

**BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION**

INQUIRY CONCERNING A JUDGE,
THE HONORABLE DANA SANTINO
JQC NO. 2016-534

SC17- _____

_____ /

NOTICE OF FORMAL CHARGES

TO: Hon. Dana Santino
Palm Beach County Judge
205 North Dixie Highway
West Palm Beach, Florida 33401

The Investigative Panel of the Florida Judicial Qualifications Commission (“JQC” or “the Commission”), at its meeting on February 23, 2017, by a vote of the majority of its members, pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission and Article V, Section 12 (b) of the Constitution of the State of Florida, finds that probable cause exists for formal proceedings to be instituted against you.

Canon 7A(3)(b) declares that a candidate for judicial office “shall maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary...”

Canon 7A(3)(c) provides that a candidate for judicial office shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate’s direction and control from doing on the candidate’s behalf

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what the candidate is prohibited from doing under the Sections of this Canon.

The specific allegations for which the Commission has found probable cause are that:

1. During your 2016 campaign for Palm Beach County Judge, you paid over \$143,000 for the campaign consulting services Richard Giorgio and Francine Nelson, of Patriot Games, Inc.
2. In October of 2016, your campaign published an email addressed to potential voters, which lists your experience as a probation officer, a victim services advocate for victims of rape, homicide and domestic violence. Your advertisement then states that your opponent's legal practice is "*limited to criminal defense- representing murderers, rapists, child molesters and other criminals.*"
 - a. Your campaign email advertisement prompted the Palm Beach Post to run an article about your statements titled "PBC race gets ugly- some say- in Donald Trump-like way". Rather than retracting or apologizing for your campaigns disparaging remarks, you told the Palm Beach Post newspaper that, "*I completely respect, and I'm proud of our justice system, and while every person is entitled to a defense, Mr. Lerman is not a public defender, and chooses to represent individuals who commit heinous crimes.*"
 - b. Significantly, your statement that Mr. Lerman is not a public

defender, but *chooses* to represent individuals who commit heinous crimes, undeservedly impugns the integrity of the entire judicial system by demeaning the work of private attorneys who represent accused persons. In light of your own experience working in a public defender's office, you attempt to draw a distinction between public defenders and private defense attorneys and the quality of their character.

3. Ms. Nelson, of Patriot Games consultants, also registered a political organization named 'Taxpayers for Public Integrity.' This political organization promoted your candidacy by attacking your opponent, Gregg Lerman.

- a. During the 2016 campaign, 'Taxpayers for Public Integrity' produced a Facebook webpage, titled 'The Truth About Gregg Lerman.' The headline banner of this page proclaimed that, "*Attorney Gregg Lerman has made a lot of money trying to free Palm Beach County's worst criminals. Now he's running for judge!*" Below that, a photograph of Mr. Lerman was surrounded by the words, "**CHILD PORNOGRAPHY,**" "**DRUG TRAFFICKING,**" "**MURDER**" "*Identity Theft,*" "**RAPE,**" "**Sexual Assault,**" "Internet Solicitation of Minors," and "**PEDOPHILES.**" [emphasis used in original].
- b. This webpage also highlights several cases where Mr. Lerman represented persons accused of high-profile crimes. In describing

these crimes, the website states:

“Instead of representing victims of crime, Gregg Lerman chose to represent convicted serial killer Ronald Knight who targeted gay men and brutally murdered them. Now, he’s running for Judge!”

“Instead of representing the victims of crime, Gregg Lerman chose to represent one of the convicted accomplices in the ‘Turnpike Murder’ of a family of four, including two children ages 3 and 4. Now, he’s running for Judge!”

“Instead of representing the victims of crime, Gregg Lerman chose to represent one of the four convicted co-defendants in the ‘Three Amigos’ robbery-murder. Now, he’s running for Judge!”

“Instead of representing the victims of crime, Gregg Lerman chose to represent one of the convicted ‘Thanksgiving Day’ murderers. Now, he’s running for Judge!”

- c. In addition to the wholly inappropriate connotation and tenor of these statements, the substance of the statements is also false. In three of the cases, Mr. Lerman was court-appointed to represent the accused person. The website is no longer viewable.
4. In response to your conduct, your opponent filed a complaint with the Palm Beach County Bar Association’s Judicial Campaign Practices Commission (“JCPC”), a group that renders advisory opinions about perceived misconduct in Palm Beach judicial campaigns.
 - a. In responding to the JCPC complaint, you steadfastly defended your conduct by stating that; (1) your email truthfully states Mr.

