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STATEMENT OF JURISDICTION

Jurisdiction over attorney discipline matters is established by Article 5, Section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and Section 484.040 RSMo 2000.

STATEMENT OF FACTS

Background and Disciplinary History

Informant charges Respondent, St. Louis City Assistant Circuit Attorney Katherine Anne Dierdorf, with misrepresenting material facts to state and federal law enforcement investigators about a cover up in the circuit attorney's office of a case involving a police detective's assault of a suspect in custody. Informant further charges that Dierdorf's misrepresentations interfered with the criminal investigations of the cover up, jeopardized her credibility as a potential prosecution witness, and undermined the integrity of the criminal justice system.

The disciplinary hearing panel found a violation of Rule 4-8.4(c) regarding her misrepresentations made to the United States Attorney and FBI and recommended a reprimand without conditions pursuant to Rule 5.16(d)(1).

Informant rejected the panel decision and respectfully requests the Court to make complete findings of fact and conclusions of law and impose an indefinite suspension of the practice of law with no eligibility for reinstatement for three (3) years.

Respondent, Katherine Anne Dierdorf became licensed as an attorney in Missouri on September 14, 2011, and her Missouri Bar Number is 63782. Dierdorf's status with the Missouri Bar is currently "inactive" but was "active" at the time of the incidents described

here.¹ (**App. Vol. 1, p. 28**). The address designated in Dierdorf’s most recent registration with the Missouri Bar is 1437 Bannock St., Suite 500 Denver, CO 80202. Dierdorf has no prior disciplinary history.

Dierdorf grew up in St. Louis and graduated from Visitation Academy in 2004. (**App. Vol. 4, p. 686**). She received an athletic scholarship and played basketball at the University of Michigan, where she received her undergraduate degree in 2008. (**App. Vol. 4, p. 686**). Dierdorf attended Washington University School of Law. During her third year, she was a Rule 13 intern in the juvenile justice clinic. Dierdorf received her law degree in May of 2011. (**App. Vol. 4, p. 687-688**).

Dierdorf’s first job was at the law firm of Armstrong Teasdale LLP, where she concentrated on real estate and financial matters. After approximately two years, Dierdorf left. (**App. Vol. 6, pg. 1090-1091**). Dierdorf had hoped to become a public defender, but when no job opportunity arose, she applied and was accepted as an Assistant Circuit Attorney (“ACA”) at the Office of Circuit Attorney in St. Louis City (“OCA”). (**App. Vol 4, pg. 691-692**).

¹ The facts contained herein are drawn from the record on appeal, the testimony at the hearing, and the exhibits received. Citations to the record are denoted by the appropriate Appendix page, for example “**App. Vol. __, pg. __**”.

Office of Circuit Attorney St. Louis City

Dierdorf took the Prosecutor’s Oath, and on February 3, 2014, signed the Acknowledgment and Acceptance of the OCA Personnel Manual (**Vol. 4, pg. 693**); (**Vol. 6, pg. 1122**) indicating she had read, understood, and accepted and agreed to abide by the following provisions:

Section 1.3 Ethics in Public Service of the OCA Personnel Manual provides that:

“The highest obligation of every individual in our organization is to fulfill the public trust. Each person who undertakes this public trust assumes two paramount obligations:

- to serve the public interest; and
- to perform public service with high personal integrity.

In addition to faithful adherence to these principles, public employees have an additional duty to discern, understand, and meet the needs of their fellow citizens.

The mission statement of the Circuit Attorney’s Office should be the foundation for all action by members of our staff. Sometimes the mission statement is too general to govern the resolution of concrete day-to-day ethical problems. In an attempt to spell out the practical implications of our core values, we have created the principles set forth below. We hope that they will guide your day-to-day work and help you handle the ethical dilemmas you may face:

- Integrity requires the consistent pursuit of the merits of any issue, decision, or action. Your willingness to speak up and to question is as essential to the determination of the merits as the readiness to invite ideas, encourage debate, and accept constructive feedback.
- Integrity requires the courage to insist that what you believe is right and the fortitude to refuse to go along with something that you believe is ethically wrong. You can only evaluate what the right path is after you have listened to the views of others, weighed the relevant interests and values, and taken the time to understand the facts.
- Hard questions involve tough choices between competing claims. These choices involve loyalty to the organization, respect for authority, recognition of the policy making role of the elected Circuit Attorney, regard for technical and professional expertise and institutional memory, and sensitivity to the requirement of confidentiality. The measure of your success depends on how well and honorably you balance these factors.

- Being a good public servant means knowing how to handle the demands of your work with character and discipline.
- The true public servant:
 - Will not act out of spite, bias, or favoritism;
 - Will not tell their supervisor only what they want to hear;
 - Respects the competence and views of others;
 - Does not succumb to peer or other pressure;
 - Contributes to a climate of mutual trust, respect and friendliness;
 - Refuses to let official actions be influenced by personal relationships, including those arising from the past or prospective employment;
 - Has the courage of their convictions;
 - Is not seduced by flattery;
 - Unflinchingly accepts responsibility;
 - Does not try to shift blame to others and accepts responsibility for one's own actions and conduct;
 - Can distinguish between the need to support an unwelcome decision and the duty to report unethical conduct; and

- Never forgets that they are working for the people ...
all of the people.

Adapted from: Ethical Principles for Public Servants,
published by the Council for Excellence in Government –
Former Presidents Jimmy Carter and Gerald Ford, Co-
Chairmen.”

(App. Vol. 6, pg. 1123-1132).

