



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Louis Damonte**, Director, Water Conservation District, Washoe County, State of Nevada,

Ethics Complaint
Case No. 21-006C

_____ Subject. /

DEFERRAL AGREEMENT

1. On June 21, 2021, this Review Panel¹ authorized the Executive Director of the Nevada Commission on Ethics (“Commission”) and Louis Damonte (“Damonte”), a Director of the Washoe County Water Conservation District, to develop this Deferral Agreement (the “Agreement”) to address the conduct at issue in Ethics Complaint No. 21-006C (“Complaint”) instead of referring the Complaint to the Commission for further proceedings.

2. At all material times, Damonte served as a Director of the Washoe County Water Conservation District (“WCWCD”) and was a public officer as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over Damonte as a public officer for conduct alleged to have violated the provisions of NRS Chapter 281A within two (2) years of the filing of the complaint. See NRS 281A.280.

3. This Agreement is entered into based upon the June 21, 2021 Review Panel Determination that Damonte’s alleged conduct may be appropriately addressed through the terms and conditions of a deferral agreement instead of referring the Complaint to the Commission for further proceedings.

¹ Commissioner Damian R. Sheets, Esq. disclosed and abstained from any participation on this matter to avoid any appearance of impropriety or bias in compliance with NRS 281A.065(3) and (5), NRS 281A.420 and Rule 2.11 of the Code of Judicial Conduct. Specifically, Commissioner Sheets’ father was a partner at McDonald Carano and the law firm represents Commissioner Sheets in his private capacity. As the Subject in this case is represented by McDonald Carano, the judgment of a reasonable person in Commissioner Sheet’s situation would be materially affected by the disclosed relationships, and therefore, Commissioner Sheets abstained from participation in any proceeding pertaining to this matter.

4. The Review Panel Determination was based on facts establishing credible evidence to support just and sufficient cause for the Commission to render an opinion in this matter. The facts relied upon by the Review Panel to make its determination are summarized in Appendix A (“Facts Relied Upon by the Review Panel”).²

5. The parties acknowledge that no findings have been made by the Review Panel or the Commission that Damonte violated the Ethics Law, and it is understood that this Agreement does not constitute an admission by Damonte of any violation of the Ethics Law.

Procedural History

6. On or about January 26, 2021, the Commission received Complaint No. 21-006C from a member of the public (“Requester”).

7. On March 15, 2021, the Commission issued an *Order on Jurisdiction and Investigation* directing the Executive Director to conduct an investigation regarding Damonte’s alleged violations of the following provisions of the Ethics Law:

NRS 281A.400(1) Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity for himself or person to whom he has a commitment in a private capacity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

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.

NRS 281A.400(3) Participating as an agent of government in the negotiation or execution of a contract between the government and himself, and any business entity in which he has a significant pecuniary interest or any person to whom he has a commitment in a private capacity.

NRS 281A.400(6) Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests, or any person to whom he has a commitment in a private capacity.

² The Facts Relied Upon by the Review Panel do not constitute part of the “Investigative File” as that term is defined by NRS 281A.755. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Agreement.

NRS 281A.400(7) Using governmental time, property, equipment or other facility to benefit his significant personal or financial interest, or any person to whom he has a commitment in a private capacity.

NRS 281A.400(10) Seeking other employment or contracts for himself or any person to whom he has a commitment in a private capacity through the use of his official position.

NRS 281A.420 Failing to sufficiently disclose and/or abstain from acting on an official matter which is materially affected by his acceptance of a gift or loan, pecuniary interest, or commitment in a private capacity to the interest of another person.

NRS 281A.430 Negotiating, bidding on or entering into a government contract in which he has a significant pecuniary interest.

8. On March 15, 2021, the Executive Director provided a *Notice of Complaint and Investigation* pursuant to NRS 281A.720 and NAC 281A.410 and provided Damonte with an opportunity to submit a response to the allegations.

9. On or about April 19, 2021, Damonte, through his legal counsel, provided a written response.

10. On June 16, 2021, the Executive Director presented a recommendation relating to just and sufficient cause to the three-member Review Panel pursuant to NRS 281A.725.

