

IN THE UNITED STATES HOUSE OF REPRESENTATIVES
HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE COURTS AND INTELLECTUAL PROPERTY

JUDICIAL MISCONDUCT COMPLAINT

AGAINST THE FOLLOWING

ARTICLE III JUDGES OF THE UNITED STATES

OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Circuit Chief Judge Gerald Bard Tjoflat
Circuit Judge Phyllis Kravitch
Circuit Judge Joseph Woodrow Hatchett
Circuit Judge R. Lanier Anderson III
Circuit Judge J.L. Edmondson
Circuit Judge Emmett R. Cox
Circuit Judge Stanley F. Birch
Circuit Judge Joel A. Dubina
Circuit Judge Susan H. Black
Circuit Judge Ed Carnes
Circuit Judge Rosemary Barkett

OF THE UNITED STATES DISTRICT COURTS OF THE ELEVENTH CIRCUIT

District Chief Judge Wilbur D. Owens, Jr. - M.D. Georgia
District Chief Judge B. Avant Edenfield - S.D. Georgia
District Chief Judge Myron H. Thompson - M.D. Alabama
District Chief Judge John H. Moore II - M.D. Florida
District Chief Judge Roettiger, Jr. - S.D. Florida
District Judge James C. Paine - S.D. Florida
District Judge Maurice M. Paul - N.D. Florida
District Judge James H. Hancock - N.D. Alabama
District Judge Alex T. Howard - S.D. Alabama

SUBMITTED BY AND/OR ON BEHALF OF THE COMPLAINANT:

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I. PURPOSE

To determine whether the serious allegations of misbehavior on the part of any or all the *Article III United States Judges* (collectively "*Respondent Judges*") named in this *Judicial Misconduct Complaint (Misconduct Complaint)* may constitute high crimes, misdemeanors, treason, and/or bribery. If so, the *respondent judges'* conduct complained of, by nature or consequences, would plainly be subversive of the fundamental interests and essential principles of our government, and overtly, highly prejudicial to the public interest. Moreover and as such, then reasonably the conduct by the *respondent judges* could not be considered good behavior, and logically would be wholly inconsistent with those provisions of *Article III judges*. Consequently, their impeachment(s) and removal from office under *Article I of the Constitution* may clearly be warranted.

II. ABBREVIATIONS

All references to the *Section in the Exhibits* appended hereto and located in the *binder*, are designated by *S.* and followed by the section number in brackets, e.g., [*S.1*], [*S.2*], *etc.*

All references to the *372(c) complaints* herein refer to complaints filed under *The Judicial Councils Reform and Judicial Conduct and Disability Act of 1980* are abbreviated as the "*1980 Act*".

All references to the *372(c) complaints* regarding *respondent Chief Judge Tjoflat* herein are abbreviated as either "*Tjoflat 1, 2, or 3*" and followed by the section number.

All references to the *372(c) complaints* regarding the *respondent trial Judge Paine* herein are abbreviated as either "*Paine 1, 2, or 3*" and followed by the section number.

All references to the 372(c) complaints regarding the respondent judges of complainant's opinion panel herein are abbreviated "Panel 1" and followed by the section number.

All references to the 372(c) complaints regarding the respondent judges of the Judicial Council herein are abbreviated as either "Council 1 or 2" and followed by the section number.

All references to the Judicial Conference of the United States herein are abbreviated as the "Conference".

All references to the Committee to Review Circuit Council Conduct and Disability Orders of The Judicial Conference of the United States herein are abbreviated as the "Standing Committee".

All references to the Judicial Council of the Eleventh Circuit of the United States herein are abbreviated as the "Council."

All references to The Chief Justice or the Justices of the Supreme Court of the United States are abbreviated as the "Chief Justice or the Justices" respectively.

III. BRIEF FACTUAL BACKGROUND

1. Complainant's underlying claims stem from a conflict between complainant and his former Florida lawyer, Peter Margolin (*Margolin*), over the adequacy of *Margolin's* representation of complainant and complainant's corporation in a lease dispute it had with its landlord. *Margolin* advised complainant to bring the rent checks to *Margolin's* office until the matter was settled, which complainant did. *Margolin* refused to give the checks to the landlord's attorney. Consequently complainant's corporation was evicted for non-payment of rent.

2. *Margolin*, in an obvious bid to refute malpractice, caused a letter to be prepared, addressed, and supposedly mailed to complainant on February 14, 1986, a copy hereto appended as *Exhibit F [S.2]*. Complainant never saw or received that letter until almost nine months later when complainant made a special trip to *Margolin's* office and demanded to see a copy of the same. There, *Margolin* showed complainant that original letter, *Exhibit F [S.2]*, which was still in *Margolin's* files. Complainant noticed "white-out" was used to correct a typing error. Complainant's asked *Margolin* for a copy of that original letter. While doing so, *Margolin* represented to complainant that the letter had been prepared by his typist, who, under oath, has denied typing that letter. Since *Margolin's* work products as a rule were prepared on the office word processor, complainant alleged *Margolin's* representations were false, and were known by *Margolin* to have been false when made.

3. On January 24, 1988, complainant filed a grievance against *Margolin* with *The Florida Bar (Bar)*. The *Bar's* grievance committees found probable cause that *Margolin's* letter *Exhibit F [S.2]* was false. Ultimately the Florida Supreme Court appointed a referee and the hearings began in January of 1989. There complainant was asked **426** questions by *Margolin's* attorney and **115** by the *Bar's* prosecutor, *David Barnovitz (Barnovitz)*. After testifying, complainant was told to leave the hearing which he suspiciously did. Subsequently, the referee found that the *Bar* failed to prove its case, but most bizarrely, *even by the greater weight of the evidence*. *Margolin* was thus cleared.

The Florida Supreme Court adopted the referee's findings (Fla.Bar File No. 88-50774 (15D) Fla.S.Ct. *Unpublished Opinion* 1989).

4. Thereafter complainant demanded to inspect the *Bar's* relevant files. After many encounters with the *bar officials*, complainant examined the subject records which revealed that *Barnovitz* had only asked *Margolin* **four** questions on **cross examination**. Those questions have been reproduced and appended hereto as *Exhibit K [S.2]*. There was no re-direct, no re-cross, not one query regarding any of *Margolin's* countless contradictory letters, and further, that *Barnovitz*:

- a. failed to cross or re-cross most of *Margolin's* witnesses;
- b. failed to recall the *Bar's* own document expert to rebut *Margolin's* expert's testimony;
- c. failed to depose *Margolin's* document expert before the trial;
- d. failed to call *Margolin's* other secretary and two lawyers to testify who were material to the *Bar's* case;
- e. failed to give complainant a chance to rebut any of *Margolin's* witnesses' testimony, who were known hostile towards complainant, and further, who had cast complainant in a most unfavorable light.

5. The *Bar's* records also showed *Margolin* had submitted **three more letters** to the *Bar* that supposedly were also produced by *Margolin's* same typist on the *February 14, 1986* date, copies of those letters have been appended hereto as *Exhibits G, H, and I [S.2]*. Based on *Exhibit J [S.2]* and other irregularities, complainant alleged that those three letters were also false, and were known or should have been known by *Margolin* and the *Bar officials* to have been false. Complainant claimed that *Barnovitz*, in concert with others, knowingly put on a **sham disciplinary trial** before the Florida Supreme Court referee to save *Margolin* harmless from disbarment. The *Bar leadership* denied complainant's allegations. Complainant filed a protest with the *Florida Supreme Court* but they refused to duly act.

6. Consequently, complainant filed an action against the *Bar and Margolin groups* in the U.S. District Court for the Southern District of Florida, Case No. 90-06324-CIV-JCP, for, inter alia., violations of *18 U.S.C., Sections 1961 et. seq. (RICO ACT)*, and *42 U.S.C., Sections 1983 et seq.(Civil Rights Act)*. All the defendants filed motions to dismiss.

7. There the *Margolins'* represented to complainant, to the federal courts, and previously to their malpractice insurance carrier, *The Home Insurance Company (Home)* that the *Florida office of "Gardner and Margolin"* where the alleged acts of malpractice occurred, was part of their *New York firm's multi-state general law partnership*. To explain, when complainant filed a legal malpractice action against *Margolin and his firm* in March of 1988 in the *Broward County Circuit Court*, the *Margolins* notified the *Home*, who obviously was the carrier for *Margolins' New York Partnership Law Firm*. The *Home* provided the *Margolins* with their defense counsel of record.

