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Electronic Correspondence***

August 30, 2019

LENARD B. ZIDE  
JOSEPH A. COLUNTINO, JR.  
ALEC S. PINE  
ETHAN A. PARK  
PATRICK HANLEY  
OF COUNSELJune Risk  
Board of Bar Overseers  
99 High Street, 2<sup>nd</sup> Floor  
Boston, Massachusetts 02110**Re: B.B.O File No(s). C1-18-00255238**Dear Ms. <sup>June</sup> Risk:

Enclosed for filing in the above referenced matter, please find the Answer of John C. Verner.

Please call me if you have any questions. Thank you.

Sincerely,



Thomas J. Butters

Encl.

cc: Stacey A. L. Best (email & first class mail)  
Thomas Kiley (email)  
George A. Berman (email)

**COMMONWEALTH OF MASSACHUSETTS  
BOARD OF BAR OVERSEERS  
OF THE SUPREME JUDICIAL COURT**

\_\_\_\_\_  
BAR COUNSEL, )  
                  Petitioner )  
                                  )  
v. )  
                                  )  
JOHN C. VERNER, ESQ., )  
                  Verner. )  
\_\_\_\_\_ )

B.B.O. File No. C1-18-00255238

**ANSWER OF JOHN C. VERNER**

1. The “Overview” section of the Petition is a summary of allegations made by and conclusions drawn by Bar Counsel and requires no answer.
- 2-6. The Respondent, John C. Verner (“Verner”), admits the allegations contained in Paragraphs 2 – 6 of the Petition.
7. With respect to Paragraph 7 of the Petition, Verner admits that he had a supervisory role over the EMC and Appeals Division.
8. Verner admits that he had a supervisory role over the EMC and Appeals Division. Verner was supervised by Sheila Calkins (Deputy Attorney General); Edward Bedrosian (First Assistant Attorney General) and Martha Coakley (Attorney General). Further answering, Kris Foster (“Foster”) was directly supervised by Susanne Reardon (“Reardon”) and Randy Ravitz (“Ravitz”). Anne Kaczmarek was directly supervised by Dean Mazzone (“Mazzone”).
9. Verner realleges his answers to Paragraphs 2-8 herein.

10. With respect to Paragraph 10 of the Petition, Verner admits said allegations, except that he has no knowledge of Farak's duties regarding the maintenance and repair of equipment.
- 11-16. Verner admits the allegations contained in Paragraphs 11 – 16 of the Petition.
17. Verner was not co-counsel with Ms. Kaczmarek in the Sonja Farak ("Farak") investigation. He was one of her supervisors, along with her direct supervisor, Mazzone.
18. Verner admits the allegations contained in Paragraph 18 of the Petition.
19. With respect to Paragraph 19 of the Petition, Verner admits the Massachusetts State Police ("MSP") had custody of the evidence. The Attorney General's Office ("AGO") had copies of documents, but not controlled substances, that were contained in the MSP file. Further answering, various District Attorneys' Offices also investigated Farak's conduct and had possession of most of said documents. In addition, Farak's attorney, Elaine Pourinski ("Pourinski") had complete access to the MSP file.
20. Verner admits the allegations contained in Paragraph 20 of the Petition. **Verner cannot and does not answer for Kaczmarek nor Foster, in this or any other paragraph of the Petition.**
21. The allegation contained in Paragraph 21 of the Petition is a statement that requires no answer.
22. Verner admits the allegations contained in Paragraph 22 of the Petition.
23. Verner admits the allegations contained in Paragraph 23 of the Petition, except that Verner had no knowledge regarding the "manila envelopes" until at least November 2014.

24. With respect to Paragraph 24 of the Petition, Verner only knew from the March 2013 prosecution memorandum that “mental health worksheets describing how Farak feels when she uses illegal substances and the temptation of working with ‘urge-full’ samples” were found in Farak’s car. Further answering, Verner had no knowledge regarding the sheet with the notation “homework 11-16-11” until at least November 2014.
25. Verner has no recollection of speaking to Ballou about the mental health worksheets before February 14, 2013.
26. With respect to Paragraph 26 of the Petition, Verner admits that he received said email, but has no recollection of opening its attachments until November 2014.
27. With respect to Paragraph 27 of the Petition, Verner admits that he knew from the date he read Kaczmarek’s prosecution memorandum that the mental health worksheets contained potentially exculpatory information for the Farak Defendants.
- 28-29. Verner admits the allegations contained in Paragraphs 28 – 29 of the Petition.
30. With respect to Paragraph 30 of the Petition, Verner was not on the email chain where Ballou reported about the 2005 case, but he learned about the email shortly thereafter. Verner learned subsequently that an Assistant District Attorney did not believe he could prove Farak was guilty of misconduct regarding the 2005 cocaine case. At this time, Verner did not believe that Farak’s evidence tampering “might have been going on for many years prior to late 2012” as alleged in Paragraph 30. Verner believed that Ballou would write a report regarding these two incidents, which would be turned over to the Farak defendants as part of the ongoing production of exculpatory evidence.

