*Date of mailing: February 12, 2020

STATE OF NEW JERSEY
MOTOR VEHICLE COMMISSION
CASE FILE NUMBER: KXXXX XXXXX 06715

IN THE MATTER OF	:	**FINAL ADMINISTRATIVE DECISION AND ORDER OF SUSPENSION**
JASON KEENA-MOLINARO	:	**(Hearing on the papers)**
		SUSPENSION TERM: 90 DAYS
		EFFECTIVE DATE: March 3, 2020

This is the Motor Vehicle Commission's (Commission) Final Administrative Decision in the matter of Jason Keena-Molinaro (Keena-Molinaro).

This matter arises out of an Interstate Driver License Compact state notification sent by the New York Department of Motor Vehicles to the Commission, reporting that Keena-Molinaro had been convicted of driving while ability impaired (NYDWAI). Keena-Molinaro does not dispute this conviction. A copy of the Report Out-of-State Convictions is attached hereto as Exhibit P-1.

Pursuant to the Interstate Driver License Compact (N.J.S.A. 39:5D-4), the Commission issued a Scheduled Suspension Notice informing Keena-Molinaro that his New Jersey driving privilege was subject to suspension for a period of 90 days pursuant to N.J.S.A. 39:4-50, N.J.S.A. 39:5-30, N.J.S.A. 39:5D-4, and N.J.A.C. 13:19-11.1 to -11.2. A copy of the Scheduled Suspension Notice is attached hereto as Exhibit P-2.

In response to the Scheduled Suspension Notice, counsel for Keena-Molinaro wrote to the Commission requesting a hearing, arguing, among other things, that Keena-Molinaro's New Jersey driving privilege should not be suspended because his NYDWAI conviction "was for a .05% - .07% BAC," the suspension proposed by the Commission

violates Keena-Molinaro's constitutional rights and that Keena-Molinaro has been prejudiced due to delay.

Included with his hearing request were copies of the following: the Commission's Scheduled Suspension Notice dated August 2, 2018, a Surcharge Assessment notice dated August 10, 2018, an unsigned and undated Affidavit of Plea, a letter from Keena-Molinaro's New York counsel to the Honorable Kayphet Mavady, Town Justice, Sherburne Town Court (New York), dated July 2, 2018 and a letter from the Honorable Kayphet Mavady to Keena-Molinaro's New York counsel, regarding the disposition of charges, dated July 9, 2018. A copy of Keena-Molinaro's hearing request and enclosures are attached hereto collectively as Exhibit R-1.

The Commission responded, acknowledging Keena-Molinaro's hearing request and advising Keena-Molinaro that he was being afforded an opportunity for a hearing on the papers, and that it was Keena-Molinaro's burden to demonstrate, "by clear and convincing evidence, that the State of New York conviction was based **exclusively** upon a violation of a proscribed blood alcohol concentration (BAC) of less than .08%." The Commission further instructed Keena-Molinaro to "provide a notarized affidavit setting forth all facts in support of [Keena-Molinaro's] position and provide copies of any supporting documents or other evidence (including, but not limited to, the official plea transcript from the State of New York proceeding and/or official court order signed by the New York judge indicating specific findings made in connection with [his] conviction)." A copy of the Commission's letter is attached hereto as Exhibit P-3.

Responding to the Commission's letter, counsel on behalf of Keena-Molinaro submitted a letter enclosing New York's model jury charges for driving while ability

impaired by alcohol and arguing that the New York model jury charges support his position that Keena-Molinaro's New Jersey driving privilege should not be suspended. A copy of counsel's letter with enclosed model jury charges is attached hereto as Exhibit R-2.

