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Inquiry Concerning a Judge: Alan R. Schwartz

GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE FLORIDA SUPREME COURT. THE FIRST ITEM ON THE COURT'S AGENDA THIS MORNING RELATES TO THE INQUIRY CONCERNING A JUDGE ALAN SCHWARTZ. JUDGE SCHWARTZ, IF YOU WOULD BE KIND ENOUGH TO COME TO THE PODIUM. JUDGE SCHWARTZ, THE CIRCUMSTANCES FOR WHICH YOU HAVE BEEN REMANDED TO APPEAR BEFORE THE COURT, TODAY, ARE MOST DISTRESSING AND UNFORTUNATE, NOT ONLY FOR YOU PERSONALLY AND, ALSO, FOR THE JUDICIARY AND FOR THE LEGAL PROFESSION AS A WHOLE, AND IT IS TRULY SAD THAT YOUR IMPATIENCE AND DISCOURTEOUS CONDUCT HAVE LED TO THIS DAY. IN ACCORDANCE WITH THE JUDICIAL QUALIFICATION COMMISSION'S UNCONTESTED RECOMMENDATION THAT YOU RECEIVE A PUBLIC REPRIMAND AND CONSISTENT WITH OUR DECISION IN IN RE FRANK, WE HAVE REQUIRED YOU TO APPEAR BEFORE THE COURT, IN PERSON, TO RECEIVE THIS REPRIMAND. ON APRIL 26, 1999, THE INVESTIGATIVE PANEL OF THE JUDICIAL QUALIFICATIONS COMMISSION FILED A NOTICE OF FORMAL PROCEEDINGS IN THIS COURT, CHARGING YOU WITH VIOLATING CANNONS 1, 2 AND 3 OF THE CODE OF JUDICIAL CONDUCT. IN THE NOTICE OF FORMAL PROCEEDINGS, THE INVESTIGATIVE PANEL SET FORTH SUBSTANTIAL ALLEGATIONS IN SUPPORT OF THOSE CHARGES. INITIALLY, THE PANEL ALLEGED THAT THE JUDICIAL QUALIFICATIONS COMMISSION PREVIOUSLY HAD WARNED AND ADVISED YOU TO REFRAIN FROM RUDE, IMPATIENT, AND DISCOURTEOUS REMARKS FROM THE BENCH, ADDRESSED TO THOSE TO AND ABOUT COUNSEL AND CLIENTS AND OTHERWISE REFRAIN FROM VERBAL ABUSE FROM THOSE APPEARING BEFORE YOU. THE PANEL FURTHER ALLEGED THAT, DESPITE THESE PRIOR WARNINGS, YOU NONETHELESS DISPLAYED TEMPERATE AND IMPATIENT BEHAVIOR IN ORAL ARGUMENT AND IN TWO SUBSEQUENT APPELLATE PROCEEDINGS. SPECIFICALLY THE PANEL ALLEGED THAT YOU NEEDLESSLY AND RUDELY MADE DEROGATORY COMMENTS ABOUT A ST. THOMAS UNIVERSITY SCHOOL OF LAW FACULTY MEMBER, PROFFER AMY ROHNER, WHO WAS IN YOUR COURTROOM TO SUPERVISE SEVERAL LEGAL INTERNS PRESENTING LEGAL ARGUMENTS IN CASES PENDING THE FOURTH DISTRICT COURT OF APPEAL. FURTHER, THE PANEL ALLEGED THAT YOU ACTED IMPROPERLY, WHEN TWO OF THOSE LEGAL INTERNS, KELLY LYNCH AND ANNABELLE MUSZYNSKI, WERE PRESENTING ORAL ARGUMENTS FOR WHICH YOU WERE APART. YOU CUT SHORT BOTH INTERNS ORAL ARGUMENTS' PRESENTATION, THE FIRST