



BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA

In the Matter of)
THE HONORABLE MARTIN HASTINGS,)
Municipal Court Judge, Las Vegas Municipal)
Court, Dept. 6, County of Clark County,)
State of Nevada,)
Respondent.)

CASE NO. 2017-119-P

PREHEARING ORDER

TO: THE HONORABLE MARTIN HASTINGS, Respondent
WILLIAM B. TERRY, ESQ., Counsel for Respondent
BRIAN HUTCHINS, ESQ., Prosecuting Officer

The purpose of the hearing will be to determine whether, pursuant to NRS 1.4673, there is clear and convincing evidence to show that Respondent violated the Revised Nevada Code of Judicial Conduct, as is alleged in the Formal Statement of Charges filed by Prosecuting Officer Brian Hutchins on or about July 24, 2018, and whether discipline is appropriate. Pursuant to Commission Procedural Rule 3(4), five (5) or more members must concur in a vote to discipline Respondent.

Within ten (10) days after service of this Prehearing Order, the Parties shall exchange certain material and information as set forth in Commission Procedural Rule 19.

A one (1) day hearing in this case will take place in Las Vegas, Nevada, on such date to be set by the Commission pursuant to Commission Procedural Rule 18(1).

Not less than thirty (30) days before the hearing, the Parties may submit a written request for the Commission to issue subpoenas for the production of documents or to compel attendance or testimony of the witnesses, if any, pursuant to NRS 1.466, Commission Procedural Rule 20, and NRCP 45.

All pleadings, including accompanying legal memoranda, submitted in support of any motion shall be limited to: fifteen (15) pages in length for the opening motion; fifteen (15) pages for the opposition; and seven (7) pages for the reply. These limitations are exclusive of exhibits.

Not less than twenty-one (21) days before the hearing, the Parties are directed to confer in order to reach any possible stipulations narrowing the issues of law and fact, and exchange documents that

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1 will be offered into evidence at the hearing, and/or stipulate to any or all exhibits to be introduced at the
2 hearing.

3 Not less than fifteen (15) days before the hearing, the Parties shall file all pre-trial motions,
4 including motions in limine to exclude or admit evidence.¹ No reply shall be permitted if such motions
5 are filed within twenty-one (21) days before the hearing.

6 Not less than fourteen (14) days before the hearing, the Parties shall prepare and serve
7 contemporaneously by email written prehearing briefs upon the Commission and the opposing Party.

8 The prehearing briefs shall include:

- 9 a. A brief statement of relevant facts, including any admitted or undisputed facts,
10 not to exceed one (1) page.
- 11 b. A concise statement, not to exceed two (2) pages, of the Party's allegations or
12 defenses and the facts supporting the same. Such allegations, defenses and facts
13 shall be organized by listing each essential element of the allegation or defense
14 and stating the facts in support of each such element as they relate to the Formal
15 Statement of Charges.
- 16 c. A statement of any issues of law, not to exceed two (2) pages, supported by
17 authorities with a brief summary of the relevant rule and without additional
18 argument. The Parties should emphasize any Commission opinions deemed
19 relevant and applicable.
- 20 d. The names of each witness, except impeaching witnesses, the Party expects to
21 call; a clear statement of the expected testimony of each witness and its relevance;
22 and an estimate of the time the Party will require for the testimony of each
23 witness. To the extent possible, provide an estimate of time for cross-
24 examination of the opposing Party's witnesses.
- 25 e. A list of the exhibits expected to be identified and introduced at the hearing for
26 the purpose of developing the evidentiary record and a concise statement of the
27 relevancy to the allegations, defenses and facts as stated in the statement required
28 under paragraph (b) above for each exhibit.
- f. A concise statement of any stipulations regarding the admissibility of an exhibit
or expected testimony of any witness offered by the opposing Party.
- g. A brief summary of any pre-hearing procedural or substantive motions, not to
exceed one (1) paragraph. Except for any procedural or substantive motions that
arise during the hearing, all pre-hearing procedural and substantive motions must
be submitted in accordance with this Prehearing Order.

¹ Pursuant to Commission Public Case Filing Procedures set forth in Exhibit "A" to the Commission's Procedural Rules, Procedure 1(B) mandates that service of all papers shall be by electronic means ("email"). Furthermore, Commission Procedural Rule 37 states that all time limitations shall be computed as in the Nevada Rules of Civil Procedure except that three (3) days shall not be added to the prescribed period for any notice or paper served by electronic means.

1 h. Any other appropriate comments, suggestions or information which may assist the
2 Commission in the disposition of the case, not to exceed one (1) page.