31. With respect to Paragraph 31 of the Petition, Verner admits learning of this information, but denies that it was exculpatory. In addition, there was a probation violation hearing regarding this issue.
32. Verner admits the allegations contained in Paragraph 32 of the Petition.
33. With respect to Paragraph 33 of the Petition, Verner admits that he and Kaczmarek were concerned about potential privacy concerns that Farak may have had and decided not to include this material in the Farak grand jury presentation.
34. Verner admits the allegations contained in Paragraph 34 of the Petition.
35. Verner admits that the AGO received requests but doesn't recall when.
36. Verner admits the allegations contained in Paragraph 36 of the Petition. Verner believed at the time, based on conversations with the Executive Office, that another government agency would perform a full investigation as it had for Dookhan. Further answering, under the existing Rules of Discipline, Rule 3.8, the AGO's obligation was to provide exculpatory information to Farak, not the Farak defendants. However, Verner intended to provide all such exculpatory evidence to the Farak defendants through the District Attorneys.
- 37-41. Verner admits the allegations contained in Paragraphs 37 – 41 of the Petition. Further answering, the information pertaining to the 2012 oxycodone case was provided to the responsible District Attorney's office. Verner did not personally collect the discovery furnished to the District Attorneys. Verner did not direct anyone not to send exculpatory evidence to the District Attorneys. See Answers 30, 36.
42. With respect to Paragraph 42 of the Petition, Verner had no contemporaneous knowledge regarding this allegation, and learned of these records after November 2014.

43-47. Verner admits the allegations contained in Paragraphs 43 – 47 of the Petition. Further answering, Verner did not collect the discovery furnished to the District Attorneys. That task was left with Verner’s assistant and Kaczmarek. Verner did not direct his assistant and Kaczmarek not to send exculpatory evidence to the District Attorneys. See Answers 30, 36.

48-49. With respect to Paragraphs 48 – 49 of the Petition, Verner believes he reviewed and approved said letter. Verner did not instruct Kaczmarek not to send exculpatory evidence to the District Attorneys, and always believed that all exculpatory evidence was being disclosed.

50. Verner admits the allegations contained in Paragraph 50 of the Petition. See Answer 36.

51. By this time, with respect to Paragraph 51 of the Petition, Verner believed that all appropriate disclosures would continue to be made. See Answer 36.

52. Verner admits the allegations contained in Paragraph 52 of the Petition. Further answering, at all times Verner believed that appropriate disclosures had been made. In addition, Verner directed Pat Devlin of the AGO to provide access to the AGO’s files to Farak defense counsel as of July 2014, when a request was made by a counsel to the Farak defendants, once Farak had pleaded guilty.

53. The allegations contained in Paragraph 53 require no answer as they do not relate to Verner.

54-56. Verner denies the allegations contained in Paragraphs 54 – 56 of the Petition. See Answer 36.

57. Verner realleges his answers to Paragraphs 1-56 herein.

58-59. Verner admits the allegations contained in Paragraphs 58 – 59 of the Petition.

60. Verner admits the allegations contained in Paragraph 60 of the Petition regarding the AGO. Verner has no knowledge regarding subpoenas that may have been served on MSP or DPH.
- 61-67. Verner admits the allegations contained in Paragraphs 61 – 67 of the Petition.
68. With respect to Paragraph 68 of the Petition, Verner lacks knowledge regarding said allegations.
69. With respect to Paragraph 69 of the Petition, Verner believed that all exculpatory evidence had been disclosed. Kaczmarek was the line prosecutor and Ballou was the case agent. Further answering, Verner learned subsequent to November 2014 that ADA John Bosse from the Hamden County District Attorney's Office met with Kaczmarek on September 4, 2013 to review her file, which included the Farak mental health worksheets, along with other discovery at issue in this proceeding. See Answer 36.
- 70-73. With respect to Paragraphs 70 – 73 of the Petition, Verner had no contemporaneous knowledge regarding these allegations. See also Answer 69 herein.
- 74-78. With respect to Paragraphs 74 – 78 of the Petition, Verner has no knowledge regarding Farrell's inquiry. Further answering, Verner was aware of the mental health worksheets and expected they had been disclosed.
- 79-81. These allegations do not refer to conduct by Verner and therefore require no answer.
82. Verner denies the allegations contained in Paragraph 82 of the Petition.
83. Verner denies the allegations contained in Paragraph 83 of the Petition. As soon as Verner learned that exculpatory information was not disclosed, he ordered its disclosure.
84. Verner realleges his answers to Paragraphs 1-83 herein.

85-94. Verner lacked sufficient knowledge at the time to respond to the allegations contained in Paragraphs 85 – 94 of the Petition. Verner now believes that these allegations are true.

95-99. Verner was not aware of what Foster did regarding the allegations contained in Paragraphs 95 – 99 of the Petition.

100. With respect to Paragraph 100 of the Petition, Verner does not know the extent of Kaczmarek's knowledge regarding these allegations.

