

**FILED**

**OCT 22 2018**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY \_\_\_\_\_  
CHIEF DEPUTY CLERK

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

In the Matter of )  
 )  
HEIDI ALMASE, Former Municipal Court )  
Judge, City of Las Vegas, County of Clark, )  
State of Nevada, )  
 )  
Respondent. )

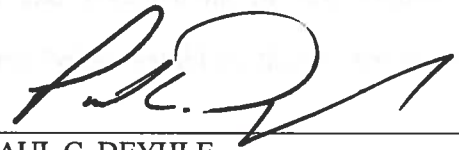
CASE NO. 77227

**CERTIFIED COPY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE**

Pursuant to Commission Procedural Rule 28(2), I hereby certify that the document attached hereto is a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE filed with the Nevada Commission on Judicial Discipline on October 22, 2018.

DATED this 22<sup>nd</sup> day of October, 2018.

STATE OF NEVADA  
COMMISSION ON JUDICIAL DISCIPLINE  
P.O. BOX 48  
CARSON CITY, NV 89702  
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By:   
PAUL C. DEYHLE  
General Counsel and Executive Director  
Nevada Bar No. 6954

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**OCT 22 2018**  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK



BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STATE OF NEVADA

In the Matter of	)	
	)	
HEIDI ALMASE, former Municipal Court Judge, City of Las Vegas, County of Clark, State of Nevada,	)	CASE NO. 2017-099-P
	)	
Respondent.	)	
	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE**

Pursuant to prior written notice, the above-entitled matter was set for a formal, two-day public hearing in Las Vegas, Nevada, pursuant to NRS 1.467 and Commission Procedural Rule 18, commencing on October 2, 2018, before the Nevada Commission on Judicial Discipline (hereinafter, the "Commission"), regarding the allegations against former Municipal Court Judge Heidi Almase (hereinafter, "Respondent") for violations of the Revised Nevada Code of Judicial Conduct (hereinafter, the "Code"). The hearing concluded in two hours and ten minutes.

Kathleen Paustian, Esq. served as the Prosecuting Officer to the Commission (hereinafter, the "Prosecuting Officer") and was present. Respondent represented herself and was present. During the hearing, the Commission considered all evidence and testimony presented.

This document contains the findings of fact and conclusions of law contemplated by Commission Procedural Rule 28. The findings set forth below establish that Respondent violated multiple sections of the Code.

**A. FINDINGS OF FACT**

The Commission finds that the legal evidence presented by the Prosecuting Officer at the hearing clearly and convincingly established each of the following facts set forth in Paragraphs 1 through 2 below:

1. Respondent was, at all times applicable to the allegations contained in the Formal Statement of Charges, a Municipal Court Judge for the Las Vegas Municipal Court located in Clark County, Nevada, and whose conduct was subject to the Code.

1           2.       The factual allegations in Count One of the Formal Statement of Charges regarding  
2 Respondent’s actions with respect to her re-election campaign’s Facebook posts, have been proven by  
3 clear and convincing evidence.

4           The credible evidence established that in 2017, Respondent ran for a second term as a  
5 Municipal Court Judge. Respondent was initially represented in her bid for re-election by David  
6 Thomas, Esq. After Mr. Thomas withdrew from representing Respondent, she entered into an  
7 Independent Contractor Agreement and Addendum (collectively, the “Contract”) with Jennifer C.  
8 Barrier, dated April 10, 2017, for campaign management.<sup>1</sup> Respondent testified that she did not know  
9 Ms. Barrier well prior to entering into a contractual relationship with her,<sup>2</sup> and did not inquire about or  
10 check references from other judicial candidates that had worked with Ms. Barrier in the past while she  
11 was engaged by Mr. Thomas as an independent contractor. (*See* Transcript, p.20, ln.20 to p.21, ln.17).  
12 Respondent further testified that she gave Ms. Barrier and her graphic artist, Kari Banks, access to  
13 Respondent’s campaign Facebook page shortly after signing the Contract with Ms. Barrier. (*Id.* at p.21,  
14 ln.18 to p.22, ln.8).

