Filing # 13803422 Electronically Filed 05/19/2014 10:45:46 AM

RECEIVED, 5/19/2014 10:48:39, John A. Tomasino, Clerk, Supreme Court

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC14-924

JAMES APTHORP,

Petitioner,

v.

KEN DETZNER, in his official capacity
as Secretary of State of Florida,

Respondent

BRIEF OF THE FLORIDA HOUSE OF REPRESENTATIVES; WILL WEATHERFORD, in his official capacity as Speaker of the Florida House of Representatives; THE FLORIDA SENATE; and DON GAETZ, in his official capacity as President of the Florida Senate, AS AMICI CURIAE IN SUPPORT OF RESPONDENT

George T. Levesque (FBN 555541)
General Counsel
Levesque.George@flsenate.gov
J. Michael Maida (FBN 95055)
Maida.Michael@flsenate.gov
FLORIDA SENATE
305 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399
850-487-5260; 850-487-6444 (fax)

On behalf of the Florida Senate and President Don Gaetz

Daniel E. Nordby (FBN 014588)
General Counsel
Daniel.Nordby@myfloridahouse.gov
FLORIDA HOUSE OF REPRESENTATIVES
402 South Monroe Street
Suite 422, The Capitol
Tallahassee, Florida 32399-1300
850-717-5500; 850-410-0064 (fax)

On behalf of the Florida House of Representatives and Speaker Will Weatherford

TABLE OF CONTENTS

Page

TABLE OF CONTENTS ii

TABLE OF AUTHORITIES iv

IDENTITY OF AMICI AND STATEMENT OF INTEREST 1

SUMMARY OF THE ARGUMENT 2

ARGUMENT 4

I. The Petition fails to establish any basis for jurisdiction in this Court or relief through mandamus. 4

A. The Petition fails to establish a basis for emergency relief. 5

B. The Secretary of State has no authority to inquire into the eligibility of a candidate to hold office, much less an "indisputable legal duty" to refuse a candidate's qualifying documents based on the contents of a candidate's financial disclosure form. 6

C. The Petition seeks relief that is unavailable in an action for mandamus. 8

II. The Qualified Blind Trust Law is fully consistent with the text and purpose of the Sunshine Amendment. 9

A. Florida's Qualified Blind Trust Law 10

B. The Sunshine Amendment expressly authorizes the Legislature to define the term "full and public disclosure." 14

C. The Sunshine Amendment does not limit the Legislature's authority to establish additional laws to preserve the public trust and avoid conflicts between public duties and private interests... 17

D. The Qualified Blind Trust Law is consistent with the purpose of the Sunshine Amendment. 19

CONCLUSION 20

CERTIFICATE OF SERVICE AND COMPLIANCE 21

TABLE OF AUTHORITIES

CASES

Davis ex rel. Taylor v. Crawford,
116 So. 41 (Fla. 1928) 7

Div. of Bond Finance v. Smathers,
337 So. 2d 805 (Fla. 1976) 5

Huffman v. State,
813 So. 2d 10 (Fla. 2000) 4

Plante v. Gonzalez,
575 F.2d 1119 (5th Cir. 1978) 19

Plante v. Smathers,
372 So. 2d 933 (Fla. 1979) 19

Pleus v. Crist,
14 So. 3d 941 (Fla. 2009) 4, 7

State ex rel. Cherry v. Stone,
265 So. 2d 56 (Fla. 1st DCA 1972) 7

State ex rel. Glynn v. McNayr,
133 So. 2d 312 (Fla. 1961) 9

CONSTITUTIONAL PROVISIONS

Art. II, § 8, Fla. Const. ..... *passim*

Art. V, § 3, Fla. Const. 4

LAWS AND STATUTES

§ 99.061, Fla. Stat. 8

§ 112.312, Fla. Stat. 14, 16

§ 112.3125, Fla. Stat. 18

§ 112.313, Fla. Stat. 18

§ 112.31425, Fla. Stat. . ..... *passim*

§ 112.3143, Fla. Stat. 18

§ 112.3144, Fla. Stat. 12, 14, 16

§ 112.31445, Fla. Stat. 15

§ 112.3145, Fla. Stat. 16

§ 112.3148, Fla. Stat. 18

§ 112.31485, Fla. Stat. 18

§ 112.3149, Fla. Stat. 18

ADMINISTRATIVE OPINIONS

Comm'n on Ethics Advisory Op. 2011-11 13

IDENTITY OF AMICI AND STATEMENT OF INTEREST

This brief is submitted by the Florida House of Representatives and the Florida Senate, by and through the presiding officers of the two chambers (collectively, the "Legislature"), as *amici curiae* in support of the Respondent, Florida Secretary of State Ken Detzner.

