

**BEFORE THE CERTIFIED COURT REPORTERS' BOARD OF NEVADA**

IN THE MATTER OF )

KIM TUCHMAN, CCR No. 811 )

Respondent. )

Case Nos.: NV02-2012  
NV06-2012  
NV09-2012  
NV12-2012

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

This matter came on for hearing on January 8, 2013 before the Certified Court Reporters' Board of Nevada ("Board") at Esquire Deposition Services, 2300 W. Sahara Ave., Suite 770, Las Vegas, NV. Respondent Kim Tuchman failed to appear at the hearing or otherwise respond. Rose Marie Reynolds, Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of the Board.

The Board, having considered the evidence and being fully advised, enters the following Findings of Fact, Conclusions of Law, and Order. Pursuant to Nevada Revised Statutes (NRS) and Nevada Administrative code (NAC) Chapter 656, the Commission has legal jurisdiction and authority over this matter.

**FINDINGS OF FACT**

The Commission, based upon the evidence presented during the hearing, finds that there is substantial evidence in the record to establish each of the following findings of fact:

1. At all pertinent times, Respondent Tuchman was issued certificate of registration No. 811 as a certified court reporter by the Board.

2. Counsel for the Board made an offer of proof that Respondent Tuchman was given proper notice of the hearing.

3. Deborah Uehara, Executive Secretary, was sworn in and testified that pursuant to her job duties, she mailed the Complaint for Disciplinary Action and Notice of Hearing ("Complaint") to Respondent Tuchman on December 6, 2012. Ms. Uehara testified that she mailed the Complaint via regular and certified United States mail to Respondent Tuchman's last known address on file with the Board. She testified that the Complaint sent via regular United States mail had not been returned by the Post Office and that the Complaint sent via

1 certified United States mail was unclaimed.

2 4. The results of Ms. Uehara's mailing were marked and admitted into evidence as  
3 State's Exhibit 1.

4 5. At the close of testimony, counsel for the Board moved for a finding that the  
5 absent Respondent Tuchman was given proper notice of the hearing.

6 6. Counsel for the Board also moved that the Board, pursuant to NRS 622A.350 and  
7 NAC 656.440(4), consider the charges specified in the Complaint as true as follows.

8 Factual Allegations Pertaining to Case 02-2012

9 7. On March 15, 2012, Michael A. Olsen, Esq. of Goodsell & Olsen filed a Request  
10 for Transcript of Proceedings in the case of Magnum Opes Construction Corporation v.  
11 Sanpete Steel Corporation, District Court Case No. A602457, for proceedings dated March 2,  
12 2010, February 24, 2011, April 7, 2011, May 24, 2011, May 25, 2011, May 26, 2011 and July  
13 28, 2011. On March 19, 2012, Goodsell & Olsen mailed the Request for Transcript of  
14 Proceedings to Respondent Tuchman.

15 8. On April 12, 2012, Goodsell & Olsen sent a letter to Respondent Tuchman via e-  
16 mail and facsimile stating that Tuchman had not provided them with a cost estimate for the  
17 transcript and requesting that she do so.

18 9. On April 25, 2012, Goodsell & Olsen filed a complaint with the Board and on April  
19 27, 2012, the Board served its Notice of Alleged Violations on Respondent Tuchman and  
20 requested her response by May 28, 2012.

21 10. The Board did not receive a response and sent a final notice on June 14, 2012,  
22 requesting that Respondent Tuchman respond by June 26, 2012.

23 11. On June 18, 2012, the Board contacted Respondent Tuchman via e-mail,  
24 requesting a current mailing address as the mail addressed to Tuchman was returned by the  
25 U.S. Post Office "unable to forward."

26 12. On July 9, 2012, the Board sent Respondent Tuchman a letter to her new address  
27 via certified and regular mail requesting that she respond to the Notice of Alleged Violations  
28 by August 9, 2012.

1           13. On August 16, 2012, Michael Olsen filed a Request for Transcript of Proceedings  
2 in the case of Magnum Opes Construction Corporation v. Sanpete Steel Corporation, District  
3 Court Case No. A602457, for proceedings dated July 28, 2011. On August 16, 2012,  
4 Goodsell & Olsen mailed, e-mailed and sent via facsimile the Request for Transcript of  
5 Proceedings to Respondent Tuchman.

6           14. As of December 3, 2012, Respondent Tuchman has failed to deliver or file the  
7 ordered transcripts nor has she responded to the Board's Notice of Alleged Violations.

8                           Factual Allegations Pertaining to Case 06-2012

9           15. On July 20, 2012, the Nevada Supreme Court entered an Order Directing Filing of  
10 Transcript and Referring Court Reporter Tuchman to the Nevada Certified Court Reporters  
11 Board in the cases of Jamel J. Gibbs v. State of Nevada, Docket No. 56842 and Lee Davidson  
12 v. State of Nevada, Docket No. 58459.

