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9 Commission on Judicial Discipline

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

9 In the Matter of)
10)
11 THE HONORABLE MARTIN HASTINGS,)
12 Las Vegas Municipal Court,)
13 County of Clark, State of Nevada)
Respondent.)

CASE NO. 2017-119-P

14 **FORMAL STATEMENT OF CHARGES**

15 Brian Hutchins appears now as Prosecuting Officer for the Nevada Commission on Judicial
16 Discipline (“Commission” or “NCJD”), which is established under Article 6, section 21 of the Nevada
17 Constitution, and files this Formal Statement of Charges in the name of and by the authority of the
18 Commission as found in sections 1.425 through 1.4695 of the Nevada Revised Statutes. Respondent,
19 the Honorable Martin Hastings, Judge of the Las Vegas Municipal Court, County of Clark, State of
20 Nevada (“Respondent”), is informed that the following acts were committed by Respondent and warrant
21 disciplinary action by the Commission under the Revised Nevada Code of Judicial Conduct (“the
22 Code”).
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25 **FACTUAL ALLEGATIONS**

26 Respondent knowingly and in his capacity as a municipal court judge in and for the Las Vegas
27 Municipal Court, in Clark County, State of Nevada, engaged in the following acts, or the following acts
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1 occurred relevant to these charges, or both:

2 A. As a result of a United States Supreme Court opinion in or about April, 2013, the Las Vegas
3 Municipal Court implemented a telephonic search warrant process in 2014 and a business process on or
4 about September 29, 2014 which established court staff requirements for the process. Around the same
5 time, the judges of the Las Vegas Municipal Court, as a whole, including Respondent, made themselves
6 available 24 hours a day, seven days a week, to respond to law enforcement officers in Las Vegas
7 seeking a telephonic search warrant in cases primarily involving a driver suspected of driving under the
8 influence of an illegal substance. The six judges of the Las Vegas Municipal Court, including
9 Respondent, participated in a schedule which designated one of the judges as the “search warrant judge”
10 who was on call at all hours for one week, with the duty rotating among the six judges every six weeks.
11 The Las Vegas Municipal Court judges thereby had a duty to perform as a “search warrant judge.”
12 Respondent performed these duties of being available for, and reviewing, telephonic search warrant
13 applications on his rotation until in or about March of 2015.
14
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16 B. In or about August of 2015, the City of Las Vegas adopted an ordinance which essentially
17 authorized alternate municipal court judges to perform and be compensated for handling search warrant
18 duties. After that time and to the present, Respondent has refused to perform his duty as a search
19 warrant judge on his rotations. Instead, since that time, Respondent has used an alternate judge every
20 time to perform Respondent’s search warrant judge duties when it was Respondent’s time in the
21 rotation.
22

23 C. On or about August 23, 2016, and October 4, 2016, then-Chief Municipal Court Judge
24 Cedric Kern counseled Respondent to perform his search warrant judge duties rather than use an
25 alternate judge for the duty. Chief Judge Kern wrote a letter to Respondent on or about June 28, 2017,
26 pointing out Respondent’s use of an alternate judge for search warrant duties was excessive and
27 indicating that this use was almost ten times the rate of the other five judges. Chief Judge Kern also
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1 indicated that he would have to report the matter to the Commission if the alternate judge usage
2 continued. Respondent continued to use an alternate judge to perform the search warrant duties despite
3 the directives of Chief Judge Kerns.

4 D. Respondent did not cooperate with the Chief Judge or the other judges, or both, regarding
5 the handling of search warrant duties.

6 E. Respondent stated in his interview with the Commission's investigator that he will continue
7 to use an alternate judge for his search warrant judge duties, although in his Answers to Interrogatories
8 as to whether Respondent was willing to perform his search warrant duties if ordered by the
9 Commission, Respondent stated that he would follow any Commission order.

