

II. BACKGROUND AND STIPULATED FACTS

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2 1. On May 17, 2019, Myers was suspended from the practice of law for failure to pay
3 CNMI Bar Association membership dues.
- 4 2. On February 7, 2020, a suspension order was sent by mail to the address Myers
5 provided on his bar renewal form, but the letter went unclaimed at the post office,
6 and was later returned to the Northern Marianas Bar Association (“CNMI Bar
7 Association”)
- 8 3. After suspension, Myers allegedly continued to engage in the practice of law.
- 9 4. Attorney Vina Seelam a member of the CNMI Bar Association Disciplinary
10 Committee (the “Disciplinary Committee Members”) was appointed to investigate.
- 11 5. On July 17, 2024, Prosecuting Counsel filed complaint for disciplinary action against
12 Myers.
- 13 6. The complaint for disciplinary action alleges that Myers continued to engage in the
14 practice of law in the CNMI after notice of suspension for failure to pay CNMI Bar
15 Association membership dues.
- 16 7. On October 11, 2024, a bench trial was held. Myers did not appear. Vina Seelam
17 testified. Prosecuting Counsel needed to call additional witnesses for his case-in-
18 chief and requested to continue the bench trial to December 6, 2024.
- 19 8. On November 26, 2024, Attorney Micheal W. Dotts entered his appearance as
20 attorney for Myers. Prosecuting Counsel and Dotts stipulated to continue the bench
21 trial for two months.
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26 ⁴ During the December 23, 2024 motion hearing, Horey also agreed and stipulated to facts and exhibits that was stipulated to in *In the Matter of Shelli Latrice Neal*, CV 23-0243. The stipulation in effect made it possible to proceed with the hearing without the need to call witnesses. For expediency, an exhibit marked as “Neal” is applicable to both *In the Matter of Shelli Latrice Neal*, CV 23-0243 and *In the Matter of Robert Harrison Myers, Jr*, CV 24-0161.

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9. On December 10, 2024, Respondent Myers filed a Rule 12(b)(1) Motion to Dismiss lacks subject matter jurisdiction. Myers argues that the Disciplinary Committee Members that recommended prosecution for disciplinary action against Myers were not properly elected, and this Court lacks subject matter jurisdiction to hear the case. Myers argues that if the Disciplinary Committee is not properly elected, the Disciplinary Committee lacks quorum to refer the disciplinary case against Myers to the Chief Justice of the CNMI Supreme Court., and the Court does not have subject matter jurisdiction to hear the matter. Also, Myers likens the Disciplinary Committee’s function to that of a grand jury, where a recommendation for prosecution is akin to an indictment.

10. On December 20, 2024, Prosecuting Counsel filed his Opposition to Motion to Dismiss. Prosecuting Counsel argues that in general the rules of attorney discipline are not jurisdictional, with exceptions for certain issues such as due process rights.

11. On December 23, 2024, a motion hearing was held. Prosecuting Counsel Horey and Attorney Michael Dotts for Respondent both appeared. Myers appeared at the Rota Courthouse via MS Team.

12. At the December 23, 2024 hearing Attorneys Horey and Dotts stipulated to the following facts from *In the Matter of Shelli Latrice Neal* Case No. 23-0243-CV, another ongoing disciplinary matter:

a. At the time when the Disciplinary Committee made its decision to refer the complaint for prosecution, the members of the Disciplinary Committee were Steven Pixley, Catherine Cachero, Vina Seelam, Bruce Mailman, and Timothy Bellas. (See Respondent’s Collective Exhibit B1-B2 Letterhead).

b. At the times when the Disciplinary Committee Members were elected to the Disciplinary Committee, there were 166 active members of the CNMI Bar in

1 2022, and 154 active members of the CNMI Bar in 2023. (See Respondent's
2 Exhibit D).

3 c. The following is a summary of the election results of the Disciplinary
4 Committee Members: Name; Date Elected, Length of Term, Number of
5 Affirmative Votes Received, and Type of Election

6 i. Steven Pixley. Elected on February 24, 2022. 2-year term. Received
7 13 affirmative votes. General Election.