13           16. In the case of Gibbs v. State of Nevada, Docket No. 56842, a supplemental  
14 request for transcript for proceedings conducted on May 21, 2010 and reported by  
15 Respondent Tuchman was filed on February 7, 2011. Respondent Tuchman was granted  
16 extensions and on August 17, 2011, she filed the transcript for the proceedings conducted  
17 during the morning session on May 21, 2010. On October 3, 2011, the Nevada Supreme  
18 Court entered an order directing Respondent Tuchman to prepare and file within 14 days all  
19 portions of the May 21, 2010 proceedings except voir dire. On November 1, 2011, the  
20 Nevada Supreme Court entered an order imposing a conditional sanction and directing  
21 Respondent Tuchman to file the May 21, 2010 transcript within 10 days. On January 17,  
22 2012, the Nevada Supreme Court vacated the conditional sanction order and, based on  
23 representations of counsel, ordered a different court reporter to prepare and file the transcript.  
24 On February 23, 2012, after receiving a letter from Judge Herndon who confirmed that  
25 Respondent Tuchman was the court reporter present during the afternoon session on May 21,  
26 2010, the Nevada Supreme Court entered an order directing Respondent Tuchman to file the  
27 May 21, 2010 transcript within 15 days.

28           17. In the case of Davidson v. State of Nevada, Docket No. 58459, a request for

1 transcripts of proceedings on June 22 and November 9, 2010 and reported by Respondent  
2 Tuchman was filed on October 7, 2011. On January 25, 2012, the Nevada Supreme Court  
3 entered an order directing Respondent Tuchman to file and deliver the transcript of the June  
4 22, 2010 proceedings within 20 days. On March 21, 2012, the Nevada Supreme Court  
5 entered an order imposing a \$250 sanction against Respondent Tuchman which would be  
6 automatically vacated if Tuchman filed a certificate of delivery or motion for extension of time  
7 within 10 days. On May 24, 2012, the Nevada Supreme Court entered an order directing  
8 Respondent Tuchman to appear and show cause.

9 18. On July 20, 2012, the Nevada Supreme Court entered an order directing  
10 Respondent Tuchman to file the necessary transcripts in Gibbs v. State of Nevada and  
11 Davidson v. State of Nevada within 15 days of the date of order and to pay the \$250 sanction  
12 imposed on March 21, 2012 within 10 days of the date of order.

13 19. On July 27, 2012, the Board served its Notice of Alleged Violations on  
14 Respondent Tuchman by regular and certified mail and requested her response by August 27,  
15 2012.

16 20. As of December 3, 2012, Respondent Tuchman has not filed or delivered the  
17 transcripts in Gibbs v. State of Nevada, Docket No. 56842, or Davidson v. State of Nevada,  
18 Docket No. 58459, nor has she responded to the Board's Notice of Alleged Violations.

19 Factual Allegations Pertaining to Case 09-2012

20 21. In the case of State of Nevada v. Thomas McCormick, Case No. C257604,  
21 Elizabeth Lane ("Lane") from Osvaldo E. Fumo, Chtd. contacted Department 3 of the Eighth  
22 Judicial District Court on July 23, 2012 regarding transcripts for proceedings conducted on  
23 May 3, 2011. Lane was told to contact Respondent Tuchman. After unsuccessful attempts at  
24 contacting Respondent Tuchman, Lane was able to find an e-mail address and contacted  
25 Tuchman on August 23, 2012.

26 22. On August 24, 2012, Respondent Tuchman responded and requested more  
27 information which Lane provided that same day. On August 28 and September 27, 2012,  
28 Respondent Lane sent follow-up e-mails, but Respondent Tuchman never responded.

23. On October 17, the Board served its Notice of Alleged Violations on Respondent Tuchman by regular and certified mail and requested her response by November 17, 2012.

24. As of December 3, 2012, Respondent Tuchman has not filed or delivered the transcripts, nor has she responded to the Board's Notice of Alleged Violations.

#### Factual Allegations Pertaining to Case 12-2012

25. In the case of Vladimir Lagerev v. State of Nevada, Docket No. 58417, a Request for Rough Draft Transcripts for proceedings conducted on September 15, 2009 and reported by Tuchman was served on Respondent Tuchman on July 31, 2012 and filed on August 1, 2012. Then an amended Request for Rough Draft Transcripts in this same case was served on Respondent Tuchman by mail and e-mail on October 6, 2012 and filed on October 8, 2012. In the amended Request for Rough Draft Transcripts, the date of proceedings was corrected to September 15, 2010.

26. On October 24, 2012, the Board served its Notice of Alleged Violations on Respondent Tuchman and requested her response by November 26, 2012. As of December 3, 2012, Respondent Tuchman has not filed a response.

27. As of December 3, 2012, Respondent Tuchman has not filed or delivered the transcripts nor has she responded to the Board's Notice of Alleged Violations.

#### CONCLUSIONS OF LAW

The Board concludes:

1. Respondent Tuchman was given proper notice of the hearing pursuant to NRS Chapters 656 and 233B and NAC Chapter 656.

2. The requirements of NRS 622A.350 and NAC 656.440(4) have been met, and the charges specified in the Complaint are considered as true as follows.

