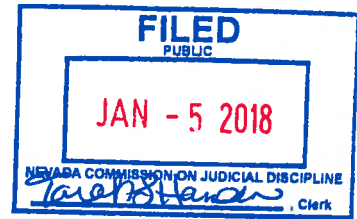


1 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

2 **STATE OF NEVADA**



3
4 In the Matter of)
5 THE HONORABLE JENNIFER HENRY,)
6 Hearing Master for the Eighth Judicial District)
7 Court, Family Division, County of Clark, State)
8 of Nevada,)
9 Respondent.)

CASE NO. 2016-142-P

10 **PREHEARING ORDER**

11 TO: THE HONORABLE JENNIFER HENRY, Respondent
12 WILLIAM B. TERRY, ESQ., Counsel for Respondent
13 THOMAS C. BRADLEY, ESQ., Prosecuting Officer

14 The purpose of the hearing will be to determine whether, pursuant to NRS 1.4673, there is clear
15 and convincing evidence to show that Respondent violated the Revised Nevada Code of Judicial
16 Conduct, as is alleged in the Formal Statement of Charges filed by Prosecuting Officer Thomas C.
17 Bradley on or about October 10, 2017, and whether discipline is appropriate. Pursuant to Commission
18 Procedural Rule 3(4), five or more members must concur in a vote to discipline Respondent.

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

21 The hearing in this case will take place in Reno, Nevada, on such date(s) to be set by the
22 Commission pursuant to Commission Procedural Rule 18(1).

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

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

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1 Not less than twenty-one (21) days before the hearing, the Parties are directed to confer in order
2 to reach any possible stipulations narrowing the issues of law and fact, and exchange documents that
3 will be offered into evidence at the hearing, and/or stipulate to any or all exhibits to be introduced at the
4 hearing.

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

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

10 The prehearing briefs shall include:

- 11 a. A brief statement of relevant facts, including any admitted or undisputed facts, not to
12 exceed one page.
- 13 b. A concise statement, not to exceed 2 pages, of the Party's allegations or defenses and
14 the facts supporting the same. Such allegations, defenses and facts shall be organized
15 by listing each essential element of the allegation or defense and stating the facts in
16 support of each such element as they relate to the Formal Statement of Charges.
- 17 c. A statement of any issues of law, not to exceed 2 pages, supported by authorities with
18 a brief summary of the relevant rule and without additional argument. The Parties
19 should emphasize any Commission opinions deemed relevant and applicable.
- 20 d. The names of each witness, except impeaching witnesses, the Party expects to call, a
21 clear statement of the expected testimony of each witness and its relevance, and an
22 estimate of the time the Party will require for the testimony of each witness. To the
23 extent possible, provide an estimate of time for cross-examination of the opposing
24 Party's witnesses.
- 25 e. A list of the exhibits expected to be identified and introduced at the hearing for the
26 purpose of developing the evidentiary record and a concise statement of the relevancy
27 to the allegations, defenses and facts as stated in the statement required under
28 paragraph (b) above for each exhibit.
- 29 f. A concise statement of any stipulations regarding the admissibility of an exhibit or
30 expected testimony of any witness offered by the opposing Party.
- 31 g. A brief summary of any pre-hearing procedural or substantive motions, not to exceed
32 one paragraph. Except for any procedural or substantive motions that arise during the
33 hearing, all pre-hearing procedural and substantive motions must be submitted in
34 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 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 2 pages. If
16 no objection is stated as to any exhibit or expected testimony, the Commission will presume that there
17 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 ncjdinfo@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. each day, including an hour

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1 for lunch. At the conclusion of the evidentiary phase, the Commission will entertain final arguments not
2 to exceed thirty minutes by each Party. The scheduling of hours is at the discretion of the 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.

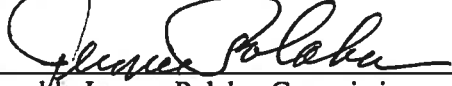
12 If, after the presentation of evidence and final arguments, the Commission anticipates that it will
13 not have sufficient time to deliberate on site, the Commission may deliberate at a later time. The
14 Commission may allow post-hearing briefs, if necessary and requested, to be filed in this matter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

17 The Honorable Jerome Polaha is authorized to sign this order on behalf of the full Commission.

18 IT IS SO ORDERED.

19 DATED this 5th day of January, 2018.

20 STATE OF NEVADA
21 COMMISSION ON JUDICIAL DISCIPLINE

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24 Honorable Jerome Polaha, Commissioner
25 Presiding Officer
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CERTIFICATE OF SERVICE

I hereby certify on this 5th day of January 2018, I transmitted a copy of the foregoing PREHEARING ORDER, via email and by placing said document in the U.S. Mail, postage prepaid, addressed to:

William B. Terry, Esq.
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Tarah L. Hansen, Commission Clerk