Over the past two years, the Legislature has enacted significant reforms to the state's ethics laws on a bipartisan (and often unanimous) basis. The reforms included in Senate Bill 2 (2013) have been praised as "the most significant effort at ethics reform in 37 years in Florida." Press Release, "League of Women Voters of Florida Responds to Governor's Actions on Alimony, Ethics, and Campaign Finance Reform," *available at*: http://thefloridavoter.org/files/download/674.

The Legislature has a strong interest in this case because the Petition challenges its constitutional authority to enact meaningful ethical standards for public officials and candidates. The Legislature also has an interest in this case because the Petition raises objections to a component of the recent ethics reform legislation: the adoption of clear statutory standards governing the use of qualified blind trusts. Accordingly, this brief responds to deficiencies in the Petition's characterization of the qualified blind trust law, offers important clarifications to

ensure that the qualified blind trust statute is properly understood and interpreted, and demonstrates that the qualified blind trust law is consistent with the requirement of "full and public disclosure" under the Florida Constitution. The Legislature also addresses the jurisdictional questions raised by the Court.

SUMMARY OF THE ARGUMENT

The Petition fails to establish any basis for this Court to exercise jurisdiction or grant mandamus relief. Although nominally seeking a writ of mandamus, the Petition actually requests: (1) declaratory relief (regarding both the facial constitutionality of a statute administered by the Florida Commission on Ethics and the effect of two of the Commission's Advisory Opinions); and (2) a writ of mandamus requiring the Secretary of State to *violate* his clearly-established ministerial duty to accept candidate qualifying documents that are complete on their face. Remarkably, the Petition also asks this Court to superintend the duties of the Secretary of State by "retain[ing] jurisdiction following the 2014 qualifying period" to review and adjudicate the constitutional adequacy of the financial disclosure forms filed by, presumably, every candidate for elective office. Although some of these claims might be cognizable in a court of competent jurisdiction, not one invokes an appropriate exercise of this Court's discretionary

jurisdiction to issue writs of mandamus to state officers and agencies. The Court should decline jurisdiction over the Petition.

On the merits, the qualified blind trust law is entirely consistent with the text and purpose of Article II, section 8, of the Florida Constitution (the "Sunshine Amendment"). A public official who establishes a qualified blind trust under the law must: (1) provide to the Commission on Ethics a complete list of assets placed into the trust; and (2) file a full and public disclosure form identifying the value of the trust's assets and any income received from the trust. A public official reports a qualified blind trust in the same manner as he or she would report a mutual fund: the asset is identified and its overall value is disclosed, but the individual stocks, bonds, or other financial instruments contained within the mutual fund are not reported and the income from those holdings is not disclosed.

Unlike a mutual fund, whose individual holdings might be ascertained by the public officer, a qualified blind trust shields the public official from knowledge or control of the trust's holdings. A qualified blind trust thereby eliminates the potential for a conflict of interest between public duties and private interests and enhances public confidence in Florida's elected officials. This is consistent with both the text and overriding purpose of the Sunshine Amendment.

The Petition disregards the Legislature's constitutional authority to enact laws to preserve the public trust and reduce conflicts of interest. It provides no sound basis for concluding that the statutory disclosure requirements for qualified blind trusts violate the Florida Constitution.

This Court should dispose of the Petition on jurisdictional grounds, by dismissal or transfer to the Circuit Court. If the Court reaches the merits, it should deny the Petition and affirm the constitutionality of the qualified blind trust law.

