

State of Nevada
Commission on Judicial Discipline

2008 Summary Report

and

Case Study: District Judge Douglas W. Herndon

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Why retain us for help in obtaining government appropriations?

Many technology companies believe the only path to government funds is through small SBIR grants. However, our clients see an average return-on-investment (ROI) of 150% in less than one year with funding amounts in the multi-million dollar range.

Services: Government Appropriations

The Busick Group guides technology companies in the federal appropriations and agency grant processes. We also actively lobby on behalf of our clients to change existing laws and support the enactment of new legislation within their home state. Our consulting team has a successful track record of obtaining government funding, expert knowledge of the federal appropriations process, and a vast network of federal agency and military contacts.

Why retain us for legislative change support?

We are experienced in working with elected officials, public agencies and private groups in making changes to existing laws and enacting new laws.

Services: Political Advocacy

Working with state legislators, public agencies, private companies and individuals, The Busick Group drafts legislative changes and supports the enactment of new laws. We lobby on behalf of clients during state legislative sessions. In addition, we create Political Action Committees (PACs) to educate voters and support the passage of legislative and constitutional changes.

Our experience in state and local government enables us to understand the importance of change. Leveraging our knowledge of state and local issues, we are able to draft much needed legislation and obtain the necessary support for its passage. With our federal background we are then able to secure the necessary endorsements and funding to educate citizens as to the importance of their vote in favor or opposition to that which we are working.

In Nevada, we are currently working with state legislators, public agencies, private companies and individuals to draft historic judicial changes.

DISCLOSURES:

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All materials referenced within the document are available to the public via the World Wide Web and by request of the 8th Judicial District Court, located in Las Vegas, Nevada.

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The Busick Group, LLC
State of Nevada Commission on Judicial Discipline
Summary Report and Case Study 2008

History: The State of Nevada Commission on Judicial Discipline (the “Commission”) was organized in the mid-1970’s. The Commission receives its authority from Article 6, Section 21 of the Nevada Constitution; Section 1.425 to 1.4695, inclusive, of the Nevada Revised Statutes; and by its own adopted procedural rules. The Commission is designed to review complaints regarding judicial officers’ conduct or disability. When “the Commission finds that a judicial officer failed to adhere to the Nevada Code of Judicial Conduct...the Commission is granted the independent power to discipline or caution a judicial officer...”

(<http://judicial.state.nv.us/guidencjd3new.html>, 4/21/06)

Summary: The State of Nevada Judicial Discipline Commission’s structure is inherently flawed and does not provide its citizenry an effective tool for addressing improper judicial conduct or disability.

The obligations of the complainant serve to deter the layperson from filing. The complaint process is cloaked in secrecy and provides unequal protection through its “obligation to maintain confidentiality.” This requirement serves only to protect the judicial officer who is the subject of the complaint and exposes the complainant to personal and legal risks, including but not limited to “contempt or other remedy.” Further, the panel is chiefly comprised of judicial officers and attorneys who review and evaluate the merits of a complaint against judicial officers. Matters that may have a public interest are privately reviewed and decided.

Findings of Fact:

- The State of Nevada Constitution inappropriately defines the Commission’s composition, thereby making the process to modify the Commission’s structure overly cumbersome. (Article 6, Section 21.2)
- Equal protections are not granted to both the complainant and judicial officer. The judicial officer receives all protections, while the complainant receives negligible protections. (NRS 1.4683 (2); NRS 1.468; Guide to the Ethical Obligations of Nevada Judges and Filing a Complaint with the Nevada Commission on Judicial Discipline; Verified Statement of Complaint)
- Matters that may have public importance are privately resolved. The Nevada State Legislature gave wide latitude to the Commission to make confidential the complaints. (Article 6, Section 21 (5)b; NRS 1.4683)

- Complainants are denied the right to discuss or disclose their complaint, the findings, and resolution to any person or entity without the express consent of the Commission. (NRS 1.4683)
- The primary composition of the Commission is judicial officers and attorneys. (Article 6, Section 21.2) These individuals are considered peers and professional co-workers to judicial officers. This creates the appearance of bias for complaint review and resolution.
- Filing and service procedures are thorough and clearly defined. (Procedures, 10/05/05)
- Complaints are on the rise; however, information regarding the nature of complaints and resolution is not readily available to the public. Case in point, of the 168 complaints received in 2007: how many were dismissed without merit; how many were made available to the public; and how many resulted with some kind of disciplinary sanction or punishment?
- There exists no documented review or oversight process for the operation, conduct, and execution of the duties of Commission and its members.

The Busick Group "TBG" Recommends:

- Require all complaints, findings, determinations, and forms of discipline applied to the judicial officer be made public; unless agreed upon in writing by both the complainant and judicial officer in question.
 - Draft new language to amend NRS 1.4683 at the 2009 Nevada State Legislative Session.
- Remove the "Obligation to Maintain Confidentiality" from the Complainant.
- Rewrite language contained in NRS Section 1.425 to 1.4695 to provide greater protection to complainants.
 - Draft revised language for consideration at 2009 Nevada State Legislative Session.
- Revise the Commission composition to achieve greater diversity and include more laypersons.
 - Draft new language to modify Article 6, Section 21 of the Nevada State Constitution
- Require the Nevada Commission on Judicial Discipline to provide more detailed information to the general public regarding the nature of complaints and resolutions.
- Advocate the development and incorporation of a formal review and oversight process for the operation, conduct, and execution of the duties of the Commission and its members.

SUPPORTING DOCUMENTATION:

- Excerpt State of Nevada Constitution: Article 6, Section 21
- Excerpt Nevada Revised Statutes: NRS 1.425 to 1.4695, inclusive
- Excerpt Part VI. Nevada Code of Judicial Conduct
- Excerpt Online State of Nevada Commission on Judicial Discipline (<http://judicial.state.nv.us/>)
 - Purpose of the Commission, 04/11/06
 - Guide to the Ethical Obligations of the Nevada Judges and Filing a Complaint with the Nevada Commission on Judicial Discipline, 4/21/06
 - Biographical Sketches of Commission Members and Staff, 08/13/07
 - Complaint Process Confidential and Public Proceedings
 - Procedures, 10/05/06
 - Complaints, 09/27/07
- Nevada Commission on Judicial Discipline: Verified Statement of Complaint
- 2008 Case Study: District Judge Douglas W. Herndon