

1 LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
3 Nevada State Bar No. 002003
4 NICOLE M. YOUNG, ESQ.
5 Nevada State Bar No. 12659
6 610 South Ninth Street
7 Las Vegas, Nevada 89101
8 (702) 386-0536; FAX (702) 386-6812
9 Attorneys for Petitioner

Electronically Filed
May 18 2018 04:21 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

10 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

11 JENNIFER HENRY,

Case No. 75675

12 Petitioner,

13 vs.

14 NEVADA STATE COMMISSION
15 ON JUDICIAL DISCIPLINE,

16 Respondent.
17 _____/

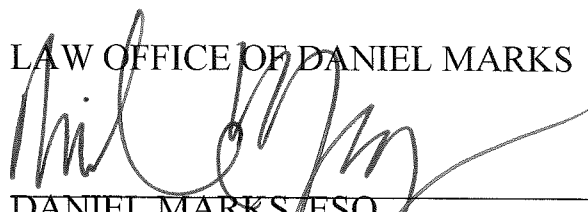
18 **EMERGENCY MOTION FOR STAY UNDER NRAP 27(e)**

19 *Action is needed by Thursday, May 24, 2018*

20 COMES NOW the Petitioner Jennifer Henry, by and through her counsel,
21 Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel
22 Marks, and submits her Emergency Motion for Stay Under NRAP 27(e). The
23 grounds for Petitioner's emergency motion are set forth in the following
24 Memorandum of Points and Authorities.

25 DATED this 18 day of May, 2018.

26 LAW OFFICE OF DANIEL MARKS

27 
28 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
NICOLE M. YOUNG, ESQ.
Nevada State Bar No. 12659
530 South Las Vegas Blvd. Suite 300
Las Vegas, Nevada 89101
Attorneys for Petitioner

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I. FACTUAL BACKGROUND

On October 10, 2017, Respondent Nevada State Commission on Judicial Discipline (hereinafter “Commission”) filed a "Formal Statement of Charges" against Petitioner Jennifer Henry (hereinafter “Ms. Henry”). (*See Exhibit 1.*) The Commission filed those charges pursuant to the authority granted to the Commission under Article 6, section 21 of the Nevada Constitution. (*See Exhibit 1.*) The public hearing relating to those charges is scheduled to take place on May 29, 2018, at 8:00 a.m., in Reno, Nevada. (*See Exhibit 2.*)

On April 27, 2018, Ms. Henry filed her Petition for Writ of Prohibition with this Court relating that disciplinary proceeding. On May 18, 2018, this Court issued its “Order Directing Answer” regarding Ms. Henry’s petition. Based on that order, the Commission’s Answer to Ms. Henry’s petition is due on June 4, 2018, which is less than one (1) week after the public hearing that the Commission previously set regarding the charges against Ms. Henry.

William Terry, Esq., is representing Ms. Henry in the judicial discipline proceedings. Upon receiving this Court's "Order Directing Answer" he contacted the attorney representing the Commission to request a stay of the public hearing scheduled for May 29, 2018, at 8:00 a.m. The Commission refused to stipulate to that continuance despite the fact that significant taxpayer resources would be expended to conduct that hearing.

II. LEGAL ARGUMENT

When determining whether to issue a stay, this Court considers the following factors:

- (1) whether the object of the appeal or writ petition will be defeated if the stay or injunction is denied;
- (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay or injunction is denied;
- (3) whether respondent/real party in interest will suffer irreparable

- 1 or serious injury if the stay or injunction is granted; and
2 (4) whether appellant/petitioner is likely to prevail on the merits in
3 the appeal or writ petition.

4 NRAP 8(c) (cited in list format). When requesting a stay pending writ proceedings
5 the movant is not required to “show a probability of success on the merits.”