10 F. Respondent's reason for using an alternate judge for his search warrant duties is based upon
11 Respondent's inability to return to sleep after he has received a search warrant call in the middle of the
12 night. Respondent's primary concern is about his ability to handle his daily court calendar to a high
13 standard. Respondent stated to the Commission's investigator that, when Respondent performed his
14 duties as the search warrant judge, he "was having problems with things in court after not getting
15 enough sleep, starting to get short-tempered, and I was starting to miss some dates and starting to have
16 some concerns I might be missing calls as well."

17 G. Respondent has not claimed that there was any medical reason as to why he could not
18 perform his search warrant duties.

21 CHARGES OF MISCONDUCT

22 By engaging in the acts, or by failing to act, or by engaging in a combination of acts or failures
23 to act, as alleged above, Respondent violated the Revised Nevada Code of Judicial Conduct, including
24 Judicial Canon 1, Rule 1.1 (failing to comply with the law, including the Code of Judicial Conduct);
25 Rule 1.2 (failing to act at all times in a manner that promotes public confidence in the independence,
26 integrity, and impartiality of the judiciary and avoiding impropriety and the appearance of impropriety);
27 Judicial Canon 2, Rule 2.1 (giving precedence to the duties of judicial office); Rule 2.5(B)(cooperating
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1 with other judges and court officials in the administration of court business); Rule 2.7 (hearing and
2 deciding matters assigned to the judge), or any single rule or any combination of those rules.

3 Specifically, Respondent violated the Revised Nevada Code of Judicial Conduct as follows:

4 **COUNT ONE**


5 Respondent has failed to perform his duty to act as a search warrant judge on a regular rotation
6 on an on-call basis in violation of Rules 1.1, 1.2, 2.1, 2.5(B), and 2.7.

7 **COUNT TWO**

8 Respondent failed to cooperate with the Chief Judge of the Las Vegas Municipal Court, or the
9 other judges, or both, by not performing his duty to act as a search warrant judge and relying on an
10 alternate judge for that purpose, after being counseled not to do so, in violation of Rules 1.1, 1.2, and
11 2.5(B).

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13 Based on the information above, the Commission shall hold a public hearing on the merits of
14 these allegations pursuant to NRS 1.4673 and, if violations as alleged are found to be true, the
15 Commission shall impose whatever sanctions or discipline or both it deems appropriate pursuant to
16 NRS 1.4677 and other Nevada Revised Statutes governing the Commission.

17 Dated this 24th day of July, 2018.

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19 _____
20 Brian Hutchins, Esq.
21 Prosecuting Officer for the Commission

21 STATE OF NEVADA)
22) ss
23 CARSON CITY)

24 BRIAN HUTCHINS, ESQ. being first duly sworn under oath, according to Nevada law, and
25 under penalty of perjury, hereby states:

26 1. I am an attorney licensed to practice law in the State of Nevada. I have been retained by the
27 Nevada Commission on Judicial Discipline to serve in the capacity of Prosecuting Officer in the matter
28

1 of the Honorable Martin Hastings, Case No. 2017-119-P.

2 2. I have prepared and reviewed this Formal Statement of Charges against the Honorable Martin
3 Hastings and, pursuant to the investigation conducted in this matter and based on the contents of that
4 investigation and following reasonable inquiry, I am informed and believe that the contents of this
5 Formal Statement of Charges are true and accurate.

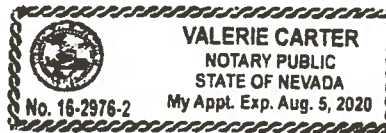
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7
8 Brian Hutchins, Esq.

9 Subscribed and sworn to before me, a Notary Public

10 this 24th day of July, 2018.


11 By: 
12 NOTARY PUBLIC



13
14 **CERTIFICATE OF SERVICE**

15 I hereby certify that a true and correct copy of this FORMAL STATEMENT OF CHARGES
16 was placed in the U.S. mail, postage pre-paid, on this 24th day of July, 2018, addressed to:

17 William B. Terry, Esq.
18 Law Offices of William B. Terry, Chartered
19 530 South Seventh Street
20 Las Vegas, NV 89101

21 By: 
22 Brian Hutchins, Esq.
23 Prosecuting Officer for the Commission
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