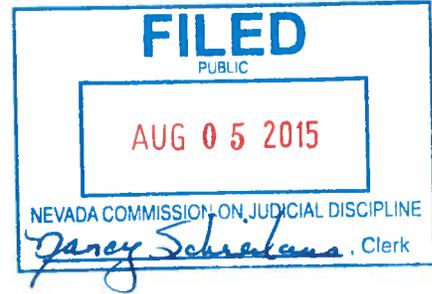


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7 BEFORE THE JUDICIAL DISCIPLINE COMMISSION
8 STATE OF NEVADA

11 In the Matter of STEVEN E. JONES,) CASE NO.: 2006-100
12)
13 Respondent.) **OPPOSITION TO RESPONDENT'S**
14) **MOTION TO DISMISS FORMAL**
15) **STATEMENT OF CHARGES**

17 COMES NOW Special Counsel Kathleen M. Paustian, Esq., and files this Opposition to
18 Respondent's Motion to Dismiss Formal Statement of Charges ("Motion"). This Opposition is
19 based on the pleadings and documents on file and on the argument of counsel should this
20 Commission set the Motion for hearing.

21 DATED this 5th day of August, 2015.

22
23 By: Kathleen M. Paustian
24 Kathleen M. Paustian
25 Special Counsel for the NCJD
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27
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1 I.

2 ANALYSIS

3 **A. Respondent's Motion Does Not Meet the High Standard for Dismissal.**

4 NRS 1.462 (2) provides that the Nevada Rules of Civil Procedure (NRCP) apply to
5 proceedings before the Commission after the filing of a formal statement of charges.
6 Additionally, *Nyberg v. Nevada Indus. Comm'n*, 100 Nev. 322, 324, 683 P.2d 3 (1984) holds the
7 NRCP may be applied to administrative agency proceedings, if the Rules are not inconsistent
8 with the agency's statutes or rules. While the Respondent cites to no statute or case law to
9 support his demand for dismissal of the Formal Statement of Charges, he is apparently relying on
10 NRCP 12(b)(5) as his statutory authority. Mr. Jones cannot meet the very high standard for
11 dismissal under NRCP 12(b)(5) and its interpretative case law. Specifically, *Blackjack Bonding*
12 *v. City of Las Vegas*, 116 Nev. 1213, 1217, 14 P.3d 1275, 1278 (2000) held:
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14

15 An order granting a NRCP 12(b)(5) motion to dismiss ... faces a
16 rigorous standard of review on appeal, as this court must construe
17 the pleadings liberally and accept all factual allegations in the
18 complaint (charges) as true. See *Simpson v. Mars Inc.*, 113 Nev.
19 188, 190, 929 P.2d 966, 967 (1997). Furthermore, this court must
20 draw every fair inference in favor of the non-moving party. "A
21 complaint will not be dismissed for failure to state a claim unless it
22 appears beyond a doubt that the plaintiff could prove no set of facts
23 which, if accepted by the trier of fact (the Commission), would
24 entitle him or her to relief." (Emphasis added.)

25 Similarly, *Knittle v. Progressive Casualty Insurance Company*, 112 Nev. 8, 10, 908
26 P.2d 724, 725 (1996) applied *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 845, 858
27 P.2d 1258, 1260 (1993) to hold: "Such a dismissal is valid only if it appears beyond a doubt
28 that the plaintiff (the Commission) could prove no set of facts entitling him or her to relief."
(Emphasis added.)

29 *In re Amerco Derivative Litigation*, 127 Nev. Adv. Op. 17, 252 P.3d 681, (NV 2011) and
30 *Malfabon v. Garcia*, 111 Nev. 793, 898 P.2d 107, (NV 1995) found that claims must contain

1 facts which, if true, would entitle the filing party to relief and the trier of fact must draw all
2 “reasonable inferences” in favor of the filing party.

3 The Commission acts as the “trier of fact”. If it does not appear “beyond a doubt” that
4 those prosecuting the charges could prove “no set of facts” to justify discipline, the Commission
5 must accept the facts in the Statement of Charges as true. Given that the Respondent has pled to
6 the basic facts in the Statement of Charges, there should be no doubt as to their truth. The
7 “reasonable inference” then weighs in favor of upholding the Statement of Charges.

8
9 The *Blackjack* and *Amerco Derivative* lines of cases set the bar for NRC 12(b)(5)
10 dismissals extremely high. They support upholding the Formal Statement of Charges as filed.

