the selection process. Please let me know if I need to supplement my application package.

Thank you.

Jill Davis

From: vcarter@ethics.nv.gov
To: nyuusc@hotmail.com
Date: Tue, 20 Jan 2015 10:23:13 -0800
Subject: RE: Application for Executive Director of Nevada Commission on Ethics

Ms. Davis:

Attached please find a letter from Chairman Lamboley regarding the Executive Director position with the Commission on Ethics.

Thank you,

Valerie M. Carter
Executive Assistant
Nevada Commission on Ethics



704 West Nye Lane, Suite 204
Carson City, NV 89703
(775) 687-5469, ext. 226
Fax: (775) 687-1279
<http://www.ethics.nv.gov>

Jill C. Davis

609 Bath Street Carson City, NV 89703 | (702)413-2368 | nyuusc@hotmail.com

December 24, 2014

Ms. Valerie M. Carter
Executive Assistant
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

Dear Ms. Carter:

I am applying for the position of Executive Director of the Nevada Commission on Ethics. I have a unique background for this position as I am currently the Associate Counsel for the Commission and therefore I am well versed regarding the operations of the Commission. In addition to my legal background, I have the administrative, leadership, supervision and public relations skills the position demands.

My litigation background permits me to assist and supervise the Associate Counsel for the Commission, and to work on legal issues with Commission Counsel such as jurisdictional determinations and litigation. My administrative background stems from my prior position with the Attorney General's Office. In that position I provided day-to-day legal advice and opinions to my assigned clients, the Nevada Department of Corrections, and the Eighth Judicial District Court regarding internal operations, personnel matters and litigation, while supervising four deputy attorneys generals, a legal researcher and numerous law clerks. In addition, while working at the Legal Aid Center of Southern Nevada I acquired legislative aptitude under the supervision of Barbara Buckley. The Legal Aid Center worked in supporting legislative positions, bills and coordinating lobbying efforts, and through my participation in those endeavors I learned how to effectively negotiate the legislative process. Further, while working at the Legal Aid Center I was able to hone my public relations abilities through working with the media, and providing training to various entities regarding consumer rights laws.

My diverse background permits me to provide comprehensive service to the Commission as the Executive Director of the Nevada Commission on Ethics. I look forward to hearing from you regarding this position.

Sincerely,

Jill Davis

Jill C. Davis, Esq.

609 Bath Street, Carson City, NV 89703 and 5008 Wright View Drive, Las Vegas, NV 89120
(702) 413-2368 ♦ nyuusc@hotmail.com

Legal Experience

Associate Counsel, State of Nevada Commission on Ethics

Prosecuting Attorney for the Commission – August 2013 – current

- Organizing and leading investigations of Third-Party Requests for Opinion (complaints) regarding the conduct of Nevada's public officers and public employees within statutory deadlines, including collecting evidence, analyzing it in relation to statutes and case law for "just and sufficient cause" to recommend a full hearing, and presenting the evidence and analysis to the Executive Director in writing.
- Representing the public trust in presenting argument and evidence before the Commission in open public administrative hearings.
- Negotiating, memorializing & proposing settlements and stipulations.
- Facilitating public access and education through distilling statutes and cases into easily understood terms and incorporating them in community education presentations throughout the state.
- Researching support for and developing written and oral arguments in civil litigation in which the Commission is a party in district court and on the appellate level.
- Drafting opinions, editing and proofreading legal arguments.
- Assisting Commission Counsel and Executive Director regarding legal issues.

Legal Aid of Center of Southern Nevada

Attorney for Consumer Rights Project – April 2011 – August 2013

Duties ranged from:

- Litigating cases regarding homeowner's rights in judicial and homeowners association foreclosures.
- Protecting consumer rights by filing civil actions against payday lenders, car dealerships, debt collection agencies, predatory lenders, unscrupulous landlords, bail bonds companies, and a variety of other defendants that have violated various consumer protection laws.
- Providing counsel, advice and legal representation to Nevadans for Equal Access, a non-profit organization, that strives to ensure that the Americans with Disabilities Act is complied with in Nevada through negotiation and litigation.
- Handling Social Security cases before administrative law judges, and through the appellate process.
- Providing counsel, advice, and representation to abused and neglected children and serve as the child's voice before the court and community allowing the children to take an active role in their own destiny through pro bono work.
- Investigating and assist public agencies regarding consumer fraud cases.
- Litigating cases in both state, and federal court, from complaint through appeal.
- Working with outside pro-bono counsel on a variety of complex litigation issues such as retirement fund scams, inadequate senior housing, and payday loans.
- Participating in community outreach and advocacy by working with various service agencies and the media regarding consumer fraud issues.
- Working on legislation to protect consumers in the State of Nevada.
- Backup supervising attorney for Self Help Center at the Clark County Regional Justice Center.