8 ii. Catherine Cachero. Elected on February 24, 2022. 2-year term.
9 Received 13 affirmative votes. General Election

10 iii. Vina Seelam. Elected on February 23, 2023. 2-year term. Received
11 17 affirmative votes. General Election

12 iv. Timothy Bellas. Elected on February 23, 2023. 2-year term. Received
13 17 affirmative votes. General Election

14 v. Bruce Mailman. Elected on February 23, 2023. 2-year term. Received
15 17 affirmative votes. General Election (See Respondent's Exhibit E1-
16 E5).
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19 d. Fewer than one-half of the total active members of the CNMI Bar
20 Association voted for the Disciplinary Committee Members in those
21 elections, as most of the active members of the CNMI Bar Association did
22 not cast ballots. However, the Disciplinary Committee members were elected
23 by the majority of the votes cast. (See Respondent's Exhibit E1 – E5).

24 e. The parties stipulate to the admission of the following exhibits and waive
25 objections as to authenticity and hearsay so as no witness needs to be called
26 to provide a foundation for their admission.

i. Respondent's Exhibit A. Liang Letter to CNMI Bar Association.

- ii. Respondent’s Collective Exhibit B1-B2. Bellas Investigation Letter.
- iii. Respondent’s Collective Exhibit C1-C2. Email Chain Between Bellas and Neal.
- iv. Respondent’s Exhibit D. Deputy Clerk Email Regarding Number of Active CNMI Bar Members.
- v. Respondent’s Exhibit E1-E5. CNMI Bar Election Ballots and Results 2022 – 2023.

f. The facts as stipulated to above are supported by the Exhibits identified above and Attorney Sean Frink’s deposition given as the Rule 30(b)(6) representative of the CNMI Bar Association. However, Attorney Frink’s deposition testimony is limited to only support the CNMI Bar’s election results and not the acts of the Disciplinary Committee and/or Disciplinary Committee Member Vina Seelam as the appointed investigator. Counsels agreed not to dispute such facts.

III. FINDINGS OF FACT

- 1. On May 17, 2019, Myers was suspended from the practice of law for failure to pay CNMI Bar Association membership dues.
- 2. On February 7, 2020, a suspension order was sent by mail to the address Myers provided on his bar renewal form, but the letter went unclaimed at the post office, and was later returned to the Bar Association.
- 3. After suspension, Myers allegedly continued to engage in the practice of law.
- 4. All five Disciplinary Committee Members were elected by less than 20 affirmative votes by the members of the CNMI Bar Association. In 2022, there were 166 CNMI Bar Association members, and in 2023, there were 154 CNMI Bar Association

1 members. The CNMI Bar Association did not record whether voting members were
2 active or temporary members.

3 5. On July 17, 2024, Prosecuting Counsel Cong Nie filed a complaint for disciplinary
4 action against Myers, alleging that Myers continued to engage in the practice of law
5 after his suspension.

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7 6. On November 8, 2024, pursuant to Article IV, Section 9 of the NMI Constitution, the
8 Chief Justice Alexandro C. Castro, upon request by the CNMI Bar Association's
9 Disciplinary Committee submitted to the Northern Marianas Commonwealth
10 Legislature proposed rule changes to the NMI Rules of Attorney Discipline and
11 Procedure. Among the proposed rule changes is one proposing to clarify that the
12 committee members are elected by a majority of the votes cast rather than a majority
13 of the CNMI Bar Association members.

14 7. On December 18, 2024, the Senate of the Northern Marianas Commonwealth
15 Legislature unanimously rejected the November 8, 2024 submitted proposed rule
16 changes to the NMI Rules of Attorney Discipline and Procedure.⁵

17 **IV. LEGAL STANDARD**

18 Article IV, Section 9 of the Commonwealth Constitution confers to the Chief Justice of
19 the judiciary the power to propose rules concerning civil and criminal procedure, admission
20 and governance of the CNMI Bar Association, and other matters of judicial administration.
21 A proposed rule becomes "effective sixty (60) days after submission unless disapproved by
22 a majority of the members of either house of the legislature." NMI Const. art. IV, § 9(a).
23 The power to regulate the practice of law is also recognized as an inherent power of the
24 Court.
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⁵ This official communication from the Senate and the November 8, 2024 letter from the Chief Justice proposing amendments to the NMI Rules of Attorney Discipline and Procedure were provided to the parties and was discussed at the December 23, 2024 hearing.