BY PREMATURELY EXITING THE BENCH AND THE SECOND BY INTERRUPTING THE INTERN AND TELLING HER TO SAVE THE REST OF THE TIME FOR REBUTTAL, IF THERE IS REBUTTAL. AFTER RECEIVING NOTICE OF THE FORMAL PROCEEDINGS, YOU ENTERED INTO A STIPULATION WITH THE JUDICIAL QUALIFICATIONS COMMISSION IN WHICH, ONE, YOU ACCEPTED AS TRUE, THE FACTS SET FORTH IN THE NOTICE AND, TWO, WAIVED YOUR RIGHT TO BOTH A HEARING AND TO SUBMIT FURTHER EVIDENCE OR PLEADINGS IN THE PROCEEDINGS. IN ADDITION, THE STIPULATION INDICATED THAT, PRIOR TO ANY REQUEST BEING MADE BY THE JUDICIAL QUALIFICATIONS COMMISSION, YOU HAD, ONE, VOLUNTARILY APOLOGIZED TO THE INDIVIDUALS IN RIGHT REGARDING YOUR DISCOURTEOUS CONDUCT AND, SECOND, THAT YOU HAD UNDERTAKEN A PROGRAM OF PERSONAL COUNSELING AND STRESS MANAGEMENT, AND, THREE, THAT YOU HAD EXPRESSED A WILLINGNESS FOR OTHER MEMBERS OF THE THIRD DISTRICT IN YOUR STEAD TO PRESIDE OVER ROUTINE MATTERS HEARD BY THREE-JUDGE PANELS, AND, FOURS, THAT YOU SOUGHT AND OBTAINED THE AGREEMENT OF YOUR FELLOW JUDGES FOR ALL ORAL ARGUMENTS TO BE RECORDED BY AUDIO AND VIDEO MEANS, IN ORDER TO MAKE UP SUCH ARGUMENTS READILY REVIEWABLE. BASED ON YOUR STIPULATIONS, ADMISSIONS AND ASSURANCES, AND AFTER OCCURRING YOUR EXTENSIVE AND DISTINGUISHED CAREER AS A MEMBER OF THE FLORIDA JUDICIARY, THE JUDICIAL QUALIFICATIONS COMMISSION HAS RECOMMENDED THAT YOU BE PUBLICLY REPRIMANDED FOR

YOUR RUDE, IMPATIENT, AND DISCOURTEOUS CONDUCT, AND THAT YOU APPEAR HERE TO COMPLETE THE PROCESS. WE HAVE REQUIRED YOU TO DO SO, FINDING THE RECOMMENDATION TO BE SUPPORTED BY YOUR STIPULATION AND IN CONFORMITY WITH ESTABLISHED PRECEDENT. JUDGE SCHWARTZ, THE CODE OF JUDICIAL CONDUCT GOVERNS THE ACTIVITIES OF ALL MEMBERS OF THE JUDICIARY, AND IT CONTAINS THE ESSENTIAL PRINCIPLES BY WHICH OUR JUDICIARY IS GOVERNED. CANNON ONE OF THE CODE, WHICH YOU VIOLATED IN THIS CASE, STATES, QUOTE, A JUDGE SHOULD PARTICIPATE IN ESTABLISHING, MAINTAINING AND ENFORCING HIGH STANDARDS OF CONDUCT AND SHALL PERSONALLY OBSERVE THOSE STANDARDS, SO THAT THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY MAY BE PRESERVED, END QUOTE. THESE CONCEPTS OF INTEGRITY AND INDEPENDENCE ARE THE CORNERSTONES UPON WHICH OUR LEGAL SYSTEM IS BASED. CANNON 2-A, WHICH YOU, ALSO, VIOLATED, IN WHICH CASE STATES THAT, QUOTE, A JUDGE SHALL RESPECT AND COMPLY WITH