State of Nevada Office of Attorney General, Las Vegas, Nevada

Deputy Attorney General; Senior Deputy Attorney General - February 2006 – March 2011

Rookie of the Year for 2006, L.E.A.D.E.R. of the Year 2009

Duties ranged from:

- Supervising four attorneys, one legal researcher, and numerous law clerks.
- Providing daily legal advice, counsel, opinions, and litigation support to the Director of the Nevada Department of Corrections, and the 8th Judicial District Court. This entailed advising both entities on interpretation and compliance with state and federal laws.
- Handling the section's most complex civil cases including battery, false imprisonment, wrongful death, medical malpractice, and civil rights actions encompassing employment, Title VII, A.D.A., First Amendment, Fourth Amendment, Eighth Amendment, Fourteenth Amendment, and R.L.U.I.P.A. claims from initial complaint through trial, discovery and appellate process.
- Providing training to Nevada Department of Corrections employees regarding legal issues.
- Successfully defending the State of Nevada in four federal trials: two employment jury trials, one failure to protect jury trial, and one R.L.U.I.P.A. bench trial.
- Negotiating numerous settlements on behalf of the State in a variety of matters.
- Investigating tort claims filed by various citizens and making recommendations to Tort Claim Fund manager regarding merits of claims.
- Investigating and responding to citizen complaints regarding an array of matters.
- Litigating and arguing matters in the 8th Judicial District Court of the State of Nevada, Nevada Supreme Court En Banc, United States District Court District of Nevada, United States District Court Central District of California, United States Bankruptcy Court District of Nevada, 9th Circuit Court of Appeals, and the Supreme Court of the United States.

Nevada District Court, Eighth Judicial District, Las Vegas, Nevada

Judicial Law Clerk to the Honorable Mark R. Denton 2003-2004 – civil

- Researched and drafted bench memoranda on a variety of complex civil matters.

Nevada District Court, Eighth Judicial District, Las Vegas, Nevada

Judicial Law Clerk to the Honorable Valorie J. Vega 2001-2002 – civil and criminal

- Drafted bench memoranda on both civil and criminal matters. Assisted the Judge in all aspects of case preparation through trial. Cases ranged from general civil litigation to a first degree murder trial.

Education

University of Southern California Gould School of Law, Los Angeles, California

Juris Doctor May 2001

- Articles Editor of SOUTHERN CALIFORNIA REVIEW OF LAW AND WOMEN'S STUDIES
- Federal Externship with U.S. Magistrate Robert J. Johnston.
- Law clerk at Marquis & Aurbach

New York University, New York, New York

Bachelor of Arts, Liberal Arts, May 1993

Memberships: State Bars of Nevada and California, Inn of Court, and Secretary of Animal Law Section of the Nevada State Bar.

Jill C. Davis

609 Bath Street, Carson City, NV 89703 | (702)413-2368 | nyuusc@hotmail.com

References & Salary Requirements:

Honorable Valorie J. Vega
Department II
District Court Judge
8th Judicial District Court
Regional Justice Center, Courtroom 12A
200 Lewis Ave., Las Vegas, NV 89155
(702) 671-4318
(702) 481-6011

- Clerked for Judge Vega

Mr. Edward Magaw
Deputy Attorney General
State of Nevada Office of the Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, NV 89101
(702) 486-3082
(702) 845-7917

- Worked with Mr. Magaw at the Office of the Attorney General

Mr. Michael Joe
4 Chenal Pass
Henderson NV 89052
(702) 739-4114

- Worked with Mr. Joe at the Legal Aid Center of Southern Nevada

Salary Requirements: current salary

Ms. Valerie M. Carter
Executive Assistant
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

January 5, 2015

Re: Jill C. Davis

Dear Ms. Carter,

Please be advised that I first met Jill C. Davis, esq. in 2001 when I hired her for a one-year term as my judicial law clerk. I very much enjoyed working with Jill that year and she has stayed in touch with me as she has progressed in her career. Her unique combination of work experiences makes her an excellent candidate for your consideration.