Dierdorf was assigned to the misdemeanor domestic assault division reporting to ACA Supervisor Pippa Barrett. Dierdorf’s development as a professional prosecutor was regularly reinforced. All the lawyers in her division were reminded they were public prosecutors who represented the OCA and always needed to act and appear professional. **(App. Vol. 2, pg. 401-403).** Dierdorf attended a formal OCA CLE on “Making Decisions in the Warrant Office.” The chief warrant officer taught Dierdorf about the prosecutor’s obligations “to charge appropriately, professionally, and ethically,” and how to deal with police officers “when you didn’t issue their case.” **(App. Vol. 2, pg. 390-391).**

Through her work as a prosecutor, Dierdorf became very familiar with the nuts and bolts of the warrant office. She worked closely with the chief warrant officer learning the dynamics of how to issue cases, when to refuse cases, how to refuse cases, and what information to put in her notes. Dierdorf was not afraid to ask questions and would not blindly follow the other people in the office. During her tenure at the OCA, Dierdorf specifically recalled pushing back on a reporting police officer when she believed there was insufficient information to issue a charge. Dierdorf understood the prosecutor’s sworn

duty in the warrant office to be a check within the criminal justice system. (**App. Vol. 4, pg. 694-698**).

At the OCA, Dierdorf became good friends with ACAs Bliss Worrell, Ambry Schuessler and Lauren Collins, and Intern Jane Doe.² They worked together closely, socialized outside the office, and group texted continually. (**App. Vol. 4, pg. 698-702**). Dierdorf confirmed that she turned over to the federal authorities 3,000 pages of the group's text messages. (**App. Vol. 4, pg. 704-705**).

Dierdorf was aware of Worrell's close, personal relationship with St. Louis City Metropolitan Police Department Detective Thomas Carroll. Dierdorf was aware of Worrell's activities outside the office, including unauthorized "ride-alongs" with Det. Carroll, and other personal recklessness. (**App. Vol. 4, pg. 703-706**); (**Vol. 6, pg. 1093-1095**). Dierdorf, herself, developed a close friendship with Detective Mike Growe. (**App. Vol. 6, pg. 1099**), who was Det. Carroll's friend and confidante. (**App. Vol. 4, pg. 710**).

The Assault and Cover-Up

Many of the key events of this disciplinary matter took place between Tuesday, July 22, 2014 and Friday, July 25, 2014:

1. Tuesday night: Det. Carroll brutally assaulted a detained suspect.
2. Wednesday morning: Worrell informed Dierdorf of Det. Carroll's assault. Text messaging about the assault ensued.

² Jane Doe is a pseudonym.

3. Wednesday afternoon: Worrell falsely charged the suspect to cover up the assault.
4. Thursday morning: Worrell confided to Dierdorf specific details of the assault and charging of the suspect. Dierdorf then confided those details to Schuessler and Collins, who, unbeknownst to Dierdorf, reported Worrell to a supervisor.
5. Thursday afternoon: Dierdorf was interviewed by her supervisors and chose to lie about her knowledge of Worrell's misconduct. Dierdorf instructed ACA Schuessler not to talk. Text messaging about the situation ensued.
6. Thursday evening: Dierdorf drove home Worrell, who was on her cell phone discussing with Det. Carroll how everyone found out about the assault and Worrell's involvement in charging the suspect.
7. Friday morning: Dierdorf was interviewed by Internal Affairs and again chose to lie about her knowledge of Worrell's misconduct.

Tuesday Night, July 22, 2014

Dierdorf, Worrell, and Doe attended a St. Louis Cardinals baseball game. During the evening, Worrell learned from Det. Carroll that his daughter (Meghan) had her car broken into and credit card stolen. The police had arrested a suspect for using the credit card at Ballpark Village. Worrell told Dierdorf about the theft and arrest. (**App. Vol. 6, pg. 1094-1095**).

Wednesday Morning, July 23, 2014

At the OCA, Dierdorf was in her office. Intern Doe was present and ACA Vanna Shaw was nearby. Worrell walked in and told Dierdorf and Doe about the theft of

Meghan’s stolen credit card and the arrest of a suspect. Worrell revealed a new fact: Det. Carroll “beat up” the suspect. (**App. Vol. 6, pg. 1095**).

After Worrell left Dierdorf’s office, Dierdorf, Worrell, and Doe group texted about the assault:

WORRELL: Hah. I realized we shouldn’t be talking about tom

beating someone up in front of Vanna

That behavior is not on her “true public servant’ list

DOE: I think she is too dense to realize what we are talking about

WORRELL: That’s probably true

DIERDORF: Yeah she has no clue

(**App. Vol. 6, pg. 1114**).

Dierdorf would later admit that Shaw would not have taken well to the fact that a police officer beat up somebody. Dierdorf testified that Shaw was not part of the “circle of trust.” (**App. Vol. 4, pg. 715-719**).

Soon thereafter, Dierdorf went to Schuessler’s office. (**App. Vol. 4, pg. 719**). Worrell walked in that office while talking on her cell phone with Det. Carroll. Worrell put the conversation on speaker and told Det. Carroll that Dierdorf and Schuessler were present. After saying hello, Dierdorf left Schuessler’s office figuring she just was going to hear what she already knew from Worrell; that Det. Carroll beat up the suspect. (**App. Vol. 4, pg. 719-721**). However, Det. Carroll proceeded to tell Worrell and Schuessler specific details of the beating. (**Sealed Vol. 7, pg. 1314**).

Wednesday Afternoon, July 23, 2014

Unbeknownst to Dierdorf at the time, Worrell went into the warrant office to help charge the suspect. Worrell included a charge of attempted escape, which would - she believed - explain why the suspect was visibly injured. Worrell knew of Det. Carroll's assault, but did not disclose it in the charging documents or to the judge who set bond. That evening, Worrell spoke with Det. Carroll and confirmed that the police story of attempted escape was fabricated to cover up the assault. Worrell failed to inform the supervisors at the OCA. (**App. Vol. 6, pg. 1154-1158**).