1 The procedures for disciplinary actions against attorneys are provided in the NMI Rules
2 of Attorney Discipline and Procedure. Under the NMI Rules of Attorney Discipline and
3 Procedure, a disciplinary committee is formed by five members from the CNMI Bar
4 Association. Rule 7(a)(2) states that the committee members “must [b]e elected by a
5 majority vote of active members of the Bar Association.” NMI R. ATT’Y DIS. & P.

6 Under the CNMI Bar Association Bylaws Article II, Section 8, three types of
7 membership: (A) an active member is “a person who is admitted to the Association and who
8 is actively engaged in the practice of law, whether in private, government, or public service
9 practice, in the CNMI;” (B) a temporary member is “a person who is actively engaged in the
10 practice of law in the CNMI in government or public service and who is admitted to the
11 Association on a limited admission pursuant to 1 CMC Sec. 3603;” and (C) an inactive
12 member “is a person who is admitted to the Association and who is not actively engaged in
13 the practice of law, whether in private, government, or public service practice, in the
14 CNMI.” Id. The Bylaws also state that the majority of members voting shall constitute
15 action of the members. Id. Art. II, § 10.

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17 When an allegation against an attorney is filed with the Disciplinary Committee, it has
18 the power to appoint an investigator, and, after receiving a report from the investigator,
19 recommend appointing prosecuting counsel by submitting the recommendation to the Chief
20 Justice of the CNMI Supreme Court. NMI R. ATT’Y DIS. & P. 10(a), (c). If the Disciplinary
21 Committee recommends appointing prosecuting counsel, the Chief Justice must appoint
22 prosecuting counsel. NMI R. ATT’Y DIS. & P. 10(c)(1)(B). The prosecuting counsel then
23 must file a complaint within 60 days of appointment. NMI R. ATT’Y DIS. & P. 12(b)(3). The
24 complaint must be served in a manner consistent with the NMI Rules of Civil Procedure.
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26 NMI R. ATT’Y DIS. & P. 13(b)(1).

V. DISCUSSION

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2 Prosecuting Counsel argues that in general the rules of attorney discipline are not
3 jurisdictional, with exceptions for certain issues such as due process rights. Myers likens the
4 Disciplinary Committee's function to that of a grand jury, where a recommendation for
5 prosecution is akin to an indictment. Myers argues that if the Disciplinary Committee is not
6 properly elected, the Disciplinary Committee lacks quorum to refer the disciplinary case
7 against Myers to the Chief Justice of the CNMI Supreme Court, and the Court does not have
8 subject matter jurisdiction to hear the matter.

A. The Courts of the Commonwealth have jurisdiction and authority over attorney disciplinary matters.

11 Title 1 § 3202 of the Commonwealth Code gives the Court original jurisdiction over all
12 civil and criminal actions. Furthermore, Article IV, Section 9 of the Commonwealth
13 Constitution gives the Chief Justice the power to propose rules controlling admission and
14 governance of the CNMI Bar Association, and other matters of judicial administration. The
15 Superior Court is a general jurisdiction court. *See Marianas Ins. Co., Ltd. v. Picente*, 2021
16 N. Mar. I. Trial Order LEXIS 19, *8 (“the Commonwealth Legislature has in certain
17 instances expressly conferred jurisdiction on the Small Claims Court by statute, as it does
18 not enjoy the same broad general jurisdiction of the Superior Court”). The regulation of the
19 practice of law is an inherent power of the Commonwealth Courts. *See Atalig v.*
20 *Commonwealth Superior Ct.*, 2008 MP 19, ¶ 10 (“Commonwealth courts possess inherent
21 power to regulate the practice of law in proceedings before them regardless of whether
22 redress can also be had through the disciplinary rules.”) (quoting *Matsunaga v. Matsunaga*,
23 2001 MP 11 ¶ 19). The issue of an improperly elected bar disciplinary committee, rather
24 than limiting the Court's jurisdiction, creates a question of governance of the practice of law
25 concerning the Rules of Attorney Discipline and Procedure, CNMI Bar Association, and its
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1 bylaws. The authority to regulate the practice of law is reserved for the Court by the CNMI
2 Constitution, case law, and the Court’s inherent power. *Id.*