During her year with me she assisted me in preparation for both my civil and criminal calendars. She had experience with a broad range of case types in both the civil and criminal arenas. She was very thorough in her research and in reviewing Motions, Oppositions, and Replies. I had Jill do written briefs on fact pattern, legal analysis, and recommendation then she would also orally brief me on them. While some people are stronger in one area than another, I found Jill to have excellent skills in both the written and oral forms of communication.

One of the things about Jill that stands out for me is her keen intellect. Jill never shied away from an arduous assignment. To the contrary, the more complex or more challenging the assignment, the more it interested her and the more she found the work to be. She always rose to the occasion and finished even the most difficult matters within the deadline set for her.

In the department there were a total of six employees. They consisted of a Judicial Executive Assistant, Marshal/Bailiff, Courtroom Clerk, Court Recorder, the Judicial Law Clerk and myself as Judge. I ran the department with a teamwork philosophy. Jill easily fell into her role and worked very well with all of the other team members. She had a good understanding of her ethical obligations and maintained confidentiality.

Today is the first day of my retirement. I was a District Court Judge for the last 15 years. Unfortunately, upon occasion a disgruntled litigant would sue me. The Attorney General's Office represented me in such suits. As fate would have it, after having hired Jill as a recent law school graduate, a number of years down the road she became my lawyer. She was assigned to represent me in such a suit and argued a Motion to Dismiss in federal court in California based on judicial immunity. That case was dismissed. I found her to be as well organized and prepared in representing me as she had been as an employee. She takes great pride in her superb job performance.

Accordingly, I do not hesitate in recommending her hiring. Please feel free to contact me should you have any questions about Jill C. Davis, esq. Although I am traveling out of state until Sunday, I can be reached at (702) 481-6011 cell, seniorjudgevega@cox.net or 11651 Glowing Sunset Lane, Las Vegas, NV 89135.

Sincerely,
8th Judicial Dist. Court, Dept.2
Retired Judge Valorie J. Vega.

Edward L. Magaw, Esq.
10730 Holmfield Street
Henderson, Nevada, 89052

January 6, 2015

Ms. Valerie M. Carter
Executive Assistant
Nevada Commission on Ethics
704 West Nye Lane, Suite 204
Carson City, Nevada 89703

Dear Ms. Carter,

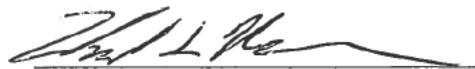
I am writing you to recommend Jill C. Davis for the position of Executive Director of the Nevada Commission on Ethics. I have known Jill for nearly ten years. I first met her when we were both serving as Judicial Law Clerks in the Eighth Judicial District Court of Nevada. Over the time that I have known Jill, I have been able to witness firsthand what an exceptional and hard-working attorney she is. Jill is an intelligent person with high ethical standards. This is why I fully recommend her for the position.

Jill and I also worked together for many years at the Nevada Attorney General's Office (AGO). During her time at the AGO, I observed Jill zealously and competently represent numerous clients, including the Department of Corrections, the Nevada Highway Patrol and multiple state court judges. She consistently drafted well written briefs and argued with confidence and poise before the courts of this State, including multiple times before the Nevada Supreme Court. During our time together at the AGO, I also observed Jill's excellent litigation and appellate skills. Jill repeatedly displayed her ability to thoroughly investigate complaints that had been filed against her clients, review the same for any valid claims, and to pursue any wrongdoing with the upmost authority and integrity. I am confident that Jill will apply the same passion and energy she displayed in her position at that AGO to the position of Executive Director.

In addition to her excellent litigation skills, while at the AGO Jill demonstrated her excellent management skills while supervising attorneys and legal researchers assigned to the Litigation Division in the AGO's Las Vegas office. As with her litigation skills, Jill's supervisory and management skills will make her successful in the position of Executive Director.

If you would like additional information about Jill, you can telephone me at (702) 845-7917.

Sincerely,



Edward L. Magaw, Esq.

Michael Joe
4 Chenal Pass
Henderson, Nevada 89052
702-739-4113

January 7, 2015

Re: Letter of Recommendation for Jill Davis, for Executive Director for the Nevada Commission on Ethics

To whom it may concern:

I recommend Jill Davis for the position of Executive Director of the Nevada Commission on Ethics. I worked with Jill for over two years at the Legal Aid Center of Southern Nevada. During that period Jill demonstrated leadership, hard work, intelligence, honesty and integrity.

