

# Justice Court, Goodsprings Township

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JUDGE DAWN HAVILAND  
*Justice of the Peace*



June 22<sup>nd</sup>, 2015

Re case # 1502-137 (2013-075)

Dear Commission on Judicial Discipline,

Enclosed are answers to the Formal Statement of Charges sent to me by your council. I do not have nor will I have council. It is not within my means.

I take it very seriously any time someone of the public or the judiciary finds fault with my work in some way, I do lose sleep over it.

If it is a disagreement with a decision, there is an appeal. This issue was not appealed. I have examined our procedures and have changed our collection departments process completely so as not to allow this type of thing to happen again. Although the change has taken some elements out of the electronic process and put the burden on staff, I feel we can better serve the public and justice and maintain the integrity of collecting fines following sentencing.

I submit the explanation respectfully.

  
Dawn Haviland

In response to the Formal Statement of Charges Re case # 1502-137 (2013-075) filed by the Nevada Commission on Judicial Discipline, received June 18<sup>th</sup>, 2015, please consider the following responses and explanations:

- A. Issued, or cause to be issued, a complaint or bench warrant, or both, without factual or legal basis, against Strickly Truckin' Inc., a Utah Corporation, or Complainant Tracy Strickland, or both, for a motor carrier license violation pursuant to CFR 49 393.45 of the Federal Motor Carrier Safety Regulations for brake tubing and hose.

*Nevada Highway Patrol issued a citation/complaint to the driver (agent) listing Strickly Truckin' Inc., as owner on 5/8/2009. The driver is considered an agent of the company by Federal Regulation. No further complaint was issued by anyone.*

- B. Without authority to investigate or prosecute misdemeanors, directed staff, on or about January 7, 2010, to incorrectly include Bill Strickland as the vehicle owner in Part B of the complaint.

*It was not my intent to include Mr. Strickland as anything but a person of contact to collect the fine. For collection purposes only a notation was made to address Mr. Strickland as the authority to pay, or owner. Mr. Strickland's name was secured by staff from talking to the driver or agent of the company.*

- C. After the statute of limitations for such misdemeanors had run, issued, or caused to be issued, a complaint or bench warrant, or both, against Complainant Tracy Strickland for a motor carrier license violation pursuant to CFR 49 393.45 of the Federal Motor Carrier Safety Regulations for brake tubing and hose

*There was never an additional complaint issued. The staff of the court was attempting to work with the company to pay the fine. As the violation had already been plead to by the agent of the company or the driver, there was only a fine to deal with.*

- D. Without authority to investigate or prosecute misdemeanors, personally investigated, or ordered her staff or the staff of the court clerk to investigate, the name of the registered owner for Strickly Truckin' Inc., and then issued or caused to be issued, a complaint or bench warrant, or both against Strickly Truckin' Inc. or Complainant Tracy Strickland, or both of them, for a motor carrier license violation pursuant to CFR 49 393.45 of the Federal Motor Carrier Safety Regulations for brake tubing and hose

*There was no complaint issued in Ms. Strickland's name. This court has an in-house collection department that has attended State approved collection training. It is policy to obtain the resident agent from public record when attempting to collect a debt. It is my belief that the automated system generating a warrant with Ms. Strickland's name on it for non-payment is where the misunderstanding began.*

- E. Engaged in prohibited ex parte communications by personally, or through her staff or the staff of the court clerk, communicating, or considering communications, with Strickly Truckin' Inc., or Complainant Tracy Strickland, or both, outside the presence of the parties or their lawyers concerning a pending matter, without consent of the parties or authorization of the law.

*There had already been a plea of guilty accepted from the driver/agent timely to the complaint being filed by Nevada Highway Patrol. There was only communications with the company and staff to collect the fine. There was no communications in violations to statute or ethics.*

- F. Engaged in plea negotiations contrary to law by personally, or through her staff or the staff of the court clerk, communicating with Strickly Truckin' Inc., or Complainant Tracy Strickland, or both, regarding possible resolution of the above case.

