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BY HAND DELIVERY

Jeff S. Jordan
Supervisory Attorney
Complaints Examination &
Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 6795
Citizens for Responsibility and Ethics in Washington
Melanie Sloan

Dear Mr. Jordan:

This response, including attached exhibits, is submitted on behalf of Citizens for Responsibility and Ethics in Washington ("CREW") and Melanie Sloan, both individually and as Executive Director of CREW, in response to a complaint filed by Mr. Jonathon Moseley on March 13, 2014. It is difficult to tell from Mr. Moseley's rambling and incoherent complaint exactly how he believes that CREW and/or Ms. Sloan violated the Federal Election Campaign Act ("FECA") or Federal Election Commission ("FEC" or "the Commission") regulations.

Mr. Moseley appears to be arguing that CREW and/or Ms. Sloan somehow violated 11 C.F.R. § 109.10(b)&(c) by failing to report as independent expenditures various public statements that CREW and/or Ms. Sloan made with regard to complaints that CREW filed against Ms. Christine O'Donnell and Friends of Christine O'Donnell with the Commission and the U.S. Attorney for Delaware. Complaint at ¶¶ 29-54, 69-72. Alternatively, Mr. Moseley appears to be arguing that CREW is a political committee that violated 11 C.F.R. § 104.4 by failing to report these same public statements as independent expenditures. Complaint at ¶ 73. Finally, Mr. Moseley appears to be arguing that, as a political committee, CREW violated 11 C.F.R. § 102.8 by failing to report contributions it received from the general public. Complaint at ¶ 74.

Mr. Moseley is, to say the least, a vexatious litigant. This complaint is only the latest in a series of frivolous complaints that Mr. Moseley has filed against CREW and/or Ms. Sloan in retaliation for the complaints the organization filed against Ms. O'Donnell. More importantly, Mr. Moseley's bizarre interpretation of the Commission's independent expenditure regulations is patently ridiculous and flies in the face of both FEC regulations and long-standing FEC precedents governing independent expenditures. For the reasons set forth in greater detail below,

CREW and Ms. Sloan respectfully request that the Commission dismiss the complaint after determining that there is no reason to believe that either CREW or Ms. Sloan committed any violation of FECA or FEC regulations.

Jonathon Moseley Has a Long Record of Making False Statements and Filing Frivolous Complaints with the Intent to Harass Others

In his complaint, Mr. Moseley notes that he is an attorney licensed in the Commonwealth of Virginia. Complaint at ¶ 6. In 2009, the Virginia State Bar suspended Mr. Moseley's license to practice law for six months for multiple violations of the Virginia Rules of Professional Conduct that require candor and prohibit attorneys from filing suit or taking any other action intended to harass or maliciously injure another. *Virginia State Bar ex rel Seventh District Committee v. Jonathan Alden Moseley*, CL52390, VSB Docket No. 05-070-1200 (July 29, 2009)(attached hereto as Exhibit 1).

In that disciplinary proceeding, the Court found that the Virginia State Bar had proven by clear and convincing evidence that Mr. Moseley had committed two violations of Virginia Rule 3.3(a)(1)(a lawyer shall not knowingly make a false statement of fact or law to a tribunal), two violations of Virginia Rule 4.1(a)(a lawyer shall not knowingly make a false statement of fact or law to others) and one violation of Virginia Rule 3.4(j)(a lawyer shall not file suit, initiate criminal charges, assert a position, conduct a defense, delay a trial or take other action when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another). See Exhibit 1.

MUR 6795 is merely the latest example of the frivolous complaints that Mr. Moseley has filed against CREW and Ms. Sloan with various state and federal agencies in an obvious attempt to harass and intimidate them in retaliation for complaints that they filed against Ms. Christine O'Donnell and Friends of Christine O'Donnell in 2010. On September 20, 2010, CREW and Ms. Sloan filed complaints, based on the sworn affidavit of an O'Donnell campaign staffer, with both the FEC and the U.S. Attorney for Delaware alleging that Ms. O'Donnell had converted campaign funds to personal use in violation of 2 U.S.C. § 439a(b)(2)(hereinafter "the September 20th complaints"). *See* MUR 6380. Mr. Moseley was an attorney for Friends of Christine O'Donnell on the day the September 20th complaints were filed. He has been harassing CREW and Ms. Sloan with frivolous complaints to various state and federal agencies ever since.