Based on the documentary exhibits in the record, I find the following:

1. Keena-Molinaro was arrested and charged with violations of N.Y. Veh. & Traf. Law §1192(2) (driving while intoxicated, per se, .08% or more BAC) and N.Y. Veh. & Traf. Law §1128(a) (unsafe lane change) (Exhibit R-1). Keena-Molinaro also appears to have been originally charged with N.Y. Veh. & Traf. Law §1192(3) (driving while intoxicated).[1] (Exhibit R-1)
2. A violation of N.Y. Veh. & Traf. Law §1192(2), driving while intoxicated, per se, prohibits the operation of a motor vehicle while such person "has .08 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article." N.Y. Veh. & Traf. Law §1192(2).
3. On July 9, 2018, Keena-Molinaro pled guilty to an amended violation of N.Y. Veh. & Traf. Law §1192(1) (driving while ability impaired). The violation of N.Y. Veh. & Traf. Law §1192(2) (driving while intoxicated, per se) was dismissed, as

[1] The Commission notes the discrepancy between the unsigned Affidavit of Plea and the Sherburne Town Court letter regarding disposition of charges. Nevertheless, both documents contain the charge of violating N.Y. Veh. & Traf. Law §1192(2) ("driving while intoxicated; per se," .08 or more BAC). Thus, whether the charge of common law driving while intoxicated (N.Y. Veh. & Traf. Law §1192(3)) was included does not alter the Commission's analysis.

was the unsafe lane change charge. (Exhibit R-1)

4. A violation of N.Y. Veh. & Traf. Law §1192(1), driving while ability impaired, is not a per se offense and does not require a BAC finding. N.Y. Veh. & Traf. Law §1192(1).
5. Keena-Molinaro did not submit any evidence of his BAC, such as a report prepared by law enforcement detailing the officer's observations and chemical test results, or any other document that would have been prepared to support the original charge of a violation of N.Y. Veh. & Traf. Law §1192(2) (driving while intoxicated, per se, .08% or more BAC).[2]
6. Keena-Molinaro did not submit documentation evidencing the results of any chemical tests performed at the time of the offense.
7. Keena-Molinaro did not submit a court transcript showing the factual basis of his plea to driving while ability impaired. The Affidavit of Plea (Exhibit R-1), submitted in support of Keena-Molinaro's plea, does not include BAC as a factual basis for the plea.
8. Keena-Molinaro did not submit any documentation evidencing an adjudication or other finding by the New York court concerning a BAC of less than .08% and that the conviction for driving while ability impaired was based exclusively upon a violation of a proscribed BAC of less than .08%.

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[2] Typically, in these types of New York cases, there would be a document supporting the original charges. Such documents would include the law enforcement officer's indications of the various indicia supporting the DWI arrest, which may include admissions, the officer's observations, the results of field testing, and the results of any chemical tests, such as BAC.

9. Keena-Molinaro has failed to establish, by clear and convincing evidence, that his NYDWAI conviction was based exclusively on a BAC of less than .08%.

10. Because Keena-Molinaro has failed to produce clear and convincing evidence that the conviction for driving while ability impaired was based exclusively on a BAC of less than .08%, the Commission's proposed suspension was proper.

Analysis

There is no dispute that Keena-Molinaro was convicted of NYDWAI. Thus, the sole issue to be determined here is whether Keena-Molinaro has met his affirmative burden to prove, with clear and convincing evidence, that his New York conviction was for an offense "based **exclusively** upon a violation of a proscribed BAC of less than .08%." In re: Maxine Basch, 2013 N.J. Super. Unpub. LEXIS 1764, at 1,7 (emphasis added) and N.J.S.A. 39:4-50(a)(3). In the absence of such proof, Keena-Molinaro is subject to the mandatory minimum 90-day suspension of his New Jersey driving privileges pursuant to N.J.S.A. 39:4-50 (New Jersey's driving while intoxicated (DWI) statute) and N.J.A.C. 13:19-11.1 et seq.

The New Jersey Supreme Court has stated:

> The clear and convincing evidence standard is not a hollow one, as
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> [c]lear-and-convincing evidence is that which produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the precise facts in issue.
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> [New Jersey Div. of Youth & Family Servs. v. I.S., 202 N.J. 145, 168 (2010), quoting *In re Seaman*, 133 N.J. 67, 74 (1993) (citation, internal quotation and editing marks omitted).]

Keena-Molinaro has failed to meet this standard. The documents submitted by

Keena-Molinaro show, unequivocally, that, on April 8, 2018, he was charged with a violation of N.Y. Veh. & Traf. Law §1192(2), driving while intoxicated, per se, which offense has as its sole basis the operation of a motor vehicle with a BAC of .08% or higher: "No person shall operate a motor vehicle while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article." N.Y. Veh. & Traf. Law §1192(2). A first offense of driving while intoxicated is a misdemeanor and results in a six-month license suspension. N.Y. Veh. & Traf. Law §1193. In contrast, the lesser offense to which Keena-Molinaro pled guilty, a violation of N.Y. Veh. & Traf. Law §1192(1), driving while ability impaired, is not a per se offense as constructed and enacted by the New York legislature, and does not require a BAC for conviction. This offense also results in less severe penalties than New York's driving while intoxicated offense, and a shorter license suspension term, 90 days. N.Y. Veh. & Traf. Law §1193.