3 Therefore, the Court has jurisdiction to review all aspects of attorney discipline

4 **1. A Note on the NMI Rules of Attorney Discipline and Procedure and**
5 **the CNMI Bar Association Bylaws**

6 The procedures for disciplinary actions against attorneys are provided in the NMI
7 Rules of Attorney Discipline and Procedure. Under the NMI Rules of Attorney Discipline
8 and Procedure, a disciplinary committee is formed by five members from the CNMI Bar
9 Association. Rule 7(a)(2) states that the committee disciplinary members must “[b]e elected
10 by a majority vote of active members of the Bar Association.” NMI R. ATT’Y DIS. & P.

11 Under the CNMI Bar Association Bylaws Article II, Section 10, state that the
12 majority of members voting shall constitute action of the members. *Id.* Art. II, § 10. The
13 Bylaws also define the types of membership for the CNMI Bar Association.

14 The NMI Rules of Attorney Discipline and Procedure Rule 7(a)(2) has supremacy
15 over the CNMI Bar Association Bylaws Article II, Section 10. First, Rule 7(a)(2) is a Court
16 Rule that has been submitted to the Northern Marianas Commonwealth Legislature and
17 adopted. “If there is expressed or implied constitutional authority for the judiciary to
18 promulgate rules of practice and procedure then this power is regarded as legislative power.
19 The rules issued have the status of statutes enacted by the legislature.” *Commonwealth of the*
20 *N. Mar. I. v. Camacho*, 2002 MP 14, ¶ 14, 6 N. Mar. I. 440, 444 (internal quotations
21 omitted). The Bylaws are applicable only to the CNMI Bar Association. The Bylaws do not
22 trump the Court Rules, and where there is a conflict, the Court Rules have supremacy.
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24 Lastly, Rule 7(a)(2) of the Court Rules is specific to the elections of Disciplinary
25 Committee Members. The Bylaws’ Article II, Section 10 generally address how the CNMI
26 Bar

1 Association will conduct business by majority vote. This case is about elections of
2 Disciplinary Committee Members. And in this situation, Rule 7(a)(2) of the NMI Rules of
3 Attorney Disciplined and Procedure controls.

4 **B. Active members and temporary members are eligible to vote in Disciplinary**
5 **Committee elections**

6 The Disciplinary Committee is made up of five members. Disciplinary Committee
7 Members must be active members in good standing with the CNMI Bar Association and be
8 elected by a majority vote of active members of the CNMI Bar Association. Rule 7(a) NMI
9 R. ATT'Y DISC. & P. The CNMI Bar Association Bylaws define an active member as “a
10 person who is admitted to the Association and who is actively engaged in the practice of
11 law, whether in private, government, or public service practice, in the CNMI.” Art. II, §
12 8(A). Conversely, an inactive member is “a person who is admitted to the Association and
13 who is not actively engaged in the practice of law . . . in the CNMI” Art. II, § 8(C). A
14 temporary member is defined as “a person who is actively engaged in the practice of law in
15 the CNMI in government or public service and who is admitted to the Association on limited
16 admission pursuant to 1 CMC § 3603,” NMI Bar Assoc. Bylaws Art. I, § 8(B).

18 The main difference between an active member from an inactive member is whether an
19 attorney is actively engaged in the practice of law in the CNMI. For this reason, the Court
20 determines it is the active practice of law in the CNMI as the most important defining
21 feature of an active member. Under the definitions of the types of membership given in the
22 CNMI Bar Association Bylaws, both active members and temporary members are actively
23 engaged in the practice of law in the CNMI. Active members and temporary members share
24 the same defining feature.
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26 Therefore, active members encompass temporary members, and where voting is limited
to active members, temporary members are also eligible to vote. Furthermore, Article II,

1 Section 10 of the CNMI Bar Association Bylaws states “[i]n all matters requiring action of
2 the membership, every active and temporary member in good standing shall be entitled to
3 one vote.” Because temporary members are considered active members eligible to vote in
4 the CNMI Bar Association elections, the Court does not need to parcel out if the votes cast
5 in the 2022 and 2023 Disciplinary Committee Members’ elections were that of active
6 members or temporary members.