8. However, during the course of the *federal* proceedings, complainant learned that the *Florida Secretary of State's records* showed the *Florida office* was in fact d/b/a *professional association*, namely *"Gardner and Margolin, Chartered."* A copy of those records are appended hereto as *Exhibit*

D [S.2]. Complainant claimed that the *Florida Office* was not part of the *Margolins* said multi-state law partnership, that is of course, if the latter partnership even existed. Complainant also alleged that the *Margolins, the Bar officials, their respective counsels, the Home, and the trial judge* all knew or should have known that the *Margolins* had perpetrated the said insurance fraud, but all refused to duly act. Accordingly, complainant filed a motion for sanctions.

9. In response to complainant's abovesaid motion for sanctions the *Margolins* filed an *affidavit* in the *federal court*, a copy is appended hereto as *Exhibit A [S.2]*. Complainant alleged at times material hereto, that the *Margolins, the Bar officials, their respective counsels, and the federal trial judge*, all knew or reasonably should have known that this *affidavit* was false, but they all refused to duly act. Complainant alerted the court to all the inconsistencies in this *affidavit* in complainant's new motion for sanctions.

10. In response to complainant's latest motion for sanctions, the *Margolins* filed another *affidavit* in that same *federal court*, a copy is appended hereto as *Exhibit B [S.2]*. Complainant alleged the *Margolins, the Bar officials, their respective counsels, and the federal trial judge*, knew or reasonably should have known that this *affidavit* was also false, but they all refused to duly act.

11. Accordingly, complainant promptly motioned for more sanctions, and further, to compel discovery. All the defendants moved for "*protective orders on discovery*". Without any advance notice, or a hearing, or any chance for discovery, on November 23, 1990 the judge granted all the defendants' motions to dismiss; denied all complainant's motions for sanctions as *unfounded*; and, dismissed the entire action *with prejudice*.

12. On February 11, 1991, complainant filed a notice of appeal in the U.S. Eleventh Circuit, Case # 91-5119. While waiting for the opinion panel (*panel*) to make its findings, complainant filed there, motions to initiate disciplinary action against *the Margolins, the Bar officials, and their respective counsels (collectively Defendants, et al.)*, for their alleged felonious and unethical acts. Complainant's motion was ordered "carried with the case", but that was subsequently *denied* by the *panel* prior to the *panel's unpublished opinion* affirming the lower court order.

13. Complainant filed a petition for writ of certiorari to the *Supreme Court of the United States* on April 15, 1993, Case No. 92-6730, which was denied on May 17, 1993. Complainant filed a re-hearing on June 22, 1993, but that was denied on August 9, 1993.

14. On August 4, 1993 complainant filed more charges against the relevant attorneys and *Bar officials* with that *Bar* who returned the complaints to complainant along with a letter stating that the *Bar* would not take anymore grievances from complainant on this matter. On October 18, 1993 complainant again protested to the *Florida Supreme Court* that their *Bar* refused to investigate the new and most serious charges of fraud, etc., but that court again declined to duly act.

15. On or about October 14, 1993 complainant filed complaints with (1) the *New York Bar* against all the *Margolins, and their partner, Fred Gardner* (2) with the *Virginia Bar* and the *District of Columbia Bar* against *James Margolin, Margolin's brother and "partner"* in the aforesaid *Florida Office*. Not one of these relevant bar groups would take any disciplinary action either.

IV. ALLEGATIONS OF MISBEHAVIOR BY THE RESPONDENT JUDGES

16. As grounds for their impeachment and removal from office, complainant hereby alleges that the *respondent judges* have, with reckless disregard for their office and for the rights of this complainant and for the rights of others and for the truth, wilfully and knowingly, engaged in ongoing schemes and artifices to defraud complainant, the United States Government, and the American people, in an overarching plan to, wilfully and knowingly, unlawfully conspire to misprision and conceal the alleged known and completed felonious and unethical acts by the *bar group*. Such acts by the *bar group* include, but are not limited to:

- a. That the named *Bar officials* knowingly contrived to put on a sham disciplinary trial before a Florida Supreme Court appointed referee to save the respondent, *Peter Margolin (Margolin)*, harmless from disciplinary action.
- b. That the named *Bar officials*; certain past and present *Justices of the Florida Supreme Court*, and a host of *rogue lawyers (collectively Bar Group)*, at times material, all knew or should have known that the above felonious and unethical acts had been completed by the said *Bar officials*.
- c. The filing of two known false affidavits by *Margolin* in the United States District Court for the Southern District of Florida in Case #90-06324-Civ-JCP, *Lester Swartz v. The Florida Bar, et. al.* which allegedly, the *bar group* all knew or should have known were false. Further, the *bar group* knew or should have known that the affidavits were knowingly fashioned to defraud this complainant, mislead the court, and to sabotage the trial machinery. Copies of those affidavits are appended hereto as *Exhibits A and B [S.2]*. The said affidavits are manifestly contradicted by *Exhibits C, D, and E [S.2]*. A concise narrative of the inconsistencies in both affidavits and evidence of the said legal malpractice fraud precede *Exhibits A through E [S.2]*; and,
- d. The wilful and known illicit misprision and concealment by the *bar group* of four known false letters submitted to the *Bar* by *Margolin*, and part of the evidence at *Margolin's* disciplinary trial before the *Florida Supreme Court appointed referee*, and at material issue in the federal proceedings. Copies of those letters are appended hereto as *Exhibits F, G, H, and I [S.2]*. Allegedly, the *bar group*, at times material hereto, all knew or should have known those four letters were false. Probable cause and evidence of their falsity appears supported by *Exhibit J (S.2)*. A sketch depicting the inconsistencies precede *Exhibits F through J [S.2]*; and,
- e. The wilful and known misprision and concealment of countless known false filings made in the federal courts by the relevant principals of the *bar group*. Allegedly, the *bar group*, at times material hereto, all knew or should have known the subject pertinent filings were false.

- f. That the *bar group* all knew or should have known that the abovesaid conduct was clearly felonious and unethical, but contrary to their oaths, duty, and the law, AND with total reckless disregard: for their fiduciary responsibilities AND for the rights of this complainant AND for the rights of others AND for the truth, at times material, all of the principals of the *bar group*, wilfully and knowingly, with evil and criminal intent failed to duly act.

17. That the *respondent judges* knew or should have known by the nature of their office and the nature of the alleged felonious and unethical acts by the *bar group* in the relevant federal proceedings, that when such allegations were substantiated, they reasonably would constitute criminal violations of one or more *sections of 18 U.S.C.*, but at times material, all of the *respondent judges*, wilfully and knowingly, and with evil and criminal intent failed to duly act. The *sections of 18 U.S.C.* which the *bar group* may have violated, include, but may not be limited to:

- a. 2 - aiding and abetting;
- b. 3 - accessories after the fact;
- c. 4 - misprision of a felony;
- d. 241 - conspiracy to violate rights;
- e. 242 - deprivation of rights under color of law;
- f. 371 - conspiracy to commit offense(s);
- g. 1001 - false swearing;
- h. 1341 - mail fraud;
- i. 1343 - wire fraud;
- j. 1503 - obstruction of justice;
- k. 1621 - perjury, and,
- l. 1961 - racketeering activity.

18. That the *respondent judges* knew or should have known by the nature of the allegations of such felonious and unethical acts by the *bar group*, that when such allegations were substantiated, they would reasonably constitute criminal violations of one or more of the *sections of Title 46 of The Florida Statutes*, but at times material hereto, all the *respondent judges*, wilfully and knowingly, and with evil and criminal intent failed to duly act. The said *sections of Title 46 F.S.* which the *bar group* may have violated include, but may not be limited to:

- a. 777.011 - Principal in the first degree;
- b. 777.03 - Accessories after the fact;
- c. 777.04 - Attempts, solicitation, conspiracy;
- d. 784.021 - Aggravated assault with intent to commit a felony;
- e. 784.046 - Repeated violence;
- f. 784.05 - Culpable negligence;
- g. 812.014 - Theft;
- h. 817.034 - Organized fraud;
- i. 837.02 - Perjury;
- j. 837.021 - Perjury by contradictory statements;
- k. 837.06 - False official statements;

- l. 838.015 - Bribery and Misuse of public office;
- m. 839.24 - Failure to perform duty required of an officer;
- n. 839.25 - Official misconduct;
- o. 876.23 - Unlawful subversive activities; and,
- p. 895.01 - Racketeering.