6 *Hansen v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 116 Nev. 650, 659, 6
7 P.3d 982, 987 (2000). Instead, the movant need only “present a substantial case on
8 the merits when a serious legal question is involved and show that the balance of
9 equities weighs heavily in favor of granting the stay.” *Id.*

10 A stay of the judicial discipline proceedings against Ms. Henry is warranted
11 in this case. First, a stay will not defeat the object of disciplinary proceedings. The
12 Commission did not file its Formal Statement of Charges until October 10, 2017.
13 The subject matter of those charges involves an incident that occurred on October
14 10, 2016. The Commission waited one (1) year before it decided to file charges
15 against Ms. Henry. If this Court ultimately finds that the Commission does have
16 jurisdiction to discipline hearing masters, then it would still be able to hold a
17 public disciplinary hearing against Ms. Henry.

18 Second, Ms. Henry will suffer irreparable or serious injury if the stay is
19 denied. Because this case involves judicial discipline, Ms. Henry’s reputation as a
20 hearing master is directly at issue. If the Commission makes an adverse finding
21 against Ms. Henry at that hearing, her reputation may never recover, even if this
22 Court ultimately finds that the Commission did not have jurisdiction. That is a bell
23 that Ms. Henry would never be able to un-ring. In addition, since the Commission
24 is holding the hearing in Reno, Nevada, despite the fact that Ms. Henry works and
25 lives in Clark County, she will have to spend significant resources traveling to
26 Reno to defend herself during that hearing. She will also have attorney’s fees and
27 costs associated with her legal representation at that hearing. If the Commission
28 does not have jurisdiction, she should not be required to go to a hearing that may

1 be damaging to her career and incur the associated expenses.

2 Third, the Commission will not suffer irreparable or serious injury if the
3 stay is granted. In fact, the Commission will save taxpayer money because it will
4 not incur the expense of conducting a public hearing if this Court ultimately finds
5 that the Commission does not have jurisdiction over Ms. Henry, a hearing master.

6 Fourth, Ms. Henry believes that she will prevail on the merits of her Petition
7 for Writ of Prohibition because the legal issue that this Court will resolve is based
8 on the fact that the Nevada Constitution was never amended to include hearing
9 masters under the Commission's jurisdiction. This argument is based on the plain
10 language of the Nevada Constitution.

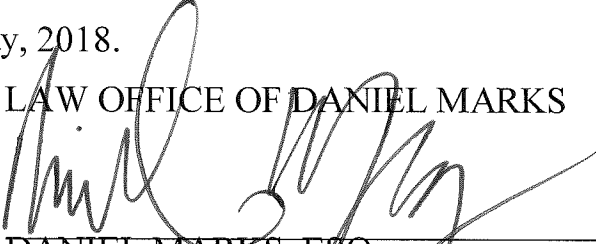
11 Because Ms. Henry's petition presents a serious legal question and the harm
12 that Ms. Henry could be irreparable, the balance of equities weigh heavily in favor
13 of this Court granting the requested stay.

14 **III. CONCLUSION**

15 Based on the foregoing, this Court should stay the public hearing relating to
16 the judicial discipline charges filed by the Commission, which is scheduled to take
17 place on May 29, 2018, at 8:00 a.m., in Reno, Nevada.

18 DATED this 18 day of May, 2018.

19 LAW OFFICE OF DANIEL MARKS

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21 
22 DANIEL MARKS, ESQ.
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25 Nevada State Bar No. 12659
26 610 South Ninth Street
27 Las Vegas, Nevada 89101
28 Attorneys for Petitioner

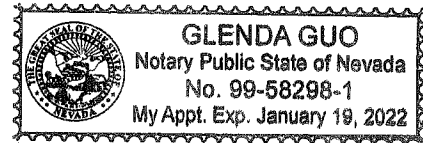
STATE OF NEVADA }
COUNTY OF CLARK } ss:

1. That I am an attorney licensed to practice law in the State of Nevada and am counsel for the Petitioner Jennifer Henry in the proceedings before the Nevada Commission on Judicial Discipline, Case No. 2016-142-P.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


WILLIAM TERRY, ESQ.

