

# NEVADA STATE BOARD of DENTAL EXAMINERS



BOARD TELECONFERENCE MEETING

WEDNESDAY, OCTOBER 26, 2022

6:00 P.M.

**PUBLIC BOOK**

## **Agenda Item 5(b)**

**Discussion of recent events, evaluation and  
potential employment action regarding  
Hardeep Sull, Executive Director  
- NRS 631.190; NRS 241.031(1)**

**NRS 631.190** Powers and duties. [Effective January 1, 2020.] In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.
2. Appoint such committees, review panels, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter.
3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry, dental hygiene and dental therapy.
4. Examine applicants for licenses to practice dentistry, dental hygiene and dental therapy.
5. Collect and apply fees as provided in this chapter.
6. Keep a register of all dentists, dental hygienists and dental therapists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.
7. Have and use a common seal.
8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in [NRS 631.368](#), the records must be open to public inspection.
9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.
10. Have discretion to examine work authorizations in dental offices or dental laboratories.

[Part 4:152:1951; A [1953, 363](#)] — (NRS A [1963, 150](#); [1967, 865](#); [1993, 2743](#); [2009, 3002](#); [2017, 989, 2848](#); [2019, 3205](#), effective January 1, 2020)

**NRS 241.031** Meeting to consider character, misconduct or competence of elected member of public body or certain public officers.

1. Except as otherwise provided in subsection 2, a public body shall not hold a closed meeting to consider the character, alleged misconduct or professional competence of:
  - (a) An elected member of a public body; or
  - (b) A person who is an appointed public officer or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position, including, without limitation, a president of a university, state college or community college within the Nevada System of Higher Education, a superintendent of a county school district, a county manager and a city manager.
2. The prohibition set forth in subsection 1 does not apply if the consideration of the character, alleged misconduct or professional competence of the person does not pertain to his or her role as an elected member of a public body or an appointed public officer or other officer described in paragraph (b) of subsection 1, as applicable.

(Added to NRS by [1993, 2636](#); A [2005, 2245](#))

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**Subject:** SETTLEMENT PURPOSES ONLY

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**From:** Matthew T. Dushoff <[mdushoff@nvbusinesslaw.com](mailto:mdushoff@nvbusinesslaw.com)>  
**Sent:** Thursday, October 20, 2022 3:21 PM  
**To:** Hostetler, Jennifer <[JHostetler@lewisroca.com](mailto:JHostetler@lewisroca.com)>  
**Cc:** Will A. Gonzales <[wgonzales@NVBUSINESSLAW.COM](mailto:wgonzales@NVBUSINESSLAW.COM)>; Cindy Kishi <[ckishi@nvbusinesslaw.com](mailto:ckishi@nvbusinesslaw.com)>  
**Subject:** SETTLEMENT PURPOSES ONLY

[EXTERNAL]

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Jennifer,

You requested an initial offer of settlement from Ms. Sull. The initial offer is \$375,000. Thank you.

**Matthew T. Dushoff**  
Shareholder

 **SALTZMAN MUGAN DUSHOFF**  
**Attorneys at Law**  
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October 17, 2022

Jennifer Hostetler, Esq.  
LEWIS ROCA  
3993 Howard Hughes Parkway Suite 600  
Las Vegas, Nevada 89169

**RE: Ms. Sull's Statement regarding the ongoing NSBDE investigation into workplace conduct and mistreatment.**

Dear Ms. Hostetler,

As you are aware, my employment commenced January 2022, as the Executive Director of the Nevada State Board of Dental Examiners. I was elated to begin this new phase in protecting Nevadans and to hear the reassurances that this Board was ready to do that, especially, in light of their past conduct that has been well documented.

Almost as soon as I started, members of the Board and male attorneys treated me differently. For instance, their hours were different and much more flexible than my hours. Moreover, the male attorneys were able to leave freely at any time of the day without any issues, and not work a traditional work week, but still get paid for as if they did work full time in the office. As a result, I was forced to do their work. Often, they refused to handle legal items, even though I was simply the Executive Director. For example, Mr. Dworin, on numerous occasions would decline certain work assignments/projects, including FOIA requests. Yet, none of the male attorneys, including specifically Mr. Dworin, ever faced any discipline from the Board. This behavior would continue until Jason Dworin retired. Not surprisingly, the Board recently welcomed him back as Board Counsel and Executive Director.

As it relates to the conduct, I was not alone. Several Board Members consistently targeted female employees and created a hostile work environment. For instance, Dr. Lee was adamant about firing female staff members, even calling one of them, "evil." This misconduct of several Board Members was astonishing. However, when the male attorneys provided their input, such input was never questioned and would be immediately implemented. Such reverence was not given to female employees, including myself, whose recommendations and advise was consistently ignored or shot down without any consideration whatsoever.

Moreover, Dr. Lee would consistently call me and text me before and after work hours knowing that contact outside of work ours was in violation of the NSBDE policies and procedures. In fact, such messages were sent during my personal time, yet I was still expected to respond and act at his will. On numerous occasions, he would call me right after the Board meeting, which usually ended around 9:00pm, and would constantly harass me on issues. Additionally, Ms. McIntyre consistently intruded into my personal life and basically spy on me which created an awkward working environment. She would ask employees, what I did on my personal time as well as what I was doing on my paid time. This was even more pervasive and more hostile, once I indicated that she had violated [REDACTED]'s due process rights when she denied him a

Jennifer Hostetler, Esq.

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license. After that, she became more hostile with me and her defense to her actions was, "I did not know, Dr. Lee told me so."

Several Board Members would constantly usurp their limited power because they were used to male attorneys enabling their misconduct. This was evident in discipline that was rendered and their ability to protect their own, including Board members. In sum, the Board acted as though they were omnipotent, and the laws and ethical boundaries did not apply to them.

Sincerely,

*/s/ Hardeep Sull*

Hardeep Sull

**Agenda Item 5(c)**

**Discussion of recent events, evaluation and  
potential employment action regarding  
Eva Romero, General Counsel  
- NRS 631.190; NRS 241.033(4)**

**NRS 631.190** Powers and duties. [Effective January 1, 2020.] In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.
2. Appoint such committees, review panels, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter.
3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry, dental hygiene and dental therapy.
4. Examine applicants for licenses to practice dentistry, dental hygiene and dental therapy.
5. Collect and apply fees as provided in this chapter.
6. Keep a register of all dentists, dental hygienists and dental therapists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.
7. Have and use a common seal.
8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in [NRS 631.368](#), the records must be open to public inspection.
9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.
10. Have discretion to examine work authorizations in dental offices or dental laboratories.

[Part 4:152:1951; A [1953, 363](#)] — (NRS A [1963, 150](#); [1967, 865](#); [1993, 2743](#); [2009, 3002](#); [2017, 989](#), [2848](#); [2019, 3205](#), effective January 1, 2020)

**NRS 241.033** Meeting to consider character, misconduct, competence or health of person or to consider appeal of results of examination: Written notice to person required; exception; public body required to allow person whose character, misconduct, competence or health is to be considered to attend with representative and to present evidence; attendance of additional persons; copy of record.

1. Except as otherwise provided in subsection 7, a public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:
  - (a) Given written notice to that person of the time and place of the meeting; and
  - (b) Received proof of service of the notice.
2. The written notice required pursuant to subsection 1:
  - (a) Except as otherwise provided in subsection 3, must be:
    - (1) Delivered personally to that person at least 5 working days before the meeting; or
    - (2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.
  - (b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.
  - (c) Must include:
    - (1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and
    - (2) A statement of the provisions of subsection 4, if applicable.
3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.
4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

- (a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;
  - (b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and
  - (c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.
- 5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:
  - (a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or
  - (b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.
- 6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to [NRS 241.035](#), upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.
- 7. For the purposes of this section:
  - (a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.
  - (b) Casual or tangential references to a person or the name of a person during a meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.
  - (c) A meeting held to recognize or award positive achievements of a person, including, without limitation, honors, awards, tenure and commendations, is not subject to the notice requirements otherwise imposed by this section.

(Added to NRS by [1993, 2636](#); A [2005, 977, 2246, 2248](#); [2011, 2388](#); [2019, 3624](#))

**DANIEL MARKS**

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Daniel Marks  
Adam Levine  
Nicole Young  
Teletha L. Zupan

October 19, 2022

**Via Email**

***Settlement Purposes Only (NRS 48.105)***

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Re: *Romero, Eva v. Nevada State Board of Dental Examiners*

Dear Jennifer and Howard:

At your request, I am forwarding a settlement proposal to resolve the employment dispute between Eva Romero and the Nevada State Board of Dental Examiners. As you are aware, the actions by the Board of putting Ms. Romero and the Executive Director on administrative leave have left the Board without general counsel to advise then and to perform the day to day legal tasks.

The Board continues to deal with these pressing issues without the assistance of a Full-Time General Counsel which include at least two active lawsuits against it from the NDA; a sizeable workload left unfinished by previous Counsel; at least one open criminal case and investigation against individuals practicing dentistry without a license implicating several licensees; issues involving licensees accused of sexually assaulting and harassing their patients and staff members.

This is the same conduct which resulted in the nearly complete dissolution of the Board in 2019. The Board's lack of oversight and accountability when the Board repeatedly failed to revoke or suspend the licenses of Nevada's dentists accused of injuring patients was a huge reason for dissolution. In addition, nearly half of the Board had allegations of conflicts of interests and the Board repeatedly failed to abide by the Nevada Open Meeting Laws, which the Board continues to do.

## Public Policy Violations

Licensees complained of by the public are continuing to practice dentistry on patients despite allegations of malpractice and, in some instances, of sexual assault, harassment and matters of public concern. There are criminal investigations into licensees for promoting and/or aiding in the unauthorized practice of dentistry. The Board has knowingly permitted this conduct to continue without discipline by eliminating both its sole General Counsel and its Executive Director thereby placing a complete halt on the process for which the public expects the Board to protect against. The Board continues to place the public in danger to this day as many of these issues continue. Ms. Romero was specifically directed to put a halt to investigations against Board members.

When Ms. Romero attempted to perform her duties as General Counsel to protect the public and stop the above conduct, she was placed on administrative leave. This conduct directly harms the citizens of the State of Nevada since part of Ms. Romero's job is to act on complaints against dentists and protect the public. The actions of the Board clearly constitute a public policy retaliation tort under the Western States line of cases and could subject the Board to damages including compensatory damages, if Ms. Romero is terminated.

## Title VII—Chapter 613 Liability

The Board, especially Board President Dr. David Lee, regularly subjected Ms. Romero to disparate treatment due to her gender and race. Although employees whom are non-women of color were employed in the same position, Ms. Romero was subjected to higher standards, shorter timelines, greater workloads, unreasonable expectations, longer work hours and inquiries into her personal life and whereabouts.

The Board's unlawful conduct was severe and pervasive enough to change Ms. Romero's condition of employment and create an abusive and hostile work environment (See *Meritor Sav. Bank v. Vinson*, 477 US 57 (1986) and *Reeves v. C.H. Robinson Worldwide*, 594 F3d 798 (11<sup>th</sup> Cir. 2010).

The decision to place Ms. Romero on administrative leave was in retaliation against her for beginning a harassment investigation involving Title VII violations against a member of the Board. Ms. Romero was engaging in protected activity when she was placed on administrative leave. Even if the complaining witness wanted to suspend the investigation, Ms. Romero had an obligation to investigate the facts and to protect the State of Nevada against a protected Title VII action.

Placing Ms. Romero on administrative leave because the Board did not want a Title VII investigation is clear retaliation against her under both federal and state law.

The actions of the Board in placing Ms. Romero on administrative leave met any proximity requirement under the law because of the immediate action taken by the Board.

## Damages

In order to resolve this matter, Ms. Romero demands the following special economic damages:

- |    |   |              |
|----|---|--------------|
| 1. | Missing wages for 7 months to date:                         | \$11,942.56  |
| 2. | Lost Wages for 12 months:                                   | \$130,000.00 |
| 3. | Lost Employer Retirement Contribution for 7 months to date: | \$10,455.69  |

|                            |   |             |
|----------------------------|---|-------------|
| 4.                         | Lost Employer Retirement Contribution for 12 months:      | \$20,149.92 |
| 5.                         | Lost Employer Payment for Health Insurance for 12 months: | \$1,459.44  |
| 6.                         | Therapy Specials to date:                                 | \$700.00    |
| 7.                         | Therapy Sessions for 12 months:                           | \$4,800.00  |
| 8.                         | Attorney's Fees and Costs:                                | \$5,000.00  |
| <b>Total: \$184,507.61</b> |   |             |

### Compensatory Damages

Ms. Romero has suffered severe emotional distress requiring therapy. The agenda items were found in sure a way as to intently demean Ms. Romero's character and to humiliate and embarrass her in both the legal community and to the general public in Southern Nevada.

While Ms. Romero could seek damages of \$300,000 for compensatory damages in Court, Ms. Romero will accept the sum of \$165,000 for compensatory damages, in addition to the economic damages stated above.

### Rehabilitation of Reputation

The Board's execution of written Notices and Agendas questioning Ms. Romero's "character, integrity, professional competence of physical or mental health" and subsequent publishing of same was clearly retaliatory and were included with the intent to destroy her reputation; to provide current and prospective employers, other members of the legal profession, and prospective clients with permanently available false and misleading negative information to deter them from hiring, promoting, or doing business with Ms. Romero moving forward. They were also made to publicly humiliate and embarrass Ms. Romero by implying wrongdoing and professional misconduct in this matter when she was only doing her job.

