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4-8-2015  
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IN THE TENNESSEE BOARD OF JUDICIAL CONDUCT

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APPELLATE COURT CLERK  
NASHVILLE

IN RE: ROGER MARSH  
JUDICIAL COMMISSIONER  
WILSON COUNTY, TENNESSEE

DOCKET NO. M2015-CO437-BJC-D15-FC  
FILE NO. B13-5355

**RESPONSE OF WILSON COUNTY JUDICIAL COMMISSIONER ROGER MARSH TO FORMAL CHARGE**

Comes Wilson County Judicial Commissioner Roger Marsh, by and through the Wilson County Attorney, and for Response to the Formal Charge filed against him with the Appellate Court Clerk on March 11, 2015, mailed (according to the postmark) March 12, 2015, and received by Roger Marsh on March 16, 2015, submits the following information.

1. The Respondent understands the responsibilities assigned to Disciplinary Counsel pursuant to the statutory provisions cited in Paragraph 1. Twice in this paragraph the phrase "full investigation" is used. Respondent has not been informed of the contents of the alleged "full investigation" and therefore can neither admit nor deny whether a "full investigation" has in fact occurred, and, being without sufficient information or knowledge, denies the same and demands strict proof thereof. Respondent would respectfully request that he be provided a copy of all information, including documents, that constitute this "full investigation".

2. Roger Marsh was at all times relevant herein, and continues to be, a Judicial Commissioner in Wilson County, Tennessee. It is admitted that Judicial Commissioners are subject to judicial discipline by the Board of Judicial Conduct pursuant to statute. It is denied that any judicial discipline, in any form, should be administered to Roger Marsh.

**COUNT I**

3. It is admitted that a domestic assault charge was brought against Frank Guzman. Respondent is not aware of the current family relationship of the individual who filed the domestic assault charge against Mr. Guzman.

4. Admitted.

5. This allegation is specifically, and strongly, denied.

6. Admitted.

7. Admitted. It should be noted that the contents of this letter do not indicate a time within which a response is requested. Additionally, while not cited in the "Formal Charge", the first paragraph of that letter says..."Two immediate questions have been raised and our office would appreciate your addressing those". The next paragraph of the letter indicates Question No. 1. The letter does not contain a Question No. 2.

8. The first sentence of Paragraph 8 is denied. A letter dated April 14, 2014 was submitted to Judicial Commissioner Roger Marsh advising "that an investigative panel of the Board has authorized a full investigation of a complaint filed against you". By e-mail dated May 12, 2014, at 10:32 a.m., Wilson County Attorney Michael R. Jennings responded to Patrick J. McHale "Thank you for speaking with me about this matter a few minutes ago. I appreciate the opportunity to talk with you and work with you again. We had calculated our response deadline to be May 14. I asked for an extension of time to respond up to and including May 29, 2014. You agreed to that request and, on behalf of Mr. Marsh and I, I certainly appreciate that. We will get a response to you for your consideration. The delay in responding up to now has been on me, and for that I apologize. Again, thank you. Let me know if I have misstated any of the terms of our agreement. " No response was received to this e-mail by either Roger Marsh or County Attorney Jennings.

On Thursday, May 29, 2014, another e-mail was sent requesting an additional fifteen (15) days, noting "the same fifteen you tried to get me to take when I asked for the first fifteen days. Hopefully, that offer still stands." The response was not sent during that period of time but was due to no fault of Judicial Commissioner Roger Marsh. By e-mail dated July 9, 2014, County Attorney Jennings advised Patrick J. McHale "I have been out of the office the better part of about 17 days in June, and this week is

actually the first full week I have been back in the office. May I get this response to you by Thursday of next week?"

The response of Roger Marsh was forwarded to the Tennessee Board of Judicial Conduct on July 15, 2014. Contained in that letter was the following statement:

"The Judicial Commissioner is required to see the individual and Mr. Marsh believes that he has followed the policy of the Judicial Commissioners of Wilson County, Tennessee in every instance in which he has signed a mittimus. His compliance with County policy, when combined with a review of the records of this incident, supports this assertion. If Mr. Guzman has particular information that will support his assertion that Mr. Marsh did not personally see him, we will be happy to review the same."

No response was received from any representative of the Tennessee Board of Judicial Conduct.

