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June 1, 2016

Mr. Gregory P. Dresser, Interim Chief Trial Counsel
State Bar of California
180 Howard St
San Francisco, California 94105

Members, Board of Trustees
State Bar of California
180 Howard Street
San Francisco, California 94105

Re: *In re Wade A. Robertson*, Case No. 09-O-19259-LMA (California State
Bar Court)

Mr. Dresser and Members of the Board of Trustees:

On May 9, 2016, I sent a letter to all trustees regarding evidence of criminal misconduct in Case No. 09-O-19259-LMA by Cydney Batchelor, a state bar prosecutor. Respondent Wade Robertson notified the appellate panel that Ms. Batchelor intentionally withheld exculpatory evidence, and I provided that information to the trustees. In response, the trustees have taken no corrective action. Instead, the trustees have allowed Ms. Batchelor to double down on her misconduct.

On May 16, 2016, Ms. Batchelor filed a responsive pleading wherein she set forth additional evidence of her guilt. At issue was whether witness Jason Yearout disclosed exculpatory evidence to Ms. Batchelor, and whether Ms. Batchelor withheld that information from Mr. Robertson and the court. In her May 16, 2016 response, Ms. Batchelor conceded that Mr. Yearout disclosed the information to her, and she conceded that she may have told him that he “should forget the call ever happened.”

How can that be anything other than a smoking gun? It is undisputed that Ms. Batchelor failed to disclose the exculpatory evidence to the court or Mr. Robertson. Like a five-year-old caught with her hand in the cookie jar, however, Ms. Batchelor tried to change the subject and shift the blame elsewhere. In her declaration, Ms. Batchelor wrote that she “assumed” that Mr. Yearout would convey the exculpatory information to Mr. Robertson, as if that absolved her of any duty to notify Mr. Robertson or the court.

Such an assumption is not even plausible. You will recall that the state bar has alleged that Mr. Robertson took \$3.5 million from William C. Cartinhour, Jr. for purposes of funding litigation in New York, but that Mr. Robertson never used the money for litigation purposes. During the state bar trial, prosecutors touted a letter from Gusto Yearout, the father and law partner of Jason Yearout, wherein the senior Mr. Yearout

assured another lawyer that his firm had not received any of the \$3.5 million. Gusty Yearout was trying to convince Mr. Cartinhour's lawyers not to sue his firm along with Mr. Robertson.

Given that context, it is preposterous for Ms. Batchelor to suggest that she thought the Yearout firm would voluntarily notify Mr. Robertson that it had done an about-face and was now admitting that it had received some of the \$3.5 million. Even if she actually believed something so outlandish, why wouldn't she just notify the court – and Mr. Robertson – that she had discovered the exculpatory evidence? And why wouldn't she admit that the earlier letter from Gusty Yearout – which she had been touting as evidence against Mr. Robertson – had now been discredited? Because she is dishonest and corrupt. There is no other explanation.

The California Supreme Court has held that attorneys engage in misconduct where they fail to prevent the misconduct of attorneys under their supervision. *See, e.g., Gadda v. State Bar*, 50 Cal. 3d 344, 354, 787 P.2d 95 (1990). Both the trustees and Mr. Dresser have a duty to reign in Ms. Batchelor. If I do not receive a response from you by June 6, 2016, I will be forced to conclude that you have ratified Ms. Batchelor's misconduct, and I will likely file a disciplinary complaint against Mr. Dresser.

I must also ask about the status of my May 9, 2016 disciplinary complaints against Ms. Batchelor and Robert Henderson. According to the U.S. Postal Service, those complaints were delivered on May 12, 2016. Given the OCTC's conflicts, I renew my request for appointment of a special counsel to investigate and/or prosecute the complaints.

Thank you for your attention to these matters.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: The Hon. Kamala Harris, Attorney General
Office of the Attorney General of California
The Hon. George Gascón, District Attorney
Office of the San Francisco County District Attorney
Office of Chief Trial Counsel
State Bar of California