Glenda Guo
NOTARY PUBLIC in and for said
COUNTY and STATE



1
2 **CERTIFICATE OF COMPLIANCE**

3 I hereby certify that this motion complies with the typeface requirements of
4 NRAP 32(a)(5) and the type style requirements of 32(a)(6) because this motion
5 has been prepared in a proportionally spaced typeface using WordPerfect 11 in
6 Times New Roman style in size 14-point font.

7 I further certify that this motion complies with the page limitations of
8 NRAP 27(d)(2) because it does not exceed ten (10) pages.

9 Finally, I hereby certify that I have read this motion, and to the best of my
10 knowledge, information, and belief, it is not frivolous or interposed for any
11 improper purpose. I understand that I may be subject to sanctions in the event that
12 the accompanying motion is not in conformity with the requirements of the
13 Nevada Rules of Appellate Procedure.

14 DATED this 18 day of May, 2018.

15 LAW OFFICE OF DANIEL MARKS

16
17 
18 DANIEL MARKS, ESQ.

19 Nevada State Bar No. 002003

20 NICOLE M. YOUNG, ESQ.

21 Nevada State Bar No. 12659

22 610 South Ninth Street

23 Las Vegas, Nevada 89101

24 Attorneys for Petitioner
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NRAP 27(e) CERTIFICATE

1. The telephone numbers and office addresses of the attorneys for the parties.

Thomas C. Bradley, Esq.
Sinai, Schroeder, Mooney, Boetsch, Bradley & Pace
448 Hill Street
Reno, Nevada 89501
Telephone: (775) 323-5178
Prosecuting Officer

Paul C. Deyle
State of Nevada Commission on Judicial Discipline
P.O. Box 48
Carson City, Nevada 89702
Telephone: (775) 687-4017

William Terry, Esq.
530 S. Seventh Street,
Las Vegas, Nevada 89101
Telephone: (702) 385-0799
and
Daniel Marks, Esq.
Nicole M. Young, Esq.
LAW OFFICE OF DANIEL MARKS
610 South Ninth Street
Las Vegas, Nevada 89101
Telephone: (702) 386-0536
Counsel for Petitioner Jennifer Henry

2. Facts showing the existence and nature of the claimed emergency.

This emergency motion seeks a stay of the public hearing that is presently scheduled for May 29, 2018, at 8:00 a.m., in Reno, Nevada. The Petition for Writ of Prohibition relates to whether the Respondent Nevada Commission on Judicial Discipline has jurisdiction to hold that hearing against Petitioner Jennifer Henry.

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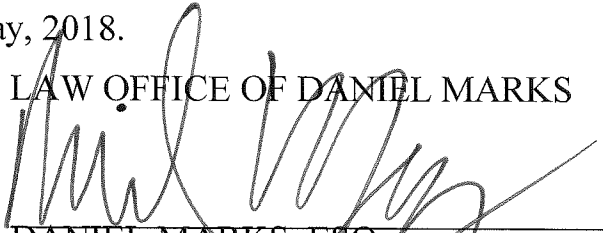
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1 **3. When and how counsel for the other parties were notified and whether**
2 **they have been served with the motion.**

3 The undersigned counsel left a voice mail with Mr. Thomas Bradley, the
4 prosecuting officer, on May 18, 2018, at approximately 3:55 p.m., notifying him of
5 the instant motion. Mr. Bradley was served with the instant motion by electronic
6 service and by e-mail. Ms. Davis, of the Nevada Commission on Judicial
7 Discipline, was notified by undersigned counsel, via telephone, of the instant
8 motion on May 18, 2018, at approximately 3:58 p.m. Ms. Davis requested a copy
9 of the motion be e-mailed directly to her. The Nevada Commission on Judicial
10 Discipline was thus served by e-mail and electronic service.