101. With respect to Paragraph 101 of the Petition, Verner knows at some point in early September 2013, Kaczmarek knew that Foster was assigned to handle the subpoenas.

102. With respect to Paragraph 102 of the Petition, Verner does not know what actions Kaczmarek took regarding Foster and the Penate subpoena.

103. Verner admits the allegations contained in Paragraph 103 of the Petition.

104-105. With respect to Paragraphs 104 – 105 of the Petition, Verner was aware of Foster's memorandum and was concerned about not disclosing AGO work product and the scope of any order regarding a search of AGO email.

106. Verner admits the allegations contained in Paragraph 106 of the Petition.

107-109. With respect to Paragraphs 107 – 109 of the Petition, Verner learned on September 10, 2013 that Ballou did not bring his file to court on September 9, 2013. Verner also learned that the Court ordered a review of the Ballou file and production of privileged documents for an in camera review.

110. With respect to Paragraph 110 of the Petition, Verner was not aware that the Court ordered Foster to personally review Ballou's file, nor was he aware of what Foster understood.

111. Verner admits the allegations contained in Paragraph 111 of the Petition.



112. As noted in Answer 110 herein, Verner was not aware that the Court ordered Foster to personally review the Ballou file, nor that Foster did not personally review the file.
113. With respect to Paragraph 113 of the Petition, Verner expected Foster would review the Ballou file. Verner did not know that Foster did not review the Ballou file.
114. Admit. Further answering, Verner did not learn of the existence of this Foster letter until at least November 2014.
115. Verner has no knowledge of Foster's intentions in September 2013.
- 116-120. Verner admits the allegations contained in Paragraphs 116 – 120 of the Petition.
121. With respect to Paragraph 121 of the Petition, Verner admits that the Ballou and Kaczmarek files included the mental health worksheets. Further answering, Kaczmarek informed Verner in an email dated September 10, 2013, that she was going to review Ballou's file with Ballou in the coming week. Verner expected that anything exculpatory would be disclosed. Verner also believed that Foster would collect and review said files. Verner did not learn, until November 2014, that Foster did not collect and review said files. See Answer 69.
122. Verner is without sufficient knowledge to answer Paragraph 122 of the Petition.
- 123-127. Verner admits the allegations contained in Paragraphs 123 – 127 of the Petition.
128. With respect to Paragraph 128 of the Petition, Verner does not know what Foster told the Court.
129. Verner admits the allegations contained in Paragraph 129 of the Petition.
130. With respect to Paragraph 130 of the Petition, the Order speaks for itself.
131. Verner does not know when Foster received said Order.

132. With respect to Paragraph 132 of the Petition, the Appeals Unit sought permission from Verner to file a Motion for Clarification, which he granted.
- 133-135. With respect to Paragraphs 133 – 135 of the Petition, Verner saw a 27 page draft of the Motion for Clarification that was presented to him by Ravitz, the Chief of the Appeals Division. Verner approved the filing of the Motion. Verner denies the remaining allegations of Paragraphs 133-135. Verner believed that all exculpatory evidence had been disclosed by this time.
- 136-137. With respect to Paragraphs 136 – 137 of the Petition, these allegations do not pertain to Verner.
138. Verner admits the allegations contained in Paragraph 138 of the Petition.
139. Admit. Further answering, Judge Kinder's Order required the disclosure of any alleged misconduct by Farak prior to the criminal investigation by the MSP.
- 140-142. Verner admits the allegations contained in Paragraphs 140 – 142 of the Petition.
143. With respect to Paragraph 143 of the Petition, Verner admits that Mr. Ryan learned that the AGO had failed to disclose exculpatory evidence. Further answering, Verner believed that all such exculpatory evidence had been disclosed. In November 2014 he learned otherwise.
144. Verner admits that the AGO disclosed 289 pages of discovery on November 13, 2014 as stated herein, Verner believed that this discovery had already been produced.
145. Verner admits the allegations contained in Paragraph 145 of the Petition.
146. Admit. Further answering, Judge Carey found that Verner engaged in no misconduct. In fact, Judge Carey commended the actions of Verner and several other assistant district attorneys.

147. Verner admits the allegations contained in Paragraph 147 of the Petition.

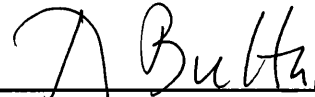
148-152. These allegations do not refer to conduct by Verner and therefore require no answer.

153. Verner denies the allegations contained in Paragraph 153 of the Petition.

154. This allegation does not refer to conduct by Verner and therefore requires no answer.

155. Verner denies that he violated any Disciplinary Rules. This allegation simply recites various Disciplinary Rules and requires no answer.

Respectfully submitted,  
John C. Verner  
By his attorney,



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Dated: August 30, 2019

### CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was served upon the following counsel of record by first-class mail, postage pre-paid:

June Risk  
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Boston, MA 02110

Stacey A. L. Best  
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Thomas J. Butters