11 **B. Respondent’s Jurisdictional Arguments are Disingenuous and Without Merit.**

12 The Respondent cites to two (2) statutes and an Article of the Nevada Constitution for his
13 proposition that because he resigned from his judicial seat, the Commission no longer has
14 jurisdiction over him. Mr. Jones has no case law to support his proposition, probably because
15 this argument is not logical. He resigned as part of a Plea Agreement to what even he describes
16 as a “serious felony”.¹ Carrying his argument to its broader conclusion would mean the
17 Commission cannot fulfill its mandate to discipline judges if they use resignation to avoid
18 discipline, regardless of the nature of their crimes. Applying the Respondent’s argument to this
19 case means that the Commission would not have capacity to discipline Steven Jones for his
20 admitted “serious felon[ies]”, because he voluntarily pled guilty to them.

21
22 While Nevada has no case law interpreting the extent of jurisdiction over former judges,
23 many other states do. *See, Inquiry into the Conduct of the Honorable George W. Perez*, No.
24 A12-2118, 843 N.W. 2nd 562, (Minn. 2014). After the Minnesota Board on Judicial Standards
25 issued a formal Complaint against George Perez finding he violated the Code of Judicial
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¹ See Motion, p. 8, l. 11.

1 Conduct and Minnesota law, the state's Senate refused to confirm his appointment, immediately
2 ending his judgeship. Mr. Perez filed a Motion to Dismiss the Complaint. The Supreme Court
3 (1) denied his Motion to Dismiss; (2) upheld the Board's finding of misconduct; and (3)
4 disciplined him with, among other punishment, public censure. In so doing, the Court stated:

5
6 ...this case involves unique factual circumstances because Judge Perez is no
7 longer serving as a judge on the tax court, he is not admitted to practice law in
8 Minnesota and he is a former executive-branch judge. The discipline we impose
9 protects the integrity of the judicial system and should help restore the public's
10 confidence in that system and its officers. (Emphasis added.) *Id* at p. 569.

11 In footnote 2, the Court stated:

12 While Judge Perez is no longer a sitting judge in Minnesota, we will refer to him
13 as Judge Perez because the misconduct at issue occurred while he was a judge of
14 the Minnesota Tax Court. (Emphasis added.) *Id* at 570.

15 The Pennsylvania Judicial Conduct Board has repeatedly filed charges against former
16 judges based on actions they took while in office and the state's Judicial Discipline Court and
17 Supreme Court have supported such action:

- 18 • On March 11, 2015, the Judicial Conduct Board charged Joseph Waters with nine
19 (9) violations of Judicial Canons, all of which were based on the word "judge",
20 regardless of the fact he had resigned from the bench six (6) months earlier on
21 September 23, 2014. *See, In re Joseph C. Waters, Jr., Municipal Court Judge*
22 *First Judicial District Philadelphia County, 5 JD 2015.*
- 23 • The Court of Judicial Discipline of Pennsylvania on April 23, 2012 issued
24 sanctions against Michael T. Conahan, despite his resignation from the bench on
25 January 12, 2008. The Judicial Conduct Board had charged Mr. Conahan in 2011
26 with violation of state Constitutional provisions governing "judges" after he pled
27 guilty in 2010 to a federal racketeering indictment. *In re Conahan, Former*
28 *Judge, Court of Common Pleas, Luzerne County, 51 A.3d 922.* (Emphasis
added.)

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- On June 24, 2011, the Pennsylvania Court of Judicial Discipline accepted a waiver of trial and stipulation of fact in lieu of trial from the Judicial Conduct Board and Michael T. Toole. The Court then found Mr. Toole to be subject to discipline under the Pennsylvania Constitutional provisions governing “judicial” conduct, despite the fact he was no longer on the bench. A month later, on July 26, 2011, The Court disciplined Mr. Toole by symbolically removing him from office and ordering that he was forever prohibited from holding any judicial office in the Commonwealth. The discipline was based on Mr. Toole’s conviction on two (2) felonies, for which he had been sentenced on April 8, 2011. *In re Michael T. Toole Former Judge Court of Common Pleas Luzerne County*, 5 JD 11. (Emphasis added).
 - Also on July 26, 2011, the Pennsylvania Court of Judicial Discipline took action against Michael Thomas Joyce in a similar case. A federal grand jury had indicted Mr. Joyce on August 15, 2007 on multiple felony counts, including mail fraud. He went to trial on October 22, 2008 and the jury convicted him. On March 10, 2009, Michael Joyce was sentenced to forty-six (46) months in federal prison. He appealed and on April 6, 2010, the Third Circuit Court of Appeals affirmed his conviction and sentence. Mr. Joyce filed for rehearing and his Petition was denied on August 13, 2010. On June 24, 2011, the Court of Judicial Discipline found the felony convictions subjected Mr. Joyce to discipline under state Constitutional provisions governing “judges”. On July 26, 2011, the Court symbolically removed him from the bench and prohibited him from holding judicial office in the Commonwealth in the future. *See, In re Michael Thomas*