11 DATED this 18 day of May, 2018.

12 LAW OFFICE OF DANIEL MARKS

13 
14 _____
15 DANIEL MARKS, ESQ.
16 Nevada State Bar No. 002003
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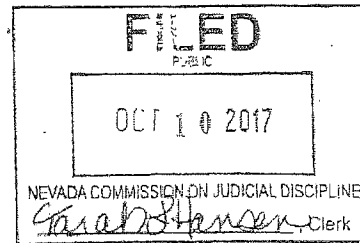
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Paul C. Deyle
State of Nevada Commission on Judicial Discipline
P.O. Box 48
Carson City, Nevada 89702
E-Mail: jcdavis@judicial.nv.gov


An employee of
LAW OFFICE OF DANIEL MARKS

EXHIBIT 1

1 THOMAS C. BRADLEY, ESQ.
2 Bar No. 1621
3 *Sinai, Schroeder, Mooney,*
4 *Boetsch, Bradley and Pace*
5 448 Hill Street
6 Reno, Nevada 89501
7 Telephone (775) 323-5178
8 Tom@TomBradleyLaw.com
9 Prosecuting Officer for the Nevada
10 Commission on Judicial Discipline



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BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

IN THE MATTER OF THE HONORABLE
JENNIFER HENRY, Hearing Master for the Eighth
Judicial District Court, Family Division, County of
Clark, State of Nevada,

CASE NO. 2016-142-P

Respondent.

FORMAL STATEMENT OF CHARGES

COMES NOW Thomas C. Bradley, Prosecuting Officer for the Nevada Commission on
Judicial Discipline ("Commission" or "NCJD"), established under Article 6, Section 21 of the
Nevada Constitution, who, in the name of and by the authority of the Commission, as found in
NRS 1.425 - 1.4695, files this Formal Statement of Charges and informs the Respondent, the
Honorable Jennifer Henry, Hearing Master for the Eighth Judicial District Court, Family Division,
County of Clark, State of Nevada ("Respondent"), that the following acts were committed by
Respondent and warrant disciplinary action by the Commission under the Revised Nevada Code
of Judicial Conduct ("the Code").

FACTUAL ALLEGATIONS

In or about October 10, 2016, Respondent knowingly, and in her capacity as a Hearing
Master for the Eighth Judicial District Court, Family Division, County of Clark, State of Nevada,
engaged in the following acts or a combination of these acts ("acts or actions"):

1 On October 10, 2016, Respondent served as the assigned hearing master in a contested
2 juvenile hearing in which a juvenile was accused of running away from police officers after the
3 police officers had approached a group of teenagers who were on the street smoking marijuana at
4 3:00 a.m. in the morning. As part of a plea agreement, the juvenile, through her counsel, agreed to
5 plead guilty to obstructing an officer, a misdemeanor offense, with all other charges dismissed in
6 exchange for the prosecutor's sentencing recommendation that the juvenile be given six-months
7 of probation. The juvenile was represented by Aaron Grigsby, a court appointed attorney. Notably,
8 Respondent and Mr. Grigsby had a strained professional relationship going back several years.

9 After the plea was entered, Respondent began to ask the juvenile questions regarding her
10 use of a cell phone which was unrelated to the underlying criminal matter. Counsel Grigsby
11 advised the Respondent that he did not wish to have his client admit to something that could get
12 her into more trouble. Respondent ignored counsel's objection which was based on the juvenile's
13 Fifth Amendment right against self-incrimination and repeatedly asked the juvenile to answer her
14 questions about the juvenile's use of a cell phone.

15 Respondent lost her temper as Counsel Grigsby continually objected to Respondent's
16 repeated attempts to question the juvenile regarding the cell phone, and shouted, "ENOUGH",
17 numerous times to Counsel Grigsby. Respondent then called a recess, and upon resumption of the
18 hearing, and again began asking the juvenile to answer her questions regarding the juvenile's cell
19 phone. Counsel Grigsby continued to object noting that he did not want his client to admit to
20 anything that could result in additional charges.

21 The juvenile followed the advice of her counsel and refused to answer Respondent's
22 questions regarding the cell phone. Respondent then stated that she was sentencing the juvenile to
23 nine (9) months of probation instead of six (6) months because the juvenile declined to answer her
24 questions regarding the use of a cell phone. During the hearing, Respondent also advised Counsel
25 Grigsby he was obstructing the hearing, making prejudicial comments, and that his misconduct
26 was not an isolated incident.

