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

12 IN THE MATTER OF THE HONORABLE,
13 MICHELE FIORE, Justice of the Peace,
14 Pahrump Township Justice Court, Nye
15 County, State of Nevada,

Case No.: 2025-108-P

16 Respondent.

17 **OPPOSITION TO RESPONDENT'S MOTION TO DISMISS COUNT 1**
18 **OF THE FIRST AMENDED FORMAL STATEMENT OF CHARGES**

19 COMES NOW Thomas J. Donaldson, Special Counsel for the Nevada Commission on
20 Judicial Discipline ("Commission" or "NCJD"), and hereby opposes The Honorable Judge Michele
21 Fiore's Motion to Dismiss Count 1 of the First Amended Formal Statement of Charges ("Motion")
22 filed herein on September 4, 2026. The instant opposition is made pursuant to PRJDC 38.2 and
23 based upon the following memorandum of points and authorities and the pleadings and papers on
24 file herein.

25 **Memorandum of Points and Authorities**

26 Respondent asserts in her Motion that Count One of the First Amended Formal Statement
27 of Charges ("FAFSOC") should be dismissed because it does not allege a cognizable violation of
28 Canon 1, Rule 1.1 of the Revised Nevada Code of Judicial Conduct committed while Judge Fiore
was servicing as a judicial officer. Further, Respondent argues in her Motion that the Commission
has no evidence that Judge Fiore failed to comply with the laws as alleged in Count One of the
FAFSOC, that the Jury Verdict filed on October 3, 2024, almost two (2) years after Respondent

1 became a judicial officer, in *United States of America v. Michele Fiore*, 2:24-cr-00155-JAD-DJA,
2 finding Respondent guilty of one (1) count of Conspiracy to Commit Wire Fraud (18 U.S.C. §1349)
3 and six (6) counts of Wire Fraud (18 U.S.C. §1343), all felonies, cannot be used against Judge Fiore
4 because President Donald J. Trump subsequently pardoned her and that Count One of the FAFSOC
5 is improper because it combines three (3) distinct legal theories in a single disjunctive allegation,
6 despite their different elements and consequences. None of Respondent's assertions justify dismissal
7 of Count One of the FAFSOC. Thus, the Commission should deny Respondent's Motion.

8 **1. Statement of Facts**

9 In or about 2019 to 2020, prior to becoming a judicial officer, Michele Fiore solicited
10 monetary donations for the creation of a statue in honor of two (2) slain Las Vegas Metropolitan
11 Police officers. Ms. Fiore represented to prospective donors that the funds would be used only for
12 the construction of the statue and received a substantial amount of money from donors for that
13 purpose.

14 The statue was completed in approximately January of 2020, but none of the donations
15 solicited and received by Ms. Fiore for the statue were spent on the construction of the statue. When
16 the donations specifically raised for the construction of the statue were not used for that purpose,
17 Ms. Fiore and later Judge Fiore, who was sworn into office on December 21, 2022, failed to notify
18 the donors that the specific purpose of their donations was abrogated, failed to request instructions
19 regarding alternative use of the donations and/or failed to return the donations to the donors.

20 On October 3, 2024, almost two (2) years after becoming a judicial officer, Respondent was
21 found guilty by a jury of one (1) count of Conspiracy to Commit Wire Fraud (18 U.S.C. §1349) and
22 six (6) counts of Wire Fraud (18 U.S.C. §1343), all felonies, based upon Respondent's fraudulent
23 use of the donations. *United States of America v. Michele Fiore*, 2:24-cr-00155-JAD-DJA.
24 Following the jury's verdict, but before sentencing, Judge Fiore filed motions for acquittal and for
25 a new trial arguing, *inter alia*, the evidence adduced at trial did not support the jury's verdict. On
26 April 18, 2025, U.S. District Court Judge Jennifer Dorsey denied Judge Fiore's motions.