ARGUMENT

I. The Petition fails to establish any basis for jurisdiction in this Court or relief through mandamus.

This Court has discretionary jurisdiction to issue writs of mandamus to state officers and state agencies. Art. V, § 3(b)(8), Fla. Const. But a petition seeking a writ of mandamus from this Court must contain allegations appropriate to a mandamus claim. The elements of a mandamus petition are well known: "the petitioner must have a clear legal right to the requested relief, the respondent must have an indisputable legal duty to perform the requested action, and the petitioner must have no other adequate remedy available." *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009) (quoting *Huffman v. State*, 813 So. 2d 10, 11 (Fla. 2000)). The Petition's passing treatment of this Court's discretionary jurisdiction fails to

properly allege the fundamental elements of a mandamus claim and seeks relief that is unavailable under mandamus. Because the Petition fails to establish a proper basis for the exercise of this Court's discretionary jurisdiction, it should be dismissed or, in the alternative, transferred to the Circuit Court for the Second Judicial Circuit for appropriate disposition.

A. The Petition fails to establish a basis for emergency relief.

At the outset, the Petition provides no basis for emergency relief from this Court. "Ordinarily, the initial challenge to the constitutionality of a statute should be made before a trial court." *Div. of Bond Finance v. Smathers*, 337 So. 2d 805, 807 (Fla. 1976). This Court has recognized a limited exception to this principle "where the functions of government would be adversely affected absent an immediate determination." *Id*. The allegations in the Petition fall far short of this threshold.

The Petition presents no emergency requiring this Court to assert original jurisdiction. It does not even allege that this Court's "immediate determination" is necessary to avoid adverse effects on the functions of government. Instead, the Petition alleges that this Court should act to avoid "confusion" for candidates during the qualifying period beginning on June 16, 2014.

There is no basis for presuming candidate confusion. Any candidate who has established a qualified blind trust and files a full and public disclosure as provided in section 112.31425 operates under a duly-enacted statute that is presumed to be constitutional. Even assuming for the sake of argument that the Petitioner ultimately prevails on the merits of his challenge to the qualified blind trust law, there is no legal basis for the Petition's implicit assumption that a candidate who disclosed a qualified blind trust as required by law should be disqualified from the ballot rather than, for example, being required to simply file an amended financial disclosure form.

To the extent the Petition alleges that the imminence of candidate qualifying is an "emergency," it is entirely self-created. The Petition describes the use of blind trusts by public officials dating to at least 2006. The qualified blind trust law was passed by the Legislature on April 24, 2013, after months of public debate. The Petitioner's lack of diligence does not constitute an emergency justifying an imposition on this Court's time and resources.

B. The Secretary of State has no authority to inquire into the eligibility of a candidate to hold office, much less an "indisputable legal duty" to refuse a candidate's qualifying documents based on the contents of a candidate's financial disclosure form.

The Petition asks this Court to issue a writ of mandamus "directing the

Secretary of State to refuse the filing papers of any candidate or official who seeks to file a blind trust or any similarly designed instrument that does not result in a full and public financial disclosure as mandated by the Florida Constitution." Petition at 25. To establish an entitlement to mandamus, the Petition must therefore demonstrate that the Secretary of State has an "indisputable legal duty" to refuse the qualifying documents of candidates under these circumstances. *Pleus*, 14 So. 3d at 945. In fact, exactly the opposite is true.

This Court has held that "[t]he law does not give the secretary of state any power or authority to inquire into or pass upon the eligibility of a candidate to hold office for the nomination for which he is running." *Davis ex rel. Taylor v. Crawford*, 116 So. 41, 42 (Fla. 1928); s*ee also State ex rel. Cherry v. Stone*, 265 So. 2d 56, 58 (Fla. 1st DCA 1972) (denying mandamus because "the Secretary of State is without authority to pass judgment on questions dehors the filing instruments concerning the qualifications of candidates"). The Election Code is quite clear that a filing officer such as the Secretary of State:

> performs a ministerial function in reviewing qualifying papers. In determining whether a candidate is qualified, the filing officer shall review the qualifying papers to determine whether all items required by paragraph (a) have been properly filed and whether each item is complete on its face, including whether items that must

> be verified have been properly verified pursuant to s. 92.525(1)(a). The filing officer may not determine whether the contents of the qualifying papers are accurate.

