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10 **IN RE:**

11 **ROCKY KINGREE, ESQ.,**

12 **Respondent.**

) Ethics Complaint EC 20-003

) **FILING OF FORMAL CHARGES**
) **(RULE 11 OF *GRLDEDP*)**

13 **INTRODUCTION**

14 Comes now, Alicia A.G. Limtiaco, Esq., Regulation Counsel, for the Investigative
15 Committee of the Comprehensive Lawyer Regulatory System as established by the Supreme
16 Court of Guam and the *Guam Rules for Lawyer Disciplinary Enforcement and Disability*
17 *Proceedings (GRLDEDP)*, does hereby submit this Filing of Formal Charges with the Hearing
18 Panel of the Comprehensive Lawyer Regulatory System under Rule 11 of the *GRLDEDP* in the
19 matter of Rocky Kingree, Esq.

20 **DISCUSSION**

21 The *GRLDEDP* were adopted by the Supreme Court of Guam on March 16, 2021, and
22 became effective on August 1, 2021. *See* Promulgation Order No. 21-001-01 (Mar. 16, 2021).
23 These new rules now govern the disciplinary and disability proceedings against members of the
24 Bar of Guam and all attorneys within this Court's jurisdiction. Matters still pending before the
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1 former Guam Bar Ethics Committee and the Office of the Ethics Prosecutor were transferred to
2 the newly established Comprehensive Lawyer Regulatory System under the *GRLDEDP*,
3 consisting of the Commission on Lawyer Regulation, the Office of Regulation Counsel, the
4 Investigative Committee, and the Hearing Panel. The Commission on Lawyer Regulation was
5 appointed by the Court. *See* Order, ADC21-002 (Mar. 29, 2021) and Order, ADC23-001 (Mar.
6 17, 2023). The Investigative Committee and the Hearing Panel were also duly constituted by
7 appointment. *See* Order, ADC21-003 (Jul. 26, 2021), Amended Order, ADC21-003 (Sept. 1,
8 2021), and Order, ADC23-002 (Oct. 11, 2023).

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10 The above-referenced matter, EC 20-003, is pending before the Investigative Committee of
11 the Comprehensive Lawyer Regulatory System. Under Rule 11(d) of the *GRLDEDP*, this filing
12 of formal charges serves as notification of the nature of the alleged misconduct by Rocky
13 Kingree, Esq., as the Respondent, which shall be filed with the chair of the Hearing Panel. Rule
14 11(d) requires that Respondent file a written answer to the formal charges with the Hearing Panel
15 chair and serve a copy on Regulation Counsel within twenty (20) days after service of the formal
16 charges upon Respondent unless the time is extended by the Hearing Panel chair. In the event
17 Respondent fails to answer within the prescribed time, or the time as extended, the factual
18 allegations shall be deemed admitted as provided in Rule 33(a).

19 Under Rule 11(d) of the *GRLDEDP*, Respondent is herewith given fair and adequate notice
20 of the nature of the alleged misconduct described as follows:

- 21 1. Respondent has been practicing law in Guam since December 2015.
- 22 2. Respondent was granted temporary admission to the practice of law in Guam by order of
23 the Supreme Court of Guam on December 7, 2015, under the *Supreme Court of Guam's Rules*
24 *Governing Admission to the Practice of Law*.

1 3. Respondent was employed by the Office of the Attorney General of Guam (OAG) as an
2 Assistant Attorney General (AAG) and prosecutor from October 5, 2015 to February 15, 2016.

3 4. In a letter dated September 18, 2017, Respondent was notified that he passed the Guam
4 Bar Examination held in July 2017 and admission was contingent upon satisfaction of the
5 *Supreme Court of Guam's Rules Governing Admission to the Practice of Law*, including the
6 character and fitness requirements of admission, which remained pending.

7 5. Respondent was employed as an Assistant Public Defender by the Public Defender
8 Service Corporation (PDSC) from July 18, 2016 to March 7, 2021.