Ms. Romero also requests the Board actively rehabilitate Ms. Romero's reputation by striking items in all existing, published and non-published Notices and Agendas, including all "Drafts" of same, referencing any inquiry whatsoever into Ms. Romero's character, alleged misconduct, professional competence or physical or mental health. This shall be done immediately and the Board shall provide Ms. Romero with proof that this has been completed and properly published on the Board's website and shall remain in perpetuity as long as Nevada's Open Meeting Laws requires the Board to publish the Minutes to the public.

Furthermore, we hereby demand the Board issue a public apology during the next public Board meeting to be read out loud by Dr. David Lee as follows:

*"On behalf of the Nevada State Board of Dental Examiners, I would like to apologize to Executive Director Hardeep Sull and General Counsel Eva G. Romero for the Boards's mishandling and mischaracterization of their character, integrity, professional competence or physical or mental health in a manner which implied any wrongdoing on their part. To be clear, both Ms. Sull and Ms. Romero performed their duties during their employ with the Board with the utmost integrity and professionalism and with the Board's best interests in mind. It was wrong for the Board to publish these misleading and inappropriate statements with reckless abandon. As such, any public reference, both written and spoken in prior Agendas, Notices and Board Meetings about Ms. Sull and Ms. Romero suggesting otherwise shall be permanently stricken from the public record with the Board's sincerest apologies."*

The Board Minutes from this meeting shall include this apology verbatim and the same should be published in Aktron and Inlumon, in addition to the Board's website, and shall remain in perpetuity as long as the Nevada State Board of Dental Examiners exists as a Board in the State of Nevada.

Finally, the Board shall issue a Joint Press Release as follows:

*"Due to the differences of opinions on how the Nevada State Board of Dental Examiners should operate and handle its affairs with licensees and the general public within the State of Nevada, Executive Director, Hardeep Sull, and General Counsel, Eva G. Romero, and the Board have mutually decided to part ways. The parties wish one another the best in their respective future endeavors."*

The Joint Press Release shall be published in Aktron and Inlumon, in addition to the Board's website, and shall remain in perpetuity as long as the Nevada State Board of Dental Examiners exists as a Board in the State of Nevada.

Should a future employer require a reference from the Board as a previous employer, the Board shall provide a positive letter of recommendation to Ms. Romero within 7 working days from the date of request. Ms. Romero also demands a mutual non-disparagement clause directing any representative of the Board and its officers, members and staff to not disparage Ms. Romero in any way, shape, or form.

As part of this demand, Ms. Romero hereby demands the Board immediately remove any reference to disciplinary actions, poor performance evaluations, performance improvement plans from Ms. Romero's file, should any exist.

Please respond to this demand as soon as possible, but no later than October 27, 2022.

Very truly yours,

LAW OFFICE OF DANIEL MARKS

  
DANIEL MARKS

cc: Eva Romero

**STATEMENT OF EVA G. ROMERO  
GENERAL COUNSEL FOR THE NEVADA BOARD OF DENTAL EXAMINERS**

The statement below is a summary and is in no way an all-inclusive list of the claims and allegations of discriminatory and retaliatory conduct committed by the Nevada Board of Dental Examiners (“NSBDE” or “the Board”), its Members and staff. This statement is being provided at the request of the Board’s counsel, Jennifer Hostetler, in lieu of a formal investigative interview.

**Danger to the Public**

The Board President, Dr. David Lee and Board Secretary/Treasurer, Jana McIntyre, have continued to behave recklessly in a manner that is detrimental to the Board and which poses an immediate danger to the public.

I was doing my job as the Board’s General Counsel as required and requested and was immediately and wrongfully placed on paid administrative leave at Dr. Lee and Ms. McIntyre’s direction on August 25, 2022 when their efforts to unilaterally and illegally terminate my employment were thwarted. Their decision to remove me from the office was in direct retaliation against me for reporting harassment at the request of a staff member which occurred on August 23, 2022. To date, the Board has not given me a reason or explanation for wrongfully placing me on paid administrative leave for protecting the Board, the Board’s staff and the public from possible litigation which would only serve to further damage the Board’s already notorious reputation since the 2019 audit.

At the time Dr. Lee and Ms. McIntyre wrongfully placed me on paid administrative leave, I was the only General Counsel on staff, thereby leaving the Board without General Counsel to advise them and to perform the legal day-to-day tasks, which includes the review of the public’s complaints of malpractice against various dentists, hygienists and dental therapists at various stages (many of them left at a state of limbo from previous General Counsel failing to act for several months); attending review panel and alternative review panel meetings to discuss complaints and/or determine whether to take disciplinary action against the licensees; preparation and review of proposed Stipulations and/or Corrective Action Plans for those licensees whom the Panel determined treatment fell below the standard of care (many of which I was still awaiting review and approval from Dr. Lee for several weeks); and returning messages from members of the public and licensees regarding questions and concerns about the complaint process and status of their respective complaints and investigations.

It should also be noted that in addition to the normal day-to-day tasks, there were a number of pressing issues for which having legal representation readily available at all times was paramount and I was prevented from doing my job to address these matters after Dr. Lee and Ms. McIntyre placed me on paid administrative leave, including, but not limited to, the following: the two active lawsuits against the Board from the NDA and from Ms. Capurro; a mountain of work left unfinished and/or untouched by previous General Counsel during their employ; at least one open criminal case and investigation which may (or may have already) entered the federal arena against individuals practicing dentistry without a license implicating several licensees; issues

involving licensees accused of sexually assaulting and harassing their patients and staff members; a bare bones staff that is still in the process of learning proper policies and procedures for which they never received proper training; fielding several angry calls from disgruntled members of the public and licensees demanding answers for questions left unanswered by previous staff members and following up on the status and proper handling of a licensee complaint made by a member of the public against at least one Board Member despite Dr. Lee's improper and wrongful direction to "sit on it" and not forward it to the Attorney General's Office for conflicts review until at least "[REDACTED]" when this Member's term would naturally expire because he "didn't want to hear [REDACTED] shit".

This is the same misconduct and behavior that is well documented which resulted in the nearly complete dissolution of the Board in 2019, a corrupted Board to which Dr. Lee was also a member. The Board's lack of oversight and accountability when the Board repeatedly failed to revoke or suspend the licenses of Nevada's dentists accused of injuring patients was a huge reason for the dissolution. In addition, nearly half of the Board had allegations of conflicts of interests and the Board repeatedly failed to abide by Open Meeting Laws.

Immediately prior to placing me on paid administrative leave, I sent correspondence to the Board's Executive Director, Hardeep Sull, advising of Dr. Lee and Ms. McIntyre's misconduct and pointed out that Dr. Lee and Ms. McIntyre's impulsive decision to terminate the only General Counsel on staff confirmed they are not putting the Board's interests above their own, thereby violating their oaths and ethical duties owed to the Board, especially when they are fully aware of the Board's current issues. In response, after directing Ms. Sull to place me on paid administrative leave on August 25, 2022, Dr. Lee and Ms. McIntyre also placed Ms. Sull on paid administrative leave on August 30, 2022, as retaliation for not terminating me for reporting the harassment claim against Dr. Lee and Ms. McIntyre and for not agreeing to violate Nevada's Open Meeting Laws in their efforts to terminate my employment illegally.

Licensees complained of by the public are continuing to practice dentistry on patients despite allegations of malpractice and, in some instances, of sexual assault, harassment and other serious concerns to the public involving criminal investigation(s) into licensees for promoting and/or aiding in the unauthorized practice of dentistry. Once again, the Board has knowingly permitted this conduct to continue without discipline by eliminating both its sole General Counsel and its Executive Director thereby placing a complete halt on the process for which the Board is meant to uphold for the public it was meant to protect.

The Board continues to place the public in danger to this day as many of these issues continue and both the Board and the public are left unprotected. For this reason, I reported the Board's misconduct to all of the Board Members, the Attorney's General's Office and Governor Sisolak's Office and recommended the immediate removal of Dr. Lee and Ms. McIntyre, at the very minimum.

### **Title VII Violation - August 23, 2022 Incident**

The Board is attempting to cover up an allegation made by an employee of harassment on August 23, 2022 by recommending my termination as General Counsel for reporting it on her behalf and at her request. In short, I have been placed on paid administrative leave since August 25, 2022 for doing my job after attempts by Dr. Lee and Ms. McIntyre to immediately and illegally terminate me were unsuccessful.

On August 23, 2022, a staff member (whom, like myself, is a woman of color) told me she needed to talk to me right away, which I obliged. She followed me to my office and as I sat down, she shut my office door and proceeded to report feeling uncomfortable and harassed by Board Members, Dr. Lee and Ms. McIntyre: at least one whom was allegedly making repetitive inquiries about the whereabouts of the Executive Director, Ms. Sull (whom is also a woman of color), and asking about Ms. Sull's personal and professional life outside the office and the other about constant text messages to the employee on her personal phone under the guise of various work-related issues to which she knew very little about. The employee reported feeling incredibly uncomfortable as though both Board Members were putting her in the middle of matters to which she wanted no involvement or had minimal knowledge of and was afraid they were setting her up to purposely get her or someone else in trouble. She also expressed frustration that she was being contacted directly on her personal cell phone and being confronted in person by Board Member(s) with personal and inappropriate questions involving other females in the office. She was on the verge of tears when she stated she felt nervous and scared – a sentiment which she repeated in both English and Spanish. When I asked her specifically what she wanted me to do, she stated she did not want to be contacted by the Board Members in this way any longer and repeatedly asked me if they were even permitted to talk to her as a staff member. She stated clearly and bluntly that she wanted the Board Members to “STOP” and to “leave her alone”. Further, the employee advised that Ms. McIntyre was making similar inquiries into the personal lives of both Ms. Sull and myself to other staff members, including my Legal Assistant (another woman of color). When I inquired as to what was asked, the staff member said she was not a part of those conversations and I would need to speak with her. I told the employee I would reach out to the accused Board Members directly to advise them of the allegations and her request to cease that type of inappropriate communication to which she agreed and permitted me to proceed as discussed. I also asked the staff member to ask my Legal Assistant to come to my office.

When my Legal Assistant came to my office, I asked her whether Ms. McIntyre was asking inappropriate questions about Ms. Sull or myself. After some thought, she relayed a personal inquiry made by Ms. McIntyre the week prior when she asked the Assistant about our personal whereabouts and made a snarky and inappropriate comment when the employee responded.

As the employee's allegations involved Title VII issues, I as General Counsel, immediately performed my job and conducted an investigation into the allegations accordingly. At the employee's request, I contacted both Ms. McIntyre and Dr. Lee and left messages requesting a return call. Ms. McIntyre returned my call that day and I relayed the employee's grievance accordingly. After my conversation with Ms. McIntyre about the allegations against her, she provided an explanation of events which seemed plausible at the time, albeit alarming and deeply

disturbing, which included an allegation that the accusing staff member contacted her immediately after meeting with me and changed her story. Based on Ms. McIntyre's declarations of her desire to be direct, honest and adverse to drama in conjunction with her appearance of cooperation with me as Board Counsel, I was under the impression she and I were on the same page and would work together by providing the necessary information and details to Ms. Sull as the Executive Director and to Dr. Lee as the Board President into the underlying investigation on the employee's allegations.

This was memorialized in an email I sent to Ms. McIntyre in response to her previous email to which Ms. Sull and Dr. Lee were copied. However, based on a subsequent discussion I had with Ms. Sull on the evening of August 24, 2022, wherein she advised that both Dr. Lee and Ms. McIntyre directed her to terminate me without providing a reason, I questioned Ms. McIntyre's version of events based on her about-face and now dubious position to refuse to work with me on anything Board-related and her supposed insistence to Dr. Lee that I be terminated as a result and Dr. Lee's willingness to do the same, simply because I relayed and conducted an investigation into Title VII allegations made by an employee at the employee's request.

Prior to my knowledge of Ms. McIntyre's complete change of attitude, I made several attempts to contact Dr. Lee to address the underlying allegations made by the staff member against both Ms. McIntyre and Dr. Lee and my conversation with Ms. McIntyre to no avail – to the point where I became worried for Dr. Lee's well-being and safety as his lack of response to an urgent matter was uncharacteristic. When Dr. Lee finally sent a responsive email during the late afternoon on August 24, 2022, he advised he was waiting to speak with Ms. Sull first and then curiously told me to email him the details of the matter which I already provided the day prior. After my discussion with Ms. Sull on August 24, 2022, I was shocked to learn that Dr. Lee was intentionally avoiding my calls requesting to discuss this urgent matter for which he as Board President needed to be briefed and counseled.

Dr. Lee's blatant refusal to contact me as the Board's sole General Counsel after I reported the incident and initially attempted to address it with him on August 23, 2022 or to return my numerous calls, text messages and emails from August 23, 2022 and August 24, 2022 and recommendation to the Executive Director to terminate my employment immediately based solely on his conversation with Ms. McIntyre while refusing to provide details surrounding her account other than stating "Ms. McIntyre no longer desires to work with [you]" after I reported the issue shows both the malfeasance and nonfeasance on both of their parts to serve in their own interests rather than those of the Board. In response to this, I reported their misconduct to Ms. Sull, the Board's DAG Rosalie Bordelove, Governor Sisolak's Office and sent an email to the Board Members detailing the August 23, 2022 incident and advising the members of what Dr. Lee and Ms. McIntyre were doing.

It is clear Dr. Lee and Ms. McIntyre's decision to place me on paid administrative leave, remove me completely from the Board Office, deny access to emails and documents, block emails to the Board, remove my name as General Counsel from its website, refuse to include themselves and/or any other Board Member or staff other than Ms. Sull and myself on the Agenda for the October 11<sup>th</sup> Meeting to address our employment is retaliatory in nature and is meant to protect

their respective positions on the Board by attempting to sweep this matter under the rug as this Board has done so many times before.