On June 8, 2011, Mr. Moseley filed a similarly long and rambling complaint against Ms. Sloan with the District of Columbia Office of Bar Counsel alleging that she violated District of Columbia Rules of Professional Responsibility 3.1, 3.3(a)(2) and Rule 8.4(c) by filing frivolous complaints against Ms. O'Donnell with the Commission and the U.S. Attorney for Delaware (attached hereto as Exhibit 2). Then, as now, Mr. Mosley argued that the two complaints were not based on Ms. Sloan's good faith belief, based on the sworn affidavit of an O'Donnell

campaign staffer, that Ms. O'Donnell had committed multiple violations of 2 U.S.C. § 439a(b)(2), but instead were part of a sinister plot to "materially influence[] the U.S. Senate election in Delaware in 2010." Exhibit 2 at ¶ 12.

The District of Columbia Office of Bar Counsel categorically rejected Mr. Moseley's allegations that Ms. Sloan had filed frivolous complaints against Ms. O'Donnell with the FEC and U.S. Attorney for Delaware. "We find in both instances that the complaints are: (1) a party's beliefs based on information available to them that a wrong has been committed and (2) a request for an investigation by the appropriate authoritative body. In each instance it is sufficient that the party requesting the information have a good-faith belief that a wrong has been committed." *In re Sloan/Mosley*, Bar Docket No. 2011-D229 at 2 (December 14, 2011)(attached hereto as Exhibit 3).

Having failed with this argument before the District of Columbia Office of Bar Counsel, Mr. Moseley has simply repackaged the same allegations in the complaint in MUR 6795. The only difference between the two complaints is that Mr. Moseley is now advocating a bizarre legal theory that public statements Ms. Sloan made regarding the September 20th complaints are somehow independent expenditures under FECA.

Finally, it should be noted that this is not the first frivolous complaint that Mr. Moseley has filed with the Commission. In MUR 6525, Mr. Moseley alleged that Friends of Christine O'Donnell owed him $5,058.55 for services he provided to the campaign and that, by refusing to pay him this amount, the Committee was attempting to convert the alleged unpaid debt into an excessive, involuntary campaign contribution. In response, Cleta Mitchell, counsel for Friends of Christine O'Donnell, argued that the Committee did not owe anything to Mr. Moseley and characterized Mr. Mosley's complaint as "false, baseless, frivolous, without merit and is part on [sic] an ongoing campaign being waged by Moseley to attack, harass and stalk Christine O'Donnell, and is filed by an individual with a history of making false and frivolous claims. The Complaint should be dismissed with no further action by the Commission." Response and Motion to Dismiss Complaint at 6. The Office of General Counsel scored MUR 6525 as a low-rated matter and recommended the Commission exercise its prosecutorial discretion and dismiss MUR 6525. General Counsel's Report at 1. The Commission voted 6-0 to follow the Office of General Counsel's recommendation.

Ms. Mitchell's characterization of Mr. Mosley's complaint in MUR 6525 is equally applicable to his complaint in MUR 6795. It is false, baseless, frivolous, without merit and is part of an ongoing campaign being waged by Mr. Moseley to attack and harass CREW and Ms. Sloan. It should be treated by the Commission in exactly the same way and be dismissed without any further action by the Commission.

None of the Public Statements Made by CREW or Ms. Sloan Regarding the September 20th Complaints Constitute Independent Expenditures Under FECA or FEC Regulations

Mr. Moseley's complaint in MUR 6795 is premised entirely on a bizarre legal theory. He alleges that because Ms. Sloan receives a salary from CREW as its Executive Director, any public statement she made in the course of her employment with CREW regarding the September 20th complaints somehow constitutes an independent expenditure that must be reported to the Commission under either 11 C.F.R. § 109.10(b)&(c) or 11 C.F.R. § 104.4. Complaint at ¶¶ 63-65. Mr. Moseley cites no precedent for this incredibly expansive interpretation of 2 U.S.C. § 431(17) because he cannot. The Commission has never interpreted the term "independent expenditure" to include public statements made by an employee in the normal course of their employment. To do so would be to sweep the vast majority of political discourse in the United States under the Commission's independent expenditure reporting requirements. The law is simply nowhere near that broad. This allegation is nothing more than another example of Mr. Moseley's proclivity to make false statements of law to a tribunal in the course of filing frivolous complaints designed to harass those he deems responsible for the failure of Ms. O'Donnell's 2010 Senate campaign.

