

**BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA**

INQUIRY CONCERNING A JUDGE,	:	
THE HONORABLE NANCY JACOBS	:	SC23-1303
JQC NO. 2023-030 & 2023-367	:	
_____	:	

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDATIONS OF THE HEARING PANEL,
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION**

Pursuant to the Florida Constitution, Art. V., §12(a)(1)(b) and (c), and the Florida Judicial Qualifications Commission (“FJQC”) Rules, the FJQC Hearing Panel hereby certifies these Findings of Fact, Conclusions of Law, and Recommendations to the Florida Supreme Court.

COURSE OF THE PROCEEDINGS

On September 14, 2023, the Investigative Panel of the JQC filed a Notice of Formal Charges against the Honorable Nancy L. Jacobs, Circuit Court Judge in the 13th Judicial Circuit for Hillsborough County. An Amended Notice of Formal Charges was filed on August 30, 2024 (“Formal Charges”). The Formal Charges generally alleged that in her 2022 campaign for circuit judge, Judge Jacobs made a series of inappropriate and/or disparaging remarks regarding her opponent; failed to adequately monitor her campaign social media account; and that she sought and promoted a public endorsement in such a manner as to appear to pledge to rule a certain way in cases that may come before her. The Formal Charges also alleged

that after assuming the bench, Judge Jacobs engaged in further misconduct by: (i) soliciting a lawyer to run against a sitting judge with whom she did not have a good relationship; and (ii) referring to a lawyer who appeared before her in a rude and intemperate manner.

The Formal Charges alleged that Judge Jacobs violated Canons 1, 2A, 2B, 3B(2), 3B(4), 3B(7), 7A(3)(a-d), and 7A(3)(e)(i-iv) of the Florida Code of Judicial Conduct.

In her Answer, Judge Jacobs admitted that she was responsible for the content posted on her campaign's social media account, but denied that she was responsible for content posted by third parties. She also averred that to the extent she was alleged to have violated the canons based on her speech or conduct, any such speech or conduct is protected by the First Amendment and cannot serve as the basis for violations of the Code of Judicial Conduct. With respect to the alleged post-election misconduct, Judge Jacobs denied that she solicited a lawyer to run against another sitting judge, but admitted that she referred to a lawyer appearing before her in a rude manner. She contended that her comment was borne out of frustration with the lawyer's disrespectful behavior and was a one-time error in judgment.

The JQC Hearing Panel conducted a final hearing February 3-5, 2025 in Tampa. The Hearing was chaired by Gregory W. Coleman, Esq., and included the Honorable Gary P. Flower; the Honorable Alicia L. Latimore; William J. Schifino,

Jr., Esq.; Walter H. Ricks (lay member/ad hoc); and Eugene Muhart (lay member/ad hoc).

Special Counsel Henry M. Coxe, III, Esq., and Brian T. Coughlin, Esq., represented the Investigative Panel. Judge Jacobs was represented by Ryan D. Barack, Esq. and Michelle Erin Nadeau, Esq. Lauri Waldman Ross, Esq. and Lansing C. Scriven, Esq. served as counsel to the FJQC Hearing Panel.

FIRST AMENDMENT CLAIM

Judge Jacobs filed two similar pretrial motions in limine dated March 8, 2024 (“March 8th Motion”), and November 5, 2024 (“November 5th Motion”), based on her claims that she could not be subject to discipline for what she deemed First Amendment protected speech. The November 5th Motion was essentially a restatement of the grounds asserted in the March 8th Motion (before the Amended Notice of Formal Charges was filed on August 30, 2024). In the November 5th Motion, Judge Jacobs argued that:

Formal Charges #1 - #5 all are based upon allegations that are philosophical beliefs and First Amendment-protected speech. As applied to Judge Jacobs in this matter, the restrictions on her freedom of speech are not narrowly tailored to serve a compelling state interest and the JQC Investigative Panel, through Special Counsel, should not be permitted to assert otherwise.

By Order dated November 20, 2024, the Hearing Panel Chair denied both Motions, reasoning that “[a] motion in limine may not be used as a substitute for an

unnoticed motion for partial summary judgment to dispense with part of a case.” The Chair also ruled that a motion in limine could not “be used to circumvent FJQC Rule 12(c), which expressly provides that ‘[s]ummary [j]udgment is not available to either party.’” Lastly, the Order provided: “The Judge’s First Amendment arguments and legal memoranda will be considered on the merits at the final hearing.”

During a prehearing conference on January 23, 2025, the Hearing Panel Chair requested that counsel for Judge Jacobs identify whether: (i) she was seeking to have any of the canons of the Florida Code of Judicial Conduct declared unconstitutional; (ii) if yes, which specific canons; and (iii) if yes, whether her constitutional challenges were facial and/or “as applied” challenges. On January 30, 2025, Judge Jacobs responded in a Notice of Filing Response to Question of Hearing Panel Chair that she was seeking to have certain canons declared unconstitutional, however, because the “Amended Notice of Formal Charges does not detail which Canons were allegedly violated for each of the alleged charges,” [such] ‘lack of specificity . . . prevents [her] from directly addressing the specific charges as they relate to a specific Canon beyond referring to Canons 1, 2A, 2B, 3B(2), 3B(4), 3B(7), 7A(3)(a-d) , and 7A(3)(i-iv).”

Prior to opening statements during the final hearing, counsel for Judge Jacobs made an *ore tenus* motion that the proceedings be dismissed on the basis of the First

Amendment. (T:30 – 37).¹ He clarified that the dismissal sought pertained only to Charge Nos. 1- 5, not Charge No. 6. The Chair denied that *ore tenus* motion, ruling that “at this stage in the proceedings, I think it’s inappropriate to just out of hand dismiss the claims.” (T:41). To obviate the need for Judge Jacobs’ counsel to repeatedly object throughout the final hearing, Judge Jacobs was granted a standing objection on First Amendment grounds. Special counsel for the Investigative Panel acknowledged Judge Jacobs’ First Amendment objection would be considered preserved.

At the conclusion of the JQC’s case-in-chief, Judge Jacobs’ counsel again moved *ore tenus* that the proceeding be dismissed on the basis that she was “absolutely being charged with conduct that is First Amendment protected speech.” (T:271). The Hearing Panel Chair reserved ruling on that motion, finding there were too many factual scenarios presented by the evidence such that he did not believe all of the issues could be resolved “with a broad-brush say[ing] they’re all First Amendment protected speech.” (T:275). After due consideration, the Hearing Panel hereby **denies** that *ore tenus* motion as well.

In *Reiter v. Gross*, 599 So. 2d 1275 (Fla. 1992), the Florida Supreme Court noted that it adopted Florida’s Code of Judicial Conduct in 1973 and that “[t]his

¹ References to the transcript of the final hearing will be designated as (T:___). References to the parties’ respective exhibits admitted into evidence will be designated as FJQC Ex. ____, and Resp. Ex ____).

court has exclusive original jurisdiction to eliminate, change, or modify th[o]se provisions.” *Id.* Enforcing that exclusive original jurisdiction, in *Reiter* the court transferred to itself for disposition a judge’s declaratory judgment action filed in circuit court in which the judge sought to enjoin a pending JQC action against him on the basis that the canon he was alleged to have violated was unconstitutional under the First Amendment. *Id.*

Due to the Florida Supreme Court’s exclusive original jurisdiction, coupled with the limited constitutional mandate of the JQC, it is unclear whether the Hearing Panel has the authority to rule on the constitutionality of a canon. Fla. Cont., art. V., §12(a). Certainly, a ruling by the Hearing Panel on a constitutional challenge to a canon has not been a prerequisite for review in the supreme court. For instance, in *In re Shepard*, 217 So. 3d 71 (Fla. 2017), the Florida Supreme Court addressed Judge Shepard’s First Amendment challenge to Canon 7A(3)(e)(ii) without first requiring that challenge to have been addressed by the JQC in its findings.² *See also Caggiano v. Duval County School Board*, 2025 WL 568466 *3 (Fla. 1st DCA 2025) (finding that an administrative law judge lacked authority to rule on the petitioner’s constitutional free speech claim, but noting that the claim could be asserted for the

² *But see In re Decker*, 212 So. 3d 291, 301 n. 5 (Fla. 2017) (declining to rule on Judge Decker’s constitutional challenge to Canon 7C(3) where “[t]he JQC did not expressly rule on that portion of the charge.”).

first time in a Florida appellate court, provided the record is sufficient to adjudicate the claim.).

The record before this Court is now fully developed. Exercising restraint consistent with its mandate, the JQC Hearing Panel hereby defers to the Florida Supreme Court to adjudicate Judge Jacobs' claim that she may not be disciplined because her speech is protected by the First Amendment.