As General Counsel for the Board, I owe an ethical duty to the entity at large and I cannot stand idly by and allow its Board Members to continue tarnishing the reputation of the Board by acting in their own self-interest which includes the recommendation to terminate the Board's sole General Counsel for reporting and/or investigating an allegation of harassment made by a staff member without any further inquiry into the matter with either General Counsel or the employee – especially in light of Ms. McIntyre's inexplicable change in her position and behavior and Dr. Lee's refusal to communicate with Counsel.

### **Title VII Violations During My Employment**

I have been subjected to harassment by Board Members, especially Board President, David Lee, who exhibited disparate treatment of me as a woman of color from previous male Counsel, when he constantly checked in on me on my personal phone to see where I was (Treasurer, Jana McIntyre, also did this, although she did this by asking staff members about my personal whereabouts); frequently second-guessed my sound legal advice; gave me a multitude of tasks and changed his mind on how he wanted them performed; provided conflicting direction on a constant basis in attempt to set me up for failure; praised previous male Counsel despite their lack of performance and piled their workload on me. Further, the work hours and ways in which male General Counsel were permitted to keep to perform their job duties for the Board were flexible and unfettered by other Board Members. In contrast, the Board would constantly demand from me and the other women in the office that work be performed during Board business hours and made no accommodations or additional compensation for the countless work performed after hours to prepare and attend Board Meetings, Emergency Board Meetings, Review Panels, Alternate Review Panels and other Board business.

After I investigated and reported the incident of harassment committed by Dr. Lee and Ms. McIntyre at the request of a staff member on August 23, 2022 which included Title VII violations, they directed Ms. Sull to immediately and illegally terminate me for doing my job. When Ms. Sull did not, at their direction, Ms. Sull placed me on paid administrative leave without cause or reason. Immediately thereafter, Dr. Lee and Ms. McIntyre continued their discriminatory and retaliatory misconduct by violating NV Open Meeting Laws in an effort to illegally terminate my employment which included, but is not limited to, attempts made to hold a Board Meeting without providing me with proper notice; sending a process server to stalk me at my home for two days when I pointed out their illegal conduct to Ms. Sull (prior to the Board placing her on paid admin leave) and to DAG Rosalie Bordelove; publicly defaming me in a "DRAFT" Agenda referencing an illegally noticed hearing; removing the "DRAFT" public notice after I informed the DAG about it rather than posting an Addendum; completely revising the Agenda to discuss misappropriating Board funds to retain counsel in furtherance of the Board's discriminatory and retaliatory practices against me by granting the perpetrators the right to use Board funds to retain counsel to defend them in pending litigation; failing to include themselves in the Agenda for the other Board Members to consider Dr. Lee and Ms. McIntyre's immediate removal as Officers based on their misconduct per NRS 241.031 & 232A.030; attempting to circumvent NV Law by seeking to appoint an interim Executive Director in an effort to illegally terminate my employment; Dr. Lee

and Ms. McIntyre failing to recuse themselves based on them being one of the direct cause of these discriminatory and retaliatory practices. It should also be noted that at Dr. Lee and Ms. McIntyre's direction, they have already removed me from my position as "Staff" on the NV Board's website and have posted job listings for my position since September 20, 2022, prior to holding any Board Meeting addressing Ms. Hostetler's investigation or my employment.

The Board's lack of transparency in their Agendas publicly posted since placing me on paid administrative leave on August 25, 2022 which mischaracterize me as the perpetrator of this misconduct as evidenced by the Board's complete failure to even put the public on notice of the open investigation of the claims of discrimination and retaliation that I made against the Board Members only serves as further evidence of the disparate treatment I have received from the Board since my employment.

As I was investigating further into these claims, upon information and belief, the Board removed videos of the public Board Meetings from its website and this, coupled with the Board preventing me from accessing my emails and files from the office despite my current status as an employee has prevented my ability to investigate these matters further. I reserve the right to supplement this statement accordingly once I am able to obtain additional documentation and items from the Board.

### **Procedural Due Process Violations and Other Irregularities**

Despite my willingness and desire to appear for an interview at Ms. Hostetler's request on the condition that the Conflicts DAG also be present to oversee the process and to ensure the interview is handled fairly and appropriately, she advised her client refused to accommodate the request and would not have the DAG present.

There appears to be confusion with the scope of Ms. Hostetler's representation of the Board in this matter. Ms. Hostetler represented to my counsel, Daniel Marks, Esq., and to me that the scope of her representation was to conduct an internal investigation into allegations of discrimination by members of the NSBDE, a claim to which the Board's "Part-Time Interim" Executive Director and General Counsel, Jason Dworin, also confirmed in an email to me directly. The scope of this representation suggests it would be a procedural, somewhat impartial or unbiased process. However, the Board publicly published Agendas for its Board Meetings on September 7, 2022 and October 11, 2022 stating Ms. Hostetler's representation is for the purpose of litigation in this matter, which is an adversarial process.

The scope of Ms. Hostetler's representation in this case matters, as the intent behind using my current employment status to remind me of my duty and obligation to cooperate in order for her to conduct a fair and impartial investigation into my allegations against the Board and its members to get the facts and determine the validity of the claims may arguably be considered proper and appropriate, yet if done for the purpose of gaining ammunition to use against me in my claims filed against the Board and its members in a different venue or jurisdiction for litigation purposes, the same conduct is threatening and intimidating and in that instance, the intent is

wrongful and malicious. Due to the contradictory nature of the scope, Ms. Hostetler cannot simultaneously represent her client(s) for the investigation and for purposes of litigation.

In light of the Board and its members' conduct and the fact that the Board itself seems to be confused and unclear as to the scope of Ms. Hostetler's representation in this matter, it is very difficult to trust this process or the intent behind obtaining information from me. Therefore, out of an abundance of caution and in an effort to once again confirm my willingness to cooperate in this process in the hope that I will receive fair treatment and an honest review at the October 11, 2022 Board Meeting, I am providing this written statement.

I reserve the right to amend and/or supplement this statement once I am able to obtain additional documents and items which are not in my possession or control that are currently being kept at the Board Office.

Additionally, I am concerned that my employer, the Nevada Board of Dental Examiners and its Members and "Part-Time Interim" Executive Director and General Counsel, Jason Dworin, have wrongfully placed me in this situation wherein my "character, alleged misconduct or professional competence" are being questioned when they unceremoniously and illegally placed me on paid administrative leave without reason after I reported and investigated an allegation of harassment at the request of a staff member committed by President, Dr. David Lee, and Secretary/Treasurer, Jana McIntyre.

I am further concerned that at no point has the Board alerted the public of any underlying investigation into my allegations against the entire Board, especially Dr. Lee, of discriminatory and retaliatory conduct committed against me during my employ as evidenced by the lack of any language with respect to the investigation in the Board Agendas, drafts or otherwise, since I was placed on paid administrative leave on August 25, 2022. In addition, the absence of an item on the Agenda which even attempts to discuss the "character, alleged misconduct or professional competence" of any of the Board Members who are the actual perpetrators of the misconduct alleged, especially Dr. Lee and Ms. McIntyre, further supports my claim of the continued discriminatory and retaliatory conduct of a Board that it has become notorious for since well before the 2019 audit.

To be clear, I have not been properly served with a formal Agenda for the October 11<sup>th</sup> Board Meeting as the "DRAFT" Agenda I was provided did not include material items which were added last minute prior to the Board publishing the final Agenda for the October 11<sup>th</sup> meeting. Also, I have yet to receive any reason whatsoever as to why my character is even being questioned. As such, this statement is not meant to waive any argument I have for the Board's failure to provide proper notice and should the October 11<sup>th</sup> Board Meeting proceed despite this illegality, it will be in further violation of my Due Process Rights.

October 10, 2022

*/s/ Eva G. Romero*

General Counsel for the NSBDE

**Agenda Item 5(b)(c):**

**Factual Summary of Investigation  
submitted by Jennifer K. Hostetler**

3993 Howard Hughes Parkway  
Suite 600  
Las Vegas, NV 89169

702.474.2624 direct  
702.949.8398 fax



## MEMORANDUM

Our File Number: 307424-00003

**TO:** Nevada State Board of Dental Examiners  
**FROM:** Jennifer K. Hostetler  
**DATE:** October 25, 2022  
**SUBJECT:** Factual Summary of Investigation

The Nevada State Board of Dental Examiners (“Board”) retained my firm as employment counsel for the Board in early September 2022. I proceeded to conduct a factual investigation into a complaint raised by Board General Counsel Eva Romero and events surrounding the termination of Administrative Assistant, Karla Martinec. During the investigation, Ms. Romero filed an Open Meeting Law complaint with the Nevada Office of the Attorney General (“OAG”) and alleged gender and race discrimination. Further, during the investigation, I learned that Executive Director Hardeep Sull made allegations of gender discrimination to the OAG. I have now conducted that investigation. The purpose of this letter is to document the facts learned during my investigation. No legal analysis or recommendation is being provided.<sup>1</sup>

### **DOCUMENTATION REVIEWED**

I began my investigation by reviewing emails covering the period of August 23, 2022 through August 30, 2022 received from Board President Dr. David Lee. In the course of the investigation, I also reviewed the Board Handbook, a video recording of a closed session Board meeting on August 16, 2022, and emails from Ms. Sull and Ms. Romero to Chief Deputy Attorney General Rosalie Bordelove. I subsequently received written statements from Ms. Sull and Ms. Romero. Relevant Board Handbook policies are included at the end of this summary. Also attached is a chronology with relevant documents.

### **WITNESS INTERVIEWS**

I interviewed the following individuals:

- Dr. David Lee;
- Jana L. McIntyre, R.D.H.;
- Karla Martinec;
- Lisa Bergmann;

<sup>1</sup> The Board and its counsel fully intend to maintain the privileged nature of any attorney-client privileged communications. This summary of facts does not contain any privileged material and should not be viewed as a waiver of the same.

- Hilda Krestyn;
- Michelle Krestyn;
- Shamane Vargas-Garcia;
- Kristine Jameson;
- Jason Dworin.

I also spoke with Chief Deputy Attorney General Rosalie Bordelove to obtain background.

Interviews and/or statements were repeatedly requested of Hardeep Sull and Eva Romero beginning on September 20, 2022 and September 21, 2022, respectively. Ms. Sull and Ms. Romero did not respond to my initial request or a subsequent request by the Interim Executive Director to be interviewed. After Ms. Sull retained counsel on September 30, 2022 and Ms. Romero on October 4, 2022, I again requested written statements be provided no later than the morning of October 7, 2022. At their request, I worked with their counsel to schedule an in-person interview instead; however, both ultimately stated they would provide a written statement when the Board was not agreeable to Deputy Attorney General Sophia Long being present for their interviews. Ms. Romero's statement was provided on October 10, 2022 and Ms. Sull's statement was provided on October 18, 2022.

## **INTERVIEW SUMMARIES**

### **Scope and Purpose of Interviews**

On August 30, 2022, Ms. Martinec provided a lengthy statement to Board Secretary Treasurer Jana McIntyre and Board President David Lee about events surrounding her termination.<sup>2</sup> I first spoke to Karla Martinec on September 1, 2022 as part of my preliminary review of the facts. She confirmed her August 30, 2022 statement is an accurate recounting of events. She also suggested I speak with Lisa Bergmann which I did the following day. I subsequently interviewed employees of the Board and Board members who were aware of the events during the week of August 23, 2022 through August 30, 2022. When allegations of discrimination came to light, I expanded the investigation to interview former employees and conducted follow-up interviews as necessary. Upon receiving Ms. Romero's and Ms. Sull's written statements on October 10, 2022 and October 18, 2022, respectively, I conducted further follow-up interviews.

### **I. Detailed Information Learned from Interviews**

#### **A. Executive Director Hardeep Sull**

Ms. Sull began her employment as Executive Director of the Board in February 2022. Employees reported that Ms. Sull did not maintain full time hours in the office since being hired by the Board. She is reported as being in the office once or twice a week on a regular basis. This frustrates the employees that are new to the Board. They feel that they have no guidance or supervision in performing their job. This has made it more difficult for employees to perform their jobs, even for employees who are not new to the Board.

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<sup>2</sup> See Doc. 17 to Chronology.

One employee who had worked for the Board prior to Ms. Sull joining the Board stated Ms. Sull had indicated she had permission to work remotely. While there is no Board policy on remote work, I was unable to confirm she had approval to work remotely. The Board Handbook indicates Ms. Sull is to run the day-to-day operations of the Board and is in charge of the office, among other things:

### **The Executive Director**

The position of Executive Director of the Board is created by statute. The Executive Director's duties are defined by NAC 631.023 and include running the day-to-day operations of the Board and carrying out the Board's policies. The Executive Director is in charge of the Board's office and is responsible for managing the office's human resources.

Ms. Sull's lack of continuous presence in the office would appear to hinder if not conflict with her job duties as defined by the Board Handbook and NAC 631.023.

This employee also believed that Ms. Sull's failure to be in the office held up the progression of licenses. She expressed frustration that when she did seek guidance from Ms. Sull, Ms. Sull responded that she did not know the answer and would run it up the "chain of command." She indicated that Ms. Sull never sat down with employees to talk about issues and what they were working on to find out the "nuts and bolts" of the Board, how it ran, and the day-to-day licensing. Another Board employee said Ms. Sull did not give herself a chance to know or learn the position as she seemed to fire or push out those who had been at the Board for a long time and who had institutional knowledge (e.g., Phil Su and Sandra Spilsbury).