Jill's demonstrated leadership by mentoring other attorneys and working as the backup supervisor at the Self Help Center at the Las Vegas Regional Justice Center where annually over 50,000 members of the public receive legal assistance. Jill was a valuable asset to our division managing a full caseload while always taking the time to assist others with their cases.

Jill connects well with the public. She always volunteered for outreach events, and raised public awareness about Legal Aid. She assisted in outreach through the media. One of Legal Aid's missions is to change laws to enforce, advance and defend the legal rights of Nevadans. Jill identified and promoted changes to the law to advance our legislative efforts. She understands the importance of serving the public whether it is through legal avenues, training or changing the law.

Jill's excellent legal abilities are demonstrated through her research, writing and oral arguments. She has the ability to tackle tough legal issues, simplify them in her legal pleadings, argue them and win. Her ability to simplify complex issues would be an asset to the Commission whether she is before the legislature or working with Counsel on legal issues.

Sincerely,

Michael Joe

Edward Magaw
Re: Jill Davis Application

Presenting to large bodies/Legislature

I have no personal experience with Jill Davis appearing before large bodies or the Legislature. I have, however, witnessed her argue before the Nevada Supreme Court. During that appearance she was well prepared and handled tough questions from the Justices with professionalism. Her affirmative presentation was complete and easy to follow. She appeared confident and responded thoroughly to the questions presented.

Responding to Media

I have no personal experience with Jill Davis responding to media requests.

Leadership and Supervision

While working with Jill Davis at the Nevada Attorney General's Office, I saw her lead the litigation division's Las Vegas office. She divided cases fairly among staff and made sure to keep informed on the status of those cases to make sure the attorneys were properly managing the cases. She assisted attorneys when needed and was friendly and fair in her dealings with them. In her first year at the Attorney General's Office Jill received the Rookie of the Year award, and in a later year she received the L.E.A.D.E.R. of the year award, which is given to the attorney who best displays the traits of a good leader, including inspiring others and being a good role model.

Knowledge of Ethics Laws and Handling Legal Issues

While I have no personal knowledge of Jill Davis's experience with ethics laws, I have seen her handle numerous legal issues. While working with her at the Attorney General's Office, I witnessed Jill take on a variety of complex legal issues. She represented the Department of Corrections, which faces lawsuits from inmates for various causes of action, including constitutional and tort claims. Also, she dealt with personnel issues relating to employees of the State Courts and the Department of Corrections. Further, she defended State Judges in cases dealing with their elected positions.

Preparation and Monitoring of Budgets

I have no personal experience with Jill Davis preparing or monitoring budgets.

Level of Integrity

Through my experience working with Jill Davis at the Nevada Attorney General's Office, I can say with the upmost confidence that Jill has an extremely high level of integrity. In everything I witnessed Jill do, she always put in a hundred percent. She was always

ethical and professional. She treated clients with respect as well as opposing counsel. She was upfront and honest in all her dealings. She did not play "hide the ball" as many attorneys do. She faced the facts of a given case and dealt with them directly, no matter how bad those facts were. It is her integrity that makes her such a good attorney.

Additional Information Supporting the Candidate for the Executive Director

I just want to say that working with Jill Davis has been a great experience. She is smart and picks up and processes information quickly. She has always been straightforward and direct, but in a manner that is professional, and not rude. I feel Jill is a well-rounded person and will make an excellent Executive Director. Please see my reference letter for further comments.

Michael Joe
4 Chenal Pass
Henderson, NV 89052
702-739-4113
sunrisetec@sbcglobal.net

January 10, 2015

Re: Questions for Executive Director Nevada Ethics Commission
Jill Davis

These are responses to questions that the Commission has asked regarding Jill Davis' application for the position of Executive Director. I worked with Jill for two years at the Legal Aid Center of Southern Nevada. These responses are based on our work together there as well as having known Jill for the last four years.

Presenting to large bodies/Legislature

As part of its mission to educate the public, Legal Aid routinely presented before the public, governmental agencies and the legislature. While working at Legal Aid, Jill's presentations were well received by her audiences. She has the ability to connect with the audience. Many of the legal and financial concepts were very complicated and she could simplify complicated issues into digestible and understandable concepts. Additionally, Legal Aid worked on numerous legislative bills, and through that process Jill assisted in advancing legislative efforts. She successfully persuaded her audience on proposed legislation.

