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IN THE SUPREME COURT OF THE STATE OF NEVADA

**FILED**

FEB 27 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT

BY \_\_\_\_\_  
DEPUTY CLERK

In the Matter of )  
THE HONORABLE DOUGLAS E. SMITH )  
Eighth Judicial District Court, Department 8, )  
County of Clark, State of Nevada, )  
Respondent. )

Case No. 72452

**CERTIFIED COPY OF STIPULATION AND ORDER OF CONSENT  
TO PUBLIC REPRIMAND**

Pursuant to Commission Procedural Rule 29, I hereby certify that the document attached hereto is a true and correct copy of the STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND filed with the Nevada Commission on Judicial Discipline on February 23, 2017.

DATED this 27th day of February, 2017.

NEVADA COMMISSION ON  
JUDICIAL DISCIPLINE  
P. O. Box 48  
Carson City, NV 89702  
(775) 687-4017



\_\_\_\_\_  
PAUL C. DEYHLE  
General Counsel and Executive Director  
Nevada Bar No. 6954

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8 Prosecuting Officer for the Nevada  
9 Commission on Judicial Discipline



6  
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8 **BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

9 IN THE MATTER OF THE HONORABLE ) CASE NO.: 2015-032-P  
10 DOUGLAS E. SMITH, Eighth Judicial District )  
11 Court, Department. 8, County of Clark, State of )  
12 Nevada, )  
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Respondent.

13 **STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND**

14 In order to resolve the March 27, 2015 Verified Statement of Complaint pending against  
15 him before the Nevada Commission on Judicial Discipline (the "Commission" or "NCJD"), and  
16 the results of the Commission's investigation, the Respondent stipulates to the following,  
17 pursuant to Commission Procedural Rule 29:

- 18 1. Respondent admits he violated paragraph [1] of the Preamble to the Nevada  
19 Constitution ("Preamble") requiring him to maintain the dignity of his office and  
20 avoid impropriety; as well as the Revised Nevada Code of Judicial Conduct ("Code"),  
21 Canon 4, Rule 4.1(B), requiring him to take reasonable measures to ensure that other  
22 persons did not undertake, on his behalf as a judicial candidate, any activities  
23 prohibited under Rule 4.1(A)(11), which precludes candidates from making false or  
24 misleading statements; and Rule 4.4(A), requiring him to ensure that his campaign  
25 complied with the Code, by doing a singular act, a combination of acts, or all of the  
26 following acts:

27 A. On or about November 21, 2014, the *Las Vegas Review Journal* (RJ)  
28

1 published an article entitled, "Judge's Campaign Ad Claimed  
2 Endorsements That Didn't Exist" (the "article"), which included a copy  
3 of a campaign advertisement (the "ad"), picturing the Respondent in his  
4 judicial robes and stating he had "over 85 endorsements". These  
5 included endorsements from five (5) state agencies whose logos were  
6 displayed across the bottom of the ad. The ad ran in the RJ for four (4)  
7 days, concluding on Election Day, November 4, 2014.

8 B. The agencies were the Nevada Department of Public Safety (DPS),  
9 Nevada Department of Wildlife, Nevada Gaming Control Board, Nevada  
10 Department of Corrections and Nevada Taxicab Authority. The article  
11 reported that these agencies did not endorse the Respondent and quoted  
12 DPS Director James Wright as saying, "If there's somebody utilizing our  
13 logo in an endorsement, that's improper." The Commission's  
14 Investigator contacted the state agencies, which reported they do not  
15 endorse political candidates.

16 C. The article also revealed the Respondent was endorsed by the Nevada  
17 Association of Public Safety Officers ("NAPSO"). The Investigator  
18 checked the NAPSO website, which confirms that officers from the five  
19 (5) agencies cited in the article are members of NAPSO. The  
20 Respondent allegedly received endorsements from agency officers. He  
21 did not receive the endorsement of their agencies.

22 D. The article quoted the Respondent as saying he had "no idea" about the  
23 endorsements and further that he had "never seen the ad, printed or  
24 prior." Respondent referred the reporter to his campaign manager, Tom  
25 Letizia, indicating he was responsible for the ad. Mr. Letizia's corporate  
26 website confirms he was the Respondent's campaign manager in 2014.

27 E. The RJ contacted Tom Letizia, who acknowledged he created the ad, but  
28 did not explain why it included false endorsements. When the  
Commission's Investigator interviewed Mr. Letizia, he said he created  
the ad after receiving a list of endorsements from the Respondent, but

1 was not sure if the Respondent listed each agency in which the officers  
2 had endorsed him or just listed NAPSO. Mr. Letizia told the Investigator  
3 he always obtains clients' permission to run an ad and was certain he  
4 received the Respondent's approval for the ad in question. He believed  
5 he received this permission by e-mail, but could not produce a supporting  
6 e-mail, stating he had changed servers since 2014. Mr. Letizia said such  
7 approval would not necessarily mean the Respondent saw the actual ad  
8 before it ran. He agreed the ad could mislead a reader into believing the  
9 five (5) state agencies endorsed the Judge, as opposed to the  
endorsements coming from the officers of these agencies.