27 On April 23, 2025, prior to the imposition of sentence, but after all post-trial motions were
28 adjudicated, Respondent received a "full and unconditional pardon" from the President of the United

1 States, Donald J. Trump. On April 28, 2025, Judge Dorsey vacated the federal sentencing dated and
2 closed the criminal case.

3 On April 24, 2026, undersigned Special Counsel filed herein a Formal Statement of Charges
4 (“FSOC”) against Respondent. Judge Fiore subsequently filed an Answer to the FSOC and a Motion
5 to Dismiss the FSOC. The Commission issued an Order dated July 31, 2026, denying Respondent’s
6 Motion to Dismiss and granting Special Counsel leave to file an amended FSOC (“Order”). The
7 FAFSOC was filed on August 7, 2026. Respondent subsequently filed an Answer and the pending
8 Motion.

9 **2. Argument**

10 **a. Count One is based upon Respondent’s misconduct while in office.**

11 Once again, Respondent is complaining about the Commission relying upon Respondent’s
12 “pre-office acts” that she claims are “outside [of] this Commission’s jurisdiction” pursuant to
13 NRS1.428. However, both the Nevada Supreme Court and the Commission have determined that
14 the Commission properly has jurisdiction over Judge Fiore.

15 The Nevada Supreme Court determined that the Commission has jurisdiction over the instant
16 matter pursuant to NRS 1.440 in *Fiore v. Nev. Comm. On Judicial Discipline*, Docket Nos. 89037,
17 90650 and 90810, pp. 3-4. Further, in denying Respondent’s first Motion to Dismiss, the
18 Commission found, “the FSOC bases its allegations on actions taken by Respondent *after* she became
19 a judicial officer, not before” and held, “the FSOC adequately alleges both personal and subject
20 matter jurisdiction” in this case. Order, p. 10 at lines 1-4 (emphasis in original).

21 Respondent’s reliance upon NRS 1.428, which defines “Judge,” is misplaced. The language
22 quoted in the Motion is from NRS 1.428(7), which states, “[a]ny person who formerly served in any
23 of the positions described in subsections 1 to 6, inclusive, if the conduct at issue for purposes of
24 NRS 1.425 to 1.4695, inclusive, occurred while the person was serving in such a position.”
25 However, Respondent clearly falls under subsection 5 of NRS 1.428, “[a] justice of the peace.”
26 Thus, the language in subsection 7 is inapplicable and irrelevant.

27 Similarly, Respondent’s claim that “[t]his Commission’s authority began when [Respondent]
28 assumed judicial office” is the majority view in the United States. Motion, pp. 5-6. The strong

majority of states that have addressed the question hold that judges may be disciplined - including by removal from office - for conduct that occurred before they assumed the bench. Courts and judicial conduct commissions in New York, Pennsylvania, Florida, Nebraska, Alabama, and Louisiana have all recognized this authority, grounding it in constitutional provisions authorizing discipline for conduct that renders a judge unfit for office or is prejudicial to the administration of justice. *Matter of Sarisohn*, 26 A.D.2d 388, 390 (2d Dep't 1966); *In re Hedges*, 2012 WL 4341141 (N.Y. Comm'n on Jud. Conduct 2012); *Doe v. State Commission on Judicial Conduct*, 137 Misc. 2d 268, 520 N.Y.S.2d 513 (Sup. Ct. 1987); *In re Greenberg*, 442 Pa. 411, 280 A.2d 370 (1971); *Matter of Cunningham*, 517 Pa. 417, 538 A.2d 473 (1988); *In re Pazuhanich*, 858 A.2d 231 (Pa. Ct. Jud. Disc. 2004); *In re Davey*, 645 So. 2d 398, 403 (Fla. 1994); *In re Watson*, 174 So. 3d 364 (Fla. 2015); *In re Henson*, 913 So. 2d 579, 588 (Fla. 2005); *In re Decker*, 212 So. 3d 291 (Fla. 2017); *State ex rel. Nebraska State Bar Ass'n v. Krepela*, 259 Neb. 395, 610 N.W.2d 1 (2000); *In re Steensland*, 2011 WL 9367407 (Ala. Ct. of Jud. 2011); *In re Todd*, 2021 WL 2653531 (Ala. Ct. of Jud. 2021); *In re Whitaker*, 463 So.2d 1291 (La. 1985). The dominant rationale is that the purpose of judicial discipline is not punishment, but the protection of the public and the integrity of the judiciary, and that purpose is not defeated merely because the offending conduct predates the judge's investiture. *Id.* The Commission already adopted the majority position. Order, p. 10 at lines 23-26.