15           The credible evidence further established that Ms. Barrier informed Respondent that she had a  
16 “surprise” for her. Respondent testified that when she went to Ms. Barrier’s office on June 6, 2017,  
17 between 10 a.m. and noon, Ms. Barrier again stated that “she had used her family contacts to do  
18 something very special for the campaign. It was going to set us apart, ....” (*Id.* at p.22, ln.17 to p.23,  
19 ln.3). The evidence demonstrates that not only did Ms. Barrier fail to explain any of the specific details  
20 of the “surprise” to Respondent, Respondent likewise never questioned or further inquired about the  
21 “surprise” prior to leaving Ms. Barrier’s office that day. (*Id.* at p.22, ln.23 to p.23, ln.3).

22           Later that same day, Ms. Barrier posted a photoshopped image of the actor Dwayne Johnson,  
23 known as “the Rock”, standing side-by-side with Respondent in her judicial robe on Respondent’s  
24 official campaign Facebook page. The image was captioned: “It just makes sense: Re-Elect Judge Heidi  
25 Almase” and identified Mr. Johnson, including his signature (hereinafter referred to as the “Rock

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26  
27 <sup>1</sup> Respondent testified that the Contract with Ms. Barrier did not require Respondent’s approval of social media material  
28 prior to being posted. (Hearing Transcript, dated October 2, 2018 (“Transcript”), p.19, ln.23 to p.20, ln.1; *see also* Hearing  
Exhibit 2, Contract, bates stamped 015-019).

<sup>2</sup> Respondent only knew Ms. Barrier for 4 months prior to entering into the Contract. Respondent met Ms. Barrier in  
December of 2016 and entered into the Contract with her in April of 2017. (Transcript, p.18, lns.19-22; p.20, lns.6-19).

1 Post”). (See Hearing Exhibit 1, bates stamped 007; Transcript, p.23, ln.7 to p.24, ln.21). Respondent  
2 testified that she first saw the Rock Post in the late afternoon or early evening of June 6, 2017, and  
3 subsequently called Ms. Barrier to ask her about it. Ms. Barrier explained to Respondent her  
4 relationship with Mr. Johnson and her intentions to use his image in the campaign. (Transcript, p.24,  
5 ln.22 to p.25, ln.23).

6 Respondent further testified that during her call with Ms. Barrier, Respondent did not ask if Ms.  
7 Barrier had obtained the written release from Mr. Johnson to use his image, likeness and signature, but  
8 rather relied on Ms. Barrier’s representation that she had obtained Mr. Johnson’s “verbal permission.”  
9 (*Id.* at p.28, ln.17 to p.29, ln.1; p.30, lns.5-9). Later that evening on June 6, 2017, Respondent posted  
10 the following comment on her campaign Facebook page related to the Rock Post: “I’m ‘almost’ taller  
11 than him. Almost” (the “Rock Comment”) (Hearing Exhibit 3, Las Vegas Review Journal Article dated  
12 June 7, 2017, bates stamped 021; Transcript, p.29, ln.2 to p.30, ln.4).

13 On June 7, 2017, the Las Vegas Review Journal (“Review Journal”) ran an article about  
14 Respondent’s Rock Post and Rock Comment, in which the reporter asked Ms. Barrier if she had  
15 authority to post the image of Mr. Johnson. The article stated that Ms. Barrier replied that she was  
16 “...waiting on a written authorization to use his photo, ....” (Hearing Exhibit 3, bates stamped 022).  
17 Ms. Barrier removed the Rock Post from Respondent’s campaign Facebook page in the early morning  
18 of June 7, 2017, after Ms. Barrier spoke to the Review Journal reporter. (Transcript, p.35, ln.8 to p.37,  
19 ln.21). Subsequently, Respondent testified that she terminated Ms. Barrier via email. (*Id.* at p.36, ln.25  
20 to p.38, ln.15; *see also* Hearing Exhibit 1, June 8, 2017 email from Respondent to Ms. Barrier, bates  
21 stamped 011). Respondent later apologized for the Rock Post in a Press Release dated June 9, 2017.  
22 (Hearing Exhibit 1, bates stamped 012-013; *see also* Transcript, p.50, ln.20 to p.51, ln.1). That same  
23 day, she also self-reported these actions to the Commission. (Hearing Exhibit 1, Self-Reporting Letter).  
24 Respondent lost the election to her opponent.

