

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

August 10, 2010

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

RE: Better qualified applicants, June 15, 2010 JNC interviews

Dear Mr. Figlio:

This is a follow-up to my letter of August 3, 2010. Mr. Bajo has provided the application of Mr. Rodems dated April 29, 2010 for the vacancy of Judge Black. Mr. Bajo also responded to my questions about the financial history portion of the application. Based on that information it appears that the application of Mr. Rodems is not complete. The press release of April 27, 2010 announcing the vacancy of Judge Black states "Applications that are not complete will not be considered." This is further evidence that not only were there better qualified applicants than Mr. Rodems, but that his application¹ may not have been complete and therefore should not have been considered.

Mr. Rodems' responses of April 29, 2010 to the financial history questions are the same as on his earlier application(s). For question 1 Mr. Rodems answered that his gross income earned, or losses he incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period was the following:

2008 - \$164,272; 2007 - \$130,000; 2006 - \$237,873

For question 2 Mr. Rodems answered that his net income earned, or losses he incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period was the following:

2008 - \$164,272; 2007 - \$130,000; 2006 - \$237,873

As noted earlier, Mr. Rodems' gross income and net income reported are identical for the respective years. This is incredulous since the amounts do not account for any expenses.

¹ As noted in my letter of August 3, 2010, regarding the business involvement questions 33a through 33c, Mr. Rodems failed to disclose his involvement with BRC Properties, LLC, which according to its articles of organization filed with the Florida Secretary of State was "organized to engage in the business of real estate ventures and to transact any lawful business for which a limited liability company may be organized under the laws of the State of Florida. Under article 9 Mr. Rodems is listed as secretary.

In an email to me August 3, 2010 (7:46 PM) Mr. Bajo wrote (relevant portion) "I would think if an applicant was employed by a professional association and drew a paycheck from that association that the gross and net income figures could be the same because the figures would be derived from the paychecks and any associated losses or expenses would be the professional association's losses or expenses and not necessarily a particular applicants losses or expenses."

Mr. Rodems is employed by a professional association. If his reported income is derived from a paycheck or salary drawn from the professional association and does not include the gross income and net income of the professional association, then he has not fully answered questions 1 and 2 and his application is not complete.

Question 1 requires the applicant to "State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field." The operative words are "state the amount of gross income...and include...salary...". The applicant's salary alone is not a full response to question 1 if the applicant is a member of a professional association.

Likewise with question 2 (relevant portion) "state the amount of net income...and include...salary ...". The applicant's salary alone is not a full response. When calculating gross income and net income, an applicant's salary is only one component if the applicant is a member of a professional association.

In an email to me August 5, 2010 (11:12 AM) Mr. Bajo wrote (relevant portion) "My recollection of the Financial History section is that if an applicant chooses to attach tax returns rather than answering the questions, copies of a P.A.'s tax is also requested. If the applicant chooses to answer the questions, the applicant is requested to provide his or her personal gross and net income figures, not the P.A.'s. I would expect that the P.A.'s income and losses being included could become unwieldy because of the inclusion of various individuals income(s), the effect of depreciation etc. That is just my personal opinion and not a formal position of the JNC one way or the other."

Mr. Bajo's response raises a question as to whether an applicant in a professional association, when reporting gross income and net income, can provide only the salary drawn from the professional association and not the gross income and net income of the professional association. Clearly an applicant can report a single number without "the inclusion of various individuals income(s), the effect of depreciation etc." since the question asks for a single number, not supporting calculations. Since the reporting requirements when providing tax returns (in lieu of answering the questions) requires the tax return of the professional association, it would be inconsistent not to require the gross income and net income of the professional association when answering the questions.

In addition, questions 1 and 2 require that "This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field." Mr. Rodems' application shows amounts for 2006, 2007 and 2008. He failed to include the amounts for 2009. Mr. Rodems also failed to provided year to date information.

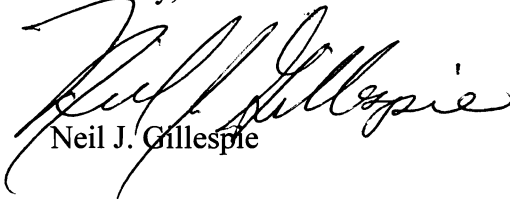
In my letter of August 3, 2010 I wrote "Mr. Rodems' responses to questions 3 and 4 raise more questions. It is doubtful that Mr. Rodems, who reported income ranging from a high of \$237,873 (2006) to a low of \$130,000 (2007) has no additional income other than for the year 2006 where he reported \$1,526.24 as an adjunct instructor. No investment income? Not even bank account interest? This is not credible for someone earning this level of income."

In my view whether or not Mr. Rodems answered the financial history questions fully and honestly is important since all of Mr. Rodems' formal complaints of misconduct involve accusations of financial dishonesty, former clients accusing him of overcharging in contingent fee cases. My lawsuit against Mr. Rodems' firm and partner alleged fraud and breach of contract in a contingent fee case.² Mr. Rodems' libel counterclaim against me relates to my letter about his firm's fraud and breach of contract in a contingent fee case.³ If Mr. Rodems has not fully disclosed his finances to the JNC it goes to a pattern of dishonesty in financial matters.

On another matter, in my letter to you of July 19, 2010 I wrote "My notes show that applicants who described bad behavior by judges to the JNC may be nominated at a rate lower than applicants who did not described bad behavior by judges to the JNC. I do not think this is an intentional result by the JNC in making the inquiry." Since I wrote that statement events have occurred that cause me to reconsider why the JNC asked applicants if they had seen behavior from a judge in court that was unprofessional. In my opinion it is possible that this question is used as a screening tool to eliminate applicants critical of sitting judges, to ensure that nominees, if appointed, will be team players and look the other way if they see another judge engage in misconduct.

Thank you for your consideration.

Sincerely,



Neil J. Gillespie

² Mr. Rodems failed to fully answer question 36a, "Have you ever been sued by a client? If so, give particulars including name of client, date suit filed, court, case number and disposition." Mr. Rodems responded "My law firm was sued by a former client, and I am defending the lawsuit." Mr. Rodems failed to give particulars including name of client, date suit filed, court, case number.

³ Mr. Rodems failed to disclose on his application that he filed a libel counterclaim against a client.

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Enclosure, page 21, Financial History, Mr. Rodems' application dated April 29, 2010

*Due to past issues with harassing email sent to me by Mr. Rodems, I only communicate with Barker, Rodems & Cook and its lawyers by fax, postal letter, or equivalent.

FINANCIAL HISTORY

In lieu of answering the questions on this page, you may attach copies of your completed Federal Income Tax Returns for the preceding three (3) years. Those income tax returns should include returns from a professional association. If you answer the questions on this page, you do not have to file copies of your tax returns.

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

2008 -- \$164,272; 2007 -- \$130,000; 2006 -- \$237,873

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

2008 -- \$164,272; 2007 -- \$130,000; 2006 -- \$237,873

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

2008 -- None; 2007 -- None; 2006 -- \$1,526.24, Adjunct Instructor, Hillsborough Community College

4. State the amount of net income you have earned or losses incurred (after deducting expenses) from sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

2008 -- None; 2007 -- None; 2006 -- \$1,526.24, Adjunct Instructor, Hillsborough Community College