19. That the *respondent judges* knew or should have known by the nature of their office and by the nature of the allegations of felonious and unethical acts by the *bar group*, that when such allegations were substantiated, they would manifestly constitute violations of one or more of the rules of a lawyers *Code of Professional Conduct*, but at times material hereto, all the *respondent judges*, wilfully and knowingly, with evil and criminal intent failed to duly act. The rules which the *bar group* may have violated include, but may not be limited to:

- a. assisting and/or inducing another to violate the *Rules of Professional Conduct*, or doing so through the acts of another;
- b. committing, attempting to commit, conspiring to commit, and/or conspiring to attempt to commit, those criminal acts that reflect adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- c. engaging in conduct involving dishonesty, fraud, deceit, and misrepresentation;
- d. engaging in conduct that has very seriously interfered with the administration of justice;
- e. assisting a judge or judicial officer in conduct that is a known violation of applicable rules of judicial conduct or other law;
- f. making false statements of material facts;
- g. failing to disclose facts necessary to correct a misapprehension known by them to have arisen in these matters;
- h. knowingly where applicable, failed, as a partner in a law firm, to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the *Rules of Professional Conduct*;
- i. obstructing access to evidence, altering, destroying, concealing evidence, counseling, and/or assisting another person to do so;
- j. failing, while having full knowledge that another lawyer has committed a violation of the *Rules of Professional Conduct* that raised a substantial

question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, to inform the appropriate authority;

- k. failing, while having knowledge that a judge had committed a violation of applicable *Rules of Judicial Conduct* that raises a substantial question as to the judge's fitness for office, to inform the appropriate authority; and,
- l. committing, and/or endeavoring to commit, and/or conspiring to commit and/or conspiring to endeavor to commit, serious crimes, that, when and if substantiated, would constitute major professional and criminal misconduct, including, but not limited to the afordescribed.

AS TO THE JUDICIAL MISCONDUCT ALLEGED UNDER THE "1980 ACT"

20. On October 18, 1991 complainant filed a *372(c) complaint* against the *respondent federal trial judge James C. Paine*, who was and still is a member of that *Bar*, Case #91-2170 (*Paine 1*) because that judge, *inter alia.*, failed to initiate disciplinary action. Notably, in less than two weeks, on October 31, 1991, the *respondent Chief Judge Tjoflat*, who also was and still is a member of that *Bar*, dismissed *Paine 1* as being merit-related. Complainant fervently disagreed, so, on April 14, 1992, complainant made good-faith corrections to *Paine 1*, and then filed another *372(c) complaint* against *respondent Judge Paine*, Case #92-1091 (*Paine 2*). *Ten days later*, on April 24, 1992, the *respondent Chief Judge Tjoflat* also dismissed *Paine 2*. The *respondent Chief Judge Tjoflat* claimed that *Paine 2* was also merit-related, and further, that *respondent Judge Paine's* demeanor did not constitute "conduct prejudicial to the effective and expeditious administration of the business of the courts". Complainant did, and still does, vehemently dissent.

Complainant alleges here that *respondent Chief Judge Tjoflat*:

- a. knew or should have known that the allegations in *Paine 1 and 2* were not as such related to the merits of a decision, but rather, were properly the subject of a *372(c) complaint*.
- b. knew or should have known that the felonious and unethical acts by the *bar group and the respondent Judge Paine* complained of in *Paine 1 and/or Paine 2* had been completed and that he had the duty to have these serious matters duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. has, contrary to his oath, duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent, failed to duly act;
- d. has wilfully and knowingly conspired here: to engage in schemes and artifices to defraud AND to make and/or cause to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the *1980 Act* and other federal and state laws AND to obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and

conceal the felonious and unethical acts by the *bar group and respondent Judge Paine*.

As such and in pertinent part and as grounds for his impeachment and removal from office here, *respondent Chief Judge Tjoflat*, has knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform his judicial and administrative duties;
- c. wilfully engaged in conduct prejudicial to the administration of justice;
- d. wilfully abused his discretion and power for improper motives and/or improper purposes;
- e. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

Complainant also alleges here that *respondent Judge Paine*:

- a. knew or should have known that the felonious and unethical acts by the *bar group* had been completed, and that he had the duty to initiate the mandated proper disciplinary action, and further, to duly have the said acts by the *bar group* duly referred to the proper disciplinary and/or prosecutorial authorities for investigation;
- b. has, contrary to his oath, duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- c. has wilfully and knowingly conspired here to further: engage in schemes and artifices to defraud AND to make and/or caused to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the mandatory local disciplinary rules and other federal and state laws AND to obstruct, hinder, impede and/or delay the due administration of justice AND to also misprision and conceal the felonious and unethical acts by the *bar group*.

As such and in pertinent part and as grounds for his impeachment and removal from office here, *respondent trial judge, James C. Paine*, has also knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform his judicial and administrative duties;
- c. wilfully engaged in conduct prejudicial to the administration of justice;
- d. wilfully abused his discretion and power for improper motives and/or improper purposes;

As such and as grounds for his impeachment and removal from office here, *respondent Chief Judge Tjoflat*, has knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform his judicial and administrative duties;
- c. wilfully failed to decide these matters in a timely fashion;
- d. wilfully delayed ruling on these matters based on the judge's improper animus and prejudice against complainant;
- e. wilfully and egregiously delayed these matters constituting a clear dereliction of judicial responsibilities;
- f. wilfully abused his discretion and power for improper motives and for improper purposes;
- g. wilfully engaged in conduct prejudicial to the administration of justice; and,
- h. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

Complainant also alleges here that the *respondent panel judges*:

- a. knew or should have known that the allegations in *Panel 1* were properly the subject of a *372(c) complaint*;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the respondent panel judges* complained of in *Panel 1* had been completed and that they had the duty to have such acts by the *bar group and the respondent panel judges and judge Paine* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. have, contrary to their oaths, duty, and the law, AND with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- d. have wilfully and knowingly conspired here to further: engage in schemes and artifices to defraud AND to make and/or cause to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the mandatory disciplinary rules and certain federal and state laws AND to obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and conceal the felonious and unethical acts by the *bar group and the pertinent respondent judges*.

22. On June 3, 1994 complainant petitioned the *council* to review the *respondent Chief Judge Tjoflat's* dismissals of the said *Panel 1 [S.4] 372(c) complaints*. On July 8, 1994, the *respondent council judges* affirmed the chief judge's orders.

Complainant alleges here that *the respondent council judges*:

- a. knew or should have known that the allegations in *Panel 1* were properly the subject of a 372(c) *complaint*;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the respondent panel judges* complained of in *Panel 1* had been completed and that they had the duty to have such acts by the *bar group and the respondent panel judges and Judge Paine* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. have, contrary to their oaths and duty, and the law, AND with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, the *respondent council judges* wilfully and knowingly, with evil and criminal intent failed to duly act;
- d. have wilfully and knowingly further conspired here to further: engage in schemes and artifices to defraud AND to make and/or cause to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the *1980 Act* and other federal and state laws AND to obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and conceal the felonious and unethical acts by the *bar group, the respondent panel judges, and Judge Paine*.