3 Not less than fourteen (14) days before the hearing, the Parties shall electronically submit to the
4 Commission their exhibit book(s), consisting of the exhibits, if any, expected to be identified and
5 introduced as evidence at the hearing. The exhibit book(s) must include an index of the exhibits and be
6 Bates numbered. Additionally, five (5) bound hardcopies of the exhibit books must be hand-delivered
7 and/or overnighted to the Commission on Judicial Discipline, P. O. Box 48, Carson City, NV 89702.
8 Each Party is responsible for providing the court reporter with an unbound set of Bates numbered
9 exhibits. The Parties shall exchange exhibit books in both electronic and hardcopy format, unless
10 otherwise agreed upon.

11 a) The Prosecuting Officer's exhibit book(s) must be tabbed and identified by numbers.

12 b) The Respondent's exhibit book(s) must be tabbed and identified by letters.

13 Within five (5) days of service of the prehearing brief, the Parties shall submit a concise
14 statement of any objections to the admissibility of any exhibit identified by the other Party and, to the
15 extent possible, the expected testimony of any witnesses. Such statement shall not exceed two (2)
16 pages. If no objection is stated as to any exhibit or expected testimony, the Commission will presume
17 that there is no objection to the admission of the listed exhibit or expected testimony into evidence.

18 The Parties shall electronically file and serve all documents not later than 5:00 p.m. on the
19 respective dates outlined herein to the Office of the Commission on Judicial Discipline at
20 ncjinfo@judicial.state.nv.us, and upon the opposing Party.

21 The hearing is scheduled for one (1) calendar day. The Prosecuting Officer will present
22 evidence regarding the basis for a finding of violations for four (4) hours. The Prosecuting Officer shall
23 include an opening statement in his presentation.

24 Respondent's counsel shall have four (4) hours to present evidence to rebut the charges as well
25 as evidence in mitigation and extenuation of discipline. Respondent's counsel shall include an opening
26 statement in his presentation. It may be reserved until the close of his case, but it may not be waived.
27 The taking of evidence will begin at 8:00 a.m. and conclude at 5:00 p.m., including an hour for lunch.
28 At the conclusion of the evidentiary phase, the Commission will entertain final arguments not to exceed

1 thirty (30) minutes by each Party. The scheduling of hours on each day is at the discretion of the
2 Commission.

3 Each Party should note that the clerk of the Commission will keep track of the time consumed
4 by each side. The time consumed in cross-examination and any re-cross examination of the other
5 Party's witness(es) will be deducted from the total time available to each Party. The Presiding Officer
6 will make adjustments to the basic time allocation as necessary. In other words, one Party will not be
7 permitted to consume the other Party's time without consequence.

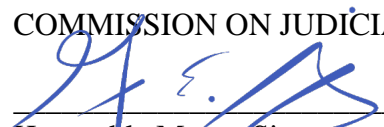
8 The rule of exclusion of witnesses will be in effect. Each Party will be responsible for ensuring
9 that any intended witness (with the exception of the Respondent) is not present for testimony during
10 any portion of the hearing. The requirement not to discuss testimony with other witnesses will be a
11 continuing duty of each witness through the conclusion of the case.

12 If, after the presentation of evidence and final arguments, the Commission anticipates that it will
13 not have sufficient time to deliberate on site, the Commission may deliberate at a later time. The
14 Commission may allow post-hearing briefs, if necessary and requested, to be filed in this matter within
15 five (5) days of the conclusion of the hearing. A final decision will be announced thereafter in a manner
16 and format consistent with appropriate practice and the law.

17 The Honorable Mason Simons is authorized to sign this Order on behalf of the full Commission.

18 IT IS SO ORDERED.

19 DATED this 11th day of November, 2018.

20 STATE OF NEVADA
21 COMMISSION ON JUDICIAL DISCIPLINE
22 
23 _____
24 Honorable Mason Simons,
25 Presiding Officer
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1 CERTIFICATE OF SERVICE

2 I hereby certify on this 14th day of November, 2018, I transmitted a copy of the foregoing
3 PREHEARING ORDER, via email and by placing said document in the U.S. Mail, postage prepaid,
4 addressed to:

5 William B. Terry, Esq.
6 William B. Terry, Chartered Attorney at Law
7 530 South Seventh Street
8 Las Vegas, NV 89101-6011
9 Info@williamterrylaw.com

10 Brian Hutchins, Esq.
11 BH Consulting, LLC
12 P. O. Box 2366
13 Carson City, NV 89701
14 bhconsultingllc@sbcglobal.net

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16 _____
17 Tarah L. Hansen, Commission Clerk
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