FINDINGS OF FACT³

1. Judge Nancy Jacobs practiced law for 37 years. She began her legal career in 1985 as an assistant state attorney in Hillsborough County where she practiced for approximately eight years. After entering private practice, most of her practice was in criminal law. (T:497-499; 590).

2. In 2022, she successfully ran for a seat as a Hillsborough County Circuit judge. (T:100; 499).

3. In that election, she defeated the incumbent judge, Judge Jared Smith. Prior to her successful election in 2022, she had run unsuccessfully for the county bench on two other occasions. (T:100). Each time that she ran for the bench, she was required to certify that she read and understood the judicial canons. (T:102).

³ To facilitate review of the Findings of Fact, Findings 1 through 14 are in the nature of background facts, and the remaining Findings are preceded by the counts in the Formal Charges to which they specifically pertain.

4. Judge Jacobs is Jewish and was previously involved in her synagogue for a very long time (T:496, 515).

5. On January 18, 2022, the Second District Court of Appeal issued its opinion in *In Re Petition for Judicial Waiver of Parental Notice and Consent or Consent Only to Termination of Pregnancy, Jane Doe, Appellant*, 333 So. 3d 265 (Fla. 2d DCA 2022) (hereinafter “*Jane Doe*”). In *Jane Doe*, the petitioner, a minor, challenged a final order entered by the circuit court dismissing her petition for judicial waiver of parental consent to an abortion under section 390.01114(6), Florida Statutes (2021). Judge Smith was the presiding judge in the circuit court.

6. The Second District’s decision in *Jane Doe* was covered extensively in the media and became a focal point in the campaign between Judge Smith and Judge Jacobs, particularly among Judge Jacobs’ supporters. (T:396) FJQC Ex. 1; FJQC Ex. 2.

7. As noted in *Jane Doe*, Section 390.01114(6)(c) requires the circuit court to determine whether there is clear and convincing evidence that the minor is sufficiently mature to decide whether to terminate her pregnancy. *Jane Doe*, 333 So. 3d at 270. In making that determination, a circuit court is required to consider several factors, including the petitioner’s age, overall intelligence, and “[a]bility to understand and explain the medical risks of terminating her pregnancy to apply that understanding to her decision.”

8. Following an evidentiary hearing in *Jane Doe*, Judge Smith determined that the “[p]etitioner’s testimony evince[d] either a lack of intelligence or credibility, either of which weigh[ed] against a finding of maturity pursuant to the statute.” *Jane Doe*, 333 So. 3d at 271. Hence, he dismissed Jane Doe’s petition for judicial bypass of parental consent to an abortion.

9. On appeal, the Second District reversed Judge Smith’s order dismissing Jane Doe’s petition. In reversing the dismissal and granting Jane Doe’s petition. A two-judge majority reasoned as follows:

We recognize that section 390.0111(4)(6)(b)2 only permits an appellate court to overturn a circuit’s ruling on appeal if it is based on an abuse of discretion by the circuit court and it “may not be based on the weight of the evidence presented to the circuit court. **Because the statutory factors the circuit court addressed show that the Petitioner met her burden of proof, yet the circuit court denied the petition for reasons not supported by the record, we conclude the circuit court abused its discretion.**

Jane Doe, 333 So. 3d at 272 (emphasis added).

10. In dissenting, Judge John Stargel opined that Judge Smith court had not abused his discretion because there was competent substantial evidence supporting his findings of fact and conclusions of law. *Id.* at 275.

11. There was no hint in the majority or dissenting opinions that Judge Smith’s religious beliefs played any factor in his decision to dismiss Jane Doe’s petition for judicial bypass of consent to an abortion.

12. On May 6, 2022, the Florida Judicial Ethics Advisory Committee (“JEAC”) conducted a judicial campaign conduct forum in Tampa. Judge Jacobs attended that campaign conduct forum as did Judge Smith. Carl Rassler, Judge Smith’s father-in-law, is reflected on the sign-in sheet as having attended that judicial campaign conduct forum as well. FJQC Ex. 11.⁴

13. In 2022, Judge Robert Arias was chair of the elections subcommittee of the JEAC. (T:78-79). Judge Arias made himself available to attendees following the judicial campaign conduct forum in Tampa. Judge Arias testified that Judge Jacobs reached out to him in his capacity as chairman of the elections subcommittee on at least three occasions following the campaign conduct forum in Tampa. (T:78-79). Judge Jacobs likewise testified that she called Judge Arias “all the time” because she “wanted to make sure [she] was okay and doing what [she] was supposed to be doing.” (T:585).⁵

14. During the course of her campaign, Judge Jacobs had a Facebook page called “Nancy Jacobs for Circuit Court Judge, Group 37.” (T:103).

⁴ Judge Jacobs testified that Mr. Rassler approached her at the judicial campaign conduct forum and handed her a note which stated she needed to find Jesus or words to that effect. (T:510-11). She testified that Mr. Rassler approached her at subsequent events and would give her notes or state, “You should find God. You should find Jesus.” (T:512). No witness testified that Judge Smith was aware of his father-in-law’s alleged interaction with Judge Jacobs, and Judge Jacobs did not offer into evidence any of the notes Mr. Rassler allegedly gave her.

⁵ The subject matter of inquiries to the JEAC is confidential. (T:73).

COUNTS 1.a.(i – iii) and 4

15. Counts 1 and 4 are based upon comments that were posted to Judge Jacobs’ campaign Facebook page by supporters of her candidacy.

16. Gretchen Cothron, an attorney who supported Judge Jacobs’s candidacy, posted the following comment on Judge Jacobs’ campaign Facebook page: “*Again, vote Nancy L Jacobs for Judge. We need to get this scary man out.*” FJQC Ex. 15, pp. 26-27; FJQC Ex. 2 (hereinafter “Cothron post”).

17. Rochelle “Shelley” Reback is a retired lawyer who supported Judge Jacobs. Sometime prior to July 19, 2022, Ms. Reback posted the following recommendation on Judge Jacobs’ campaign Facebook page:

It’s election time again! Vote By Mail Ballots will drop on Thurs. July 21st, so here are my voting recommendations for this primary election. My suggestions are, with regard to judges, by my own legal experience, and by any information that I obtain from candidates and from my many friends still in the legal profession.

Circuit Judge, Group 37: Nancy Jacobs. Jacobs’ opponent, Jared Smith, is seeking re-election. Smith is best known as the judge who denied Jane Doe, a Minor, access to abortion services in a judicial bypass proceeding because, he alleged, her GPA and school grades were too low to demonstrate the maturity required to support her request for an abortion. Instead, he ordered her to have a forced birth. Fortunately, his decision was reversed by an appeals court, but thereafter, Smith continued to defend his decision in the press. He also touts his status as a Deacon for Idlewild Baptist Church as a reason to vote for him in his campaign literature. Idlewild is a very

politically active church, and a well-known bastion of conservative, Republican ideology. In judicial forums, Smith has publicly stated that his values come from the Bible and his value system comes from the life of Jesus. At campaign events, his wife asks for Prayer Warriors for his campaign. He's an "Amy Comey Barrett Republican" who believes there's no separation between church and state and apparently, he puts his religion above the rule of law. I believe he personally has a strong anti-abortion perspective that should have required him to recuse himself from the Jane Doe minor's case. His failure to recuse, and his absurd decision in that abortion case, make me question his judgment and integrity as a judge. It is enough reason for me to vote for his opponent, who is well-qualified in her own right. Nancy Jacobs has been a lawyer for almost 40 years, first as an Asst. State Attorney, then in private practice as a criminal defense and family practice lawyer Send Smith back to private practice where his harsh anti-abortion views can do less harm.

FJQC Ex. 1 (hereinafter "Reback post").

18. On July 19, 2022, Judge Jacobs acknowledged Ms. Reback's recommendation and wrote on her campaign Facebook page, "Thanks Shelley Reback for your respected recommendation." (T: 116); FJQC Ex. 1.

19. During her appearance before the Investigative Panel, Judge Jacobs expressed remorse regarding certain aspects of the Reback Post. With respect to Ms. Reback's comment that voters should "*Send Smith back to private practice where his harsh anti-abortion views can do less harm,*" Judge Jacobs testified as follows:

MR. COXE: And what do you consider to be inappropriate posting? Send Smith back to private practice where his harsh antiabortion views can do less harm, end quote; what's wrong with that?

JUDGE JACOBS: **It's just – you know – it just rings of impropriety**, for an attorney – by the way, she's a retired attorney now. She's not practicing anymore. **But to put it mildly, it's rude, it's certainly not provable, and it's an opinion of somebody as opposed to a proven fact**, and it just -- well this is not really relevant, but it's just not nice, period. I mean, that's not – that's not what I do and that's not how I act in my daily life.

See FJQC Ex. 15 at p. 25 (emphasis added).