§ 99.061(7)(c), Fla. Stat.

Here, the Petition asks this Court to order the Secretary of State to refuse to accept qualifying documents from candidates based on the content of the candidates' financial disclosure forms. Because the Petition seeks a remedy directly contrary to the governing law, it utterly fails to establish that the Secretary of State has an "indisputable legal duty" to perform the requested act.

C. The Petition seeks relief that is unavailable in an action for mandamus.

In addition to its failure to satisfy the legal elements of a claim for mandamus, the Petition seeks relief that is unavailable under mandamus. The Petition essentially seeks: (1) a declaratory judgment regarding the facial constitutionality of the qualified blind trust law; (2) a declaratory judgment regarding the effect of two Advisory Opinions from the Florida Commission on Ethics; and (3) an unspecified and constitutionally novel form of continuing jurisdiction over the Secretary of State to "assure that the financial disclosures filed [during the qualifying period] comply with the requirements of Article II, §

8(a), of the Florida Constitution." Petition at 11-12. None of these claims have been adequately pled, nor does the Petition cite any basis in Article V of the Florida Constitution for their consideration as "relief" from the Court in a petition for a writ of mandamus. These requests for relief should be summarily denied.

The Petition cannot properly request that this Court issue a declaratory judgment in the guise of a writ of mandamus. The two claims have entirely different purposes. Mandamus is used to *enforce* a clearly established right, not to establish or resolve doubt about a party's rights. *State ex rel. Glynn v. McNayr*, 133 So. 2d 312, 316 (Fla. 1961). The declaratory relief requested by the Petition exceeds the scope of this Court's discretionary mandamus jurisdiction.

The Petition's request that this Court preemptively assume a supervisory role over the Secretary of State's conduct of candidate qualifying should be rejected out-of-hand. The Petition cites no basis in Article V of the Florida Constitution for this Court's jurisdiction over such a claim.

II. The Qualified Blind Trust Law is fully consistent with the text and purpose of the Sunshine Amendment.

The Petition asks this Court to declare that the Legislature's establishment of statutory standards governing the use of qualified blind trusts violates the requirements of Article II, section 8, of the Florida Constitution (the "Sunshine

Amendment"). This claim overlooks the Legislature's express authority under the Sunshine Amendment to implement and define the parameters of "full and public disclosure." It also badly misconstrues the text of the Sunshine Amendment by reading a *recognition of* legislative power to adopt additional ethical standards as a *restriction on* the Legislature's authority to address potential conflicts between public duties and private interests. If this Court reaches the Petition's merits, it should affirm the constitutionality of the qualified blind trust law.

A. Florida's Qualified Blind Trust Law

An adequate appraisal of Florida's qualified blind trust law requires an understanding of the statutory parameters under which a trust may be established, the conditions imposed on the public officer and the trustee, and the manner in which the trust's value and assets are to be publicly reported by the public official. The Petition largely addresses the topic of "blind trusts" in the abstract, citing only a single sentence of section 112.31425 in its Argument section. Petition at 14-15.

The Petition also misrepresents the interaction between the qualified blind trust law and the separate requirement that public officials and candidates file a form setting forth a full and public financial disclosure. For example, the Petition repeatedly suggests that the law allows public officials to "file" a blind trust

"instead of" filing a full and public financial disclosure. *See*, *e.g.*, Petition at 1 (stating that section 112.31425 allows qualified blind trusts "to be filed in lieu of full and public financial disclosure"). On this point, the Petition is simply wrong. In fact, the qualified blind trust law specifies precisely how a public official must report the beneficial interest in a qualified blind trust, and income received from it, *on the public official's financial disclosure form*. § 112.31425(5), Fla. Stat. The Court deserves a more complete description of the law.

As noted by the Petition, public officials in Florida used blind trusts to avoid conflicts of interest even before the enactment of the qualified blind trust law. In 2013, the Legislature enacted section 112.31425 upon the recommendation of the Nineteenth Statewide Grand Jury and the Florida Commission on Ethics to provide strict statutory standards for the use of blind trusts.

