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**BEFORE THE INVESTIGATIVE PANEL OF THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION**

**INQUIRY CONCERNING A JUDGE,** **No. SC12-2495**

**JUDITH HAWKINS, 11-550**
**_____/**

**JUDICIAL QUALIFICATION COMMISSION'S TRIAL MEMORANDUM**

The Judicial Qualifications Commission has brought five formal charges against Judge Judith W. Hawkins, a county judge for Leon County, Florida. The charges are set forth in the Notice of Amended Formal Charges ("Formal Charges") filed in this cause on June 10, 2013.

The Formal Charges allege inappropriate conduct and behavior in violation of Canons 1, 2A, 2B, 3A, 3B(2), 3B(7), 3B(8), 3C(1), 4D(1) and 5(D)1 of the Code of Judicial Conduct, and Article V, Section 13 of the Florida Constitution.

Judge Hawkins has been charged with using the prestige of her judicial office to advance her own or others' private financial interests. She has been alleged, through various inappropriate means, to have maintained a system of 'justice' in her courtroom that was often inconsistent with generally accepted law and legal procedure. It has also been charged that Judge Hawkins does not, at all times, act in a manner that promotes public confidence in the integrity and impartiality of the judiciary. It is further alleged that, because of her involvement with her private for-profit business, Judge Hawkins devotes less than her full time and full attention to her judicial duties. In this regard, in addition to the time spent in her judicial suite, doing work on her for-profit private business during her official work hours, she also takes trips and vacations on her trial

weeks without timely and reasonably informing attorneys or parties in advance of her absences and, as a result thereof, exacerbates the harmful effects of her actions upon those who appear before her.

In addition to the conduct described above, Judge Hawkins' responses to the Commission at the 6(b) hearing in this matter, her deposition taken on February 19, 2013, and her responses to discovery in this case, create and reflect a pattern of conduct demonstrating a refusal to comply with lawful authority, misleading through incompleteness, and lacking the candor expected of a judicial officer. Judge Hawkins' intentional, calculated and legally unjustifiable obstructive behavior through the investigation and pre-hearing stages of this case reflect an intentional disregard to the Rules of Procedure applicable to this action, a lack of candor to the Investigative Panel, and a lack of candor throughout the discovery and pre-hearing phases of this case.

**ALLEGATION I - USE OF JUDICIAL OFFICE TO PROMOTE A PRIVATE INTEREST**

The essence of the Commission's first allegation is that Judge Hawkins took the resources that were provided to her for the support of her judicial duties, and used them to operate a private business from which she derived substantial income. That business, Gaza Road Ministries, was operated in large part from her judicial chambers where she used her official time, office space, utilities, and equipment provided to her for her judicial duties, as well as the services of her Judicial Assistant to further Judge Hawkins' private for-profit business.

Evidence will be presented during the final hearing that will establish Judge Hawkins used her position as a judge to promote her private business by among other things:

1. Selling and offering to sell Gaza Road Ministries' products in her courtroom to lawyers who regularly appeared before her;

2. Selling and offering to sell Gaza Road Ministries products in the courthouse to persons over whom she had disparate influence and authority, including lawyers and various courthouse employees;

3. Offering to sell Gaza Road Ministries' products to attorneys who were appearing before her in her official chambers, on court business;

4. Promoting the sale of Gaza Road Ministries products on a web site in which she offered those products for sale by using photographs of herself in her judicial robes; and,

5. Knowingly using her judicial assistant to promote the sale of Gaza Road Ministries' products, and to help produce those products during normal court work hours.

This charge is governed by Canon 2B of the Code of Judicial Conduct. Canon 2B states, in part, "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others."

Documentary evidence supporting Allegation I includes trial exhibits 15, 16, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 53, 54 and 57.

Witnesses who may be called to provide testimony concerning Allegation I include the following: Eric Abrahamsen; Jon Adcock; Allen Beiner; Mose Bracey; Karen Dyke; Melodee McCoy; Lee Meadows; Catherine Mingledorph; Tonya Monk; Ian

Nesbeth; Alvin Roberts, Sr.; Suzanne Tompkins; Louise Whilhite-St. Laurent; Jessica Yeary; Essie Young; and, Mark Yu.

