

Neil Gillespie

From: "Amy Hasselbring" <ahasselbring@bowenschroth.com>
To: <neilgillespie@mfi.net>
Cc: "Derek Schroth" <dschroth@bowenschroth.com>
Sent: Monday, April 25, 2016 10:41 AM
Attach: Application Choung Mi Lim Akehurst.pdf
Subject: JNC Application - Akehurst

Mr. Gillespie,

Attached is the application of Choung Mi Lim Akehurst. Thanks.

Amy McCain Hasselbring
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Legal Assistant to Derek A. Schroth
Bowen & Schroth, P.A.
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APPLICATION FOR NOMINATION TO THE CIRCUIT COURT

(Please attach additional pages as needed to respond fully to questions.)

DATE: October 1, 2015 Florida Bar No.: 525227

GENERAL: Social Security No.: [REDACTED]

1. Name Choung Mi Lim Akehurst E-mail: cmakehurst@outlook.com

Date Admitted to Practice in Florida: September 21, 2001

Date Admitted to Practice in other States: _____

2. State current employer and title, including professional position and any public or judicial office.

The Fifth Judicial Circuit, Trial Court Law Clerk

3. Business address: 110 N. Apopka Avenue

City Inverness County Citrus State FL ZIP 34450

Telephone (352) 341-7005 FAX (352) 341-6792

4. Residential address: 40023 French Road

City Lady Lake County Lake State FL ZIP 32159

Since November, 2004 Telephone (352) 750-1228

5. Place of birth: Seoul, South Korea

Date of birth: 07/12/1968 Age: 47

6a. Length of residence in State of Florida: 21 years

6b. Are you a registered voter? Yes No

If so, in what county are you registered? Lake

7. Marital status: Married

If married: Spouse's name Steven Raynor Akehurst

Date of marriage June 3, 1994

Spouse's occupation Department Chair

If ever divorced give for each marriage name(s) of spouse(s), current address for each former spouse, date and place of divorce, court and case number for each divorce.

8. Children

<i>Name(s)</i>	<i>Age(s)</i>	<i>Occupation(s)</i>	<i>Residential address(es)</i>
Stephanie Akehurst	15	Student	40023 French Road Lady Lake, FL 32159
Taite Akehurst	10	Student	40023 French Road Lady Lake, FL 32159

9. Military Service (including Reserves)

<i>Service</i>	<i>Branch</i>	<i>Highest Rank</i>	<i>Dates</i>
Rank at time of discharge _____		Type of discharge _____	
Awards or citations _____			

HEALTH:

10. Are you currently addicted to or dependent upon the use of narcotics, drugs, or intoxicating beverages? If yes, state the details, including the date(s).

No

11a. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism?

Yes No

If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.]

Please describe such treatment or diagnosis.

11b. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner?

- Experiencing periods of no sleep for 2 or 3 nights
- Experiencing periods of hyperactivity
- Spending money profusely with extremely poor judgment
- Suffered from extreme loss of appetite

- Issuing checks without sufficient funds
- Defaulting on a loan
- Experiencing frequent mood swings
- Uncontrollable tiredness
- Falling asleep without warning in the middle of an activity

Yes No

If yes, please explain.

12a. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner?

Yes No

12b. If your answer to the question above is Yes, are the limitations or impairments caused by your physical or mental health impairment reduced or ameliorated because you receive ongoing treatment (with or without medication) or participate in a monitoring or counseling program?

Yes No

Describe such problem and any treatment or program of monitoring or counseling.

13. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, give full details as to court, date and circumstances.

No

14. During the last ten years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal law provisions.)

No

15. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs or illegal use of drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No

16. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.

No

17. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

No

EDUCATION:

18a. Secondary schools, colleges and law schools attended.

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
University of South Florida		8/2014-Present	MPA
University of Turin/UNICRI		11/2008-07/2009	LLM
Steteson University College of Law		05/1997-12/1999	JD
New York University		09/1986-12/1992	BA

18b. List and describe academic scholarships earned, honor societies or other awards.

Graduated Cum Laude in LLM program.

NON-LEGAL EMPLOYMENT:

19. List all previous full-time non-legal jobs or positions held since 21 in chronological order and briefly describe them.

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>
2001-2002	Director, Satellite Office	Community Mediation Services,	8964 163 rd Street, Jamaica, NY 11432

		Inc.	
1995-1997	Legal Word Processor	Stetson University College of Law	1401 61st Street S., Gulfport, Florida 33707
1994-1995	Insurance Biller	Mid-County Dental Center	2700 E. Bay Drive, #106 Largo, Florida 33771
1990-1994	Assistant Office Manager	Woodside Dental Center	3973 61 st Street, Flushing, NY 11377

PROFESSIONAL ADMISSIONS:

20. List all courts (including state bar admissions) and administrative bodies having special admission requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have been suspended or resigned.

<i>Court or Administrative Body</i>	<i>Date of Admission</i>
United States District Court for the Middle District of Florida	November 5, 2008

LAW PRACTICE: (If you are a sitting judge, answer questions 21 through 26 with reference to the years before you became a judge.)

21. State the names, dates and addresses for all firms with which you have been associated in practice, governmental agencies or private business organizations by which you have been employed, periods you have practiced as a sole practitioner, law clerkships and other prior employment:

<i>Position</i>	<i>Name of Firm</i>	<i>Address</i>	<i>Dates</i>
Trial Court Law Clerk	Fifth Judicial Circuit	110 North Apopka Avenue, Inverness, FL 34450	06/2010-Present
Contract Attorney	Millhorn Law Firm	13710 US Hwy 441, The Villages, FL 32159	09/2009-06/2010
Associate Attorney	Reed & Archer, LLC	No longer active	05/2008-02/2009
Senior Attorney	Department of Children and Families	1601 W. Gulf Atlantic Hwy, Wildwood, FL 34785	06/2004-05/2008
See attached for additional practice.			

22. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your

typical clients or former clients and the problems for which they sought your services.

Currently, my position as Trial Court Law Clerk is to assist the judges by performing legal research and writing. This is substantially different from my work in private practice and working for state agencies. My prior practices included criminal, civil, probate, guardianship, juvenile, family law and bankruptcy. In private practice, my typical clients needed assistance with dissolution of marriage and modification of dissolution of marriage. These clients were seeking assistance with initiating a dissolution of marriage with children. Additionally, clients were seeking to modify final judgments of dissolution of marriage due to change in circumstances. Issues for modification included parenting plans, time-sharing, enforcement of equitable distribution, child support, and spousal support. Other clients included people needing assistance with establishing guardianships for family members. Small number of past clients needed assistance with defending against credit card debts, foreclosures, and filing bankruptcies. Meanwhile, my practice in the public sector included criminal prosecution and defense; and juvenile dependency.

23. What percentage of your appearance in courts in the last five years or last five years of practice (include the dates) was in:

Court		Area of Practice	
Federal Appellate	<u>0</u> %	Civil	<u>25</u> %
Federal Trial	<u>0</u> %	Criminal	<u>25</u> %
Federal Other	<u>0</u> %	Family	<u>10</u> %
State Appellate	<u>0</u> %	Probate	<u>5</u> %
State Trial	<u>100</u> %	Other	<u>10</u> %
State Administrative	<u>0</u> %		
State Other	<u>0</u> %		
	<u> </u> %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

24. In your lifetime, how many (number) of the cases you have tried to verdict or judgment were:

Jury?	<u>2</u>	Non-jury?	<u>5</u>
Arbitration?	<u>0</u>	Administrative Bodies?	<u>0</u>

25. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No

26. In the last ten years, have you failed to meet any deadline imposed by court order or

received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain in full.

No

(Questions 27 through 30 are optional for sitting judges who have served 5 years or more.)

- 27a. For your last 6 cases, which were tried to verdict before a jury or arbitration panel or tried to judgment before a judge, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases).

I have not had a jury trial since 2002 and do not have the name of the case. However, it was a misdemeanor driving under the influence case in Seminole County, Florida and opposing counsel was the Office of the Public Defender.

- 27b. For your last 6 cases, which were settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases).

I have not participated in mediation as an attorney since 2009 therefore I do not have any information.

- 27c. During the last five years, how frequently have you appeared at administrative hearings?
0 average times per month

- 27d. During the last five years, how frequently have you appeared in Court?
0 average times per month

- 27e. During the last five years, if your practice was substantially personal injury, what percentage of your work was in representation of plaintiffs? _____%
Defendants? _____%

28. If during any prior period you have appeared in court with greater frequency than during the last five years, indicate the period during which this was so and give for such prior periods a succinct statement of the part you played in the litigation, numbers of cases and whether jury or non-jury.

Working in private practice with the Millhorn Law Firm and Reed & Archer, LLC, I appeared in court almost daily. In Millhorn I was the lead attorney in approximately 50 cases dealing with dependency, guardianship, family law, and bankruptcy. I handled the cases from inception which included filing necessary motions. There were no trials due the cases being resolved prior to trial. At Reed & Archer, I was often lead or associate attorney, appearing on behalf of Mr. William Reed or Mr. Daniel Archer. Again, the cases were resolved through other methods and did not go to trial.

Additionally, working for the Department of Children and Families I was the lead attorney in approximately 80-100 cases per year depending on the county. As lead attorney I was responsible for reviewing all documents, filing appropriate motions, and attending all hearings. From those cases approximately 15 were resolved through non-jury trials.

29. For the cases you have tried to award in arbitration, during each of the past five years, indicate whether you were sole, associate or chief counsel. Give citations of any reported cases.