b. The jury found Judge Fiore guilty of seven (7) felonies.

Respondent relies upon the *Whitehead* opinion to argue that the Commission has no evidence that Judge Fiore failed to “comply with the law, including the Code of Judicial Conduct,” as required by Rule 1.1 of the Revised Nevada Code of Judicial Conduct (“Code”). Motion, pp. 6-7. However, she completely ignores the Jury Verdict dated October 3, 2024, which was rendered while Judge Fiore was in office. As reiterated in the following section, the President’s subsequent pardon does not eliminate or eradicate the finding of guilt.

c. The President’s pardon does not eliminate or eradicate the jury’s finding of guilt.

Next, Respondent contends that the federal verdict cannot serve as a basis for discipline in this case. Motion, pp. 7-8. However, the Commission has already rejected Respondent’s argument.

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1 Initially, the President's pardon of Respondent on April 23, 2025, does not preclude the
2 Commission from considering Respondent's conduct for disciplinary purposes. In Nevada, "the
3 effect of a pardon does not erase the historical fact of the conviction[.]" *In re Sang Man Shin*, 125
4 Nev. 100, 110, 206 P.3d 91, 98 (2009). The Nevada Supreme Court has specifically "retreat[ed]
5 from [its] prior decisions . . . to the extent they imply that a pardon blots out guilt and erases the
6 historical fact of the underlying conviction." *Id.* at 110, 206 P.3d at 97-98. In doing so, the Court
7 agreed with the rationale of federal appellate courts that a pardon "does nothing more than to abolish
8 all restrictions upon the liberty of the pardoned one," but does not eliminate or eradicate the finding
9 of guilt. *Id.* at 107, 206 P.3d at 95 (citing *Groseclose v. Plummer*, 106 F.2d 311, 313 (9th Cir. 1939).

10 As these federal courts held, a presidential pardon does not reverse the legal conclusion of
11 the courts. See *Nixon v. United States*, 506 U.S. 224, 232 (1993) ("a pardon is in no sense an
12 overturning of a judgment of conviction"); *Hirschberg v. Commodity Futures Trading Comm'n*, 414
13 F.3d 679, 682 (7th Cir. 2005) (a pardon "does not blot out guilt or expunge a judgment of conviction"
14 (internal quotations omitted)). Nor can a pardon create a factual fiction that a guilty verdict did not
15 occur. *United States v. Noonan*, 906 F.2d 952, 958-59 (3d Cir. 1990). Instead, a pardon "preclude[s]
16 future *punishment* for the conviction," but does "not prohibit all *consequences* of a pardoned
17 conviction." *Hirschberg*, 414 F.3d at 682 (emphasis in original).

18 The Nevada Supreme Court has previously rejected Respondent's argument that disciplinary
19 action is a "punishment" as opposed to a "consequence" of her pardon. In *In re Sang Man Shin*, the
20 Court relied upon *In re Abrams*, 689 A.2d 6 (D.C. 1997) and *Dixon v. McMullen*, 527 F. Supp. 711
21 (N.D. Tex. 1981) in support of its holding that a pardon of a criminal conviction does not "create[]
22 a civil right" to escape the consequences associated with the underlying verdict. 125 Nev. At 107-
23 110, 206 P.3d at 96-98.

