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5 *Attorneys for Respondent*
The Honorable Dawn Haviland



7 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

8 **STATE OF NEVADA**

9 In the Matter of
10 THE HONORABLE DAWN HAVILAND
Justice of the Peace, Goodsprings Township
11 Justice Court, County of Clark, State of Nevada,
12 Respondent.

Case No.: 2016-078-P

13 **REPLY IN SUPPORT OF MOTION TO STRIKE**
14 **ALLEGATIONS IN PARAGRAPHS A, B, G AND K**

15 Respondent, the Honorable Dawn Haviland, through her attorney, Albert G. Marquis,
16 Esq., of Marquis Aurbach Coffing hereby files her Reply in Support of Motion to Strike
17 Allegations in Paragraph A, B, G and K.

18 The prosecuting officer begins her Opposition to the Motion to Strike by citing
19 Procedural Rule 15. Rule 15 requires the Formal Statement of Charges ("FSOC") to present a
20 "clear statement of acts and omissions which are alleged to warrant action . . ." The rule also
21 requires identification of the dates, times and places to the extent possible that the acts or
22 omissions are alleged to have occurred. As discussed below, the language which the Respondent
23 seeks to have stricken does not comply with this rule.

24 The prosecuting officer also points out that NRCP 12(f) provides that redundant,
25 immaterial, impertinent, or scandalous matter may be stricken "Upon motion made by a party
26 before responding to a pleading." NRCP 12(f) does not state that this is the only time that such a
27 motion can be filed. As a matter of fact, Rule 12(f) also provides that "upon the court's own
28 initiative at any time, the court may order stricken from any pleading any . . . redundant,

1 immaterial, impertinent, or scandalous matter.” The Respondent submits that this Commission
2 has the inherent power to strike redundant, immaterial, impertinent, or scandalous matter at any
3 time. This is supported by Wainwright v. Dunseath, 46 Nev. 361, 211 P. 1104 (1923) in which
4 the Nevada Supreme Court struck the defendant’s reply brief which accused the trial judge of
5 unworthy motives in making his decision.

6 **I. THE STATEMENT IN PARAGRAPH A REGARDING MISSING RECORDS**
7 **SHOULD BE STRICKEN.**

8 In her Motion, Respondent pointed out that there is no allegation within the FSOC that
9 Respondent removed any records. In fact, there is no evidence that any records were ever
10 removed. Certainly, there is no date, time, place, or other specific fact as required by Rule 15.

11 None of this is contested by the prosecuting officer in her Opposition. Including such a
12 statement in a Complaint against the Respondent, even though she is not charged with removing
13 records, is certainly immaterial, impertinent and scandalous. The prosecuting officer points out
14 that simply because language has appeared in a local newspaper is not a basis for striking that
15 language. Respondent agrees. That was never the Respondent’s argument. Rather, Respondent
16 cited the newspaper article as an example of the damaging effect that could occur when
17 immaterial, impertinent, and scandalous claims, which have nothing to do with Respondent, are
18 included within a Complaint against the Respondent.

19 Therefore, because all parties seem to agree that the subject language does not comply
20 with Rule 15 and because there is no allegation that Respondent removed such records, the
21 language about missing records in Paragraph A should be stricken.

22 **II. THE STATEMENT ABOUT “OTHER IMPROPER NCIC CRIMINAL HISTORY**
23 **INQUIRIES” IN PARAGRAPH B SHOULD BE STRICKEN.**

24 In her Opposition, the prosecuting officer points out details of a specific NCIC run on an
25 individual named Bruce Nelson. The Respondent is not complaining about that allegation.
26 Rather, the Respondent complains about the allegation that “Respondent also ordered other
27 improper NCIC criminal history inquiries.” The Motion points out that there are no dates, times,
28 and places detailed as required by Rule 15. That is not contested in the Opposition. In her
Motion, the Respondent also argues that a vague reference to “other improper NCIC criminal

1 history inquiries" is highly prejudicial and violates the Respondent's right of due process. This
2 is not contested in the Opposition. Therefore, this language should be stricken.

3 **III. THE STATEMENT IN PARAGRAPH G THAT THE RESPONDENT BECAME**
4 **UPSET IF GOODSPRINGS EMPLOYEES TURNED TO THEIR FORMER**
5 **ADMINISTRATOR SHOULD BE STRICKEN.**

6 Respondent argues in her Motion that although Paragraph G contains the aforementioned
7 statement, there is no charge in Count Seven that becoming upset in this manner is an ethical
8 violation. The Motion also points out that there are no dates, times and places as required by
9 Rule 15. None of this is disputed in the Opposition. Therefore, the subject language in
10 Paragraph G should be stricken.

11 **IV. THE RESPONDENT SEEKS TO STRIKE THE GENERAL ALLEGATION IN**
12 **PARAGRAPH K IN COUNT 11 THAT THE RESPONDENT GAVE LEGAL**
13 **ADVICE.**

14 As pointed out in the Motion, there are no dates, times, places or individuals identified as
15 required by Rule 15. Nothing in the opposition disputes this. The prosecuting officer does insert
16 details in her Opposition (which do not appear in the FSOC) to the effect that the Respondent
17 allegedly gave legal advice to David Angel and a female companion on June 27, 2016 and
18 provided legal advice to her friend, Tracy Coy at some unspecified time. If the prosecuting
19 officer is restricted to prosecuting these two events, the Respondent has no objection. However,
20 it is a violation of the Respondent's right of due process and a violation of Rule 15 for the
21 prosecuting officer to be able to present evidence regarding any other occasion where the
22 Respondent allegedly gave legal advice.

23 **V. CONCLUSION.**

24 For the foregoing reasons, the subject language should be stricken in the FSOC.

25 Dated this 26 day of April, 2017.

26 MARQUIS AURBACH COFFING

27 By 

28 Albert G. Marquis, Esq.
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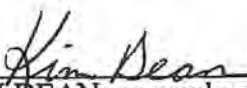
1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 26th day of April, 2017, I served a copy of the foregoing
3 **REPLY IN SUPPORT OF MOTION TO STRIKE ALLEGATIONS IN PARAGRAPHS A,**
4 **B, G AND K** upon each of the parties by email and/or facsimile (as indicated below) and by
5 depositing a copy of the same in a sealed envelope in the United States Mail, Las Vegas, Nevada,
6 First-Class Postage fully prepaid, and addressed to:

7 Paul C. Deyhle, General Counsel & Executive Director
8 Commission on Judicial Discipline
9 P.O. Box 48
10 Carson City, NV 89702
11 *Via Email (ncjdinfo@judicial.state.nv.us), Facsimile (775-687-3607)*
12 *and regular mail*

13 Kathleen M. Paustian, Esq. SBN 3785
14 Law Office of Kathleen M. Paustian
15 3205 Skipworth Drive
16 Las Vegas, NV 89107
17 *Via Email (kathleenpaustian@cox.net) and Regular Mail*

18 and that there is a regular communication by mail between the place of mailing and the place(s)
19 so addressed.

20 
21 _____
22 KIM DEAN, an employee of
23 Marquis Aurbach Coffing

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