N/A

30. List and describe the six most significant cases which you personally litigated giving case style, number and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant. Give the name of the court and judge, the date tried and names of other attorneys involved.

1. Termination of Parental Rights case, Sumter County Court, Judge Michelle Morley. My client was the Department of Children and Families. Other attorneys involved were Christopher Doty, Curtis Elmore, and Jenny Lim. The allegations were that the parents have failed to complete the case plan within a timely manner and the children should be adopted. This case was significant because the case had been pending for almost four years. The parents were in and out of court for numerous children. It was the first time I had a child witness testify in-camera.

2. Driving Under the Influence case, Marion County, Judge Francis King. My client was the defendant. Other attorney was an Assistant State Attorney. The allegations were that my client was driving under the influence of alcohol. He was found guilty. This was significant because the case was overwhelmingly against my client and he refused all offers. We had no evidence and relied solely on proving reasonable doubt.

3. Misdemeanor Battery case, Marion County, Judge John Futch. My client was the defendant. Other attorney was an Assistant State Attorney. The allegations were that my client struck his wife and step-child. Defendant was found not guilty of one count and guilty of the other. This case was significant because it involved a legal issue involving battery on a child. My argument with my trial partner was that the battery on the child should have been charged as a felony child abuse not misdemeanor battery. We lost on argument for judgment of acquittal and my client was found not guilty as to that charge, but guilty as to battery on the wife.

4. Driving Under the Influence case, Seminole County, Judge Carmine Bravo, jury trial. My client was the State of the Florida. Other attorney involved was the Office of the Public Defender. The allegations were that the defendant was under the influence of GHB and driving a vehicle. She was found not guilty. This case was significant because it involved at least two expert witnesses regarding the breathalyzer and the substance of GHB.

31. Attach at least one example of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach writing for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

Most of the legal writing I prepare now are drafted in conjunction with the judge I am assisting. Therefore, it is not completely prepared by me. The sample I provided was prepared for a judge that provided some input and recommended edits. Additionally, I've provided a non-legal writing sample which was prepared by me for a course I took last semester.

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE:

32a. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved and the dates of service or dates of candidacy.

No

32b. List any prior quasi-judicial service:

<i>Dates</i>	<i>Name of Agency</i>	<i>Position Held</i>
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Types of issues heard:

32c. Have you ever held or been a candidate for any other public office? If so, state the office, location and dates of service or candidacy.

No

32d. If you have had prior judicial or quasi-judicial experience,

(i) List the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance.

(ii) Describe the approximate number and nature of the cases you have handled during your judicial or quasi-judicial tenure.

(iii) List citations of any opinions which have been published.

(iv) List citations or styles and describe the five most significant cases you have tried or heard. Identify the parties, describe the cases and tell why you believe them to be significant. Give dates tried and names of attorneys involved.

(v) Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give date, describe complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

(vi) Have you ever held an attorney in contempt? If so, for each instance state name of attorney, approximate date and circumstances.

- (vii) If you are a quasi-judicial officer (ALJ, Magistrate, General Master), have you ever been disciplined or reprimanded by a sitting judge? If so, describe.

BUSINESS INVOLVEMENT:

- 33a. If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

N/A

- 33b. Since being admitted to the Bar, have you ever been engaged in any occupation, business or profession other than the practice of law? If so, give details, including dates.

Yes. Mediation services. I have been a contract mediator from 2008 until 2010.

- 33c. State whether during the past five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization, or association of any kind. If so, identify the source of such compensation, the nature of the business enterprise, institution, organization or association involved and the dates such compensation was paid and the amounts.

N/A

POSSIBLE BIAS OR PREJUDICE:

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you as a general proposition believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

N/A

MISCELLANEOUS:

- 35a. Have you ever been convicted of a felony or a first degree misdemeanor?

Yes _____ No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

- 35b. Have you pled nolo contendere or pled guilty to a crime which is a felony or a first degree misdemeanor?

Yes _____ No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

- 35c. Have you ever had the adjudication of guilt withheld for a crime which is a felony or a first degree misdemeanor?

Yes _____ No If "Yes" what charges? _____

Where convicted? _____ Date of Conviction: _____

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.

No.

36b. Has any lawsuit to your knowledge been filed alleging malpractice as a result of action or inaction on your part?

No.

36c. Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the amounts involved.

No.

37a. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you?

Yes.

37b. Have you ever owned more than 25% of the issued and outstanding shares or acted as an officer or director of any corporation by which or against which a petition in bankruptcy has been filed? If so, give name of corporation, your relationship to it and date and caption of petition.

No.

38. Have you ever been a party to a lawsuit either as a plaintiff or as a defendant? If so, please supply the jurisdiction/county in which the lawsuit was filed, style, case number, nature of the lawsuit, whether you were Plaintiff or Defendant and its disposition.

No.

39. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, give the particulars.

No.

40. To your knowledge within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers or clients ever filed a formal complaint or formal accusation of misconduct against you with any regulatory or investigatory agency, or with your employer? If so, please state the date(s) of such formal complaint or formal accusation(s), the specific formal complaint or formal accusation(s) made, and the background and resolution of such action(s). (Any complaint filed with JQC, refer to 32d(v)).

No.

41. Are you currently the subject of an investigation which could result in civil, administrative or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation and the expected completion date of the investigation.

No.

42. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No.

- 43a. Have you filed all past tax returns as required by federal, state, local and other government authorities?

Yes No If no, please explain. _____

- 43b. Have you ever paid a tax penalty?

Yes No If yes, please explain what and why. _____

- 43c. Has a tax lien ever been filed against you? If so, by whom, when, where and why?

No.

HONORS AND PUBLICATIONS:

44. If you have published any books or articles, list them, giving citations and dates.

45. List any honors, prizes or awards you have received. Give dates.

Community Legal Services of Mid-Florida, Outstanding Pro Bono Service - 2008

46. List and describe any speeches or lectures you have given.

47. Do you have a Martindale-Hubbell rating? Yes If so, what is it? ___ No

PROFESSIONAL AND OTHER ACTIVITIES:

- 48a. List all bar associations and professional societies of which you are a member and give the titles and dates of any office which you may have held in such groups and committees to which you belonged.

The Florida Bar, member Grievance Committee 2012-2015

Florida Trial Court Staff Attorney Association, member of Nominating Committee, 2014

- 48b. List, in a fully identifiable fashion, all organizations, other than those identified in response to question No. 48(a), of which you have been a member since graduating from law school, including the titles and dates of any offices which you have held in each such organization.

Citrus County Bar Association, 2014-2015

Citrus-Hernando Inn of Court, 2014-2015

Lake County Bar Association, 2008-2009

Orange County Bar Association, 2002-2003

Florida Association for Women Lawyers, 2002-2003

Volie A. Williams Inns of Court, 2002-2003

48c. List your hobbies or other vocational interests.

My hobbies include photography, reading, and traveling. I also enjoy volunteering at local soccer association and my children's school.

48d. Do you now or have you ever belonged to any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No.

48e. Describe any pro bono legal work you have done. Give dates.

Volunteer with the Community Legal Services of Mid-Florida from 2008 to present, providing legal advice, assisting in family law cases, and dissolution of marriage workshops.

SUPPLEMENTAL INFORMATION:

49a. Have you attended any continuing legal education programs during the past five years? If so, in what substantive areas?

Mediation and juvenile law.

49b. Have you taught any courses on law or lectured at bar association conferences, law school forums, or continuing legal education programs? If so, in what substantive areas?

No.

50. Describe any additional education or other experience you have which could assist you in holding judicial office.

My post law school education includes taking courses for an LLM and a Masters of Public Administration. For the LLM, I attended a program overseas to expand my exposure to international law. The program was through the United Nations Interregional Crime and Research Institute and included practical as well as theoretical approaches to international crime and justice. At the program I learned international perspectives on addressing legal issues including the comparison of civil law systems with common law systems. Similarly, as a Contractor for the Terrorism Branch of the United Nations Office on Drugs and Crime I had the opportunity to interact with various groups involved in the international arena. Additionally, I had the opportunity to work with people from diverse cultures and backgrounds. Meanwhile, my participating in the MPA program allows me to understand the qualities needed to be an effective manager/administrator. The courses are providing me the opportunity to develop the knowledge and skills to be an effective manager in the public sector specifically dealing with the interplay of politics and economics. These experiences will provide me the groundwork to holding a judicial office.

51. Explain the particular potential contribution you believe your selection would bring to this position.

My potential contribution to the judicial office/position would be that of a person committed to the legal system. My primary reason for choosing the legal field was to contribute something to the community. Throughout my fourteen (14) years career majority of my positions were for state agencies or non-profit organizations. I understand the importance of contributing to the community through public service. Public service to me includes employment at state agency and the judiciary.

Through my experiences in state agencies and non-profit organizations I learned to appreciate the role that different sectors play in assisting the people specifically those that feel grieved. I have learned to be open-minded in my approach to legal issues and understand the importance of following the law. As I grew as a lawyer, I developed the ability to consider different aspects of a legal issue and find various methods to addressing legal issues.

Alternative dispute resolution was one area where I discovered that litigation was not the only method to addressing legal disputes. As a mediator for approximately seven (7) years I had the opportunity to deal with people that have never been exposed to the judicial system. Participating in mediation or other alternative dispute resolution options have reinforced my desire to help people resolve their conflict in a positive way.