9 6. Respondent's temporary admission to the practice of law in Guam was to expire on
10 December 7, 2020. However, on August 12, 2020, the Supreme Court of Guam issued
11 Administrative Order No. ADM20-391, which, for reasons related to the pandemic, granted a 90-
12 day extension to those temporary licenses set to expire automatically in 2020. Therefore, the
13 order granting temporary admission to practice law before the Superior Court of Guam and the
14 Supreme Court of Guam was vacated effective at the end of the day on March 7, 2021.

15 7. Upon information and belief, Respondent is also licensed to practice law in Missouri.

16 8. On or about February 28, 2020, former Ethics Prosecutor Alberto Tolentino received a
17 digital recording of closing arguments made on January 8, 2020, in *People of Guam v. Carson*
18 *Herman*, Superior Court of Guam, Criminal Case No. CF0490-17. The PDSC was appointed
19 counsel for Defendant Carson Herman (Defendant). On January 6, 2020, Presiding Judge
20 Alberto C. Lamorena, III commenced a jury trial in CF0490-17. On January 8, 2020, during
21 Respondent's closing arguments on behalf of Defendant, he made the following statements¹:
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26 ¹ See Exhibit A: Decision and Order Granting the People's Motion for Sanctions at 1-3 (December 21, 2020).

- 1 • 11:03:44am: "I already knew he would fall on his face about the child. I knew he would
- 2 trip and fall right into something because the prosecutor will sell you something. He is a
- 3 man that will sell a ketchup snow cone to a woman with white gloves. A lot of people
- 4 would call it cheap."
- 5 • 11:04:00am: "Used car salesman stuff. Don't trust [Attorney Brown]. He will tell you
- 6 something that is not true."
- 7 • 11:04:11am: "Why does prosecution have an obsession with trying to accuse people of
- 8 wrong crimes?"
- 9 • 11:04:17am: "Would you appreciate that? You injure a child and the prosecution keeps
- 10 saying it and he's lying."
- 11 • 11:06:55am: "According to someone who won't tell you the truth about anything, the
- 12 police don't know."
- 13 • 11:10:30am: "If I can get a conviction on the child, they give me some more money.
- 14 That's what it sounds like to me. There is a massive reason to people not to be honest."
- 15 • 11:14:36am: "The prosecution will tell you funny stories."
- 16 • 11:18:43am: "Who doesn't want to talk? The prosecution who's lying about the child or
- 17 sneak around and get photos last week after two years or there may be something not in
- 18 the medical records. Maybe the prosecution should do their law enforcement duty and
- 19 find out if somebody was prescribed drugs and shouldn't be driving."
- 20 • 11:20:30am: "Should you believe somebody that won't tell you the truth and kept saying
- 21 the child was injured and made up that the child had a neck brace too?"
- 22 • 11:23:03am: "You should hold it against the prosecution for charging the child. You
- 23 should. Because they will tell you something not true."
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- 1 • 11:25:10am: "We have a bunch of things in the system to stop that, but not on Guam.
2 Nobody cares. Charge the child. I'll make it up... I'm the Attorney General's Office. I'll
3 just falsify it. Don't matter."
4 • 11:25:58am: "They're liars, you can't deal with them."
5 • 11:26:38am: "I am attacking you, Mr. Brown."
6 • 11:26:45am: "The issue here today is the prosecution is a liar, he's a scumbag. And the
7 witnesses are too."
8 • 11:26:59am: "The person that should be sanction should be Mr. Brown for falsifying
9 against my client that he injured a child. He is a scumbag for it."
10 • 11:29:38am: "... my personal opinions about him, a prosecutor does not care about rule of
11 law."
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13 After closing arguments, Presiding Judge Lamorena read the instruction to the jury that
14 personal attacks are to be disregarded.

