BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

CASE NO.:

INQUIRY CONCERNING A JUDGE,
NO. 99-325, SHELDON SCHAPIRO
_____/

ANSWER TO NOTICE OF FORMAL CHARGES

COMES NOW, **SHELDON M. SCHAPIRO**, by and through his undersigned counsel, and files this, his written Answer to the charges made against him in a certain Notice of Formal Charges served upon him on, or about, the 9th day of November, 2001 and would show for cause as follows:

1. That the defenses filed herein are timely submitted in that the Respondent, **SHELDON M. SCHAPIRO**, has been granted an extension until December 31st, 2001 to file said Answer:

2. That as to the allegations in Paragraph 1 herein, the Respondent denies committing any act constituting a violation of Canon 1, Canon 2(a) or Canon 3(b)(4) in any discussions conducted with Attorney Joseph Dawson in 1996, or any other time for that matter, and demands strict proof thereof. Further, Respondent advised Attorney Dawson numerous times to stop disturbing the Court by talking. In each instance, Mr. Dawson ignored the Court's request. Court deputies had to actually quiet Mr. Dawson, and the Respondent fails to understand how Mr. Dawson could justify the continuation of such disruption. Mr. Dawson has, in the past, requested that the Court recuse itself on one (1) occasion to Respondent's

recollection, and the Court granted that request;

3. As to Paragraph 2, the Respondent denies committing any act constituting a violation of any Canon indicated, and denies that he ever discussed with Denise Neuner any physical condition, especially pneumonia, that she may have had at the time she was scheduled to begin the trial of a criminal case, and demands strict proof thereof. Respondent avers that Assistant State Attorney Dale Geisler was before the Court, and advised Respondent that Ms. Neuner was ill, and Respondent suggested that Mr. Geisler might pick a jury, and permit Ms. Neuner to start the trial on the next Monday. When Mr. Geisler declined, all matters were then put over until the following Monday. When Ms. Neuner attended Court that Monday, Respondent was never advised that she was sick, nor was he ever told that she was suspected to have pneumonia. Respondent has never asked an attorney to try a case while ill, both for personal reasons on the attorney's behalf, and for legal reasons for the effective administration of the case. If, in fact, he had been advised that Ms. Neuner was ill on that Monday, when trial was scheduled to start after being put over from the week before, he would have continued that matter immediately.

4. As to the allegations of Paragraph 3, the Respondent denies committing any act constituting a violation of any Canon alleged therein, and demands strict proof thereof. Assistant State Attorney Greg Rossman was requested to begin a minor felony case (Respondent's recollection is that is was a simple possession case) and it was suggested to Respondent that no one else in the State Attorney's Office could try such a case. Mr. Rossman refused to try the case. Respondent denies that he "screamed" at Mr. Rossman, Respondent suggested that it was indeed the kind of case that any Assistant State Attorney with any experience whatsoever could try without any preparation whatsoever. Respondent

denies that he "admonished" Mr. Rossman and that the remarks attributed to him in that Paragraph were in a fashion "sarcastic". A meeting was then held with the State Attorney to attempt to change this "policy". The Respondent was concerned about the continued waste of time on cases like these simple felony cases where the most junior Assistant State Attorneys could try the matters at bar with little, if any pre-trial preparation. The comments made by Respondent were not meant to be demeaning but merely a statement of fact as can easily be seen by the way in which they were couched;

5. The Respondent respectfully denies committing any act constituting any violation of a Canon in the factual patterns set forth in Paragraph 4, and demands strict proof thereof. Respondent further denies that he "routinely" berates and unnecessarily embarrasses attorneys for talking in his courtroom, especially where those attorneys are alleged to have not been speaking at all and, specifically:

a. Respondent denies that he either chastised or unnecessarily raised his voice at Ginger Miranda. He further denies that the words alleged to have been said by him were the exact words that he utilized to attempt to call Ms. Miranda's attention to the fact that she was disturbing his courtroom. The intent and purpose of his discussion with Ms. Miranda was to impress upon her the fact that it was difficult for him to hear attorneys at the podium when other conversations are being conducted in a place that is adjacent to the podium area. In addition, Respondent denies that he "continued to berate" Ms. Miranda and that he made any "sarcastic" response to her;