Finally, on a personal level as an immigrant that faced challenges in adapting to a different culture, I can offer a different perspective and provide encouragement to those that may be facing similar difficulties. I am able to empathize with the litigants and provide guidance to those that may be overwhelmed by the legal system.

52. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name of the commission and the approximate date of submission.

N/A

53. Give any other information you feel would be helpful to the Commission in evaluating your application.

My legal experience may appear unstable based on the various positions however with each position I held I was able to discover my strengths and weaknesses to advance in the legal field. Additionally, it allowed me to develop better skills and improve as an attorney. My varied background may add a different perspective and contribute positively to the judiciary.

REFERENCES:

54. List the names, addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for judicial position and of whom inquiry may be made by the Commission.

Daniel Archer, Esquire
Law Offices of D.D. Archer, P.A.
P.O. Box 2186
Minneola, Florida 34755
(352) 241-6470

Kelsey Burnette
Managing Attorney
Children's Legal Services
Department of Children and Families
1601 W. Gulf Atlantic Highway
Wildwood Florida 34785
(352) 330-5607

Roberta J. Fox, Esquire
2525 Skif Dr
Orlando, FL 32812-7813
(407) 281-6136

The Honorable Mary P. Hatcher
Citrus County Courthouse
110 North Apopka Avenue
Inverness, Florida 34450
(352) 341-6709

The Honorable Patricia V. Thomas
Citrus County Courthouse
110 North Apopka Avenue
Inverness, Florida 34450
(352) 341-6701

William Thomas

Caring Community Counseling
3840 Fifth Avenue North
St. Petersburg, FL
(727) 367-2273

Cynthia Nuce
Drug Court manager
110 NW 1st Avenue
Ocala, Florida 34475
(352) 401-6725

Professor Darryl Wilson
Stetson University College of Law
1401 61st Street South
Gulfport, FL 33707
(727) 562-7882

Betty White
Director of Case Management
110 NW 1st Avenue
Ocala, Florida 34475
(352) 401-7829

CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read, and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 1 day of October, 20 .

Chuang Mi Akehurst
Printed Name


Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.

FINANCIAL HISTORY

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.

Current year to date	\$37,206.90		
List Last 3 years	\$46,726.74	\$44,728.91	\$40,442.93

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.

Current year to date	\$26,716.60		
List Last 3 years	\$36,548.38	\$35,096.89	\$32,782.87

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.

Current year to date	0		
List Last 3 years	\$5035.68	\$2807.00	\$21,840.00

4. State the amount of net income you have earned or losses incurred (after deducting expenses) from all 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.

Current year to date	0		
List Last 3 years	\$4,169.01	\$2,300.61	\$21,204.84

**FORM 6
FULL AND PUBLIC
DISCLOSURE OF
FINANCIAL INTEREST**

PART A – NET WORTH

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of September 30, 2015 was \$0.

PART B - ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ 10,500.00

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)

VALUE OF ASSET

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
Retirement benefits through the Florida State Retirement System	\$12,523.00
2004 Kia Sedona	\$3,284.00
2008 Chevy Aveo	\$1,900.00
Real Property located at 40023 French Road, Lady Lake, FL 32159	\$125,649.00

PART C - LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

Citibank Credit Card, P.O. Box 183037, Columbus, OH 43218	\$4,600.00
Walmart Credit Card, P.O. Box 530927, Atlanta, GA 30353	\$4,838.00
HSBC Credit Card, P.O. Box 2013, Buffalo, NY 14240	\$2,500.00
TJX Rewards, P.O. Box 530949, Atlanta, GA 30353	\$2,600.00
Navient Student Loans, P.O. Box 9533, Wilkes-Barre, PA 18773	\$54,950.00
Best Egg Personal Loan	\$14,000.00

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

Campus USA -- Mortgage, P.O. Box 147029, Gainesville, FL 32614	\$148,195.56
Campus USA -- Vehicle loan, P.O. Box 147029, Gainesville, FL 32164	\$2,792.59
Campus USA -- Loan, P.O. Box 147029, Gainesville, FL 32164	\$8,948.91

PART D - INCOME

You may ***EITHER*** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments*, ***OR*** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.
 (if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCE OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSIENSSES' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITTY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.


SIGNATURE

STATE OF FLORIDA

COUNTY OF Citrus

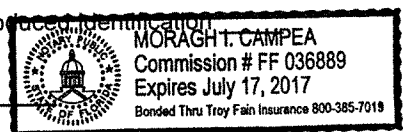
Sworn to (or affirmed) and subscribed before me this 15 day of Oct, 2016 by _____


(Signature of Notary Public—State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known OR Produced Identification _____

Type of Identification Produced _____



PART C – LIABILITIES

PayPal Credit, PO Box 5138, Timonium, MD 21094

\$2,134.00

INSTRUCTIONS FOR COMPLETING FORM 6:

PUBLIC RECORD: The disclosure form and everything attached to it is a public record. **Your Social Security Number is not required and you should redact it from any documents you file.** If you are an active or former officer or employee listed in Section 119.071(4)(d), F.S., whose home address is exempt from disclosure, the Commission is required to maintain the confidentiality of your home address **if you submit a written request for confidentiality.**

PART A – NET WORTH

Report your net worth as of December 31 or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

- form;
- (1) The aggregate value of household goods and personal effects, as reported in Part B of this form;
 - (2) The value of all assets worth over \$1,000, as reported in Part B; and
 - (3) The total value of any assets worth less than \$1,000 that were not reported or included in the category of “household goods and personal effects.”

To total the amount of your liabilities, add:

- (1) The total amount of each liability you reported in Part C of this form, except for any amounts listed in the “joint and several liabilities not reported above” portion; and,
- (2) The total amount of unreported liabilities (including those under \$1,000, credit card and retail installment accounts, and taxes owed).

PART B – ASSETS WORTH MORE THAN \$1,000

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds \$1,000. The types of assets that can be reported in this manner are described on the form.

ASSETS INDIVIDUALLY VALUED AT MORE THAN \$1,000:

Provide a description of each asset you had on the reporting date chosen for your net worth (Part A), that was worth more than \$1,000 and that is not included as household goods and personal effects, and list its value. Assets include: interests in real property; tangible and intangible personal property, such as cash, stocks, bonds, certificates of deposit, interests in partnerships, beneficial interest in a trust, promissory notes owed to you, accounts received by you, bank accounts, assets held in IRAs, Deferred Retirement Option Accounts, and Florida Prepaid College Plan accounts. You are not required to disclose assets owned solely by your spouse.

How to Identify or Describe the Asset:

— Real property: Identify by providing the street address of the property. If the property has no street address, identify by describing the property’s location in a manner sufficient to enable a member of the public to ascertain its location without resorting to any other source of information.

— Intangible property: Identify the type of property and the business entity or person to which or to whom it relates. **Do not list simply “stocks and bonds” or “bank accounts.”** For example, list “Stock (Williams Construction Co.),” “Bonds (Southern Water and Gas),” “Bank accounts (First

National Bank), "Smith family trust," Promissory note and mortgage (owed by John and Jane Doe)."

How to Value Assets:

— Value each asset by its fair market value on the date used in Part A for your net worth.

— Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held as tenants by the entirety or jointly with right of survivorship must be reported at 100% of their value.

— Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the equity of that partnership.

— Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.

— Real property may be valued at its market value for tax purposes, unless a more accurate appraisal of its fair market value is available.

— Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.

— Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.

— Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by "buy-out" agreements. It is suggested that the method of valuation chosen be indicated in a footnote on the form.

— Life insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.

PART C—LIABILITIES

LIABILITIES IN EXCESS OF \$1,000:

List the name and address of each creditor to whom you were indebted on the reporting date chosen for your net worth (Part A) in an amount that exceeded \$1,000 and list the amount of the liability. Liabilities include: accounts payable; notes payable; interest payable; debts or obligations to governmental entities other than taxes (except when the taxes have been reduced to a judgment); and judgments against you. You are not required to disclose liabilities owned *solely* by your spouse.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owned to the company of issuance, or contingent liabilities. A "contingent liability" is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a "co-maker" on a note and have signed as being jointly liable or jointly and severally liable, then this is not a contingent liability.

How to Determine the Amount of a Liability:

— Generally, the amount of the liability is the face amount of the debt.

— If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.

— If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. *However*, if you are jointly and severally liable for a debt relating to property you own with one or more others as tenants by the entirety or jointly, with right of survivorship, report 100% of the total amount owed.

— If you are only jointly (not jointly and severally) liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly held assets.

Examples:

— You owe \$10,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 with your spouse to a saving and loan for the mortgage on the home you own with your spouse. You must report the name and address of the bank (\$10,000 being the amount of that liability) and the name and address of the savings and loan (\$60,000 being the amount of this liability). The credit cards debts need not be reported.

— You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

List in this part of the form the amount of each debt, for which you were jointly and severally liable, that is not reported in the "Liabilities in Excess of \$1,000" part of the form. Example: You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

PART D – INCOME

As noted on the form, you have the option of either filing a copy of your latest federal income tax return, including all schedules, W2's and attachments, with Form 6, or completing Part D of the form. If you do not attach your tax return, you must complete Part D.

PRIMARY SOURCES OF INCOME:

List the name of each source of income that provided you with more than \$1,000 of income during the year, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is a joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include all of that income.

"Income" means the same as "gross income" for federal income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples of income include: compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, distributive share of partnership gross income, and alimony, but not child support. Where income is derived from a business activity you should report that income to you, as calculated for income tax purposes, rather than the income to the business.

