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September 19, 2016

Massachusetts Board of Bar Overseers
99 High Street
Boston, MA 02110

IN RE: Complaint against Hon. Katherine M. Clark, Esq.
Mass. Bar Number 638551

Dear Sir or Madam;

With regard to the above referenced attorney, I write to your Board today asking that you investigate certain allegations recited in the remainder of this referral letter. I write this referral in my capacity as an Officer of the Court under Rule 8.3(a).

RELEVANT FACTS

The allegations and actions giving rise to the instant complaint took place during the periods of 1999-2002 as well as this year, 2016.

During the late 1990's and into the early 2000's to present, Katherine M. Clark was a duly licensed attorney subject to this board's discipline within the course and scope of her employment as special counsel for the Office of Children's Services for the Commonwealth of Massachusetts ("OCCS"). Although Ms. Clark now is a federal elected official as a Member of Congress, she remains an attorney holding active Massachusetts licensure and currently is still subject to the disciplinary review and oversight of your board.

During the period of 1999-2003, Attorney Clark was representing the Commonwealth as Plaintiff in civil litigation against The DeSisto School and Michael A. DeSisto, Superior Court of Suffolk County Case file number;(01-551OE) DALA Court Case File Number; (OC-00-941) OCCS Docket Case File Number.(RAP 99-078), *in re: Licensing*. She was the LEAD counsel of record in these cases.

From review of the case files, it appears that there existed several contentious discovery matters between the defendants and the Commonwealth, including several motions and renewed motions for contempt and discovery sanctions. Additionally, it appears that these discovery disputes had at least some good faith basis in legal argument and were neither frivolous nor groundless. On 10/22/01, Attorney Clark went so far as to name an agent of the Defendant, Frank McNear, as an individual who was precluding the Commonwealth from exercising their rights under judicial order to access the physical facilities and records of the Defendant.(See, Exhibit A).

During the course of the litigation, it appears from the files as if some accommodation and resolution was finally reached after three years and thusly the Defendants in the matter came into compliance with requests promulgated by the Commonwealth and that the parties reached a resolution of the matter – which was ultimately whether or not the Defendant School was required to be licensed and whether the Commonwealth had jurisdiction over the continuing existence and practices of the school.

It should be noted as most relevant, that through the full 1600 + page sum of the three case files (published at www.sheriffpaul.com) in possession of the various clerks governing custodianship of these records, that at no time and no place except thrice (in a non-material manner – CC on attorney correspondence and a mention in a witness deposition) is the name of Paul R. Babeu –a previous business manager of the Defendant’s DeSisto school-ever mentioned during the course of the litigation or investigation then at bar.

After the passage of approximately 17 or so years, this “interaction” (or lack thereof) between Attorney Katherine Clark and Paul Babeu has once again become relevant. Currently, Clark is now an elected democrat Congresswoman from Massachusetts and Sheriff Paul Babeu is a popular two term Republican elected Sheriff in Pinal County, Arizona who is currently a candidate for the United States Congress.

On 2/04/16, Congresswoman Clark offered to a local television reporter in Phoenix her statement regarding her handling of the DeSisto investigation and her alleged meeting with and interaction with Sheriff Babeu. She claims during that interview that she “...met the Sheriff, remembered him and that he ‘stonewalled her investigation at every turn’”. These three claims are patently false. Attorney Clark in so making or causing to be made, these knowingly and intentionally false statements, has called into question the integrity of our profession and her own integrity as a legal practitioner.

See, <http://www.abc15.com/news/local-news/investigations/congresswoman-katherine-clark-sheriff-babeu-stonewalled-abuse-case-while-running-boarding-school/>

Paul Babeu was no longer employed by the Defendant at the time the later disproven allegations in this case arose. He did not ever meet with Attorney Clark and was never deposed or questioned in the matter. Further, he did not do or refrain from doing any act – active or passive – that would have in any way hindered the case or legal rights of the Commonwealth with regard to their important investigation. Having averred to the contrary, Attorney Clark made a knowingly false statement to the public about Sheriff Paul Babeu in violation of her oath as a member of the Massachusetts Bar.

Massachusetts Board of Bar Overseers
Page 3 of 3
September 19, 2016

PREVAILING LAW

Massachusetts Rules of Professional Conduct - RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation...

Comment [3] “Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyer.[Sic]” - *Last Revised as to all, 2013.*

CONCLUSION AND REQUEST FOR RELIEF

As can be seen after review of this letter and the references and exhibit attached hereto, a prima facie case has been established that on 2/04/16 Attorney Katherine Clark may have violated MRPC 8.4(c). Statements made by Clark during that television interview, as well as sworn affidavit testimony rendered during the pendency of the case, reveal her statement of 2/04/16 to be knowingly false at the time it was made. Certainly the elephant in the room is that of high-powered congressional politics. That having been said, even our highest Courts have consistently held that slander, libel and false light are not a protected form of speech, political or otherwise.

At this time, we are requesting that the Massachusetts Board of Bar Overseers open a file and investigation into the allegations contained in this letter and all of the attendant circumstances surrounding the statements at issue made by Attorney Katherine M. Clark.

Respectfully Submitted,

William Edward Conner, Esq., LLM
Arizona Bar Number 026179
Georgia Bar Number 182020

WEC/ms
CC: PRB, MN