11. A Panel Determination issued on June 21, 2021 concluded that:

- The facts establish credible evidence to 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(1), (2), (3) (10), NRS 281A.420 and NRS 281A.430.
- The facts do not establish credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to NRS 281A.400(6) and (7).
- Damonte's conduct implicating NRS 281A.400(1), (2), (3) (10), NRS 281A.420 and NRS 281A.430 may be appropriately addressed through corrective action under the terms and conditions of a deferral agreement instead of referring the allegations to the Commission for further proceedings.

Terms and Conditions

12. This Agreement shall be in effect for a period of two (2) years (the “Deferral Period”) from the date of approval by the Review Panel.

13. Damonte must comply in all material respects with the provisions of NRS Chapter 281A during the Deferral Period without becoming the subject of another ethics complaint arising from an alleged violation which occurs during the Deferral Period and for which the Review Panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter.

14. Pursuant to NRS 281A.420(1), on all matters that relate to the pecuniary interests and private commitments as established in NRS 281A.065 that are held by Damonte including those associated with the Steamboat Canal and Irrigation Company or associated interests (“private interests”), Damonte has an affirmative obligation to avoid the conflict pursuant to NRS 281A.020. Accordingly, Damonte will make a proper disclosure sufficient to inform the public of the extent and effect that his private interests have on the matter considered, which disclosure must be made prior to any participation thereon.³

15. Pursuant to NRS 281A.420(3) and (4), after Damonte makes a proper disclosure of his private interests, he is required to conduct the abstention analysis to inform the public whether the participation or vote of a reasonable person in Damonte’s situation would be materially affected by the disclosed private interests, including abstaining as required when the disclosed conflict is not remote to the matter considered, but relates to private business interests and relationships which constitute private commitments. In conducting the abstention analysis, application of the presumption set forth in NRS 281A.420(3) and (4) may be available to Damonte provided that he makes a proper disclosure and the statutory requirements for application of the presumption apply to the circumstances.

³ NRS 281A.065 details relationships that form private commitments including relationships with certain relatives, one’s own business and persons to whom a public officer or employee has a substantial and continuing business relationship.

16. Should Damonte have questions about his requirements to comply with the Ethics Law, including the requirements of disclosure and abstention, he acknowledges that he may seek an advisory opinion from the Commission before participating or voting on the matter, which advice must be sought with sufficient time for the Commission to consider the circumstances and render an opinion to guide Damonte on his statutory requirements.⁴

17. Damonte will attend and complete ethics training within six months from the date of the Commission's approval of the deferral agreement.

18. Damonte, in his position as a WCWCD board member, will encourage other members of WCWCD and their official legal counsel to participate in ethics training.

19. The Executive Director must not acquire any new or additional information relevant to the facts and circumstances relied upon by the Panel herein that would warrant further proceedings by the Commission.

20. During the Deferral Period, the Executive Director shall monitor Damonte's compliance with this Agreement. Should the Executive Director discover that Damonte has not complied with any term or condition of this Agreement, the Executive Director shall:

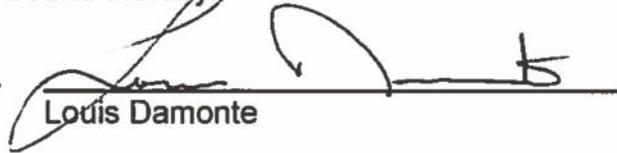
- a. Inform the Commission of any alleged failure of Damonte to comply with the Agreement;
- b. Give Damonte written notice of any alleged failure to comply with the Agreement; and
- c. Allow Damonte not less than 15 days to respond to such a notice.

21. At the expiration of the Deferral Period, so long as Damonte has complied with the terms and conditions hereof, the Complaint shall be dismissed with prejudice.

⁴ Seeking advice from official legal counsel representing the WCWCD may assist Damonte and provide safe harbor protections from a willful violation of the Ethics Law if all requirements of NRS 281A.790(5) are met and such advice is a reasonable legal determination on the application of the Ethics Law and Commission precedent. If a willful violation is found by the Commission, it could impose fines and penalties as set forth in NRS 281A.790 after the matter is adjudicated.

Acceptance: We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this 12 day of August, 2021.


Louis Damonte

The above Deferral Agreement is approved:

FOR LOUIS DAMONTE, Subject

DATED this ____ day of _____, 2021.