20. Judge Jacobs testified that she ultimately removed the Reback and Cothron posts, but she did not know the exact date she took them down. (T:117-18).

21. Judge Jacobs acknowledged that irrespective of who posted comments on her campaign's Facebook page, she bore ultimate responsibility to ensure that the content posted was appropriate and within the confines of the judicial canons. (T: 122).

COUNT 2.a.

22. Count 2.a. is predicated on FJQC Ex. 3, a text message Judge Jacobs sent to an individual during the campaign. Judge Jacobs described the individual as “a Black activist in the community” whom she thought “was a friend.” (T:131). In her text message, Judge Jacobs referred to Judge Smith in a disparaging manner, writing:

Well, he is a bigot, an anti Semite and now Julie Holt, Councilman Citro and EJ Salcines have pulled their endorsements because they realize he is not a good person. You have said you are my friend, but you are endorsing a person who hates me and people like me (Jews)

Why are you not endorsing me instead?

FJQC Ex. 3.

23. During her appearance before the Investigative Panel, Judge Jacobs was apologetic for her characterization of Judge Smith in the text message. Her message to the Investigative Panel could not have been clearer:

It was wrong and I should not have said it. **It was a bonehead move, basically.** I understand that the comments may have made Ms. Wilkins feel intimidated.

FJQC Ex. 15, p. 8 (emphasis added). She further testified as follows:

MR. COXE: In the 6(b) notice . . . it says . . . in a text to a supporter of your opponent that your opponent was, quote, a bigot, comma, an anti-Semite, not a good person, hates me, and people like me, end quote. Did you say that?

JUDGE JACOBS: Yes.

MR. COXE: Did you consult with anyone to see if that was permissible in a judicial campaign to say that about your opponent?

JUDGE JACOBS: **No, it was just an emotional response because this particular person was supposedly also supporting me.** She had both signs in the -- in her yard, and she had been a friend previously, and she told me she was supporting me, so when I found that out it was just an emotional response to finding that out.

FJQC Ex. 15, pp. 36-37 (emphasis added).

24. Judge Jacobs was less apologetic and more equivocal when testifying before this Hearing Panel regarding that same text message:

Q. Do you still feel like that was a bonehead move?

A. Well, looking back now. But again, this was supposed to be a private conversation that she [Ms. Wilkins] texted me or it's – well, I guess I texted her

And it wasn't for public consumption, which is – we're not supposed to say things in public as candidates, but this is not for public consumption, this was supposed to be a private text message. And that's basically what it was supposed to be.

Q. You understand, though, Judge, that as a candidate for judicial office, or as a judge, any communication that you have, particularly in writing, with someone is subject to being sent on to the public to see exactly what you said, just like what's happened here?

A. Yes, that's true. **But again it was intended at that point to be a private conversation.**

(T:132-133) (emphasis added).

25. During the final hearing, Judge Jacobs testified that her reason for describing Judge Smith as a “bigot,” “an anti Semite,” and someone “who hates [her] and people like [her] Jews,” stemmed from a video she had seen in which Judge Smith's wife could be seen making comments she considered anti-Semitic while Judge Smith “stood right next to her and continually nodded his head [which] indicate[d] to [her] that “yes, in fact, [Judge Smith] is a bigot and an anti-Semite.”

(T:134). The aforementioned video was admitted into evidence as Resp. Ex. 1 (hereinafter “Video”).⁶

26. Judge Jacobs further testified, “[I]t was clear to [her] without any hesitation that [in] the video that he appears in with his wife that he is a bigot and he is anti-Semitic or at least the remarks **he** made were anti-Semitic.” (T:134) (emphasis added).

27. The Video depicts Judge Smith and his wife addressing an audience at a church during a public event. Although the Video does show Judge Smith nodding his head affirmatively at times as his wife speaks, the only remarks **Judge Smith** made were a closing prayer in which he made no reference to Judge Jacobs. Resp. Ex. 1 (13:43 mark – 14:20 mark). Judge Smith is never heard saying that he hates Judge Jacobs or Jews generally.

28. At one point in the Video, Judge Smith’s wife made the following comments, referring to Judge Jacobs:

So, but one thing that I just want to stress and I’ll stress to the kids too, so we serve a big God and he fights the battle for us. So we don’t smear her back. I have told everyone walking the neighborhood, “you do not talk negative about our opponent. We focus on his merits and why he needs to be in office. Not what’s wrong with her.”

⁶ A transcript of the video was also admitted evidence as part of Resp. Ex 1 (hereinafter “Video Transcript”). See Video Transcript at p. 3.

I tell you what I told you about her, I could tell you a lot more. **Just to give the back story, we pray for her. She needs Jesus. To deny God, and to deny the Bible is a person that's heart is very hard toward God. So we pray for her every day. Jared and I pray for her because, she's our mission.** She's watching to see how do we react to her when she constantly cuts down and maligns and lies and does all the things that she does. So we don't fight back. We let God fight our battles.

See Resp. Ex. 1 (8:39 mark – 9:43 mark).

COUNT 2.b.

29. Count 2.b. is based upon comments Judge Jacobs made during a judicial candidate forum.

30. During the judicial candidate forum, which was hosted by the North Tampa Bar Association, Judge Jacobs stated there were several persons associated with the legal profession, including courthouse personnel, court reporters, and bailiffs, who had negative feelings concerning Judge Smith, but were too afraid to come forward and voice their concerns. (T:136-37).

31. Judge Jacobs testified that those same people “encouraged [her] to run because of their interactions with Judge Smith and the fact that they felt he was not fair and that he was biased against people of either lesser stature than him, different race than him, potentially different religions – I saw that firsthand – of him. But they were too afraid to come forward and say that on their own.” (T:137).

32. When asked by a Panel member during the hearing to identify by name any court personnel who allegedly said anything negative concerning Judge Smith, Judge Jacobs declined. (T:177-78). Under questioning by her own counsel, she reiterated her decision to not divulge that information:

Q. Did you have any discussions with members of the legal community about Judge Smith?

A. Yes.

Q. And you said yesterday you weren't going to share those names. Why is it that you won't to [sic] share those names?

A. Because particularly the non-attorneys that were involved, courthouse personnel, specifically said, "I'm going to tell you this, but don't say anything because I'm afraid." They were afraid of their jobs. And I could understand And I, as a lawyer, just as a human being, if somebody tells me something in confidence and says, "Don't say anything, don't tell anybody," I'm not going to do it, especially in a public forum. That's totally violative of their trust. **I'm not doing it, even if I have to go down for it, I'm not doing it.**

(T: 506-07) (emphasis added).

33. Alicia Whiting-Bozich is a Tampa lawyer who was running for a separate judgeship during the 2022 election cycle. Ms. Whiting-Bozich attended the same candidate forum hosted by the North Tampa Bar Association. Ms. Whiting-Bozich testified that during the candidate forum, Judge Jacobs stated that "nobody at the courthouse likes [Judge Smith], not even the bailiffs" and that "[n]obody

respects him.” She described Judge Jacobs’ remarks as “very disparaging” and “very much personal attacks on [Judge Smith’s] character.” (T:220).

34. Ms. Whiting-Bozich further testified as follows:

BY MR. COXE:

Q. Ms. Whiting-Bozich, after that forum did you call Nancy Jacobs about what she said at that forum?

A. I did.

...

Q. Why did you do that?

A. Because it was really bad. It was probably one of the first events that we were going to have on the campaign trail. I think we had seven or eight, at least, planned events after that. And it was really unprofessional. It was really troublesome

And so I called her to say, “Nancy, you know, hey, look, going forward we were really uncomfortable. It’s just not good. Focus on yourself. Don’t focus on the personal attacks, focus on what you bring to the bench, as opposed to, you know, disparaging Jared and talking about his Bible and things of that nature. It’s just not relevant. And we would appreciate it.

Because we really felt uncomfortable by the whole situation. And I did not want to go through another eight or nine events going through that over and over and over again.

(T:225-27)

35. When addressing the Investigative Panel concerning her remarks at the candidate forum, Judge Jacobs expressed remorse. Specifically, she stated:

At a local judicial forum at a local Bar association, I should never have said anything about bailiffs or other courthouse personnel. I realize that if people had something to say about my opponent, it was for them to say, and not for me. **It was wrong. I apologize for the improper remarks, and I am truly sorry to have said them.**

See JQC Ex. 15, pp. 8-9.

COUNT 2.c.

36. Sometime prior to June 19, 2022, Judge Jacobs posted the following comment in a private Facebook group called “Lawyers and Other Friends”:

To the comments that [Judge] Smith is a fair judge, **that only applies if the litigant looks like him or thinks like him, not if you are minority.**

FJQC Ex. 4; (T:106) (emphasis added).

