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THE STATE OF NEW HAMPSHIRE Judicial Conduct Committee

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| MASTER BRUCE DALPRA | * | |
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DEPOSITION OF THE HONORABLE DAVID KING

August 26, 2022, 9:59 a.m.

The deposition took place at the Office of the Judicial Conduct Committee, Concord, New Hampshire

DEPOSITION TRANSCRIPTION VERBATIM Audio & Video Recording and Transcription Service Paralegal, Notary Public, Medical Transcription

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MEMBER: AMERICAN ASSOCIATION OF ELECTRONIC REPORTERS & TRANSCRIBERS, INC.

IN ATTENDANCE

FOR THE JUDICIAL COUNCIL:

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FOR MASTER DALPRA:

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FOR JUDGE KING:

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THE STATE OF NEW HAMPSHIRE Judicial Conduct Committee

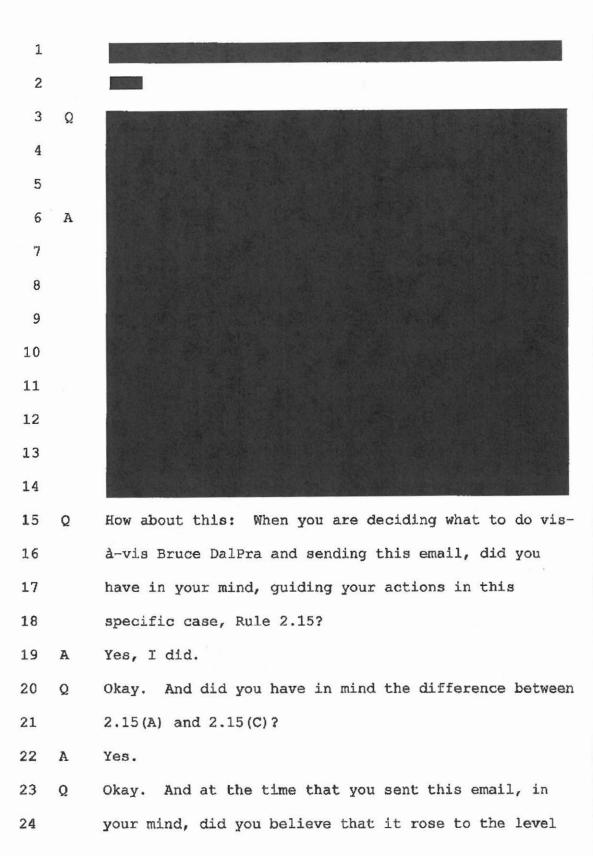
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| MASTER BRUCE DALPRA | * |
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DOCKET JC-21-072-C

DEPOSITION OF THE HONORABLE DAVID KING

August 26, 2022, 9:59 a.m.

This deposition excerpt is relevant to the issues in this matter. The balance of the deposition transcript is not relevant to the issues and thus has been redacted by agreement of counsel.



| 1 | | of a 2.15(A) mandatory report? | | |
|----|---|--|--|--|
| 2 | A | I would say at the time I made the call, I hadn't | | |
| 3 | | decided that. I mean, I needed to gather some more | | |
| 4 | | information. I needed to talk to Master DalPra, find | | |
| 5 | | out what happened. I was going on pretty limited | | |
| 6 | | information at that point. So I would - You're asking | | |
| 7 | | me at a specific point in time. I would say at that | | |
| 8 | | time, I didn't know if I had a 2.15(A) or (C), or none | | |
| 9 | | of the above. | | |
| 10 | Q | Okay. And at some point, you did talk to Master | | |
| 11 | | DalPra, correct? | | |
| 12 | A | I did. | | |
| 13 | Q | And did that conversation clarify what obligations you | | |
| 14 | | had in this specific case vis-à-vis Rule 2.15? | | |
| 15 | A | Yes. | | |
| 16 | Q | Okay. And so, in this case, - this leads me to my | | |
| 17 | | next set of questions - did you believe that 2.15(A) | | |
| 18 | | or 2.15(C) required you to provide this information to | | |
| 19 | | the Judicial Conduct Committee? | | |
| 20 | A | So I, after speaking to Master DalPra and reviewing | | |
| 21 | | the rule, concluded that "A" was not the applicable | | |
| 22 | | section. I did not have a belief, and don't have a | | |
| 23 | | belief, as I sit here today, that the rule had been | | |
| 24 | | violated raises a substantial question regarding his | | |

1 honesty. He was pretty forthright with me about what had occurred. His trustworthiness, I had no reason 2 not to trust him at that point. And when I think of 3 fitness as a judge, I think that's a pretty high bar 4 to meet. And I didn't, at that time, have a concern 5 about his fitness to serve as a judge. I had already 6 decided under "C," however, that this was something 7 that, even though it was a set of facts that I had 8 never seen before in my 30+ years as a judge, I felt 9 there was an obligation to let the Judicial Conduct 10 Committee know about it. 11 Did you tell the Judicial Conduct Committee? 12 0 13 A Did I tell the Judicial Conduct Committee what? 14 0 About what you had found regarding the transcript in 15 the Albrecht case? 16 Yes. A Okay. Did you provide this email to the Judicial 17 Q 18 Conduct Committee? A 19 No. 20 0 Okay. 21 A And let me just be clear. When I say "Judicial 22 Conduct Committee," I had a conversation with Robert 23 Mittelholzer after I spoke with Master DalPra about 24 this incident. So I didn't have any communication

with the committee itself. I didn't send them
 anything. I had a phone conversation with Robert
 Mittelholzer.