Examples:

— If you owned stock in and were employed by a corporation and received more than \$1,000 of income (salary, commissions, dividends, etc.) from the company, you should list the name of the company, its address, and the total amount of income received from it.

— If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$1,000, you should list the name of the firm, its address, and the amount of your distributive share.

— If you received dividend or interest income from investments in stocks and bonds, list only each individual company from which you received more than \$1,000. Do not aggregate income from all of these investments.

— If more than \$1,000 of income was gained from the sale of property, then you should list as a source of income the name of the purchaser, the purchaser's address, and the amount of gain from the sale. If the purchaser's identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as "sale of (name of company) stock," for example.

— If more than \$1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

SECONDARY SOURCE OF INCOME:

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. It is not for reporting income from second jobs. That kind of income should be reported as a "Primary Source of Income." You will *not* have anything to report *unless*:

- (1) You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period, more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and
- (2) You received more than \$1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's more recently completed fiscal year), the source's address, the source's principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

Examples:

— You are the sole proprietor of a dry cleaning business, from which you received more than \$1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).

— You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded \$1,000. You should list the name of the partnership, the name of each tenant of the mall that provided more than 10% of the partnership's gross income, the tenant's address and principal business activity.

PART E – INTERESTS IN SPECIFIED BUSINESS

The types of businesses covered in this section include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies, credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; and entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of business for which you are, or were at any time during the year an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list: the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

CONSUMER'S AUTHORIZATION FOR FDLE
TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Printed Name of
Applicant:

Choung Mi Akehurst

Signature of Applicant:



Date:

10/1/2015

CHOUNG MI AKEHURST

P.O. Box 4342
Winter Park, Florida 32793

Telephone: (352) 750-1228
E-Mail: cmakehurst@gmail.com

EMPLOYMENT HISTORY:

- 05/08 to 02/09 REED & ARCHER, LLC Clermont, Florida
Associate Attorney
 - Representing clients in family, civil, bankruptcy and dependency cases.
 - Attending depositions, mediations and Court hearings.
- 06/04 to 05/08 THE DEPARTMENT OF CHILDREN AND FAMILIES Wildwood, Florida
Senior Attorney
 - Representing the Department in adjudicatory, motion and other hearings.
 - Providing legal advice to investigators on legal sufficiency of cases.
 - Attending depositions, mediations and case staffings.
- 10/03 to 06/04 FIFTH JUDICIAL CIRCUIT PUBLIC DEFENDER'S OFFICE Ocala, Florida
Assistant Public Defender
 - Representing indigent clients in criminal misdemeanor cases.
 - Participating in Baker Act hearings, jury and non-jury trials.
- 11/02 to 10/03 LEGAL AID SOCIETY OF THE ORANGE COUNTY BAR ASSOCIATION, INC. Orlando, Florida
Volunteer Advocates for Children Program Attorney
 - Formalizing the volunteer program for the Guardian ad Litem Program.
 - Recruiting, training and overseeing volunteers.
 - Reviewing cases for referral to health, education, and permanency attorneys.
- 4/02 to 11/02 EIGHTEENTH JUDICIAL CIRCUIT STATE ATTORNEY'S OFFICE Sanford, Florida
Assistant State Attorney
 - Investigating and prosecuting misdemeanor and criminal traffic cases.
 - Representing the State of Florida in bond and preliminary hearings.
 - Participating in Baker Act hearings, jury and non-jury trials.
- 9/01 to 4/02 COMMUNITY MEDIATION SERVICES, INC. Jamaica, New York
Flushing Site Director
 - Coordinating procedural and operational aspect of a satellite office.
 - Assigning and overseeing volunteer mediators.
 - Performing mediations involving harassment and other interpersonal disputes.
- 3/00 to 9/01 STETSON UNIVERSITY COLLEGE OF LAW St. Petersburg, Florida
Webmaster
 - Updating and maintaining the College of Law's web site.
 - Creating new course and departmental web pages.

LEGAL INTERNSHIPS:

- Fall 1999 GULFCOAST LEGAL SERVICES
Spring 1999 TAMPA BAY WATER AUTHORITY
Fall 1998 UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA

EDUCATION: UNIVERSITY OF TURIN & UNITED NATIONS INTERREGIONAL CRIME AND JUSTICE RESEARCH INSTITUTE, Turin, Italy
LLM, Expected July 2009
International Crime and Justice

STETSON UNIVERSITY COLLEGE OF LAW, St. Petersburg, Florida
Juris Doctor, December 1999

NEW YORK UNIVERSITY, New York, New York
Bachelor of Arts, December 1992
Major: History & Secondary Education *Minor:* Political Science

LICENCE & CERTIFICATION:

The Florida Bar and Certified Florida Supreme Court Mediator in Dependency Law, Family Law, and County Court. Admitted to practice in the United States District Court, Middle District of Florida.

**IN THE CIRCUIT COURT OF THE XXXX JUDICIAL CIRCUIT
IN AND FOR XXXX COUNTY, FLORIDA**

STATE OF FLORIDA

v.

CASE NO.: 200X-CF-XXX

JOHN DOE,
 Defendant.

_____ /

ORDER ON DEFENDANT'S MOTION FOR POSTCONVICTION RELIEF
(FLA. R. CRIM. P. 3.850)

THIS COURT having considered Defendant's Motion for Postconviction Relief (Fla. R. Crim. P. 3.850), having reviewed the records of this case and all documents pertinent to Defendant's motion, the State's response and being otherwise fully advised in the premises finds as follows:

1. On November 12, 2008, following a jury trial, Defendant was adjudicated guilty of one count of Lewd/Lascivious Molestation of a Child less than 12 years of age by a person 18 years of age or older. He was sentenced as a Prison Releasee Reoffender to a term of Life in the Department of Corrections with credit for time served. He was assessed financial requirements of \$398.00 costs, \$100.00 COPR, \$101.00 CAM and \$50.00 per day cost of incarceration in addition to his \$40.00 outstanding Public Defender application fee. Defendant filed an appeal with the Fifth District Court of Appeal which per curiam affirmed this Court by Decision filed October 6, 2009, Motion for Clarification/Issuance of Written Opinion and Certification denied October 13, 2009, Mandate issued November 19, 2009.

On September 10, 2010, Defendant filed a Motion to Correct Illegal Sentence which was denied on September 26, 2010. Defendant filed an appeal with the Fifth District Court of Appeal which per curiam affirmed this Court by Decision with Mandate issues February 9, 2011.

2. Defendant's Motion for Postconviction Relief, is predicated on nine grounds for

relief based on ineffective assistance of counsel:

- a. Ground 1- Trial Counsel was ineffective for failing to challenge the competency of a child witness;
- b. Ground 2 - Trial Counsel was ineffective for failing to object to misleading hand-edited jury instruction;
- c. Ground 3 - Trial Counsel was ineffective for failing to object and/or to offer portions of Defendant's post-Miranda recorded statements;
- d. Ground 4 – Trial Counsel was ineffective for failing to request permissive lesser included offenses in Jury Instructions;
- e. Ground 5 – Trial Counsel was ineffective for failing to object to jurors that appeared to be sleeping during portions of the trial;
- f. Ground 6 – Trial Counsel was ineffective for failing to object to inadmissible evidence;
- g. Ground 7 - Trial Counsel was ineffective for failing to obtain a ruling on admissibility of child hearsay;
- h. Ground 8 – Trial Counsel was ineffective for failing to object to inadmissible testimony; and
- i. Ground 9- Based on cumulative errors Defendant is entitled to a new trial.

3. Regarding post-conviction relief, the Supreme Court of Florida has repeatedly held that under Rule 3.850, a movant is entitled to an evidentiary hearing unless the motion, files, and records conclusively show that the movant is not entitled to relief. Anderson v. State, 627 So.2d 1170, 1171 (Fla. 1993) (citing Fla. R. Crim. P. 3.850(d)). Further, a court may properly deny claims without an evidentiary hearing if they were either raised or could have been raised on direct appeal. Maharaj v. State, 684 So.2d 726, 728 (Fla. 1996). A convicted defendant making a claim of ineffective assistance must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment. Downs v. State, 453 So.2d 1102, 1108 (Fla. 1984). Mere conclusory allegations are insufficient to meet this burden. See Kennedy v. State, 547 So.2d 912, 913 (Fla. 1989).

4. The Supreme Court of Florida has reiterated the standard to be applied to claims of ineffective assistance of counsel:

A claim of ineffective assistance of counsel, to be considered meritorious, must include two general components. First, the claimant must identify particular acts or omissions of the lawyer that are shown to be outside the broad range of

reasonably competent performance under prevailing professional standards. Second, the clear, substantial deficiency shown must further be demonstrated to have so affected the fairness and reliability of the proceeding that confidence in the outcome is undermined.

Maxwell v. Wainwright, 490 So.2d 927, 932 (Fla. 1986) (citing Strickland v. Washington, 466 U.S. 668 (1984); Downs v. State, 453 So.2d 1102, 1108-09 (Fla. 1984)).

5. In reviewing counsel's conduct, "[a] fair assessment of an attorney's performance requires that every effort be made to eliminate the distorting effects of hindsight to reconstruct the circumstances of counsel's challenged conduct and to evaluate the conduct from counsel's perspective at the time." Francis v. State, 529 So.2d 670, 672 n. 4 (Fla. 1988) (quoting Strickland, 466 U.S. at 689). "[S]trategic choices made after a thorough investigation of the law and facts relevant to plausible options are virtually unchallengeable." Strickland, 466 U.S. at 690. Additionally, in Downs v. State, 453 So.2d 1102, 1108 (Fla. 1984), the Court explained "that counsel is strongly presumed to have rendered adequate assistance and to have made all significant decisions in the exercise of reasonable professional judgment." Furthermore, "[a] defendant is not entitled to perfect error-free counsel, only to reasonably effective counsel." Waterhouse v. State, 522 So.2d 341, 343 (Fla. 1988).