*There were no negotiations involved in any way. There were two violations of Federal Regulations and Nevada Statutes, the Driver/Agent entered a plea and was held accountable for one violation financially and the court contacted the company to pay the fine on the second violation.*

- G. Abused her judicial authority by engaging in any or all, or any combination of, the acts listed above in paragraphs A through F (collectively referred to as "the acts").

*I do not feel that I intentionally abused the authority of the court. If anything there is a flaw in our electronic system, of which, I assure you I have taken steps that this will never happen again.*

#### COUNT ONE

By engaging in the acts, or a combination of the acts, listed above, Respondent exceeded or abused her judicial authority as authorized under the Nevada Code of Judicial Conduct, violating paragraph [1] of the Preamble to the Code which mandates an independent, fair, impartial and competent judiciary.

*I take my job very seriously. In 17 years and thousands of commercial violations I have tried my best to represent the judiciary with honor and pride. I worked in the transportation industry for 25 years prior to coming to the bench. Owners of companies appear in court on behalf of the drivers every day. This is the first time I have had a reputable company not willing to pay a fine on behalf of an agent/driver for a safety issue.*

#### COUNT TWO

By engaging in the acts, or a combination of the acts, listed above, Respondent violated Canon 1, Rule 1.1 requiring her to comply with the law, by acting without authority to investigate and/or prosecute misdemeanors.

*There was no further prosecution beyond the original complaint filed by the Nevada Highway Patrol. All actions following were attempts to collect a debt.*

#### COUNT THREE

By engaging in the acts, or a combination of the acts, listed above, Respondent violated Canon 1, Rule 1.2, requiring her to promote public confidence in the judiciary, by exceeding her authority in a case before her by investigating and prosecuting a misdemeanor, including the issuance, or causing the issuance, of a complaint or bench warrant, or both, against Strickly Truckin' Inc., Complainant Tracy Strickland and Bill Strickland.

*There was no complaint issued against the Company, Mr. Strickland, or Ms. Strickland. There was an electronic Warrant issued to Ms. Strickland for non-payment of the fine.*

COUNT FOUR

By engaging in the acts, or a combination of the acts, listed above, Respondent violated Canon 2, Rule 2.2, requiring her to uphold and apply the law, by exceeding her legal authority in a case before her by investigating and prosecuting a misdemeanor, including the issuance, or causing the issuance, of a complaint or bench warrant, or both, against Strickly Truckin' Inc., Complainant Tracy Strickland and Bill Strickland.

*There was no prosecution of a misdemeanor; there were only attempts to collect a debt. There was no investigating, only acting on the information provided on the complaint.*

COUNT FIVE

By engaging in the acts, or a combination of the acts, listed above, Respondent violated Canon 2, Rule 2.5(A), requiring her to perform judicial and administrative duties competently and diligently, by exceeding her authority in a case before her by investigating and prosecuting a misdemeanor, including the issuance, or causing the issuance, of a complaint or bench warrant, or both, against Strickly Truckin' Inc., Complainant Tracy Strickland and Bill Strickland.

*There was no prosecution of an additional charge. The original violations had been plead to and sentenced. There was never a warrant issued to Mr. Strickland or the Company. There was an electronic warrant generated in Ms. Strickland's name for non-payment of the fine.*

COUNT SIX

By engaging in the acts, or a combination of the acts, listed above, Respondent violated Canon 2, Rule 2.9, prohibiting ex parte communications, by personally, or through her staff or the staff of the court clerk, communicating, or considering communications, with Strickly Truckin' Inc., or Complainant Tracy Strickland, or both, outside the presence of the parties or their lawyers concerning a pending matter, without consent of the parties or authorization of the law, and by engaging personally, or through her staff or the staff of the court clerk, in plea negotiations with Strickly Truckin' Inc., or Complainant Tracy Strickland, or both, to potentially settle the above case.

*There was no communication with Strickly Truckin' Inc., or complainant Tracy Strickland or both outside the presence of the parties or their lawyers concerning a pending matter without consent of the parties. Neither Strickly Truckin' nor any of their agents requested an additional hearing, nor did they ask for or file an appeal of the original adjudication. The only communication was attempts to collect a fine.*

Dated this 22<sup>nd</sup> Day of June, 2015



Dawn Haviland