37. She testified that “Lawyers and Other Friends” was used mostly by lawyers, court reporters, spouses of lawyers, and others who were affiliated with the legal profession. Judge Jacobs testified that she posted her comment in response to another comment that had been posted. (T:106).

38. When questioned during her appearance before the Investigative Panel, Judge Jacobs testified that when she wrote “look[s] like him,” she meant “White, white male.” FJQC Ex. 15, p. 37. She admitted that her comment was inappropriate. FJQC Ex. 15, p. 38. She also admitted that her comment carried the implication that Judge Smith was making unfair decisions based on race. FJQC Ex. 15, p. 94.

39. When asked at the final hearing whether her comment could be interpreted in any way besides “if you’re in the minority Judge Smith will be unfair?,” Judge Jacobs responded:

Well, if you’re in any kind of minority that he may not be fair. You’re not necessarily going to walk in there and know that he’s going to be fair.

(T:109).

40. Judge Jacobs could not testify with certainty whether she ever removed her post that Judge Smith could be fair only “if the litigant looks like him or thinks like him” and was not a minority. (T:110-111).

41. Judge Jacobs’ Facebook post that Judge Smith could not be fair to minority litigants elicited a strong response from Clif Curry, an attorney in the Tampa Bay area, who was part of the Lawyers and Other Friends Facebook group. FJQC Ex. 4.

42. Mr. Curry was a supporter of Judge Smith. (T: 180). On or about June 19, 2022, and in response to Judge Jacobs’ post, Mr. Curry posted the following message in the “Lawyers and Other Friends” Facebook group:

Nancy L. Jacobs, I don’t believe the Canons of Judicial Conduct permit you to make such derogatory and FALSE comments about your opponent. Obviously, Nancy Jacobos IMO [in my opinion] you have no regard for the rule of law or the actual facts. Do yourself and the judiciary a favor and withdraw your candidacy.

FJQC Ex. 4.

43. In response to Mr. Curry’s post, Judge Jacobs posted the following comment:

Cliff Curry The canons allow opponents to speak negatively about the other opponent. I have information indicating these comments are TRUE.

FJQC Ex. 4; (T:110)

44. During her appearance before the Investigative Panel, Judge Jacobs expressed remorse regarding her Facebook comments. Specifically, she stated:

[T]he Facebook comments regarding my opponent and racism and anti-Semitism were wrong and were my opinion, and not actual fact. I am truly sorry for those statement[s]. It was clear error -- it was a clear error in judgment on my part and I’m sorry for saying it.

FJQC Ex. 15, p. 18 (emphasis added).

45. When asked during the final hearing whether she “still fe[lt] that way,” Judge Jacobs receded from her testimony before the Investigative Panel and instead testified:

[B]ased on reflection and time to research the matter and look into First Amendment rights of candidates, judicial candidates, **I would say no, I don’t agree with that any longer.**

(T:110) (emphasis added).

CHARGE NO. 2.d.

46. On August 7, 2022, Judge Jacobs posted the following message on her campaign Facebook page:

Please vote Nancy Jacobs for Hillsborough County Circuit Judge Group 37. Early voting begins tomorrow. Election day is August 23rd. Make your vote count!

Vote as if:

Your parents need medical care

Your spouse is an immigrant

Your land is on fire

Your child is transgender

Your house is flooded

Your sister is a victim of gun violence

Your brother is gay

Your water is unsafe

Because privilege has

no place in an election

but empathy does

FJQC Ex. 5.

47. Judge Jacobs testified that her August 7th “*Vote As If*” post was actually a meme circulating on Facebook that she reposted on her campaign Facebook page. (T: 123). She believed the meme was “perfectly fine” because “it goes to show . . . [that she’s] actually non-biased or being unbiased” and “what you want in a judge

[is] someone who is unbiased and ready to listen to you when you come into court.” (T: 125). She further defended the meme as a “totally incidental post, not designed to get people upset or to think that something’s going to happen to them one way or another if they were to come to [her] courtroom . . . It’s absolutely the opposite.” (T: 127).

48. Judge Jacobs did not believe the meme was “controversial,” but she eventually removed it out of an abundance of caution after someone called and told her, “You know, this could be controversial, you should take it down.” (T: 128).

CHARGE NO. 3

49. During the course of the campaign, Judge Jacobs was endorsed by Florida Planned Parenthood PAC (“Planned Parenthood”). The endorsement was posted on Judge Jacobs’ campaign Facebook page. FJQC Ex. 6. Planned Parenthood is a non-partisan organization whose main interest is the protection of access to sexual reproductive healthcare. (T:374); (T:397).

50. Planned Parenthood ultimately posted a document on its website entitled, 2022 Candidate Endorsements (“Candidate Endorsements List”), which listed statewide and local candidates that Planned Parenthood was endorsing in the 2022 election cycle. FJQC Ex. 7; (T:377). Judge Jacobs was the only judge listed in the Candidate Endorsements List. (T:391).

51. Although Planned Parenthood typically sent questionnaires to candidates in state legislative races before endorsing them, Judge Jacobs did not recall completing a questionnaire for Planned Parenthood (T:528-29). Laura Goodhue, the Executive Director of the Florida Alliance of Planned Parenthood Affiliates, likewise testified she did not believe Judge Jacobs completed a questionnaire. (T:376).

52. The Candidate Endorsements List contains the following verbiage:

These candidates exemplify our ongoing commitment to holding Florida's legislators accountable and ensuring Floridians have access to the full range of reproductive health care, including safe and legal abortion. Every candidate receiving the PAC's endorsement strongly supports medically appropriate and scientifically based health care policies and opposes legislation that limits access to abortion or any form of reproductive health care.

FJQC Ex. 7.

53. Judge Jacobs testified at the final hearing she did not seek the endorsement of Planned Parenthood. (T:140).

54. Judge Jacobs had no involvement in drafting the Candidate Endorsements List nor did Planned Parenthood consult with her in any way regarding the wording in the Candidate Endorsements List. (T: 378-79).

55. Judge Jacobs testified she was not aware of the Candidate Endorsements List until after the JQC charged her with misconduct. (T:170).

56. Ms. Goodhue testified that she was unaware of anyone affiliated with Planned Parenthood having spoken with Judge Jacobs regarding whether she opposed legislation that limited access to abortion or other forms of reproductive healthcare. (T: 379).

57. Judge Jacobs further testified that she understood judicial candidates were permitted to accept endorsements from nonpartisan organizations and that she never committed to anyone about how she was going to rule in any cases that came before her. (T:530).

CHARGE NO. 5

58. Following the election, Judge Jacobs attended an event on March 29, 2023, hosted by the Asian Pacific American Bar Association of Tampa Bay (“APABA”) (T:218-19).

59. Alicia Whiting-Bozich testified that during the APABA event, Judge Jacobs approached her and inquired whether she planned to run again for the bench and specifically told her that she should “go after” and “run against after [Judge] Robert] Fuson.” Ms. Whiting-Bozich testified Judge Jacobs told her, “He’s up for the next election, you need to run against him.” (T:228).

60. Ms. Whiting-Bozich testified that “it was . . . a very awkward conversation” that made her feel “extremely uncomfortable” and that she “switched

the subject and then tried to move [her] way out of the conversation on to something else.” (T:229).

61. While admitting before the Hearing Panel that she spoke to Ms. Whiting-Bozich at the APABA event, Judge Jacobs flatly denied encouraging Ms. Whiting-Bozich to run against Judge Fuson. Rather, she testified that she only asked Ms. Whiting-Bozich a “general question” regarding whether she planned to run again for a judgeship and did not target Judge Fuson. (T:144-45).

62. Judge Jacobs’ testimony before the Hearing Panel is irreconcilable with her prior testimony before the Investigative Panel when she testified as follows:

Paragraph 5 concerns the solicitation of Alicia Whiting Bozitch [sic] [I]t was an Asian Pacific bar event, I believe, at a restaurant – to run against Judge Fuson in the upcoming election. **I did this, I had a discussion with her, and I did specifically discuss her running against Judge Fuson.** It is a violation of Canon 7A.(1)(b) that prohibits judge and judicial candidates from publicly endorsing or opposing candidates for public office.⁷

I’m sorry that I did so, and I take full responsibility, once again, and apologize for my statement. It was an emotional and not thought-out action, and I am sorry and realize that I need to work on thinking before I speak.

⁷ In the Formal Charges, Judge Jacobs was not charged with violating Canon 7A.(1)(b). Hence, the Hearing Panel did not consider that canon as a potential violation.

See FJQC Ex. 15, p.10 (emphasis added). At a later point in the 6(b) hearing, Judge Jacobs admitted the following:

MR. COXE: Do you remember attending the Asian Pacifica American Bar Association event?

JUDGE JACOBS: I do.