1 Joyce Former Judge Superior Court of Pennsylvania, 3 JD 11. (Emphasis
2 added.)

- 3 • The Pennsylvania Judicial Discipline Court has disciplined people who are no
4 longer serving as judges going back to at least 2002. In December of that year,
5 the Court found former judge Francis P. Eagan to be subject to discipline,
6 regardless of the fact his term ended five (5) years earlier on January 4, 1998
7 when he lost his bid for re-election. On October 12, 1999, a jury had convicted
8 the former judge of a misdemeanor criminal count for interfering with a Grand
9 Jury investigation. The Judicial Discipline Court found against him in 2002 based
10 on this 1999 conviction by relying on state Constitutional Article V § 17(b):
11 “justices and judges shall not engage in any activity prohibited by law....”
12 (Emphasis added.) See, *In re Francis P. Eagan, Former Judge of the Court of*
13 *Common Pleas, Lackawanna County*, 4 JD 01. (Emphasis added.)
- 14 • *In re Richard D. Cicchetti, Former Judge*² *and President Judge Court of*
15 *Common Pleas Fourth Judicial District*, 743 A.2d 431 (2000), the Supreme Court
16 of Pennsylvania ratified similar actions by the Judicial Conduct Board and the
17 Court of Judicial Discipline. The Judicial Discipline Board had brought charges
18 under the Judicial Conduct Canons and the state Constitution accusing the Judge
19 of sexual misconduct, using public employees in his retention election and filing
20 false campaign expense documents. The Judge retired from all judicial duties at
21 the end of December, 1995. The Judicial Discipline Court upheld part of the
22 sexual harassment charges, specifically claims asserted by Probation Officer
23 Heather Brueggman who was assigned to the Judge’s courtroom from July, 1993
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28 _____
² Emphasis added.

1 until February, 1994 when she resigned. The Court did not dismiss the
2 allegations of wrongful use of employees, but found the Judge did submit false
3 affidavits as part of his campaign finance reporting. Both the Board and the
4 Judge objected to the Court’s findings, but in 1997, the Judicial Discipline Court
5 affirmed and severely reprimanded and censured Mr. Cicchetti, regardless of the
6 fact he had not been a judge for over a year. *Id* at 439. The Board then appealed
7 to the state Supreme Court and the Judge cross-appealed. The Pennsylvania
8 Supreme Court upheld the ruling of the Judicial Discipline Court, paying no
9 attention to the fact Mr. Cicchetti was disciplined after he retired from the bench.

11 *In the Matter of Joseph G. Troisi, Former Judge*, 504 S.E. 2d 625 (W. Va. Supreme
12 Court of Appeals, 1998), (emphasis added), even ratified settlement terms between a former
13 judge and the Judicial Hearing Board. After the West Virginia Board charged Mr. Troisi based
14 on Judicial Conduct standards, it entered into a settlement with him on November 18, 1997. The
15 previous month, Joseph Troisi had pled to one count of battery and resigned his judgeship.

17 *In re the Matter of Louis M.J. DiLeo a Former Judge³ of the Linden Municipal Court*,
18 D-66 072095, the New Jersey Supreme Court publically reprimanded former judge DiLeo for
19 egregious legal error while presiding over a pro per trial of brothers on May 12, 2010. An
20 attorney who represented a brother when the case was re-heard de novo filed a complaint against
21 DiLeo on February 3, 2011 with the Supreme Court Advisory Committee on Judicial Conduct
22 (“Committee”). The Mayor of Linden also filed a grievance against DiLeo with the Committee.
23 On December 12, 2012, the Committee conducted a formal hearing and on January 16, 2013 sent
24 a “presentment” (statement of charges) against DiLeo to the state Supreme Court. Mr. DiLeo
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28 ³ Emphasis added.

