



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Donald Otto**, Trustee,
Palomino Valley General Improvement
District, Washoe County,
State of Nevada,

Ethics Complaint
Case No. 24-005C

Subject./

STIPULATED AGREEMENT

1. **PURPOSE:** This Stipulated Agreement resolves Ethics Complaint Case No. 24-005C before the Nevada Commission on Ethics (“Commission”) concerning Donald Otto (“Otto”), former Vice President of the Board of Trustees for the Palomino Valley General Improvement District (“PVGID”).
2. **JURISDICTION:** At all material times, Otto served as a Trustee for the Palomino Valley General Improvement District and was a public employee as defined in NRS 281A.150. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives 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. The Commission has jurisdiction over Otto in this matter.
3. **PROCEDURAL HISTORY BEFORE COMMISSION:**
 - a. On or about January 22, 2024, the Commission received Ethics Complaint No. 24-005C from a member of the public (“Requester”) alleging violation of NRS 281A.400(2).
 - b. On March 4, 2024, the Commission issued its *Order on Jurisdiction and Investigation* regarding the alleged violation of NRS 281A.400(2) and directing the Executive Director to serve a *Notice of Complaint, Additional Issues and Facts, and Investigation* regarding additional alleged violations of NRS 281A.400(7), and NRS 281A.420(1) and (3).

c. On March 7, 2024, staff of the Commission issued a *Notice of Complaint, Additional Issues and Facts, and Investigation* to Otto pursuant to NRS 281A.720 and NAC 281A.410 and provided Otto with an opportunity to submit a response to the allegations.

d. On May 28, 2024, Otto provided his Response to the allegations.

e. On June 26, 2024, the Executive Director presented a recommendation relating to just and sufficient cause to a three-member review panel pursuant to NRS 281A.725.

f. A Review Panel Determination issued on June 27, 2024, found the facts established 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(2), (7), and NRS 281A.420(1) and (3).

g. On August 26, 2024, the parties attended a settlement conference and reached an agreement to resolve this matter on the terms reflected in this Stipulated Agreement (“Agreement”).

h. In lieu of an adjudicatory hearing before the Commission, Otto and the Commission now enter into this Agreement.

4. STIPULATED FACTS:

a. Otto was the Vice Chair of the Board for the PVGID at all relevant times associated with this Complaint.

b. Otto owns a home at 6755 Quaking Aspen Road, in Washoe County, on what is known as Upper Quaking Aspen Road, located within the PVGID.

c. The PVGID voted to allow trustees with appropriate certifications to operate PVGID equipment for the purpose of temporary road maintenance and repair while staff of the PVGID were out on leave.

Despite a request to do so by Otto, the PVGID did not vote to change the road improvement policy previously adopted by the PVGID. e. Otto used PVGID equipment, materials, to complete road improvements, and perform maintenance to Quaking Aspen Road, which inured to the benefit of all homeowners and residents of Quaking Aspen Road, and which is alleged to be in contravention of the PVGID-approved road maintenance policy and in benefit to himself.

d. Otto participated in discussing and voting on items related to his private pecuniary interests without properly disclosing his interests or abstaining at multiple meetings of the PVGID.

e. Otto resigned from the PVGID Board on January 18, 2024, effective January 19, 2024.

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

a. Each of the stipulated facts enumerated in Section 4 of this Agreement is agreed to by the parties.

b. Allegations that Otto violated NRS 281A.400(7) and NRS 281A.420(1) and (3) are hereby dismissed by stipulation of the parties.

c. Otto's actions constitute a single course of conduct resulting in one violation of the Ethics Law, implicating the provisions of NRS 281A.400(2).

d. Based upon the consideration and application of the statutory factors set forth in NRS 281A.775, Otto and the Commission agree that pursuant to NRS 281A.170 one non-willful violation will be imposed for his violation of NRS 281A.400(2) for the following reasons:

- 1) **Seriousness of Violation:** The Commission has recognized the importance of avoiding the use of the public officer's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer. Otto's use of PVGID equipment, materials, and staff to complete road improvements, and perform maintenance to his residential road without proper authorization by the PVGID Board, is a serious violation of the Ethics Law.
- 2) **Previous History:** Otto has not previously been the subject of any violation of the Ethics Law or previous ethics complaints.
- 3) **Cost of Investigation and Proceedings:** Otto was diligent to cooperate with and participate in the Commission's investigation and resolution of this matter. Because Otto was willing to resolve the matter prior to an adjudicatory hearing, significant Commission resources were preserved.