10 F. During the investigation, the Respondent also agreed the advertisement  
11 could be misleading. Respondent acknowledged that he failed to  
12 monitor his endorsements and his campaign manager. He said he did  
13 not see the ad before it ran, but acknowledged that, under the Code, he  
14 is required to insure his campaign representatives do not disseminate  
15 misleading statements or information, pursuant to Canon 4, Rules  
16 4.1(A)(11), 4.1(B) and 4.4(A). The Respondent also admitted he was  
17 responsible for his campaign manager's work product, pursuant to  
Canon 4, Rules 4.1(A)(11), 4.1(B) and 4.4(A).

18 2. Respondent agrees to waive the filing of the Formal Statement of Charges and the  
19 determination of Reasonable Probability provided for in Commission Rule 29.  
20 Respondent further agrees to waive his right to present his case before the  
21 Commission, contesting the allegations in the information set forth above, in a formal  
22 hearing, pursuant to Commission Procedural Rule 18. Respondent also agrees that  
23 this Order takes effect immediately, pursuant to Procedural Rule 29. The Commission  
24 accepts Respondent's waiver of said right and acknowledges and agrees to the  
25 immediate effect of this Order. Respondent further agrees to appear before the  
26 Commission in a public proceeding to discuss this Stipulation and Order of Consent  
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to Public Reprimand in more detail and answer any questions from the Commissioners.

3. Respondent agrees and acknowledges that this document will be published on the Commission's website and filed with the Clerk of the Nevada Supreme Court.

4. Respondent and the Commission hereby stipulate to Respondent's consent to public reprimand, pursuant to Commission Procedural Rule 29. Respondent stipulates to the following substantive provisions:

A. He stipulates to a public reprimand by the Commission for violations of the Preamble and the Code, Canon 4, Rules 4.1(A)(11) and 4.1(B) and 4.4(A), as set forth above in paragraphs (1)(A) through (F).

B. He agrees the discipline of public reprimand is authorized by Article 6, Section 21(1) of the Nevada Constitution and Rule 29 of the Procedural Rules of the Commission.

C. He agrees the evidence available to the Commission would establish by clear and convincing proof that he violated the Preamble and the Code, Canon 4, Rules 4.1(A)(11) and 4.1(B) and 4.4(A), as set forth above in paragraphs (1)(A) through (F).

5. The Respondent understands and agrees that by accepting the terms of this Stipulation, he waives his right to appeal to the Nevada Supreme Court, pursuant to Rule 3D of the Nevada Rules of Appellate Procedure.

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**ORDER**

IT IS HEREBY ORDERED that Respondent be and hereby is publicly reprimanded for violating the Preamble and the Code, Canon 4, Rules 4.1(A)(11) and 4.1(B) and 4.4(A), as set forth above in paragraphs (1)(A) through (F).

IT IS FURTHER HEREBY ORDERED that the Commission Executive Director take the necessary steps to file this document in the appropriate records and on the website of the Commission and with the Clerk of the Nevada Supreme Court.

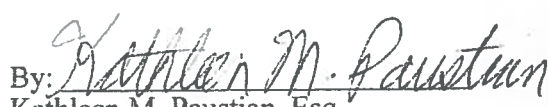
  
\_\_\_\_\_  
Douglas E. Smith  
Respondent

Dated this 7 day of February, 2017

  
\_\_\_\_\_  
William Terry, Esq.  
Attorney for Respondent

Dated this 7 day of FEBRUARY, 2017

NEVADA COMMISSION ON  
JUDICIAL DISCIPLINE  
P.O. Box 48,  
Carson City, Nevada 89702

By:   
\_\_\_\_\_  
Kathleen M. Paustian, Esq.  
Prosecuting Officer

Dated this 7 day of February, 2017

1 The Commissioners listed below accept the terms of this Stipulation and Order of  
2 Consent to Public Reprimand between the Respondent and the Commission. They further  
3 authorize the Chairman, if requested, to sign on behalf of the Commission, as a whole, this  
4 document containing the Stipulation and Order of Consent to Public Reprimand of the  
5 Respondent.  
6

7 **NEVADA COMMISSION ON JUDICIAL DISCIPLINE:**

8 **Signed by:**

**Dated:**

9   
10 GARY VAUSE, CHAIRMAN

02/23/2017

11  
12 Gary Vause

13 Leon Aberasturi

14 Karl Armstrong

15 Bruce Hahn

16 Stefanie Humphrey

17 John Krmptic

18 Jerome Polaha  
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**CERTIFICATE OF MAILING**

I hereby certify that on the 27th day of February, 2017, I served a copy of the CERTIFIED COPY OF STIPULATION AND ORDER OF CONSENT TO PUBLIC REPRIMAND, filed with the Nevada Supreme Court, by United States Mail, postage pre-paid, certified, return receipt requested, addressed to the undersigned:

William B. Terry, Esq.  
William B. Terry, Chartered  
530 South Seventh Street  
Las Vegas, NV 89101  
[info@williamterrylaw.com](mailto:info@williamterrylaw.com)  
Counsel for Respondent

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Las Vegas, NV 89107  
[kathleenpaustian@cox.net](mailto:kathleenpaustian@cox.net)  
Special Counsel



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JANET E. JACOBSEN  
Commission Clerk