Even if the payment of Ms. Sloan's salary could be construed as an expenditure in connection with a federal election, Mr. Moseley's complaint would still fail because none of the public statements Ms. Sloan made regarding the September 20th complaints meets the definition of an independent expenditure under FECA or FEC regulations.

Mr. Moseley complains specifically about five categories of public statements that CREW or Ms. Sloan made with regard to the September 20th complaints: (1) the September 20th complaints, press releases and reports that refer to the September 20th complaints (Complaint at ¶¶ 26-29, 34-37, 47-48), (2) statements made by Ms. Sloan regarding the September 20th complaints while she was a guest on various news programs on CBS, CNN and MSNBC (Complaint at ¶¶ 30-33), statements made by Ms. Sloan to various print reporters regarding the allegations contained in the September 20th complaints (Complaint at ¶¶ 41-42), (4) an op-ed by Ms. Sloan that appeared in the *Wilmington News Journal* that explained the factual basis for the allegations in the September 20th complaints (Complaint at ¶¶ 43-46), and (5) an e-mail that CREW sent to its supporters on September 21, 2010 asking them to sign a petition requesting that the U.S. Attorney investigate Ms. O'Donnell for multiple violations of 2 U.S.C. § 439a(b)(2) (Complaint at ¶¶ 49-54).

Mr. Moseley contends that all of these public statements are independent expenditures under 11 C.F.R. § 100.22(b) because *he* interprets them as advocating the defeat of Ms. O'Donnell in her 2010 Senate race. Unfortunately for Mr. Moseley, that is not the test for express advocacy under

11 C.F.R. § 100.22(b). Section 100.22(b) defines the term "expressly advocating" to include any communication that "[w]hen taken as a whole and with limited reference to external events . . . could *only* be interpreted by *a reasonable person* as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because (1) The electoral portion of the communication is *unmistakable, unambiguous and suggestive of only one meaning*; and (2) *Reasonable minds could not* differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or *encourages some other kind of action*. 11 C.F.R. § 100.22(b)(emphasis added).

Accordingly, if the statements complained of by Mr. Moseley could be interpreted by a reasonable person as calling for some action *other than* the defeat of Ms. O'Donnell they do not constitute independent expenditures under 11 C.F.R. § 100.22(b). While Mr. Moseley interprets these statements as expressly advocating the defeat of Ms. O'Donnell, a *reasonable* person could - and most likely would - interpret them as exactly what they are – a request for the Commission and the U.S. Attorney for Delaware to investigate Ms. O'Donnell for multiple violations of 2 U.S.C. § 439a(b)(2).

For example, Mr. Moseley makes much of an e-mail that CREW sent to its supporters on September 21, 2010. Complaint at 49-54 and Complaint Exhibit J). The e-mail reads in its entirety as follows:

> Dear Supporter,
>
> We have received an overwhelming response to our call for a criminal investigation into Delaware Senate candidate Christine O'Donnell, and I wanted to take a moment to thank you all for your support.
>
> After extensive research and lengthy discussions with David Keegan, who served as a senior financial advisor to the O'Donnell campaign, we learned Ms. O'Donnell had stolen tens of thousands of dollars from her campaign. I felt we had a civic duty to bring these matters to the attention of the authorities as soon as possible. The complaints CREW filed against Ms. O'Donnell with the United States Attorney and the Federal Election Commission have nothing to do with her politics and everything to do with the fact that she is a crook.
>
> In short, there are only two differences between Ms. O'Donnell and the grocery clerk who helps himself to an extra $20 bill from the cash register just before closing. First, Ms. O'Donnell stole on a much larger scale, and second, she hasn't had a job in years.