7 Therefore, the Court finds that both active members and temporary members are eligible
8 to vote in CNMI Bar Association Disciplinary Committee Members’ election.⁶

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10 **C. The Disciplinary Committee Members were not elected by the majority of
11 members, inclusive of active members and temporary members.**

12 Rule 7(a)(2) of the NMI Rules of Attorney Discipline and Procedure states that
13 Disciplinary Committee Members “must [b]e elected by a majority vote of active members
14 of the Bar Association.” Myers argues that because the Disciplinary Committee Members
15 were not elected by a majority, meaning more than half, of the active members of the CNMI
16 Bar Association, the Disciplinary Committee has no authority to act. Prosecuting Counsel
17 argues that in general the rules of attorney discipline are not jurisdictional, with exceptions
18 for certain issues such as due process rights.

19 Rule 7(a)(2) states the committee members “*must* [b]e elected by a majority vote of
20 **active members** of the Bar Association.” NMI R. ATT’Y DIS. & P. (emphasis added). The
21 plain language of Rule 7(a)(2) explicitly uses the term ‘must.’ In *Aquino v. Tinian*
22 *Cockfighting Bd.*, the NMI Supreme Court held that “the word ‘shall’ is unambiguous . . . it
23 means ‘must.’ The use of the word ‘shall’ in the statute is mandatory and has the effect of
24 creating a duty, absent any legislative intent to the contrary.” *Id.* 3 N. Mar. I. 284, 292

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⁶ As the essential issue resolving this controversy turns on the number of votes cast in 2022 and 2023
Disciplinary Committee elections, at this stage the Court need not address the issue if temporary members can
run as candidates for a seat on the Disciplinary Committee as all five members of the Disciplinary Committee
were not duly elected by majority of the members eligible to vote.

1 (1992). Here, the NMI Rules of Attorney Discipline and Procedure uses the words ‘must’
2 requiring that the majority vote of active members is mandatory and cannot be altered absent
3 specific legislative intent.

4 On November 8, 2024, a proposed amendment was submitted to the Northern Marianas
5 Commonwealth Legislature clarifying that “committee members are elected by a majority of
6 election participants instead of all attorneys,” Letter from Alexandro C. Castro, Chief
7 Justice, N. Mariana Supreme Ct., to Edith E. DeLeon Guerrero, President of the Senate, and
8 Edmund S. Villagomez Speaker of the House, N. Mariana Commonwealth Legislature,
9 (Nov. 8, 2024). Specifically, the proposed amendment sought to changed Rule 7(a)(2) of the
10 NMI Rules of Attorney Discipline and Procedure from “must [b]e elected by a majority vote
11 of active members of the Bar Association.” to “must be elected by a *majority of votes cast*
12 by active members of the Bar Association,” (emphasis added).

14 On December 18, 2024, the Senate unanimously rejected the proposed amendments.
15 Letter from Dolores S. Bermudes, Senate Clerk, N. Mariana Commonwealth Legislature, to
16 Alexandro C. Castro, Chief Justice, N. Mariana Supreme Ct., (Dec. 18, 2024). The
17 unanimous rejection by the Senate shows legislative intent to keep Rule 7(a)(2) ‘elected by a
18 majority vote of active members.’ The current (and still unaltered) Rule 7(a)(2) requires a
19 mandatory majority vote of active members.
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21 There is nothing defective or ambiguous about Rule 7(a)(2) requiring Disciplinary
22 Committee Members be elected by a majority of the full number of active members of the
23 CNMI Bar Association. The CNMI Bar Association simply failed to follow Rule 7(a)(2) in
24 conducting the 2022 and 2023 Disciplinary Committee elections.

25 One example of requiring the full membership voting is Article II, Section 8 of the
26 CNMI Constitution describing the impeachment process by “the affirmative vote of two-
thirds of its members.” In a regular legislative session, once a quorum is established to

1 conduct business, a majority is determined by members present and voting. In an
2 impeachment session, the operative parliamentary term is the *full* membership. In
3 parliamentary procedure, affirmative vote of full membership is not the same as affirmative
4 votes cast of members present and voting.

