

1 **PAULA CANNY, ESQ., SBN 96339**

2 Law Offices of Paula Canny
3 840 Hinckley Road, Suite 101
4 Burlingame, CA 94010
5 Telephone: (650) 652-7862
6 Facsimile: (650) 652-7835

7 Attorneys for Eliana Lopez

8 **ETHICS COMMISSION**
9 **CITY AND COUNTY OF SAN FRANCISCO**

10 In the Matter of Charges Against

11 ROSS MIRKARIMI,

12 Sheriff, City and County of San Francisco.
13
14

15 **DECLARATION OF ELIANA LOPEZ**

16 I, Eliana Lopez, do declare:

17 1. I submit this declaration to the Ethics Commission In The Matter Of Charges
18 Against Ross Mirkarimi.

19 2. I have reviewed the allegations made by Mayor Lee against my husband Ross
20 Mirkarimi accusing him of acts of official misconduct.

21 3. My husband entered a plea of guilty to a violation of Penal Code Section 236 and
22 all of the original charges made by the San Francisco District Attorney's Office against him were
23 dismissed in exchange for his plea.

24 4. I did not cooperate with the District Attorney's Office's prosecution of my
25 husband. I did not cooperate with the San Francisco Police Department's investigation of my
26 husband.

27 5. I did not cooperate with either agency because the initial investigation came about
28 as a result of a conversation that I had with Ivory Madison (hereafter Ivory) on January 1, 2012.
I believed the conversation between Ivory and me was a protected, privileged and confidential

1 communication and that Ivory had no legal right or authority to disclose the contents of our
2 conversation to anyone. I spoke to Ivory in her role as an attorney. Ivory gave me legal advice.
3 I believed legal advice and legal communications were privileged.

4 6. Prior to that meeting Ivory had told me that she was an attorney, that she had
5 graduated from law school, that she was Editor and Chief of her law school's law review, that
6 she worked at the California Supreme Court, that she was an intern at Americans United for the
7 Separation for Church and State, and that her husband, Abe Mertens is also an attorney. Ivory
8 advertises all those facts about herself over the internet on various social networking sites.

9 7. On January 1, 2012, I sought legal advice from Ivory regarding a potential
10 custody dispute with my husband regarding our minor son, Theo. Ivory dispensed legal advice
11 to me. Ivory told me that because I am not an American citizen and because Ross and Theo are
12 American citizens I would have great difficulty obtaining custody of Theo if I wanted Theo and I
13 to live in Venezuela and Ross objected. My conclusion after that conversation and my own
14 experience was that as an American and politician, Ross is a powerful man and if he wanted, he
15 could win custody of Theo.

16 8. I explained the circumstances of the argument with Ross to Ivory. I told Ivory
17 that we had argued in the car on the way to lunch. I told her that Ross turned the car around and
18 said that we were not going to lunch. I told her that Ross had grabbed my arm in the car when I
19 was taking Theo out of the car seat. I showed the bruise on my arm.

20 9. I never said to Ivory or anyone, including Callie Williams, that Ross and I argued
21 anywhere but in the car. I told her that I went about my business the rest of the day but that I
22 was angry with Ross and very worried about whether I would obtain custody of Theo. I also told
23 Ivory that later that day, Ross and I made the decision to look for a couple's therapist.

24 10. I told Ivory that custody of Theo was my only concern. Ivory advised me that I
25 should make a video and that the video would be "evidence" in the event there was a custody
26 dispute. Ivory told me what I should say in the video. Ivory told me the video would be
27 confidential. I agreed to make a video, and did. Ivory told me she would hold the "evidence" so
28

1 that it would be safe and confidential. She told me the "evidence" was my property. I believed
2 Ivory Madison.

3 11. I did not tell anyone about my conversation with Ivory or that I had made a video.