Thursday Morning, July 24, 2014

Doe was in Dierdorf's office. Worrell came in and described to Dierdorf and Doe the specific details of Det. Carroll's assault. These were the facts learned by Worrell and Schuessler during Det. Carroll's speakerphone conversation on Wednesday. Although Dierdorf was not present for Det. Carroll's admissions, she heard Worrell's full recitation of them at this Thursday morning meeting. As Dierdorf tells it, Worrell reported that Det. Carroll said that after the suspect was arrested, he was taken to holdover. Det. Carroll met the officers there and "threw a chair at him, jumped on the guy, punching him and kicking him." (**App. Vol 4, pg. 727**). The suspect was handcuffed the entire time. (**App. Vol. 2, pg. 267**).

In addition to confiding to Dierdorf and Doe the details of the assault, Worrell told them she had gone to the warrant office on Wednesday afternoon to help issue criminal charges against the suspect; she also explained that she included a charge which would explain the suspect's injuries. (**App. Vol. 1, pg. 126-127**); (**Vol. 4, pg. 725-727**). Dierdorf

immediately recognized it was wrong for Worrell to have been issuing charges on a case for which she had the backstory on how the suspect became injured. (**App. Vol. 4, pg. 728**). Dierdorf would later testify that she recognized at the time that Worrell's actions could have been a cover-up for the assault. (**Sealed Vol. 7, pg. 1231-1232**).

After Worrell left Dierdorf's office, Dierdorf went to Schuessler's office, where Collins was present, to share what Dierdorf had just learned from Worrell. According to Collins, who knew nothing about Det. Carroll's assault or Worrell's charges at that point, Dierdorf announced that Worrell had "messed up." Dierdorf confided Worrell's details from Det. Carroll about the police assault and explained how Worrell had gone into the warrant office Wednesday afternoon to intercept the warrant application to make sure there were no questions. (**App. Vol. 2, pg. 266-267**). Dierdorf said the false charge was added in to cover up why the suspect was beaten. (**Vol. 2, pg. 240-241**); (**Vol. 6, pg. 1167-1170**).

In response to Dierdorf's news that Worrell helped falsely charge the suspect, Schuessler's eyes got real big and she said: "We could get in trouble just for knowing." Dierdorf replied: "Well, Bliss would be the one in trouble, but how would they find out, I'm not going to say anything. They won't find out." (**App. Vol. 2, pg. 267-269**); (**Vol. 6, pg. 1167-1170**). It was clear to Collins that Dierdorf was not going to report Worrell's misconduct to the supervisors: "She literally said she wasn't going to say anything." (**App. Vol. 2, pg. 274**). Schuessler confirmed Collins' recollection. According to Schuessler, Dierdorf responded: "We won't lose our jobs, I'm not telling." (**App. Vol. 3, pg. 504**). "They're not gonna find out about this. I'm not going to say anything." (**App. Vol. 3, pg.**

575). Schuessler understood that Dierdorf expected no one to talk. (**Sealed Vol. 7, pg. 1234**). Dierdorf then left Schuessler's office. (**App. Vol. 2, pg. 273**).

Unbeknownst to Dierdorf at the time, Collins and Schuessler reported to ACA Supervisor Barrett that trumped up charges may have been filed in the office by Worrell. (**App. Vol. 2, pg. 272**).

Thursday Afternoon, July 24, 2014

Dierdorf went on with her day. She encountered Schuessler in Division 24 for a docket, and the two sat together. Dierdorf received a call and informed Schuessler that Supervisor Barrett was summoning Dierdorf to Barrett's office. (**App. Vol. 3, pg. 512-513**).

Present in Barrett's office was another supervisor. They asked Dierdorf questions about Worrell. Dierdorf proceeded to lie about what she knew and when she learned it. Dierdorf told them she learned of the theft on Tuesday night, but falsely said she heard nothing more until this morning (Thursday), when Worrell told her that Det. Carroll had beaten up a suspect. (**Sealed Vol. 7, pg. 1244**). Dierdorf provided none of the details of Wednesday's events. She did not reveal Wednesday morning's conversation with Worrell about Det. Carroll's beating up the suspect or about the subsequent speakerphone conversation in Schuessler's office. She did not disclose Thursday morning's meet up, at which Worrell admitted that she charged the suspect in a way that would explain why he was visibly injured. (**App. Vol. 4, pg. 738-739**). Dierdorf would later admit that she believed that if she told her supervisors that Worrell knew about the assault on Wednesday, prior to issue charges, Worrell could get fired. (**App. Vol. 4, pg. 745**).

After her meeting with the supervisors, Dierdorf found Schuessler. (**App. Vol. 3, pg. 514**). According to Schuessler, Dierdorf said: “I told them I don’t know anything. You don’t tell them you know anything either.” Schuessler felt Dierdorf was instructing Schuessler to keep quiet. (**App. Vol. 3, pg. 514**); (**Sealed Vol. 7, pg. 1234**).

Dierdorf texted with Doe throughout the day about the potential trouble Dierdorf, Worrell, and Det. Carroll were in:

DIERDORF: If I go down for this I will literally freak out. I did absolutely nothing.

DOE: You won’t. You can’t.

DIERDORF: Do you know where Bliss is?

DOE: No... I’m heading into a completely unrelated meeting.

Will find her after

Heading into your office

Between Tom and Vanna it’s like dumb and dumber in here

DIERDORF: I have your wallet

She’s been on the phone with him the whole way home

DOE: I’m glad she wanted to drive with you to talk to you.

Wtf

DIERDORF: I know.

DOE: Do you think she will be fired?

DIERDORF: Possibly

I also love that they both know their phone records are being subpoenaed yet that have been talking all day

DOE: Wait they are?

Omg. Well. Then she will definitely be fired.

DIERDORF: Yup.

Tom says they will anyway

DOE: Godddd

DIERDORF: I know

DOE: Next question. If they determine Bliss knew it was a false police report can any charges be brought against bliss/the cops.

I hope she understands if we distance ourselves

DIERDORF: Yes they can

DOE: Unreal

(App. Vol. 6, pg. 1115-1121).