25 The Commission finds that the Rock Post was a false and misleading statement made  
26 knowingly, or with reckless disregard for the truth, by Respondent’s campaign representatives in  
27 violation of Code Rule 4.1(A)(11). The evidence clearly demonstrates that Respondent never met Mr.  
28 Johnson. (Transcript, p.30, lns.10-15). Accordingly, Respondent knew immediately, upon seeing the

1 Rock Post, that it was not only a photoshopped image of her with a famous actor, but also entirely false  
2 on its face. Respondent even testified that she was concerned that the Rock Post appeared to be an  
3 endorsement of her re-election campaign. (Transcript, p.51, lns.7-12; *see also* Hearing Exhibit 1, Self-  
4 Reporting Letter, bates stamped 001).

5 Furthermore, the Rock Post occurred very close to the actual election. In fact, early voting had  
6 already begun. (Transcript, p.52, lns.17-24). Thus, the Commission finds that the Rock Post  
7 improperly misled the public into believing that Mr. Johnson had indeed endorsed Respondent's  
8 campaign.<sup>3</sup> Despite the misleading nature and falsity of the Rock Post, as well as Respondent's own  
9 expressed concerns, Respondent subsequently posted the Rock Comment<sup>4</sup> to her campaign Facebook  
10 page. The Commission finds that the Rock Comment was an improper confirmation and ratification of  
11 the earlier false Rock Post, thereby further misleading the public.

12 The Commission also finds that Respondent did not take reasonable measures to ensure that her  
13 campaign representatives complied with the Code in violation of Code Rule 4.1(B). The evidence  
14 clearly demonstrates that (i) Respondent's Contract with Ms. Barrier did not contain any restrictions on  
15 the posting of social media materials, such as obtaining prior approval of Respondent,<sup>5</sup> (ii) Respondent  
16 did not discuss with her campaign representatives the constraints and prohibitions of the Code as it  
17 relates to judicial campaigns,<sup>6</sup> and (iii) Respondent failed to properly supervise her campaign  
18 representatives.<sup>7</sup>

19 Respondent testified that she did not know Ms. Barrier well. Despite this, however, Respondent  
20 provided Ms. Barrier and Ms. Banks, in essence, carte blanche and unsupervised access to her  
21 campaign Facebook page. Ms. Barrier informed Respondent that she had a "surprise" which would set  
22 the campaign apart, thus putting Respondent on notice that Ms. Barrier would be imminently taking a  
23 certain undisclosed action. Nevertheless, Respondent neither inquired about the "surprise" nor asked to

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24 <sup>3</sup> See Hearing Exhibit 3, bates stamped 021 (identifying public comments to the Rock Post).

25 <sup>4</sup> See p.3, lns.10-11, *supra*.

26 <sup>5</sup> Although Code Rule 4.2(A)(3) was not charged in this case, it is instructive in that it requires judicial candidates to  
"review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign  
committee, as authorized by Rule 4.4, before their dissemination, ...." Code Rule 4.2(A)(3).

27 <sup>6</sup> See Transcript, p.58, ln.4 to p.60, ln.1.

28 <sup>7</sup> Respondent testified that she failed to properly supervise Ms. Barrier as her campaign manager. (Transcript, p.51, lns.13-  
22). Respondent further testified that "... I wish in the heat of the campaign that I had asked for all of the things that [the  
Prosecuting Officer] has pointed out. I wish that I could go back, but I can't." (Transcript, p.54, lns.15-18).

1 review and approve it prior to implementation. Respondent simply trusted Ms. Barrier that she had  
2 “verbal permission” from Mr. Johnson. (Transcript, p.30, lns.5-9).

3 The Commission finds that it was inappropriate under the circumstances for Respondent to not  
4 further question Ms. Barrier’s representation that she had “verbal permission” from Mr. Johnson,  
5 particularly since the very explanation given to Respondent by Ms. Barrier, which formed the basis of  
6 her reliance, was significantly vague and lacked any degree of specificity.<sup>8</sup> Reliance upon such “verbal  
7 permission” of an internationally renowned actor from a person Respondent hardly knew did not equate  
8 to taking reasonable measures to ensure that the Rock Post complied with the Code.

9 The Commission also finds that Respondent did take remedial steps once she believed that Ms.  
10 Barrier did not have Mr. Johnson’s permission to post the Rock Post by, among other things,  
11 terminating Ms. Barrier, subsequently posting an apology on Facebook, and self-reporting to the  
12 Commission. Nevertheless, the Commission found it troubling under the circumstances that  
13 Respondent did not direct Ms. Barrier to immediately take down the Rock Post upon first becoming  
14 aware of it, and then, shortly thereafter, posted her Rock Comment.