15 9. The prosecution filed the People's Motion for Sanctions on July 20, 2020. They argued
16 that Respondent's remarks during closing arguments violated provisions of the *Guam Rules of*
17 *Professional Conduct (GRPC)*. On August 3, 2020, Deputy Director John Morrison filed a
18 response on behalf of the PDSC, stating that the PDSC will not accept service on Respondent's
19 behalf, that Respondent must be personally served as the real party in interest, that Respondent is
20 employed with the PDSC but the PDSC is not Respondent's personal attorney, that before the
21 Court schedules a hearing on the motion, the prosecution must perfect service and give
22 Respondent an opportunity to reply, and that AAG Sean Brown, Prosecution Division, OAG,
23 should be disqualified to argue the motion as he is a witness.
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1 10. The prosecution filed their reply on August 11, 2020. It indicated they would make
2 efforts to personally serve Respondent, that the prosecution's motion is timely, that the
3 prosecution complied with the Court's order to provide a transcript, that AAG Brown should not
4 be disqualified as the attorney to argue the motion, and that Respondent's conduct violated the
5 *GRPC*.

6 11. The Court issued an order on September 8, 2020, stating: "Both Assistant Attorney
7 General Sean Brown and Assistant Public Defender Rocky Kingree shall represent themselves in
8 the sanctions proceedings. Mr. Brown shall personally serve Mr. Kingree with the
9 aforementioned Motion [for Sanctions] by September 14, 2020. ..." The order also set filing
10 deadlines and a hearing date.
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12 12. On September 11, 2020, the prosecution filed a notice indicating that Respondent was
13 personally served on the same day. On November 3, 2020, the Court issued a Notice of Remote
14 Hearing to AAG Brown and Respondent. The Court held a hearing on November 20, 2020.
15 Respondent did not appear for the scheduled hearing. Following the hearing, the Court took the
16 matter under advisement.

17 13. The Court issued its Decision and Order Granting the People's Motion for Sanctions on
18 December 21, 2020, finding that Respondent's conduct violated *GRPC* 3.4(e) Fairness to
19 Opposing Party and Counsel, which states as follows:
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21 A lawyer shall not . . . in trial, allude to any matter that the lawyer does not
22 reasonably believe is relevant or that will not be supported by admissible evidence,
23 assert personal knowledge of facts in issue except when testifying as a witness, or
state a personal opinion as to the justness of a cause, the credibility of a witness, the
culpability of a civil litigant or the guilt or innocence of an accused . . .

24 The Court also found that Respondent violated *GRPC* 8.4(a) and (d) Misconduct, which
25 provides as follows:
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1 It is professional misconduct for a lawyer to . . . (a) violate or attempt to violate the
2 Rules of Professional Conduct . . . (d) engage in conduct that is prejudicial to the
administration of justice

3 14. The Court imposed the following penalty, stating:

4 "Any person found guilty of a contempt of court pursuant to § 34102(b) is subject to
5 the same penalties as a person found guilty of a petty misdemeanor." 7 G.C.A. §
6 34101(b). "A person who has been convicted of an offense may be sentenced to pay a
7 fine or to make restitution not exceeding ... Five Hundred Dollars (\$500.00), when
8 the conviction is of a petty misdemeanor or violation." 9 G.C.A. § 80.50(d). The
9 Court finds the maximum allowable penalty under statute is appropriate here.
10 Attorney Kingree made numerous personal attacks against the character of Attorney
11 Brown. Attorney Kingree admitted to *doing* so during closing argument. When
12 Attorney Brown objected to Attorney Kingree's remarks against him, Attorney
13 Kingree stated, "I am attacking you, Mr. Brown." CR at 11:26:38am. The Court finds
14 that a fine of five hundred dollars (\$500.00) is appropriate to deter similar conduct on
15 the part of Attorney Kingree at future hearings and proceedings. . . . Mr. Kingree shall
16 submit a personal check payable to the Superior Court of Guam to the Financial
17 Management Division within 15 days from the date of this order.