Thursday Evening, July 24, 2014

After the work day, Dierdorf drove Worrell home. According to Dierdorf, Worrell spoke on her cell phone with Det. Carroll discussing the situation and speculating how everyone found out what happened. **(App. Vol. 4, pg. 744-745).**

Later that evening, according to Doe, “Dierdorf said the police report was false because how else could they cover up the injuries from the beating.” **(Sealed Vol. 7, pg. 1314).**

Friday Morning, July 25, 2014

The OCA had already alerted the police department's Internal Affairs about the assault, and two sergeants arrived to conduct interviews. Dierdorf was interviewed with OCA supervisors present. (**App. Vol. 4, pg. 748**). Dierdorf stayed consistent with the lies she told her supervisors on Thursday. (**App. Vol. 4, pg. 748-749**); (**Sealed Vol. 7, pg. 1242-1246**). Dierdorf also denied speaking to anyone else in the office about the assault. (**Sealed Vol. 7, pg. 1240-1241**). That was not the truth because Dierdorf had spoken about it with others on Wednesday and Thursday. Dierdorf was told by Barrett to go home early. (**App. Vol. 6, pg. 1105**).

The following Monday, Dierdorf was given the choice to resign or be fired. According to Barrett, the OCA believed Dierdorf had displayed a lack of integrity: "We believe that she knew a lot more about the situation with [Worrell] issuing the case than she had been forthcoming about from the initial git-go, and continued to be not forthcoming." (**App. Vol. 3, pg. 459-460**). Dierdorf resigned. (**App. Vol. 6, pg. 1105-1106**). Shortly thereafter, Dierdorf left for Michigan. (**App. Vol. 4, pg. 759**).

While in Michigan, Dierdorf received a call from Det. Growe. According to Dierdorf, Det. Growe confided his recent discussion with Det. Carroll. Per Det. Growe, Det. Carroll said that on the Tuesday night in question, he had received a call from a sergeant about a stolen credit card. The sergeant told Det. Carroll he had arrested a guy trying to use a credit card and noticed Meghan's name. Det. Carroll drove to the precinct, went into the room, "threw a chair at the guy, and "f**ked" the guy up pretty bad." Per Det. Carroll, he wasn't the only one to hit the suspect. According to Det. Growe, Det.

Carroll said that ACA Schuessler must have been the one who talked. (**App. Vol. 4, pg. 759-760**).

The Federal Investigation

Within days of the police assault and false charge, Circuit Attorney Jennifer Joyce referred the investigations to the United States Attorney's Office, Eastern District of Missouri. (**App. Vol. 2, pg. 315**). Assistant United States Attorney Hal Goldsmith led the investigation. Goldsmith had extensive experience investigating and prosecuting criminal civil rights cases, which included hate crimes as well as cases involving excessive use of force by law enforcement. (**App. Vol. 1, pg. 101**).

On August 11, 2014, Dierdorf, with her two attorneys, arrived at the United States Attorney's Office for an interview. Present were Goldsmith and two FBI agents. (**App. Vol. 1, pg. 114**); (**Sealed Vol. 7, pg. 1318-1322**).

Dierdorf falsely told the federal authorities that she first learned of Det. Carroll's assault and Worrell's charging of the suspect from Worrell on Thursday, July 24. Also, she did not reveal Wednesday morning's meeting in her office with Doe when Worrell said Det. Carroll beat up the suspect who stole Meghan's credit card. (**App. Sealed Vol. 7, pg. 1318-1322**).

Dierdorf said that she drove Worrell home on Thursday, and Worrell was on her cell phone with Det. Carroll. Dierdorf falsely said Worrell and Det. Carroll did not discuss the assault and charging, but only discussed running and other small talk. (**App. Vol. 1, pg. 177-78**); (**Sealed Vol. 7, pg. 1318-1322**). Also, Dierdorf said nothing about her

telephone conversation from Michigan with Det. Growe, who heard Det. Carroll admit to the assault. (**App. Sealed Vol. 7, pg. 1318-1322**).

Goldsmith continued with his investigation, describing it as two pronged: one involving a police officer assault and the other involving allegations against a number of circuit attorneys. “It was a priority investigation, so we were running pretty hard at it. By “we” I mean me and the FBI.” (**App. Vol. 1, pg. 117**).

Regarding Dierdorf, Goldsmith testified:

“We had learned a lot of information following the time we interviewed Miss Dierdorf on August 11th and we had concerns that she hadn’t been completely truthful with us. Jeff Jensen, her counsel, and I had discussions. He wanted to bring her back in. He was very emphatic about wanting her to come back in and correct the record, if you will, and he wanted her to remain a witness as opposed to a subject or target of our investigation.”

(**App. Vol. 1, pg. 117**).

Consequently, on September 9, 2014, Dierdorf returned with her two attorneys to the U.S. Attorney’s Office, this time proffering truthfully and fully. (**App. Vol. 4, pg. 763**).

Per Goldsmith:

1. Dierdorf admitted to learning Wednesday morning from Worrell that Det. Carroll beat up the guy who stole Meghan’s credit card, and that ACA Shaw was nearby;

2. Dierdorf admitted to Thursday morning's discussion with Worrell, when Worrell confided to Dierdorf and Doe the specific details of the police assault, and that Worrell falsely charged the suspect;
3. Dierdorf admitted to Thursday's discussion with Collins and Schuessler, when Dierdorf confided to them the details of the police assault and Worrell's involvement in charging the suspect;
4. Dierdorf admitted to telling Collins and Schuessler that management would not find out about the police assault because of the way Worrell charged the suspect to conceal the actual beating;
5. Dierdorf admitted that she had misled the OCA and Internal Affairs by falsely saying that Worrell first told her about Det. Carroll's assault on Thursday. That was significant in the federal investigation because Worrell had issued warrants, including attempting to escape, on Wednesday. According to Goldsmith, Dierdorf "time shifted," by making it appear that both she and Worrell did not hear about Det. Carroll's assault until after the charges were already filed;
6. Dierdorf admitted that on the drive home on Thursday, she could hear Worrell and Det. Carroll talk on the phone about the beating and charging of the suspect;
7. Dierdorf admitted that she lied to Internal Affairs to be consistent with her previous misrepresentations to her supervisors; and

8. Dierdorf disclosed the telephone conversation she had from Michigan with Det. Growe about Det. Carroll's admission.

(App. Vol. 1, pg. 125-129).

