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To: The Sub-Committee of Cicerone Certification Program
From: Kathryn M. Hartrick, Hartrick Employment Law
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Subject: **Report of Independent Investigation**

Executive Summary

On May 14, 2021, an Instagram message posted by an anonymous source referenced an incident involving a “very well known server/beer knowledge certification programme” (the “May 14th Instagram complaint”). The post continued, “There was lots of booze, but this particular individual ... approached pretty much every female (though I don’t think he was that discriminatory) coming out of the bathroom to go and have sex with him in the men’s bathroom.” The post continued, “I don’t think anyone took him up on his offer, but he had hold of the sleeve of my jacket. I reported it to HR who said he would be dealt with and spoken to by his employer.” The May 14th Instagram complaint identified the person as a key employee (Employee A) of the Cicerone Certification Program (“Cicerone”).

On May 16, 2021, the sub-committee of Cicerone employees retained Hartrick Employment Law to conduct an independent and impartial investigation. The scope of the investigation was far-reaching. Cicerone wanted to understand whether the complained-of incident was isolated or part of a pattern, and whether there may be issues involving others, in addition to the May 14th Instagram complaint. The investigator was given free rein to talk with anyone deemed relevant to the issues raised. In addition, Cicerone solicited the general public and members of the Cicerone community via social media, and its email list of more than 120,000 participants, to contact Hartrick Employment Law as part of the investigation. Complaints of behavior were reviewed with a focus on sexual harassment, and how Cicerone responded to the complaints upon learning about them. The investigation also reviewed Cicerone’s processes and training for reporting, investigating, and responding to complaints of sexual harassment, in order to make recommendations for process improvements going forward.

Hartrick Employment Law conducted a three-week investigation that concluded on June 3, 2021. In summary, the investigation substantiated through documents and witness interviews that in December 2013, the client brewery did not share with Cicerone the details that were provided in the May 14th Instagram complaint. The investigation substantiated that based on what Cicerone knew in December 2013, Employee A received corrective action on December 18, 2013. Employee A was placed on six months’ probation; he was warned that any further related actions would result in his termination of employment. No additional concerns of a similar nature were brought forth from the investigation. The preponderance of the evidence supports the finding that, more likely than not, the December 7, 2013 incident involving Employee A was a one-time, isolated event, rather than a regular pattern of behavior. This report summarizes the independent findings of Hartrick Employment Law involving Employee A, as well as three additional issues involving others that were also investigated. The findings are discussed in further detail below.

Scope of the Investigation

During the week of May 16, 2021, Cicerone announced that Hartrick Employment Law had been retained to conduct an independent investigation. Anyone with relevant information was encouraged to reach out directly to the investigator. Potential witnesses were assured that their identities would be kept anonymous and confidential.

A total of twenty-one people were interviewed during the three-week period beginning May 19 through June 3, 2021, the date of the last witness interview. Fifteen of the witnesses are women, six are men. Further breakdown of the twenty-one individuals includes three witnesses who are complainants: (1) the person who wrote the May 14th Instagram complaint; (2) the former Cicerone employee (Former Employee B) who wrote posts on Facebook on March 7, 2020, and in mid-May 2021; and (3) a former Cicerone employee (Former Employee C) who wishes to remain anonymous and expressed no plans to make any social media posts. The witnesses included six former and current employees from the same client brewery as the May 14th Instagram complainant; nine former and current employees of Cicerone (including Employee A); five individuals who describe themselves as members of the Cicerone community (three overlap as former Cicerone employees); two character witnesses for Employee A; one woman who no longer works at a brewery that is a Cicerone client; and a woman who had a complaint about the beer industry, but not Cicerone.

Every witness who reached out to the investigator was contacted. The investigator also initiated contact with seven witnesses who were believed to have pertinent information for the investigation. Eighteen interviews were conducted over Zoom, two witnesses were interviewed by phone, and one of the character witnesses was not interviewed because she was not available for an interview. A former Cicerone employee was contacted by phone and declined to be interviewed. The other witness interviewed by phone did not have a complaint against Cicerone. The interviews were all conducted on an individual basis and lasted anywhere from thirty minutes to three hours. Some witnesses were interviewed on more than one occasion. Every witness who requested to speak with the investigator was interviewed (except for the unavailable witness).

The following documents were reviewed:

- Instagram posting dated May 14, 2021;
- Facebook posting from mid-May 2021;
- Facebook posting dated March 7, 2020;
- Emails exchanged between Cicerone and the client brewery in December 2013 and January 2014;
- Discipline for Employee A dated December 17, 2013, and administered on December 18, 2013;
- Cicerone Certification Program Employee Manuals and employment policies;
- Cicerone Community Call to Action letter dated on or about May 17, 2021, and subsequent exchange of emails between Cicerone and three members of the Cicerone community; and
- Various tweets, text messages, emails, and documents provided by witnesses and current Cicerone employees.