1 filed a Motion to Dismiss. The Supreme Court denied, holding he was subject to discipline and
2 publically reprimanding him on January 27, 2014 for breaching the Code of Judicial Conduct.

3 In summary, there is abundant instructive and on-point authority from other states
4 supporting discipline of former judges for their wrongful actions while still on the bench. The
5 constitutional provisions and statutes these states relied on used the word “judge”, as do the two
6 (2) statutes and the Constitutional Article cited by Mr. Jones.

8 Respondent also accuses the Commission of “over-reaching”. Motion, p. 4, l. 1. To the
9 contrary, the Commission is trying to protect the public from judges with “serious felony”
10 convictions and sentences. Actually, the Respondent over-reaches when he states:

11 Were the jurisdiction of this Commission to be interpreted more broadly, what
12 would prevent the Commission from bringing a Formal Statement of Charges
13 against anyone ever convicted of a crime in the State of Nevada to ensure that
14 such individuals could never occupy a judicial position in Nevada?
Motion, p. 4, ll. 3-7.

15 First, this former judge is not just anyone convicted of a crime in the State of Nevada.
16 He is a former Nevada lawyer and judge who has been convicted of and sentenced for using the
17 power and prestige of his office to bilk fellow Nevadans out of millions. Second, is this a back
18 handed admission by Mr. Jones that he will someday try to again run for judicial office?

19 **C. In Making His Statute of Limitations Arguments, the Respondent Ignores the Facts**
20 **and Relevant Portions of the Laws He Cites.**

21 The original Verified Statement of Complaint in this case was filed by former
22 Commission Executive Director David Sarnowski on August 1, 2006. It focused on allegations
23 of domestic abuse and misuse of his office by Judge Jones. Subsequent developments regarding
24 the original allegations were summarized by the Nevada Supreme Court in *130 Nev., Advance*
25 *Opinion 11*, filed February 27, 2014. The Opinion denied Steven Jones’ Petition for a Writ of
26 Mandamus to dismiss this case and, in so doing, provided this procedural history:
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1 In August 2006, ...the Commission, through its executive director, issued
2 a verified statement of complaint against Judge Jones, alleging that he may
3 have violated Canons 1,2, and 4 of the Nevada Code of Judicial Conduct. ...
The Commission assigned The Advantage Group to investigate the complaint.

4 Judge Jones was first alerted to the existence of an investigation in
5 November 2010, when he was interviewed by The Advantage Group. He
6 received a copy of the complaint in July 2012, along with a notice of proposed
7 changes. In a letter attached to the complaint, the Commission explained that
8 the complaint's main allegations had been dropped due to lack of clear and
9 convincing evidence. Nevertheless, the Commission's letter continued, over
10 the course of the investigation several other concerns developed, to which the
11 Commission believed a response was warranted. In particular, the attached
12 proposed charging document alleged that Judge Jones had, continually since
13 approximately 1996 or 1997, violated the Nevada Code of Judicial Conduct by
14 persuading various individuals to invest large sums of money in unsound
15 financial schemes, some involving undisclosed ex-felons. The proposed
16 charging document also alleged that Judge Jones had engaged in and
17 encouraged court employees to engage in other business dealings with
18 convicted ex-felons, asked his bailiff to personally loan an ex-felon money on
19 multiple occasions, and attempted to convince this bailiff that Judge Jones was
20 entitled to a portion of his bailiff's retirement payout. Further, the proposed
21 charging document alleged that Judge Jones was involved in an intimate
22 relationship with an extern and later allowed her to appear in his courtroom
23 without disclosing their prior relationship or recusing himself. Finally, the
24 proposed charging document alleged that Judge Jones misappropriated
25 marijuana evidence from an ongoing case. Outside of the first alleged unsound
26 investment schemes, the asserted activities took place between 2002 and 2008.
27 (Emphasis added.) Id at pp.3-4.
28

18 Mr. Jones may argue the 2006 Complaint raised different issues than the Formal
19 Statement of Charges. Such an argument would be unfounded in fact and in law. As the
20 Supreme Court stated, the Judge first became aware of this case in November 2010. In July
21 2012, he was provided a copy of the original Complaint and an "attached proposed charging
22 document" which identified the "unsound" investment scheme involving ex-felons. This basic
23 allegation became the basis for the Formal Statement of Charges filed in this case on June 11,
24 2015. The filing of the original NCJD Complaint in 2006 and the existence of what the Supreme
25 Court calls "the attached proposed charging document", combined with the delivery of these
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1 documents to then Judge Jones in 2012, prove he was on notice of the issues in both the original
2 Complaint and its attached document.