As such and as grounds for their impeachment and removal from office here, the relevant *respondent council judges* have knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform their judicial and administrative duties;
- c. wilfully abused their discretion and power for improper motives and for improper purposes;
- d. wilfully engaged in conduct prejudicial to the administration of justice;
- e. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

23. On November 4, 1994 complainant filed a 372(c) *complaint* against the *respondent Chief Circuit Judge Tjoflat (Tjoflat 1)*, Misc. Docket #94-1244, a copy of that complaint and all material pertinent thereto is appended hereto in *Section 5*. Most notably, on April 20, 1995, almost six months later, **after all judges senior to him were already disqualified**, *respondent U.S. Circuit Judge Edmondson* recused himself in *Tjoflat 1 [S.5]*. In his order of recusal the *respondent Circuit Judge Edmondson* clearly stated that "[n]o necessity compels me to act; alternatives seem to exist," and further, in substance, that if all active circuit judges junior to him in date of service should disqualify themselves or would otherwise be disqualified, this matter could then be referred to the *Chief Justice of the Supreme Court* who, could appoint a judge from another Circuit under 28 U.S.C., *Section 291(a)* to decide *Tjoflat 1 [S.5]*. It is a fact and the records crystal clearly show in *Section 5*, that **every circuit judge in regular active service either disqualified themselves or were otherwise unavailable** from ruling on *Tjoflat 1 [S.5]*.

Notwithstanding the fact that respondent Chief Judge Tjoflat was the target of the 372(c) complaint and should not have taken any part in the consideration of the complaint;

Notwithstanding that *Rule 18(b) of Addendum III: Rules of the Judicial Council of the Eleventh Circuit and Rule 18(b) of the Illustrative Rules, Governing Complaints of Judicial Misconduct and Disability* state:

"A judge whose conduct is the subject of a complaint will be disqualified from participating in any consideration of the complaint ..."

Notwithstanding the commentary to the *Illustrative Rules* narrating that the Rules' drafters considered a number of options and decided:

"the appearance of justice is best served by adherence to the traditional principles that matters should be heard by disinterested judges ..."

Notwithstanding the *Illustrative Rules* which further state that:

"when all eligible judges are named in a complaint and, following *Illustrative Rule 18(b)*, are recused ... chief judges have used the intercircuit assignment process [291(a)] on the advice of the General Counsel of the Administrative Office ... for purposes of ruling on the complaint."

Notwithstanding the *Section 291(a) "intercircuit assignment rule"* which provides:

"The Chief Justice of the United States may designate and assign ... any circuit judge to act as circuit judge in another circuit upon presentation of a certificate of necessity by the chief judge or the circuit justice of the circuit where the need arises."

Notwithstanding the holding of the *Supreme Court of the United States* in *Meeropol v Nizer*, 429 U.S. 1337, where the issuance of a certificate of necessity under 28 U.S.C. *Section 291(a)* was plainly a **ministerial act** here. The *Meeropol* Court clearly held:

"... where a whole Court of Appeals was disqualified [as was the case here] there is a "need" for the issuance of a certificate of necessity [pursuant to] 28 U.S.C. *Section 291(a)* ... (case cites omitted) ... In such cases ... [as was the case here] the circuit judges themselves make the decision not to sit, *thereby ... causing the "need" under Section 291(a) for the issuance of a certificate of necessity.*" ... "*Such need is plain to anyone looking at the situation, and the duty to issue [it] must be considered purely a ministerial act to deal with an administrative problem ...*" (emphasis added).

Notwithstanding *respondent Judge Edmondson's* expressed prior admonitions that no necessity existed to compel him [and reasonably, *respondent Chief Judge Tjoflat*] to act; despite the fact that other alternatives clearly existed;

Notwithstanding 28 U.S.C. Section 453 which states:

"I, ... , do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge all the duties incumbent upon me as judge under the Constitution and laws of the United States. So help me God."

Notwithstanding: 28 U.S.C. Sections 455 which clearly provides:

- (a) Any justice, judge, or magistrate of the United States **shall** disqualify himself in any proceeding in which his [or her] impartiality might reasonably be questioned.
- (b) He [or she] **shall** also disqualify himself [or herself] in the following circumstances:
 - (1) Where he [or she] has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.
 - (4) Where he [or she] knows that he [or she] ... has ... [an] interest that could be substantially affected by the outcome of the proceeding.

Notwithstanding the applicable *Canons of The Code of Conduct for United States Judges*;

Notwithstanding all the above, on August 23, 1995, *respondent Chief Judge Tjoflat* invoked the rule of necessity and dismissed *Tjoflat 1*, the 372(c) *complaint* lodged directly against him.

Complainant alleges here that *respondent Chief Judge Tjoflat*:

- a. knew or should have known that complainant's allegations in *Tjoflat 1* were sound, were properly the subject of a 372(c) *complaint*, and that the filing *Tjoflat 1* was not a "rank abuse of the section 372(c) process";
- b. knew or should have known that he had, and still does have, a ministerial duty to have the certificate of necessity issued here under 28 USC section 291(a)
- c. knew or should have known that he still has a duty to have the known and completed felonious and unethical acts by the *bar group* and the pertinent *respondent judges* referred to the proper special committee(s) and/or to the proper authorities for investigation;
- d. has, contrary to his oath and duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully AND knowingly, with evil AND criminal intent failed to duly act;

- e. pose a serious threat to continue to wilfully and knowingly conspire here to further: engage in additional schemes and artifices to defraud AND to make and/or cause to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the *1980 Act* and other federal and state laws AND to further obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and conceal the felonious and unethical acts by the *bar group and respondent Judge Paine*.

As such and as further grounds for their impeachment and removal from office here, the *respondent council judges* have knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform their judicial and administrative duties;
- c. wilfully failed to decide these matters in a timely fashion;
- d. wilfully delayed ruling on these matters based on their improper animus and prejudice against complainant;
- e. wilfully and egregiously delayed these matters constituting a clear dereliction of their judicial responsibilities;
- f. wilfully abused their discretion and power for improper motives and for improper purposes;
- g. wilfully engaged in conduct prejudicial to the administration of justice;
- h. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

25. On January 12, 1995 complainant filed *372(c) complaints* against each relevant *respondent council judge* in essence, for their dereliction of duty to duly initiate disciplinary action, Misc. Docket Nos. 95-1012 through 95-1027 (*Council 1*), a copy of one of the *372(c) complaints* of that group and all material pertinent thereto is appended hereto in *Section 6*. On January 27, 1995 *respondent Chief Judge Tjoflat* dismissed all the *Council 1 [S.6] 372(c) complaints* as frivolous.

Complainant alleges here that *respondent Chief Judge Tjoflat*:

- a. knew or should have known that the allegations in *Council 1* were not frivolous, but rather, were properly the subject of a *372(c) complaint*;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the pertinent respondent judges* complained of in *Council 1* had been completed that he still had the duty to have such acts by the *bar group* and the pertinent *respondent council judges* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. contrary to his oath, duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;

- d. has wilfully and knowingly conspired here to further: engage in additional schemes and artifices to defraud AND make and/or cause to be made false entries upon the dockets of the courts AND violate complainant's rights AND sabotage the *1980 Act* and other federal and state laws AND obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and conceal the felonious and unethical acts by the *bar group and the respondent judges*.

As such and as further grounds for his impeachment and removal from office here, *respondent Chief Judge Tjoflat* has further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform his judicial and administrative duties;
- c. wilfully abused his discretion and power for improper motives and for improper purposes;
- d. wilfully engaged in conduct prejudicial to the administration of justice;
- e. wilfully engaged in other conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

26. On February 23, 1995 complainant timely petitioned the *council* to review the *respondent Chief Judge Tjoflat's* orders of dismissal in *Council 1 [S.6]* referred to directly above.

Notwithstanding the fact that each relevant *respondent council judges'* conduct here was plainly the subject of each pertinent 372(c) *complaint*, and thus, they should have been disqualified from participating in any consideration of the complaint;

Notwithstanding that *Rule 18(b) of Addendum III: Rules of the Judicial Council of the Eleventh Circuit* and *Rule 18(b) of the Illustrative Rules, Governing Complaints of Judicial Misconduct and Disability* as aforescribed in paragraph 23 herein.

Notwithstanding the commentary to the *Illustrative Rules* narrating that the Rules' drafters considered a number of options and decided as aforescribed in paragraph 23 herein;

Notwithstanding the other *Illustrative Rules* as aforescribed in paragraph 23 herein;

Notwithstanding 28 U.S.C., *Sections 453 and 455* as aforescribed in paragraph 23 herein:

Notwithstanding the applicable *Canons of the Code of Conduct for United States Judges* as aforescribed in paragraph 23 herein;

Notwithstanding all the above, on May 16, 1995, *respondent Circuit Judge Edmondson*, "in the light of an apparent necessity ... ", affirmed the *respondent Chief Judge Tjoflat's* orders dismissing all the *Council 1 [S.6] 372(c) complaints* on behalf of the *council*.