Findings

The Investigation focused on breaking down the concerns and making reasoned findings based on the documents and information gathered. The applicable standard in evaluating the investigation evidence is the “preponderance of the evidence.” This standard provides that after weighing all of the evidence, the investigator makes a finding in good faith that it is more likely than not that an allegation did (or did not) occur.

The investigation substantiated that expressed concerns regarding Employee A’s actions were initially raised with Cicerone in an email dated December 10, 2013. It informed Cicerone of the following:

[M]ost female members of my HQ team present on Saturday [December 7, 2013], as well as bar staff working that night, felt that his [Employee A’s] behaviour was highly inappropriate towards them. I’d rather not go into detail, but if you could bring a different member of your team over the next time we hold Cicerone ... [here] it would be appreciated.

Based on this information, Cicerone extended apologies on December 10, 2013. Cicerone took corrective action against Employee A that he signed on December 18, 2013. The corrective action states as follows:

These behaviors are inappropriate and intolerable for an employee of the Cicerone Certification Program. The behaviors you exhibited violate company policies as set forth in the Cicerone Certification Program Employee Manual (4/30/2013 edition), sections 4, 4.3 and 4.7 which you have received and acknowledged in writing.

As a result, you are placed on employment probation for a period of six months, until June 30, 2014. Any instance of alcohol use which negatively affects your attendance or performance of your duties during this time will result in immediate dismissal. Any violation of another company policy during this time may also be grounds for dismissal.

Effective immediately you are suspended from all travel on behalf of the company. Return of travel duties will immediately depend on demonstration of an appropriate response to this situation and on-going compliance with company policies.

Employee A extended written apologies to the client brewery in an email dated January 3, 2014, that provides as follows:

I just wanted to take an opportunity to sincerely apologize for my conduct following the [name omitted] Christmas party last month. I didn't monitor my alcohol intake closely enough, and as a result allowed myself to get far too drunk. The last thing I remember from the pub was going down to the basement with [name omitted] to put my coat away and grab a few beers. Based on discussions that I've had with [Cicerone Director] Ray [Daniels] it's clear that I was inappropriate and offensive to several members of your staff, probably including you. I'm terribly embarrassed and ashamed of my actions. I understand that my

actions then spoke louder than my words can now, but I feel the need to apologize nonetheless-I owe you guys at least that much. Please extend my apology to any and all affected by my behavior. Additionally, if there is anyone that you think I owe a personal apology to, please tell me.

The investigation substantiated through documents and witness interviews that the May 14th Instagram complaint provided additional details that were previously unknown to Cicerone. There was an opportunity from the investigation to interview the complainant and three other individuals who attended the client brewery's holiday party on December 7, 2013. The witnesses were credible; they corroborated the allegations made in the May 14th Instagram complaint. The preponderance of the evidence supports the finding that more likely than not, the allegations referenced in the May 14th Instagram complaint are true and the actions occurred as they are described.

The investigation did not discover any additional complaints against Employee A of the same or a similar magnitude to the complaints shared in the May 14th Instagram complaint. With that noted, a current and a former Cicerone employee contacted the investigator. Both witnesses reported they had heard second-hand accounts on or about in December 2016 that Employee A may have made unwelcome advances toward a female employee at a different client brewery. The individual who no longer works at the client brewery was located, contacted, and interviewed as part of the investigation. The witness confirmed an incident involving her and Employee A occurred sometime between the fall 2015 and before December 2016. The witness could not recall the exact date or time period. The witness stated she did mention the incident to a former Cicerone employee, however, the witness's concerns were more that she perceived Employee A "was a little full of himself." She stated her concerns were not of the same nature as those posted in the May 14th Instagram complaint. The witness further offered that she thought it is important to draw a distinction, "My issues with [Employee A] were not traumatic." This witness also noted that she could not recall any more details regarding why she had complained about Employee A.

The preponderance of the evidence supports the finding that the corrective action Cicerone gave to Employee A on December 18, 2013, appears to have been successful in preventing Employee A from engaging in the same or comparatively similar conduct to the allegations raised by the May 14th Instagram complaint.

The investigation also learned and substantiated that Employee A met an individual (Candidate A) when Candidate A was taking an upper-level Cicerone exam and formed a long-term relationship with that individual. During the relationship, Candidate A subsequently took upper-level Cicerone exams that Employee A was typically involved in creating and proctoring. The investigation confirmed that Cicerone management was informed of the relationship before any subsequent exams and that management excluded Employee A from planning and proctoring of those exams.

In addition to the original May 14th Instagram complaint, there were three additional complaints raised and addressed by the investigation.