A qualified blind trust is designed to eliminate conflicts between an official's public duties and private interests by prohibiting the official from attempting to influence or exercise any control over decisions regarding the management of assets in a qualified blind trust and from making any effort to obtain information with respect to the holdings of the trust. § 112.31425(3), Fla. Stat. The qualified blind trust law: (1) prohibits nearly all communication between

the public officer and the trustee regarding the trust; (2) requires the appointed trustee to be either an institutional fiduciary or a legal or financial professional who is not a relative or business associate of the public official, not a public officer or employee, and not an appointee of the public official; (3) requires all assets held in a qualified blind trust to be free of restrictions with respect to their transfer or sale; and (4) prohibits a qualified blind trust from including investments or assets the transfer of which by the trustee is improbable or impractical without the public officer's knowledge.

Contrary to the Petition's repeated suggestion, a public official who has established a qualified blind trust must still make full and public financial disclosures as required by the Sunshine Amendment and section 112.3144, Florida Statutes. The public official must fully and publicly disclose the existence of the official's beneficial interest in the qualified blind trust, the trust's value, income received from the trust, and—at the time the trust is established—a complete list of the disclosable assets placed in the trust. *See* § 112.31425(5), (6)(d)5, Fla. Stat.

For purposes of financial disclosure, a public official's interest in a qualified blind trust is reported in the same manner as a mutual fund or similar instrument: the asset is identified and its overall value is disclosed, but the individual stocks,

bonds, or other financial instruments contained within the asset are not. *See* Instructions for Completing and Filing Form 6: Full and Public Disclosure of Financial Interests (2013), at 4, *available at*: http://goo.gl/ffhvrm; Comm'n on Ethics Advisory Op. 2011-11 (identifying the appropriate disclosure for a mutual fund with a value exceeding the reporting threshold).

Unlike a mutual fund whose individual holdings might be ascertained by the public officer, a qualified blind trust shields the public official from knowledge and control of the trust's holdings. A qualified blind trust thereby preserves the public official's objectivity as to his or her public responsibilities, eliminates the potential for a conflict of interest between public duties and private interests, and improves upon existing protections enshrined in the Sunshine Amendment. A requirement that public officials seek out and disclose the specific investments or assets held by a qualified blind trust would eviscerate the ethics reform central to the qualified blind trust law.[1]

---

[1] Requiring a public officer to disclose assets in the qualified blind trust as though they were the officer's would also be inaccurate as a matter of property law, as legal title to the property would be vested in the trustee. *See Imagine Ins. Co. v. State ex rel. DFS*, 999 So. 2d 693, 700 (2008) ("In a trust relationship, the trust beneficiary possesses an equitable ownership in the trust property, while the trustee possesses legal title to the property.") (quoting *Brevard County v. Ramsey*, 658 So. 2d 1190, 1196 (Fla. 5th DCA 1995)).

B. The Sunshine Amendment expressly authorizes the Legislature to define the term "full and public disclosure."

The Sunshine Amendment imposes a variety of ethical requirements on public officials and candidates, including an obligation to make full and public disclosure of their financial interests. The Legislature has established a comprehensive statutory scheme to implement this constitutional requirement: defining terms, establishing reporting thresholds, and delegating procedural functions to the Commission on Ethics. The Petition's argument that the Legislature lacks the power to implement the constitutional requirement of "full and public disclosure" is contrary to the Constitution itself and must be rejected.

The Florida Constitution defines the term "full and public disclosure of financial interests" in section (i)(1) of the Sunshine Amendment. But this definition—contained in the amendment's "Schedule"—was explicitly intended as a gap-filler, to be used from the effective date of the amendment "until changed by law." Art. II, § 8(i), Fla. Const. The Legislature has accepted the invitation to establish the parameters of the constitutionally-mandated "full and public disclosure." *See, e.g.*, § 112.312, Fla. Stat. (defining terms such as "liability" and "source"); § 112.3144, Fla. Stat. (requiring disclosure with the Florida Commission on Ethics, authorizing lump sum disclosure of "household goods and

personal effects," specifying treatment of assets held jointly and liabilities for which a reporting individual is jointly and severally liable, establishing a fine for failure to timely file disclosure and a process for appeal of fines); § 112.31445, Fla. Stat. (outlining process for transition to mandatory electronic filing system).