24 Those cases, cited with approval and relied upon by the Court, are dispositive of
25 Respondent's argument. Specifically, in *In re Abrams*, the D.C. Court of Appeals found that an
26 attorney was subject to discipline by the local bar association for a crime he pled guilty to,

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1 notwithstanding a subsequent presidential pardon. 689 A.2d at 9-12. The court offered the
2 following analogy:

3 Suppose that an alcoholic surgeon performs an operation while intoxicated. He
4 botches the surgery. The patient dies. The surgeon is convicted of manslaughter and
5 is sentenced to imprisonment. The President grants him a full and unconditional
6 pardon. According to Abrams, the surgeon now has the result, as a result of the
7 pardon, to continue to operate on other patients, without any interference from the
8 medical licensing authorities. The proposition that the alcoholic but pardoned
9 surgeon . . . cannot be disciplined is, in our view, altogether unacceptable and even
10 irrational

11 *Id.* at 10-11.

12 The court went on to note that while a pardon removes “all legal punishment,” “if character
13 is a necessary qualification and the commission of the crime would disqualify even though there had
14 been no criminal prosecution for the crime, the fact that the criminal has been convicted and
15 pardoned does not make him any more eligible.” *Id.* at 11 (internal quotations omitted). Similarly,
16 in *Dixon*, the Texas federal district court reasoned that a pardon “may remove some disabilities but
17 does not change the common-law principle that a conviction of an infamous offense is evidence of
18 bad character.” 527 F. Supp. at 718.

19 Other jurisdictions similarly hold that a pardon does not eliminate jurisdiction for discipline
20 by civil regulatory bodies. See *Feinstein v. State Bar of Cal.*, 248 P.2d 3, 7 (Cal. 1952) (a pardon
21 does not automatically mean that an attorney has complied with the “essentials required of an
22 attorney-at-law”); *Branch v. State*, 163 So. 48, 49 (Fla. 1935) (same); *Matter of Beck*, 342 N.E.2d
23 611, 614-15 (Ind. 1976) (pardons do not restore character or fitness to practice law); *In re Kaufmann*,
24 157 N.E. 730, 733 (N.Y. 1927) (a pardon does not “restore to the fellowship of the bar” if “there has
25 been a failure to live up to the standards of morality and honor”); *Hankamer v. Templin*, 187 S.W.2d
26 549, 550 (Tex. 1945) (pardon does not restore privilege to practice law). As these courts explain,
27 discipline is not “part of the punishment inflicted for the commission of crime,” but is instead a
28 consequence of “misconduct . . . which shows [them] to be a person unfit to engage in the practice
of law.” *Branch*, 163 So. at 49.

Similarly, here, the Commission’s proceedings are not a punishment, but a consequence. As
both the Nevada Supreme Court and other courts have held, the fact of a guilty verdict creates an

1 appearance of impropriety that warrants discipline of public officers. *See e.g., Egan v. Jones*, 21
2 Nev. 433, 32 P. 929, 930 (1893) (interpreting a former constitutional provision disqualifying those
3 who are “convicted” of bribery in elections from holding public office); *State v. Nix*, 249 N.E.3d
4 134, 142-43 (Ohio 2024) (Ohio’s judicial discipline statute disqualifies a person from holding public
5 office upon the return of a guilty verdict). As these courts explain, “[a]fter verdict of guilty . . . the
6 presumption of innocence ceases[.]” *Campbell v. State*, 781 S.W.2d 14, 17 (Ark. 1989) (internal
7 quotations omitted); *see also Wilson v. Goodwyn*, 522 F. Supp. 1214, 1215-16 (E.D.N.C. 1981)
8 (same). Thus, even when a conviction is later reversed (or here, pardoned), there is too great a risk
9 of “loss of public confidence in those who govern which inevitably accompanies the spectacle of
10 officeholders who have been found guilty of an offense which disqualifies them for public trust, yet
11 continue to hold the office[.]” *Campbell*, 781 S.W.2d at 18; *see also Lubin v. Wilson*, 284 Cal. Rptr.
12 70, 73 (Ct. App. 1991) (“[t]he statutory scheme [precluding convicted public officials from holding
13 office after trial court judgment] advances compelling interest for honesty, integrity and confidence
14 of the public in government, which is greater than the convicted person’s interest in the office.”).