4 12. On January 3, 2012, Ivory asked me to see her the next day or that night, even if it
5 was late. I was busy so I visited Ivory on January 4, 2012 after I had prepared Theo for school.
6 Ross took Theo to school that day so I was home alone. I went to Ivory's home at around 9 a.m.
7 Ivory told me that she had talked to a friend of hers who got a divorce and that the way this
8 person gained custody of his children was by accusing his ex-wife of being a bad mother and a
9 bad person, and that I should do the same. Ivory told me that I should accuse Ross of domestic
10 violence so that I could get custody of Theo. Ivory told me the way to do it was that Phil
11 Bronstein would call the Police Chief, the District Attorney, and a third person who I cannot
12 remember now. We would all meet in Ivory and Abe's house as my attorney's office (Ivory and
13 Merten's office is their home). Ivory asked me to show her my arm. The bruise was almost
14 gone. Ivory said, "Eliana, we have to do it now, tomorrow it will be gone!" She told me not to
15 take a shower, not to put on any makeup, and to keep myself in pajamas so that I looked as
16 disheveled as possible. Ivory spent more than an hour trying to convince me that calling the
17 police was the only way to be free of Ross. She kept repeating words that at the time were new
18 words for me, but she repeated them so many times that I learned them. Those words were,
19 "Screw him!"

20 13. I asked Ivory questions, trying to show her that her plan was maybe good for a
21 comic book, but not for real life. I wanted her advice about divorce and custody. Calling the
22 police was not my idea. I told her that I wanted to try therapy first because this had never
23 happened before. Ross does not drink, he does not use drugs, he does not have lovers, he just
24 worked too many hours, and maybe I was not the right woman for him. I told Ivory that I could
25 not call the police and destroy Ross. Ivory ignored me. Ivory told me that Abe Mertens, as my
26 attorney, would call Ross, explain to Ross the situation, and Mertens would change the locks to
27 my house. Ivory kept repeating, "Eliana, screw him, this is your opportunity, I have so many
28 friends that want to help you, everything is ready, you just have to make the decision." Ivory did

1 ~~not listen to me.~~ I told her that I had to talk to my dad first. ~~That was the only statement that~~
2 ~~stopped her, and~~ I then left her house. I did not get back to her. When Ivory texted me on
3 January 4, 2012, later that day, I responded very briefly, and not as nicely as usual, because I
4 realized that Ivory was calling Ross' enemies against my wishes. I texted Ivory, "I'm not going
5 to call the police, I will open a medical report."

6 14. Ivory had also advised me to tell Callie Williams about my argument with Ross so
7 that I could have more witnesses to help me in the event there was a custody dispute case. I did
8 as Ivory instructed and disclosed to Callie Williams that Ross and I had an argument and that he
9 had grabbed my arm and that I got a bruise. I told Callie that Ross and I had argued before about
10 custody of Theo. English is my second language. I have learned English in the last few years.
11 ~~Perhaps Callie misunderstood what I said or perhaps I did not say it properly but I was trying to~~
12 ~~tell her that I was worried about getting custody of Theo and that Ross and I had argued about~~
13 ~~custody, that he had grabbed my arm, and that we had argued before about custody.~~

14 15. ~~Callie Williams declared in her Declaration that she was not at home on~~
15 ~~December 31, 2011. However, she sent an email to me on January 5, 2012, advising that the~~
16 ~~police had come to her house that night, and that she told them that she had not heard anything,~~
17 ~~i.e., fighting between Ross and I, on December 31, 2011. I never told Williams that I had run out~~
18 ~~of the house screaming because that never happened. Finally, contrary to Williams' statement~~
19 ~~that she found my request that she not speak to the police "surprising and disturbing," Williams~~
20 ~~emailed me in reply on January 6, 2012, stating, "I read some of the articles that are out. I just~~
21 ~~want you to know, I have not said anything. I wouldn't do that to you. I'm sure the stress you~~
22 ~~are going through right now is very hard and I respect your privacy. You are in my thoughts—~~
23 ~~Callie."~~

24 16. I was considering my options and waiting for Ross to agree to go to counseling
25 and therapy before I wanted to file for divorce. ~~I believed, and still believe, that Ross is a good~~
26 ~~and kind person. Ross is Theo's father. Ross had a difficult and sad childhood. My childhood~~
27 ~~was happy, beautiful, and loving. I want that type of childhood for Theo. I believe that all~~
28

1 ~~people are capable of change and development.~~ I believed that with counseling Ross would be a
2 great father and husband.

3 17. ~~Rather than let Ross and I work out our relationship Ivory called the police and~~
4 ~~told the police about our conversation. Ivory did not have my permission to disclose our~~
5 ~~conversation to anyone. Ivory knew before 1 p.m. that she had opened an investigation.~~
6 ~~However, Ivory did not call me or text me as a lawyer, or even a friend, who was supposedly~~
7 ~~taking care of me. She waited until the police were almost there, at 3:34 p.m., to tell me about~~
8 ~~the police.~~

9 18. When Ivory told me that she had called the police and the police were on their
10 way I was angry with her and felt betrayed.