Complainant alleges here that the *respondent council judges*:

- a. knew or should have known that the allegations in *Council 1* were not frivolous, but rather, were properly the subject of a *372(c) complaint*;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the pertinent respondent judges* complained of in *Council 1* had been completed AND that they still had a duty to have such acts by the *bar group* and the pertinent *respondent council judges* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. have, contrary to their oaths, duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- d. have wilfully and knowingly conspired here to further: engage in additional schemes and artifices to defraud AND to make and/or cause to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the *1980 Act* and other federal and state laws AND to obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and conceal the felonious and unethical acts by the *bar group and the pertinent respondent judges*.

As such and as further grounds for their impeachment and removal from office here, the *respondent council judges* have further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform their judicial and administrative duties;
- c. wilfully abused their discretion and power for improper motives and for improper purposes;
- d. wilfully engaged in conduct prejudicial to the administration of justice;
- e. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

27. On February 27, 1995, since the grave attorney and judicial misconduct matters still had not been addressed forthrightly by any judge, nor duly referred to the proper special committee(s) and/or to the proper authorities for investigation, complainant filed another *372(c) complaint* against the *respondent Chief Judge Tjoflat (Tjoflat 2)*, Misc. Docket # 95-1077, a copy of the same and all material pertinent thereto is appended hereto in *Section 7*. However, this time complainant requested that the matter now be referred to the *Circuit Justice*, the most Honorable Anthony M. Kennedy. But, the clerk returned the *372(c) complaints, Tjoflat 2 [S.7]*, to complainant stating that "... I am not authorized to refer a matter tendered for filing under this statute and under *Addendum III to Justice Kennedy* ... I therefore am obliged to return the complaint to you unfiled. On March 8, 1995, complainant refiled *Tjoflat 2 [S.7]*, but this time absent the request for Justice Kennedy. On August 23, 1995, *respondent Circuit Judge Phyllis Kravitch* who previously disqualified herself in *Tjoflat*

1 [S.5], and who was now acting chief judge, *after nearly six months*, dismissed *Tjoflat 2* [S.7], which contained almost the identical egregious matters as *Tjoflat 1* [S.5] where she was disqualified.

Complainant alleges here that *respondent Circuit Judge Kravitch*:

- a. knew or should have known that the allegations in *Tjoflat 2* as such were not related to the merits of a decision within the meaning, but rather, were properly the subject of a *372(c) complaint*;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the pertinent respondent judges* complained of in *Tjoflat 2* had been completed and that she still had a duty to have such acts by the *bar group* and the *pertinent respondent council judges* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. has, contrary to her oath, duty, and the law, AND with reckless disregard for her office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- d. has wilfully and knowingly conspired here to further: engage in additional schemes and artifices to defraud AND to make and/or cause to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the *1980 Act* and other federal and state laws AND to obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and conceal the felonious and unethical acts by the *bar group and the pertinent respondent judges*.

As such and as grounds for her impeachment and removal from office here, *respondent Circuit Judge Phyllis Kravitch* has further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform her judicial and administrative duties;
- c. wilfully failed to decide these matters in a timely fashion;
- d. wilfully delayed ruling on these matters based on the judge's improper animus and prejudice against complainant;
- e. wilfully and egregiously delayed these matters constituting a clear dereliction of her judicial responsibilities;
- f. wilfully abused her discretion and power for improper motives and for improper purposes;
- g. wilfully engaged in conduct prejudicial to the administration of justice;
- h. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

28. On September 22, 1995 complainant petitioned the *judicial council* to review *respondent Judge Kravitch's* order dismissing *Tjoflat 2 [S.7]* referred to directly above. That the relevant *respondent council judges*, to the best of complainant's knowledge, to date, have failed to duly act.

Complainant alleges here that the *respondent council judges*:

- a. knew or should have known that the allegations in *Tjoflat 2* as such were not related directly to the merits of a decision within the meaning, but rather, were properly the subject of a *372(c) complaint*;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the pertinent respondent judges* complained of in *Tjoflat 2* had been completed and that they still have a duty to have such acts by the *bar group* and the *pertinent respondent council judges* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. have, contrary to their oaths, duty, and the law, AND with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- d. pose a serious threat here to continue to wilfully and knowingly conspire to further: engage in additional schemes and artifices to defraud AND to make and/or cause to be made false entries upon the dockets of the courts AND to violate complainant's rights AND to sabotage the *1980 Act* and other federal and state laws AND to obstruct, hinder, impede and/or delay the due administration of justice AND to misprision and conceal the felonious and unethical acts by the *bar group and the pertinent respondent judges*.

As such and as further grounds for their impeachment and removal from office here, the relevant *respondent council judges* have further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform their judicial and administrative duties;
- c. wilfully failed to decide these matters in a timely fashion;
- d. wilfully delayed ruling on these matters based on the judges' improper animus and prejudice against complainant;
- e. wilfully and egregiously delayed these matters constituting a clear dereliction of their judicial responsibilities;
- f. wilfully abused their discretion and power for improper motives and for improper purposes;
- g. wilfully engaged in conduct prejudicial to the administration of justice;
- h. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

29. On June 13, 1995, complainant was compelled to file another 372(c) *complaint*, this time against the *respondent trial judge, James C. Paine (Paine 3)*, Misc. Docket #95-1160, a copy of the same and all material pertinent thereto has been appended hereto in *Section 8*. Succinctly, the events that gave rise to *Paine 3 [S.8]* were, that on May 5, 1995, complainant had filed a motion in the trial court to vacate the judgments of the district and circuit courts, under *Rule 60(b)(5) of F.R.Civ.P.* Attached to the first of a series of motions was a timely and sufficient affidavit and motion to disqualify the *respondent trial judge, James Paine*, and also a motion for that court to duly initiate disciplinary action against *the defendants, et al.* On May 9, 1995, *respondent Judge Paine* denied each one of complainant's motions, and further, admonished complainant that the case was closed and final and "no further flurry of motions attacking the outcome will be tolerated by the Court." On June 6, 1995, complainant appealed the *respondent Judge Paine's* orders, C.A. Docket # 95-4755, but now complainant was compelled to file a motion to proceed in forma pauperis. That motion was also denied on August 1, 1995 by the *respondent trial Judge Paine* pursuant to 28 U.S.C., *Section 1915(a)*. In that same order, *respondent Judge Paine* certified that complainant's appeal was not being taken in good faith. On September 26, 1995, pursuant to *Rule 24(a) F.R.A.P.*, complainant timely filed the motion to proceed in forma pauperis in the circuit court. On August 1, 1995, *respondent Chief Judge Tjoflat* dismissed *Paine 3 [S.8]* as being related to the merits of a decision, and further, on March 26, 1996, *after more than six months*, he also denied complainant's motion to proceed in forma pauperis, a copy of his orders are appended hereto in *Paine 3 [S.8]* on pages 58 and 59.

Complainant alleges here that *respondent Chief Judge Tjoflat*:

- a. knew or should have known that the allegations in *Paine 3* as such were not related to the merits of a decision, but rather, was properly the subject of a 372(c) *complaint* and complainant's subject motions were made in good faith;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the pertinent respondent judges* complained of in *Council 1* had been completed and that he still had the duty to have such acts by the *bar group* and the pertinent *respondent council judges* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. contrary to his oath, duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- d. has wilfully and knowingly conspired here to further: engage in additional schemes and artifices to defraud AND make and/or cause to be made false entries upon the dockets of the courts AND violate complainant's rights AND to sabotage the *1980 Act* and other federal and state laws AND obstruct, hinder, impede and/or delay the due administration of justice AND misprision and conceal the felonious and unethical acts by the *bar group and the respondent judges*.