- A former Cicerone employee (Former Employee B) complained in a Facebook post on or about March 7, 2020, regarding treatment she received from an individual who, separate

from the complaint, was a contracted instructor and examiner for Cicerone. Upon learning about the Facebook complaint, the investigation substantiated that Cicerone held a staff meeting on March 9, 2020. It was agreed at the staff meeting that Cicerone would no longer retain the services of the individual as an instructor and/or examiner going forward. The investigation substantiated that October 4, 2018 was the last date the individual was contracted by Cicerone as an examiner. The investigation also substantiated that August 19, 2019, was the last date the individual was contracted by Cicerone as an instructor. Investigation witnesses complained that Cicerone was still listed on the individual's website. On June 4, 2021, because of findings shared with Cicerone from the investigation, the individual was asked to remove all references to any association with Cicerone.

- Former Employee B also complained in a Facebook post in mid-May 2021, about comments that were made to her by Employee X. She posted, "He used to say things to me about my dark hair and how he loved women with dark hair, and then immediately follow it up with 'don't sue me'. I was 21 years old at the time." The Former Employee B was located and contacted as part of the investigation. She requested the investigator to share her identity, and part of what she shared in her witness interview, with Employee X. Her request was honored. The witness credibly stated the complained-of comments were made in 2010. She also complained that she, and women in general, were treated differently than men in the brewing industry. With that noted, she admitted she never complained about discrimination or harassment while she was a Cicerone employee. While Employee X did not recall making comments to the Former Employee B, he admitted he made comments about dark-haired women in and around 2010. The investigation also substantiated that Employee X made a comment that was quoted in the Chicago Tribune on July 11, 2010, about tipping a bartender, "an extra dollar because the bartender is so cute." Employee X agrees he would not make the comments today, and he regrets making them in 2010. Given the passage of time, the fact that the concerns were never reported, the absence of any other women coming forward to report unwelcomed comments by Employee X, despite widespread publicity about the investigation, the finding is that this was a lapse of judgment on the part of Employee X, and the recommendation is that further training (or coaching) is warranted, but not necessarily discipline.

- A former Cicerone employee (Former Employee C) complained about another former Cicerone employee (Former Employee D). Former Employee C complained that Former Employee D made unwelcome advances. Former Employee C admitted to never submitting a complaint to Cicerone about Former Employee D. The investigation substantiated that the employment of Former Employee D was terminated by Cicerone. Former Employee D was contacted as part of the investigation and declined to participate in the investigation and be interviewed. The investigation respects that both the Former Employee C and Former Employee D have a desire to remain anonymous.

Next Steps and Recommendations

First and foremost, all witnesses from the investigation will be contacted on an individual basis by the investigator, informed the investigation is closed, and they will be provided with the findings from the investigation. They will be encouraged to ask questions and their questions will be answered to the extent possible.

It is noted that Cicerone has already taken several steps to strengthen its processes. Based on what Cicerone has learned during the investigation, Cicerone plans to improve its complaint reporting and investigation processes. They will be updated to reflect changes in best practices in the post #MeToo era.

The investigation substantiated that Cicerone provided on-line harassment (including sexual harassment) prevention training produced by Clear Law Institute to all of its employees in December 2020. Cicerone also provided in-person, interactive training addressing, “Respect in the Workplace: Non-Harassment & Anti-Retaliation,” on August 29, 2018. That training included a review of scenarios that were discussed with the training participants. The investigator recommends future training take place in person, rather than on-line. In-person training can be more effective as there are fewer distractions and more employee engagement in the training. The training materials and methods ensure that all employees understand their rights and responsibilities in connection with ensuring an environment free from harassment and discrimination. That training should incorporate a robust education about how individuals should behave when traveling away from the Cicerone office and attending functions. The training needs to be interactive and empower people to report incidents to Cicerone through a confidential hotline that is being put in place. Further, examiners and instructors who regularly interact with Cicerone will have to participate in the same type of training if they want to partner with Cicerone.

To regain trust with employees and the Cicerone community, it is recognized that Cicerone could have been more responsive with its follow-up in 2013. Should any other matter of this type arise in the future, Cicerone will be more responsive. If appropriate, Cicerone will retain an outside firm to conduct investigations into sexual harassment complaints for some time period going forward. This could help to insert a level of objectivity into the process that many perceive is currently not present. If investigations are transitioned back to Cicerone, HR personnel should be trained on best practices for conducting investigations. When investigations are closed, there needs to be clear communication with complainants regarding the findings of the investigation and resolution, recognizing that confidentiality concerns may prohibit disclosure of personnel actions. Complaining parties should be told whether their complaints were substantiated or unsubstantiated, and if substantiated, they should be told that Cicerone will take corrective action to prevent further actions in the future. Following the close of an investigation, HR should continue to follow up with complainants to ensure that they have not experienced further issues or any type of retaliation.

With respect to observations related to the overall culture at Cicerone, it is suggested that Cicerone consider conducting culture surveys, focus groups, and other means to better understand perceptions of the organization. More recommendations will follow as the post-investigation work continues.