CREW has always been an equal opportunity antagonist when it comes to highlighting corrupt politicians. The last thing the country needs is for one of today's Crooked Candidates to grow up and become one of tomorrow's Most Corrupt Members of Congress.

Looking for ways to help CREW build a better Washington?

- We ask that you sign our petition asking U.S. Attorney for Delaware David C. Weiss to investigate Ms. O'Donnell's campaign spending;
- Keep telling your friends about the work we're doing here at CREW;
- And, if possible, please donate so that we continue the work of building a better Washington.

Thank you once again,

Melanie Sloan

Complaint Exhibit J.

To Mr. Moseley, that e-mail expressly advocates the defeat of Christine O'Donnell. To any *reasonable person*, however, it is exactly what it appears on its face to be – a request to sign a petition asking the U.S. Attorney for Delaware to conduct a criminal investigation of Ms. O'Donnell and a request for contributions to CREW. The public statements by CREW and Ms. Sloan that Mr. Moseley complains of simply do not meet the 11 C.F.R. § 100.22(b) test for express advocacy.

Many of the Statements Mr. Moseley Contends Are Independent Expenditures Are Covered by the Press Exemption and Outside the Jurisdiction of the Commission

Mr. Moseley contends that three categories of statements Ms. Sloan made regarding the September 20th complaints are independent expenditures: (1) statements made by Ms. Sloan while she was a guest on various news programs on CBS, CNN and MSNBC (Complaint at ¶¶ 30-33), (2) statements made by Ms. Sloan to various print reporters regarding the allegations contained in the September 20th complaints (Complaint at ¶¶ 41-42), and (3) an op-ed by Ms. Sloan that appeared in the *Wilmington News Journal* that explained the factual basis for the allegations in the September 20th complaints (Complaint at ¶¶ 43-46).

FECA's definition of expenditure, however, specifically excludes "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i). The FEC regulation implementing the press exemption is even broader in its application. "*Any cost incurred in covering or carrying a news story, commentary, or editorial* by any broadcasting station (including a cable television operator, programmer or producer), Web site, newspaper, magazine or other periodical publication is not an expenditure unless the facility is owned or controlled by any political party, political committee or candidate." 11 C.F.R. § 100.132 (emphasis added).

The courts have interpreted the press exemption of 2 U.S.C. § 431(9)(B)(i) as a fundamental limitation on the jurisdiction of the Commission. In cases involving the press exemption, the Commission must limit its initial inquiry to whether the media exemption applies. *Readers Digest Ass'n, Inc, v. FEC*, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981); *FEC v. Phillips Publishing, Inc.*, 517 F. Supp. 1308, 1312-13 (D.D.C. 1981). The Commission conducts a two-step analysis to determine whether the press exemption applies. First, the Commission asks whether the entity that distributed the news story, commentary or editorial is a press entity. Second, the Commission must determine whether the entity is owned or operated by a political party, candidate or political committee and whether the entity is operating within its legitimate press function. *Id., see also Phillips Publishing*, 517 F. Supp. at 1313; Advisory Opinions 2011-11 (Colbert), 2007-20 (XM Radio), 2005-19 (Inside Track), 2005-16 (Fired Up!) and 2004-07 (MTV).

If the press exemption applies, that is the end of the inquiry – the Commission may not examine the content of any news story, commentary or editorial. For this reason, the Commission has repeatedly rejected complaints alleging that commentary on federal candidates distributed through the facilities of any legitimate broadcasting station or newspaper constitute either contributions or expenditures under FECA. *See. e.g.*, MURs 6604 (CBS Radio Stations, Inc.), 6242 (Hayworth), 5555 (Ross) and 4689 (Dornan). *See also* MURs 4929, 5006, 5090 and 5117 (ABC, CBS, NBC, CNBC, New York Times, Los Angeles Times and Washington Post)(allegations that various news stories, commentaries or editorials are biased in favor or against various candidates are simply insufficient to provide reason to believe that any violation of FECA has occurred).