It is undisputed that Keena-Molinaro was originally charged with a per se offense requiring a BAC of .08% or more. It is also undisputed that he pled guilty to a lesser offense, not requiring a BAC for conviction. There is also no evidence, and certainly no clear and convincing evidence, that his NYDWAI conviction was based exclusively on a BAC of less than .08%. Despite Keena-Molinaro's representation that his "New York conviction for DWAI was for a .05% - .07% BAC" (Exhibit R-1), neither the Affidavit of Plea, nor the disposition of charges, nor any other document submitted by Keena-Molinaro show that a court made a finding regarding BAC and that the driving while ability impaired conviction was based exclusively on a BAC of less than .08%. (Exhibit R-1)

Keena-Molinaro's argument that "the State's choice not to utilize any BAC results in this matter should afford him the presumption that his alleged BAC could be .05% or lower" is misplaced. Keena-Molinaro pled guilty to an offense not requiring a BAC, from the original per se charge. Thus, Keena-Molinaro very well could have had a BAC of .08% or higher that formed the basis for the charge of driving while intoxicated, per se, but the prosecution made the decision to agree to a plea. There is no support for the conclusion that the prosecution's agreement to a plea bargain to driving while ability impaired, an offense not requiring a BAC finding at all, means that the conviction was clearly and convincingly based exclusively on a BAC of less than .08%. A conviction for driving while ability impaired need not be based on BAC at all. If it were based solely on a BAC of less than .08%, Keena-Molinaro would presumably have submitted that evidence. Thus, in the absence of a court order or finding that there was a BAC of less than .08% and that a BAC of less than .08% was the sole basis of the conviction, Keena-Molinaro cannot meet his affirmative burden under N.J.S.A. 39:4-50(a)3.

Nor do the NYDWAI model jury charges submitted by Keena-Molinaro support a finding that his conviction was based exclusively on a BAC of less than .08% (the Commission notes that Keena-Molinaro was not convicted as a result of a jury trial). The NYDWAI model jury charges clearly state that a BAC is not required for a NYDWAI conviction: "The law does not require any particular chemical or physical test to prove that a person's ability to operate a motor vehicle was impaired by the consumption of alcohol." (Exhibit R-2, Driving While Ability Impaired by Alcohol (New York)) Thus, the NYDWAI model jury charges confirm that a driving while ability impaired conviction may be based on non-BAC based "observational" evidence alone.

The controlling New Jersey case law has well established that the Commission has the authority to suspend a New Jersey licensee's driving privilege for an out-of-state conviction, pursuant to N.J.S.A. 39:5D-4, and that N.Y. Veh. & Traf. Law §1192(1) is substantially similar to N.J.S.A. 39:4-50. State v. Zeikel, 423 N.J. Super. 34, 44-49 (App. Div. 2011); New Jersey Div. of Motor Veh. v. Lawrence, 194 N.J. Super. 1, 2-3 (App. Div. 1983). See Mize v. NJMVC, (unreported) (App. Div. 2018), Dkt. No. A-0781-17T1, 2018 N.J. Super. Unpub. LEXIS 2542; Markowiec v. NJMVC, (unreported) (App. Div. 2018), Dkt. No. A-2492-15T1, 2018 N.J. Super. Unpub. LEXIS 257; Ford v. NJMVC, (unreported) (App. Div. 2014), Dkt. No. A-3117-12T1, 2014 N.J. Super. Unpub. LEXIS 304, at 5, certif. denied, 217 N.J. 587 (2014); Xheraj v. NJMVC, (unreported) (App. Div. 2013), Dkt. No. A-2125-12T1, 2013 N.J. Super. Unpub. LEXIS 2893; Wayne v. NJMVC, (unreported) (App. Div. 2013), Dkt. No. A-3008-12T1, 2013 N.J. Super. Unpub. LEXIS 1827, at 8-9; New Jersey Motor Veh. Comm'n v. Gethard, (unreported) (App. Div. 2012), Dkt. No. A-4657-10T3, 2012 N.J. Super. Unpub. LEXIS 287, at 5; In re: Alan D. Weissman, (unreported) (App. Div. 2009), Dkt. No. A-2154-07T3, 2009 N.J. Super. Unpub. LEXIS 1303, at 2 (the court specifically notes that "[n]either N.Y. Veh. & Traf. Law §1192(1) nor N.J.S.A. 39:4-50(a), require a minimum blood alcohol reading for a conviction"). See also, State v. McCauley, (unreported) (App. Div. 2006), Dkt. No. A-4622-04T2, 2006 N.J. Super. Unpub. LEXIS 2422 (the court rejected McCauley's argument that he fit within the "very limited exception" in the statute, N.J.S.A. 39:4-50(a)(3), even assuming that his BAC was .06%, since New York's driving while ability impaired statute, N.Y. Veh. & Traf. Law §1192(1), "on its face" is not a "per se" offense and his conviction under that provision

