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BEFORE THE JUDICIAL QUALIFICATION COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE

PHILIP JAMES YACUCCI, NO. 16-496 SC 16-2178
_____/

JUDGE PHILIP J. YACUCCI JR'S RESPONSE TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING PANEL, FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

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Judge Philip J. Yacucci, Jr., through undersigned counsel, files the above styled response and states:

On May 1, 2017 The Hearing Panel of the Florida JQC conducted a daylong hearing in this matter.

On June 29, 2017 Honorable Robert Morris, FJQC Hearing Panel Chair, issued the Panel's findings, conclusions of law, and recommendations. Judge Yacucci accepts them as the reasoned decision of The Panel and will not challenge nor allege any error in the findings and conclusions.

Judge Yacucci likewise respects the recommendations of The Panel and accepts them as well, with one exception.

Judge Yacucci would respectfully suggest the Panel's recommendation of a 30 day suspension without pay is excessive given the particular history of this case, as well as

Judge Yacucci's exemplary history both as a practicing attorney for twenty-three years and as St. Lucie County Judge for nearly fifteen years.

Beginning in 1980 Judge Yacucci served his community for nearly five years as an Assistant State Attorney, four years as the Elected Public Defender, and fourteen additional years as a private practitioner.

During this time Judge Yacucci tried over 100 jury trials and was one of the first certified death penalty attorneys in the 19th Judicial Circuit. He was also a certified instructor by the Florida Department of Law Enforcement and instructed at Indian River Community College Police Academy.

During this time as a practicing attorney Judge Yacucci was a respected member of his community and on many occasions spoke on behalf of the Justice System at schools, civil organizations, and church groups.

Additionally Judge Yacucci donated many hours to pro bono clients primarily in criminal matters, but civil matters as well.

During his 23 years as a practicing attorney, Judge Yacucci had absolutely no Florida Bar disciplinary actions.

Winning election in 2002, Judge Yacucci began his judicial career in January 2003 as St. Lucie County Judge.

Judge Yacucci has presided over nearly 250 jury trials in his criminal assignment.

He has presided over the county's Domestic Violence Diversion Program (DVDP), one of the most successful programs in the State, for twelve years.

Additionally, Judge Yacucci has served multiple times as the Chairman of the St. Lucie County Canvassing Board, including in the last presidential election.

Notably, Judge Yacucci has willingly accepted appointment on four separate occasions from the Florida Supreme Court to serve as referee on Florida Bar grievance matters.

In the most recent appointment, Judge Yacucci traveled to Melbourne, Florida, to preside over a three day trial (June 27 – 29, 2017) in the case of Florida Bar v. Joseph Scott Langford, Supreme Court case No. SC 16- 2019, and will be traveling back again for a sentencing hearing in a few weeks.

Since he was sworn in as St. Lucie County Judge in 2003, Judge Yacucci has continued his service of speaking on behalf of the Judiciary to multiple schools, civic organizations and church groups.

Judge Yacucci was also commended in his community when he came to the assistance of a St. Lucie County deputy who was physically attacked in the courtroom, with the perpetrator attempting to obtain the deputy's firearm. Judge Yacucci's actions helped prevent a possible tragedy.

Witnesses who testified at the May 1, 2017 hearing reflect Judge Yacucci's high standing and regard in his community.

These witnesses included Bruce Colton, Elected State Attorney's, 19th Judicial Circuit, Sheriff Ken Mascara, Elected Sheriff for St. Lucie County, Collier County Judge Mike Carr, former Chief Judge Steve Levin, 19th Judicial Circuit and Attorney Garrison Dundas.

Honorable Robert Morris, FJQC Hearing Panel Chair, concluded that "Judge Yacucci appears to be a hard-working, conscientious Judge in other respects, but had blinders on when it came to Mr. Smith and his employer ."[Findings of Fact, Conclusions of Law and Recommendations of the Hearing Panel, Florida Judicial Qualifications Commission, page 24]

Judge Yacucci appreciates and respects Judge Morris's conclusion, but hopes that this Court will conclude that Judge Yacucci was motivated by more than personal objections to Mr. Smith and was at least concurrently and legitimately concerned about the independence of the judiciary which is challenged when political PACs are used to eliminate judges by use of unethical campaign tactics or blanket recusals.

Judge Yacucci hopes that The Florida Bar and other Judicial oversight committees examine the facts of this case and in the future commit to enforcement of the already existing rules holding non-incumbent judicial candidates fully accountable for their campaign conduct, including those attorneys and firms who seek to clandestinely hide behind the shield of thinly-veiled ECOs.

Finally, it should also be noted when considering an appropriate sanction that Judge Yacucci requested and was assigned all St. Lucie County ordinance violation cases, in addition his already heavy caseload.

This was done to ease the burden on the other two St. Lucie County Judges who are assigned his recusals. Ordinance cases are at a much greater number than the recusals.

In conclusion, Judge Yacucci trusts that this Honorable Court will consider all of the above in reaching its decision.

He respectfully requests that this Court not impose the recommended 30 day suspension without pay as it is unwarranted given the particular facts in this matter and Judge Yacucci's outstanding service for 37 years as an attorney and Judge.

WHEREFORE Judge Philip J. Yacucci respectfully moves this Court to impose sanctions without the 30 day suspension.

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 18th day of July, 2017.

s/Robert J. Watson
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