

NEVADA COMMISSION ON ETHICS

ANNUAL REPORT OF THE EXECUTIVE DIRECTOR PATRICIA D. CAFFERATA, ESQ.



FISCAL YEAR 2008



State of Nevada
COMMISSION ON ETHICS

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July 1, 2008

Members of the Nevada Commission on Ethics:

Nevada Administrative Code 281A.180.2 requires that the Executive Director report on the fiscal, legislative and regulatory matters and any other business of the Nevada Commission on Ethics for each fiscal year. The report must include the goals of the Commission for the coming year.

The following is the report for fiscal year 2007-2008.

Respectfully submitted,

Patricia D. Cafferata, Esq.
Executive Director

ANNUAL REPORT FISCAL YEAR 2008

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Business and Administrative Matters:

Commission:

The commission membership changed during the year. Two commissioners' terms expired during the fiscal year. The Governor appointed J.T. Moran, III to replace Commissioner Bill Flangas and reappointed Tim Cashman to the Commission. Commissioner Caren Jenkins resigned and the Legislative Commission appointed Paul Lamboley to replace her.

Commissioner Jim Kosinski resigned as Chair of the Commission in January. Vice Chair Mark Hutchison was elected Chair and Tim Cashman was elected Vice Chair.

The terms of Rick Hsu and Jim Kosinski expired on June 30, 2008.

Staff:

During this fiscal year three employees either retired from or accepted other employment with the State of Nevada. L. Patrick Hearn, the Executive Director of the Nevada Commission on Ethics, retired in the Fall of 2007. Adriana Fralick, General Counsel, served as the Acting Executive Director until Patricia D. Cafferata, Esq., was appointed Executive Director, effective November 1, 2007.

Emily Nunez, Executive Assistant, took another position with the State of Nevada in January 2008 and was replaced by Michelle Ene'. Investigator Matt DiOrio retired in April 2008. The position was not filled because of the state-hiring freeze. A new Investigator will begin work on August 1, 2008.

Website:

The Commission's website contains general information about the Commission and its staff, opinions and panel determinations, forms, and training information. The financial disclosure statements of public officials, judges and judicial candidates are also posted on the website.

The website was accessed 488,755 times during the year with the average monthly number of visits of 40,730. The average number of hits per day was 1,335. The average number of viewers per session was 381. During January when Financial Disclosure Statements are due, the website experienced the highest number of hits of any month in the year.

Statistics of Activities:

Acknowledgment Forms:

Two-hundred-sixty-one public officers filed Acknowledgment forms with the Commission this year.

Disclosure of Representation Forms:

Thirteen public officers filed Disclosure of Representation and Counseling of Private Persons before a Public Agency forms with the Commission this year.

Financial Disclosure Statements:

The Commission received a total of 595 Financial Disclosure Statements from appointed public officers, judges and judicial candidates. Judges and judicial candidates filed 258 statements and appointed public officers filed 337. Although the Nevada Code of Judicial Conduct requires judges and judicial candidates to file these statements with the Nevada Commission on Ethics, the judicial rules have not been followed until this year. All Financial Disclosure Statements were posted to our website.

In addition, 35 people filed Financial Disclosure Statements who were not required to file such statements.

The names of 62 public officers who failed to file or filed their financial disclosure statements late were forwarded to the Secretary of State's office, pursuant to NRS 281A.600.4.

Litigation:

Mike Carrigan v. NCOE, Case Number 07-01103A.

Sparks City Councilman Mike Carrigan filed a Petition for Judicial Review in the First Judicial District Court of Nevada of NCOE Opinion on Complaint Nos.06-61, 06-62, 06-66 and 06-68. The Court found in the Commission's favor in May 2008. Carrigan appealed the decision to the Nevada Supreme Court.

Requests for Opinion:

The Commission received 57 requests for opinion on 59 public officials or employees. Approximately 59 percent of the requests were on or from county and local government officials and 41 percent were on state board members or employees or legislators.

Thirteen requests were for advisory opinions. Of the advisory opinions, four were from city council members (three from Washoe and one from Clark counties), four were requested by members of state boards, two were from state legislators, and one each from a county commissioner, a town board member and a general improvement district board member (Douglas, Lyon and Nye counties). One request for opinion was withdrawn before the hearing and two advisory opinion requests are set for hearings in July and August 2008.

Of the third-party requests for opinions or ethics complaints (9 total), six were filed against county officials, one against a state legislator and one against a city council and one against a member of a state board (one each from Churchill, Clark, Humboldt, Lincoln, Nye, Storey and Washoe counties).

Of the third-party requests for opinion, the Executive Director, upon consultation with General Counsel, determined the Commission had no jurisdiction over 33 requests. Of these requests 13 were on county officials and employees, 13 were on members of state agencies, boards or employees, two were on state legislators, four were from prisoners, one was on a non-profit private group, one on a town board and one on a city council. These requests came from Churchill (1), Clark (4), Esmeralda (1), Lyon (2), Mineral (2) and Washoe (2) counties.