"must have been based on other evidence") [3] and In re: Maxine Basch, MVC Chief Administrator Supplemental Final Decision and Final Order on Remand, issued January 8, 2016, found at http://www.nj.gov/mvc/pdf/about/jab_final_decisions16.pdf (suspension imposed for NYDWAI conviction in accord with Appellate Division remand instruction where a "plea bargain" had been entered to the lesser-included offense, also noting other potential evidence of impairment included officer observations, field sobriety tests and/or admissions, as well as a BAC result of .17%).[4]

Governing New Jersey case law has repeatedly recognized that "observational" evidence is also sufficient in New Jersey to support a conviction under New Jersey's unified DWI statute, N.J.S.A. 39:4-50, even without a BAC result. See, e.g., State v. Sorenson, 439 N.J. Super. 471, 479-82 (App. Div. 2015) (noting distinction between the "per se violation" and the "observation violation" both under New Jersey's DWI statute, N.J.S.A. 39:4-50); State v. Campbell, 436 N.J. Super. 264, 267-68 (App. Div.), certif. denied, 220 N.J. 208 (2014) (noting that New Jersey DWI prosecutions under N.J.S.A. 39:4-50(a) may be pursued on "four distinct alternative grounds" one type of which is the

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[3] In McCauley the Appellate Division stated that the very limited exception in N.J.S.A. 39:4-50(a)3 applies "only to a 'per se' conviction in a foreign jurisdiction where a blood alcohol concentration (BAC) of less than .08% established the offense and where no other finding supported the conviction." McCauley, supra, 2006 N.J. Super. Unpub. LEXIS 2422 at 4.

[4] For context only, the Commission notes that in its experience handling the many out-of-state New York reported "driving while ability impaired" convictions, in those instances where the supporting documents are submitted, it is frequently the case that the NYDWAI conviction was the result of a "plea bargain" to this lesser-included offense and that the police reports and chemical test documents reveal potential evidence of BAC levels of .08% and above as well as observational-type evidence including field sobriety tests, officer observations, driving behavior, and/or driver admissions.

"so-called 'observation' cases based on other non-BAC evidence of a defendant's impairment while driving"); State v. Kent, 391 N.J. Super. 352, 384 (App. Div. 2007) (affirming a defendant's DWI conviction based upon his erratic driving in causing a single-car accident and a police officer's field observations of his multiple signs of inebriation, despite the inadmissibility of hearsay laboratory reports measuring the BAC level in defendant's blood sample); see also State v. Howard, 383 N.J. Super. 538, 548 (App. Div.) (quoting State v. Kashi, 360 N.J. Super. 538, 545 (App. Div. 2003), aff'd, 180 N.J. 45 (2004)), certif. denied, 187 N.J. 80 (2006) (instructing that a violation of N.J.S.A. 39:4-50 can be proven "through either of two alternative evidential methods: proof of a defendant's physical condition or proof of a defendant's blood alcohol level.").