3 The 2014 Supreme Court Opinion weighed in on the issue of changing allegations:

4 ...although Judge Jones may now face different allegations from those asserted in
5 2006, judges generally have no right to avoid charges based on new evidence
6 discovered during the course of a legitimate investigation.⁴ *In re Flanagan*, 690
7 A.2d 865, 875-6 (Conn. 1997) (explaining that there exists no right during the
8 investigatory stage to notice of the charges or to limit the investigation and
9 charges to only those set forth in the complaint). Judge Jones has not asserted or
10 shown that the additional proposed charges were unfounded or rendered with
11 improper motive, and there is no indication that the allegations were stated in a
12 manner insufficient to allow Judge Jones to respond. *Id* at p. 11.

13 Respondent relies on NRS 1.4655 (1) and (2) for his proposition that the Commission did
14 not timely file a complaint against him. Subsection (1) states the Commission “may” begin an
15 inquiry upon receipt of a complaint. That is what the Commission did here, hiring The
16 Advantage Group, a private investigative firm. Subsection (2) prohibits the Commission from
17 considering complaints “arising from acts or omission that occurred more than 3 years before the
18 date of the complaint... .” The proposed charging document attached to the 2006 Complaint
19 “alleged that Judge Jones had, continually, since approximately 1996 or 1997, violated the
20 Nevada Code of Judicial Conduct... .” Granted, 1997 is more than 3 years before 2006,
21 however, subset (a) to subsection (2) provides: “Where there is a continuing course of conduct,
22 the conduct will be deemed to have been committed at the termination of the course of conduct;”
23 (Emphasis added.) Mr. Jones pled guilty on September 3, 2014 to engaging in a criminal
24 conspiracy to commit fraud from September, 2002 to December, 2012. By his own admission,
25 he perpetuated a continuing course of conduct which culminated in the fall of 2014, less than
26 three (3) years before the filing the Formal Statement of Charges on June 11, 2015.

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4 (Emphasis added.)

1 When there is a pattern of recurring judicial misconduct, NRS 1.4655 (2)(b) allows for
2 consideration of all prior bad acts if at least one act occurs within the 3 year period. The
3 Respondent's bad acts continued until he signed the criminal Plea Agreement in 2014, thus
4 bringing all prior bad acts under the purview of the statute. The Statement of Charges correctly
5 incorporates his conspiracy and fraudulent actions going back to at least 2002, the initial year he
6 identified in his plea.
7

8 It is also worth noting, in the majority of cases from other jurisdictions cited in Section
9 "B" above; adjudication stretched over years before the states' judicial disciplinary boards and
10 courts. As in Nevada, these states obviously take such discipline seriously, often moving
11 cautiously, not only to present a thorough case, but also to preserve the jurist's rights.
12

13 **D. The Facts Do Not Support the Respondent's Claim of Denial of Due Process**
14 **Based on the Timing of the Statement of Charges.**

15 This argument is not supported by the facts. The Commission filed the Formal Statement
16 of Charges on June 11, 2015. It is at least partially based on the facts in the U.S. District Court
17 Plea Agreement Mr. Jones signed on September 3, 2014. U.S. District Judge Jennifer A. Dorsey
18 sentenced the Respondent on February 26, 2015 to twenty-six (26) months in federal prison. He
19 was scheduled to report to the prison in Taft, California on May 25, 2015 and according to his
20 pending Motion, he reported on May 26, 2015. Motion, p. 5, l. 24.
21

22 The Respondent says the timing of the filing of the Statement of Charges is "somewhat
23 suspect", because the Commission has been aware of the indictment and could have brought the
24 Charges "at anytime within the last 3 years." Motion, p. 6, ll. 6-7. An indictment is not a plea.
25 Until Mr. Jones signed his Plea Agreement and was sentenced, the exact content of his plea and
26 the final adjudication of his criminal case remained uncertain. Once the conviction was firm
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1 with the signing of the Plea Agreement, the sentencing and the Entry of Judgment, Special
2 Counsel could charge Mr. Jones with the applicable violations of the Code of Judicial Conduct.