Did you - STRIKE THAT. Were you aware of the fact 4 Q 5 that Master DalPra had decided to self-report? 6 A I was aware that Master DalPra was going to self-7 report. I had a conversation with him on Wednesday, November 18th. I had sent him the email on Friday. I 8 9 think he was either - he either had a writing day that 10 day or he was on vacation. I had tried to call him on 11 his extension, which is typically how I try to reach a judge. I don't like to call the clerk's office and, 12 13 you know, "The administrative judge is calling. 14 What's going on?" So I'm usually pretty low key about 15 these things. I was not able to get him. I tried a 16 couple of times during the day on Friday. So I sent 17 the email that's been marked as Exhibit 1. Didn't 18 hear back from him, I think until Tuesday, the 17th. 19 He said he had left his laptop at work and he'd been 20 working from home - circumstances that he didn't see 21 my email. So I think we spoke on Tuesday, or we 22 exchanged emails on Tuesday, and we agreed to speak on 23 Wednesday, the 18th at 12:30 during a break in his 24 cases.

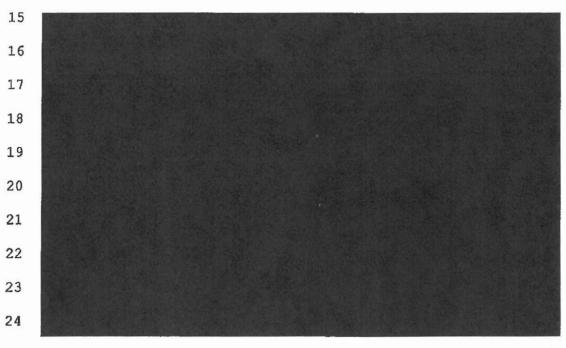
| 1 | Q | Okay. Two questions about what you just said. For | |
|----|---|--|--|
| 2 | | people who are unaware, what is a writing day for a | |
| 3 | | judge? | |
| 4 | А | Rare. But it's a day when the judge is scheduled to | |
| 5 | | not have any scheduled cases so that they can catch up | |
| 6 | | on writing orders for cases that they've already | |
| 7 | | heard. | |
| 8 | Q | And then second, is it uncommon for judges to work | |
| 9 | | outside the courtroom on a writing day? | |
| 10 | A | Not during COVID-19, it wasn't. | |
| 11 | Q | And for the record, this took place in November of | |
| 12 | | 2020, which was during the pandemic? | |
| 13 | A | Correct. | |
| 14 | Q | Okay. Did anything about the delay between when you | |
| 15 | | sent the email and when Master DalPra got back to you | |
| 16 | | indicate that he was trying to be deceptive or | |
| 17 | | concealing? Did you have any reason to believe that? | |
| 18 | A | No. | |
| 19 | Q | Okay. To this day, do you know whether or not the | |
| 20 | | committee has seen this email? | |
| 21 | A | I have no idea. | |
| 22 | Q | Okay. To this day, are you aware of whether or not | |
| 23 | | the committee has accessed and listened to either of | |
| | | the committee has accessed and ristened to either or | |

1 A I don't. I do know that in December of 2020, I
2 provided those to Robert Mittelhozer. It took me a
3 couple of tries because I sent them the first time in
4 a - probably use the wrong word here - but format that
5 he couldn't open. And so Kathy Yee was kind enough to
6 help me re-send them in a different format so that he
7 was able to open them.

8 Q Okay. And the same goes for the - the same question 9 for the two snippets. To your knowledge, do you know 10 if they've seen these snippets as like set apart from 11 the rest of the transcript in the way that you did in 12 this email?

13 A I do not.

14 Q Okay.



| Page No. <u>1</u> , Correction: | Corrections Line No. 15 "Cosign" should be "cosigned" |
|--------------------------------------|---|
| Page No. <u>11</u> , Correction:_ | Line No. 3 "as" should be "has" |
| Page No, Correction: | Line No |
| Page No, Correction:_ | Line No |
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| Page No, Correction: | Line No |
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Deponent

COUNTY OF MCRAMACK

Subscribed and sworn to before me this $\frac{27}{2022}$ day of $\frac{27}{2022}$.

JUSTICE OF THE PEACE/NOTARY PUBLIC My Commission FATRICIA State of New Hampshire My Commission Expires October 3, 2023