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**REPORT OF ROBERT L. KEHR**

I, Robert L. Kehr, hereby declare as follows:

1 I have been requested by Parker Mills LLP, counsel for Stubbs Alderton & Markiles, LLP (for convenience, “Stubbs Alderton”), to provide in this Report my expert opinion on certain questions about the professional responsibilities of lawyers. This Report is intended for use with the Stubbs Alderton motion to be permitted to withdraw immediately as counsel in Case No. 18-MD-2834-BLF and related cases now pending in the U.S.D.C. for the Northern District of California (the “Withdrawal Motion” and the “District Court”). I have been asked to provide this Report because of my long-standing involvement with the professional responsibilities of lawyers, which includes chairing the Professional Responsibility and Conduct Committee of the Los Angeles County Bar Assn., chairing the Standing Committee on Professional Responsibility and Conduct of the State Bar of California, serving as a member of the State Bar Commission that drafted California’s Rules of Professional Conduct, and serving as an Adjunct Professor at Loyola Law School on topics that include lawyer conduct. The details of my qualifications are stated in the attached Exhibit “A,” as is required by Rule 26(a)(2)(B)(iv). This Report states my opinions, as required by Rule 26(a)(2)(B)(i). As required by Rule 26(a)(2)(B)(ii), and except for any assumptions that I have been asked to make as stated below, the materials on which I relied in forming my opinions are listed on Exhibit “B” to this Report. As required by Rule 26(a)(2)(B)(v), a list of prior expert testimony is attached as Exhibit “C” to this Report. As required by Rule 26(a)(2)(B)(vi), attached as Exhibit “D” to this Report is my engagement agreement, which fully states the terms of my compensation.

**2 Introduction.** I have been asked to provide my opinion on the single question of

1 terminate their District Court representation of PersonalWeb Technologies, LLC  
2 (“PersonalWeb”) under rule 1.16(a) of the Rules of Professional Conduct of the State Bar  
3 of California.<sup>1</sup> (I will refer to the Stubbs Alderton partners and associates as the  
4 “Individual Lawyers”).<sup>2</sup> Rule 1.16 defines when a lawyer *must* terminate a representation  
5 (in its paragraph (a)), when a lawyer *may* terminate a representation (in its paragraph (b)),  
6 and how a lawyer goes about accomplishing the termination of a representation (in its  
7 paragraphs (c), (d), and (e)). My opinions address only rule 1.16(a) and its mandate that a  
8 lawyer “*shall* withdraw from the representation of a client” in certain described  
9 circumstances (emphasis added). It is my opinion that there are multiple reasons why  
10 Stubbs Alderton and the Individual Lawyers are obligated to terminate their District Court  
11 representation of PersonalWeb. Rule 1.16(a)(2) requires a lawyer to terminate a  
12 representation if “the lawyer knows or reasonably should know that the representation  
13 will result in violation of these rules or the State Bar Act.”<sup>3</sup> It is my opinion that rule  
14 1.16(a)(2) applies here in a number of ways.  
15

### 17 **3 The duty to obey court orders and related duties.**

#### 18 **3.1 The Los Angeles County Superior Court, in Brilliant Digital Entertainment**

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21 <sup>1</sup>This Expert Report is directed to Stubbs Alderton’s role in the District Court  
22 proceedings, but I have been advised the firm will take steps to terminate its  
23 representation of PersonalWeb in related appellate court proceedings as a result of the  
analysis in this Expert Report unless the firm is able to withdraw immediately in the  
District Court proceedings.

24 <sup>2</sup>All “rule” references are to the Rules of Professional Conduct of the State Bar of  
25 California that went into effect November 1, 2018. I refer to the Individual Lawyers  
26 because the rules and the relevant State Bar Act provisions govern the conduct of  
individual lawyers and, as is true in California and all other U.S. jurisdictions other than  
New York and New Jersey, only individual lawyer are subject to professional discipline.

27 <sup>3</sup>The State Bar Act is found at CA Bus. & Prof. Code § 6000, *et seq.*, and it is §§

1 Inc, *etc, et al. v. PersonalWeb, etc., et al.*, Case No. 21VECV00575 (the “Receivership  
2 Action”) on June 1, 2021 entered its Preliminary Injunction in Aid of the Receiver (the  
3 “Preliminary Injunction”). I have been asked to assume that the Preliminary Injunction  
4 remains in effect without modification. A copy of the Preliminary Injunction is attached  
5 as Exhibit “E” to this Expert Report for the Court’s convenience. The Preliminary  
6 Injunction broadly prohibits, among other things, any person from “[d]oing any act ... to  
7 interfere with the Receiver taking control or possession of, or managing the property  
8 subject to this receivership” and from interfering “with the exclusive jurisdiction of this  
9 Court over the property and assets of Defendant PersonalWeb.”<sup>4</sup> I understand this to  
10 mean that one effect of the Preliminary Injunction is to prohibit Stubbs Alderton and the  
11 Individual Lawyers from representing PersonalWeb with respect to the post-judgment  
12 proceedings because their doing so would amount to conduct that would have the effect  
13 of participating in the judgment creditors’ interference with “the Receiver taking control  
14 ... of property subject to the receivership” and their interference “with the [State court’s]  
15 exclusive jurisdiction” over PersonalWeb’s property.  
16

17 **3.1.1** One of a lawyer’s duties is to obey all lawful court orders. This duty  
18 has been codified in CA Bus. & Prof. Code § 6103:

19 A wilful disobedience or violation of an order of the court requiring him to do or  
20 forbear an act connected with or in the course of his profession, which he ought in  
21 good faith to do or forbear, and any violation of the oath taken by him, or of his  
22 duties as such attorney, constitute causes for disbarment or suspension.<sup>5</sup>  
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24 <sup>4</sup>Preliminary Injunction at ¶ (d), p. 5.