One third-party complaint on a legislator was brought to the Commission to proceed on its own motion, and the Commission rejected the complaint.

The Executive Director and General Counsel determined the Commission had no jurisdiction on one third-party complaint from Clark County. The requestor appealed this determination. The complaint was reviewed by a panel and dismissed.

Currently, two third-party complaints are pending and set for panel proceedings in July and August 2008.

Training:

Staff provided 16 training sessions for counties, state agencies and other governmental associations.

Fiscal Matters:

The Commission's original budget for 2007-2008 was for \$250,991 from the General Fund, \$428,961 from the Local Government Cost share, and \$4,946 from General Fund Salary Adjustment for a total of \$684,898.

The Local Government Cost was reduced by \$9,591 for refunds to local government.

Due to budget shortfalls, the Commission's budget from the general fund and from the Local Government Cost share was cut by 4.5%, in the amount of \$31,990 for the fiscal year. The Commission's budget was further reduced by \$1,128 for Retired Employee Group Insurance (REGI) assessment and Active Employee Group Insurance Subsidy (AEGIS) for the fiscal year.

The grand total for reductions was \$33,118 for the fiscal year. The Local Government Cost share was reduced by \$19,871 and \$13,247 was put into Reserve for Reversion. Therefore, the Commission's total budget was \$665,027.

The Commission collected from three public officials \$1,100 in civil penalties during FY 2007-2008. Pursuant to state law, civil penalties are deposited in the General Fund.

Legislative Matters:

The Commission submitted a Bill Draft Request (BDR) to the governor to be submitted to the 2009 Legislative Session. The proposal seeks the appointment of an Interim Study Committee for an in-depth study of the ethics laws and to make recommendations to the 2011 Legislature. The proposal also seeks to clarify the employment “cooling off” period for public employees and move this section to the Nevada Ethics in Government Law chapter. Finally, the BDR proposes to change the time between the panel proceeding and the hearing from 30 to 60 days.

Regulatory Matters:

New regulations were proposed by the Commission and submitted to the Legislature for review. A public workshop was held on June 19, 2008. The Commission is scheduled to vote on the final adoption of the regulation (LCB File Number R084-08) at its next meeting, on July 17, 2008.

The Legislature re-codified the Commission’s regulations, pursuant to SB. 498 of the 2007 Legislative Session. The re-codification is found in NAC 281A.

Goals:

The goals of the Commission for the coming year are to fully and fairly investigate all ethics complaints in a timely manner, schedule and complete all panel proceedings and Commission hearings in a timely manner, and render all decisions within the statutory timeframes set forth in statute.

Additionally, the Commission will reach out to public agencies and bodies to schedule ethics training sessions for them.

Specific goals to be completed are to redesign the Commission’s website and publish an Ethics Manual. Preliminary work has been begun on both projects.

In addition, revisions to the Internal Controls Manual will be completed. Finally, the Commission will work to streamline the financial disclosure process by working with the county clerks, the executive, judicial and legislative branches to obtain the correct names and addresses of public officials required to file Financial Disclosure Statements.

Conclusion:

Several changes to the Commission membership and staff occurred in fiscal year 2007-2008. The workload was similar to that of the previous year with the exception of receiving the judicial Financial Disclosure Statements.

Budget cuts forced the Commission to reduce travel expenses, so in the latter part of the fiscal year the Commission meetings were conducted by videoconference between Carson City and Las Vegas. In addition, most panel proceedings were scheduled on the same day as the Commission meetings to save court reporter fees.

The staff completed drafting all of the backlog of opinions and completed all new opinions in a timely manner after January 2008. All hearings and panel proceedings were scheduled and held in a timely manner. The year was a success.

Nevada Commission on Ethics

Commission Members and Staff:

As of June 30, 2008

Chair

Mark A. Hutchison, Esq. (R) *
Clark County
Term: 07/01/07 – 06/30/11

Vice Chair

Timothy Cashman (D) *
Clark County
Term: 11/01/07 – 10/31/2011

Members

Randall V. Capurro (R) **
Clark County
Term: 10/01/05 – 09/30/09

Rick R. Hsu, Esq. (R) *
Washoe County
Term: 07/01/04 – 06/30/08

George M. Keele, Esq. (R) **
Douglas County
Term: 10/1/07 – 9/30/2011

James Kosinski, Esq. (D) **
Washoe County
Term: 07/01/04 – 06/30/08

Paul Lambole, Esq. **
Washoe County
Term: 05/07/08 – 09/30/2011

John T. Moran, III.*
Clark County
Term: 01/14/08 – 09/30/11

* *Appointed by Governor*

** *Appointed by Legislative Commission*

Staff

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Appendix A

ORGANIZATION CHART