**ALLEGATION II – FAILURE TO RESPECT AND COMPLY WITH THE LAW**

The Commission has also alleged that Judge Hawkins used measures, while attempting to maintain an idiosyncratic system of 'justice' in her courtroom that were often inconsistent with generally accepted law and legal procedure. If questioned or challenged by attorneys appearing in her court, she took measures to coerce their compliance with "Hawkins Law." Those measures included:

1. Going off the record to avoid having her coercive discussions recorded, to prevent the preparation of a full and complete record of case-related proceedings, to avoid the recording of inappropriate comments, or to prevent the recording of the sound of her turning pages of magazines during trial. This has occurred on many occasions including, but not limited to the case of State v. Augustino (11CT007);

2. Telling attorneys that she would make findings of fact designed to defeat appellate review, including making findings of fact that called into question the credibility of law enforcement witnesses. This happened even in instances when such findings, based upon the testimony and evidence of record, did not support any concern with the credibility of an officer, and appeared to be designed only to defeat any appellate effort to appeal her rulings. It is also alleged that she further made known that those who challenged her would be punished;

3. Failing to comply with Florida tax laws when selling Gaza Road Ministries' products;

4. Paying her judicial assistant to assist in the operation of her private business, but failing to properly report to the appropriate taxing authorities, and this Commission, the full amount of these payments; and,

5. Violating Florida law by failing to register Gaza Road Ministries under Florida's Fictitious Name Act.

This charge is governed by Canons 1, 2A and 3B(2) of the Code of Judicial Conduct.

Documentary evidence supporting Allegation II includes trial exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19, 20, 21, 23, 28, 29, 33, 34, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 58.

Witnesses who may be called to provide testimony concerning Allegation II include the following: Allen Beiner; Nancy Daniels; Stephen Grow; William D. Hall; Judy Hussey; Adam Komisar; David Marsey; Melodee McCoy; Adrian Mood; Anna Norris; Weston Petkovsek; Teresa Salva; Jennito Simon; Suzanne Tompkins; Valita Widdop; Louise Whilhite-St. Laurent; LaQuata Williams; John A. Wilson; and, Jessica Yeary.

**ALLEGATION III - FAILURE TO ACT IN A MANNER THAT PROMOTES PUBLIC CONFIDENCE**

The Commission has alleged that Judge Hawkins failed at all times to act in a manner promoting public confidence and, further, she conducted quasi-judicial activities in a manner undermining the judge's integrity and impartiality, or demeaning her judicial office.

In this regard, Judge Hawkins' misconduct manifested itself in the following ways:

1. While presiding over the case of State v. Martin she instructed the defendant to contact one of three lawyers and stated, "tell them Judge Hawkins sent you"; and,

2. While presiding over jury trials, she was observed openly reading magazines, and when questioned explained she was catching up with her reading. She also explained that, if an objection was made, she could cover up her lack of attentiveness by asking counsel to rephrase the objection.

This charge is governed by Canons 2A, 2B and 4A of the Code of Judicial Conduct. Canon 2A mandates that a judge should at all times act in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Canon 2B states, in part, "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others." Canon 4A mandates that a judge shall conduct quasi-judicial activities so as to not undermine the judge's integrity and impartiality or demean the judicial office.

Documentary evidence supporting Allegation III includes trial exhibits 28, 42, 45 and 46.

Witnesses who may be called to provide testimony concerning Allegation III include the following: Al Beiner; William D. Hall; Judy Hussey; Ian Nesbeth; Anna Norris; Valida Widdop; Aaron Wayt; and, Jessica Yeary.

**ALLEGATION IV - FAILURE TO DEVOTE FULL ATTENTION TO THE JUDICIAL OFFICE**

The Commission alleges that Judge Hawkins' involvement with Gaza Road Ministries caused her to devote less than her full time and full attention to her judicial duties. She explained at the 6B hearing in the instant case that, while serving as a

judge, she and her Judicial Assistant have a great deal of free time, so she feels she can use her judicial chambers and out-of-court free time to conduct her for-profit business, and schedule her personal business appointments.

The Commission further alleges that Judge Hawkins often takes time away from her judicial duties to promote her business to the detriment of the prompt and efficient administration of justice. She is often absent, or takes trips and vacations on her trial week. The fact that she frequently does not inform the attorneys or parties in advance of her absences, in a timely and reasonable fashion, exacerbates the harmful and disruptive effect of her actions upon those who appear before her.

This charge is governed by Article V, Section 13 of the Florida Constitution and Canon 3B (8). The Florida Constitution requires judges to devote full time to their judicial office. Canon 3B (8) states that judges should dispose all cases "promptly, efficiently, and fairly."

Documentary evidence supporting Allegation IV includes trial exhibits 15, 16, 24, 25, 26, 27, 31, 32, 35, 36, 37, 38, 39, 40, 41, 45, 46, 48 and 57.