One employee indicated Ms. Sull was continuing to operate her own law firm while working for the Board because she was aware Ms. Sull was preparing for trial. Dr. Lee confirmed that Ms. Sull had been told to wind down and close her firm prior to beginning employment with the Board. Ms. Sull indicated when hired she would devote 100% of her time and close her practice. However, she requested that she finish a litigation matter in which she represented an employee against Sbarro Pizza. That matter was scheduled for trial in August 2022 and she had approval to be at that trial.

A review of the Eighth Judicial District Court docket indicates that Ms. Sull may have been continuing to operate her own practice outside of the Sbarro Pizza case as she filed a divorce case on behalf of a client/plaintiff on June 29, 2022.

### **B. General Counsel Eva Romero**

Ms. Romero began her employment as General Counsel of the Board in May 2022. Ms. Sull hired Ms. Romero in May 2022 as the Board General Counsel. When she was in the office, she often arrived at 10 am and left between 3 pm and 5 pm. Employees reported she was in the office more than Ms. Sull.<sup>3</sup> The Legal Assistants that worked with Ms. Romero reported having a good working relationship with her.

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<sup>3</sup> I was unable to obtain information as to whether Ms. Romero's schedule had been approved. One employee stated that Ms. Romero told her that she had approval from Ms. Sull to work a different schedule to care for a family member.

**C. August 23, 2022 through August 30, 2022**

***1. Ms. McIntyre's Visit to the Board Office on August 23, 2022***

Based upon interviews and/or statements from Jana McIntyre, Karla Martinec, Hilda Krestyn, and Lisa Bergmann, I learned the following:

On August 23, 2022, Secretary Treasurer Jana McIntyre visited the Board to sign checks and other forms requiring her signature. She visits the Board once or twice a week to fulfill these duties. During her visit on August 23, 2022, Ms. McIntyre had a brief discussion with Karla Martinec and Lisa Bergmann and asked if Ms. Sull and Ms. Romero were in. The employees said no and stated they were not sure when Ms. Sull or Ms. Romero would be in. One made a comment to the effect they were flying solo again. After Ms. McIntyre left the Board office, she called Dr. Lee and expressed concern that neither Ms. Sull nor Ms. Romero have been in the office in recent weeks which affected the tasks she needed to complete in her role as Board Secretary-Treasurer. He asked her to send an email to Ms. Sull and Ms. Romero regarding her concern. Ms. McIntyre sent an email to Ms. Sull and Ms. Romero that morning at 11:28 am.<sup>4</sup> Below is the text of the email:

Good Morning All,

The last few weeks that I have been in the board office I have not seen our Executive Director or our General Counsel. In the nearly 3 years that I have served on the board, physical presence in the board office has not been a problem. The board office has hours from 8-5 Monday through Friday and I feel that all staff should be in the office physically during said hours. If a staff member is sick then a sick day is taken, not working remotely. I was told that the board office would always have a legal counsel present, whether that be Dee or Eva and that is not happening. I signed checks last week and this week and last weeks checks have not been sent yet? I want to get license applications once they have been reviewed by the ED but that is not happening. I hope that moving forward all board staff are in the office physically unless the board determines that working remotely can achieve the same results.

Thanks,  
Jana McIntyre.

At some point after Ms. McIntyre's visit on August 23, 2022, Ms. Romero came into the Board office. Ms. Martinec went into Ms. Romero's office and notified her that Ms. McIntyre had come in. According to Ms. Martinec, she wanted to inform Ms. Romero that Ms. McIntyre was asking whether Ms. Sull would be in and reported feeling uncomfortable because Board staff had been told not to communicate with the Board and she did not know what she could or could not say to the Board without getting into trouble.

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<sup>4</sup> See Doc. No. 1 to Chronology. Ms. Sull was in trial the week of August 22, 2022, but not all Board staff were aware. Ms. McIntyre was unaware that Ms. Sull was in trial. Interviews of employees indicated that Ms. Sull and/or Ms. Romero may have tested positive for Covid around the same time or in the week prior.

At approximately 12:30 pm, Ms. Martinec called Ms. McIntyre nervous saying “I hope I didn’t get you in trouble” and something to the effect that Ms. Romero was asking a lot of questions about Ms. McIntyre’s visit to the Board office that morning, and was pulling employees into her office to question them. Ms. McIntyre thought Ms. Martinec was referring to the earlier email Ms. McIntyre sent Ms. Sull and Ms. Romero about office presence. Ms. Romero called Ms. McIntyre while she was on the phone with Ms. Martinec. Ms. McIntyre assured Ms. Martinec that there was nothing to get her trouble about and then returned Ms. Romero’s call.

During that call<sup>5</sup>, Ms. Romero stated Ms. Martinec came into her office to say that she was uncomfortable or harassed by Ms. McIntyre when Ms. McIntyre was at the Board office that morning because Ms. McIntyre asked her personal questions about other staff members. Ms. McIntyre indicated that was not accurate and that the nature of the questions she asked had to do with staff’s presence in the office. The call politely ended with Ms. McIntyre saying she was not going to get into a he said /she said situation.

In a subsequent August 23, 2022 email<sup>6</sup> from Ms. Romero to Ms. McIntyre following their call, she states:

The staff member approached me today and informed me that she was uncomfortable about being placed in the middle of issues that do not involve her and asked for my assistance. She also indicated she was uncomfortable with Dr. Lee contacting her directly to ask her a variety of work-related questions on matters to which she stated she knows very little about. Due to the nature of the claim and my belief that it was better to address the allegation directly with you and Dr. Lee, I informed the staff member that I would contact you and Dr. Lee directly to advise of the staff member’s discomfort and request that any inquiries about the ED should be made directly to the ED.

Notably, Ms. Romero did not use the term “harass” in her email and only expressed that Ms. Martinec was uncomfortable with Dr. Lee texting her work questions and with Ms. McIntyre placing Ms. Martinec in the middle of a situation that did not involve her. Ms. Romero further questioned the veracity of Ms. Martinec’s statements and states she is “deeply disturbed” by Ms. Martinec’s “attempt to play games with [their] professional relationship.”<sup>7</sup>

Ms. Bergmann reported that she had spoken to Ms. Martinec after Ms. McIntyre left the morning of August 23, 2022 and she understood that Ms. Martinec felt uncomfortable only about what she could and could not say to Board members as they had been told they could not talk to

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<sup>5</sup> Ms. Romero stated she had not yet read Ms. McIntyre’s email as she was unable to log into her computer at the office.

<sup>6</sup> See Doc. No. 2 to Chronology.

<sup>7</sup> One employee stated that Ms. Romero told her the same day as the incident that Ms. Martinec was lying about the incident – specifically, she was lying about whether Ms. McIntyre was asking personal questions. The next day, Ms. Romero told the employee that it was Ms. McIntyre who was lying and not Ms. Martinec.

Board members. Ms. Martinec never stated to Ms. Bergman that she felt harassed or mistreated by Ms. McIntyre or Board members. Hilda Krestyn confirmed that Ms. Martinec spoke to her that morning and never said she was harassed, only that she needed direction and clarification on how to respond to Board members.

During this time, Ms. Romero was calling and emailing Dr. Lee to discuss the events of August 23, 2022<sup>8</sup> and she indicated she was concerned because he was not responding. Dr. Lee confirmed that he did not answer Ms. Romero's calls. Dr. Lee reported being concerned that Ms. Romero would make other false allegations against him in a phone call. He did respond to an email from Ms. Romero, requesting that she email the details of what she needs.<sup>9</sup> Ms. Romero did not respond to Dr. Lee's email.

## ***2. Ms. McIntyre States She Cannot Work With Ms. Romero***

After receiving Ms. Romero's August 23, 2022 email where she blames Ms. Martinec for coming in between their professional relationship, Ms. McIntyre spoke with Dr. Lee and stated she cannot work with Ms. Romero. Dr. Lee notified Ms. Sull on August 24, 2022 that Ms. McIntyre cannot work with Ms. Romero and asked Ms. Sull to terminate Ms. Romero. Ms. Sull refused to terminate Ms. Romero.<sup>10</sup>

## ***3. Ms. Romero Circulates a Letter Asking for the Removal of Dr. Lee and Ms. McIntyre from the Board on August 25, 2022***

On the evening of August 24, 2022, Ms. Sull informed Ms. Romero that Ms. McIntyre stated she cannot work with Ms. Romero. On August 25, 2022 at 6:38 am, Ms. Romero sent a letter<sup>11</sup> via email to Ms. Sull calling for the removal of Dr. Lee and Ms. McIntyre from the Board for malfeasance because "it is clear they are self-interested and are attempting to cover up an allegation made by an employee of harassment":

The purpose of this correspondence is to further memorialize the incident that occurred in the Board office on August 23, 2022 and to address the events which occurred thereafter. Please be advised that my recommendation and advice as General Counsel for the Nevada State Board of Dental Examiners ("the Board") is to forward this matter to the Attorney General's Office for their review and consideration of the immediate removal of Dr. David Lee and Ms. Jana McIntyre as Officers and Members of the Board pursuant to NRS 232A.030 as it is clear they are self-interested and are attempting to cover up an allegation made by an employee of harassment on August 23, 2022 by recommending my termination as General Counsel for reporting it on her behalf and at her request.

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<sup>8</sup> See Doc. No. 3 to Chronology.

<sup>9</sup> See Doc. No. 4 to Chronology.

<sup>10</sup> See Doc. No. 6 to Chronology.

<sup>11</sup> See Doc. No. 5 to Chronology.

As you know, I reached out to Ms. McIntyre and Dr. Lee at the employee's request after she reported feeling uncomfortable and harassed by both Board Members: one whom was allegedly making repetitive inquiries about your whereabouts and personal and professional life outside the office and the other about constant text messages to the employee regarding various work-related issues to which she knew very little about. The employee reported feeling as though both Board Members were putting her in the middle of matters to which she wanted no involvement or had minimal knowledge of and was afraid they were setting her up to purposely get her or someone else in trouble. She stated she felt nervous and scared. When I asked her specifically what she wanted me to do, she stated she did not want to be contacted by the Board Members in this way any longer and repeatedly asked me if they were even permitted to talk to her as a staff member. I told the employee I would reach out to the accused Board Members directly to advise them of the allegations and her request to cease that type of inappropriate communication to which she agreed and permitted me to proceed as discussed.<sup>12</sup>

At 1:35 pm on August 25, 2022, Dr. Lee directed Ms. Sull to place Ms. Romero on paid administrative leave.<sup>13</sup> Dr. Lee indicated that Ms. Romero's circulation and propagation of a false complaint prompted him to place her on paid administrative leave and to allow the matter to come before the Board for review.<sup>14</sup>

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<sup>12</sup> Ms. Romero indicated that she had an ethical obligation to the Board under Nevada Rule of Professional Conduct 1.13(c)(1) & (2) to disclose the matter in order to prevent substantial injury to the Board. That rule states in pertinent part:

Rule 1.13. Organization as Client.

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

(c) Except as provided in paragraph (d), if

(1) despite the lawyer's efforts in accordance with paragraph (b), the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

<sup>13</sup> See Doc. No. 7 to Chronology.

<sup>14</sup> Ms. Sull continued to express her concern or disagreement with any employment action against Ms. Romero and also explained that Ms. Romero needed proper notice in accordance with NRS Chapter 241 for the Board to consider any employment action See Doc. No. 11 to Chronology.

But, before leaving, Ms. Romero forwarded her letter to Chief Deputy Attorney General Rosalie Bordelove at 2:41 pm<sup>15</sup> and all members of the Board at 2:50 pm<sup>16</sup>.

All Board staff were copied on Ms. Romero's email to the Board which caused discussion among the staff. Further, after receiving Ms. Romero's email, Ms. Martinec told Ms. Romero that she was not harassed, the statements in Ms. Romero's letter were not what she said or how she felt, and she "didn't understand where that came from." This exchange occurred in or near the hallway of the Board office on the afternoon of August 25, 2022 in the presence of other Board staff including Kristine Jameson and a new hire. When asked what Ms. Romero's response was to Mr. Martinec's statements, employees reported that Ms. Romero did not say much before leaving on paid administrative leave, just that the Board was going about the matter incorrectly. Board employees confirmed that Ms. Martinec told them that she never told Ms. Romero that she was harassed or felt harassed by Board members.

Late that evening at 7:09 pm, Ms. Romero forwarded her letter calling for Dr. Lee's and Ms. McIntyre's removal to the General Counsel of the Governor's Office, Kevin Benson. Ms. Sull was copied on this letter.<sup>17</sup> Ms. Romero sent this email after her exchange with Ms. Martinec in the Board office where Ms. Martinec expressly stated she was not harassed by Board members. Ms. Romero's actions suggest she knew that the statements in her letter were false but chose to circulate them anyway.

There are no emails or evidence to indicate that Ms. Romero sought to correct any false statements in her August 25, 2022 letter or notify recipients that Ms. Martinec stated her representations were inaccurate.

#### ***4. Mr. Martinec Notifies Ms. Sull That She Never Complained of Harassment***

Ms. Martinec sent an email to Ms. Sull on August 25, 2022, at 7:10 pm ("August 25, 2022 Email")<sup>18</sup> stating "I want to make it *VERY* clear I never said I felt harassed by Board members":

I want to make it *VERY* clear I never said I felt harassed by the board members. I made sure Eva understood that as she was saying goodbye to us today. Like I mentioned this morning in our conversation the only reason why I feel uncomfortable to talk to them is because I don't know what I am allowed to say or not. In the past I have been told that I am not allowed to talk to board member alone or via text, it's like its frowned upon.

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<sup>15</sup> See Doc. No. 8 to Chronology.

<sup>16</sup> See Doc. No. 9 to Chronology.

<sup>17</sup> See Doc. No. 10 to Chronology.

<sup>18</sup> See Doc. No. 13 to Chronology.

