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STATE OF NEVADA
STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

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OPINION: JE06-002

APPLICABILITY TO A SENIOR DISTRICT COURT JUDGE OF CAMPAIGN CONTRIBUTION AND EXPENSE REPORTING REQUIREMENTS OF NRS CHAPTER 294A.

ISSUE

Is a senior district judge required by reason of such office to file the campaign contribution and expense reports required by NRS 294A.120 and NRS 294A.200?

ANSWER

No. But, a former district judge may be required to file certain reports under NRS 294A.120 and NRS 294A.200, or to otherwise comply with NRS Chapter 294A, for a period of time following their resignation.

FACTS

A District Court Judge was elected in November 2002 to office for a term of six years commencing on January 1, 2003, and concluding on December 31, 2008. The District Judge resigned office effective in January 2006. The Governor accepted the resignation and appointed a replacement to the district court bench.

Prior to the effective date of the resignation, the District Court Judge applied for appointment as a Senior District Court Judge. After the effective

date of the resignation, the Supreme Court of Nevada appointed the former District Judge to serve as a Senior District Judge. After he was appointed to serve as a Senior District Judge in March 2006, the former District Judge filed an annual Campaign Contributions and Expense Report. The report disclosed that the judge had not received any contributions. The report also disclosed the judge had not expended any funds.

DISCUSSION

The Committee's opinion evaluates the question presented only as it relates to compliance with the requirements of the Nevada Code of Judicial Conduct. *Rule 5 Governing Standing Committee on Judicial Ethics & Election Practices*. A senior judge is a former supreme court justice or district judge recalled to active service by the Supreme Court pursuant to SCR 10. Except for three limited exceptions, the Code of Judicial Conduct applies to a senior judge. Specifically, while a senior judge remains ineligible to practice law, he or she may serve as a mediator or arbitrator in certain circumstances, may engage in fiduciary activities and may receive honoraria or speaking fees. *SCR 10(4); Application of the Code of Judicial Conduct (B)(1)-(2); Canon 4(E), 4(F) & 4(H)*. The Code's application to a senior judge in any other circumstance is indistinguishable from its application to a sitting district judge or supreme court justice. *Cf. JE06-001*.

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Canon 2 states “[a] judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” *Canon 2(A)*. The question posed here is to what extent a senior district judge must comply with the campaign contribution and expense reporting laws of NRS Chapter 294A. The analysis of this issue depends not merely upon the status of the office of senior district judge, but also is influenced by the circumstances of when he or she resigned elective judicial office.

The reporting requirements of NRS Chapter 294A relevant to a judicial officer are those that apply to a “candidate.” For the purpose of the reporting requirement of NRS Chapter 294A, a person is a “candidate,” if they filed a declaration or acceptance of candidacy, their name appeared on an official ballot or they receive a contribution in excess of \$100. *See* NEV. REV. STAT. § 294A.005. A senior district judge is not an elective office and, therefore, a person appointed by the Nevada Supreme Court to serve as a senior district judge is not subject to the reporting requirements of NRS 294A.120 or NRS 294A.200 by reason of appointment to that position.

The reporting requirements of NRS Chapter 294A, however, may be applicable to a person serving as a senior district judge for other reasons. NRS 294A.120(1) requires every candidate for public office to file by January 15 of each year an annual report of each **campaign contribution** received in excess of \$100 for the prior calendar year “beginning the year of the general election for that office through the year immediately preceding the next general election for that office.” NEV. REV. STAT. § 294A.120(1). The

District Judge was a “candidate” for judicial office in 2002 as defined by NRS 294A.005. The plain language of NRS 294A.120(1) indicates that as a “candidate,” the District Judge must continue to file annual reports of campaign contributions “through the year immediately preceding the next general election for that office.” Moreover, the campaign contribution reporting requirements of NRS 294A.120(1) are declared by statute to continue even if no contributions are received. *See id.* § 294A.350(1)(b). The statutory scheme adopted by the Nevada Legislature appears to mandate that the District Judge file annual campaign contribution reports until November 2007 even though he or she is neither serving in nor standing for reelection to that office nor seeking election to any public office. The statutes should be interpreted and applied consistent with the unambiguously expressed intent of the Nevada Legislature. *See, e.g., Roberts v. State Univ. of Nevada Sys.*, 104 Nev. 33, 752 P.2d 221 (1988).

Similarly, NRS 294A.200 states that every candidate for public office must file by January 15 of each year an annual report of each **campaign expense** incurred or any disposition of unspent campaign contributions in excess of \$100 for the prior calendar year. As with receipt of campaign contributions, the report of expenses and dispositions extends for the period “beginning the year of the general election for that office through the year immediately preceding the next general election for that office,” as well as to any year following a calendar year in which unspent contribution are distributed. *Id.* § 294A.120(1). Like contributions, the reporting requirement for campaign expenditures remains for annual periods even if the “candidate” does not

incur such expenses or retain the office.¹ See *id.* § 294A.350(1)(c). This means that to comply with the technical reporting requirements of NRS 294A.200, the District Judge also must file campaign expense reports until November 2007.

CONCLUSION

Canon 2 demands that a senior district judge, like any judicial officer, must comply with the law. The campaign contribution and expense reporting laws under NRS Chapter 294A do not apply to the position of senior district judge. A person appointed by the Nevada Supreme Court to serve as a senior district judge, however, may be subject to certain reporting requirements imposed by NRS Chapter 294A by reason of their former status as a “candidate” for judicial office.

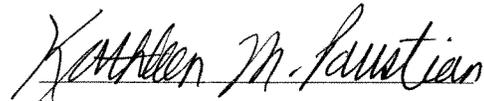
REFERENCES

Rule 5 Governing Standing Committee on Judicial Ethics & Election Practices; SCR 10(4); Application of the Code of Judicial Conduct (B)(1) - (2); Canon 4(E); Canon 4(F); Canon 4(H); JE06-001; Canon 2(A); NEV. REV. STAT. § 294A.005, .120, .120(1), .200, .350(1)(b), and .350(1)(c);

¹ In 2005, the Nevada Legislature repealed NRS 294A.180. The Nevada Secretary of State adopted a regulation, NAC 294A.095, that interpreted and implemented the requirements of NRS 294A.180. That statute and the related regulation eliminated reporting requirements for “candidates” that disposed of unspent contributions and were no longer in public office. The elimination of this statutory and regulatory process tends to indicate that for some public policy reasons the Nevada Legislature intended to extend the reporting requirements under NRS Chapter 294A for persons that had left office early. See, e.g., Board of County Comm’rs v. CMC of Nevada, 99 Nev. 739, 670 P.2d 102 (1983)(a doubtful interpretation of a statute is clarified by subsequent amendment or repeal).

Roberts v. State Univ. of Nevada Sys., 104 Nev. 33, 75 2 P.2d 221 (1988); Board of County Comm’rs v. CMC of Nevada, 99 Nev. 739, 670 P.2d 102 (1983).

This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.



Committee Chairperson