Relevant to *respondent Chief Judge Tjoflat* dismissing the 372(c) *complaint* herein labeled *Paine 3 [S.8]* and prejudicially ruling on complainants motion to file in forma pauperis, *respondent Chief*

Judge Tjoflat, as such and in pertinent part and as further grounds for his impeachment and removal from office here, has further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform his judicial and administrative duties;
- b. wilfully delayed ruling on these matters founded on the judge's improper animus and prejudice against complainant;
- c. wilfully abused his discretion and power for improper motives and for improper purposes;
- d. wilfully engaged in conduct prejudicial to the administration of justice;
- e. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts in serious disrepute.

Complainant also alleges here that *respondent Judge Paine*:

- a. knew or should have known that the felonious and unethical acts by the *bar group* had been completed and that he had the duty to initiate disciplinary action and to duly have such acts by the *bar group* duly referred to the proper disciplinary and/or prosecutorial authorities for investigation;
- b. knew or should have known that complainant's motions and affidavit of prejudice was timely, sufficient, made in good faith, and *respondent Judge Paine* had a duty to recuse himself from ruling on the matters before him;
- c. has, contrary to his oath, duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- d. has wilfully and knowingly conspired here to further: engage in schemes and artifices to defraud AND make and/or cause to be made false entries upon the dockets of the courts AND violate complainant's rights AND sabotage the mandatory local disciplinary rules and other federal and state laws AND obstruct, hinder, impede and/or delay the due administration of justice AND misprision and conceal the felonious and unethical acts by the *bar group*.

As such and in pertinent part and as further grounds for his impeachment and removal from office here, *respondent Judge Paine* has further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform his judicial and administrative duties;
- c. wilfully abused his discretion and power for improper motives and for improper purposes;
- d. wilfully engaged in conduct prejudicial to the administration of justice;

- e. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

30. On August 11, 1995 complainant petitioned the *judicial council* to review *respondent Chief Judge Tjoflat's* order dismissing *Paine 3 [S.8]* referred to directly above. The *respondent council judges*, to the best of complainant's knowledge, to date, have failed to duly act.

Complainant alleges here that the *respondent council judges*:

- a. know or should know the allegations in *Paine 3* as such are not related to the merits of a decision, but rather, are the proper subject of a *372(c) complaint*;
- b. knew or should have known that the felonious and unethical acts by the *bar group and the pertinent respondent judges* complained of in *Tjoflat 2* had been completed and that they still have a duty to have such acts by the *bar group* and the pertinent *respondent council judges* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- c. have, contrary to their oaths, duty, and the law, AND with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully AND knowingly, with evil and criminal intent failed to duly act;
- d. pose a serious threat here to continue to wilfully and knowingly conspire to further: engage in additional schemes and artifices to defraud AND make and/or cause to be made false entries upon the dockets of the courts AND violate complainant's rights AND sabotage the *1980 Act* and other federal and state laws AND obstruct, hinder, impede and/or delay the due administration of justice AND misprision and conceal the felonious and unethical acts by the *bar group and the pertinent respondent judges*.

As such and as further grounds for their impeachment and removal from office here, the relevant *respondent council judges* have further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform their judicial and administrative duties;
- c. wilfully failed to decide these matters in a timely fashion;
- d. wilfully delayed ruling on these matters based on the judges' improper animus and prejudice against complainant;
- e. wilfully and egregiously delayed these matters constituting a clear dereliction of their judicial responsibilities;
- f. wilfully abused their discretion and power for improper motives and for improper purposes;
- g. wilfully engaged in conduct prejudicial to the administration of justice;

- h. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

31. On July 7, 1995, because neither *respondent Chief Judge Tjoflat* nor any of the *respondent judges of the council* would duly refer the known and completed felonious and unethical acts by the *bar group* and the germane *respondent judges* to the proper special committee(s) and/or to the proper authorities for investigation, and further, or to duly cause a certificate of necessity to be issued, complainant filed more *372(c) complaints*, one against *respondent Chief Judge Tjoflat (Tjoflat 3)*, Misc. Docket # 95-1184, a copy of the same and copies of all material pertinent thereto has been appended hereto in *Section 9*, and, the rest of the said *372(c) complaints* against each relevant *respondent council judge, (Council 2)*, a copy of the same and copies of all material thereto have been appended hereto in *Section. 10*.

Notwithstanding the fact that the *respondent Chief Judge Tjoflat's* complicity with each of the *respondent council judges* was expressed with specificity and materially at issue in each *372(c) complaint*:

Notwithstanding *Rule 18(b) of Addendum III: Rules of the Judicial Council of the Eleventh Circuit; Rule 18(b) of the Illustrative Rules, Governing Complaints of Judicial Misconduct and Disability* as aforescribed in paragraph 23 herein;

Notwithstanding the commentary to the *Illustrative Rules* narrating that the Rules' drafters considered a number of options and decided as aforescribed in paragraph 23 herein;

Notwithstanding the other *Illustrative Rules* as aforescribed in paragraph 23 herein;

Notwithstanding the *Section 291(a) "intercircuit assignment rule"* as aforescribed in paragraph 23;

Notwithstanding the *Supreme Court of the United States* holding in *Meeropol v Nizer*, 429 U.S. 1337 that the "need" under *Section 291(a)* for the issuance of a certificate of necessity was "plain to anyone looking at the situation, and the duty to issue the certificate must be considered purely a ministerial act to deal with an administrative problem ..." as aforescribed in paragraph 23 herein;

Notwithstanding expressed prior admonitions that no necessity existed to compel the chief judge to act; that other alternatives clearly existed as aforescribed in paragraph 23 herein;

Notwithstanding *28 U.S.C. Sections 453, and 455*, as aforescribed in paragraph 23 herein;

Notwithstanding the applicable *Canons of The Code of Judicial Conduct for United States Judges*:

Notwithstanding all of the above, on August 23, 1995, *respondent Chief Judge Tjoflat* invoked the rule of necessity and dismissed both, *Tjoflat 3 [S.9]* which had been lodged against him, and also, all of the *Council 2 [S.10]* complaints where his serious complicity with the relevant *respondent council judges* was materially at issue.

Complainant alleges here that *respondent Chief Judge Tjoflat*:

- a. knew or should have known that complainant's allegations in *Tjoflat 1* are sound, were properly the subject of a *372(c) complaint*, and that the filing of *Tjoflat 1* was not a "rank abuse of the section *372(c)* process";
- b. knew or should have known that under these circumstances that he had, and still does have a duty to have a certificate of necessity issued here under *28 USC section 291(a)*;
- c. knew or should have known that he still has a duty to have the known and completed felonious and unethical acts by the *bar group* and the pertinent *respondent judges* referred to the proper special committee(s) and/or to the proper authorities for investigation;
- d. has, contrary to his oath and duty, and the law, AND with reckless disregard for his office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- e. has wilfully and knowingly conspired here to further: engage in schemes and artifices to defraud AND make and/or cause to be made false entries upon the dockets of the courts AND violate complainant's rights AND sabotage the *1980 Act* and other federal and state laws AND obstruct, hinder, impede and/or delay the due administration of justice AND misprision and conceal the felonious and unethical acts by the *bar group, the other respondent judges, and himself*.

As such and as further grounds for his impeachment and removal from office here, *respondent Chief Judge Tjoflat*, has further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform his judicial and administrative duties;
- c. wilfully failed to decide these matters in a timely fashion;
- d. wilfully delayed ruling on these matters based on the judge's improper animus and prejudice against complainant;
- e. wilfully and egregiously delayed these matters constituting a clear dereliction of his judicial responsibilities;
- f. wilfully abused his discretion and power for improper motives and for improper purposes;
- g. wilfully engaged in conduct prejudicial to the administration of justice;
- h. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

32. On September 22, 1995, complainant petitioned the *council* to review the *respondent Chief Judge Tjoflat's* dismissals in *Tjoflat 3 [S.9]* and *Council 2 [S.10]* referred to directly above. After

seven months now, the respondent council judges, to the best of complainant's knowledge, to date, have failed to duly act.