b. Respondent denies that Deborah Carpenter was an Assistant Public Defender. Deborah Carpenter is a private lawyer who may, or may not, have been a Special Public Defender in this particular case. Respondent denies that he ever ordered that he might "remove" Ms. Carpenter from the courtroom. Respondent suggests that his words were probably, "If you are going to talk, please do it outside". Respondent further denies that he ignored any statements made and continued to direct his comments to Ms. Carpenter even though it is alleged that he knew she was

not speaking;

c. Respondent denies that he ever ordered Bradley Weissman, an Assistant State Attorney, to leave the courtroom because he (Respondent) believed he was talking. Respondent, however, suggests that, if he were following his normal routine, he would have asked Mr. Weissman to go outside the courtroom to talk, rather than disrupt the courtroom with the constant chatter of conversation;

d. Respondent denies that he ever told Mr. Seigel that "I told you to be quiet". Again, it is Respondent's routine to ask lawyers who continue to talk after being asked to be quiet, to leave the courtroom to talk, as opposed for any other reasons. If Respondent had seen Mr. Seigel talking, he would have directed those comments to him. If he had not seen Mr. Seigel talking, those comments would not have been made;

6. Respondent denies that he committed any act constituting a violation of the Canon set forth in Paragraph 5, and demands strict proof thereof. He further denies that the words attributed to him "are accurate", nor did he point to the area where prisoners sit during court proceedings, as if a threat to Ms. Schneider. Maria Schneider was an Assistant State Attorney in the Sexual Battery division of the State Attorney's Office. She argued a Motion to Permit Child Hearsay, which was denied. Ms. Schneider continued to argue after the denial. She became irate and disruptive of the entire courtroom. When she refused to refrain from her escalating, angry behavior, she was asked to leave the courtroom. She refused to do so. An armed deputy-sheriff was called to come to the courtroom and escort her out. This incident was witnessed by several court personnel. Ms. Schneider's reaction, and the manner in which she conducted herself during this proceeding were borderline contemptuous. However, the Respondent asked her to leave rather than to take any action which would be more severe than that which was ordered;

7. The Respondent denies that he committed any act constituting any violation of the Canon set forth in Paragraph 6, and demands strict proof thereof. In fact, the incident referred to was a humorous comment made after a hearing was concluded, and court was in recess, late in the afternoon, and was isolated in nature, in a virtually deserted courtroom. The exchange was a lighthearted banter with regularly assigned personnel and witnessed by other court personnel including the Court Deputy. Respondent denies the setting intimated by Paragraph 6 and suggests that the information supporting it is inaccurate, and largely overblown;

8. As to Paragraph 7, the Respondent denies committing any act constituting a violation of any Canon set forth in Paragraph 7, and demands strict proof thereof. Furthermore, Respondent denies the description of a "woodshed" as he has only learned of that nomenclature after this Complaint was filed. The Assistant State Attorney in this cause, Greg Rossman, and the Assistant Public Defender, Louis Pironti, were having difficulties moving cases on trial or plea basis. Respondent did, in fact, deny a Motion for Continuance, and, did in fact make the comment "We are going to get this mother going" to impress upon both lawyers that the time for continuances was over. The Respondent vehemently denies that he ever used the word "FU__ING" in any form of speech during this or any other courtroom proceeding. The Respondent has no recollection as to whether he threw any docket down on a "desk" but since the back room as it is described in the Complaint, is directly behind where he sits at the bench, it would be unlikely that he would be near a desk between leaving the room and sitting down at his chair behind the bench at the same level approximately six (6) feet from the actual door;

9. Respondent denies that he committed any act constituting a violation of any Canon

set forth in Paragraph 8 and further denies that the exchange alleged occurred with Ms. Tate or anyone else, in the fashion in which it is described, and demands strict proof thereof;

10. Respondent denies that he committed any act constituting a violation of any Canon set forth in Paragraph 9, and demands strict proof thereof. Respondent avers that the incident described occurred in the third day of a jury trial and that he was unaware that Mrs. Tate was hospitalized because of pregnancy complications. Respondent further denies that he was aware that Ms. Tate ever advised "his chambers" that no one else was familiar enough with the case to step in her place and further denies that he ever advised Ms. Tate that if she were not in Court the following morning, he would dismiss the case. Parenthetically, the Court would have no real reason to "dismiss" this case, but would have to mis-try it. Moreover, Respondent would never have spoken to Ms. Tate ex-parte as to anything which related to this case. What, if anything, was told to her by "chambers" is also unknown to Respondent. Whether Ms. Tate left the hospital against her doctor's orders is unknown to Respondent;