Lucas M. Foletta, Esq.

FOR DAVID R. HALL, ESQ.
Executive Director,
Nevada Commission on Ethics

DATED this 16th day of August, 2021.


Elizabeth J. Bassett, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 16th day of August, 2021.


Tracy L. Chase, Esq.
Commission Counsel

The above Deferral Agreement is accepted by the Review Panel.

DATED _____.

By: _____
Kim Wallin, CPA, CMA, CFM
Chair/Presiding Officer

By: _____
James Oscarson
Commissioner

By: _____
Damian R. Sheets, Esq.
Commissioner

Acceptance: We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this ____ day of _____, 2021. _____
Louis Damonte

The above Deferral Agreement is approved:

DATED this 13 day of August, 2021. _____
FOR LOUIS DAMONTE, Subject

Lucas M. Foletta, Esq.

FOR DAVID R. HALL, ESQ.
Executive Director,
Nevada Commission on Ethics

DATED this ____ day of _____, 2021. _____
Elizabeth J. Bassett, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this ____ day of _____, 2021. _____
Tracy L. Chase, Esq.
Commission Counsel

The above Deferral Agreement is accepted by the Review Panel.

DATED _____.

By: _____
Kim Wallin, CPA, CMA, CFM
Chair/Presiding Officer

By: _____
James Oscarson
Commissioner

By: _____
Damian R. Sheets, Esq.
Commissioner

Acceptance: We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this ____ day of _____, 2021. _____
Louis Damonte

The above Deferral Agreement is approved:

FOR LOUIS DAMONTE, Subject

DATED this ____ day of _____, 2021. _____
Lucas M. Foletta, Esq.

FOR DAVID R. HALL, ESQ.
Executive Director,
Nevada Commission on Ethics

DATED this ____ day of _____, 2021. _____
Elizabeth J. Bassett, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this ____ day of _____, 2021. _____
Tracy L. Chase, Esq.
Commission Counsel

The above Deferral Agreement is accepted by the Review Panel.

DATED August 16, 2021.

By: /s/ Kim Wallin
Kim Wallin, CPA, CMA, CFM
Chair/Presiding Officer

By: /s/ James Oscarson
James Oscarson
Commissioner

By: Abstained
Damian R. Sheets, Esq.
Commissioner

Appendix A – Facts Relied Upon by the Review Panel

At all times relevant to the allegations in Ethics Complaint 21-006C:

- A. Louis Damonte is a Director of the Washoe County Water Conservation District (“WCWCD”).
- B. Damonte was an officer and is currently a shareholder of the Steamboat Canal and Irrigation Company (“SCIC”), a for-profit Wyoming corporation that maintains the Steamboat Ditch. As a shareholder in SCIC Damonte receives a reduction in his Ditch maintenance fees.
- E. SCIC, with the support of the City of Reno and Washoe County, submitted a proposal to the United States Department of Agriculture-National Resources Conservation Services (“USDA-NRCS”) through its Watershed and Flood Prevention Program for funding to study how to improve the Ditch’s aging infrastructure. After the completion of the study, SCIC could have applied for additional funds for design and construction of the proposed improvements. Approval of additional funds was not guaranteed.
- F. SCIC was approved for federal funds to perform the study. However, as SCIC is a for-profit company the USDA-NRCS required that it work with a “sponsoring local organization”. A “sponsoring local organization” is defined by the USDA-NRCS’s Watershed and Flood Prevention Program as “[a]ny legal subdivision of a State government or a State agency, including . . . g) Irrigation districts”.
- G. On August 18, 2020, the WCWCD Board held a Special Meeting at which it considered Agenda Item 4 entitled “Discussion and possible action on request to serve as a sponsoring local organization on Watershed and Flood Prevention Program federal funding program for Steamboat Canal and Irrigation Company and Orr Ditch and Extension Water Company”.
- H. During the discussion of Item 4, WCWCD’s official legal counsel, who is also legal counsel for SCIC, stated, “Both these ditch companies have representatives on this board.” No further declaration of interest or conflict was made by Damonte.
- I. Damonte voted in favor of WCWCD serving as the “sponsoring local organization” on behalf of SCIC for the study phase of the project.