1 The Respondent's actions described above violated the Code, including Judicial Canon 1,
2 Rule 1.1, failing to comply with the law, including the Code; Rule 1.2, failing to promote
3 confidence in the judiciary; Canon 2, Rule 2.2, failing to uphold and apply the law and failing to
4 perform all duties of her judicial office fairly and impartially; Rule 2.3 failing to be free from bias;
5 Rule 2.5(A) failing to perform judicial and administrative duties competently and diligently; Rule
6 2.6(A), failing to accord a party's right to be heard; and Rule 2.8 (B), failing to be patient, dignified,
7 and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with
8 whom the judge deals in an official capacity. The Respondent abused her judicial authority by
9 engaging in any or all; or any combination of, the acts listed above.

10 COUNT ONE

11 By engaging in the acts, or combination of the acts, listed above, by sentencing the juvenile
12 to a harsher sentence because the juvenile elected to exercise her Fifth Amendment right against
13 self-incrimination, Respondent violated the Code, including Judicial Canon 1, Rule 1.1, failing to
14 comply with the law, including the Code; Rule 1.2, failing to promote confidence in the judiciary;
15 Canon 2, Rule 2.2, failing to uphold and apply the law and failing to perform all duties of her
16 judicial office fairly and impartially; Rule 2.3, failing to be free from bias; and Rule 2.5(A) failing
17 to perform judicial and administrative duties competently and diligently. The Respondent abused
18 her judicial authority by engaging in any or all, or any combination of, the acts listed above.

19 COUNT TWO

20 By engaging in the acts, or combination of the acts, listed above, in failing to be patient,
21 dignified and courteous to the juvenile and Counsel Grigsby, Respondent violated the Code,
22 including Judicial Canon 1, Rule 1.1, failing to comply with the law, including the Code; Rule 1.2,
23 failing to promote confidence in the judiciary; Canon 2, Rule 2.2, failing to uphold and apply the
24 law and failing to perform all duties of her judicial office fairly and impartially; Rule 2.5(A) failing
25 to perform judicial and administrative duties competently and diligently; Rule 2.6(A), failing to
26 accord a lawyer's right to be heard; and Rule 2.8 (B), failing to be patient, dignified, and courteous
27 to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge
28

1 deals in an official capacity. The Respondent abused her judicial authority by engaging in any or
2 all, or any combination of, the acts listed above.

3 Based on the information above, the Commission shall hold a public hearing on the merits
4 of these facts and Counts pursuant to NRS 1.4673 and, if violations as alleged are found to be true,
5 the Commission shall impose whatever sanctions and/or discipline it deems appropriate pursuant
6 to NRS 1.4677 and other Nevada Revised Statutes governing the Commission.

7
8 Dated this 9 day of October, 2017.

9
10 Submitted by: TCB
11 Thomas C. Bradley, Esq., SBN 1621
12 Prosecuting Officer for the NCJD
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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss
3)

4 THOMAS C. BRADLEY, ESQ. being first duly sworn under oath, according to Nevada
5 law, and under penalty of perjury, hereby states:

6 1. I am an attorney licensed to practice law in the State of Nevada. I have been retained
7 by the Nevada Commission on Judicial Discipline to serve in the capacity of Prosecuting Officer
8 in the matter of the Honorable Jennifer Henry, Case No. 2016-142-P.

9 2. I have prepared and reviewed this Formal Statement of Charges against the Honorable
10 Jennifer Henry, pursuant to the investigation conducted in this matter, and based on the contents
11 of that investigation and following reasonable inquiry, I am informed and believe that the contents
12 of this Formal Statement of Charges are true and accurate.
13

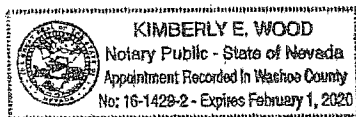
14 Dated this 9 day of October, 2017.