25 <sup>5</sup>A lawyer’s violation of a court order also would implicate rule 8.4(a), which  
26 makes it professional misconduct for a lawyer to “violate these rules or the State Bar Act  
27 ....” and rule 8.4(d) as conduct “prejudicial to the administration of justice.” The latter  
section is new to California but has been used elsewhere to impose discipline for

1 A lawyer's failure to obey a court order has been the basis for the imposition of  
2 professional discipline. *See, e.g., In Matter of Genis*, 2015 WL 1295958 (Cal. Bar Ct.  
3 2015) (lawyer suspended for violating CA Bus. & Prof. Code § 6103, among other  
4 things). The California Compendium on Professional Responsibility lists some twenty-  
5 four cases under the heading of § 6103, plus multiple advisory ethics opinions.<sup>6</sup>

6           **3.1.2** A lawyer's violation of CA Bus. & Prof. Code § 6103 also can be  
7 charged as a violation of the lawyer's oath: "Every person on his admission shall take an  
8 oath to support the Constitution of the United States and the Constitution of the State of  
9 California, and faithfully to discharge the duties of any attorney at law to the best of his  
10 knowledge and ability. A certificate of the oath shall be indorsed upon his license." (CA  
11 Bus. & Prof. Code § 6067) and of the duty "To maintain the respect due to the courts of  
12 justice and judicial officers." (CA. Bus. & Prof. Code § 6068(b)). These two statutes  
13 have been described as pertinent in a variety of circumstances. With respect to § 6067,  
14 *see, e.g.,* Cal. State Bar Formal Op. 1979-51 ("Section 6067 of the Business and  
15 Professions Code provides that "[e]very person on his admission shall take an oath ...  
16 faithfully to discharge the duties of any [an] attorney at law to the best of his knowledge  
17 and ability." Failure to perform the duties of an attorney in a fashion known to the  
18 attorney to be expeditious and consistent with the usual practices and procedures of other  
19 attorneys is not performing to the "best of his knowledge and ability."); Cal. State Bar  
20 Formal Op. 1983-72 (referring to the duty to uphold California law); Cal. State Bar  
21 Formal Op. 2003-162 (referring to the duty "faithfully to discharge the duties of an  
22 attorney to the best of his [or her] knowledge and ability."); and *Matter of Rubin*, 2021  
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26 suspended from practice for leaving courtroom mid-trial in defiance of judge's order).

27           <sup>6</sup>Available at  
28 <https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/Compendium/Califor>

1 WL 1511881 (Cal. Bar Ct. 2021) (finding that a simple mistake of law does not come  
2 within § 6107). With respect to § 6068(b), *see, e.g., Osborne v. Todd Farm Serv.*, 247  
3 Cal. App. 4th 43, 45 (2016) (“An attorney is an officer of the court. He or she must  
4 respect and follow court orders whether they are right or wrong.”). This means that any  
5 work by the Individual Lawyers on the post-judgment proceedings would require them to  
6 consider the potential disciplinary, civil, and reputational consequences of possible  
7 multiple State Bar Act violations.

8  
9 **3.1.3** Rule 1.16(a) also obligates the requested withdrawal because any  
10 advice to PersonalWeb about the post-judgment District Court proceedings could trigger  
11 application of rule 1.2.1: “(a) A lawyer shall not counsel a client to engage, or assist a  
12 client in conduct that the lawyer knows\* is ... a violation of any law, rule, or ruling of a  
13 tribunal.\*” Amazon’s counsel, beginning at p. 4, line 23, of the transcript of the District  
14 Court’s January 20, 2022 hearing, appears to argue that Stubbs Alderton has an  
15 affirmative obligation to “ensure their client’s compliance with the order ....” Any  
16 attempt by the firm to do so would raise rule 1.2.1 issues because of the Preliminary  
17 Injunction but, even without regard to the Preliminary Injunction, a lawyer cannot require  
18 a client to act in a particular way. *See* rule 1.2(a): “Subject to rule 1.2.1, a lawyer shall  
19 abide by a client’s decisions concerning the objectives of representation ....” Only the  
20 client has the authority to make substantive decisions. *See, e.g., Blanton v. Womancare,*  
21 *Inc.*, 38 Cal.3d 396, 404 (1985) and *Stewart v. Preston Pipeline Inc.*, 134 Cal. App. 4th  
22 1565 (2005).<sup>7</sup>

23  
24 **3.2** It might be argued that the Individual Lawyers’ conduct in making court  
25 filings, or providing discovery responses or communications to opposing counsel or  
26 adverse parties, on behalf of PersonalWeb are the client’s act rather than their own. We

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<sup>7</sup>The District Court acknowledged a lawyer’s inability to force its client’s contact

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