MR. COXE: **Did you ask Ms. Bozitch [sic] if she would consider running against Judge Robin Fuson?**

JUDGE JACOBS: **I did.**

MR. COXE: Now, is that in part because you knew Ms. Bozitch [sic] had run for judicial office before so she had some experience in that?

JUDGE JACOBS: Yes.

MR. COXE: **Is it because you didn't like Judge Fuson?**
JUDGE JACOBS: **Yes, I did, I didn't like how he was treating me and I didn't think he acting [sic] properly and that he was a good judge.**

MR. COXE: And did you at the time think there was anything wrong with a sitting judge soliciting a non-judge to campaign and run for office against another sitting judge?

JUDGE JACOBS: I actually hadn't given it thought, any real thought. As I mentioned, we were standing around at this function at the Chinese restaurant and people were talking to each other, and I was talking to her. I didn't plan when I went there that I was going to approach anybody or solicit anybody or even talk about Judge Fuson to anyone. It was just part of a conversation. **And I know it's wrong.** I get that. **As I said earlier, it was a stupid thing to do, it was dumb and I'm sorry I did it.**

See FJQC Ex. 15, pp. 46 – 47 (emphasis added).

63. Judge Fuson testified that he first met Judge Jacobs in late 2017/early 2018 when he was running for a seat on the bench and that since they first met, they have had a “difficult relationship.” (T:199-200). Judge Jacobs similarly testified that she and Judge Fuson do not like each other. (T:151).

CHARGE NO. 6

64. In May 2023, Judge Jacobs was presiding over a family law trial. During that proceeding, she believed one of the lawyers was engaging in bullying and harassing behavior toward both herself and the opposing counsel. (T:146-47). The parties took a recess for lunch, and when the attorney who was being disruptive did not return on time, Judge Jacobs remarked to her bailiff, “Well, maybe we should call the restaurant and see if there’s a fat, bald lawyer there.” (T:147-48) (T:255).

65. Present in the courtroom at the time were Stephanie Koether, counsel for the opposing party, her client, the guardian ad litem, and Judge Jacobs’ bailiff. (T:255).

66. Judge Jacobs testified that her comment was “wrong” and that “it was a stupid thing to do.” (T:147). She lamented that “I was a baby judge basically, and at that point I was on my last nerve with him and how he had been acting all along for months at a time.” (T:147-48). She also testified that the attorney’s conduct,

albeit harassing in her view, did not excuse her obligation to respond appropriately under the circumstances and:

[T]hat's why I said I learned from that. If it's going to be something where I know if it's getting on my last nerve or just, you know, it's a long day, then I'll just take a recess and I just get off the -- I just take a recess for ten minutes and get off the bench, go back to my chambers and start over. That's lesson learned. And it's not a pattern. And it hasn't happened since.

(T:149).

CHARACTER WITNESSES

Three character witnesses appeared on behalf of Judge Jacobs. Gary Dolgin, the first of those witnesses, is a lawyer who has been practicing for approximately 35 years. Mr. Dolgin has known Judge Jacobs professionally for approximately 14 years. (T:406-07). Mr. Dolgin testified that he and Judge Jacobs both ran unsuccessfully in different judicial races in 2020, and he never heard her say anything inappropriate during that campaign nor did he have any concerns regarding her judicial temperament or conduct based on anything he observed. (T:409-10). Mr. Dolgin believes Judge Jacobs is capable of impartiality and fairness; has an appropriate judicial temperament; and is qualified to serve on the bench. (T:419).

Judge Jacobs' second character witness was Rochelle Epstein, the clinical director at a residential detox center. (T:482). Ms. Epstein testified that she and Judge Jacobs have been life-long friends since age 10 and grew up in the same

neighborhood. (T:483). She described Judge Jacobs as someone of integrity and authenticity, who does not act irrationally. (T:486). Ms. Epstein had no concerns regarding Judge Jacobs serving as a judge. (T:487).

Judge Jacobs' third character witness was Judge Nick Nazaretian. Judge Nazaretian serves as a circuit judge in Hillsborough County, currently assigned to the criminal division. (T:460). Judge Nazaretian described himself and Judge Jacobs as friends, but not close friends. (T:462). Because he and Judge Jacobs work in different courthouses, Judge Nazaretian has not had the opportunity to observe Judge Jacobs' behavior as a judge, but is aware that she has always volunteered to help other judges whenever a need arises. (T:465, 479).

In response to a question from the Hearing Panel Chair as to whether he believes Judge Jacobs is fit to serve as a judge, not taking into consideration the charges in this case (of which Judge Nazaretian testified he had little knowledge,) Judge Nazaretian testified:

[S]he is a good family person, cares very deeply about her family, cares very deeply for her animals. We share that. **But to talk about whether she's fit to be a judge, I don't feel as I'm qualified to answer that question.** I'm sorry. And that's no slight against her, I don't feel as I know enough about what happened in this situation to render that decision. I just know what I hear around the courthouse and things like that, so I don't feel as I'm in a position to render that decision.

(T:474) (emphasis added).

CONCLUSIONS OF LAW – SPECIFIC CHARGES

COUNT 1

Count 1 of the Formal Charges alleges as follows:

1. During your 2022 campaign for circuit judge, you had full responsibility for what was posted on your campaign social media accounts, regardless of who made the posts. You did not appropriately monitor your campaign social media account and did not remove inappropriate posts or remove administrators for posting inappropriate content. For example:

a. Your campaign’s social media accounts contained the following statements:

i. He [your opponent] ordered her to have a forced birth.

ii. “Send Smith back to private practice where his harsh anti-abortion views can do less harm.”

iii. “This is the judge who denied a young woman an abortion” and “Again, voter Nancy L. Jacobs for Judge. We need to get this scary man out . . . Beware Jared Smith.

Count 1.a.(i)

The Panel concludes that the statement in subsection a.(i) of Count 1 that “*He [your opponent] forced her to have a forced birth*” does not violate the canons.

Count 1.a.(ii)

The Panel concludes that the phrase “*Send Smith back to private practice where his harsh anti-abortion views can do less harm*” (contained in FJQC Ex. 1) is violative of Canons 7A.(3)(b) (requiring judicial candidates to maintain the dignity

appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary); 7A.(3)(d) (knowingly permitting any person to do for the candidate what the candidate is prohibited from doing under Canon 7); and 7A(e)(ii) (knowingly misrepresenting the identity, qualifications, present position, or other fact concerning an opponent).

Judge Jacobs admitted before the Investigative Panel that the phrase “*Send Smith back to private practice where his harsh anti-abortion views can do less harm,*” is “rude,” “rings of impropriety,” “not provable” and is “an opinion of somebody as opposed to a proven fact.” FJQC Ex. 15, p. 25. Irrespective of who posted comments on her campaign’s Facebook page, Judge Jacobs bore ultimate responsibility to ensure that whatever was posted was appropriate and within the confines of the judicial canons.

Count 1.a.(iii)

Count 1.a.(iii) is based upon FJQC Ex. 2, which is a screenshot from Judge Jacobs’ campaign Facebook page. On the top of the page, an unidentified individual posted, “*More reactions from people in the community. “Beware of Judge Jared Smith!!”*” beneath which is a post by Grethen Cothron, who wrote, “*Again, vote for Nancy L. Jacobs. We need to get this scary man out.*” and beneath that a separate post from Rochelle Reback who wrote, “*This is the judge who denied a young woman an abortion*” and “*Beware Jared Smith.*”

This Panel concludes that the phrases “*Beware Jared Smith*” and “*We need to get this scary man out*” are violative of Canons 7A.(3)(b) (requiring judicial candidates to maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary); 7A.(3)(d) (knowingly permitting any person to do for the candidate what the candidate is prohibited from doing under Canon 7); and 7A(e)(ii) (knowingly misrepresenting the identity, qualifications, present position, or other fact concerning an opponent). Those phrases were undignified; cast Judge Smith in a false light; and had the potential to undermine confidence in the judiciary. *The Florida Bar v. Aven*, 317 So. 3d 1095 (Fla. 2021).⁸

Judge Jacobs testified during the final hearing she did not write the words “*Beware of Judge Jared Smith!!*” at the top of her campaign Facebook page. FJQC Ex. 2; (T:111). As reflected in the following colloquy, more troubling is that she did not know who posted those words on her campaign Facebook page:

[By Brian Coughlin, Special for the Investigative Panel]

Q. Judge, what is the universe of people that had the ability to write things for you on your campaign web page, Facebook page?

A. Well there were people that were either, you know, people who – just the committee. There was a committee,

⁸ Judge Jacobs testified before the Investigative Panel that the phrases “*beware of Judge Smith*” and “*We need to get this scary man out*” were both “inappropriate.” FJQC Exb. 15, p. 27.

you know, when you're running for judge committee in support of. So it could have been one of them, it could have been a campaign advisor.