5 Here, the result is that more than one-half of the Bar Association must vote affirmatively
6 to elect a candidate to the Disciplinary Committee. In 2022 to garner a majority of vote of
7 all the active members, a Disciplinary Committee candidate must receive an affirmative vote
8 of 84 or more votes. In 2023 to garner a majority of vote of all the active members, a
9 Disciplinary Committee candidate must receive an affirmative vote of 78 or more votes.
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11 There is only one way to vote in the affirmative - that is to vote for that person. There
12 are several ways to **not** vote for a person on the ballot. One way is to vote for someone else.
13 Another way is to submit a ballot without marking a preferred candidate. Another way is to
14 just not cast a ballot, in effect the voter views that none of the candidates on the ballot are
15 deemed worthy of the position.

16 A simple explanation is necessary to demonstrate the difference between an “overvote”
17 and an “undervote”.⁷ An **overvote** occurs when a voter casts more votes in a contest than is
18 allowed. This results in a spoiled vote, a ballot which is not counted in the final tally. For
19 example, a voter who votes for two candidates in a contest that permits only one vote has
20 overvoted, and his or her ballot cannot be counted for the election in which the voter
21 overvoted.
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25 ⁷ The undersigned judge was the Floor Leader in the Sixteenth Northern Marianas Commonwealth Legislature,
26 House of Representatives. In his capacity as Floor Leader, the undersigned judge was in charge of the Session
Agenda of the House of Representatives, and a deep understanding and appreciation of the significance of
parliamentary procedures. The undersigned judge was also a member of the American Institute of
Parliamentarians and the National Association of Parliamentarians, two prestigious parliamentarian
organizations

1 An **undervote** occurs when the number of choices selected by a voter in an election is
2 less than the maximum number allowed for that election. An undervote also occurs when no
3 vote is cast for a single-choice election. For example, a voter that is permitted to cast one
4 vote for a presidential candidate and does not select a candidate, or a voter who has only cast
5 two votes in a contest allowing three, has undervoted. Voters have the right to undervote if
6 they choose to do so. Unlike an overvote, a ballot will not be canceled or disqualified as the
7 result of an undervote. An undervote can be intentional (e.g., protest votes, tactical voting,
8 or abstention) or unintentional (e.g., oversight on the voter's part or confusing ballot design).
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10 At the times when the Disciplinary Committee Members were elected, there were 166
11 active members of the CNMI Bar in 2022, and 154 active members of the CNMI Bar in
12 2023. (See Respondent's Exhibit D). The following is a summary of the election results:
13 Name; Date Elected, Length of Term, Number of Affirmative Votes Received, and Type of
14 Election

- 15 a. Steven Pixley. Elected on February 24, 2022. 2-year term. Received 13
16 affirmative votes. General Election.
- 17 b. Catherine Cachero. Elected on February 24, 2022. 2-years term. Received 13
18 affirmative votes. General Election
- 19 c. Vina Seelam. Elected on February 23, 2023. 2-years term. Received 17
20 affirmative votes. General Election
- 21 d. Timothy Bellas. Elected on February 23, 2023. 2-years term. Received 17
22 affirmative votes. General Election
- 23 e. Bruce Mailman. Elected on February 23, 2023. 2-years term. Received 17
24 affirmative votes. General Election (See Respondent's Exhibit E1-E5).
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1 Fewer than one-half of the total active membership of the CNMI Bar Association voted
2 for the Disciplinary Committee Members in those elections, most of the full active members
3 of the CNMI Bar Association did not cast ballots, creating a majority of undervotes.
4 Undervotes are valid votes, thus basically the vast majority of CNMI Bar Association
5 members voted against the candidates on the ballots.

6 Setting aside bruise egos and hurt pride, the 2022 and 2023 elections of Disciplinary
7 Committee Members was pursuant to Rule 7(a)(2) of the NMI Rules of Attorney Discipline
8 and Procedure and all the candidates were rejected by the voters.

10 VI. CONCLUSION

11 A plain reading of the rules shows that none of the members of the Disciplinary
12 Committee were duly elected. As such, the Disciplinary Committee lacks the jurisdiction
13 and authority to investigate or act on any disciplinary matter.

14 THEREFORE, the Respondent Robert Harrison Myers Jr.'s Motion to Dismiss the
15 Disciplinary Complaint filed against him is **GRANTED**.

16 **SO ORDERED** this 14th day of April, 2025.

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19 /s/
JOSEPH N. CAMACHO, Associate Judge