15 On May 2, 2018, Respondent filed her Verified Response and Answer (hereinafter, “Answer”)  
16 to the Formal Statement of Charges, in which she admitted that she violated: Canon 1, Rule 1.2, failing  
17 to promote public confidence in the independence, integrity and impartiality of the judiciary, avoiding  
18 impropriety and the appearance of impropriety;<sup>9</sup> Canon 4, Rule 4.1(B), requiring a judge or judicial  
19 candidate to take reasonable measures to ensure that other persons do not undertake, on behalf of the  
20 judge or judicial candidate, any activities prohibited under paragraph (A) of Rule 4.1;<sup>10</sup> and Canon 4,  
21 Rule 4.4(A), subjecting campaign representatives to the provisions of the Code and mandating that the

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22  
23 <sup>8</sup> See Transcript, p.24, ln.22 to p.25, ln.23. Ms. Barrier’s explanation to Respondent appeared to lack a reasonable degree of  
24 certainty that Mr. Johnson was sufficiently informed (if at all) of Ms. Barrier’s intention to use his image, likeness and  
25 signature to endorse a candidate with whom he never met or knew. While Mr. Johnson’s alleged “anything for you”  
26 response was apparently sufficient for Ms. Barrier to move forward, that should not have been adequate for Respondent.  
27 The Commission notes that an internationally renowned actor would likely require written authorization to use his image  
28 and likeness. Even in Respondent’s own Self-Reporting Letter, Respondent stated, “[i]t did not occur to me to ask if she  
had cleared the image or obtained additional written releases.” (Hearing Exhibit 1, bates stamped 002; see also Transcript,  
p.28, lns.17-21). Respondent, as a judge and lawyer, should have taken more reasonable measures to ensure that the Code  
was not violated; particularly given that she was previously involved in an election campaign when she was first elected,  
served on the bench for 6 years, and had previously served as an alternate judicial Commissioner for the Commission.

<sup>9</sup> Respondent also testified that the Rock Post was improper. (Transcript, p.51, ln.23 to p.52, ln.7).

<sup>10</sup> Respondent further testified that she failed to properly supervise her campaign representatives by not reviewing and  
approving materials that were to be posted on her campaign Facebook page. (Transcript, p.51, lns.13-22).

1 candidate be responsible for ensuring that her campaign representatives comply with applicable  
2 provisions of the Code.<sup>11</sup> In her Answer, Respondent denied violating Canon 1, Rule 1.1, failing to  
3 comply with the law, including the Code,<sup>12</sup> and Canon 4, Rule 4.1(A)(11), knowingly or with reckless  
4 disregard for the truth, make any false or misleading statement.<sup>13</sup>

5 **B. CONCLUSIONS OF LAW**

6 1. As to Count One of the Formal Statement of Charges, the Commission finds that the  
7 Prosecuting Officer has proven by clear and convincing evidence that Respondent's actions constitute  
8 violations of Canon 1, Rules 1.1 and 1.2; and Canon 4, Rules 4.1(B) and Rule 4.4(A).

9 2. The Commission has both personal jurisdiction over Respondent and subject matter  
10 jurisdiction over the violations of the Code at issue in this case.

11 **C. IMPOSITION OF DISCIPLINE**

12 In consideration of the totality of Respondent's actions and violations of the Code, the  
13 Commission concludes that the appropriate discipline under Commission Procedural Rule 28 shall be  
14 as follows:

15 By unanimous vote of the Commission, after due deliberation and consideration of the evidence  
16 presented, Respondent's lack of prior discipline by the Commission, and the remedial steps taken by  
17 the Respondent; but nevertheless, in light of the seriousness of Respondent's campaign making a false  
18 and misleading campaign statement, Respondent commenting on the same and only removing the  
19 statement after reports in the media surfaced, it is decided that pursuant to subsections 5(a) and (b) of  
20 Article 6, Section 21 of the Constitution of the State of Nevada, NRS 1.4653(1) and (2), NRS  
21 1.4677(1)(a), and Commission Procedural Rule 28, Respondent shall hereby be publicly reprimanded  
22 for having committed the acts as fully set forth above.

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<sup>11</sup> See Transcript, p.7, lns.6-8.

25 <sup>12</sup> Code Rule 1.1 is violated if a judge fails to "comply with the law, including the Code of Judicial Conduct" (emphasis  
added). Respondent admitted in her Answer and in her testimony before the Commission that she violated multiple Code  
Rules. Accordingly, by implication, Code Rule 1.1 is also violated.