- 4) Prompt correction of the violation: Otto responded immediately to the Executive Director and engaged in the investigation process.
- 5) Financial Gain: Otto recognized a financial benefit as a result of his conduct. For purposes of this Agreement, the parties agree he received benefits in the amount of \$1,000 in the form of materials and labor for unauthorized residential road improvements.
- 6) Additional Factors: Otto has resigned from the PVGID and no longer holds a public office.
 - e. For his non-willful violation of NRS 281A.400(2), Otto agrees to pay the sum of \$1,000.00 pursuant to NRS 281A.790(3) due in one-lump sum due 90 days following finalization of this stipulation.
 - f. If Otto returns to any form of public employment as either a public officer, as defined in NRS 281A.160, or a public employee, as defined in NRS 281A.150, including employment with any board or commission of any State or local government, whether funded by taxes or fees, within 1 year of the execution of this agreement, he will notify the Executive Director of the Commission and will complete Ethics Law training as approved by the Executive Director within 60 days of the start of his employment.
 - g. To assist Otto in his compliance obligations, the Commission will issue a confidential letter of caution detailing the application of the Ethics Law to the presented circumstances.
 - h. This Agreement is based on the specific facts, circumstances, and law now before the Commission. 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.
 - i. This Agreement is not intended to be applicable to or create any admission of liability by Otto for any other proceeding against or involving Otto, and such use is prohibited to the extent permitted by the jurisdiction of the Commission. If the Commission rejects this Agreement, none of the provisions herein shall be considered by the Commission or be admissible as evidence in a hearing on the merits in this matter.

j. The Executive Director agrees that he will not recommend to the Commission that this matter be referred to the Attorney General or any district attorney's office for criminal prosecution.


6. WAIVER

a. Otto knowingly and voluntarily waives his right to a hearing before the full Commission on the allegations in Ethics Complaint Case No. 24-005C and all rights he may be accorded with in regard to this matter pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B), and any other applicable provisions of law.

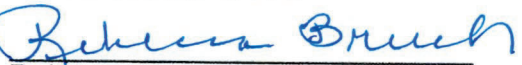
b. Otto knowingly and voluntarily waives his right to any judicial review of this matter as provided in NRS Chapter 281A, NRS Chapter 233B, or any other applicable provisions of law.

7. ACCEPTANCE: We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby once approved by the Commission. In addition, the parties orally agreed to be bound by the terms of this Agreement during the regular meeting of the Commission on October 16, 2024.¹

DATED this 13th day of October, 2024.


Donald Otto

DATED this 14th day of October, 2024.

FOR DONALD OTTO

Rebecca Bruch, Esq.
Lemons, Grundy & Eisenberg

DATED this 9th day of October, 2024.


Ross E. Armstrong, Esq.
Executive Director

¹ Subject waived any right to receive written notice pursuant to NRS 241.033 of the time and place of the Commission's meeting to consider his character, alleged misconduct, professional competence, or physical or mental health.

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 16th day of October, 2024.

/s/Elizabeth J. Bassett
Elizabeth J. Bassett, Esq.
Commission Counsel

The Stipulated Agreement is accepted by the Nevada Commission on Ethics:

DATED this 16th day of October, 2024.

By: /s/Kim Wallin
Kim Wallin, CPA, CMA, CFM
Vice Chair

By: /s/Michael E. Langton
Michael E. Langton, Esq.
Commissioner

By: /s/Terry J. Reynolds
Terry J. Reynolds
Commissioner

By: /s/Teresa Lowry
Teresa Lowry, Esq.
Commissioner

By: /s/Amanda Yen
Amanda Yen, Esq.
Commissioner