The Petition disregards the Legislature's constitutional authority to define and implement a system of full and public disclosure of financial interests, relying instead on definitions of "full" and "public" contained in the "Merriam-Webster Online Dictionary." Petition at 14. The Petition fails to explain why it resorts to this definition when the Constitution itself defines the relevant terms and expressly makes that definition subject to change "by law." Indeed, under the Petition's idiosyncratic choice of definitions, the $1,000 threshold in Article II, section 8(i) itself might be challenged as providing an insufficiently "full" disclosure.

To be sure, the Legislature's authority to implement the requirement of "full and public disclosure" is not unlimited. A hypothetical statute that raised the reporting threshold for assets and income to a level exceeding the assets or income of any public official or candidate—or that purported to exempt all disclosure forms from the public record—might reasonably be challenged. But the actual

statutory requirements for full and public disclosure fall well within any reasonable understanding of the constitutional terms. Public officials and candidates must disclose their net worth (Art. II, § 8(i)(1), Fla. Const.); must disclose every asset and liability in excess of $1,000 (§§ 112.3144 and 112.312(14), Fla. Stat.); must disclose all sources of income (via a sworn statement or a complete copy of a federal income tax return) (Art. II, § 8(i)(1), Fla. Const.); and must disclose any interests in particular specified businesses (§112.3145(5), Fla. Stat.).

If the public official holds a beneficial interest in a qualified blind trust, both the interest and its value must be reported as an asset on the official's financial disclosure form. § 112.31425(5), Fla. Stat. If the income from the qualified blind trust exceeds $1,000, the trust and the amount of income must also be reported as a primary source of income on the financial disclosure form. *Id*. And, at the time the trust agreement is executed, the public official must file with the Commission on Ethics "[a] complete list of assets placed in the trust that the public officer would be required to disclose" pursuant to the full and public financial disclosure law. § 112.31425(6)(d), Fla. Stat. In each of these instances, the full and public disclosure of financial interests is satisfied and the public trust

is protected.

C. The Sunshine Amendment does not limit the Legislature's authority to establish additional laws to preserve the public trust and avoid conflicts between public duties and private interests.

The Sunshine Amendment also includes a rule of constitutional construction to ensure that its ethical requirements are not viewed as an impediment to the Legislature's adoption of additional standards of conduct: "[t]his section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests." Art. II, § 8(h), Fla. Const. The qualified blind trust law, which seeks to avoid conflicts of interest, is precisely the type of legislation permitted by this provision.

The plain language of Article II, section 8(h), indicates that the Sunshine Amendment is not an exclusive catalogue of the ethical requirements that might be imposed on public officials and candidates. By its terms, section 8(h) forbids any construction of the Amendment that would limit the Legislature's authority to establish disclosures and prohibitions to preserve the public trust and avoid conflicts between public duties and private interests.

The Legislature has acted under this authority, imposing a variety of ethical

restrictions beyond those required by the Sunshine Amendment. *See, e.g.*, § 112.3125, Fla. Stat. (limiting "dual public employment"); § 112.313(9)(a)3.b., Fla. Stat. (imposing two-year prohibition on executive-branch lobbying by former legislators); § 112.3143, Fla. Stat. (prohibiting public officers from voting on certain matters and requiring disclosure of voting conflicts); § 112.3148, Fla. Stat. (requiring disclosure of gifts accepted by reporting individuals); § 112.31485, Fla. Stat. (prohibiting solicitation and acceptance of gifts from political committees); and § 112.3149, Fla. Stat. (prohibiting, limiting, and requiring disclosure of honorarium expenses in certain circumstances). In the same manner, the qualified blind trust law provides criteria under which a public official may avoid potential conflicts of interest by relinquishing knowledge and control over the disposition of certain assets to an independent third-party trustee.