18 15. Attached hereto as Exhibit A is a true and correct copy of the Court's Decision and Order
19 Granting the People's Motion for Sanctions (December 21, 2020). *See* Declaration of Regulation
20 Counsel (February 2, 2024).

21 16. The Court's Decision and Order Granting the People's Motion for Sanctions (December
22 21, 2020) was entered on the docket on December 22, 2020.

23 17. The Declaration of Mailing stated that on December 22, 2020, Deputy Clerk Glenric J.
24 Mendiola enclosed and sealed a copy of the Notice of Entry on Docket in an envelope addressed
25 to the OAG and PDSC and placed it in the mail.

26 18. Clerk of Court Sophia Diaz, Superior Court of Guam, and the Financial Management
Division (FMD), Judiciary of Guam, do not have records of personal service upon Respondent
nor any sanctions payments made by Respondent.

19. On June 8, 2021, under Rule 13 of the *Bar of Guam Ethics Committee Rules of
Procedure – Disciplinary Proceedings (GBEC Rules)*, the Investigative Panel instructed Ethics

1 Prosecutor Tolentino to contact Respondent for the purpose of obtaining any information that
2 may facilitate a clear and fair assessment of the facts and circumstances in EC 20-003. Ethics
3 Prosecutor Tolentino sent Respondent a Request for Information (Rule 13) letter dated July 1,
4 2021, via email at KingreeLaw@gmail.com on the same day. As of January 23, 2023,
5 Respondent's response to the July 1, 2021 Request for Information (Rule 13) letter remained
6 pending.

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8 20. On January 23, 2023, the Office of Regulation Counsel mailed a letter dated the same day
9 as a follow-up and requested a response to the Office of Regulation Counsel by February 24,
10 2023, and attached the July 1, 2021 Request for Information (Rule 13) letter. The January 23,
11 2023 letter with attachment was mailed to Respondent's last known address: 866 Wayne 455
12 Piedmont, MO 63957. A response to the January 23, 2023 letter remains pending.

13 21. The January 23, 2023 letter with attachment serves as the Notice to Respondent under
14 Rule 11(b)(2) of the *GRLDEDP*.

15 22. On February 15, 2023, the Supreme Court of Guam and the Office of Regulation Counsel
16 received the January 23, 2023 letter with the notation "Return to Sender. Unable to Forward".
17 Subsequent research provided the following address for Respondent: P. O. Box 881 502A Main
18 Str Van Buren, MO 63965. However, further review of the address indicated that it is associated
19 with the Missouri Department of Public Safety, Carter County Prosecuting Attorney. As such,
20 the address appears to be erroneous.

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22 23. Based on the foregoing and the Court's Decision and Order Granting the People's Motion
23 for Sanctions filed on December 21, 2020, under Rule 11(d) of the *GRLDEDP*, this filing of
24 formal charges serves as notification of the nature of the alleged misconduct by Respondent, i.e.,
25 the Court's finding that Respondent's conduct violated *GRPC* 3.4(e) Fairness to Opposing Party

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CERTIFICATE OF SERVICE

I, Alicia A.G. Limtiaco, Esq., Regulation Counsel, and on behalf of the Investigative Committee of the Comprehensive Lawyer Regulatory System, hereby certify that on February 3, 2024, I electronically served the foregoing documents, Filing of Formal Charges (Rule 11 of *GRLDEDP*), and Declaration of Regulation Counsel re: Filing of Formal Charges (Rule 11 of *GRLDEDP*), in EC 20-003, on the following persons via email to their respective email addresses indicated below:

Rocky Kingree, Esq.
Respondent
Email: kingreelaw@gmail.com

G. Patrick Civile, Esq.
Chair, Hearing Panel
330 Hernan Cortez Ave., Ste. 200
Hagåtña, Guam 96910
Email: pciville@civilletang.com

Dated this 3rd day of February 2024.

By:



Alicia A.G. Limtiaco, Esq.
Regulation Counsel