According to Goldsmith, Dierdorf became an "essential witness." **(App. Vol. 1, pg. 150).** She had "multiple, direct conversations with Bliss Worrell." **(App. Vol. 1, pg. 150).** Dierdorf's failure to give truthful information and complete answers to questions by her supervisors, Internal Affairs, and the federal authorities caused actual harm by impeding the criminal investigation into Worrell's prior knowledge at the time Worrell charged the suspect: "So the fact that [Dierdorf] had misrepresented and misled and made false statements to the circuit attorney's office, supervisors, internal affairs, and then to us in the FBI, that was significant. That slowed down our investigation. We had to keep circling around, if you will, to try to match up the evidence and ultimately determine the truthful facts." **(App. Vol. 1, pg. 150-51).**

In addition, Goldsmith explained that Dierdorf's falsehoods jeopardized the criminal prosecution of Worrell by subjecting Dierdorf to a credibility attack if Dierdorf were called as a government witness, particularly regarding Worrell's prior knowledge of the police assault. According to Goldsmith: "All of those misrepresentations, falsities, lies, ultimately if we would, and we did, ultimately charged Tom Carroll or Bliss Worrell, they would have all had to been disclosed, and rightfully so, and the defense attorneys would have had all those prior inconsistent statements and would have been able to impeach Miss Dierdorf for a lengthy period of time." **(App. Vol. 1, pg. 140).**

Months later, Dierdorf was called in front of the grand jury and testified truthfully, consistent with her second proffer to the federal authorities. (**App. Vol. 3, pg. 556-557**).

Months after, Det. Carroll and Worrell each entered into Guilty Plea Agreements in federal court and were found guilty as follows:

1. Det. Carroll, one count of Deprivation of Rights Under Color of State Law, in violation of 18 U.S.C. § 242, (Case No. 4:16CR00148 HEA) (**App. Vol. 6, pg. 1142-1148**),

and

2. Worrell, one count of Misprision of a Felony, in violation of 18 U.S.C. § 4. (Case No. 4:15CR00486 HEA) (**App. Vol. 6, pg. 1136-1141**).

Dierdorf was not called as a prosecution witness against Worrell.

On July 27, 2016, Det. Carroll was sentenced to 52 months in prison. (**App. Vol. 6, pg. 1142-1148**).

On July 28, 2016, Worrell was sentenced to 18 months of probation. (**App. Vol. 6, pg. 1136-1141**).

On August 10, 2016, having been advised of Worrell's conviction, this Court disbarred Worrell (SC95871).

Dierdorf has since moved to Colorado and is currently a public defender for the City and County of Denver. (**App. Vol. 1, pg. 28**).

The Information

Informant filed the Information on May 30, 2017. (**App. Vol. 1, pg. 3-17**)

Informant charged that Dierdorf violated Mo. S. Ct. Rule 4-1.13, by failing to disclose to her supervisors that Worrell helped file false charges against the suspect, which put the OCA, as an organization, at risk of liability.

Informant charged that Dierdorf violated Mo. S. Ct. Rule 4-8.4(c), by lying and failing to disclose relevant and important information to her supervisors, the Internal Affairs sergeants, and the federal authorities regarding her knowledge of Worrell's misconduct.

Informant charged that Dierdorf violated Mo. S. Ct. Rule 4-8.4(c), by instructing Schuessler to lie to the OCA supervisors.

Informant charged that Dierdorf violated Mo. S. Ct. Rule 4-8.4(d), by engaging in conduct which was prejudicial to the administration of justice.

The Disciplinary Hearing Panel's Decision

The disciplinary hearing was held over three days: January 30-31 and February 9, 2018. On July 5, 2018, the Disciplinary Hearing Panel ("DHP") filed its Decision. (**App. Vol. 6, pg. 1188-1192**). The Decision does not make findings or conclusions on all charges.

A. Findings of Fact

The panel included chronological findings of fact up to the point in time of Dierdorf's interviews with her supervisors and Internal Affairs, but was silent as to Dierdorf's statements and omissions during those interviews. Also, the decision did not include findings of fact regarding Dierdorf's first interview with the federal authorities. (**App. Vol. 6, pg. 1188-1192**).

As to the allegation that Dierdorf violated Rule 4-8.4(c), the panel concluded:

“Respondent is guilty of professional misconduct as a result of violating Rule 4-8.4(c) by initially failing to disclose information to the FBI and the U.S. Attorney regarding her full knowledge of Detective Carol’s (sic) involvement and her attribution of the statement to Detective Carol (sic).” (**App. Vol. 6, pg. 1188-1192**).

Informant’s charge against Dierdorf, however, did not include the allegation that Dierdorf failed to disclose information about “Det. Carroll’s involvement.” Instead, Dierdorf was charged with failing to disclose information about “Worrell’s involvement.”

Also, the decision mistakenly included a conclusion that Dierdorf misattributed a statement to Det. Carroll. In fact, it was Schuessler who was charged with falsely attributing a statement to Det. Carroll.³

B. Recommendation for Sanction

The panel recommended a reprimand without conditions pursuant to Rule 5.16(d)(1). As mitigating factors, the panel cited Dierdorf’s lack of disciplinary history, her remorsefulness, and her “continued law practice being handled appropriately.” (**App. Vol. 6, pg. 1188-1192**).

³See Informant’s brief in companion case: *In re: Ambry Nicole Schuessler* SC97376.

POINTS RELIED ON

I.

**THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT
DIERDORF BECAUSE SHE:**

**(A) VIOLATED MO. S. CT. RULE 4-1.13, BY
FAILING TO DISCLOSE TO HER SUPERVISORS HER
KNOWLEDGE THAT WORRELL FILED A FALSE
CHARGE AGAINST THE SUSPECT IN ORDER TO
COVER UP DET. CARROLL'S ILLEGAL ASSAULT,
WHICH PUT THE ST. LOUIS CITY OFFICE OF
CIRCUIT ATTORNEY, AS AN ORGANIZATION, AT
RISK OF LIABILITY;**

**(B) VIOLATED MO. S. CT. RULE 4-8.4(C), BY
LYING AND FAILING TO DISCLOSE RELEVANT
AND IMPORTANT INFORMATION TO HER
SUPERVISORS, THE INTERNAL AFFAIRS
SERGEANTS, AND THE FEDERAL AUTHORITIES
REGARDING HER KNOWLEDGE THAT WORRELL
INCLUDED A FALSE CHARGE AGAINST THE
SUSPECT;**

(C) VIOLATED MO. S. CT. RULE 4-8.4(C), BY INSTRUCTING SCHUESSLER TO LIE TO THE SUPERVISORS; AND

(D) VIOLATED MO S. CT. RULE 4-8.4(D), BY ENGAGING IN THE ABOVE CONDUCT, WHICH WAS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE.

Mo. Sup. Ct. Rule 4-1.13

Mo. Sup. Ct. Rule 4-8.4(c)

Mo. Sup. Ct. Rule 4-8.4(d)

POINTS RELIED ON

II.

FOR THE REASON THAT RESPONDENT DIERDORF WAS A SWORN PROSECUTOR WHO INTENTIONALLY VIOLATED HER OATH IN ORDER TO PROTECT A FRIEND, WORRELL, AND CAUSED HARM TO THE INVESTIGATION AND PROSECUTION OF WORRELL, TO THE CRIMINAL JUSTICE SYSTEM, TO THE PUBLIC, AND TO THE LEGAL PROFESSION, THIS COURT SHOULD ENTER AN ORDER OF SUSPENSION FROM THE PRACTICE OF LAW WITH NO LEAVE TO REAPPLY FOR REINSTATEMENT FOR THREE (3) YEARS.

In re Zink, 278 S.W.3d 166 (Mo. banc 2009)

Mo. Sup. Ct. Rule 4-3.8, Comment [1]

ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS 5.2

ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS 5.22

ARGUMENT

I.

**THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT
DIERDORF BECAUSE SHE:**

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(C) VIOLATED MO. S. CT. RULE 4-8.4(C), BY INSTRUCTING SCHUESSLER TO LIE TO THE SUPERVISORS; AND

(D) VIOLATED MO S. CT. RULE 4-8.4(D), BY ENGAGING IN THE ABOVE CONDUCT, WHICH WAS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE.

It is well-settled that Disciplinary Hearing Panel recommendations are advisory in nature. *In re Donaho*, 98 S.W.3d 871 (Mo. banc 2003). In a disciplinary proceeding, this Court reviews the evidence *de novo*, independently determining all issues pertaining to credibility of witnesses and the weight of the evidence, and draws its own conclusions of law. *In re Crews*, 159 S.W.3d 355, 358 (Mo. banc 2005). “Professional misconduct must be proven by a preponderance of the evidence before discipline will be imposed.” *In re Ehler*, 319 S.W.3d 442, 448 (Mo. banc 2010).

Respondent, ACA Dierdorf lied to criminal law enforcement investigators about a cover-up in the circuit attorney’s office out of an irresponsible and dangerous sense of loyalty to her friend, ACA Worrell.

Dierdorf is a licensed Missouri lawyer, and therefore deemed fit to practice law by this Court. She swore the Oath of Admission on September 14, 2011. Dierdorf accepted the job of Assistant St. Louis City Circuit Attorney, swore the Prosecutor’s Oath, and on February 3, 2014 signed the Acknowledgment and Acceptance of the OCA Personnel Manual, indicating that she had read, understood, and accepted and agreed to abide by the

provisions in it. Dierdorf had experience in the warrant office and understood the prosecutor's duty to be a check within the criminal justice system.

Dierdorf became good friends with ACAs Worrell, Schuessler and Collins and with Intern Doe. Dierdorf knew Worrell had a close, personal relationship with St. Louis City Detective Tom Carroll. Dierdorf developed a close friendship with Det. Growe, who was Det. Carroll's friend and confidante.

When Dierdorf learned from Worrell details about Det. Carroll's illegal assault and Worrell's false charging of the suspect, Dierdorf made the decision not to report Worrell. She instead confided the details to other friends, Schuessler and Collins, believing they would remain loyal to Worrell, just as she was doing.

When Schuessler responded to Dierdorf that they all could get in trouble for knowing about the situation, Dierdorf replied that no one was going to find out because Dierdorf was not going to report anything to the supervisors. Collins and Schuessler both testified that Dierdorf said she was not going to report Worrell.

As an organizational employee of the OCA who knew that a fellow ACA engaged in an improper charging action, Dierdorf had an ethical duty under Mo. S. Ct. Rule 4-1.13 to report Worrell to a supervisor, so as to protect the organization from a civil rights violation or lawsuit.

Unaware that Collins and Schuessler did report Worrell's misconduct, Dierdorf was called in for an interview by her supervisors, and lied. Dierdorf falsely claimed to know little about what Worrell had done; and she attempted to exculpate Worrell from the cover-up. Of her many lies, Dierdorf's most significant was saying she and Worrell only learned

about the police assault on Thursday, after Worrell had already charged the suspect. As noted, Dierdorf learned about the assault from Worrell on Wednesday.

Following her initial interview with her supervisors, Dierdorf met with Schuessler and instructed Schuessler to keep quiet.

Dierdorf maintained the same lies in her Internal Affairs interview on Friday, July 25, 2014.