THE LAW AND SHALL ACT, AT ALL TIMES, IN A MANNER THAT PROMOTES PUBLIC CONFIDENCE AND THE INTEGRITY AND IMPARTIALITY OF THE JUDICIARY, END QUOTE. CONDUCT SUCH AS THIS GOES TO THE VERY CORE OF THE PUBLIC TRUST AND CONFIDENCE OF OUR LEGAL SYSTEM. AND FINALLY, VARYING SECTIONS OF CANNON 3, WHICH FORM THE SUBSTANCE OF THAT WHICH HAS CAUSED THIS DAY TO OCCUR, ESTABLISH THAT, QUOTE, A JUDGE SHALL BE PATIENT, DIGNIFIED, AND COURTEOUS TO LITIGANTS, JURORS, WITNESSES, LAWYERS, AND OTHERS WITH WHOM THE JUDGE DEALS IN AN OFFICIAL CAPACITY. AND THAT A JUDGE SHALL ACCORD TO EVERY PERSON WHO HAS A LEGAL INTEREST IN A PROCEEDING OR THAT PERSON'S LAWYER THE RIGHT TO BE HEARD, ACCORDING TO LAW, END QUOTE. PUBLIC RESPECT FOR JUDICIAL INTEGRITY DEPENDS UPON OUR JURISTS BEING PATIENT AND COURTEOUS TO ALL. JUDGE SCHWARTZ, IT IS CLEAR THAT YOUR BEHAVIOR, FROM THE BENCH, IN THESE MATTERS ADDRESSED BY THE JUDICIAL QUALIFICATIONS COMMISSION, HERE, WERE IMPROPER. WE HAVE WEIGHED, HEAVILY, THE FACT THAT, EVEN BEFORE YOUR IMPROPER BEHAVIOR IN THESE INSTANCES, THE JUDICIAL QUALIFICATIONS COMMISSION HAD SPECIFICALLY WARNED YOU AND ADVISED YOU TO REFRAIN FROM EXHIBITING INTEMPERATE AND DISCOURTEOUS BEHAVIOR. IT IS CLEAR THAT YOU DID NOT HEED THOSE WARNINGS OR ADVICE, AND YOU SHOULD CONSIDER YOURSELF FORTUNATE THAT YOU ARE HERE FOR ONLY A REPRIMAND. IF NOT FOR YOUR COOPERATION IN THESE PROCEEDINGS, YOUR ATTEMPTS TO MAKE AMENDS FOR YOUR WRONG, YOUR MANY YEARS OF DISTINGUISHED SERVICE TO THE PEOPLE OF FLORIDA, AS A LAWYER, AND AS A JURIST, AND THE STEPS THAT YOU HAVE TAKEN TO HELP PREVENT SIMILAR BEHAVIOR FROM INCURING -- OCCURING IN THE FUTURE, ARE MORE SEVERE SANCTION THAN A PUBLIC REPRIMAND RECOMMENDED BY THE JUDICIAL QUALIFICATION COMMISSION MAY HAVE BEEN APPROPRIATE. HOWEVER, WE SINCERELY HOPE THAT THIS PUBLIC REPRIMAND, ADMINISTERED BEFORE THIS COURT, WILL BE SUFFICIENT TO DEMONSTRATE, TO YOU, TO OTHER JUDGES, THAT ENGAGE IN SIMILAR CONDUCT AND BEHAVIOR, THAT SUCH MISCONDUCT WILL NOT BE TAKEN LIGHTLY. YOU MUST UNDERSTAND THAT THE TIME HAS ARRIVED THAT YOU SIMPLY CANNOT CONTINUE TO VERBALLY ABUSE THOSE APPEARING BEFORE YOU, AND YOUR IMPATIENCE AND YOUR DISCOURTEOUS CONDUCT WILL NOT BE TOLERATED. JUDGE SCHWARTZ, THIS PUBLIC REPRIMAND IS NOW CONCLUDED. THANK YOU. THE COURT WILL BE IN RECESS. THE MARSHAL: PLEASE RISE.