#### Violations of Law Pertaining to Case 02-2012

3. By failing to notify the Board in writing within 30 days after changing her address, Respondent Tuchman violated NRS 656.260(1).

4. By failing to timely respond to the Board's Notice of Alleged Violations,

Respondent Tuchman violated NRS 656.250(11) and/or NAC 656.420(6).

5. By failing to make herself available to, or otherwise cooperate with, Goodsell and Olsen regarding its transcript request, Respondent Tuchman violated NRS 656.250(6).

Violations of Law Pertaining to Case 06-2012

6. By failing to comply with the deadlines set forth in the Nevada Supreme Court's October 3, 2011 and February 23 and July 20, 2012 orders in Gibbs v. State of Nevada, Respondent Tuchman violated NRS 656.250(12)(a) and (b).

7. By failing to comply with the Nevada Supreme Court's orders in Gibbs v. State of Nevada, Respondent Tuchman violated NRS 656.250(6).

8. Pursuant to Rule 3C(d)(3)(E)(i) of the Nevada Rules of Appellate Procedure, Respondent Tuchman had no more than 20 days after the date of request was served to submit an original rough draft transcript. By failing to file the transcript within 20 days of the October 7, 2011 service of request for transcript in Davidson v. State of Nevada, Respondent Tuchman violated NRS 656.250(12)(a).

9. By failing to comply with the deadline set forth in the Nevada Supreme Court's January 25, March 21, May 24 and July 20, 2012 orders in Davidson v. State of Nevada, Respondent Tuchman violated NRS 656.250(12)(a) and (b).

10. By failing to comply with Rule 3C(d)(3)(E)(i) of the Nevada Rules of Appellate Procedure and/or the Nevada Supreme Court's orders in Davidson v. State of Nevada, Respondent Tuchman violated NRS 656.250(6).

11. By failing to timely respond to the Board's Notice of Alleged Violations, Respondent Tuchman violated NRS 656.250(11) and/or NAC 656.420(6).

Violations of Law Pertaining to Case 09-2012

12. By failing to timely respond to the Board's Notice of Alleged Violations, Respondent Tuchman violated NRS 656.250(11) and/or NAC 656.420(6).

13. By failing to make herself available to, or otherwise cooperate with, Osvaldo E. Fumo, Chtd. regarding its transcript request, Respondent Tuchman violated NRS 656.250(6).

...

1 Violations of Law Pertaining to Case 12-2012

2 14. By failing to timely respond to the Board's Notice of Alleged Violations,  
3 Respondent Tuchman violated NRS 656.250(11) and/or NAC 656.420(6).

4 15. Pursuant to Rule 3C(d)(3)(E)(i) of the Nevada Rules of Appellate Procedure,  
5 Respondent Tuchman had no more than 20 days after the date of request was served to  
6 submit an original rough draft transcript. By failing to file the transcript within 20 days of the  
7 October 6, 2012 service of request for transcript in Lagerev v. State of Nevada, Respondent  
8 Tuchman violated NRS 656.250(12)(a) and/or NRS 656.250(6).

9  
10 ORDER

11 The Board being fully apprised in the premises, and good cause appearing to the  
12 Board, IT IS HEREBY ORDERED that:

13 1. Respondent Tuchman shall pay to the Board a total fine of \$65,900.00, pursuant  
14 to NRS 656.257 and NRS 622.400. The total fine reflects a fine of \$65,000 for committing 13  
15 violations of law, plus \$900.00 for the Board's attorney's fees and costs. The total fine is due  
16 to the Board within five years of the date of this order pursuant to a schedule of equal  
17 installment payments of \$1,098.33 beginning 30 days after the date of this order. If  
18 Respondent Tuchman misses any installment payment, the remaining balance of the total fine  
19 accelerates and the total remaining balance is due within 15 days of the missed payment.

20 2. In accordance with NRS 622A.410, Respondent Tuchman's Certificate of  
21 Registration No. 811 is revoked for a period of 10 years from the date of this Order, after  
22 which time she may apply for reinstatement.

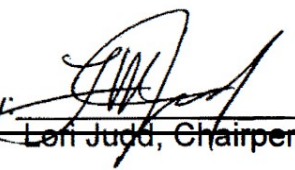
23 3. The Board may institute debt collection proceedings for failure to timely pay the  
24 total fine, or any installment or portion thereof. Further, if collection goes through the State of  
25 Nevada, then Respondent Tuchman shall also pay the costs associated with collection.

26 4. Pursuant to NAC 656.375, Respondent Tuchman is directed to prepare transcripts  
27 for any proceeding in which she provided services as a court reporter before her certificate  
28 . . .

1 was revoked. This directive applies to all pending transcript orders as well as those transcript  
2 orders Respondent Tuchman may receive in the future.

3 Dated this 6<sup>th</sup> day of February, 2013.

4 CERTIFIED COURT REPORTERS' BOARD

5  
6 By:   
7 Lori Judd, Chairperson