(Emphasis in original). Ms. Martinec stated that she had spoken to Ms. Sull that morning and explained she was uncomfortable only because of a prior directive not to speak to Board members.

Ms. Martinec also disputed that she had requested that Ms. Romero contact Dr. Lee and Ms. McIntyre to ask them to cease their contact. Instead, she needed clarification from Ms. Sull or Ms. Romero on what she could tell Board members: “After talking to Eva, she asked what I wanted from this outcome. I said to get clarification of what we are allowed to say and not say. Are we allowed to speak to Board Members privately, text them, call them?”

### ***5. Ms. Sull Does Not Make Any Effort to Inform Others of Ms. Martinec’s Statements***

There is no information to indicate Ms. Sull disclosed Ms. Martinec’s August 25, 2022 Email to the Board or the conversation she had with Ms. Martinec earlier that morning. Ms. Sull did not forward the August 25, 2022 Email to Dr. Lee or Ms. McIntyre. Both Ms. McIntyre and Dr. Lee stated Ms. Sull did not notify them of the August 25, 2022 Email or the fact that Ms. Martinec disputed being harassed by them.<sup>19</sup> Nor did Ms. Sull forward the August 25, 2022 Email to Ms. Bordelove.

Ms. McIntyre reported receiving a call from Ms. Sull around 9:00 pm on August 25, 2022. Ms. McIntyre felt that Ms. Sull was trying to bully her. Ms. McIntyre recounted that Ms. Sull said she could be in a lot of trouble because of the harassment claim involving her. Ms. Sull asked if they can just make this go away—resolve the matter, smooth things over with Dr. Lee, and have everyone keep their jobs except Ms. Martinec.<sup>20</sup> Ms. McIntyre said “no” and that Ms. Romero had drawn a line in the sand and accused her character. She further said there is no reason to get rid of Ms. Martinec. Ms. Sull did not disclose to Ms. McIntyre that she received an email from Ms. Martinec that evening saying she was not harassed.

There is no information to indicate Ms. Sull sought to notify any recipient of Ms. Romero’s August 25, 2022 letter that Ms. Martinec disputed the contents of the letter. Ms. Sull did not notify the Governor’s office of Ms. Martinec’s August 25, 2022 Email or that the representations in Ms. Romero’s letter were inaccurate. Instead, the next morning, Ms. Sull sent Dr. Lee a copy of Ms. Romero’s email to the Governor’s office stating she was “greatly disturbed.”

### ***6. Ms. Sull Terminates Ms. Martinec on August 27, 2022***

Ms. Sull terminated Ms. Martinec on August 27, 2022. Ms. Martinec reports that Ms. Sull told her that the Board could no longer accommodate her schedule<sup>21</sup> as the Board was angry about recent

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<sup>19</sup> Ms. Martinec also stated Dr. Lee has never been inappropriate in his texts to her. I have reviewed Dr. Lee’s messages with Ms. Martinec, which were also forwarded to Ms. Bordelove, and confirmed there was nothing inappropriate. All texts related to Board business. See Doc. No. 14 to Chronology.

<sup>20</sup> When asked why Ms. Sull wanted to fire Ms. Martinec, Ms. McIntyre said that Ms. Sull suggested that Ms. Martinec had made up the allegations.

<sup>21</sup> Ms. Martinec leaves early on certain days of the week due to childcare needs but comes in early and also makes up the hours on the weekend.

events. When Ms. Martinec asked Ms. Sull if Dr. Lee and Ms. McIntyre were aware of her termination, Ms. Sull indicated they were, and she led Ms. Martinec to believe it had been an executive decision by Ms. Sull, Dr. Lee and Ms. McIntyre.

Despite Ms. Sull involuntarily terminating Ms. Martinec, the reason for the separation provided to payroll (ADP) was “voluntary: Quit – Personal/family reasons,” which is a false statement. Ms. Sull is the only person at the Board who had access to ADP.

### ***7. Dr. Lee and Ms. McIntyre Learn of Ms. Martinec’s Termination on August 29, 2022***

Ms. McIntyre reported that she did not learn of Ms. Martinec’s termination until Monday August 29, 2022 when Ms. Martinec called her and explained what had occurred. Ms. McIntyre then contacted Dr. Lee who reported that he was similarly unaware of Ms. Martinec’s termination. Both were surprised to hear that Ms. Sull had informed Ms. Martinec they had both approved of her firing.

At 7:23 pm on August 29, 2022, Dr. Lee emailed Ms. Sull to express his surprise that she had terminated Ms. Martinec. Ms. Sull responded shortly thereafter stating that she was following his wishes:

You had indicated that the hours that the Board wants everyone working is 8 am to 5 pm. Please note for your records that I communicated both your and Jana’s wishes that everyone must be there from 8 am to 5 pm. Therefore, I could not accommodate her schedule of leaving the Board Office at 3 pm.<sup>22</sup>

When asked about Ms. Sull’s email, Dr. Lee indicated that he was not concerned with Ms. Martinec’s schedule and really was not concerned about staff who work on an hourly non-exempt basis. His concern was with salaried non-exempt staff not being in the office. Ms. Sull did not discuss Ms. Martinec’s schedule with him prior to terminating Ms. Martinec.

During Ms. McIntyre’s discussion with Ms. Martinec that morning, Ms. Martinec disclosed she had sent Ms. Sull her August 25, 2022 Email disputing any claim that she had been harassed by Board members. At Ms. McIntyre and/or Dr. Lee’s request, Ms. Martinec forwarded her August 25, 2022 Email and also provided a statement of events surrounding her termination<sup>23</sup>. The email and statements surrounding Ms. Martinec’s termination precipitated Ms. Sull’s placement on paid administrative leave on August 30, 2022.<sup>24</sup>

The Board subsequently offered Ms. Martinec her job back and she accepted.

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<sup>22</sup> See Doc. No. 16 to Chronology.

<sup>23</sup> See Doc. No. 17 to Chronology.

<sup>24</sup> See Doc. No. 18 to Chronology.

#### **D. Allegations of Discrimination or Harassment**

After being placed on paid administrative leave, on September 7, 2022, Ms. Romero filed an Open Meeting Law Complaint in which she alleges retaliation for reporting harassment and claims she is a whistleblower<sup>25</sup>. She also claims that Dr. Lee has harassed her and treated her differently than the previous male General Counsel:

The NV Board of Dental Examiners President, Dr. David Lee & Treasurer, Jana McIntyre, tried to force me to resign as General Counsel for the Board on 8/24/2022 after I reported an incident of harassment committed by them at the request of a staff member on 8/23/22. When I reported their conduct to Board Executive Dir. Hardeep Sull, Dr. Lee & Ms. McIntyre placed me on paid admin leave on 8/25/22. Prior to this incident, Dr. Lee harassed me & treated me differently from previous male General Counsel. Subsequent to placing me on paid admin leave, Dr. Lee & Ms. McIntyre also placed Ms. Sull on paid admin leave in retaliation against her when she refused to terminate me & refused to violate NV Law. Ever since, Dr. Lee & Ms. McIntyre have violated NV Open Meeting Laws in NRS Chapter 214 by trying to terminate me, including NRS 241.031; 241.033; & 241.034 by attempting to hold Board Meetings without proper notice, publicly defaming me in a "DRAFT" Agenda referencing an illegally noticed hearing; removing the "DRAFT" public notice after I informed the DAG about it rather than posting an Addendum; completely revising the Agenda to discuss misappropriating Board funds to retain counsel in furtherance of Dr. Lee & Ms. McIntyre's discriminatory and retaliatory practices against me by granting the perpetrators the right to use Board funds to retain counsel to defend them in pending litigation; failing to include themselves in the Agenda for the other Board Members to consider Dr. Lee & Ms. McIntyre's immediate removal as Officers for the Board based on their misconduct, malfeasance and nonfeasance; attempting to circumvent NV Law by seeking to appoint an interim Exec. Dir. to work part-time in an effort to illegally terminate my employment; and Dr. Lee & Ms. McIntyre failing to recuse themselves based on them being the cause of these discriminatory and retaliatory practices. It should also be noted that at Dr. Lee & Ms. McIntyre's direction, they have already removed Ms. Sull and myself from our respective position as "Staff" on the NV Board's website, prior to holding any Board Meeting in compliance with NV Open Meeting Law & in violation of NRS Chapter 241.<sup>26</sup>

Ms. Romero has represented that she has filed a Charge of Discrimination with the Nevada Equal Rights Commission and Equal Opportunity Employment Commission. However, the Board has not received a copy of the Charge of Discrimination.

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<sup>25</sup> NRS 281.651(2) states that Nevada's whistleblower statutes "do not prohibit a state officer or employee or a local governmental officer or employee from initiating proper disciplinary procedures against another state officer or employee or another local governmental officer or employee, as applicable, who discloses untruthful information concerning improper governmental action."

<sup>26</sup> The Open Meeting Law complaint is pending with the OAG. Therefore, this investigation did not focus on obtaining facts or investigate any Open Meeting Law violation.

There is no indication Ms. Sull or Ms. Romero at any time reported to Board Members that they were being harassed or discriminated against based upon gender or any other protected characteristic. During the investigation, Ms. Bordelove informed me that Ms. Sull told her that female attorneys (Ms. Sull and Ms. Romero) were being held to a different standard than prior male attorneys at the Board. This conversation took place on or about August 26 or August 29.

All current and former Board employees interviewed were asked whether they had been the subject of discrimination or harassment by Board members or whether they have seen or witnessed any discrimination or harassment by the Board to any employee including Ms. Sull or Ms. Romero. Employees unanimously reported that they have not experienced discrimination or harassment by members of the Board. Nor have they witnessed discrimination or harassment by members of the Board to staff including Ms. Sull and Ms. Romero. All reported that the Board has been nothing but respectful and kind to them. Staff did not see anything to indicate females were treated differently than males.

During my interview with Hilda Krestyn, she indicated that Ms. Romero had complained about being cut off by Dr. Lee while speaking during a Board meeting. It is unclear which Board meeting(s) Ms. Romero is referencing. I reviewed footage of the closed session of the August 16, 2022 Board meeting and saw Dr. Lee attempt to interject while Ms. Romero was responding to a question by Dr. Lemon, and Ms. Romero said, "Dr. Lee, let me finish." Dr. Lee allowed her to finish. I did not see anything inordinarily or improper during the exchange.

Two employees reported noticing that Dr. Lee does cut people off during Board meetings. One of these employees felt that the Board did cut off Ms. Sull and Ms. Romero from speaking during Board meetings but did not similarly cut off their male counterparts. She stated that she did not believe the reason was due to their gender. Instead, she believed the Board did not want Ms. Sull or Ms. Romero to further elaborate on the topics they were discussing, that there was a difference in opinion, and the Board was trying to reign in the discussion. The second employee indicated that Dr. Lee equally cuts off males from speaking, such as Dr. Lemon or Dr. Thompson. Both employees, however, view Dr. Lee as performing his duty as Board President to keep the Board meeting moving along and avoiding unnecessary discussion or tangents. Both employees did not believe that the Board's or Dr. Lee's conduct had anything to do with gender or was an effort to discriminate against an employee. Dr. Lee stated as President, his job is to keep the Board on track during a Board Meeting. Therefore, he "cut[s] off a lot of people" irrespective of gender to keep the meeting focused on the agenda items. It "does not matter who they are."

The male general counsel prior to Ms. Romero was Jason Dworin. He was appointed Interim Executive Director on September 7, 2022 after Ms. Sull has been placed on paid administrative leave. Mr. Dworin is not available full-time but agreed to come back in a limited capacity to assist the Board while Ms. Sull and Ms. Romero are on administrative leave. A Board employee stated that Ms. Romero was upset that Mr. Dworin attended a Board meeting in August 2022 after his employment ended. She was not informed he would be present. The employee believed that Mr. Dworin was likely asked to attend because he had worked on the first public records request by the Nevada Dental Association (the initial request dates back to 2021) and his knowledge of what occurred before Ms. Romero was hired was needed. Dr. Lee confirmed he asked Mr. Dworin to attend because of his knowledge of the Board's previous response.

Board employees remarked that if the Board wanted to discriminate against women or those of a different ethnicity, they would not have hired Ms. Martinec back as she is a Hispanic female and instead would let Ms. Sull do their “dirty work.” Additionally, one Board employee stated that former General Counsel Phil Su was a candidate for the Executive Director position at the time Ms. Sull applied and Ms. Sull was selected over this male attorney. It should be noted that the Board office staff is comprised of all women.

## **II. Eva Romero’s October 10, 2022 Written Statement**

On October 10, 2022 and at the end of the investigation recounted above, Ms. Romero provided a written statement alleging danger to the public, Title VII violations in the August 23, 2022 incident, Title VII violations during her employment, and procedural due process violations.

### **A. Danger to the Public**

Ms. Romero states that her placement on paid administrative leave has endangered the public because the Board is left without a General Counsel to advise them and perform the legal day-to-day tasks including review of complaints against licensees, attending review panel meetings, and preparing and reviewing proposed Stipulations and/or Corrective Action Plans. She also states she has been prevented from doing her job and handling matters before the Board requiring legal representation including two active lawsuits. She states that the “Board has knowingly permitted this conduct to continue without discipline by eliminating both its sole General Counsel and its Executive Director thereby placing a complete halt on the process for which the Board is meant to uphold for the public it was meant to protect.”

On September 7, 2022, the Board appointed Jason Dworin as the Interim Executive Director to assist the Board while the Ms. Sull and Ms. Romero are on paid administrative leave. Mr. Dworin reports that he performs Executive Director and General Counsel functions in that role. He is not aware the public is in danger or that matters are not getting done because Ms. Romero or Ms. Sull are on administrative leave. While there is a lot to do, matters are continuing to move forward. He is signing licensing applications and review panel hearings are taking place. He is also working with outside counsel on the pending litigation matters. He has had calls and/or meetings with outside counsel on those matters.