When initially interviewed by the federal authorities, Dierdorf again failed to disclose that she learned about the police assault on Wednesday, cementing the impression that Worrell only learned of the assault on Thursday, the day after she issued the charges. In addition, Dierdorf failed to reveal her telephone conversation she had with Det. Growe about Det. Carroll's admission of the assault.

As AUSA Goldsmith explained, Dierdorf "time shifted," by making it appear that both she and Worrell did not know about Det. Carroll's assault until Thursday, the day after Worrell issued the charges. That became significant in Goldsmith's investigation because there was a factual issue of whether Worrell knew about the police assault prior to issuing the charges against the suspect. Also, if Dierdorf were needed as a prosecution witness against Worrell, Dierdorf's credibility would become an issue.

When confronted by Goldsmith with facts he learned after Dierdorf's first interview, Dierdorf finally admitted she had lied. Dierdorf's motive for her misconduct was personal, loyalty to a friend.

In contrast, ACA Shaw, whom Dierdorf derided as not being a "true public servant," and ACA Collins, who rejected Dierdorf's admonition to stay silent, demonstrated that

individual prosecutors in the circuit attorney's office were capable of acting with integrity in their service to the public.

The preponderance of the evidence establishes that Dierdorf violated Mo. S. Ct. Rule 4-1.13, by failing to disclose to her supervisors that Worrell improperly charged a suspect, which put the OCA, as an organization, at risk of liability.

The preponderance of the evidence establishes that Dierdorf violated Mo. S. Ct. Rule 4-8.4(c), by repeatedly lying to state and federal law enforcement investigators, most significantly about the sequence of events regarding Worrell's charging of the suspect, and failing to disclose relevant and important information regarding her actual knowledge of Worrell's charging of the suspect.

The preponderance of the evidence establishes that Dierdorf violated Mo. S. Ct. Rule 4-8.4(c), by instructing Schuessler to lie to the OCA supervisors.

The preponderance of the evidence establishes that Dierdorf violated Mo. S. Ct. Rule 4-8.4(d), by engaging in the above conduct, which harmed the criminal investigation and prosecution of Worrell, and therefore was prejudicial to the administration of justice.

Dierdorf elected to go on "inactive status" with her Missouri license and is currently employed as a public defender in Denver, Colorado.

ARGUMENT

II.

FOR THE REASON THAT RESPONDENT DIERDORF WAS A SWORN PROSECUTOR WHO INTENTIONALLY VIOLATED HER OATH IN ORDER TO PROTECT A FRIEND, WORRELL, AND CAUSED HARM TO THE INVESTIGATION AND PROSECUTION OF WORRELL, TO THE CRIMINAL JUSTICE SYSTEM, TO THE PUBLIC, AND TO THE LEGAL PROFESSION, THIS COURT SHOULD ENTER AN ORDER OF SUSPENSION FROM THE PRACTICE OF LAW WITH NO LEAVE TO REAPPLY FOR REINSTATEMENT FOR THREE (3) YEARS.

The purpose of attorney disciplinary proceedings is “to protect the public and maintain the integrity of the legal profession.” *In re Ehler*, 319 S.W.3d 442, 451 (Mo. banc 2010). In imposing discipline, the Court considers the ethical duty violated, the lawyer’s mental state, the extent of actual or potential injury caused by the attorney’s misconduct, and any aggravating or mitigation factors. The Court relies on the ABA Standards for Imposing Lawyer Sanctions (1991) when imposing sanctions to achieve the goals of attorney discipline. *In re Coleman*, 295 S.W.3d 857, 869 (Mo. banc 2009).

Ethical Duty Violated

Dierdorf’s ethical violations, which arose out of her job as an assistant circuit attorney, involved a “Failure to Maintain the Public Trust.” ABA STANDARD 5.2. “The duties owed to the public are protected in part by Rule 4-8.4, attorney misconduct. This

rule helps guarantee that the public can trust lawyers to protect their interest and property.” *Id.* at 869. As a “minister of justice,” Dierdorf’s integrity is her currency. *See* Mo. S. Ct. Rule 4-3.8 (Comment [1]).

The most serious ethical violation by Dierdorf was the prejudice she caused to the administration of justice by lying about Worrell’s misconduct. Mo. S. Ct. Rule 4-8.4(d).

Mental State

Intent is the “conscious objective or purpose to accomplish a particular result.” ABA STANDARDS DEFINITIONS. Dierdorf admitted that she chose to lie to protect Worrell. Dierdorf’s goal was to exculpate Worrell from the allegation of an illegal cover-up.

Injury and Potential Injury

When discussing injury, the Court looks at actual as well as potential injury to the legal system and profession. The injury resulting from professional misconduct need not be actually realized. *In re Coleman*, 295 S.W.3d 857, 870 (Mo. banc 2009).

As Goldsmith testified, Dierdorf’s failure to give truthful information and complete answers to questions by her supervisors, Internal Affairs, and the federal authorities (1) impeded the criminal investigation into Worrell’s prior knowledge at the time she charged the suspect and (2) jeopardized the criminal prosecution of Worrell by opening up Dierdorf to a credibility attack if called as a government witness, particularly regarding Worrell’s prior knowledge of the police assault.

The potential injury was colossal. If Dierdorf were successful in convincing other ACAs not to talk, there would be no corroboration of Worrell’s prior knowledge of the

police assault. Police abuse might have remained under wraps. That would be a breach of justice for the suspect who was brutally assaulted and falsely charged with attempting to escape. In addition, the people of the City of St. Louis would be harmed by having untrustworthy ACAs at the levers of the criminal justice system.

As an Assistant Circuit Attorney, Dierdorf adversely affected the fair administration of justice. Her actions poured scorn on the criminal justice system, particularly on the reputation of the OCA. To let her misconduct go inadequately addressed would raise legitimate questions from the public as to the integrity of the criminal justice system and the legal profession, especially because Dierdorf still works as a government lawyer.

Aggravating and Mitigating Factors

The relevant aggravating factors which may justify an increase in the degree of discipline to be imposed include: multiple offenses, dishonest or selfish motive, and the vulnerability of the victim. ABA STANDARD 9.2.