6. In Ground 1 of Defendant's Motion, he alleges trial counsel (Counsel) was ineffective for failing to challenge the competency of child victim at trial. Defendant claims the child, who was ten (10) years old at the time of trial, may have been incompetent to testify. Therefore, Counsel was ineffective when he failed to challenge her competency outside the presence of the jury. Defendant relies on Evans v. State, 813 So.2d 194, 195 (Fla. 2d DCA 2002) to argue that he has a prima facie case of ineffective assistance of counsel when a counsel fails "to challenge a child victim's disqualification as a witness."

Unless otherwise provided by statute, every person is presumed competent to testify. Fla. Stat. § 90.601 (2008). However, a person may be disqualified to testify or incompetent to testify if that person is “[i]ncapable of expressing himself or herself concerning the matter in such a manner as to be understood, either directly or through interpretation by one who can understand him or her[,]” or is “[i]ncapable of understanding the duty of a witness to tell the truth.” Fla. Stat. § 90.603 (2008). In terms of child witnesses, “the competence of a child witness is based on intelligence, not age, and whether the child possesses a sense of the obligation to tell the truth.” Bennett v. State, 971 So.2d 196 (Fla. 1st DCA 2007). “The prime test of testimonial competence of an infant witness is his or her intelligence, rather than his or her age, and, in addition, whether the child possesses a sense of obligation to tell the truth.” Lloyd v. State, 524 So.2d 396, 399-400 (Fla. 1988). The trial judge has the discretion to determine the competence of a witness to testify. See Lopez v. State, 691 So.2d 64 (Fla. 5th DCA 1997).

In the instant case, Defendant alleges Counsel should have insisted on a proper inquiry and findings as to the competence of the victim witness. As stated in § 90.601, Florida Statutes every person is presumed to be competent. The victim was deposed by Counsel where she was questioned regarding her ability to tell the truth. See Deposition Transcript pp. 4. At deposition and at trial the victim was able to express facts regarding her relationship with Defendant, Defendant’s relationship with the victim’s Mother, and the events of the night in question. See Deposition Transcript pp. 7-10, 14-21 and September 3, 2008, Jury Trial Transcript pp. 160-164, 166-173. Each time the victim’s story is substantially the same with some discrepancies. See September 3, 2008, Jury Trial Transcript pp. 281, 290-291, 306, 311. Therefore, it was reasonable for Counsel not to challenge the competency of the victim. See Floyd v. State, 18 So.3d 432 (Fla. 2009) (trial counsel is not ineffective for failing challenge the competency of a

child witness, if there was no basis and contradictory statements alone is not sufficient to find child witness incompetent). Defendant's Ground 1 is conclusively refuted by the record.

7. In Ground 2 of Defendant's Motion he alleges Counsel was ineffective for failing to object to misleading or confusing jury instructions. Defendant contends the jury instructions submitted to the jury included hand-edited modifications which rendered it misleading and confusing to the jurors. Moreover, Defendant maintains Counsel failed to object to the Court's decision to omit a portion of the Standard Instruction 3.0.

In providing instructions to the jury a court has wide discretion in instructing the jury however it should not provide instructions that are confusing. State v. Turner, 809 So.2d 59 (Fla. 5th DCA 2002). In Bayer v. State, 788 So.2d 310 (Fla. 5th DCA 2001), the Fifth Court of Appeal found that when there are no standard jury instructions, instructions that "tracks the language of the charged offense, and the interrelated statutes" is proper. Moreover, a modified jury instruction is not per se improper. Id.

In the instant case, Defendant was charged with Lewd/Lascivious Molestation of a Child less than 12 years of age by a person 18 years of age or older pursuant to §800.04(5)(a)&(b), Florida Statutes. Lewd or Lascivious Molestation involves a person, 18 years or older against a victim less than 12 years of age, who "intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator." Fla. Stat. §800.04(5)(a)&(b) (2008). The Standard Jury Instruction recommended by the Florida Supreme Court states:

To prove the crime of Lewd or Lascivious Molestation, the State must prove the following three elements beyond a reasonable doubt:

Give 1a or 1b as applicable.

1. (Victim)

a. was 12 years of age or older but less than 16 years of age.

b. was less than 12 years of age.

Give 2a or 2b as applicable.

2. (Defendant)

a. intentionally touched in a lewd or lascivious manner the [breasts] [genitals] [genital area] [buttocks] [clothing covering the breasts] [clothing covering the genitals] [clothing covering the genital area] [clothing covering the buttocks] of (victim).

b. intentionally [forced] [enticed] (victim) to touch the [breasts] *1140 [genitals] [genital area] [buttocks] [clothing covering the breasts] [clothing covering the genitals] [clothing covering the genital area] [clothing covering the buttocks] of (defendant).

Give 3a or 3b as applicable.

3. (Defendant)

a. was 18 years of age or older at the time of the offense.

b. was less than 18 years of age at the time of the offense.

In re Standard Jury Instructions in Criminal Cases-Report No. 2008-02, 998 So. 23 1138 (Fla.

2008). The Jury Instruction provided to the jury in the instant case included the standard

provisions, however, two was replaced by three and the word “intentionally” was handwritten.

See Jury Instructions. Under Bayer, the jury instruction provided to the jury tracked the

language of the statute. See Fla. Stat. §800.04(5)(a)&(b). The use of handwritten edits did not

mislead the jury rather it corrected the misleading instructions that required finding of 2 elements

and added the missing “intentionally.” Defendant suggests reprinting a new set of jury

instructions may have remedied the instructions however the content would not have changed.

Defendant has failed to demonstrate that the jurors were confused by the modification in 3.10.

Therefore, Counsel was not ineffective for allowing the use of the jury instructions with hand

edits. Defendant has failed to demonstrate that Counsels acts were outside the broad range of

reasonably competent performance under prevailing professional standards. Defendant’s Ground

2 is conclusively refuted by the record.

8. In Ground 3 of Defendant's Motion he alleges Counsel was ineffective for failing to object and/or to offer remaining portions of his post-Miranda recorded statement. Defendant argues under the Rule of Completeness, Counsel should have moved to introduce the excerpted exculpatory statements he made in the recorded statement. The State in its response states the portion that was not introduced at trial included testimony regarding his prior arrests. Therefore, the State argues Counsel would have been ineffective for introducing all of the testimony.

The Rule of Completeness states:

[w]hen a writing or recorded statement or part thereof is introduced by a party, an adverse party may require him or her at that time to introduce any other part or any other writing or recorded statement that in fairness ought to be considered contemporaneously. An adverse party is not bound by evidence introduced under this section.

Fla. Stat. § 90.108(1) (2008). The purpose of this rule is to "avoid the potential for creating misleading impressions by taking statements out of context." Pulcini v. State, 41 So.3d 338, 348 (Fla. 4th DCA 2010), citing Larzelere v. State, 676 So.2d 394, 401 (Fla. 1996). However, the rule is not absolute and "a court may exercise its discretion to exclude irrelevant portions of a recorded statement." Id. In Pulcini the Fourth District Court of Appeal found the rule of completeness was not violated when the trial court excluded irrelevant portions of defendant's statement. Id. If the State's witness does not create misleading impressions or does not take statements out of context it is unnecessary to enter all recorded statements. Id. Especially if the admission of the entire statement would have likely been detrimental to the defense. Id.

In the instant case, as in Pulcini, Deputy Seffern's testimony and the ultimate introduction of Defendant's statement did not create any misleading impressions nor were those statements taken out of context. See September 3, 2008 Jury Trial Transcript pp.223-24. Counsel chose to omit certain sections of Defendant's statements because he alluded to his recent release from prison and to polygraph testing. See September 2, 2008 Jury Trial Transcript pp.

79-81. These statements may have been detrimental to Defendant. Although Defendant makes certain denials those statements are not necessarily exculpatory but self serving and may not necessarily have been credible. Therefore, this claim is conclusively refuted by the record.

9. In Ground 4 of Defendant's Motion he alleges Counsel was ineffective for failing to include permissive lesser included offenses. Defendant alleges instructions for §794.011(8)(a) should have been included as a permissive lesser included offenses.

The Florida Supreme Court found lesser included offenses fall in two categories: necessary and permissive. Sanders v. State, 944 So.2d 203, 206 (Fla. 2006). Necessary lesser included offenses are those offenses in which the statutory elements of the lesser included offense are always subsumed within those of the charged offense. Id. Meanwhile, permissive lesser included offenses exists when "the two offenses appear to be separate [on the face of the statutes], but the facts alleged in the accusatory pleadings are such that the lesser [included] offense cannot help but be perpetrated once the greater offense has been." Id. (quoting State v. Weller, 590 So.2d 923, 925 n. 2 (Fla.1991)). Jury instruction on permissive lesser included offenses is "appropriate only if the allegations of the greater offense contain all the elements of the lesser offense and the evidence at trial would support a verdict on the lesser offense." Williams v. State, 957 So.2d 595, 598 (Fla. 2007).