3 Specifically, the Plea Agreement identified the laws the Respondent admitted to having
4 broken and gave the Commission not only part of the basis for its Statement of Charges, but also
5 facts that prove up that Statement. The Formal Statement of Charges contains two (2) counts,
6 one for violation of Canon 1, Rule 1.1 requiring a judge to comply with the law and Rule 1.2
7 requiring a judge to act at all times in a manner which promotes public confidence in the
8 judiciary and to avoid impropriety or the appearance of impropriety. The fact that the Judge pled
9 guilty and was sentenced for violations of the laws of the U.S. proves Count One. Count Two
10 charges Mr. Jones with violating Canon 3.1(C) prohibiting participation in extrajudicial activities
11 which undermine the jurist's integrity, as well as Canon 3.1(D) which prohibits coercive conduct
12 and 3.1(E) prohibiting use of court premises for unlawful extrajudicial activities. The
13 Respondent's plea to using his office to conspire to commit fraud and his sentencing on these
14 counts prove the breach of Canon 3.1.
15
16

17 The Respondent also claims filing the Charges after the Respondent was incarcerated
18 denied him due process. The Statement of Charges was mailed to Mr. Jones at both of his
19 known addresses, at his home in Henderson at his prison address, on June 5th, 2015, before it was
20 filed on June 11th. However, in late April-early May, 2015, also before the Statement of Charges
21 was filed, the Commission established communication with Sigal Chattah, who was then on
22 record as Mr. Jones' counsel. She was on notice by May 4, 2015 that the Commission had voted
23 at its April, 2015 meeting to pursue the Jones I case and that the Commission wanted to know his
24 position before his incarceration. However, despite Special Counsel's best efforts, she could
25 obtain no information through Ms. Chattah. She eventually filed a Notice of Withdrawal of
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1 Counsel on May 26, 2015, the day Mr. Jones reported to federal prison. The Respondent's
2 current counsel filed his Notice of Appearance almost a month later, on June 24, 2015.

3 The facts indicate nothing suspicious about the timing of the filing of the Statement of
4 Charges and there are no facts to support the allegation the timing was an attempt to deny due
5 process. This Special Counsel communicated with Respondent's attorney well before his
6 incarceration. Additionally, the Charges were mailed to Mr. Jones before they were even filed.
7 The Respondent was put on notice of the pending action well before he reported to prison and
8 Special Counsel continued best efforts at providing notice after the Respondent's imprisonment.
9

10 **E. Respondent Also Claims Denial of Due Process Because the Commission Did Not**
11 **Suspend Him, When, In Fact, It Did Suspend Judge Jones.**

12 The Commission issued an Order suspending Judge Jones, with pay, on November 29,
13 2012 in Case # 1206-218.⁵, The Formal Statement of Charges in Case # 1206-218 was timely
14 filed on December 20, 2012. On February 3, 2014, the Final Discipline Order was filed in Case
15 # 1206-218 publically censoring the Respondent and immediately changing his suspension to
16 one without pay for three (3) months. After the end of the three (3) months, Mr. Jones continued
17 on his suspension with pay until he resigned on September 3, 2014 as part of his Plea
18 Agreement. This claim by the Respondent is totally without merit.
19

20 **F. The Respondent Has No Facts to Support His Claim The Statement of Charges is an**
21 **Abuse of Authority and Waste of Public Resources .**

22 If there has been any party wasting public resource, it has been by Mr. Jones. In Case #
23 1206-218, he sought relief from every court in the jurisdiction, with the exception of municipal
24 and justice courts. Mr. Jones and his then counsel conveniently ignored NRS 1.440⁶: "The
25 Commission has exclusive jurisdiction over the public censure, removal, involuntary retirement
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28 ⁵ The NCJD and the Respondent referred to this as the "Jones II" case.

⁶ Respondent even cites to NRS 1.440 in his pending Motion, but for another purpose.