Moreover, the court in Zeikel, supra, 423 N.J. Super. at 48, confirmed that a conviction of New Jersey's driving while intoxicated statute is sustainable if it is supported by sufficient evidence of "any degree of impairment that affects a person's ability to operate a motor vehicle" while further highlighting that "[like] New Jersey, New York defines impairment broadly to include any degree of impairment of a person's physical or mental abilities to operate a motor vehicle." See also In re Johnston, 75 N.Y.2d 403, 409-10, 553 N.E.2d 566, 554 N.Y.S.2d 88 (1990) (New York's highest judicial tribunal construes "impairment" under N.Y. Veh. & Traf. Law § 1192(1) as meaning that "the actor by 'voluntarily consuming alcohol . . . has actually impaired, to any extent, the physical and mental abilities which he is expected to possess in order to operate a vehicle as a responsible and prudent driver"; quoting People v. Cruz, 48 N.Y.2d 419, 427, 399 N.E.2d 513, 423 N.Y.S.2d 625 (1979)).

It remains undisputed that Keena-Molinaro was convicted by the State of New

York of N.Y. Veh. & Traf. Law § 1192(1), driving while ability impaired, while holding and presenting a New Jersey driver's license. He has failed to produce clear and convincing evidence that this conviction was based exclusively on a BAC of less than .08%. Accordingly, the State of New Jersey is required to suspend Keena-Molinaro's New Jersey driving privilege in accordance with the Interstate Driver License Compact Agreement (N.J.S.A. 39:5D-4 et seq.) and the New Jersey Administrative Code (N.J.A.C. 13:19-11.1), for 90 days. The governing regulation, N.J.A.C. 13:19-11.1(a) and (b), provides that out-of-state convictions shall be given the same effect as if such convictions had occurred in the State of New Jersey. Indeed, N.J.A.C. 13:19-11.1(b) explicitly states that New Jersey driving privileges shall be suspended pursuant to New Jersey law. See, e.g. Martinez v. NJMVC, (unreported) (App. Div. 2010), Dkt. No. A-0147-09T3, 2010 N.J. Super. Unpub. LEXIS 597 at 4-5; see also, New Jersey Div. of Motor Vehicles v. Egan, 103 N.J. 350, 357 (1986) (the New Jersey Supreme Court reviewed and upheld the policy of the Director of the Division of Motor Vehicles to exercise the discretion granted by N.J.S.A. 39:5D-4 to "uniformly impos[e] New Jersey's more stringent penalty instead of being reduced to 'the least common denominator of other States[.]'"); and State v. Luzhak, 445 N.J. Super. 241, 248 (App. Div. 2016) (the court again emphasized that New Jersey has a "strong public policy against drunk driving.")

There is also no merit to Keena-Molinaro's arguments regarding double jeopardy, equal protection and res judicata (Exhibit R-1). It is well-established by New Jersey case law that it is proper under the doctrine of dual sovereignty, and specifically is not a violation of double jeopardy, for the "home state" which issued the driver license to impose the statutorily mandated suspension after receiving a report of such out-of-state alcohol-

related driving conviction under the Interstate Compact. See New Jersey Div. of Motor Veh. v. Pepe, 379 N.J. Super. 411, 418-419 (App. Div. 2005); In re Johnson, 226 N.J. Super. 1 (App. Div. 1988); and New Jersey Div. of Motor Veh. v. Lawrence, 194 N.J. Super. 1, 2-3 (App. Div. 1983).

The court in Pepe, supra, 379 N.J. Super. at 416, specifically held that the "suspension imposed by NJDMV is in accordance with the statute, N.J.S.A. 39:4-50, and not redundant to the penalty imposed in New York, which involved only defendant's driving privileges within that state." (citing Boyd v. Div. of Motor Vehicles, 307 N.J. Super. 356, 360 (App Div.), certif. denied, 154 N.J. 608 (1998), emphasis added). The Pepe court further instructed that "under the doctrine of dual sovereignty, the double jeopardy clause does not bar two states from prosecuting a defendant for the same offense." Id. at 418. The Pepe court also considered Pepe's constitutional equal protection, res judicata/collateral estoppel and laches-type arguments in the context of that Compact case and found those to be without merit.