Under Standard Jury Instruction recommended by the Florida Supreme Court, permissive lesser included offenses included, Attempt, Assault, Battery, Unnatural and lascivious act. In re Standard Jury Instructions in Criminal Cases-Report No. 2008-02, 998 So. 23 1138 (Fla. 2008). In the instant case, battery was included as a lesser included offense which was permissive under the Standard Jury Instructions. Counsel requested inclusion of battery and not attempt due to possible sentence. See September 2, 2008 Trial Transcript pp. 81-84. Defendant's assertion that §794.011(8)(a) should have been included is merely conclusory. The elements of §794.011(8)(a)

include a finding that defendant “stood in the position of familial or custodial authority with regard to victim,” which does not meet the elements alleged in the Information or evidence presented at trial. See Information and September 2, 2008 Trial Transcript pp. 109-110, 117-120. Under Williams, §800.04(5)(a)&(b), Florida Statutes does not include all the elements of §794.011(8)(a), Florida Statutes. Therefore, Counsel was not ineffective for failing to include jury instructions for §794.011(8)(a), Florida Statutes. Ground 4 is without merit as a matter of law.

10. In Ground 5 of Defendant’s Motion he alleges counsel was ineffective for failing to interview or replace jurors, or ask for a mistrial when advised during the trial that jurors appeared to be sleeping. Defendant claims Counsel was advised of the issue during trial and Counsel did not move to interview juror or a mistrial. The State in its response argues the issue was previously raised on a Motion to Interview Juror. The State claims Counsel was made aware of the sleeping juror after the verdict and was not deficient for failing to object during trial.

In Terrell v. State, 9 So.3d 1284 (Fla. 4th DCA 2009), the Fourth District Court of Appeal found that a sworn motion containing allegations of ineffective assistance of counsel based on failure to object to a sleeping juror is legally sufficient. However, if the record does not support a sleeping juror then counsel is not ineffective for failing to request a colloquy. See Insignares v. State, 957 So.2d 680, 682 (Fla. 5th DCA 2007).

In the instant case, after Defendant’s sentence a new counsel filed a Motion to Interview Jurors. At the hearing on December 3, 2008, Counsel testified he was not made aware of the issue regarding the sleeping juror until after the trial. See December 3, 2008 Motion Hearing Transcript pp. 53-54. Specifically, Counsel testified during trial he had no conversations with Mr. XXXXX or Defendant regarding a sleeping juror. Id. Counsel also testified had he been

advised he would have brought up the matter to the Court. Id. State presented its witness that did not observe any sleeping jurors. Id. at pp. 56-57. The Court denied the Defendant's Motion. See Order Denying Motion to Interview Jurors entered December 17, 2008. Based on the record there is no evidence to support a juror was asleep during the trial. Counsel, Assistant State Attorney, the Court and Deputy Seffern did not observe any jurors sleeping. See November 12, 2008 Sentencing Hearing Transcript pp. 32-34 and December 3, 2008 Motion Hearing Transcript pp. 53-54. Defendant presented two witnesses that allegedly observed jurors sleeping but did not advise Counsel. See December 3, 2008 Motion Hearing Transcript pp. 16-17, and 25-27. Defendant has failed to demonstrate Counsel's acts were outside the broad range of reasonably competent performance under prevailing professional standards or there would have been a different outcome. Therefore, this claim is conclusively refuted by the record.

11. In Grounds 6 and 8 of Defendant's Motion he alleges counsel was ineffective for failing to object to inadmissible evidence being introduced at trial. Defendant contends Counsel erred when he did not object to a photograph of a caller ID screen being introduced, and when he failed to object to inadmissible child hearsay testimony. The State in its response argues the handwritten comments merely identified the photograph and was duplicative of witness' testimony. The State also contends the child hearsay testimony objected by Defendant are admissible and would not have affected the outcome of the trial.

Florida Statutes states "all relevant evidence is admissible, except as provided by law." Fla. Stat. § 90.402 (2008). Meanwhile relevant evidence is defined as "evidence tending to prove or disprove a material fact." Fla. Stat. § 90.401 (2008). Witness testimony may be introduced if it is "sufficient to support a finding that the witness has personal knowledge of the matter." Fla. Stat. § 90.906 (2008). In claims of ineffective assistance of counsel for failure to object at trial it is necessary to determine whether an objection was warranted and whether it would have made a

difference in the outcome of the trial or the appeal. State v. Bouchard , 992 So.2d 424, 430-31 (Fla. 2d DCA 2006).

In the instant case, Defendant argues the photograph of the caller ID screen and some testimony were inadmissible and should have been objected and would have been dismissed. The Court finds the State's argument persuasive. The caller ID screen is non testimonial and therefore admissible. Moreover, the handwritten notes were supported by witness testimony. See September 3, 2008 Jury Trial Transcript pp. 131-32. Therefore, an objection may not have been warranted. Additionally, in reference to child testimony the victim testified to Defendant touching her on her "privates." See September 3, 2008 Jury Trial Transcript pp. 167-172. The victim's mother testified that the child stated to her "XXX touched my privates." See September 3, 2008 Jury Trial Transcript p. 123. Defendant in his statement to police stated there was a possibility he may have inappropriately touched her, if he did it was unintentional, i.e., while he was sleeping. See September 3, 2008 Jury Trial Transcript pp. 256-257. An objection may not have been warranted due to the fact that the testimony objected to by Defendant would not necessarily have been ruled inadmissible. Grounds 6 and 8 are refuted by the record.

12. In Ground 7, of Defendant's Motion he alleges Counsel was ineffective when he failed to obtain ruling on child victim hearsay. Defendant contends other witnesses testified to child hearsay statements in effect bolstering the child's credibility. The State in its response argues the statements were exceptions to hearsay and would have been admissible regardless of the ruling on § 90.803(23) motion.

Pursuant to § 90.803, Florida Statutes (2008), exceptions to hearsay include spontaneous statements, excited utterance, existing medical and physical conditions, and child hearsay among others. However, prior to admissions of child hearsay, under § 90.803(23), Florida Statutes, a hearing must be held and the Court must "make a preliminary determination that they come from

a trustworthy source and are reliable.” T.O. v. Department of Children and Families, 21 So.3d 173, 177 (Fla. 4th DCA 2009). It may be error for the Court to admit child hearsay testimony without first making a finding as to admissibility. See Butler v. State, 715 So.2d 337 (Fla. 1st DCA 1998). However, the Court’s failure to make sufficient findings under § 90.803(23), does not in and of itself constitute fundamental error. Anderson v. State, 655 So.2d 1118 (Fla. 1995).

In claims of ineffective assistance of counsel for failure to preserve claim of reversible error, Defendant is required to demonstrate prejudice at trial. Diaz v. State, 980 So.2d 1275, 1278 (Fla. 4th DCA 2008), citing Carratelli v. State, 961 So.2d 312 (Fla. 2007). Therefore, the focus should be on counsel’s performance “on the original trial outcome, and not on whether the defendant could have prevailed on appeal if an objection had been raised.” Id.

In the instant case, witnesses testified to child hearsay statements without a prior ruling by the Court. It may have been error on the part of the Court to have admitted child hearsay testimony at trial. Moreover, Counsel may have been deficient for failing to object to admission of such testimony. However, under Diaz, the correct analysis is if Counsel’s actions were deficient whether Defendant was prejudiced at trial by Counsel’s acts. The record does not support a finding that Counsel provided inadequate assistance. The Court finds that Counsel’s actions/inactions do not rise to the level of ineffective assistance of counsel and Defendant failed to demonstrate a reasonable probability of a different trial outcome. As argued by the State, the statements may have been admitted under other exceptions to hearsay such as excited utterance or spontaneous statements. Therefore, Defendant’s claim is without merit.

13. In Ground 9, Defendant alleges due to cumulative errors he is entitled to a new trial. Whether individually or collectively, the allegations do not rise to the level required by Strickland to show ineffective assistance of counsel. Without demonstrating through this postconviction motion that any additional error occurred, the defendant is not entitled to relief on

the basis of cumulative error. Smithers v. State, 18 So.3d 460, 473 (Fla. 2009). The Court finds that none of Defendant's claims are legally sufficient, and therefore Defendant has suffered no cumulative effect that renders his representation ineffective. See Holland v. State, 916 So. 2d 750, 759(Fla. 2005). Grounds 1 through 8 of Defendant's Motion fails to meet the Strickland standard of review. Accordingly, Ground 9 is without merit as a matter of law.

Based upon the foregoing, it is thereupon:

ORDERED AND ADJUDGED:

1. Defendant's Motion for Post Conviction Relief is **DENIED**.
2. Defendant has the right to file a notice of appeal in writing within 30 days of the date of this Order.

DONE AND ORDERED in Chambers at _____, Florida this _____ day of _____, 2011.

XXXXXX
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished to the following by U.S. Mail/courthouse mailbox delivery this _____ day of _____, 2011.

Attorney for Defense

Office of the State Attorney, via courthouse mailbox

Judicial Assistant/Deputy Clerk

**Global Ethics in Peacekeeping
Corruption and its Impact on Peacebuilding**

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Abstract

Global ethics contemplates a consensus on morals or ethics. However, universal standards of ethical behavior are difficult to determine in the global community. This paper will examine global ethics and consider the ethical standards in the United Nation. This paper will also consider the United Nations ethical standards and corruption in peacekeeping operation. Although the definition of ethics may not be universal there is some consensus on what corruption is and why it is detrimental to the peace process.