1 and other discipline of judges” Perhaps even more important, they also ignored Article 6, §
2 21 (1) of the Nevada Constitution: “...Pursuant to rules governing appeals adopted by the
3 Supreme Court, a justice or judge may appeal from the action the Commission to the Supreme
4 Court....” After repeatedly asking the Commission to delay the hearing in # 1206-128, the
5 Respondent resorted to simultaneously filing for relief from all charges and/or to delay the
6 hearing in the Eighth Judicial District Court and the Nevada Supreme Court. Relying on
7 Constitution Article 6, the District Court judge refused to hear his appeal. All told, the
8 Respondent burned up hundreds of thousands of taxpayer dollars and public resources. By so
9 doing, he delayed the hearing from December of 2012, when the Formal Statement of Charges
10 was filed, until December of 2013, when Case # 1206-218 was finally heard by the
11 Commission.⁷

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13
14 The Respondent tried to employ these diversionary tactics with this case. As detailed
15 above in Subsection “C”, he went to the Supreme Court in the spring of 2014 with a request for
16 dismissal on a Writ of Mandamus. The Court denied him, but not before a full briefing schedule
17 which used up more of the “public resources” the Respondent seems to now be so suddenly
18 concerned with protecting.

19 The Respondent claims the “limited resources” of the Commission would be “better
20 spent” pursuing other judges instead of “going on a witch hunt for a witch that for all intents and
21 purposes, has already been burned at the stake.” Motion, p. 8, ll. 20-4. Mr. Jones is hardly a
22 persecuted witch, as evidenced by the magnitude, frequency and calculated mendacity of the
23 crimes to which he pled guilty and for which he was sent to federal prison. Despite this, he still
24 argues he poses no “substantial threat of serious harm to the public”. Motion, p. 8, ll. 25-7. He
25 also alleges the Commission “seeks to use additional public funds to ensure that Respondent
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28 ⁷ During this year, Mr. Jones continued to earn his six figure judge’s salary, which is paid by Nevada taxpayers who, if they are lucky, earn about a quarter of what he is paid per year.

1 never [sic] be able to run for those few judicial positions available in the State of Nevada where
2 admission to the State Bar is not required.” Motion, p. 8, ll. 14-17. He points to the:
3 “...infinitesimally small likelihood of being elected to a judicial position in a small, rural county,
4 where bar admission is not required,” Motion, p. 8, ll. 18-19. Carrying this argument to its
5 logical conclusion, Mr. Jones is saying the Commission has no obligation to protect residents in
6 rural areas from the possibility he might again seek and obtain judicial office and then use it to
7 steal millions from the citizenry. The Commission cannot let this happen.
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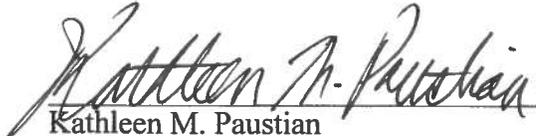
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10 **II.**

11 **CONCLUSION**

12 The Commission has ample discretion to deny Respondent’s Motion because it does not
13 meet the stringent legal requirements for dismissal. As part of Mr. Jones voluntarily pleading
14 guilty to his felony counts, he lost his judgeship. To now claim this Commission cannot
15 discipline him under statutes which reference a “judge” would reward him for his felonious
16 behavior. It would also fly in the face of rulings from numerous other states which have
17 disciplined former judges for their misconduct while still on the bench. His statute of limitations
18 arguments are also defeated when the language of the statutes he cites is applied to the actions of
19 the Commission over time. And, finally, Mr. Jones’ due process arguments are not supported by
20 the facts of the chronology of his case or by his own actions in his long tenure before this
21 Commission. These Charges, as filed, must be allowed to continue forward.
22

23 DATED this 5th day of August, 2015.

24
25 By:

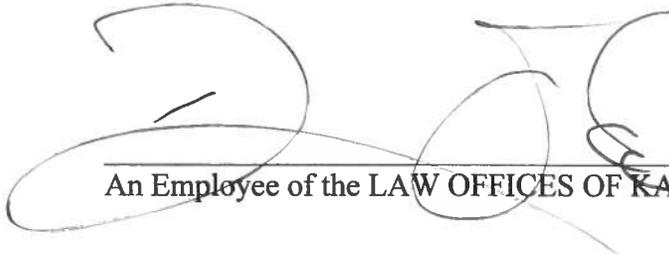

Kathleen M. Paustian
Special Counsel for the NCJD

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a copy of the foregoing **OPPOSITION TO RESPONDENT’S MOTION TO DISMISS FORMAL STATEMENT OF CHARGES** by U.S. mail, postage prepaid, this 5th day of August, 2015 addressed to the following:

J. Scott MacDonald, Esq.
MacDonald & Associates, Ltd.
6625 W. Sahara Ave., Ste. 3
Las Vegas, NV 89146
Counsel for Respondent


An Employee of the LAW OFFICES OF KATHLEEN M PAUSTIAN