

VIA FAX (850) 488-9810
Email and First Class Mail

June 29, 2010

Mr. Erik M. Figlio, General Counsel
Executive Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399

RE: Complaint against Chris A. Barker, Thirteenth Circuit JNC

Dear Mr. Figlio,

Thank you for your letter and enclosure of June 22, 2010 informing me that the Chief Inspector General has concluded its investigation of my complaint against Mr. Barker. I also thank your predecessor Mr. Robert Wheeler for having the integrity to appoint Chief Inspector General Melinda Miguel to investigate this matter. Her efforts and those of Deputy Inspector General Dawn E. Case and DBPR Inspector General Ned Luczynski were of the highest level of professionalism and courtesy.

What happens at this point? Mr. Wheeler's email to the parties March 4, 2010 stated "After the report is issued, this office will hold a hearing so that the parties can present any additional evidence or argument." A copy of the email accompanies this letter.

Otherwise here are my comments:

The Chief Inspector General has concluded its investigation into my complaint against Mr. Barker with a finding of "unfounded" (page 2, Overall Conclusion; page 8, Findings) and made the following recommendation: "It is recommended that the Commission consider expanding the current practice of disclosing conflicts of interest and obtaining recusals from the process to include a written disclosure and written documentation of the recusal for each selection process." (page 15)

The Chief Inspector General said the "Evidence supports that Mr. Barker has not been able to participate fully in Commission activities during those occasions when Mr. Rodems applied for judicial vacancies in the Thirteenth Judicial Circuit." (page 8, ¶4) The Findings show conflicting testimony: "Although testimony is conflicting as to whether Mr. Barker's recusal was from all duties and responsibilities of the Commission on those occasions when Mr. Rodems applied for a Judicial Vacancy, all Commissioners testified that Mr. Barker recused himself entirely from any activities concerning Mr. Rodems." (page 8, ¶2). The witness testimony of Mr. Bajo shows "[h]e could not recall any other current Commission member who has had to recuse themselves because of a conflict with a law partner, and Mr. Barker's recusal just means that there is a little more work for the other Commissioners but that it is not a hardship." (page 9, ¶5, to page 10)

The Findings reported that "Both Mr. Barker and Mr. Rodems denied that Mr. Barker provided information to Mr. Rodems about the judicial selection process." In my opinion this part of the inquiry is not credible in view of their personal and professional relationship of at least 17 years. Mr. Barker and Mr. Rodems may have told that to the investigator, but in my view it is either false, nuance, or word parsing. In my ten year experience with Mr. Barker and Mr. Rodems, they are unable to conduct themselves honestly when it involves matters of conflict and their behavior.

I found the statement of Ms. Barbara Wilcox credible. She is a nonlawyer member of the JNC. Ms. Wilcox agreed with me that this situation has brought discredit on the process. "When asked if she believed that Mr. Barker's recusal due to his potential conflict of interest has brought discredit to the Thirteenth Judicial Nominating Commission, Ms. Wilcox said "yes" adding that it was starting to look that way." (page 12, ¶5).

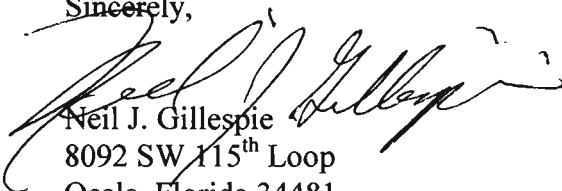
Mr. Barker did not attend the last set of JNC interviews held June 15, 2010 due to conflict with Mr. Rodems who applied for the vacant circuit judge position previously held by Judge Black. I attended the interviews as a member of the public. Mr. Rodems was one of six applicants nominated. Within a week I will forward to you a detailed letter about those interviews which I covered from start to finish for my justice network. In my view there were three better qualified applicants and I will set forth the reasons in my letter.

As for the Chief Inspector General's conclusion, I do not agree with it but think they did a good job with the information available. I agree with Ms. Wilcox that Mr. Barker's recusal due to his potential conflict of interest has brought discredit to the JNC. In my opinion the Governor should remove Mr. Barker from the commission, and I will provide information from the last set of JNC interviews held June 15, 2010 to support removal.

The recommendation of the Chief Inspector General should be implemented. "It is recommended that the Commission consider expanding the current practice of disclosing conflicts of interest and obtaining recusals from the process to include a written disclosure and written documentation of the recusal for each selection process."

Thank you, the Governor, and the Chief Inspector General for investigating my complaint in a professional manner.

Sincerely,


Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

cc: Ms. Melinda Miguel, Chief Inspector General (by email only)
cc: Mr. Pedro F. Bajo, Jr., Chair, Thirteenth Circuit JNC (by email only)
Enclosure

Neil Gillespie

From: "Wheeler, Rob" <Rob.Wheeler@eog.myflorida.com>
To: <neilgillespie@mfi.net>; <cbarker@barkerrodemsandcook.com>; <pedro.bajo@akerman.com>
Sent: Thursday, March 04, 2010 10:49 AM
Subject: JNC Complaint against Barker and Bajo

This correspondence memorializes my recent telephone conversations with Mr. Gillespie, Mr. Barker and Mr. Bajo regarding Mr. Gillespie's JNC Complaint against Mr. Barker and Mr. Bajo.

Mr. Gillespie had withdrawn his complaint against Mr. Bajo.

The Governor's Chief Inspector General will conduct an investigation of Mr. Gillespie's allegations against Mr. Barker. The investigation is anticipated to take between 45 – 60 days. The Chief Inspector General will issue a report of the investigation that contains findings and fact and conclusions. After the report is issued, this office will hold a hearing so that the parties can present any additional evidence or argument.

All parties have agreed to waive the requirement provided by the rules that "[a]ction shall be taken within 60 days of receipt of any written complaint . . ."

Thanks to all for your cooperation.

Robert R. Wheeler
General Counsel
Executive Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399
Phone: 850-488-3494
Fax: 850-488-9810
Rob.Wheeler@myflorida.com