



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In **Kiernan McManus**, Mayor,  
City of Boulder City, State of Nevada,

Ethics Complaint  
Case No. 20-084C

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Subject. /

**REVIEW PANEL DETERMINATION**  
NRS 281A.730; NAC 281A.440

The Nevada Commission on Ethics ("Commission") received this Ethics Complaint on November 17, 2020, regarding the alleged conduct of Subject Kiernan McManus ("McManus"). On January 4, 2021, the Commission instructed the Executive Director to investigate alleged violations of NRS 281A.400(2) and (9) and NRS 281A.420(1).

McManus is a public officer as defined in NRS 281A.160, and the Commission has jurisdiction over this matter pursuant to NRS 281A.280 because the allegations contained in the Complaint relate to McManus's conduct as a public officer/employee and have associated implications under the Ethics Law.

On March 17, 2021, a Review Panel consisting of Commissioners Teresa Lowry, Esq. (Presiding Officer), Barbara Gruenewald, Esq. and Thoran Towler, Esq. reviewed the following: (1) Ethics Complaint No 20-084C (2) Order on Jurisdiction and Investigation in Ethics Complaint No. 20-084C; (3) McManus's Response to the Complaint; and (4) Executive Director's Recommendation to the Review Panel with Summary of Investigatory Findings.<sup>1</sup>

Under NAC 281A.430, the Review Panel unanimously finds and concludes that the facts do not support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the alleged violations of NRS 281A.400(2) and (9) and NRS 281A.420(1).

Specifically, the Complaint alleged that McManus used his official position as Mayor to vote in favor of retaining outside legal counsel to represent the City (and official actions of the City Council) in a legal action brought against the City by the former City Manager and former City Attorney. The allegations of the Ethics Complaint surmise that McManus (in his private capacity) received the benefit of the law firm's legal services that were paid for by the City. The allegations further contend that McManus bypassed the former City Manager, and instead influenced the City's Finance Director, to facilitate the City's payment of the law firm's August 2020 invoice, which included \$14,400 in legal services rendered during the week that preceded the City Council's vote to retain the law firm on August 11, 2020.

<sup>1</sup>All materials provided to the Review Panel, except the Ethics Complaint and the Order on Jurisdiction and Investigation, represent portions of the investigatory file and remain confidential pursuant to NRS 281A.750.

The facts confirmed that at the time of the City Council's vote on August 11, 2020, McManus was not a named-party defendant in his personal capacity in the legal action. Additionally, the evidence suggests that McManus had no personal pecuniary interest in the legal action or a private commitment to the interest of the law firm retained by the City, as McManus' personal attorney is not a member of or employed by that law firm. Similarly, the court filings and law firm billing entries also do not suggest that McManus (in his private capacity) received any unwarranted advantage by the City's retention of the law firm. Accordingly, under NRS 281A.420, McManus did not have a disclosable conflict of interest (or duty to abstain from acting) when he voted with three other councilmembers to retain the law firm to represent and defend the City in the legal action filed by the former City Manager and former City Attorney.

The evidence also confirms that consistent with the terms of the law firm's retainer agreement approved by City Council, McManus was designated as the City's point of contact to coordinate with the law firm and to receive and review the law firm's invoices for the services performed for the City. Moreover, the retainer agreement also established that "[a]ny services provided by the Firm in anticipation of the receipt of this executed engagement letter" (such as the work the law firm performed August 4-11, 2020) . . . are agreed to have been requested and provided pursuant to the terms of this letter [retainer agreement]." Thus, this evidence reflects that McManus' unilateral review and request for the City's payment of the full amount of the August 2020 invoice was consistent with the terms of the approved retainer agreement and does not establish credible evidence to support a violation of NRS 281A.400(2).

The evidence further confirms that McManus' communicated with the City's Finance Director when on September 15, 2020, he prepared a written memorandum to her to request payment of the law firm's August 2020 invoice. However, as the then City Manager Noyola detailed in a memorandum to City Council and the City Clerk on August 31, 2020 and represented at the City Council meeting on September 8, 2020 (Agenda Item No. 6), because of the City Manager's conflict (as a Plaintiff in the legal action) he had designated the City's Finance Director to serve as Acting City Manager to address the City's budget of funds for and communications regarding payment of the law firm's services. The City's Finance Director/Acting City Manager then publicly explained on September 8, 2020, how the invoices were to be reviewed and submitted to the Finance Office for payment. It is this process that McManus followed in submitting and requesting payment of the law firm's August 2020 invoice.

Consequently, the evidence does not support a factual basis as required by NRS 281A.400(9) sufficient to demonstrate that McManus used his position as Mayor to improperly influence a subordinate (City Finance Director) to request payment of the law firm's August 2020 invoice.

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IT IS HEREBY ORDERED:

The Review Panel dismisses this Complaint for lack of sufficient credible evidence of a violation. No further proceedings will be held with regard to this complaint and the allegations related to NRS 281A.400(2) and (9) and NRS 281A.420(1) are dismissed.

Dated this 17<sup>th</sup> day of March, 2021.

REVIEW PANEL OF THE NEVADA COMMISSION ON ETHICS

By: /s/ Teresa Lowry  
Teresa Lowry, Esq.  
Commissioner and Presiding Officer

By: /s/ Barbara Gruenewald  
Barbara Gruenewald, Esq.  
Commissioner

By: /s/ Thoran Towler  
Thoran Towler, Esq.  
Commissioner

**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 transmitted a true and correct copy of the foregoing **REVIEW PANEL DETERMINATION** via U.S. Certified Mail and electronic mail addressed as follows:

Kiernan McManus  
c/o Brittany Walker, Esq.  
City of Boulder City  
401 California Avenue  
Boulder City, NV 89005

Certified Mail No.: 9171 9690 0935 0037 6401 08

Email: [bwalker@bcnv.org](mailto:bwalker@bcnv.org)

Dated: 3/17/21

  
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Employee, Nevada Commission on Ethics