

Exhibit “BB”

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AARON D. FORD
Attorney General

CRAIG A. NEWBY
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General

TERESA BENITEZ-
THOMPSON
Chief of Staff

LESLIE NINO PIRO
General Counsel

HEIDI PARRY STERN
Solicitor General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101

February 8, 2023

Via Electronic mail

James E. Shapiro, Esq.
333 E. Serene Ave., Suite 130
Henderson, NV 89117
jshapiro@smithshapiro.com

**Re: Thomas Maher
Case No. NVMT-C-21086**

Dear Mr. Shapiro:

I am in receipt of your January 20, 2023 letter and follow up phone call and email on January 30, 2022, where you express you have "grave concerns" regarding Mr. Maher's matter in front of the Board.

First, as you stated, I was initially handling this matter on behalf of the Board. Mr. Maher was sent a Complaint to appear in front of the Board on August 10, 2022. You requested a continuance that was granted. Subsequently, you and I agreed to an Initial Settlement that would be presented to the Board for approval at its next meeting scheduled for October 26, 2022.

At the meeting on October 26, 2022, the Board rejected the Initial Settlement. You are welcome to request the recording of this meeting as to why the Board rejected the Initial Settlement. The Board never mentioned Mr. Lisa's alleged testimony. In fact, you will see that I asked the Board for guidance and the Board simply responded that the proposed agreement was not acceptable when considering the allegations.

Further, merely because Mr. Lisa's reconsideration request was before the Board at the same meeting is not evidence of anything promised to him. To address whether the Board "strong armed" him into any testimony against Mr. Maher, you are well aware that the Board does not need to go to these lengths. The Board can simply subpoena Mr. Lisa. In fact, Mr. Lisa's agenda item occurred AFTER the Board rejected the Initial Settlement.

As an attorney, you should be well aware of respondents' failure to appear resulting in default hearings. The Order clearly reflects Mr. Lisa was given proper notice at his last known address and he failed to appear. NRS 622A.350(2) legally permits the Board to accept the allegations as true.

However, the Board did actually hear testimony from Mr. Lisa's client to support the allegations. You may not agree, but the Board acted appropriately.

As an attorney, you should also be well aware of due process. The Board did not agree to schedule a new hearing because Mr. Lisa did not receive notice. Instead, Mr. Lisa timely exercised his right to petition reconsideration of the Board's Order under NRS 622A.390. Therefore, your assessment that the Board scheduled a new hearing and that the Board entertained a hearing on October 26, 2022 is incorrect. You were provided with the Board's Order as a result of Mr. Lisa's petition for reconsideration that accurately reflects this, and so does the minutes.

You also inaccurately allege that Mr. Lisa was promised a reduced sentence or even "strong armed" into testifying against Mr. Maher. Again, as you are aware even from our own negotiations, I cannot promise anything. Only the Board has the authority to issue an order or revise an order. Mr. Lisa's sentence was not *substantially* reduced. He is still required to pay his fine and attend his classes. He was still suspended from August 10, 2022 until October 26, 2022. All of this is on his permanent record. As the Order reflects, he received a reduction in suspension ONLY. I requested this reduction for the reason I already explained. For Mr. Lisa's privacy, the reason wasn't stated on record. If you believe otherwise, you are welcome to address that with the Board at Mr. Maher's hearing.

Pursuant to NRS 233B and NRS 241, the Board is not permitted to discuss or hear information outside of a meeting or hearing that they will ultimately decide. I'm sure you did not intend to accuse the Board of acting outside of their oath of office, but to be clear, the Board is unaware of any alleged discussions with Mr. Lisa regardless of what you claim. All the information the Board has is what was presented to them during the meeting. Neither the minutes nor the recording reflects that they were informed of any alleged agreements with Mr. Lisa.

Regarding the roles of Board counsel and prosecutor, Ms. Platt and I act as either at different times. During a hearing, Board counsel's role is to advise the Board as to law and procedure, and do not provide evidence or substantive information. Therefore, even though Ms. Platt took over prosecuting this matter for the January board meeting, none of her prosecuting information is given to the Board. You witnessed the role of Board counsel at the January meeting. Ms. Platt will not be present for this matter in March.

Last, in line with the Board's current practice, the hearing will be conducted via Zoom. Nothing prohibits the Board from conducting administrative hearings by videoconference. Such hearings are expressly permitted under Nevada law if conducted in a manner that complies with all applicable statutory requirements and affords *minimal* due process protections for licensees. *See* NRS 241.

Administrative hearings by videoconference, when conducted appropriately, have withstood due process challenges. *See, e.g., Vilchez v. Holder*, (682 F.3d 1195, 1199 (9th Cir. 2012) (immigration hearing); *Kroupa v.*

Thomas Maher, NVMT-C-21086
Page 3
February 8, 2023

Indus. Claim Appeals Office, 53 P.3d 1192, 1195 (Colo. App. 2002) (workers' compensation hearing). You are still able to confront witnesses and provide your own. The Board is able to receive evidence and documents. However, you are welcome to motion for the Board to do otherwise.

In conclusion, as the prosecutor, I can bring my cases how I see fit, to use what witnesses I see fit, and to combine cases if I see fit. You are welcome to make your objections to the Board when appropriate.

Sincerely,

/s/ Sophia G. Long _____

Sophia G. Long

Senior Deputy Attorney General

(702) 486-3165

slong@ag.nv.gov