Mr. Moseley's complaint is entirely frivolous, but not even he contends that CBS, CNN, MSNBC or the *Wilmington News Journal* are anything other than legitimate press entities that were engaged in their legitimate press function when they reported on CREW's filing of the September 20th complaints or carried Ms. Sloan's editorial explaining the factual allegations in the September 20th complaints. Accordingly, the press exemption applies and the Commission may not even inquire whether these statements constitute independent expenditures.

CREW is Not a Political Committee

The remaining two allegations of Mr. Moseley's complaint are easily dispensed with. Mr. Moseley contends that CREW, as a political committee, violated 11 C.F.R. § 104.4 and 11 C.F.R. § 102.8 by failing to report independent expenditures and contributions it received from the general public. Naturally, Mr. Moseley provides no explanation or justification for his conclusion that CREW is a political committee. Presumably, Mr. Moseley's conclusion that CREW is a political committee is based on his belief that, by virtue of paying Ms. Sloan a salary, CREW made independent expenditures in excess of $1,000 in a calendar year and thereby became a political committee. 2 U.S.C. § 431(4)(A).

In fact, CREW is a nonprofit 501(c)(3) organization dedicated to promoting ethics and accountability in government and public life. As part of that mission, CREW regularly files complaints with the Commission against candidates, campaign committees, officeholders, political parties and contributors who violate FECA or FEC regulations. *See, e.g.*, MURs 6315 (Alvin Greene), 6314 (Gregory Brown), 6313 (Ben Frasier), 6054 (Vern Buchanan for Congress), 6140 (Robert Andrews), 6200 (Senator John Ensign), 5926 (Republican Party of Minnesota), 6223 (Edward St. John), 6234 (Arlen B. Cenac) and 5666 (MZM, Inc).

As already described in great detail above, nothing that CREW and Ms. Sloan did or said in connection with the filing of the September 20th complaints constitutes an independent expenditure within the meaning FECA or FEC regulations. Accordingly, CREW is not a political committee and was not capable of violating either 11 C.F.R. § 104.4 or 11 C.F.R. § 102.8.

Conclusion

The Commission's Statement of Policy Regarding Commission Action in Matters at the Initial Stage of the Enforcement Process states that the Commission will make a determination of "no reason to believe" when the available information does not provide a basis for proceeding with the matter. 78 Fed. Reg. 12545, 12546 (March 16, 2007). There is no basis for the Commission to proceed with MUR 6795. Mr. Moseley's frivolous complaint was filed solely as part of his long vendetta against CREW and Ms. Sloane in retaliation for the filing of the September 20th complaints. The allegations of the complaint are premised on fantastical interpretations of FECA and FEC regulations heretofore unknown to mankind. The Commission should not squander its scarce resources on this drivel.

Sincerely,

Brett G. Kappel
Counsel for CREW and Melanie Sloan

EXHIBIT 1

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

VIRGINIA STATE BAR EX REL. SEVENTH DISTRICT COMMITTEE Complainant, v. JONATHAN ALDEN MOSELEY Respondent.	Case No. CL52390 VSB Docket No. 05-070-1200 THREE-JUDGE PANEL

MEMORANDUM OPINION AND ORDER

THIS MATTER came before the Three Judge Panel consisting of the Honorable Marcus D. Williams, Chief Judge Designate, the Honorable Thomas A. Fortkort, Retired, and the Honorable John E. Kloch, Retired, presiding on March 16-18, 2009 for purposes of determining whether Respondent engaged in Misconduct. The Respondent, Jonathan A. Moseley appeared in person pursuant to a duly noticed Rule to Show Cause dated November 14, 2008 appointing the time and place for the hearing. Respondent was represented by counsel, Daniel M. Gray, Esquire who noted his appearance. The Virginia State Bar was represented by Assistant Bar Counsel, Paulo E. Franco, Jr.; and it

FURTHER APPEARING that the Court swore in the Court Reporter and the parties presented opening statements and the Bar put on its case in chief and then rested. The Court then heard oral argument on the Respondent's Motion to Strike and after having considered argument overruled the Motion to Strike; and it