Complainant alleges here that the *respondent council judges*:

- a. know or should know that complainant's allegations in *Tjoflat 1* are sound, are properly the subject of a *372(c) complaint*, and that the filing of *Tjoflat 1* was not a "rank abuse of the section *372(c)* process";
- b. know or should know that *respondent Chief Judge Tjoflat* should not have invoked the rule of necessity here, and that other alternatives existed, especially under *28 USC Section 291(a)*;
- c. know or should know that the felonious and unethical acts by the *bar group and the pertinent respondent judges* complained of in *Tjoflat 3 and Council 2* had been completed and that they still have a duty to have such acts by the *bar group* and the *pertinent respondent council judges, and Chief Judge Tjoflat* duly referred to the proper special committee(s) and/or to the proper authorities for investigation;
- d. have, contrary to their oaths, duty, and the law, AND with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, with evil and criminal intent failed to duly act;
- e. pose a further serious threat here to wilfully and knowingly conspire to further: engage in additional schemes and artifices to defraud AND make and/or cause to be made false entries upon the dockets of the courts AND violate complainant's rights AND sabotage the *1980 Act* and other federal and state laws AND obstruct, hinder, impede and/or delay the due administration of justice AND misprision and conceal the felonious and unethical acts by the *bar group and the pertinent respondent judges*.

As such and as further grounds for their impeachment and removal from office here, the *pertinent respondent council judges* have further knowingly and unconscionably:

- a. wilfully engaged in official misconduct;
- b. wilfully and persistently failed to perform their judicial and administrative duties;
- c. wilfully failed to decide these matters in a timely fashion;
- d. wilfully delayed ruling on these matters based on the judges' improper animus and prejudice against complainant;
- e. wilfully and egregiously delayed these matters constituting a clear dereliction of their judicial responsibilities;
- f. wilfully abused their discretion and power for improper motives and for improper purposes;
- g. wilfully engaged in conduct prejudicial to the administration of justice;

- h. wilfully engaged in conduct that is, or which in the future may be prejudicial to the administration of justice and/or which might bring the judicial office and the courts into serious disrepute.

33. As further grounds for their impeachment and removal from office here, the *respondent judges*, who as Federal judges are required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of their office impartially, contrary to their oaths and duty, and the law, AND with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, the *respondent judges*, in order to further their schemes and artifices to defraud in their aforesaid overarching plan, have, by reasons of the aforementioned circumstances and events, wilfully and knowingly:

- a. engaged, and pose a serious threat to continue to engage, in conduct prejudicial to the effective and expeditious business of the courts.
- b. conspired to conceal the repeatedly said felonious and unethical acts of the *bar group* and all the *respondent judges* from: the *Standing Committee of the Conference*, the *Conference* itself, the *Chief Justice* and the other *Justices* of the *Supreme Court of the United States*, the *United States House of Representatives*, the proper federal and state authorities, and the American people.

34. As further grounds for their impeachment and removal from office, the *respondent judges*, who as Federal judges are required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of their office impartially, contrary to their oaths and duty, and the law, and with further, reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, the *respondent judges*, allegedly, in order to further their schemes and artifices to defraud in their aforesaid overarching plan, have wilfully and knowingly, violated, conspired to violate, and pose a threat to further continue to violate, and/or conspire to violate, one or more of the *sections of Title 18 U.S.C.*, including, but not limited to:

- a. *Section 2-* by committing, aiding and/or abetting in the commission of offenses against the United States;
- b. *Section 3-* by becoming accessories after the fact;
- c. *Section 4-* by misprision of a felony and/or felonies;
- d. *Section 241-* by conspiring to wrongfully injure, oppress, intimidate, and/or illegally restrain complainant, by force, in the free exercise of enjoyment of his rights and privileges secured by the Constitution and the laws of the United States;

- e. *Section 242*- by depriving complainant of his rights, privileges, and immunities secured by the Constitution and the laws of the United States under color of law;
- f. *Section 371*- by committing offenses against the United States and defrauding the United States;
- g. *Section 1001*- by "[falsifying] ... or [making] any false, fictitious or fraudulent [statement] or [representation] of any material fact in any matter within the jurisdiction of any agency or department of the United States; or concealing, covering up, causing to be concealed, and/or covered up any material fact by various tricks, schemes and/or devices;
- h. *Section 1341*- by repeatedly causing letters and other matters and things to be delivered by the U.S. Postal Service to and from the said enterprises and/or elsewhere for the purpose of executing and attempting to execute schemes and artifices to defraud, including those within the meaning of *Section 1346*;
- i. *Section 1343*- by repeatedly causing to be made, and may have reasonably made, interstate phone calls and other uses of interstate wire facilities to and from the enterprises and elsewhere;
- j. *Section 1503*- by conspiring and/or endeavoring to conspire to influence, obstruct, hinder, impede and/or delay, the due administration of justice;
- k. *Section 1621*- by conspiring to commit acts of perjury;
- l. *Section 1961*- by conducting and participating in, directly and indirectly, the affairs of an enterprise(s), which activities affect interstate commerce, through a pattern of racketeering activity by commission of two or more predicate acts; and/or
- m. *Section 1962*- by engaging in, conspiring to engage in, posing a threat to further continue and/or conspire to further continue, to engage in, racketeering activity.

35. As further grounds for their impeachment and removal from office, the *respondent judges*, who as Federal judges are required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of their office impartially, by reason of the aforementioned circumstances, events, and the alleged egregious criminal and unethical conduct complained of herein, contrary to their oath and duty, and the law, AND with reckless disregard for their office AND for

the rights of this complainant AND for the rights of others AND for the truth, the *respondent judges*, have wilfully and knowingly, abnegated their judicial functions and breached certain *Canons of the Code of Conduct for United States Judges*, including, but not limited to:

- a. *Canon 1* "a judge should uphold the integrity of the judiciary";
- b. *Canon 2* "avoid impropriety and the appearance of impropriety";
- c. *Canon 2A* "a judge should respect and comply with the law, and should act at all times in a manner that promotes public confidence in the judiciary";
- d. *Canon 2B* "not allow other relationships to influence judicial conduct or judgment";
- e. *Canon 3A(1)* "a judge should be faithful to the law";
- f. *Canon 3B(3)* "a judge should initiate appropriate action when the judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a judge or lawyer.
- g. *Canon 3C(1)* "a judge shall disqualify himself or herself in a proceeding in which a judge's impartiality might reasonably be questioned," including but not limited to "instances where a judge has a personal bias or prejudice concerning a party."

36. As further grounds for their impeachment and removal from office, complainant fears that the *respondent judges*, who as Federal judges are required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of their office impartially, by reason of the aforementioned circumstances, events, and the alleged egregious criminal and unethical acts, contrary to their oath and duty, and the law, presumably will further, recklessly disregard their office AND the rights of this complainant AND the rights of others AND the truth, and further, may continue to, wilfully and knowingly, unlawfully and forcibly continue to restrain complainant from pursuing his inherent constitutional rights to due process, and particularly, his secured right to have the lawful functions of the judicial power and action of the United States, faithfully and impartially, exercised and administered by its judicial and prosecutorial officers, free from **any** appearance of **any** illegal impairment, partiality, corruption, and/or obstruction, and further, free from **any** unlawful endeavors to impede the effectuation of **any** law of the United States. By allegedly so doing, the *respondent judges* pose a serious threat to continue to wilfully and knowingly, illegally and prejudicially, further violate their oath and duty, the law, and complainant's inalienable Constitutional rights.

V. CONCLUSION

37. The *Misconduct Complaint and the relevant 372(c) complaints* plainly alleges that the *respondent judges* have knowingly, defiantly and unmistakably violated the Constitution, the law, their official oaths of office, and their fiduciary, ministerial, and/or peremptory duties. Such inappropriate conduct by the *respondent judges*, when substantiated, also would be wholly inconsistent with, and clearly subverts, the intended goals and animating policies of the *1980 Act, i.e.:*

"to improve judicial accountability and ethics, [and] to promote respect for the principle ... the appearance of justice is an integral element of [our] justice system"

38. By reasons of the circumstances and events in the *Misconduct Complaint and the 372(c) complaints*, complainant believes that a real crisis now exists in the "third branch" and the present system of judicial discipline. That when the allegations of criminal and unethical acts by the *respondent judges* are substantiated, reasonably, a convincing demonstration will have been made here that the *1980 Act* is clearly broken and in dire need of repair(s). That it should be quite manifest here that adequate, timely, and prophylactic procedures are **not** currently in place to assure the public that cogent and meritorious *372(c) complaints* will be considered in a *forthright and just manner*, and chiefly, by ***impartial and ethical judges***. Furthermore, that absent these fundamental procedural safeguards, as plainly was the case here, disobedient or corrupt judges may continue to harass and injure citizens like this complainant who are virtually powerless to stop these constitutional deprivations and are in a league with those who are bent on abrogating federally protected rights. The *respondent judges and the bar group* here are totally out of control. Their unbridled power and inextricably intertwined relationships with each another have wrongfully enabled them to gain an unfair competitive advantage over complainant and probably many others as well. Here the *respondent judges and the bar group* have unquestionably made, and pose a serious threat to continue to make, lawful for themselves what is absolutely unlawful for all other Americans. This is totally unacceptable.