Q. And you don't know who wrote those words? [referring to "*More reactions from people in the community. Be aware of Judge Jared Smith!!*"]

A. I do not know.

Q. Two-plus years later, you don't know?

A. **No, I do not know.**

Q. How many people could have done it?

A. Eight, ten.

(T:113) (emphasis added).

Judge Jacobs had the sole and nondelegable duty to monitor the content of her campaign Facebook page. She failed in that responsibility and admitted as much before the Investigative Panel.

Although I did not personally write these statements or post them, I take full responsibility for what was written. During the campaign, I was attending events, working my full-time law practice, and attending to the care of my elderly father

As a result I did not spend enough time monitoring the campaign page. In retrospect, I understand that I was responsible for monitoring the page more closely.

FJQC Ex. 15, p. 6. (emphasis added).

COUNT 2

Count 2 of the Formal Charges alleges as follows:

2. You made other inappropriate and disparaging remarks about your campaign opponent. For example:
 - a. During your campaign, you sent a text message to a citizen stating that your opponent was a “a bigot, an anti-semite . . . not a good person . . . hates me and people like me.”
 - b. At the same candidate judicial forum, you claimed that attorneys, bailiffs, clerks, and other courthouse personnel had negative feelings about your opponent and would say negative things but were scared to come forward.
 - c. You claimed your opponent was racist and discriminated against racial or other ethnic minorities or other groups of people. For example, you or representatives of your campaign posted on Facebook, “To the comments that Judge Smith is a fair judge, that only applies if litigants look like him or thinks [sic] like him, not if you are a minority. You later stated that you “have information indicating” your comments were “TRUE” (emphasis in original). You admitted to the Investigative Panel that those statements were “a clear error in judgment,” that you did not have factual data to substantiate those claims, they reflected “your opinion and not actual fact.”
 - d. You or representatives of your campaign wrote on Facebook that voters should “Vote as if: Your skin is not white, your parents are in need of medical care, your spouse is an immigrant .

. . . your child is transgender . . . your sister is a victim of gun violence, your brother is gay.

You have admitted to the conduct and that each violated the Code of Judicial Conduct.

Count 2.a.

The Hearing Panel concludes that Judge Jacobs’ text message in which she referred to Judge Smith as a “*bigot, an anti-Semite,*” “*not a good person,*” and “*a person who “hates [her] and people like [her] (Jews),”*” violates Canons 7A.(3)(b) and 7A.(3)(e)(ii). Judge Jacobs admitted before the Investigative Panel that her text message was an emotional response upon learning that someone she considered a friend was endorsing Judge Smith. FJQC Ex. 15, p. 8. She also admitted that the recipient of the text message could have felt intimidated by the message. *Id.* Judge Jacobs admitted that her description of Judge Smith in the text message was “wrong and [she] should not have said it.” FJQC Ex. 15, p. 8. In her own words, she denounced the text message as a “bonehead move.” *Id.*

The Hearing Panel rejects Judge Jacobs’ explanation that her text message was a fair response to the Video circulating in the community in which Judge Smith’s wife could be seen making comments Judge Jacobs considered anti-Semitic while Judge Smith “stood right next to her and continually nodded his head.” (T: 134). Assuming *arguendo* Judge Smith’s wife’s comments could be attributed to Judge Smith and considered either a personal attack or attack on Judge Jacobs’

record, her “response” still violated Canon 7A(3)(e)(ii).⁹ Tellingly, Judge Jacobs admitted that before the Hearing Panel that:

[T]he statements [in the text message] were not necessarily factual, they were my opinion. And so to th[at] extent . . . it was wrong in that they were my opinion and they weren’t facts, that’s true.

(T:165) (emphasis added).¹⁰

Judge Jacobs’ supposition that the Video, coupled with the derogatory comments Judge Smith’s father-in-law made to her throughout the campaign, were part of a concerted effort to force her to withdraw from the election, did not excuse her strict adherence to the canons. T:516-17. *In re Barnes*, 2 So. 3d 166, 171 (Fla. 2009) (“[N]either the alleged misconduct of others nor the good motives of a judge excuse departure from the guidelines established in the Code of Judicial Conduct.”).

The Hearing Panel also rejects Judge Jacobs’ defense that her text message should be viewed in a more favorable light because the text message was “not for public consumption” and “was supposed to be a private text message.” Canon 7A.(3)(b) provides that a “a candidate for judicial office shall maintain the dignity

⁹ Canon 7A.(3)(f) provides that “[a] candidate for a judicial office may respond to personal attacks or attacks on the candidates record as long as the response does not violate Section 7A(3)(e).”

¹⁰ During the final hearing, several witnesses testified that Judge Smith’s wife’s comments in the Video were offensive to some members of the community. The Hearing Panel does not countenance or otherwise condone such comments.

appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary” Sending an offensive text message, especially one which, in Judge Jacobs’ own estimation, could be deemed as intimidating, is inconsistent with the integrity expected of the judiciary. *Cf. In re: Henderson*, 22 So. 3d 58, 63 (Fla. 2009) (“[E]ven in private life, a judge must strive to enforce high standards of conduct by always personally observing those standards.”).

Count 2.b.

Count 2.b. is based upon comments Judge Jacobs made at a candidate judicial forum in which she stated that persons associated with the legal system had “negative feelings” toward Judge Smith but were afraid to come forward. The Hearing Panel concludes that Judge Jacobs’ comments regarding Judge Smith at the judicial candidate forum were neither factually supported or substantiated and, therefore, violated Canons 7A.(3)(b) and 7A.(3)(e)(ii).

The Florida Supreme Court has previously warned that it takes “misrepresentations that cast a sitting judge in a false light seriously because of their potential to undermine confidence in the rule of law.” *Aven*, 317 So. 3d at 1096. With one limited exception, Judge Jacobs refused to identify any of the twenty

individuals who allegedly told her “negative things” concerning Judge Smith.¹¹ The Panel does not take lightly the following admission Judge Jacobs made during her 6(b) hearing:

At a local judicial forum at a local Bar association, I should have never said anything about bailiffs or other courthouse personnel. I realized that if people had something to say about my opponent, it was for them to say, and not me. **It was wrong.** I apologize for the improper remarks, and I am truly sorry to have said them.

FJQC Ex. 15 at pp 8-9 (emphasis added).

Paragraph 2.c.

Paragraph 2.c. is based upon the post Judge Jacobs made in the “Lawyers and Other Friends” private Facebook group in which she wrote that Judge Smith is a fair judge only “if the litigant looks like him or thinks like him, not if you are a minority.”

FJQC Ex. 4. The Hearing Panel concludes that Judge Jacobs’ criticism of Judge Smith in the “Lawyers and Other Friends” Facebook group violated Canons 7A.(3)(b) and 7A.(3)(e)(ii). In her testimony before the Investigative Panel, Judge Jacobs admitted that her statement violated the canons and implied that Judge Smith was making unfair, raced-based decisions:

MR. WILLIAMS: So turning to . . . a comment I think you indicated you wrote that says . . . I think Judge Smith

¹¹ Judge Jacobs did identify counsel for the petitioner in *Jane Doe* as an attorney who allegedly told her that Judge Smith had been disrespectful, demeaning, and acted with an “air of superiority” in judicial bypass proceedings. She testified that conversation occurred “just previous to [her] actually being a candidate.” (T: 139).

is a fair judge, but that only applies if litigants look like him or thinks [sic] like him, not if you are a minority. Did you write that yourself?

JUDGE JACOBS: I wrote that in a -- what was supposed to be a private Facebook group, in Facebook itself.

MR. WILLIAMS: **Okay. And so, writing that implies of course – and I think you’ll agree with me – that he’s making decisions that are based on race that’s not fair; you agree with that?**

JUDGE JACOBS: **Yes.**

MR. WILLIAMS: Okay. And then you indicate that you have information indicating those comments are true. What is that information you have?

JUDGE JACOBS: I had spoken to lawyers who had appeared in front of him, particularly on this bypass issue, and they had specifically told me that their experiences with him and the clients that they had brought in front of him, who were not white, either they were Asian or African-American or something other than white, or appearing to be white, got treated differently than the others.

MR. WILLIAMS: But those are opinions from others. Do you have any facts or statistics to back this up, not just other people’s opinions about that judge?

JUDGE JACOBS: I mean, I didn’t take them as opinions. They were there; they saw it. Those were their clients when it happened. I don’t have statistics because I don’t think they’re available. I did look, and they’re all Jane Doe cases, and so you couldn’t actually find much out about the case. Certainly you couldn’t find demographic information or anything like that. But I did rely on these attorneys as officers of the court and the fact that they were their clients and they saw them. They were there.