FURTHER APPEARING that the Respondent put on his case in chief and then rested; and it

FURTHER APPEARING that the Respondent then moved to strike the Bar's case after having rested his case in chief and the Court, after having considered argument, overruled the Motion to Strike; and it

FURTHER APPEARING that after having heard closing arguments of counsel the Three Judge Panel retired to deliberate on the Charges of Misconduct and after having duly deliberated on the matter announced its findings in open court on March 18, 2009 and made the following findings of fact and conclusions of law:

1. The charges relating to Virginia Rule of Professional Conduct 1.7 (a)(1), (a)(2), (b)(3) and (b)(4) are dismissed as the Court finds that Respondent had a reasonable belief that he could continue representing Mr. Ammons and that Mr. Ammons had waived any conflict after consultation with other counsel;

2. The charge relating to Rule 3.1 is dismissed as the Court finds no clear and convincing evidence that Mr. Ammons' claim against the Christian Coalition of America, Inc. was totally frivolous;

3. The charge relating to Rule 3.4(a) is dismissed as the Court finds that there was no clear and convincing evidence that Respondent sought to obstruct access to evidence;

4. The charge relating to Rule 3.4(i) is dismissed as the Court finds that there was no clear and convincing evidence that Respondent presented threats of criminal charges solely to obtain advantage in a civil case;

5. The charge relating to Rule 3.7(a) is dismissed, the Court finding no violation of that Rule, and further finding that dismissing Respondent from the Ammons litigation would

have worked an undue hardship on Mr. Ammons and that it was unclear from the evidence that Respondent would have been called as a witness in the case;

6. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.3(a)(1) given the circumstances of the Ammons litigation leading up to the July 15, 2004 hearing, as set forth in the transcripts (VSB Exs. 6-8) and orders (VSB Exs. 4 and 5) that the Bar introduced into evidence, that the Respondent had a duty to disclose to the court in a timely fashion that he and his client had found a copy of the contract that they alleged formed the basis for the claim against the Christian Coalition of America, Inc.

7. The Court further finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.3(a) (1) in that he made a false statement of fact to the American Arbitration Association, as set forth in his letter of November 9, 2005, a part of the Bar's Exhibit No. 17, concerning Judge Alper's Order of November 23, 2004 (VSB Ex. 9);

8. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.4(e) in that the Court concludes that the Respondent filed frivolous discovery requests in the first Ammons case as supported by the transcripts (VSB Exs. 6-8) and orders (VSB Exs. 4 and 5) and as supported by examples of the frivolous discovery requests received into evidence (VSB Exs. 23, 24, 28, 29 and 32);

9. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 3.4(j) in that the Court concludes that Respondent filed suit, asserted positions and took other action on behalf of his client when it was obvious that such action would serve only to harass or maliciously injure another as supported by the transcripts and orders (VSB Exs. 5, 8, 11 and 14);

10. The Court finds that the Bar has proven by clear and convincing evidence that

Respondent violated Rule 4.1(a), the Court concluding that Respondent did in fact author the email dated March 3, 2006 which the Arlington County Circuit Court received into evidence on March 16, 2006 (VSB Ex. 131). The Court finds that the email (VSB 131) contains knowingly false statements about Judge Alper, and the Court further finds its conclusion that Respondent authored VSB 131 is supported by Respondent's statements and representations in prior proceedings, including but not limited to his statements under oath in a lawsuit he filed in the United States District Court for the Eastern District of Virginia (VSB Ex. 135), documents and testimony received by this Court during the hearing of this case, as well as Respondent's own testimony in this case.

11. The Court further finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 4.1(a) in that he knowingly made a false statement of fact concerning Judge Alper's Order of November 23, 2004 (VSB Ex. 9) to the American Arbitration Association, as set forth in his letter of November 9, 2005, a part of the Bar's Exhibit No. 17;

12. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rule 8.2 in that he made false statements concerning the qualifications or integrity of Judge Alper as set forth in the email Respondent authored dated March 3, 2006, which the Arlington County Circuit Court received into evidence on March 16, 2006 (VSB Ex. 131). The Court's conclusion that Respondent authored the March 3, 2006 email contained in VSB 131 is supported by Respondent's statements and representations in prior proceedings, including but not limited to his statements filed under oath in a lawsuit he filed in the United States District Court for the Eastern District of Virginia (VSB Ex. 135), documents and testimony received by this Court during the hearing of this case, as well as Respondent's own testimony in this case.

