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BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A

CASE NUMBER: SC16-2178

PHILIP JAMES YACUCCI, NO 16-496

RESPONDENT'S AFFIRMATIVE DEFENSES

The Respondent, Judge Philip James Yacucci, files his Affirmative Defenses and states:

RESPONDENT'S FIRST AFFIRMATIVE DEFENSE:
JUDGE YACUCCI'S INITIAL DENIAL OF THE MOTION TO RECUSE IN STATE V. HARRACKINSGH WAS LEGALLY CORRECT

Judge Yacucci's initial denial of the Motion to Recuse in State v. Harracksingh on September 22, 2016 was legally correct because there was no case or controversy in existence at that time and therefore there was no case to recuse himself from. The violation of probation case did not exist until September 28, 2016. Judge Yacucci's ultimate recusal from the case on November 16, 2016 was correct, notwithstanding the lack of a proper pending motion, given the increased controversy in the ongoing Writ of Prohibition matter and the complaint in this matter filed with the JQC.

RESPONDENT'S SECOND AFFIRMATIVE DEFENSE:
INITIAL REFUSAL OF RECUSAL WAS DE MINIMIS

Judge Yacucci's initial refusal to recuse on the cases while the Writ of Prohibition action was pending to determine if recusal was necessary, while arguably incorrect, was a temporary denial and was de minimis since he took no

significant judicial action on any of these cases between his initial recusal denials and his ultimate recusals on those cases.

RESPONDENT'S THIRD AFFIRMATIVE DEFENSE: INDEPENDENCE OF THE JUDICIARY

Judge Yacucci's temporary refusal to recuse on the cases cited in the Petition was consistent with the requirement of supporting the independent judiciary under Canon 1 of the Code of Judicial Conduct. Judicial independence requires courts to be free from influences that may seek to hold undue influence over the judiciary. Examples of undue influence can come in the form of political campaign manipulation and forum shopping, notwithstanding that other interests such as the public trust and the appearance of fairness may outweigh the need for independence of a particular jurist. The interests must be balanced with adequate reflection and the time spent by Judge Yacucci considering these interests did not undermine the public trust in the judiciary.

I HEREBY CERTIFY that a copy of the foregoing has been sent via e-portal filing to Lauri Waldman Ross, Michael Schneider and Alexander Williams this 27th day of March, 2017.

s/Robert J. Watson
ROBERT J. WATSON
rjwpa@yahoo.com
Florida Bar No. 290092
Attorney for the Defendant
ROBERT J. WATSON, P.A.
3601 S.E. Ocean Blvd., Suite 004
Stuart, Florida 34996
(7720 288-1880