15 Furthermore, the statutes of limitation against Respondent for state criminal and civil charges
16 have not all elapsed. If the Nevada Attorney General’s office decides to file criminal charges against
17 Respondent under NRS 205.300, NRS 205.305 and NRS 171.095, the presidential pardon is of no
18 effect. *See* U.S. Const. Art. II § 2. Likewise, if a donor/victim decides to file a civil action for
19 embezzlement or unjust enrichment, the presidential pardon is of no effect. *See id.* Accordingly,
20 the pardon does not prevent the Commission from proceeding in this case.

21 Again, Respondent claims that the Commission’s actions related to Respondent’s
22 suspensions underscores the lack of a consistent disciplinary theory. Motion, p. 8. However, the
23 Commission was simply complying with the applicable statutes.

24 As thoroughly explained in the Commission’s Order (1) Rescinding Respondent’s
25 Suspension from the Exercise of Judicial Office without Salary pursuant to NRS 1.4675(2)(b);
26 (2) Suspending respondent from the Exercise of Judicial Office with Salary pursuant to
27 NRS 1.4675(4) dated May 19, 2025, and the Order dated July 31, 2026, the Commission was
28 complying with NRS 1.4675 and PRJDC 9, which govern the circumstances under which a judge

1 may be suspended with or without pay. Clearly, the Commission's actions do not prohibit the
2 Commission from proceeding with the FAFSOC under the circumstances.

3 **d. Judge Fiore is required to comply with the law.**

4 Respondent next makes a "continuing wrong" argument. Motion, pp. 8-9. However, her
5 reliance upon a Louisiana court opinion, *Davis* and NRS 1.4655 are misplaced. The Commission
6 has already determined:

7 Respondent had a legal obligation to notify the donors and seek instructions
8 regarding the alternative use or return of the donations. *FSOC*, pg. 2, lines 12-26.
9 By failing to notify the donors, seek such instructions or otherwise return the
10 donations, the FSOC alleges that the Respondent unlawfully concealed the matter
11 and wrongfully retained those donations, including while she served as a judge.
12 *FSOC*, pg. 3, lines 16-21. The FSOC further denotes that fraudulent conduct
13 prompted the guilty jury verdicts of 7 counts of federal criminal wire fraud in the
14 U.S. District Court after the Respondent became a judge. *FSOC*, pg. 2, line 27 and
15 pg. 3, lines 1-4.

16 Order, p. 12 at lines 3-9. The FAFSOC does not change the Commission's determination on this
17 issue.

18 **e. Count One is not impermissibly duplicitous.**

19 Finally, Respondent argues that Count One is "impermissibly duplicitous." Motion, p. 10.
20 However, nothing in Respondent's Motion or Nevada law prevents undersigned Special Counsel
21 from alleging and proving distinct legal theories in Count One of the FAFSOC. Indeed, the
22 Commission has already held that the original "FSOC satisfies the minimum due process necessary
23 to put Respondent on notice of the nature of the claim and relief sought." Order, p. 13 at lines 13-14.
24 Special Counsel filed the FAFSOC in accordance with the Commission's Order "to provide more
25 specificity regarding the legal authorities upon which it alleges the Respondent had a legal obligation
26 to notify the donors that the donated funds could not be used for the specified purpose, seek
27 instructions on alternative use of those funds, or return the money." Order, p. 11 at lines 22-25.

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DATED this 14th day of September, 2026.

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