Responding to media

Legal Aid's goals include outreach to consumers, and consequently we consistently reached out through the media. Jill participated in many of our outreach events. She went on public radio to discuss consumer debt issues, and fielded questions from the interviewer and listeners. She was quick on her feet to give answers to the complex financial and legal questions. She skillfully maneuvered her interviews with the media to present Legal Aid's case.

Leadership and supervision

Jill provided leadership to the newer attorneys in our division. Her leadership was through her mentoring of new attorneys. She discussed legal issues and the practicalities of how civil procedure actually works in court with our young attorneys. She assisted in crafting their approach to cases, legal arguments and courtroom presentation. When the manager was unavailable, Jill supervised staff at the Self Help Center where over 50,000 members of the public receive legal assistance. When at the Self Help Center, she was in charge of 5 paralegals, ensuring that the Center quickly, efficiently and effectively assisted the public.

Knowledge of Ethic Laws and handling legal issues

Jill is adept at handling difficult legal issues. She knows how to perform in-depth legal research, analyze the law and facts, and create a coherent legal strategy for a case. She understands the law but also the practical aspects of a case, and how the legal process works in administrative and courtroom settings.

Jill has been Associate Counsel for the Ethics Commission for almost 1 ½ years. She has a strong knowledge of the ethic laws. Based upon my prior working relationship with Jill, I know that she understands complex areas of law and quickly can master difficult issues. While her work is confidential, I have no doubt she has settled many cases benefitting the citizens of Nevada.

Preparation and monitoring of Budgets

While at Legal Aid Jill and I dealt with complex financial issues. These included assisting individuals with their mortgages and analyzing their budgets. The key to many of these cases was financial analysis to determine affordability through a budgeting process. Jill assisted many individuals in preparing their personal budgets.

Level of integrity

Jill has the highest level of integrity. She does what is best for her clients, and the public. While at Legal Aid she worked hard to make sure her clients received the best possible representation, was always candid with the court, and fair to opposing counsel. She also volunteered to assist other divisions in her zeal to promote fairness. She worked on immigration issues, social security, and numerous outreach events that were outside of her normal caseload.

Additional information supporting the candidate for the Executive Director

Jill would be an excellent Executive Director for the Nevada Commission on Ethics. She has the intelligence and integrity the position requires, along with the dedication to serve the Commission. She has the natural ability to showcase the Commission in the most positive light whether it is at the legislature, in the media, in court or through outreach to the public.

Sincerely,

Michael Joe

AGENDA ITEM NO. 6

AGENDA ITEM NO. 6

FEB 19 2014

NEVADA COMMISSION ON ETHICS
THIRD-PARTY REQUEST FOR OPINION

NRS 281A.440(2)

COMMISSION
ON ETHICS

14-15C

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: (Last, First)	LAMBERT, GARY Jackson, Paul		TITLE OF PUBLIC OFFICE: (Position: e.g. city manager)	Chairman Nevada Commission on Off Highway Vehicles
PUBLIC ENTITY: (Name of the entity employing this position: e.g. the City of XYZ)	Nevada Commission on Off Highway Vehicles			
ADDRESS: (Street number and name)	3870 Royer CT	CITY, STATE, ZIP CODE	Reno, NV 89509	
TELEPHONE:	Work: 775-219-5764	Other: (Home, cell) 775-219-5764	E-MAIL:	photo1215@aol.com

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.

Please see the attached narrative.

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

NO

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

	Statute	Essence of Statute:
<input 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 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 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

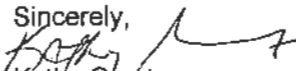
Nevada Commission on Ethics
Caren Cafferata-Jenkins, Esq.
704 West Nye lane.
Suite 204
Carson City NV 89703

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





**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.	A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to:	B. Received by (Printed Name) C. Date of Delivery
GARY LAMBERT 1050 COLUMBIA WAY RENO NV 89502-2011	D. IS delivery address different from item 1? <input type="checkbox"/> Yes If YES, (enter delivery address below): <input type="checkbox"/> No
2. Article Number (Transfer from service)	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.
7008 0150 0002 6137 3993	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
14-15C	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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City, State, ZIP+4[®]

GARY LAMBERT
1050 COLUMBIA WAY
RENO NV 89502-2011

PS Form 3811, February 2004