The Petition badly misreads this constitutional provision *recognizing* the Legislature's authority to establish ethical standards as though it were a *limitation* on legislative authority. Specifically, the Petition wrenches two words from their context to claim that the Legislature may not "limit disclosures." *See* Petition at 6. Under no fair reading of Article II, section 8(h), is its text susceptible of this interpretation. Whatever textual limits might exist on the Legislature's authority to

outline the scope of full and public disclosure, those limits are not imposed by Article II, section 8(h). Nor is the adoption of statutory standards governing the use of qualified blind trusts inconsistent with the Legislature's express authority.

D. The Qualified Blind Trust Law is consistent with the purpose of the Sunshine Amendment.

This Court has recognized that the primary purpose of the Sunshine Amendment was "to impose stricter standards on public officials so as to avoid conflicts of interest." *Plante v. Smathers*, 372 So. 2d 933, 936-37 (Fla. 1979). Four "legitimate concerns of the people" motivated the Amendment: (1) "the public's right to know an official's interest," (2) "deterrence of corruption and conflicting interests," (3) "creation of public confidence in Florida's public officials," and (4) "assistance in detecting and prosecuting officials who violate the law." *Id*. at 937 (citing *Plante v. Gonzalez*, 575 F.2d 1119 (5th Cir. 1978)). The qualified blind trust law is entirely consistent with these concerns.

Like the Sunshine Amendment, the qualified blind trust law addresses the public's legitimate concern that public officials might face a conflict between their public duties and private interests. The disclosure requirements of the Sunshine Amendment attempt to deter corruption and conflicting interests by allowing the public to compare the public official's public actions and private interests to assess

whether the two might be in conflict.

The qualified blind trust law takes a complementary approach by providing for an initial disclosure and then allowing public officials to eliminate potential conflicts of interest. To the greatest degree possible, given the purpose of a blind trust, the qualified blind trust law provides transparency as to the value of the trust, income received from the trust, and the initial assets placed into the trust. A qualified blind trust removes the temptation of a public official to advance his or her private interests over the public good. Without any knowledge of the particular assets held by the trust, the public official lacks even the ability to act in his or her self-interest. The qualified blind trust law reduces even the appearance that public decisions are based on public officials' private interests and advances public confidence in Florida's public officials.

CONCLUSION

This Court should decline to address the Petition on jurisdictional grounds. Should the Court reach the merits of the Petition, it should decline to grant the relief requested by the Petitioner and should affirm the constitutionality of the qualified blind trust statute.

Respectfully submitted,

_/s/ *George T. Levesque*_____
George T. Levesque (FBN 555541)
General Counsel
Levesque.George@flsenate.gov
J. Michael Maida (FBN 95055)
Maida.Michael@flsenate.gov
FLORIDA SENATE
305 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

On behalf of the Florida Senate and President Don Gaetz

_*/s/ Daniel E. Nordby*_____
Daniel E. Nordby (FBN 014588)
General Counsel
Daniel.Nordby@myfloridahouse.gov
FLORIDA HOUSE OF REPRESENTATIVES
402 South Monroe Street
Suite 422, The Capitol
Tallahassee, Florida 32399-1300

On behalf of the Florida House of Representatives and Speaker Will Weatherford

CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that this computer-generated brief is prepared in Times New Roman 14-point font and complies with the font requirement of Rule 9.210(a), Florida Rules of Appellate Procedure, and that a true copy of the foregoing has been furnished this 19th day of May, 2014, by electronic mail to:

Talbot D'Alemberte
Patsy Palmer
D'Alemberte and Palmer, PLLC
P.O. Box 10029
Tallahassee, Florida 32302-2029
dalemberte@dalemberteandpalmer.com
palmer@dalemberteandpalmer.com
Counsel for Petitioner

Allen Winsor
Adam Tanenbaum
Rachel Nordby
The Capitol PL-01
Tallahassee, Florida 32399-1050
Allen.Winsor@myfloridalegal.com
Adam.Tanenbaum@myfloridalegal.com
Rachel.Nordby@myfloridalegal.com
Counsel for Secretary of State

_*/s/ Daniel E. Nordby*____
Attorney