Ms. Romero further states her placement on paid administrative leave has prevented her from “following up on the status and proper handling of a licensee complaint made by a member of the public against at least one Board Member despite Dr. Lee’s improper and wrongful direction to ‘sit on it’ and not forward it to the Attorney General’s Office for conflicts review until [REDACTED] this Member’s term would naturally expire because he ‘didn’t want to hear [REDACTED] shit.’” When asked about the statement, Dr. Lee stated that Ms. Romero wanted to disqualify [REDACTED] of [REDACTED] Board duties because of the complaint against [REDACTED] Dr. Lee responded that Ms. Romero cannot just take away a Board member’s power because there is a complaint. Instead, the proper protocols need to be followed, which include first submitting the complaint to a Preliminary Screening Consultant (“PSC”) and then forwarding the complaint to the OAG. He said that it would be well past [REDACTED] before that process would be completed and as [REDACTED] was not going to renew

■■ Board seat, ■■ likely would not be a Board member when the process was completed. Dr. Lee stated that he told Ms. Romero if she were to unilaterally remove ■■■■■■■■ would file a lawsuit and there was “going to be a lot of shit.”

Board Legal Assistant Hilda Krestyn reported that all complaints against Board members including ■■■■■ have been sent to the OAG. Two complaints are in process. One is waiting for the correct form to be filled out by the complainant and the other is currently being reviewed by the PSC. She indicated she has looked in all files and logs and also in Ms. Romero’s office and no complaints have been held back as Ms. Romero alleges. Prior Board Legal Assistant Michelle Krestyn stated that she is not aware of any complaints that were held back including complaints against ■■■■■

Ms. Romero states that there are concerns involving a licensee accused of sexual assault or harassment continuing to practice. Dr. Lee noted a review panel hearing took place and the panel recommended suspension of the licensee accused of sexual assault. The dentist had a due process right to contest the decision and seek an informal hearing. Ms. Sull and Ms. Romero wanted to unilaterally suspend the dentist’s license without a right to a hearing given the allegations. Dr. Lee said that could not be done and indicated that any investigation of a crime needed to be handled by the police. Ms. Sull reached out to Ms. Bordelove at the OAG and Ms. Bordelove confirmed that the formal process and procedures needed to be followed.

## **B. August 23, 2022 Incident**

Ms. Romero’s statements related to Ms. Martinec’s complaint on August 23, 2022 mirror those in her August 25, 2022 letter that she sent to Ms. Sull, Ms. Bordelove, and the Board. There are few changes and/or additions:

- She notes Ms. Martinec and Ms. Sull are each a “woman of color”
- She states the text messages sent to Ms. Martinec are “under the guise” of various work-related issues
- She adds Ms. Martinec “expressed frustration that she was being contacted directly on her personal cell phone and being confronted in person by Board Member(s) with personal and inappropriate questions involving other females in the office. She was on the verge of tears when she stated she felt nervous and scared – a sentiment which she repeated in both English and Spanish. When I asked her specifically what she wanted me to do, she stated she did not want to be contacted by the Board Members in this way any longer and repeatedly asked me if they were permitted to talk to her as a staff member.”
- She adds Ms. Martinec stated clearly and bluntly that she wanted the Board Members to “‘STOP’ and to ‘leave her alone.’”

I discussed the above statements with Ms. Martinec and she is adamant that she did not make those statements to Ms. Romero. She never invoked her race, ethnicity, or gender or indicated that she felt harassed. She said “I have no idea where this is coming from.” She indicated Ms. McIntyre only asked if Ms. Sull was coming in. And Ms. Martinec did not ask Ms. Romero to tell Dr. Lee and Ms. McIntyre to stop contacting her. She has no problem speaking to them. She was only frustrated because she did not know what she could or could not say to Ms. McIntyre and the Board, especially

regarding Ms. Sull or Ms. Romero not being in the office. Ms. Martinec also stated that Ms. Romero was not conducting an investigation into her allegations. She did not ask Ms. Romero to do anything that would require an investigation. She only asked for clarification as to whether she can speak to Board members and what she can and cannot say to them.

Ms. Romero's statement also adds allegations related to the Board Legal Assistant :

- Ms. Martinec "advised that Ms. McIntyre was making similar inquiries into the personal lives of both Ms. Sull and myself to other staff members, including my Legal Assistant (another woman of color)."
- The Legal Assistant told Ms. Romero that the week prior, Ms. McIntyre asked about their "personal whereabouts and made a snarky and inappropriate comment when the employee responded."

The Board Legal Assistant, Hilda Krestyn, stated that she does not consider herself a woman of color and never represented herself as one. She said she is European. When asked about what she said to Ms. Romero about her interaction with Ms. McIntyre, she said "if anything, I was the snarky one." She recounted that the week prior, Ms. McIntyre had come into the Board office. Ms. Krestyn wanted to ensure Ms. McIntyre met with Ms. Bergmann as Ms. Bergmann was hoping Ms. McIntyre could sign some outstanding licensing applications that were awaiting Ms. Sull's signature. When Ms. Krestyn said that Ms. Sull and Ms. Romero were out ill, Ms. McIntyre responded "that happens a lot around here." Ms. Krestyn understood that statement to refer to Ms. Sull's and Ms. Romero's absence from the office, and Ms. Krestyn light-heartedly responded: "I'll pretend I didn't hear that." Ms. Krestyn explained that Ms. McIntyre did not ask any questions about Ms. Sull or Ms. Romero during that visit and had not asked her any questions about their whereabouts at any time before.

Ms. Romero claims Ms. Martinec's allegations involved Title VII issues and she performed her job and conducted an investigation into the allegations by calling Ms. McIntyre. It should be noted that while Ms. Romero indicates that Ms. Martinec made allegations protected by Title VII (which Ms. Martinec denies making), Ms. Romero does not specifically identify what statements or inquiries were made because of Ms. Martinec's or anyone else's race, color, religion, sex, or national origin.<sup>27</sup> It is unclear based upon the statement why Ms. Romero believes questions about staff not being in the office and text messages about work invoke Title VII.

## **C. Title VII Violations During Employment<sup>28</sup>**

### ***1. Disparate Treatment – Daily Tasks***

Ms. Romero's states she has been "subject to harassment by Board Members, especially Board President, David Lee, who exhibited disparate treatment of [her] as a woman of color from previous

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<sup>27</sup> Title VII does not prohibit all harassment, just harassment because of an individual's membership in a protected group. *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 80 (1998).

<sup>28</sup> As noted herein, any allegations with respect to the Board violating Open Meeting Law and being investigated by the OAG.

male Counsel.” She identifies the following as incidents of harassment although specific dates and details of the incidents are not provided:

...he constantly checked in on me on my personal phone to see where I was (Treasurer, Jana McIntyre, also did this, although she did this by asking staff members about my personal whereabouts); frequently second-guessed my sound legal advice; gave me a multitude of tasks and changed his mind on how he wanted them performed; provided conflicting direction on a constant basis in attempt to set me up for failure; praised previous male Counsel despite their lack of performance and piled their workload on me.

Dr. Lee states he did not treat Ms. Romero differently due to her gender, race, or ethnicity. He was not in the Board office daily and only interacted with her when needed to discuss pending Board matters or during Board meetings. Any calls he made to Ms. Romero’s cell phone were work-related and not to check in on her. Dr. Lee stated he may disagree with an employee’s advice or direction depending upon the issue, but it has nothing to do with any employee’s membership in a protected class.

Dr. Lee does not know what Ms. Romero is specifically referring to when she references him changing his mind, but indicated it could be related to an agenda. He recognizes that he does change his mind but has a right to do so. One employee noted that, in her experience, Dr. Lee changes his mind all the time, but it is not unique to Ms. Romero and is done irrespective of whether someone is a woman of color. She stated that she has seen it happen to Mr. Dworin. Mr. Dworin confirmed as much and said Dr. Lee may want to handle a situation a certain way and after considering it, he decides there is a better way or wants to proceed in a different direction. Several employees noted that Dr. Lee changes his mind, but none believe that changing his mind is designed to harm or set anyone up for failure.

Dr. Lee stated Ms. Romero only worked for a few months before going on paid administrative leave. He disagrees that he gave her a multitude of tasks. He recalls asking her and Ms. Sull for information related to the Nevada Dental Association (“NDA”) lawsuit and specifically, what documents the Board had provided in response. He wanted to ensure the Board and the OAG were all fully informed on what had been sent to the NDA given the upcoming Board meeting.<sup>29</sup> He stated he continued to follow up because the information was not provided when he first asked. He stated “in my day-to-day, I would ask for information and if I did not get it, I would follow up.”

Dr. Lee does not recall speaking to Ms. Romero about the performance of the prior General Counsels, Jason Dworin or Phil Su and did not assign her their workload. He may have said Mr. Dworin is a good guy in her presence. He knows, however, he did not praise the work of Phil Su as the two often disagreed. Mr. Dworin and at least one other employee confirmed that Dr. Lee and Mr.

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<sup>29</sup> A copy of emails between Dr. Lee and Ms. Sull and Ms. Romero were reviewed and show that Dr. Lee was following up. In one email on August 8, 2022 at 12:21 pm, Dr. Lee states: “I appreciate all the attachments, but next time can you please forward the information I requested. I’m having to search and read through all the pdf for info I asked for.”

Su did not have a good working relationship. Mr. Dworin also indicated that it appeared to him that Dr. Lee was very frustrated with the prior Executive Director, Frank DiMaggio.<sup>30</sup>

## **2. *Disparate Treatment – Works Hours***

Ms. Romero states she received disparate treatment based upon her work hours:

... the work hours and ways in which male General Counsel were permitted to keep to perform their job duties for the Board were flexible and unfettered by other Board Members. In contrast, the Board would constantly demand from me and the other women in the office that work be performed during Board business hours and made no accommodations or additional compensation for the countless work performed after hours to prepare and attend Board Meetings, Emergency Board Meetings, Review Panels, Alternate Review Panels and other Board business.

It should be noted that the above statement is inconsistent with Ms. Romero's prior statement in her August 23, 2022 email to Ms. McIntyre where she states "I cannot speak to the hours my predecessors spent in the office." Additionally, Mr. Dworin indicates he only worked with Ms. Romero for a couple of weeks before he retired. Mr. Su had been fired prior to Ms. Romero's first day of employment. Therefore, it is unclear what information Ms. Romero has about the work hours of her predecessors.

Further, the information obtained during the interviews suggests that the Board had concerns about Ms. Romero's presence in the office during work hours and did not have similar concerns with the office attendance of the prior General Counsels. Ms. McIntyre stated that Phil Su<sup>31</sup> and Jason Dworin were in the office every single time she visited the office (which is two to three times a week since January 2022). She also noted that she always saw Frank DiMaggio in the office when he was the Executive Director. Employees confirmed that Mr. Su, Mr. Dworin, and Mr. DiMaggio were in the office everyday. Dr. Lee reported that Mr. DiMaggio was the first one there and the last one to leave.

Mr. Dworin confirmed he was in the office every day. There were times where he would come in late and leave late, but there was never a day that he worked remotely. A couple of employees stated Mr. Dworin may come in later or leave early on certain days because of his kids' schedule, but he maintained full-time hours and made up for the hours during the Capurro case and staying late for review panel meetings. One employee believed Mr. Dworin had a different arrangement with Mr. DiMaggio because of his kids, but she said it worked out in the wash and he was there 40 plus hours a week. When Dr. Lee would stop by the Board office after work, he reported Mr. Dworin would always be there and would stay until 6 pm.

Ms. Martinec confirmed that both Mr. Dworin and Mr. Su may have had varying start or end times, but they were in the office every day. In comparison, she stated Ms. Sull and Ms. Romero were not.

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<sup>30</sup> Dr. Lee noted that he has said that Ms. Martinec and Ms. Vargas-Garcia, both females, are great employees.

<sup>31</sup> Ms. Sull told Dr. Lee that Mr. Su showed up late to work (anywhere between 8 am and 9 am), but he did not witness this.

### 3. *Removal from Website*

Ms. Romero further indicates that “at Dr. Lee and Ms. McIntyre’s direction, they have already removed me from my position as ‘Staff’” on the Board website and have posted job listings for her position since September 20, 2022. Hilda Krestyn and Karla Martinec indicated that Ms. Sull instructed Ms. Martinec to remove everyone’s name from the website and have all calls go through the receptionist. After Ms. Sull was placed on paid administrative leave, Dr. Lee held a staff meeting and asked that staff names and phone numbers be put back on the website. He requested this because he believed the public deserves to know who to contact at the Board. Ms. Krestyn placed the names and phones numbers of the staff back on the website, but she did not put Ms. Sull’s or Ms. Romero’s names on the website as they were on paid administrative leave. Ms. Krestyn stated that it was her decision to do so, and she did not follow up with or get approval from Dr. Lee or the Board.

Mr. Dworin stated the Board has two General Counsel positions. The new job posting is for the open General Counsel position, a position that has been vacant since Phil Su was terminated.

### 4. *Procedural Due Process*<sup>32</sup>

Ms. Romero expresses concern that the Board has not alerted the public of any investigation into her allegations and that there is no agenda item to discuss the character or misconduct of Dr. Lee and Ms. McIntyre. I was unable to find any requirement that the public be alerted that there is an ongoing workplace investigation. Further, it appears any discipline or removal of Board members cannot be performed by the Board, but lies with the Governor. *See* NRS 232A.030

## III. Hardeep Sull’s October 18, 2022 Written Statement

Ms. Sull provided a written statement through her attorney on October 18, 2022.