11 19. I sought the help of Lynette Peralta Haynes to intervene on my behalf to Ivory
12 and ask Ivory to respect her promise to me of confidentiality. ~~Ms. Haynes is a domestic violence~~
13 ~~counselor and~~ I thought she would be able to assist in reminding Ivory that she had represented
14 to me that our conversation was confidential.

15 20. On the afternoon of January 4, 2012 I reminded Ivory of her promise to me. I
16 spoke with her husband, Abe Mertens that afternoon and advised him of Ivory's promise to me.
17 He said there was nothing he could do and that I should help Ivory out by cooperating with the
18 police.

19 21. I did not talk to the police. I believed that if I spoke to the police I would waive
20 my claim that my conversations with Ivory and then Mertens were privileged as that is the way
21 the law is in Venezuela and what I believed the law was here in the United States.

22 22. I obtained an attorney, Cheryl Wallace, and she asserted the claim of privilege on
23 my behalf to investigators and in open Court to Judge Breall on January 19, 2012 at Ross'
24 arraignment. Judge Breall said that the arraignment was not the time to raise the issue.

25 23. I directed my new attorney Paula Canny to advise Ivory and her husband that I
26 was exercising my rights and to ask them not to disclose what I believed were privileged and
27 confidential communications.
28

1 24. ~~Ross was not ever involved in my efforts to assert my right to claim the attorney~~
2 ~~client privilege to my conversation with Ivory as well as my right to control the dissemination of~~
3 ~~the video.~~ Ross never told me not to talk to the police or anyone else about what had happened.

4 25. Ivory never explained to me that she was not licensed to practice law in California
5 or anywhere for that matter. ~~In fact her words and actions implied exactly the opposite—that she~~
6 ~~was competent to dispense legal advice and that it was lawful for her to do so. Ivory told me she~~
7 ~~was a lawyer. Ivory has also told other people she was a lawyer. Attached hereto are several~~
8 ~~postings from the internet regarding Ivory Madison. Exhibit 1 is Ivory’s bio page from~~
9 ~~redroom.com. Exhibit 2 is Ivory’s Facebook page. Exhibit 3 is Ivory’s LinkedIn page. All~~
10 ~~describe Ivory in varying ways as “Holding a Juris Doctorate,” “Trained as an attorney,” “Editor~~
11 ~~in Chief of her Law Review,” “Interned at the California Supreme Court,” and Served as a Law~~
12 ~~Fellow. In her comic book entitled *Huntress*, Ivory identifies that she has been a lawyer.~~
13 ~~Attached hereto as Exhibit 4 is the cover of Ivory’s comic book, *Huntress*. The description of~~
14 ~~Ivory in the book provides: “...While as far as I know Ivory doesn’t have a crossbow, or a~~
15 ~~propensity for rooftops, **she has been a lawyer...**” I could have talked to anyone I wanted about~~
16 ~~my concerns about custody of Theo. I picked Ivory because I believed she was a lawyer and that~~
17 she could give me legal advice and that our conversations were privileged.

18 26. ~~Ivory disclosed many intimate facts about her friends and acquaintances and~~
19 ~~others on January 4, 2012 in her attempts to convince me to call the police. Those facts are~~
20 ~~salacious and invasive to their privacy, and I will not act in the way that she does.~~

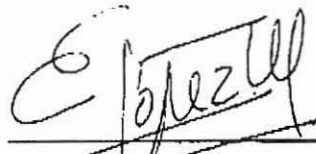
21 27. Ivory and Mertens describe in their declarations the “naked pictures” that we have
22 in our home. Those pictures, that I love, are by the photographers Brett Weston, Edward Weston
23 and Ruth Bernhard. The pictures are valuable works of art.

24 28. Ross has never hit me, punched me, battered me, or beat me. We have argued
25 about money, as many couples do. Ross and I have struggled in our relationship. However,
26 Ross has consistently tried to be ~~a better and better parent to Theo~~ and loving and supportive to
27 me. The fact that Ross has agreed to our continued stay in Venezuela and his support of me and
28 Theo in Venezuela demonstrates his growth.

1
2 29. If I were called to testify the above would be my testimony.
3

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct.

6 Executed this _02_ day of July, 2012 at Caracas, Venezuela.
7

8 
9
10 ELIANA LOPEZ.
11 - Signed Via Facsimile -
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28