26 <sup>13</sup> The Commission finds that Rule 4.1(A)(11) applies only to Respondent's actions, not to Respondent's campaign  
27 representatives. However, Code Rules 4.1(B) and 4.4(A) mandate that Respondent take reasonable measures to ensure that  
28 other persons do not violate the Code on her behalf, and that Respondent is responsible for her campaign representative's  
Code violations. Accordingly, by virtue of the violation of Code Rule 4.1(A)(11) by Respondent's campaign  
representatives, which the Commission thus finds, the Respondent has therefor violated Rules 4.1(B) and 4.4(A). In her  
Answer, Respondent admitted to violating Code Rules 4.1(B) and 4.4(A), in addition to Code Rule 1.2.

1           The primary purpose of the Revised Nevada Code of Judicial Conduct is the protection of the  
2 public, not the punishment of judges. The Commission protects the public by instilling confidence in  
3 the integrity of the judicial system in Nevada, as public trust is essential to the administration of justice.  
4 In carrying out this duty, the law provides the Commission a broad range of disciplinary measures to be  
5 imposed which include, but are not limited to, removal from office, suspensions, fines, educational  
6 requirements, public reprimands, etc. The imposition of discipline further serves the function of  
7 discouraging future misconduct by the disciplined judge as well as the judiciary as a whole.

8           The Commission takes this opportunity to remind judicial candidates that campaign-related  
9 social media platforms, such as Facebook, maintained by a campaign committee or others, do not  
10 insulate them from the strictures of the Code. A judicial candidate is responsible for reviewing and  
11 approving all campaign statements and materials, irrespective of who produced them, prior to their  
12 dissemination, and for taking reasonable measures to ensure others do not conduct activities on their  
13 behalf that they themselves are prohibited from doing under the Code.

14           A judicial candidate's knowledge of a false or misleading statement, the reasonableness of  
15 preventative measures taken by such candidate to ensure compliance with the Code by their campaign  
16 committees and staff, as well as the timeliness of taking corrective action on false and misleading  
17 campaign information disseminated to the public, are important factors in assessing a judicial  
18 candidate's commitment and adherence to the Code. Accordingly, based on the foregoing, the  
19 discipline imposed against Respondent is justified based upon the facts of the case, the seriousness of  
20 the offenses involved, and consideration of mitigating circumstances.

21           **D. ORDER**

22           IT IS HEREBY ORDERED by unanimous vote of Chair Gary Vause, Vice Chair Stefanie  
23 Humphrey, Commissioners Karl Armstrong, Esq., Bruce Hahn, Esq., Joseph Sanford, the Honorable  
24 Mason Simons, and the Honorable Thomas Armstrong that Respondent be, and hereby is, publicly  
25 reprimanded for violations of Judicial Canon 1, Rule 1.1, requiring Respondent to comply with the law,  
26 including the Code, and Rule 1.2, failing to promote public confidence in the independence, integrity  
27 and impartiality of the judiciary, avoiding impropriety and the appearance of impropriety; and Canon 4,  
28 Rule 4.1(B), requiring a judge or judicial candidate to take reasonable measures to ensure that other



1 persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under  
2 paragraph (A) of Rule 4.1, and Rule 4.4(A), subjecting campaign representatives to the provisions of  
3 the Code and mandating that the candidate be responsible for ensuring that her campaign  
4 representatives comply with applicable provisions of the Code.

5 IT IS FURTHER ORDERED by unanimous vote that the Chairman is authorized to sign this  
6 document on behalf of all voting Commissioners.

7 DATED this 22<sup>nd</sup> day of October, 2018.

8  
9 STATE OF NEVADA  
10 COMMISSION ON JUDICIAL DISCIPLINE  
11 P.O. Box 48  
12 Carson City, NV 89702

13 By:   
14 GARY VAUSE  
15 COMMISSION CHAIRMAN  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline and  
3 that on the 22<sup>nd</sup> day of October, 2018, I served a copy of the **FINDINGS OF FACT, CONCLUSIONS**  
4 **OF LAW AND IMPOSITION OF DISCIPLINE** by email and U.S Mail, postage paid, addressed to  
5 the following:

6 Heidi Almase, Esq.  
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16 \_\_\_\_\_  
17 Tarah L. Hansen, Commission Clerk  
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