Witnesses who may be called to provide testimony concerning Allegation IV include the following: Eric Abrahamsen; Jon Adcock; Al Beiner; Mose Bracey; Lauren Dempsey; Karen Dyke; Stephan Grow; David Marsey; Melodee McCoy; Lee Meadows; Brian Miller; Catherine Mingledorph; Tonya Monk; Ian Nesbeth; Suzanne Tompkins; Louise Wilhite-St. Laurent; Jessica Yeary; Essie Young and Marc Yu.

**ALLEGATION V - LACK OF CANDOR AND IGNORING OF THE APPLICABLE LAW**

The Commission alleges that, in responding to charges brought against her by the Commission, Judge Hawkins demonstrated by word and deeds a lack of candor and

willingness to ignore the requirements of the law, and to ignore and evade the orders of the judge presiding over those proceedings. Evidence presented during the Final Hearing on this cause will establish, among other acts, the following actions were taken by Judge Hawkins:

1. Early on the morning that her discovery deposition was taken pursuant to this inquiry, Judge Hawkins knowingly and intentionally deleted relevant financial records that were sought to establish the nature and extent of the business that she conducted from her County furnished office using County and State equipment and utilities during ordinary work hours;

2. Judge Hawkins willfully and repeatedly refused to provide full discovery despite and in defiance of Orders granting the Commission's Motions to Compel;

3. Without legal grounds, and without filing for a protective order, Judge Hawkins refused to turn over the financial data, and a full and complete list of persons to whom she sold books to, which were required to be produced by Judge Backman's Order. To date, she has not produced to the Commission all of the data, and the sales list, required by Judge Backman's Order;

4. Judge Hawkins exhibited a lack of candor in response to discovery, as well as in her testimony before the Commission:

5. Judge Hawkins intentionally misled the Commission concerning the existence of USB flash or jump drives associated with the private business conducted in her judicial office. She also misled the Commission's investigator and its forensic computer expert with regard to the existence of flash drives whose production was required by a Commission subpoena, and by Judge Backman's Order. She also

violated that Order by refusing to timely turn over to the Commission all the flash drives listed in the Order;

6. Judge Hawkins intentionally misled the Commission as to the nature and extent of payments she gave to her Judicial Assistant for services the Judicial Assistant provided to her private business conducted in her judicial office, and/or for her judicial work. Only after her deposition, and after collaborating with her assistant, did she admit fully to the payments;

7. Judge Hawkins intentionally misled the Commission as to her knowledge of the nature and extent of the private business work her Judicial Assistant conducted in her judicial office space during official government work hours. In her appearance before the Commission, and in her subsequent deposition, she misled the Commission with regard to her efforts to keep her private business separate from her judicial duties and those of her Judicial Assistant, and her knowledge of the extent to which her Judicial Assistant was working on her business during her Judicial Assistant's working hours. Records from Judge Hawkins office, and her computers, conflict with her representations. They demonstrate that she worked extensively on her private business at her judicial office, and that she full well knew her Judicial Assistant was doing the same;

8. Judge Hawkins misled the Commission through incomplete responses to questions and discovery regarding her conduct of the private business she maintained through her judicial office.

Judge Hawkins' responses to the Commission at the 6(b) hearing, at her deposition, and in response to discovery, create a pattern of conduct demonstrating a

refusal to comply with lawful authority, misleading through incompleteness, and lacking the candor expected of a judicial officer. The obstructive behavior, untruthful answers, and attempts to repeatedly frustrate and obfuscate discovery in this cause as described in Section V above, reflect an intentional disregard for the Rules of Procedure applicable to this action, a lack of candor to the Investigative Panel, and a lack of candor during the discovery phase of this case.

This charge is governed by Canons 1, 2A and 4A of the Code of Judicial Conduct. Canon 2A mandates that a judge should at all times act in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Canon 4A mandates that a judge shall conduct quasi-judicial activities so as to not undermine the judge's integrity and impartiality or demean the judicial office.

Documentary evidence supporting Allegation V includes trial exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 45, 46, 47, 48, 53, 54, 57 and 58.

Witnesses who may be called to provide testimony concerning Allegation V include the following: Jon Adcock; Al Beiner and Marc Yu.

Dated this 2nd day of October, 2013.

Respectfully Submitted,

/s/ Gregory R. Miller
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail and Electronic Mail to Gerald Kogan, Counsel for Respondent, 2655 S. LeJeune Road, Suite 805, Coral Gables, FL 33134; Lauri Waldman Ross, Counsel for the Hearing Panel, Ross & Girten, 9130 South Dadeland Blvd., #1612, Miami, FL 33156, this 2nd day of October, 2013.

/s/ Gregory R. Miller
Gregory R. Miller