Lerman's experience, (2) that the Facebook post was made by an ECO independent of you, and is truthful, including the statement that Mr. Lerman has made a lot of money representing criminal defendants, and (3) that the statements in the e-mail, in the Facebook post, and to the Palm Beach Post merely are efforts to highlight the differences between you and Mr. Lerman.

Specifically, your response to the JCPC stated, *"I have been an advocate for the victims of rape, homicide and domestic violence while Mr. Lerman has chosen to represent the criminal defendants convicted of those crimes."*

- b. On November 2, 2016, in final days before the November election, the JCPC, by a vote of 11-0, found your campaigns' statements and conduct violated the Code of Judicial Conduct. The JCPC wrote that your e-mail advertisement was "inflammatory," and "rife with innuendo that Mr. Lerman would favor even the worst of the worst from the bench, whereas by implication, Ms. Santino would not." This, the JCPC found, "...invites the voter to choose based on a candidate's supposed predisposition—or in Ms. Santino's case an implied pledge—that is inconsistent with the impartial performance of judicial duties."
- c. The JCPC also noted that your e-mail and other campaign messages "...omits important context: the presumption of innocence, the constitutional right to counsel that persons accused

of crimes are afforded, and the system of court-appointed counsel that supports that right.” The advisory Committee also found that your email “implies that representing such persons is dishonorable and antithetical to the public good, when, in fact, the representation of person accused of crimes—even heinous crimes—is an essential component of our criminal justice system.”

- d. In responding to the JCPC’s unanimous decision, you told the Palm Beach Post, in a November 2 article titled PBC judge hopeful Dana Santino violated judicial canons advisory panel finds, that the JCPC’s decision was, “just their opinion,” and that your statements were, “an honest comparison.” Your campaign manager also referred to Mr. Lerman as “desperate,” for filing the complaint about your conduct.
- e. At the time the JCPC released its decision, you also commented to Mr. Lerman that your campaigns’ statements were “nobody’s business,” and that you have a right to free speech. Prior to this, you also informed Mr. Lerman that it was your belief that you were not responsible for whatever others, including your campaign consultants, said or did on your behalf. You also made a similar claim to an audience at a campaign forum shortly after your October e-mail message became a topic of public discussion. This is contrary the requirements of Canon 7.

- 5. In your response to the Commission’s Notice of Investigation, and again

in your sworn testimony before the Investigative Panel, you appeared remorseful and apologetic. You accepted “full responsibility” for your campaigns conduct, and you recognized that the language used was “not appropriate and was inconsistent with the dictates of Canon 7.” You called the statements about your opponent “disparaging,” and acknowledged that the statements could lead a reasonable person to question your impartiality.

6. When your appearance before the Investigative Panel is contrasted with your prior repeated, and steadfast defense of your misconduct, it is difficult to escape the conclusion that you and your campaign consultants employed a ‘win-at-all-costs,’ and pay the fine later strategy. This conduct is antithetical to the conduct expected of judicial candidates. Further, your inability to understand and comply with, or willingness to overlook the requirements of the Code of Judicial Conduct represent a clear and present unfitness for office.

Your actions constitute inappropriate conduct in violation of Canons 7A(3)(e)(i), 7A(3)(e)(ii), 7A(3)(a), and 7A(3)(b) of the Code of Judicial Conduct, and Rule 4-8.2(a) and 4-8.2(b) of the Rules Regulating the Florida Bar.

You are hereby notified of your right to file a written answer to these charges within twenty (20) days of service of this notice upon you. The original of your response and all subsequent pleadings must be filed with the Clerk of the Florida Supreme Court, in accordance with the Court’s requirements. Copies of your

response should be served on the undersigned Counsel for the Judicial Qualifications Commission, and the General Counsel of the Commission.

Dated: this 6th day of March, 2017.

**THE FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION**



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Formal Charges has been furnished by electronic service, on this the 6th day of March, 2017, to the following:

Hon. Dana Santino
Palm Beach County Judge
205 North Dixie Highway
West Palm Beach, Florida 33401



Alexander John Williams
ASSISTANT GENERAL COUNSEL