### A. **Work Hours and Tasks Compared to Male Attorneys**

Ms. Sull alleges that during her employment, “members of the Board and male attorneys treated [her] differently”:

For instance, their hours were different and much more flexible than my hours. Moreover, the male attorneys were able to leave freely at any time of the day without any issues, and not work a traditional work week, but still get paid for as if they did work full time in the office. As a result, I was forced to do their work. Often, they refused to handle legal items, even though I was simply the Executive Director. For example, Mr. Dworin, on numerous occasions would decline certain work assignments/projects, including FOIA requests. Yet, none of the male attorneys, including specifically Mr. Dworin, ever faced any discipline from the

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<sup>32</sup> Ms. Romero states the scope of this interviewer’s representation of the Board is in question. I have previously communicated the scope of my representation and Ms. Romero indicated she was not willing to be interviewed without the presence of Deputy Attorney General for the Nevada Equal Rights Commission, Sophia Long. The Board was not agreeable due to the conflicts that would necessarily arise.

Board. This behavior would continue until Jason Dworin retired. Not surprisingly, the Board recently welcomed him back as Board Counsel and Executive Director.

As set forth above, I was unable to confirm that male attorneys (*i.e.*, Mr. DiMaggio, Mr. Su and Mr. Dworin) had more flexible hours than female attorneys (*i.e.*, Ms. Sull and Ms. Romero). Employees reported that Ms. Sull was not present in the office more than once or twice per week. Dr. Lee indicated he was not aware Ms. Sull was not present in the office until more recently when Ms. McIntyre raised the concern with him and prior to that he did not discuss Ms. Sull's work hours or presence in the office with her. Employees reported that Mr. DiMaggio, Mr. Su and Mr. Dworin were regularly in the office.

Mr. Dworin reported that towards the end of his tenure, Ms. Sull requested that Mr. Dworin extend his retirement date. He agreed to do so but requested that he have Fridays off. Ms. Sull approved that request. Employees reported that male attorneys did not have more flexibility and if anything, Ms. Sull and Ms. Romero had more flexible work hours. Ms. Vargas Garcia noted that male attorney schedules were not flexible but were "extremely strict" under the prior Board president.

With respect to Ms. Sull being forced to do the work of other male attorneys, it should be noted that Ms. Sull was the Executive Director and had supervisory authority over the General Counsels. She could direct their workload, discipline, and fire them at-will. Employees reported that Ms. Sull fired Mr. Su, one of the prior General counsels. Additionally, employees did not witness Ms. Sull doing the work of the General Counsels. One employee stated that Ms. Sull could not have done the work of the General Counsels because she did not know dental law and was not familiar with the day-to-day Board operations.

Mr. Dworin reported that Ms. Sull gave him a raise after he turned in his notice. As noted above, Ms. Sull asked him to extend his last day and never indicated she had a problem with his work or hours. As far as refusing work, he believes Ms. Sull may be referencing the NDA public records request (not a FOIA request). When it came in, he told Ms. Sull that she needed to provide the contracts requested because as Executive Director, only she has access to those contracts. He stated that he did not tell her to do the work, and Mr. Dworin did not see anything to suggest Ms. Sull had to do Mr. Su's work.

Dr. Lee provided a series of emails showing that Ms. Sull regularly reached out to Dr. Lee to ask him questions about licensing and other day-to-day Board matters she was giving attention to. In one instance on August 18, 2022, Dr. Lee told her that the questions were to be handled by the General Counsel, who at the time was Ms. Romero. He stated that the General Counsel needed to familiarize herself with the regulations and rules: "General counsel should be handling these questions. Need to read and understand licensure. We have statutes that she needs to know." One employee stated that Ms. Sull was calling the OAG's office to answer questions.

## **B. Firing Female Staff**

Ms. Sull alleges "[s]everal Board Members consistently targeted female employees and created a hostile work environment. For instance, Dr. Lee was adamant about firing female staff members, even calling one of them, 'evil.'" Dr. Lee was asked about Ms. Sull's statement and does not recall telling Ms. Sull anyone was "evil" or being adamant about firing female staff members. He did tell

Ms. Sull that Ms. McIntyre cannot work with Ms. Romero and asked that she be terminated. The request was unrelated to Ms. Romero's gender. Ms. Sull's statement does not provide information as to who are the other Board Members she believes "targeted female employees" and how they did so.

### **C. Recommendations and Advice**

Ms. Sull also states that "when the male attorneys provided their input, such input was never questioned and would be immediately implemented. Such reverence was not given to female employees, including [Ms. Sull], whose recommendations and advice was consistently ignored or shot down without any consideration whatsoever."

Dr. Lee stated he may disagree with advice or direction depending upon the issue, but it has nothing to do with gender. He said that he would get into arguments or shouting matches with Mr. Su all the time because he disagreed with him and his advice. Mr. Dworin stated that there are plenty of times his advice is not followed and confirmed that Dr. Lee often disagreed with Mr. Su. Ms. McIntyre stated that Dr. Lee was just as vocal or more vocal with Phil Su and Frank DiMaggio— "not in any way shape or form did Dee or Eva not receive respect."

### **D. Contact After Business Hours**

Ms. Sull stated that "Dr. Lee would consistently call [her] and text [her] before and after work hours knowing that contact outside of work hours was in violation of the NSBDE policies and procedures. In fact, such messages were sent during [her] personal time, yet [she] was still expected to respond and act at his will. On numerous occasions, he would call [her] right after the Board meeting, which usually ended around 9:00 pm, and would constantly harass [her] on issues."

Mr. Dworin indicated it is not a violation of Board policies and procedures to contact the Executive Director after work hours. I did not locate such policy in the Employee Handbook. Dr. Lee is similarly unaware of such policy or procedure. He stated that he did text and call Ms. Sull after work hours when necessary to discuss Board matters but indicated those contacts were initiated by Ms. Sull. He provided several text messages showing Ms. Sull initiated contact on weekends or weeknights. Additionally, Dr. Lee indicated any calls after Board meetings would be related to the meetings and not to harass.

Any calls or messages by Dr. Lee before or after business hours is not unique to Ms. Sull. Mr. Dworin noted that Dr. Lee has called him on the weekends and outside of regular hours when he is at home and on his personal time.

### **E. Other Concerns**

Ms. Sull reports that "Ms. McIntyre consistently intruded into [her] personal life and basically spy on [her] which created an awkward working environment." Ms. McIntyre would ask employees, what Ms. Sull did on her personal time as well as her paid time which became more pervasive and hostile once she indicated Ms. McIntyre violated an applicant's due process rights.

Ms. McIntyre stated the only questions she ever asked of Ms. Sull was whether she was in the office, which is confirmed by Ms. Krestyn, Ms. Vargas-Garcia, and Ms. Martinec. She stated she did not spy on or ask personal questions of Ms. Sull. Regarding the applicant, she does not recall the specific applicant referenced, but stated that anytime a case is more challenging or complicated, she always seeks the guidance of Dr. Lee (as the preceding Secretary Treasurer), Ms. Sull, and Ms. Romero. She stated that licensing is not to be taken lightly. If there is an issue with an applicant's moral character, she will deny the application after discussion with legal counsel and Dr. Lee, but the applicant has the option to send in more information and go before the Board.

Ms. Sull's statement ends with the following: "Several Board Members would constantly usurp their limited power because they were used to male attorneys enabling their misconduct. This was evident in discipline that was rendered and their ability to protect their own, including Board members. In sum, the Board acted as though they were omnipotent, and the laws and ethical boundaries did not apply to them." Ms. Sull did not provide specific examples or further detail to her allegations. Therefore, I cannot investigate the veracity of this broad and general statement.

#### **IV. Additional Relevant Information**

During the investigation, I learned the following additional information:

##### **A. Directing Board Staff to Falsely Claim Receipt of a Public Complaint**

During the August 9, 2022 Board Meeting, Ms. Sull indicated that she was annoyed that several Board members attending the meeting via videoconference did not have their cameras on and could not be seen. She made a comment questioning what they were doing and why their cameras were off.

On August 10, 2022, Ms. Sull called Ms. Martinec into her office and asked her to do her a "favor." She said that she needed Ms. Martinec to prepare an email saying that Ms. Martinec received a call from the public complaining about the Board members not being on camera at the recent Board meeting and to send the email to Ms. Sull. Ms. Martinec sent the false email as instructed by Ms. Sull on August 10, 2022. Ms. Martinec admitted that sending the email was wrong but explained she did it because Ms. Sull was her friend and also her boss.

Ms. Sull responded to Ms. Martinec's email the same day with "Thank you!!" On August 11, 2022, Ms. Sull again responded to Ms. Martinec's email, this time stating: "Thank you, for bringing this to my attention." In this response, she copied Board President David Lee.

##### **B. Infection Control Inspector Complaint**

On August 29, 2022, an infection control inspector, Samantha Sturges sent an email<sup>33</sup> to Dr. Lee communicating the significant difficulties she has encountered with the Board office and specifically with Ms. Sull and Ms. Romero:

We had a situation on Friday with an office that required a "Voluntary Cease of practice" letter due to critical deficiencies. However, as inspectors, we have never

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<sup>33</sup> See Doc. No. 15 to Chronology.

received updated letters with the current Executive Director, we still have Mr. DiMaggio listed. I advised Karla immediately that we would require this letter, but she stated the ED was not in the office- apparently she is rarely in the office- same with the General Counsel - which would explain the lack of follow through and significant delay on the other issues I have below. Well it took 2 hrs to get that Voluntary Cease of Practice letter sent to the office, a good 45 min in which both myself and Dr. Rosenbaum had completed the inspection and were just waiting. I advised Karla, historically, we have these letters in our binders, prefilled with the ED's information, so we can fill out when indicated when we are on site. Waiting for hours to get this back is not an efficient use of the boards time.

...

I have 2 different complaints outstanding that I have not had any contact on. 1 submitted in May for an esthetician practicing dentistry by applying bleaching agents without a license/or a dentist. The practice act identifies this as practicing dentistry if it is applied. I sent this to the old General Counsel, and then forwarded it to Ms. Romero when she took over. I had a conversation with Ms. Romero- after weeks of phone tag and multiple messages being left, that was out right rude and disgusting on her part. But nothing since. I submitted a separate formal complaint at the beginning of July, which I had already reported to Metro Special Investigations for a dental assistant practicing dental hygiene. I have not heard anything back on this either. I left a voicemail at the board early last week to discuss the status of these complaints- which of course has gone unanswered.

Ms. Sturges expressed grave concern that the public was at risk due to the lack of response or follow through by Ms. Sull and Ms. Romero:

I am prepared to go straight to the Attorney General because the public is at risk and the Executive Director and General Counsel are not following through on these very important cases. If I recall both stated they were prepared to devote 100% of their time/employment to the board, and if they are rarely physically in the office, I do not see this happening.

Dr. Lee responded to Ms. Sturges email and informed the Board of her concerns.

### **C. Nevada Dental Association Public Records Lawsuit**

During the investigation, a Board employee located documents that were requested by the NDA in a public records request, and which were not disclosed (*i.e.*, lobbying/governmental relations contract with Alfredo Alonso and Amendment No. 2 for Ogonna Brown's services). In an email dated September 26, 2022, outside counsel for the Board, Jacqueline Nichols, requested confirmation about the two documents that were still outstanding from the Public Records Request by the NDA. The Board employee located the documents in a file cabinet in Ms. Sull's office. She reported that the pertinent file folders were readily located at the front of the file drawer.

I understand that Ms. Romero was in charge of handling the response to the NDA's Public Records Request for the two documents. Additionally, during the closed session of the August 16, 2022 Board meeting, Ms. Sull represented that everything had been produced to the NDA. Because the records requested were not produced, the Board could be responsible for NDA's attorneys' fees of approximately \$17,460.10.

### **CONCLUSION**

The facts and observations contained in the above are a composite of my interviews at the Board and a review of documents during my investigation. In sum, the allegations of harassment or improper conduct by Dr. Lee or Ms. McIntyre towards Ms. Martinec are unsubstantiated. Importantly, Ms. Martinec disputes she ever told Ms. Romero that she was harassed or made to feel uncomfortable by Dr. Lee or Ms. McIntyre. Additionally, Ms. Romero's and Ms. Sull's allegations of discrimination or harassment based upon gender, race, or ethnicity are not supported by any witnesses.

It should be noted that this investigation relies upon the written statements and not any individual interview of Ms. Romero or Ms. Sull. More specific information including specific incidents relating to the allegations of discrimination may be elicited during interviews; however, both employees did not want to be interviewed without the presence of Deputy Attorney General Sophia Long (who represents the Nevada Equal Rights Commission) and thus those interviews have not taken place at this time.

Should the Board require additional information or further investigation, please let me know.

### Relevant Board Employee Handbook Provisions

#### Page 9

##### EXECUTIVE DIRECTOR

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The position of Executive Director of the Board is created by statute. The Executive Director's duties are defined by NAC 631.023 and include running the day-to-day operations of the Board and carrying out the Board's policies. The Executive Director is in charge of the Board's office and is responsible for managing the office's human resources.

#### Pages 10-11

##### EEO, SEXUAL HARASSMENT AND DISCRIMINATION POLICY

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**Equal Employment Opportunity and Affirmative Action** - It is the policy of the Board and the State of Nevada that employee recruitment, appointment, assignment, training, compensation and promotion shall occur on the basis of merit and without regard to race, gender, sexual orientation, gender identity or expression, religion, color, national origin, age, pregnancy, political affiliation, or disability. Ensuring equal employment opportunity is the responsibility of all state officials, managers, supervisors, and employees. Additionally, as an equal employment opportunity employer, the State of Nevada encourages all its agencies to actively pursue, in good faith, effective affirmative action programs. Such programs are designed to remove barriers to equal employment opportunity while ensuring the effectiveness of the state merit system. Affirmative action is a comprehensive, result-oriented effort to ensure that equal employment opportunity is achieved. It encourages diversity in the work force in that the composition of state government mirrors the public it is serving.