15 
16 THOMAS C. BRADLEY, ESQ.
17

18 Subscribed and sworn to before me, a Notary Public

19 This 9 day of October, 2017.

20 
21 BY: NOTARY PUBLIC
22



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Formal Statement of Charges was placed in the
U.S. mail, postage pre-paid, on this 10 day of October, 2017.

William B. Terry, Esq.
Law Offices William B. Terry, Chartered
530 South Seventh Street
Las Vegas, NV 89101

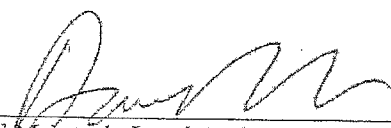
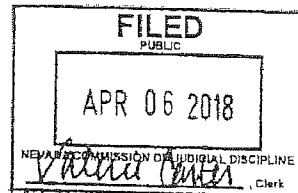
By: 
David McIntosh, Legal Assistant to
Thomas C. Bradley, Esq., Prosecuting Officer for NCJD

EXHIBIT 2

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

2 **STATE OF NEVADA**



3 In the Matter of)

4 THE HONORABLE JENNIFER HENRY,)
5 Hearing Master, Eighth Judicial District Court,)
6 County of Clark, State of Nevada,)

CASE NO. 2016-142-P

7 Respondent.)
8)
9)

10 **FIRST AMENDED ORDER SETTING PUBLIC HEARING**
11 **AND NOTICE OF PANEL MEMBERS, ORDER REGARDING MEDIA ACCESS**

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

16 Pursuant to order of the Nevada Commission on Judicial Discipline ("Commission"), a public
17 hearing in the above-captioned matter has been rescheduled to commence on May 29, 2018, at the hour
18 of 8:00 a.m., or as soon thereafter as the matter may be heard and will conclude at or before 5:00 p.m.
19 The public hearing will be conducted at the office of the State Bar of Nevada, 9456 Double R
20 Boulevard, Suite B, Reno, Nevada 89521. The Respondent, Respondent's counsel and the Prosecuting
21 Officer will appear in person.

22 The following panelists are scheduled to participate as members of the Commission: Gary
23 Vause (Chair), Hon. Leon Aberasturi, Bruce C. Hahn, Esq., Stefanie Humphrey, Laurence Irwin, Esq.,
24 John Krmpotic and Hon. Jerome Polaha.

25 Members of the media intending to record this public hearing must obtain consent to do so from
26 the Commission. Media entry requests should be directed to Gary Vause, Chair and may be mailed to
27 the Commission at Post Office Box 48, Carson City, NV, 89702, sent via facsimile to (775) 687-3607
28 or sent by electronic mail to ncidinfo@judicial.nv.gov. The request should contain the name and

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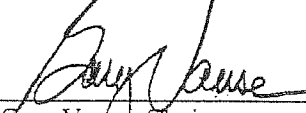
1 type of media outlet, including address, telephone and facsimile number(s). Requests must be received
2 by the Commission no later than 3:00 p.m., May 18, 2018.

3 Chairman Gary Vause is authorized to sign this order on behalf of the full Commission.

4 IT IS SO ORDERED.

5 DATED this 6th day of April, 2018.

6
7 STATE OF NEVADA
8 COMMISSION ON JUDICIAL DISCIPLINE

9 
10 _____
11 Gary Vause, Chairman
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CERTIFICATE OF SERVICE

I hereby certify on this 6th day of April, 2018, I transmitted a copy of the foregoing FIRST AMENDED ORDER SETTING PUBLIC HEARING AND NOTICE OF PANEL MEMBERS, ORDER REGARDING MEDIA ACCESS, via email and by placing said document in the U.S. Mail, postage prepaid, addressed to:

William B. Terry, Esq.
William B. Terry, Chartered Attorney at Law
530 South Seventh Street
Las Vegas, NV 89101-6011
Info@WilliamTerryLaw.com
Counsel for Respondent

Thomas C. Bradley, Esq.
Sinai, Schroeder, Mooney, Boetsch, Bradley & Pace
448 Hill Street
Reno, NV 89501
Tom@stockmarketattorney.com
Prosecuting Officer

Valerie Carter

Valerie Carter, Commission Clerk