11. Respondent denies that he committed any act constituting a violation of any Canon set forth in Paragraph 10 and denies that he ever used the words "dead kid". He demands strict proof thereof. Moreover, counsel has been advised that the actual transcript of this proceeding has been prepared (which is unusual in the manner in which the Complaint was drafted) and that the transcript does not reveal the words "dead kid". Furthermore, Respondent denies that his remarks were "sarcastic". The particular situation that existed was that an Assistant State Attorney, and a defense lawyer had agreed that there was an entitlement to bond and that the bond would be a standard bond set forth in the standard bond schedule. In the midst of attempting to economically conserve judicial time, even though the prosecutor suggested that the mother of the victim wanted to speak to the Court, the

Respondent queried as to what possible addition to the proceedings would be served by any additional testimony at hearing when there was already a stipulation that bond was going to be set. No suggestion was made that addition to the proceeding could be expected to be proffered by any witness. Respondent recalls that the witness' testimony would not factor into a F.S. 903 (bond) consideration. The suggestion, by the addition of quotations around the Respondent's alleged response, that these were his precise words, in apparent error, is replete in several other instances in the Complaint where those quotes are then followed by the qualifying phrase "or words to that effect". Either they are quotations from a transcript or they are not. Indeed, in the instant case, they are apparently not quotations from a transcript, and as, on information and belief, the words "dead kid" do not appear thereon. Whether or not the victim's mother made a decision based on the remarks of the Court is unknown to Respondent.

12. The Respondent denies that he committed any act constituting a violation of the Canon set forth in Paragraph 11, and demands strict proof thereof. He further denies that he has "fallen into a general pattern of rude and intemperate behavior" or any other needless or embarrassing and belittling interjections in Court. However, there are instances, and they are statutorily mandated, where all judges interject themselves into examinations and proffers of evidence to protect the integrity of the proceeding (See F.S. 90.104). There has never been a clear delineation between those times when a Court must take action and protect those proceedings, and when the Court must sit back and permit the attorneys to "try their cases". However, it is a discretionary act when the Court sees fit to make sure that the proceedings are conducted in a fashion that will not invite post-conviction remedies, or mistrials or other injudicious waste of the Court's time in administering the duties of

Respondent's office.

13. The Respondent denies any acts, omissions or conclusions, denies any violations of the Canons of the Code of Judicial Conduct and denies any unfitness to hold the office of Judge, and demands strict proof thereof. The Respondent respectfully moves that the Complaint be dismissed for a variety of reasons, not the least of which is the indefinite and highly prejudicial manner in which the Complaint has been drafted, the indefiniteness of time, place and case prohibiting, or making it extremely difficult for Respondent to appropriately Answer the Complaint and respectfully suggests that the allegations made, and the facts presented, do not constitute, individually, or in conjunction with each other, any violation of the Canons of the Code of Judicial Conduct nor do they constitute conduct unbecoming a member of the judiciary nor demonstrate unfitness to hold the office of Judge nor warrant any discipline whatsoever in this cause.

I HEREBY CERTIFY that an original of the foregoing has been furnished this 28th day of December, 2001 to Clerk of Court, Supreme Court of Florida, 500 S. Duval Street, Tallahassee, FL 32399-1927; a copy to: Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, FL 32303; a copy to: a copy to Lansing C. Scriven, Esq.; Special Counsel, 442 W. Kennedy Blvd., Suite 280, Tampa, FL 33606; a copy to: Brooke S. Kennerly, Executive Director, Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, FL 32303; a copy to: Thomas C. MacDonald, Jr., Esq., General Counsel, 100 N. Tampa Street, Suite 2100, Tampa, FL 33602; a copy to: Honorable James R. Jorgenson, Third District Court of Appeal, 2001 S.W. 117th Avenue, Miami, FL 33175-1716; and a copy to: John R. Beranek, Esq., Counsel, Hearing Panel, Ausley & McMullen, 227 South Calhoun Street, P.O. Box 391, Tallahassee, FL 32301.

Respectfully submitted,

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BY:_____
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