**Sexual Harassment and Discrimination Policy** - Sexual harassment is a form of discrimination that is unlawful under state and federal statutes. The Board and the State of Nevada regards it as a very serious offense that, under certain conditions, can lead to termination even on the first occurrence. "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature when:

1. Submission to such speech or conduct is made either explicitly or implicitly a term or condition of a person's employment; or
2. Submission to or rejection of such speech or conduct by a person is used as the basis for employment decisions affecting that person; or

3. Such speech or conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment. Employees have the right to raise the issue of sexual harassment without reprisal.

4. Employees who believe they have been a victim of sexual harassment are encouraged to advise the person believed to have engaged in sexual harassment, that the conduct is unwelcome, undesirable, or offensive. If the employee elects not to confront the alleged harasser or if the conduct persists after an objection, the employee should inform their supervisor or next level of authority. If you experience sexual harassment or witness it, you may report it to your agency coordinator.

#### **Page 11**

#### **WORK SCHEDULE AND OFFICE HOURS**

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**Pursuant to N R S 281.110:** The offices of all state officers, departments, boards, commissions and agencies must maintain not less than a 40-hour workweek. Variable workweek scheduling may be required in those agencies where coverage is needed on Saturdays, Sundays and legal holidays or on other days or during other hours, as necessary.

#### **Page 27**

#### **SPECIAL RESPONSIBILITIES FOR MANAGERIAL STAFF**

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As with any policy, management employees are expected to serve as role models for proper compliance with the provisions above and are encouraged to regularly remind employees of their responsibilities in complying with this policy.

#### **Page 34**

#### **COURTESY**

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Courtesy is the responsibility of every employee. All employees are expected to be courteous, polite and friendly to licensees, our public customers, vendors and suppliers, as well as to their fellow employees and members of the Board. No one should be disrespectful or use profanity or any other language, which injures the image or reputation of the Board.

**Page 35****ETHICS AND CONDUCT**

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The successful operation and reputation of the Board is built upon principles of fair dealing and ethical conduct. Our reputation for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, particularly NRS and NAC Chapters 631, as well as a scrupulous regard for the highest standards of conduct and personal integrity.

The continued success of the Board is dependent upon public trust and we are dedicated to preserving that trust. Employees owe a duty to the Board, licensees, and the public to act in a way that will merit continued trust and confidence.

In general, the use of good judgment, based on high ethical principles, will guide you with respect to lines of acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed openly with the Executive Director for advice.

Compliance with this policy of ethics and conduct is the responsibility of every Board employee. Failure to comply with required standards may lead to disciplinary action, to and including termination of employment.

**Page 36****FRAUD, DISHONESTY, AND FALSE STATEMENTS**

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No employee or applicant may ever falsify any application, medical history record, invoice, paperwork, time sheet, time card, investigative questionnaires or any other document. Any employee found to have falsified or made material misrepresentations or omissions on any such document will be subject to immediate termination of employment. If you observe any such violations, please report them to the Executive Director immediately.

**Pages 36-37****HONESTY**

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Our credibility with our licensees and public customers is critical to our enforcement success. Misrepresentation to a licensee or public customer is against Board policy

and against the law. Under the law, an employee may be held personally liable for making misrepresentations to licensees or public customers. Employees are also expected to be honest in their dealings with their supervisors and co-workers.

**Page 37**

INSUBORDINATION

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We all have duties to perform and everyone, including your supervisor, must follow directions from someone. It is against our policy for an employee to refuse to follow the directions of a supervisor or management official or to treat a supervisor or management official in an insubordinate manner in any respect. Employees must fully cooperate with Board investigations into potential misconduct. Refusal to fully disclose information in the course of a Board investigation constitutes insubordination and will not be tolerated.

3993 Howard Hughes Parkway  
Suite 600  
Las Vegas, NV 89169

702.474.2624 direct  
702.949.8398 fax



## MEMORANDUM

Our File Number:

**TO:** Nevada State Board of Dental Examiners  
**FROM:** Jennifer K. Hostetler  
**DATE:** October 10, 2022  
**SUBJECT:** Chronology of Events Between August 23, 2022 and August 30, 2022

| Document No. | Date                             | Event   | Notes  |
|--------------|----------------------------------|---|--|
|              | <b>Tuesday August 23, 2022</b>   |   |  |
|              | August 23, 2022 morning          | J. McIntyre visits Nevada State Board of Dental Examiners ("Board") office  | Speaks to Karla Martinec and Lisa Bergmann   |
| <b>1.</b>    | August 23, 2022 11:28 am         | Email from J. McIntyre to H. Sull and E. Romero re presence in the office   |  |
| <b>2.</b>    | August 23, 2022                  | K. Martinec notifies E. Romero that J. McIntyre has visited the Board office; K. Martinec calls J. McIntyre and apologizes for getting her in "trouble" with E. Romero; E. Romero and J. McIntyre discuss the allegations |  |
|              | <b>Wednesday August 24, 2022</b> |   |  |
| <b>3.</b>    | August 24, 2022 11:15 am         | Email from E. Romero to Dr. Lee and H. Sull   | <i>"Good Morning, Dr. Lee. I tried contacting you several times yesterday and this morning to discuss an</i> |

|    |                                 |  |   |
|----|---------------------------------|--|---|
|    |                                 |  | <i>urgent matter at the office which requires your immediate attention and feedback. If you could please call me immediately upon receipt of this email, I would truly appreciate it."</i>  |
| 4. | August 24, 2022 3:28 pm         | Email from Dr. Lee to E. Romero  | <i>"I am waiting to speak to Ms Sull. If any urgent board related matters need immediate attention, please email me the details?"</i>   |
|    | August 24, 2022 Afternoon       | Dr. Lee informs H. Sull re J. McIntyre is unwilling to work with E. Romero | Phone call  |
|    | August 24, 2022 Evening         | H. Sull informs E. Romero that J. McIntyre can no longer work with her     |   |
|    | <b>Thursday August 25, 2022</b> |  |   |
| 5. | August 25, 2022 6:38 am         | Email from Eva Romero to H. Sull<br><br>Attached August 25, 2022 Letter    | <i>"Good Morning, Ms. Sull. Please see correspondence attached for your immediate attention and action. Due to the nature of the contents, the severity of the allegations contained therein and the time sensitivity, I must advise that if I do not receive written confirmation from you authorizing the course of action recommended by 4:00 p.m. today, Thursday, August 25, 2022, I have an ethical obligation to the Board as my client to submit the attached</i> |

|    |                          |   |   |
|----|--------------------------|---|---|
|    |                          |   | <p><i>correspondence with exhibits to the Attorney General's Office pursuant to NRCP 1.13(c)(1)&amp;(2) to prevent substantial injury to the organization.</i></p> <p><i>Thank you in advance for your prompt attention and anticipated cooperation. I'm available to you to address any questions or concerns you may have."</i></p> |
| 6. | August 25, 2022 12:43 pm | Email from H. Sull to Dr. Lee forwarding Ms. Romero's Letter  | <p><i>"Dear Dr. Lee,</i></p> <p><i>As we discussed, I did speak to General Counsel last night. I am really concerned about the direction this is going. I am extremely concerned about this and let's arrange a time to speak."</i></p>   |
| 7. | August 25, 2022 1:35 pm  | <p>Email from Dr. Lee to H. Sull cc'ing R. Bordelove</p> <p>H. Sull acknowledges receipt at 1:45 pm and indicates she "will convey this."</p> | Placement of E. Romero on Paid Admin Leave  |
| 8. | August 25, 2022 2:41 pm  | Email from E. Romero to CDAG Bordelove enclosing her August 25 letter   |   |
| 9. | August 25, 2022 2:50 pm  | Email from E. Romero to Board members enclosing her August 25 letter and copying all staff  | <p><i>"As General Counsel, I would ask that you please review the attached letter for your review and knowledge. In short, I have submitted a request to the Attorney General's Office calling for the immediate removal of Board Members Dr. David Lee and Ms.</i></p>   |

|            |                         |  |  |
|------------|-------------------------|--|--|
|            |                         |  | <i>Jana McIntyre pursuant to NRS 232A.030. I wanted to ensure you are all put on notice and receive the truth of what your President and Treasurer have been doing on behalf of the Board.”</i>  |
| <b>10.</b> | August 25, 2022 7:09 pm | Email from E. Romero to GC for Governor’s Office, Kevin Benson | <p><i>“I sent the attached letter to the Board’s Executive Director, Ms. Hardeep Sull, earlier this morning for her review and consideration of the recommendations I made therein regarding the immediate removal of Dr. Lee and Ms. McIntyre pursuant to NRS 232A.030 based on their malfeasance and nonfeasance as discussed in the letter. I am reporting Dr. Lee and Ms. McIntyre on behalf of my client, the Board to which I owe an ethical obligation to prevent substantial injury to the organization pursuant to NRCP 1.13I(1)&amp;(2).</i></p> <p><i>As of 2:45 p.m. this afternoon, Dr. Lee instructed Ms. Sull to place me on paid administrative leave as a result of my recommendations. As such, I am using an alternative email address which is not associated with the Dental Board to correspond with you.”</i></p> |

|                        |                               |  |  |
|------------------------|-------------------------------|--|--|
| <b>See Doc. No. 13</b> | August 25, 2022 7:10 pm       | Email from K. Martinez to H. Sull  | <i>"I want to make it VERY clear I never said I felt harassed by the board members."</i>   |
|                        | <b>Friday August 26, 2022</b> |  |  |
| <b>See Doc. No. 10</b> | August 26, 2022 5:56 am       | Email from H. Sull to Dr. Lee forwarding E. Romero's correspondence to Governor's Office (K. Benson) | <i>"Dr. Lee,<br/><br/>I am sending you this correspondence. I am greatly disturbed by this. If you would like to arrange a time to discuss this, please let me know."</i>  |
| <b>11.</b>             | August 26, 2022 10:08 am      | Email from H. Sull to Dr. Lee  | <i>"Dear Dr. Lee,<br/><br/>As you are aware, we have a quorum on Wednesday, August 31, 2022, however as this agenda is calling for a termination or a constructive discharge, please note that this will have to properly noticed which we are not at the moment in conformity. Moreover, my concern is that this is going to trigger a lawsuit as was the case in Capurro.<br/><br/>This violates NRS 241.031, NRS 241.033 and NRS 241.034. Moreover, I have had a lengthy conversation Ms. Bordelove and I think it would be valuable for the Board to have a litigation counsel from the AG's office so that you all are informed."</i> |

|                        |                                 |   |  |
|------------------------|---------------------------------|---|--|
|                        |                                 |   | <i>Please let me know what you would like me to do."</i>   |
| <b>See Doc. No. 11</b> | August 26, 2022 11:45 am        | Email response from Dr. Lee to H. Sull re her 10:08 am email  | <i>"Thank you,<br/><br/>I am communicating with Ms bordelove about the quorum call and agdena for Wednesday.<br/>As it stands, I expect you to post the agenda for Wednesday evenings meeting and confirm back as soon as the agenda has been posted."</i> |
| <b>See Doc. No. 10</b> | August 26, 2022 11:48 am        | Email response from Dr. Lee to H. Sull re her 5:56 am email<br><br>At 12:52 pm, H. Sull responds: "Thank you for the update." | <i>"Hello,<br/>I am in communication with Ms Bordelove with this matter.<br/>Thank you"</i>  |
| <b>12.</b>             | August 26, 2022 4:07 pm         | Email from J. McIntyre to CDAG Bordelove  | Statement about August 23, 2022 office visit and subsequent discussions with K. Martinec and E. Romero   |
|                        | <b>Saturday August 27, 2022</b> |   |  |
| <b>See Doc. 16</b>     | August 27, 2022 11 am           | H. Sull terminates K. Martinec  |  |
|                        | <b>Monday August 29, 2022</b>   |   |  |
| <b>13.</b>             | August 29, 2022 10:11 am        | Email from K. Martinec to J. McIntyre enclosing her 8/25 email to H. Sull   | This email is forwarded to Dr. Lee at 2:11 pm  |
| <b>14.</b>             | August 29, 2022 12:02 pm        | Email from D. Lee to CDAG Bordelove enclosing his texts to K. Martinec  |  |

|                                |                         |  |  |
|--------------------------------|-------------------------|--|--|
| <b>15.</b>                     | August 29, 2022 6:17 pm | Email from S. Sturgess to Dr. Lee                                  | Expressing “Urgent! Concerns”  |
| <b>16.</b>                     | August 29, 2022 7:23 pm | Email from Dr. Lee to H. Sull re Hiring and Termination            | “I was surprised to find out Karla was let go...”  |
| <b>See Doc. 16</b>             | August 29, 2022 8:50 pm | Email from H. Sull to Dr. Lee re Hiring and Termination            | “You had indicated that the hours that the Board wants everyone working is 8 am to 5 pm. Please note for your records that I communicated both your and Jana’s wishes that everyone must be there from 8 am to 5 pm. Therefore, I could not accommodate her schedule of leaving the Board Office at 3 pm.” |
| <b>Tuesday August 30, 2022</b> |                         |  |  |
| <b>17.</b>                     | August 30, 2022 9:45 am | Email from K. Martinec to J. McIntyre and Dr. Lee with attachments | Timeline of conversations with H. Sull   |
| <b>18.</b>                     | August 30, 2022 4:41 pm | Email from Dr. Lee to H. Sull                                      | H. Sull placed on paid administrative leave  |