Finally, Keena-Molinaro's argument of delay and prejudice must be rejected. Keena-Molinaro has not provided any facts supporting his claim of prejudice due to the timing of the suspension of his New Jersey driving privilege. Indeed, Keena-Molinaro has been on notice since receiving the Commission's Scheduled Suspension Notice that his New Jersey driving privilege was subject to a 90-day suspension as a result of the New York conviction, and he has had ample time to prepare for suspension. "Delay will not generally affect the validity of an administrative determination, particularly where no prejudice is shown." In re Garber, 141 N.J. Super. 87, 91, certif. denied, 71 N.J. 494 (1976) (agency final decision issued approximately 12 months after hearing officer made

recommendations as to suspension, and approximately 22 months after issuance of notice of proposed suspension).

Conclusion and Final Order

Based on the foregoing, I conclude that Keena-Molinaro was convicted of an alcohol-related driving offense that occurred on April 8, 2018, in the State of New York (for which he was convicted on July 9, 2018), and that the Commission's proposed suspension was proper. I specifically conclude that Keena-Molinaro's submissions to the Commission are insufficient to meet his affirmative burden to show, by clear and convincing evidence, that his NYDWAI conviction was based exclusively on a BAC below .08%. The New Jersey legislature, in N.J.S.A. 39:4-50, explicitly required that the submitted evidence meet this high standard of proof. Keena-Molinaro's submissions to the Commission fall far short of this standard and therefore do not constitute "evidence so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the precise facts in issue." New Jersey Div. of Youth & Family Servs. v. I.S., supra, 202 N.J. at 168. As such, pursuant to N.J.S.A. 39:5D-4, 39:5-30, 39:4-50 and N.J.A.C. 13:19-11.1 et seq., I order Keena-Molinaro's New Jersey driving privilege to be suspended for 90 days. The suspension period here is the minimum mandated by New Jersey statute for this alcohol-related driving offense; there is no discretion to impose a reduced suspension term.

The effective date of suspension of Keena-Molinaro's driving privilege is March 3, 2020. (Suspension term: 90 days).

In addition, pursuant to the governing statutory and regulatory requirements under

N.J.S.A. 39:4-50(b) and N.J.A.C. 13:19-11.2, Keena-Molinaro must successfully complete or show satisfactory proof of completion of an alcohol/drug education and highway safety program. It is noted that with respect to any alcohol education classes/program already completed pursuant to the New York conviction, Keena-Molinaro may present any official documentation as to such classes/program to the Intoxicated Driver Program (IDP)/Intoxicated Driver Resource Center (IDRC), which will determine whether these can be accepted in partial or full satisfaction of the IDP alcohol/drug education program required pursuant to N.J.S.A. 39:4-50(b) and N.J.A.C. 13:19-11.2.

This constitutes the Commission's final decision in this matter. Any appeal from this decision must be made to the Appellate Division of the Superior Court by filing a Notice of Appeal with the Appellate Division within 45 days from the date of this decision. If an appeal is filed with the court, pursuant to Court Rule, R. 2:5-1(e), service of copies of all papers must be made on both the New Jersey Motor Vehicle Commission, Chief Administrator, as well as the Attorney General. The Appellate Division may be contacted by calling (609) 815-2950.

B. Sue Fulton
Chair and Chief Administrator

BSF:eha

C: Thomas Carroll Blauvelt, Esq.

EXHIBIT LIST

*copies redacted of driver's personally identifying information

P-1 Report Out-of-State Convictions (one page)

P-2 Copy of Scheduled Suspension Notice dated August 2, 2018 (two pages - front and back)

P-3 Copy of Commission letter to Keena-Molinaro advising Keena-Molinaro of his opportunity to submit clear and convincing evidence of conviction being exclusively based on a BAC of less than .08, dated September 6, 2018 (two pages)

Keena-Molinaro's Exhibits

R-1 Copy of hearing request dated August 23, 2018, with enclosed copies of Commission's Scheduled Suspension Notice dated August 2, 2018 (two pages, front and back), Surcharge Assessment notice dated August 10, 2018 (two pages, front and back), unsigned and undated Affidavit of Plea (two pages), letter from Scott Clippinger to the Honorable Kayphet Mavady, Town Justice, Sherburne Town Court, dated July 2, 2018 (one page) and letter from the Honorable Kayphet Mavady, regarding disposition of charges dated July 9, 2018 (one page)

R-2 Copy of letter dated September 25, 2018 (two pages), with enclosed New York model jury charge for driving while ability impaired by alcohol (six pages)