13. The Court finds that the Bar has proven by clear and convincing evidence that Respondent violated Rules 8.4(a), (b) and (c) based upon the Court's review of the transcripts and orders (VSB Exs. 3-9, 11 and 14), the testimony and other exhibits received into evidence at the trial of this hearing, and the Court further concludes that the totality of the foregoing Rule violations in paragraphs 1-12 herein constitute violations of Rules 8.4(a), (b) and (c); and it

FURTHER APPEARING that the Respondent, having previously been found in violation of the Rules of Professional Conduct, the parties were ordered to and did appear before the Three Judge Panel on June 1, 2009 for the purposes of determining an appropriate sanction; and it

FURTHER APPEARING that the Respondent did appear in person and that the Bar was represented by Paulo E. Franco, Jr., Assistant Bar Counsel; and it

FURTHER APPEARING that the Court swore in the Court Reporter, granted Respondent's leave to represent himself *pro se* and to discharge his attorney, Daniel M. Gray; and it

FURTHER APPEARING that the Court reviewed Respondent's Motion to Vacate and Petition For Writ of Error Coram Nobis and denied the same in open court and directed the parties to present their evidence, Respondent proceeding first; and it

FURTHER APPEARING that at the conclusion of the evidence during the sanctions phase of this proceeding the Respondent and the Bar presented closing arguments, as reflected in the transcripts of the proceedings, and that the Three Judge Panel retired to deliberate; and it

FURTHER APPEARING that having deliberated the matter, and making a specific finding that the sanction it was imposing was based strictly on the evidence of Misconduct as set forth in the Three Judge Panel's Interim Order of Misconduct entered on April 20, 2009, and

recognizing that Respondent had no prior disciplinary record, had already been sanctioned in the Arlington County Circuit Court and recognizing the egregiousness of Respondent's Misconduct in the Arlington County Circuit Court, the Three Judge Panel hereby

ORDERS that the Respondent's license to practice law in the Commonwealth of Virginia be and the same is hereby **SUSPENDED FOR A PERIOD OF SIX (6) MONTHS** effective June 15, 2009; and it is

FURTHER ORDERED that the Respondent shall comply with the requirements of Paragraph 13-29 of Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia ("Rules"); and it is

FURTHER ORDERED that the Clerk of the Disciplinary System shall comply with all requirements of the Rules, including but not limited to complying with the public notice requirements of Paragraph 13-9.G. of the Rules; and it is

FURTHER ORDERED that the Clerk of the Disciplinary System of the Virginia State Bar shall assess all costs against the Respondent pursuant to Paragraph 13-9.E of the Rules.

FURTHER ORDERED that the Clerk of the Loudoun County Circuit Court shall mail a copy teste of this Order by certified mail, return receipt requested, to the Respondent, Jonathon Alden Moseley, at his last address of record with the Virginia State Bar, 4386 Harbortown Circle, Southport, NC 28461 and to 4956-14 Long Beach Road SE #311, Southport, NC 28461, the address that Respondent lists on his pleadings.

THIS ORDER IS FINAL.

ENTERED: 7-28-09

Chief Judge Designate for the Three Judge Panel

SEEN AND OBJECTED TO AS TO SANCTION DETERMINATION on the grounds that the findings of fact and conclusions of law of the Three Judge Panel warranted no less than Respondent's revocation.

THE VIRGINIA STATE BAR

By: _____

Paulo E. Franco, Jr.
Assistant Bar Counsel
707 East Main Street, 15th Floor
Richmond, Virginia 23219
(804) 775-9404

SEEN _____

Endorsement is waived by the Court pursuant to Va Supreme Ct Rule 5:8 Tmw

Jonathon A. Moseley, *Pro Se*
4956-14 Long Beach Road SE #311
Southport, NC 28461
(910) 231-2528