I. Ethics and Global Ethics

Ethics is defined as standards of rights and wrongs (Svara, 2014). Ethics includes standards in terms of “duties, principles, specific virtues and benefits to society” (Svara, 2014, p.12). Meanwhile applied ethics requires an emphasis on the practical and relevant elements of ethics (Jreisat, 2011). Specifically, a consideration of the practical application of code of conduct/standards on behavior. Therefore, applied ethics is beneficial in examining conduct of public servants. In the framework of public organizations ethics should guide the staff and administrators in how they behave. The public requires ethical standards for its public officials due in part to the trust people place on public servants to protect public interest. Thompson (1985) identified administrative ethics as the “application of moral principles to conduct of officials in organizations” (p.555). Therefore, for public officials ethical standards are paramount to ensuring public trust in the official as well as the organization. However, in practice it is problematic to differentiate between obligations of ethical conduct from those of legal compliance.

Ethical conduct may often involve aspirational requirements such as respect for human dignity (American Nurses Association, 2015). It may also require compliance with laws such as requirements for financial disclosure (Section 112.3145, Fla. Stat. (2015)). If violations are criminal in nature such as theft, fraud, and bribery it is straightforward and a referral to authorities for prosecution is appropriate, however problems arise when the behavior is not criminal but considered “unethical.” The acts may shock the conscience of the public yet not necessarily rise to the level of criminal violations. In these instances how the matter is handled by the organization impacts the trust the public has in the organizations. These issues are heightened when dealing with large international organizations with diverse staff.

Due to the diverse cultures and nations there is not one set of morals or ethics that are considered shared by every group. However, there may be some consensus as to unacceptable behavior such as murder, sexual abuse and exploitation, and other crimes. Applying the definition used by Svava (2014), a determination of right and wrong is difficult to develop with differing ideas of right and wrong. Further, the requirements of “duties, principles, specific virtues and benefits to society” may be different depending on the culture of the people. Moreover, in practice one country may prosecute ethical violations as crimes while others may not punish such violations. Therefore, there are aspirations that a universal code of conduct/behavior in terms of ethical standards be established especially for international public organizations such as global ethics.

The definition of international society or global community may be distinguishable however there are similarities in what people would like to consider a “common values” that may be pursued. It may be difficult to clearly identify common morals but in terms of public servants there may be an expected common behavior. International society is more than simply multiple states that interact with one another rather the states possess some common values and interests as well as comply with common rules and institutions (Jones, 2010). Although there may not be one global political community that determines the principles for judging policies and institutions there is what some consider a single moral community (Gamble, 2010).

In terms of ethics of international society it may be considered “the morality appropriate to a society of states” (Jones, 2010, p. 113). Ethics in international society is concerned with “the moral status of states, the principles and values that should govern their dealings with one another, and the aims that international society should pursue” (Jones, 2010, p. 113). Jones (2010) identified two types of concern with ethics for international society. First, concern is that

“the ethic of actually existing international society in an entirely empirical spirit” (Jones, 2010, p. 113). Jones (2010) considers the “norms and rule” that are “positive morality” which is morality that prevails in society (p.113). Second, the consideration that ethic should govern international society. In this case, the focus is on “critical morality” to “assess actions and beliefs as right or wrong, good or bad, praiseworthy or blameworthy” (Jones, 2010, p. 114).

Meanwhile, global ethics has been described as “consensus among states on standards of conduct for achieving justice, respect of human rights, and improving overall performance of countries in their intergovernmental dealings” (Jreisat, 2011, p. 197). The purpose of global ethics is to establish a “consensus on universal principles” that would in part improve global justice and encourage global responsibility (Jreisat, 2011, p.197). Applied global ethics expanded the expectations of ethics in public organization to “comprehensive and integrated approach to ethics in society” (Jreisat, 2011, p.199).

In international society the United Nation is an example of a public organization tasked with administering global ethics. United Nations has attempted to establish ethical standards and develop agreements for enforcement (Jreisat, 2011). Jreisat (2011) recognized that development of such international organization signifies that there is some universal recognition that problems faced by one country extends beyond the boundaries of that country therefore requires a collaborative effort to manage the problems. Additionally, that the global efforts have established foundational policies that continues to serve the global community. Finally, that these collaborative efforts have also strengthened the collective aspirations and improved “global rule making and rule application” (Jreisat, 2011, p. 200). Therefore, to combat ethical violations such as corruption it is important to have universal standards. Applied global ethics is relevant

for the global community in enforcing standards and rules and for the United Nations in how it manages its staff, personnel, and its missions.

In local or state public organizations violations of ethical standards are investigated and enforced by one agency with some form of uniformity. Additionally, if there are clear rules and procedures penalties may be easily assessed. However, in an international public organization with different guidelines, rules and procedures, it may be more difficult to address violations. The global community is comprised of many diverse cultures the United Nations members are varied with 193 different countries. Therefore, it is imperative that ethical or unethical conduct are clearly identified and compliance mandatory. One area that has gained attention in the global ethics is the issue of corruption (Jreisat, 2011). When dealing with violation by staff or participants the United Nations has attempted to address the issue of corruption and come to some consensus as to definition of corruption and its ramifications.

II. Ethical Standards for United Nations and Peacekeeping

United Nations (UN) as a public organization was developed in 1945 after World War Two by consensus of fifty-one countries to create an organization “committed to maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights” (United Nations, 2015). The UN has four main purposes:

- (1) To keep peace throughout the world;
- (2) To develop friendly relations among nations;
- (3) To help nations work together to improve the lives of poor people, to conquer hunger, disease and illiteracy, and to encourage respect for each other’s rights and freedoms; and
- (4) To be a centre for harmonizing the actions of nations to achieve these goals.

(United Nations, 2015). In furthering its objectives UN has various programs that address a broad range of issues that span from “sustainable development, environment and refugees protection, disaster relief, counter terrorism, disarmament and non-proliferation, to promoting

democracy, human rights, gender equality and the advancement of women, governance, economic and social development and international health” (United Nations, 2015). An area that the UN is often recognized for is in its contribution to peacekeeping and peacebuilding missions which includes conflict prevention and humanitarian assistance (United Nations, 2015).

Peacebuilding focuses on the “socio-economic development and the reform and strengthening of political and administrative structures” (Cheng & Zaum, 2011, p. 7). UN’s role in peacebuilding involves sending staff and volunteers into post-conflict or conflict areas; and providing aid and support. Aid includes financial assistance, providing resources such as food and water, as well as rule of law for development of government structure. A part of peacebuilding is accomplished through peacekeeping operations. The purpose of peacekeeping is to maintain ceasefires and stabilize situations, provide support for political efforts to resolve conflict by peacefully (United Nations, 2015). Peacekeeping operations are governed by specific mandate agreed by the General Assembly. A peacekeeping mission consists of unarmed military observers and lightly armed troops with primarily monitoring, reporting and confidence-building roles (United Nations Peacekeeping, 2015).

Peacekeepers role is not limited to supporting the ceasefire or peace agreement, rather they are often required “to play an active role in peacemaking efforts and may also be involved in early peacebuilding activities” (United Nations, 2015). Peacekeeping operations require complex relationship between the host state, the UN, and troop providing country. The operations are to “facilitate the political process, protect civilians, assist in the disarmament, demobilization and reintegration of former combatants; support the organization of elections, protect and promote human rights and assist in restoring the rule of law” (United Nations, 2015). Ultimately, “UN peacekeeping operations may use force to defend themselves, their

mandate, and civilians, particularly in situations where the State is unable to provide security and maintain public order” (United Nations, 2015).

Currently, there are more than 123,000 military, police, and civilian staff in peacekeeping operations in over sixteen different regions which include countries in Africa, Haiti, Cyprus, Lebanon and Kosovo (United Nations Peacekeeping, 2015). There are approximately 104,235 uniformed personnel; 17,087 civilian personnel; and 1,800 volunteers (United Nations Peacekeeping, 2015). One-hundred and twenty eight different countries contributed uniformed personnel. Due to the sheer size and number of the missions the UN faces major challenges in managing and administering the operations. Management issues include violations of ethical standards.

UN staff and personnel are guided by the Standards of International Civil Servants. These standards identify types of qualities in staff specifically requirements for “honesty, truthfulness, impartiality and incorruptibility” (Standards of International Civil Servants, 2013). The standards address specific behavior that relates to working relations, conflict of interest, harassment, disclosure of information, relations with member states, and relations with the public. Although these standards provide general guidelines the UN has yet to pass a Code of Ethics for Personnel. One was drafted in 2005 which addressed specific ethical requirements regarding abuse of authority, gifts, confidentiality, and conflict of interest however it has not been adopted instead the UN relies on the Standards of International Civil Servants. Another source for ethical guidance is Article 101, paragraph 3, of the *Charter of the United Nations* which establishes the universal standard for all staff members employed by the UN as the “highest standards of efficiency, competence and integrity” (United Nations Charter, 1945). Moreover, the UN Oath of Office requires a declaration to

all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization. I also solemnly declare and promise to respect the obligations incumbent upon me as set out in the Staff Regulations and Rules.

(United Nations Office of Ethics, 2012). The Standards of International Civil Servants and the Charter are applicable to the staff and personnel of the organization as a whole. Under the jurisdiction of the UN peacekeeping forces (or members that make up the peacekeeping forces) similar to other staff of the UN are bound by the same standards. Additionally, there is a specific code of conduct for peacekeepers, Code of Personal Conduct for Blue Helmets (United Nations Conduct and Discipline Unit, 2015). The code of conduct includes behavior displaying integrity and impartiality; respecting the law, local cultures, traditions, and customs of the host country; respecting human rights of all. Specific rules include not indulging in “immoral acts,” respecting the property of the UN, and keeping information confidential (United Nations Conduct and Discipline Unit, 2015). These rules highlight the importance of ethical standards in peacekeeping operations (United Nations Conduct and Discipline Unit, 2015). Even with clearly identified and strict standards the UN faces challenges addressing ethical violations and corruption among peacekeepers.