MR. WILLIAMS: All right. So it's your testimony today that because one or several people told you they think the judge's decision was racist in their case that you're okay to then go and refer to that person, a sitting judge, as a racist?

JUDGE JACOBS: I don't think it was right, no. I don't think it was okay?

MR. WILLIAMS: And you acknowledge that that's violation of the Code of Judicial Conduct?

JUDGE JACOBS: I do.

FJQC Ex. 15, pp. 94-96 (emphasis added).

Count 2.d.

Count 2.d. is based upon the “Vote As If” Meme Judge Jacobs posted on her campaign Facebook page (FJQC Ex. 5). The Panel concludes that Judge Jacobs violated Canons 7A.(3)(b) and 7A.(3)(e)(i) by posting the “Vote As If” meme on her campaign Facebook page.

Judge Jacobs testified she had “good intentions” when she posted the meme and all she was intending to convey was that “it doesn't matter who you are, what your standing is, what your beliefs are, that you can come to [her] courtroom, and get a fair shake, due process.” (T:533). Had Judge Jacobs posted exactly that message (*i.e.* one in which she did not *specify* the classes of persons who would receive due process in her courtroom), such a message would not have run afoul of the canons. However, the “Vote As If” Meme did specify the classes of persons who

receive due process in her courtroom and, *ipso facto*, excluded the classes of persons who were not so specified.

Canon 7A.(3)(e)(i) specifically forbids that sort of campaign messaging and states:

A candidate for a judicial office:

(e) shall not

(i) with respect to parties or classes of persons, cases, controversies, or issues that are likely to come before the court make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.

Count 3

Count 3 of the Formal Charges alleges that:

3. During your 2022 campaign, you and your campaign sought and repeatedly promoted the endorsement of your candidacy by the Florida Planned Parenthood PAC. The Florida Planned Parenthood PAC website clearly states that, “Every candidate receiving the PAC’s endorsement strongly supports medically appropriate and scientifically based health care policies and opposes legislation that limits access to abortion or any other form or reproductive health care.” Your use of the Planned Parenthood PAC endorsement appeared to be a commitment to ruling a certain way in cases involving abortion, and cases involving Chapter 390.0114 of the Florida Statutes (“Parental Notice of Abortion Act”). After you were successful in the primary election, the Planned Parenthood PAC tweeted its congratulations to you, stating: “Turns out that ripping autonomy from Floridians is pretty unpopular. Congratulations to Florida Planned Parenthood PAC endorsed candidate, Nancy

Jacobs! Time to get these creeps out of our private medical decisions.”

The Panel concludes there is no clear and convincing evidence that Judge Jacobs’ publication of the Florida Planned Parenthood PAC endorsement ran afoul of the canons.

At some point during the 2022 election cycle, Planned Parenthood issued an endorsement guide on its website entitled 2022 Candidate Endorsements (“Candidate Endorsements List”), which listed statewide and local candidates Planned Parenthood was endorsing in the 2022 election cycle. FJQC Ex. 7. Judge Jacobs was the only judge listed in the Candidate Endorsements List. The Candidate Endorsements Lists contains the following statement:

These candidates exemplify our ongoing commitment to holding Florida’s legislators accountable and ensuring Floridians have access to the full range of reproductive health care, including safe and legal abortion. Every candidate receiving the PAC’s endorsement strongly supports medically appropriate and scientifically based health care policies and opposes legislation that limits access to abortion or any form of reproductive health care.

Although the italicized language ostensibly runs afoul of Canon 7A.(3)(e)(i)’s proscription against judicial candidates making pledges, promises, or commitments that are inconsistent with the impartial performance of their adjudicative duties, there is no clear and convincing evidence that (i) Judge Jacobs was aware of the Candidate Endorsements List posted on Planned Parenthood’s website; (ii) Judge Jacobs, or

anyone associated with her campaign, had any involvement in the preparation of the Candidate Endorsements List; or (iii) Judge Jacobs made any use of the Candidate Endorsements List in her campaign. There was also no evidence that either prior to or after receiving an endorsement from Planned Parenthood that an endorsed candidate was required to agree to the criteria mentioned in the Candidate Endorsement List. (T:389-99).

COUNT 4

Count 4 of the Formal Charges alleges as follows:

4. You inappropriately injected partisan politics into the strictly non-partisan campaign. For example:
 - a. You or representatives of your campaign posted that your opponent “. . . touts his status as a Deacon for Idlewild Baptist Church . . . Idlewild is a very politically active church, and a well-known bastion of Republican ideology.” You also wrote that your opponent is “an Amy Comey Barrett [sic] Republican who believes there is no separation between church and state and apparently, he puts his religion above the rule of law.”

You admitted to the conduct and that it violated the Code of Judicial Conduct.

The Hearing Panel concludes that the statements that Judge Smith is an “*Amy Comey Barrett Republican*” and deacon in a “*politically active church*,” which is described as a “*well-known bastion of Republican ideology*,” standing alone, do not violate the canons. *See In re Woolsey*, 389 So. 3d 411 (Fla. 2024) (noting that “[t]he

statement ‘I am a conservative’ is not partisan, either inherently or . . . when made during an election campaign in a predominantly Republican community” and that “our judicial code does not prohibit a candidate from discussing his or her philosophical beliefs.”). *Id.* (citing *In re Kinsey*, 842 So. 2d 77, 78 (Fla. 2003)).

In contrast, the Panel concludes that the statement that Judge Smith “*believes there is no separation between church and state and apparently, he puts his religion above the rule of law*” does violate Canons 7A.(3)(b) (requiring judicial candidates to maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary); 7A.(3)(d) (knowingly permitting any person to do for the candidate what the candidate is prohibited from doing under Canon 7); and 7A.(3)(e)(ii) (knowingly misrepresenting the identity, qualifications, present position, or other fact concerning an opponent).

As with the comment to “*Send Smith back to private practice where his harsh anti-abortion views can do less harm,*” the Panel concludes that the comment that Judge Smith “*believes there is no separation between church and state and apparently, he puts his religion above the rule of law*” casts him in a false light and had the potential to undermine confidence in the rule of law. *Aven*, 317 So. 3d at 1095-96.

COUNT 5

Count 5 of the Formal Charges alleges as follows:

5. On or about March 29, 2023, while serving as a Circuit Judge of the Thirteenth Judicial Circuit, you attended an event for the Asian Pacific American Bar Association. At this event you solicited a lawyer to run for election against another sitting judge with whom you did not have a good relationship

You have admitted to the conduct and that it violated the Code of Judicial Conduct.

Based on Ms. Whiting-Bozich's testimony, coupled with Judge Jacobs' admissions at the 6(b) hearing, the Hearing Panel concludes that Judge Jacobs specifically encouraged Ms. Whiting-Bozich to run against Judge Robin Fuson, one of Judge Jacobs' colleagues, with whom she had a poor relationship. In doing so, Judge Jacobs violated Canons 1 (requiring her to maintain high standards of conduct) and 2A. (requiring her to act at all times in manner that promotes public confidence in the integrity and impartiality of the judiciary).

"The clear and convincing standard of proof, while very high, permits a decision in the face of inconsistent or conflicting evidence." *In re Henson*, 913 So. 2d 579, 592 (Fla. 2005) (quoting *In re: Guardianship of Schiavo*, 780 So. 2d 176, 179 (Fla. 2d DCA 2001)). The Panel finds the evidence clear and convincing that Judge Jacobs specifically encouraged Ms. Whiting-Bozich to challenge Judge Fuson in the upcoming election. Ms. Whiting-Bozich testified credibly and without

confusion that Judge Jacobs told her to “go after” Judge Fuson. The Panel also considered the testimony from both Judge Jacobs and Judge Fuson that they mutually disliked each other.

The Hearing Panel concludes that Judge Jacobs’ testimony at the final hearing when she denied encouraging Ms. Whiting-Bozich to run against Judge Bozich is not credible and is belied by her prior testimony before the Investigative Panel.

COUNT 6

Count 6 of the Formal Charges alleges as follows:

6. While a sitting judge, during a recess in your courtroom, you discourteously referred to a lawyer appearing before you as a “fat, balding” man. This comment was made in front of courthouse personnel and opposing counsel while the attorney was not present.

You have admitted to the conduct and that it violated the Code of Judicial Conduct.

Judge Jacobs does not contest Count 6 of the Formal Charges and expressed regret for her behavior. The Hearing Panel concludes that this conduct violated Canon 1, Canon 2.A., and Canon 3B.(4) (requiring judges to be patient, dignified, and courteous to litigant, jurors, witnesses, lawyers, and others with whom judges deal in an official capacity).