Mr. Marsh did acknowledge the inquiry of December 18, 2013 before July 15, 2014.

9. Admitted. But it is strongly denied that Roger T. Marsh has violated any portion of the Code of Judicial Conduct. Roger Marsh avers that all actions taken by he, in his capacity as Wilson County Judicial Commissioner, have been proper, according to State law and Wilson County policy, and he has violated no portion of the Code of Judicial Conduct, including, but not limited to, Canon 1, Rule 1.1, Rule 1.2, Canon 2, Rule 2.5, Rule 2.6 and Rule 2.16.

10. The contents of Paragraph 10, in its entirety, are strongly denied. Mr. Marsh denies that he has committed any act that should subject him to sanctions provided by the provisions of TCA §17-5-301.

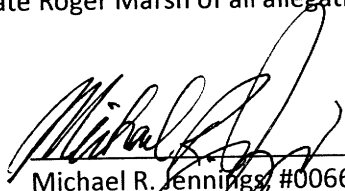
Further, Commissioner Marsh denies that he has failed to respond to an inquiry by the Board of Judicial Conduct. Respondent Marsh has not violated Rule 2.16 of the Code of Judicial Conduct. This Formal Charge contains no allegation that he has been anything less than "candid and honest with judicial and lawyer disciplinary agencies".

**NOTICE**

Respondent Roger Marsh acknowledges receipt on March 16, 2015 of the Formal Charge filed against him. This Response is to be considered his Answer and is being filed as directed.

Respondent Roger Marsh will request this Board to set a hearing, as required by law, at a time when all parties can be present and give testimony so that these charges may be dismissed and he may have his name and professional reputation cleared of all allegations and/or charges. Respondent avers that there is no basis for any hearing authority "to impose just and proper sanctions as provided by law..." against him and would respectfully request that the hearing panel of the Board of Judicial Conduct dismiss this action in its entirety and exonerate Roger Marsh of all allegations and charges.

This the 8<sup>th</sup> day of April, 2015.

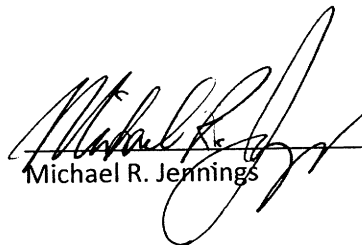


Michael R. Jennings, #006628  
Wilson County Attorney  
326 North Cumberland Street  
Lebanon, Tennessee 37087  
(615) 444-0585 *telephone*  
(615) 449-8239 *facsimile*

**CERTIFICATE OF SERVICE**

I, Michael R. Jennings, Attorney for Wilson County Judicial Commissioner Roger Marsh, do hereby certify that I have this day delivered by facsimile and first class mail a true and exact copy of the foregoing "Response of Wilson County Judicial Commissioner Roger Marsh to Formal Charge" to the Office of the Clerk of the Supreme Court, 100 Supreme Court Building, 401 7<sup>th</sup> Avenue North, Nashville, Tennessee 37219 and by electronic mail, facsimile and first class mail to Timothy R. Discenza and Patrick J. McHale, Counsel for the Tennessee Board of Judicial Conduct, P.O. Box 50356, Nashville, Tennessee 37205.

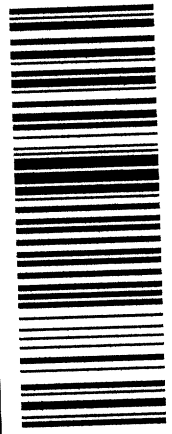
This the 8<sup>th</sup> day of April, 2015.



Michael R. Jennings

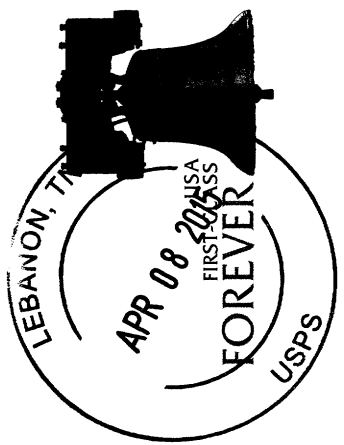
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R. JENNINGS  
COUNTY ATTORNEY  
CAMBERLAND ST  
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7011 3500 0000 9997 1350

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By



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100 Supreme Court Building  
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