The relevant mitigating factors which may justify a reduction in the degree of discipline imposed include: absence of a prior disciplinary record, full and free disclosure to the disciplinary board and cooperative attitude toward the proceedings, and good reputation. ABA STANDARD 9.3.

The aggravating factors far outweigh the mitigating factors. Dierdorf's dishonest and selfish motive to protect a colleague who committed an illegal act in the circuit attorney's office with the intent to cover up an illegal police assault is perverse to her duty as a prosecutor. Her loyalty to Worrell was so fierce, that she lied multiple times to criminal justice authorities and instructed Schuessler to lie, too. What makes Dierdorf's

case particularly galling is that she took the prosecutor's oath to put the public interest above all else, yet, unlike a "true public servant," succumbed to peer pressure.

Dierdorf's assumed generally good character must be balanced against the vulnerability of the victims, that is, a falsely charged suspect and the public. As to the suspect, it is hard to imagine a more vulnerable position than being handcuffed and beaten by the police, while some of the attorneys tasked with protecting his rights actively worked to cover up what happened. As to the public, the Det. Carroll/Worrell incidents happened within a month of the highly charged and publicized events in Ferguson, Missouri. Issues of alleged police and prosecutor misconduct echo and foment in the public sphere to this very day.

Recommended Discipline

The Court relies on the ABA Standards when imposing sanctions to achieve the goals of attorney discipline. The goals of attorney discipline are to protect the public, ensure the administration of justice, and maintain the integrity of the profession. *In re Coleman*, 295 S.W.3d 869 (Mo. banc 2009).

"Misconduct involving subterfuge, failing to keep promises, and untrustworthiness undermine public confidence in not only the individual but in the bar. Therefore, in order to protect the public and maintain the integrity of the profession, a substantial penalty must be imposed." *In re Donaho*, 98 S.W.3d 871, 874 (Mo. banc. 2003).

Respondent has demonstrated questionable moral judgment, which raises serious doubts about her fitness to practice law. *Id.* at 874.

According to Standard 5.22 of the ABA Standards of Professional Discipline, a suspension is generally appropriate when a lawyer in an official or governmental position knowingly fails to follow proper procedures or rules, and causes injury or potential injury to a party or the integrity of the legal profession, Standard 5.22, ABA Standards for Imposing Lawyer Sanctions (1991).

Ultimately, suspension serves the dual purposes of discipline: it protects the public, and maintains the integrity of the profession by deterring other members of the bar from engaging in similar conduct. Suspension also recognizes that while the focus of discipline is to achieve the purposes previously described, those purposes are inevitably achieved through punishment. *In re Littleton*, 719 S.W.2d at 777-78.

Missouri has a number of cases involving discipline for a breach of the public trust. (*In re Frick*, 694 S.W.2d 473 (Mo. banc 1985)) (lawyer disbarred for misconduct which damaged the image of the legal profession and showed his willingness to break the law); (*In re Littleton*, 719 S.W.2d 772 (Mo. banc 1986)) (suspension for multiple acts of misconduct, including misrepresentation); (*In re Ver Dught*, 825 S.W.2d 847 (Mo. banc 1992)) (suspension for misrepresenting facts before an administrative law judge); (*In re Donaho*, 98 S.W.3d 871 (Mo. banc 2003)) (suspension for multiple acts of misconduct, including intentional deception); (*In re Zink*, 278 S.W.3d 166 (Mo. banc 2009)), (suspension for intentionally lying to federal agents and the United States Attorney's office about the sordid details of a plea bargain.)

Of those cases, *Zink* is the most factually similar to *Dierdorf*'s. Both *Zink* and *Dierdorf* lied to law enforcement investigators about misconduct in the criminal justice

system. Both cases involved charged suspects and thus directly affected the fair administration of justice. Only after being confronted by contrary evidence did both admit they had been lying. In *Zink*, the Court imposed a six-month suspension.

Although an actual suspension is appropriate for Dierdorf, the length should be for longer than six months. Unlike *Zink*, Dierdorf did not sit out the practice of law for six months prior to her disciplinary hearing as part of a “diversion agreement” with the U.S. Attorney’s office--a factor that the Court cited as mitigating. *Id.* at 169. And, unlike *Zink*, who was an associate attorney at a law firm, Dierdorf was an assistant circuit attorney. As a “minister of justice,” Dierdorf carried a special obligation to see that procedural justice was done and that guilt was decided upon the basis of sufficient evidence. *See* Mo. Sup. Ct. Rule 4-3.8 [Comment 1].

Regardless, the discipline imposed should be significant, recognizing the importance of this matter to the public and integrity of the legal system. Considering Dierdorf’s intentional and multiple bad acts as a public official by lying to criminal investigators about a cover-up in the circuit attorney’s office, Informant respectfully requests Dierdorf be suspended indefinitely; she should not be eligible for reinstatement for three (3) years.

CONCLUSION

A clear preponderance of the evidence demonstrates that Dierdorf violated Rules 4-1.13, 4-8.4(c), and 4-8.4(d) by intentionally failing to disclose her knowledge and lying about misconduct in the circuit attorney’s office. Dierdorf’s most serious violation was the prejudice she caused to the administration of justice.

In order to protect the public and the integrity of the profession, Informant respectfully requests that the Court enter an order indefinitely suspending Respondent from the practice of law with no leave to apply for reinstatement until after three (3) years.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November 2018, a true and correct copy of the foregoing was served via the Missouri Supreme Court e-filing system on Respondent's counsel:

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CERTIFICATION OF COMPLIANCE: RULE 84.06(c)

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;
2. Was served on Respondent's Counsel via the Missouri electronic filing system pursuant to Rule 103.08;
3. Complies with the limitations contained in Rule 84.06(b); and
4. Contains 8,357 words, according to Microsoft Word, which is the word processing system used to prepare this brief.



Marc A. Lapp