RECOMMENDATION OF DISCIPLINE

The law is well-settled that “[t]he object of disciplinary proceedings is not for the purpose of inflicting punishment, but rather to gauge a judge’s fitness to serve as an impartial officer.” *In re: McMillan*, 797 So. 2d 560, 571 (Fla. 2001) (citing *In re: Kelly*, 238 So. 2d 565, 569 (Fla. 1970)). “The standard of fitness to hold office calls for an examination of misconduct from two perspectives: its effect on the public's trust and confidence in the judiciary as reflected in its impact on the judge's standing in the community, and the degree to which past misconduct points to future misconduct fundamentally inconsistent with the responsibilities of judicial office.” *In re Sloop*, 946 So. 2d 1046, 1055 (Fla. 2006); *see also In re Murphy*, 181 So. 3d 1169, 1177 (Fla. 2015).

The Court has considered “present fitness” from a different vantage point where the misconduct at issue involves campaign violations in the course of seeking judicial office. *See, e.g., In re McMillan*, 797 So. 2d at 573 (“[T]o allow someone who has committed such misconduct during a campaign to attain office to then serve the term of the judgeship obtained by such means clearly sends the wrong message to future candidates; that is, the end justifies the means and, thus, all is fair so long as the candidate wins.”).

The Court’s decision in *In re Santino*, 257 So. 3d 25 (Fla. 2018) is instructive. Among other misrepresentations, Santino’s judicial campaign committee sent email

addressed to potential voters which touted her experience as a probation officer and victim services advocate for victims of rape, homicide, and domestic violence while contrasting her opponent's legal experience as "limited to criminal defense – representing murderers, rapists, child molesters, and other criminals." *Id.* at 31. Santino won the election and took office. A JQC inquiry soon followed, which ultimately concluded with a recommendation that she be removed from office.

In considering the JQC's recommendation that Santino be removed from office and the effect of her conduct on public trust in the judiciary, the Court noted:

Santino's numerous statements during the campaign evidenced a bias against criminal defendants, toward whom she imputed guilt; against criminal defense attorneys, whom she implied had some character fault because they "choose" to represent criminal defendants; and in favor of victims whom she worked to protect during her career. Such statements are sufficient to create fear on the behalf of criminal defendants -- who are entitled to a presumption of innocence under the basic tenets of our criminal justice system – that they would not receive a fair trial or hearing.

Id. at 35-36.

Harkening back to its previous admonitions in judicial campaign conduct cases, the Court further stated:

Simply stated, Santino's conduct does not evidence a present fitness to hold judicial office. It is difficult to allow one guilty of such egregious conduct to retain the benefits of those violations and remain in office. *Alley*, 699 So. 2d at 1370. . . . We refuse to endorse a "win-at-all-costs-and-pay-the-fine-later" strategy," especially in

light of our past warnings and stated intolerance for the kinds of campaign violations at issue here . . . Moreover, if this Court imposed a suspension, it would send a message to all attorneys campaigning for judicial office that they may commit egregious violations of Canon 7 during their campaigns and, if they win, a suspension or fine will be the only result. They will be allowed to reap the benefits of their misconduct by continuing to serve the citizens of this state. This we cannot condone.

Santino, 257 So. 3d at 36.

The supreme court has previously “concluded that a judge should be removed if he or she ‘commits a grievous wrong which should erode confidence in the judiciary,’ independent of its actual public impact.” *In re LaMotte*, 341 So. 2d 513, 518 (Fla. 1977). In the specific context of judicial campaigns, the supreme court has repeatedly warned that “**[a] judicial candidate who knowingly misrepresents any fact concerning the candidate or an opponent necessarily intends to mislead the public concerning the judicial election**, thus undermining the public’s confidence in the integrity of the judiciary.” *In re: Shepard*, 217 So. 3d 71, 78 (Fla. 2017) (citing *In re Renke*, 933 So. 2d 482, 495 (Fla. 2006) (emphasis added)).

Here, Judge Jacobs, by her own statements, mounted a campaign in which she denigrated the incumbent as a “bigot,” “not a good person,” and someone who hates Jews. She also disparaged the incumbent by implying he was racist and incapable of being fair to persons who did not look or think like him. She amplified her own disparaging remarks by failing to adequately monitor her campaign Facebook page,

which contained additional improper remarks from her supporters. We conclude that Judge Jacobs' campaign misconduct necessarily eroded the public's confidence in the integrity of the judiciary.

Although the Panel concludes that Judge Jacobs' campaign misconduct eroded public confidence in the integrity of the judiciary, her post-election misconduct must also be considered when weighing her present fitness to serve. In past cases involving Canon 7 violations coupled with post-election misconduct, the supreme court has consistently found that removal was appropriate. For instance, in *McMillan*, in addition to Judge McMillan's Canon 7 violations based on his misrepresentations of the incumbent judge's record, he was also found to have violated the canons when he presided over the first appearance of a case in which he had a clear conflict of interest. *McMillan*, 797 So. 2d at 570-71. While acknowledging the severity of Judge McMillan's campaign violations, the supreme court highlighted that Judge McMillan's misconduct "**after he became a judge also places this case in a different category**" and that the "**combined effect of the proven misconduct**" demonstrated his lack of fitness for office. *Id.* at 573 (emphasis added).

Similarly, Judge Jacobs' misconduct did not cease when she took the bench. Less than 3 months after assuming the bench, she again violated the canons by soliciting a lawyer to run against a sitting judge with whom she did not have a good

relationship. While others were in her courtroom during a recess in a proceeding, she also violated the canons by referring to one of the lawyers in a rude and intemperate manner. Here, as in *McMillan*, the combined effect of Judge Jacobs' misconduct demonstrates her present unfitness for office. *See also In re DuPont*, 252 So. 3d 1130, 1143 (Fla. 2018) (“Based on the misrepresentations Judge DuPont made during his campaign to attain his office as well as the other instances of misconduct during his time in office, we conclude that Judge DuPont has demonstrated a present unfitness to hold office and approve the recommended discipline of removal from office.”).

The Hearing Panel has considered all of the evidence in mitigation presented by Judge Jacobs (character witnesses, character letters, and letters of apology) and finds that none of that evidence overcomes the cumulative effect of her grievous misconduct. The Hearing Panel is particularly troubled by Judge Jacobs' lack of remorse, as evidenced by her testimony before the Investigative Panel, where she expressed remorse and accepted responsibility, juxtaposed to her testimony before this Panel where she either contradicted or receded from that testimony. *Cf. In re Davey*, 645 So. 2d 398, 405 (Fla. 1994) (“Where a judge admits wrongdoing and expresses regret before the Commission, this candor reflects positively on his or her present fitness to hold office and can mitigate to some extent a finding of misconduct.”). Accordingly, based on clear and convincing evidence, the Panel

reluctantly, but of necessity, concludes that removal is the only appropriate discipline warranted by the circumstances.

All of the Hearing Panel's findings are supported by clear and convincing evidence. The votes of the Hearing Panel on guilt, as well as the recommended discipline, have been determined by an affirmative vote of at least two-thirds of the Hearing Panel members in compliance with Fla. Const., Art V., §12(b), FJQC Rule 19.

DONE and **ORDERED** this 30th day of April, 2025.

FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION

By: /s/ Gregory W. Coleman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING PANEL, FLORIDA JUDICIAL QUALIFICATIONS COMMISSION** has been served through the Florida E-Filing Portal on **RYAN D. BARACK, ESQ.**, Kwall Barack Nadeau PLLC, 304 S. Belcher Rd., Suite C, Clearwater, FL 33765, rbarack@employeeights.com,

jackie@employeerights.com; **MICHELLE ERIN NADEAU, ESQ.**, Kwall Barack Nadeau PLLC, 304 S. Belcher Rd., Suite C, Clearwater, FL 33765, mnadeau@employeerights.com, jackie@employeerights.com; **HENRY M. COXE, III, ESQ.**, Bedell, Ditmar, DeVault, Pillans & Coxe, P.A., 101 East Adams St., Jacksonville, FL 32202, hmc@bedellfirm.com; **BRIAN T. COUGHLIN, ESQ.**, Bedell, Ditmar, DeVault, Pillans & Coxe, P.A., 101 East Adams St., Jacksonville, FL 32202, btc@bedellfirm.com; **ALEXANDER J. WILLIAMS, ESQ.**, Florida Judicial Qualifications Commission, P.O. Box 14106, Tallahassee, FL 32317, awilliams@floridajqc.com; **LAURI WALDMAN ROSS, ESQ.**, Lauri Waldman Ross, P.A., 1172 S. Dixie Highway, #603, Coral Gables, FL 33146, lauri@laurilaw.com; and **BLAN L. TEAGLE, ESQ.**, Florida Judicial Qualifications Commission, P.O. Box 14106, Tallahassee, FL 32317, bteagle@floridajqc.com. on this **30th** day of April, 2025.

/s/ Lansing C. Scriven
Co-Counsel to Hearing Panel, FJQC