39. Moreover, a strong desire for the truth here will show that the pertinent *respondent judges and the bar group*, simply put, have been caught "playing games with **our** judicial system." But rather than doing substantial right in this case, at times material, the *respondent judges*, with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, wilfully and knowingly, unlawfully and unconscionably, combined to use and abuse their power, the power of their office, their discretion as federal judges, and where relevant, used and abused their power as members of the *Judicial Council* and the *Judicial Conference of the Eleventh Circuit* to hermetically seal the said felonious and unethical acts and omissions by the *bar group*. In order to meet their political aspirations and their faction's interest, at times material, the *respondent judges* outrageously harassed, terrorized, and demeaned their archenemy, *i.e.*, this complainant, by acting here **not** as judges observant of duty, but rather strictly as ministers of their own prejudices, with horrifying aroused passions, bent of minds, evil spirits, and antipathy towards complainant that, was, still is, and poses a serious threat to continue to be, unlawfully and unethically calculated to foreclose any due fundamental impartiality, substantial right, or justice. Such obdurate tyranny by the subject federal judges is absolutely unconscionable, wholly intolerable, and again, totally unacceptable.

40. Complainant believes that the *respondent judges*' wilful and known misbehavior may be unparalleled in American history. That it is just "mind-boggling" how, to date, a **minimum of twenty federal judges**, all of whom have sworn, and are mandated, to enforce and obey the Constitution and laws of the United States could even think to stoop to this level and do this to an American citizen or his or her family, or to their country, or to their fellow Americans. In betraying their country here, the *respondent judges*, with reckless disregard for their office AND for the rights of this complainant AND for the rights of others AND for the truth, have plainly ravaged **our** Constitution and made **our** Constitution to appear as nothing more than a "**dead letter**". Also as reprehensible, here the *respondent judges*, wilfully and knowingly: have made a mockery and a sham of the attorney disciplinary process; they have made a mockery and a sham of the *1980 Act and its 372(c) complaint* process; they have made a mockery and a sham of a *Lawyer's Code of Professional Responsibility* and *Oath of Admission to the Bar*; and, they have made a mockery and a sham of a judge's *Code of Conduct* and *Oath of Office*. By so doing, the *respondent judges* have crystal clearly brought, and if they are allowed to remain in office undoubtedly will continue to bring, federal and state courts, state and local bar groups, and America's entire judicial system into further substantial scandal and serious disrepute, all to the prejudice of the courts and public confidence in the administration of justice therein, and further, to the prejudice of public respect for, and confidence in, America's entire "third branch" of government.

41. The *respondent judges* seemingly never-ending combination of ruthless acts of despotism, depravity, usurpation of unbridled power, and multi-faceted orgy of criminal activity here: (1) has cost complainant and his estranged wife their marriage of more than thirty two years (2) cost them their dignity and self-respect (3) severely tarnished their relationship with their children, families, and friends (4) caused them total financial ruin and the loss of their hard-earned excellent credit reputation (5) cost them their home (6) cost them a minimum of two businesses (7) cost them their health, (8) deprived them of the most precious years of their lives, and (9) deprived them of their right to life, liberty, and the pursuit of happiness. Complainant is now sixty years of age and has had to endure this ruthless and intolerable criminal and unethical conduct in this far-reaching and seemingly ever-widening and never-ending unlawful conspiracy, at times material thereto: by the respondent attorney to the *Bar* proceedings for over ten years now with no relief; by the *Defendant Bar, its officials and the Justices of the Florida Supreme Court, the Margolins, and all their respective counsels of record* in some cases for more than eight years now with no relief; and further, the most outrageous and traitorous conduct by the *respondent judges*, in some cases for almost six years now with no relief. Enough is enough already in this "**Florida Bargate Debacle**." Unmistakably here, the Framers of the Constitution's worst fears have now arrived. It was said:

" ... in establishing a government of separated and interdependent powers, the Framers never intended that the independence of any officeholder, *including judges*, be so absolute as to threaten the integrity and orderly functioning of that officeholder's branch of government." The Framers, after all, feared nothing more than, *the tyranny of megalomaniacal despots ...* " [and complainant would add, and sociopaths]

VI. PRAYER FOR RELIEF

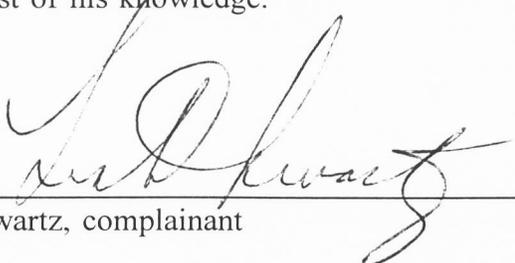
42. Complainant **most respectfully** demands that an immediate investigation be launched here to duly determine whether grounds lie for impeachment of the *respondent judges*, and whether there is an immediate need to have them removed from their judicial offices.

43. Complainant **most respectfully** demands that a further immediate investigation be launched to duly determine whether the *respondent judges*, the *bar group*, and all others who have been, or who may also become involved here, should face criminal prosecution for their most heinous acts. If so, that all such malefactors be made to face swift, certain and severe criminal punishment.

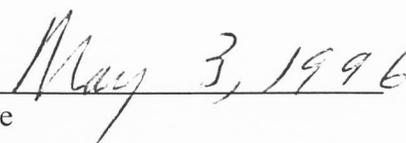
44. Complainant **most respectfully** demands that the Honorable William H. Rehnquist, *Chief Justice of the Supreme Court of the United States*, and the Circuit Justice for the Eleventh Circuit, the Honorable Justice Kennedy, be immediately forewarned of these matters;

45. Complainant **most respectfully** demands to be heard and to appear before the appropriate United States House and/or Senate *Committees* and/or *subcommittees*.

Complainant declares under the penalties of perjury, the information contained herein is true to the best of his knowledge.



Lester Swartz, complainant



Date

VII. CERTIFICATE OF SERVICE

Complainant hereby certifies that a copy of the formal *Misconduct Complaint* dated May 3, 1996 **AND** a binder containing the 268 pages of text and exhibits, have been mailed via United States Mail, certified mail, return receipt requested, mail, with proper postage affixed thereto, on this 3rd day of May, 1996, to the following:

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

certified mail #Z-123-332-674

-and-

The Honorables: Janet Reno, Attorney General of the United States **AND**
Lee J. Radek, Chief Public Integrity Section of the Criminal Division of the United States
Department of Justice **AND** Louis J. Freeh, Director Federal Bureau of Investigation
c/o The Honorable Lee J. Radek, Chief Public Integrity Section, Criminal Division,
United States Department of Justice
Tenth Street and Constitution Ave. N.W.
Washington, D.C. 20530

certified mail #Z-123-332-675

-and-

The Honorable Newt Gingrich
Speaker of the United States House of Representatives
2428 Rayburn House Office Building
Washington, D.C. 20515-1006

certified mail #Z-123-332-677

-and-

The Honorable Henry J. Hyde, III, Chairman
United States House of Representatives Committee on the Judiciary
2110 Rayburn House Office Building
Washington, D.C. 20515-1306

certified mail #Z-123-332-678

-and-

The Honorable Senator Robert Dole
Majority Leader of the United States Senate

-and-

The Honorable William H. Rehnquist
Chief Justice of The Supreme Court of the United States
c/o The Honorable Senator Robert Dole
SH-141 Hart Senate Office Building
Washington, D.C. 20510-1601

certified mail #Z-123-332-679



Lester Swartz

May 3, 1996

Date