III. Corruption in Peacekeeping

Corruption is the abuse of entrust power for private gain. It hurts everyone who depends on the integrity of people in a position of authority (Transparency International, 2015).

Corruption simply put is “the abuse of public office for private gain” (World Bank, 2015). Corruption is also defined as “the abuse of entrusted authority (public or private) for illegitimate (private or group) gain” (Transparency International, 2013). Jreisat (2011) asserts that “corruption includes bribes, fraud, conflict of interest, misuse of information, and

unjustifiable or disproportionate violence against others” (p. 201). Due to the insidious effect of corruption on international initiatives it is one area where there are consensus and universal objectives (Jreisat, 2011). Globally corruption takes the form of bribery, theft, violation of election laws, finance regulations, and conflict of interest for public officials (World Bank, 2015). Moreover, under the UN standards corruption includes embezzlement, bribery, theft and fraud, extortion, abuse of discretion, favoritism, conflict of interest, and improper political contributions (United Nations Guide for Anti-Corruption, 2003). Common in most definition of corruption is abuse of power, conflict of interest, bribes, and fraud.

Conflict and corruption are often linked due to corruption being causes of conflict as well as the consequence of conflict (Transparency International, 2013). Due to corruption in political process conflict may arise as seen in countries such as Egypt. However, conflict may also cause corruption due to the political instability which leaves people/groups to exploit the situation for individual (own) financial gain (Transparency International, 2013, p. 16). In its report on *Corruption & Peacekeeping*, Transparency International (2013) acknowledged that in conflict areas corruption may be overlooked due to the prevailing desire to re-establishing security, stability, and domestic law and order (p. 17).

Accordingly, post-conflict areas may also see an increase in corruption. Conflict-affected countries are recognized to have the most serious instances of corruption (Cheng & Zaum, 2011). Cheng and Zaum (2011) emphasized that post-conflict areas provides an ideal environment for corruption due to weak administrative institutions and broken legal and judicial systems. These countries lack the capacity to effectively investigate and enforce prohibitions against corruption (Cheng & Zaum, 2011). Moreover, “the social norms that are expected to contain corruption tend to be weak or non-existent; and divisions within societies affected by conflict weaken

shared conceptions of the public good” (Cheng & Zaum, 2011, p.7). Further, “the sudden inflow of donor aid and the desire of external actors to disburse it quickly create ample incentives and opportunities for corruption” (Cheng & Zaum, 2011, p. 8). In peacebuilding and peacekeeping corruption may develop due to instability in the country or region. As with challenges of corruption facing in peacebuilding it also seen in peacekeepers sent to provide the protection and support.

Peacekeeping operations are not immune from allegations of ethical violations. Peacekeepers are sent to conflict or post-conflict areas to provide security and stability for “international interventions to bring about stability already host international development and aid organisations” (Transparency International, 2013). Peacekeepers operate in areas of armed conflict where there is little or no rule of law (O’Brien, 2012). Therefore, the host state may not have the resources or ability to undertake an investigation and prosecution of such allegations. Additionally, the UN may not have jurisdiction to investigate and prosecute much of these allegations (O’Brien, 2012).

Some allegations of ethical violations and criminal behavior against peacekeepers include sexual exploitation, weapons trading, and smuggling precious metals (O’Brien, 2012). In Africa peacekeepers have been accused of using their position to abuse vulnerable people, engaging in human trafficking, and sexual abuse (Bamidele, 2013). In 1993, there were allegations of corruption and smuggling by peacekeepers (Doyle, 1993). In 2014, there were 51 case involving allegations of sexual misconduct and abuse investigated by the Conduct and Discipline Unit of them 37 were by military and police. Moreover, there were 668 cases involving other allegations of potential crimes/violations not sexual abuse or misconduct with 219 case falling under high

risk (Category I) violations and 43 cases falling under lower risk (Category II) violations by military and police (United Nations Conduct and Discipline Unit, 2015).

Although these incidences raise ethical issues, corruption has been targeted by the UN and the international community to address. Corruption not only impacts the country where it occurs but also the UN in its role as peacekeepers. Forms of corruption include: fraud, illegal political bargains, embezzlement, bribery, favoritism, extortion, the abuse of discretion, and conflict of interest (United Nations Office on Drugs and Crime, 2015). The definition of corruption used by UN is divided into two types: (a) grand corruption; and (b) petty corruption (Transparency International, 2013, p.13). Grand corruption is defined as “corruption that pervades the highest levels of a national Government, leading to a broad erosion of confidence in good governance, the rule of law and economic stability” (United Nations Guide for Anti-Corruption Policy, 2003, p. 28). Petty corruption on the other hand “involve[s] the exchange of very small amounts of money, the granting of minor favours by those seeking preferential treatment or the employment of friends and relatives in minor positions” (United Nations Guide for Anti-Corruption Policy, 2003, p. 28)

The personnel participating in peacekeeping operations are thrust into instability and chaos sometimes with hostility and little appreciation from the host country sometimes leading to corruption. In peacekeeping operations corruption may include misappropriation of funds, abuse of people, theft, and bribery (Transparency International, 2013). The potential for corruption in peacekeeping operations is due in part to operations being heavily funded by the UN and internationally. The budget for the period from 1 July 2014 to 30 June 2015 was about \$8.47 billion. With so much money there is potential for corruption in financing troops and equipment (Transparency International, 2013, p. 12). Transparency International (2013) recognized five

areas where corruption is an issue: (a) political framework; (b) mission operations; (c) troop contributing countries; (d) central procurement; and (e) oversight (p. 19-20). Some examples of corruption include bribery, theft, sexual exploitation and abuse, and abuse of process (Transparency International, 2013, p.22-23). Again, during mission operations corruption may develop in the process of receiving funds and how the funds are spent where an official may exploit his/her position to embezzle funds or misappropriate funds. Additionally, during central procurement corruption may arise due to limited oversight and discretion being left to the troop contributing country (Transparency International, 2013).

The impact of corruption on peacebuilding include social and economic costs which includes lower economic growth; increased costs; increase in political instability; and undermining trust in society (Cheng & Zaum, 2011, p. 8). Moreover, such impact may have long-term effects on the economy of the country as well as cause economic instability (Jreisat, 2011). When peacekeepers are sent to protect the citizens and corruption develops the impact on the post-conflict country may be devastating. Corruption may lead to lack of trust in the UN, loss of precious resources, and additional instability in the country. When peacekeepers participate in fraud, wasted resources or criminal behavior the citizens will not trust that stability/rule of law may be established. Also, the country is relying on support from the UN or other aid agency and when corruption infiltrates the system the limited resources are wasted and needed aid for food or other is lost. Moreover, corruption in an already unstable government will lead to more instability. Accepting bribes, committing fraud, stealing resources, and exploiting the citizens lead to compromised security. When the leaders and those sent to aid are more concerned with personal gain than the well-being of the country (stability of the country) progress in the political stability is negatively affected.

To address allegations of ethical violations and crimes committed by its personnel the UN in 2005 established the Conduct and Discipline Team (CDU) as a part of the Department of Peacekeeping Operations (DPKO). The purpose of CDU was “to strengthen accountability and uphold the highest standards of conduct.” The CDU “maintains global oversight of the state of discipline in peacekeeping operations and special political missions. CDU provides “overall direction for conduct and discipline issues in field missions, including formulating policies, training and outreach activities and handling allegations of misconduct” (United Nations Conduct and Discipline Unit, 2015). Meanwhile, the Office of Internal Oversight Services investigates ethical violations divided into two categories (United Nations, 2015). Category I, high risk cases that include:

- Serious or complex fraud
- Other serious criminal act or activity
- Abuse of authority or staff
- Conflict of interest
- Gross mismanagement
- Waste of substantial resources
- All cases involving risk of loss of life to staff or to others, including witnesses
- Substantial violation of United Nations regulations, rules or administrative issuances
- Complex proactive investigations aimed at studying and reducing risk to life and/or United Nations property

Category II, lower risk cases of:

- Personnel matters
- Traffic-related inquiries
- Simple thefts
- Contract disputes
- Office management disputes
- Basic misuse of equipment or staff
- Basic mismanagement issues
- Infractions of regulations, rules or administrative issuances
- Simple entitlement fraud

(United Nations, 2004, p. 9-10). However, these powers are limited to non-military personnel.

In cases involving military and police personnel, the UN’s options are limited to repatriating the individuals and banning them from future peacekeeping operations. The decision to discipline and/or sanction and other judicial actions is the responsibility of the national jurisdiction of the individual (United Nations Conduct and Discipline Unit, 2015). Peacekeeping military and police personnel in missions remain under the exclusive jurisdiction of their national government. The responsibility for investigating an allegation of serious misconduct and taking

subsequent disciplinary action rests with the troop contributing country, in accordance with the revised model memorandum of understanding (United Nations Conduct and Discipline Unit, 2015). The troop contributing country involved is required to report back to the UN on the outcome of misconduct investigations and actions taken (United Nations Conduct and Discipline Unit, 2015).

Even with the different mechanisms to address violation of ethical standards the UN faces difficulties in enforcement of the conduct. The local state (host state) may prosecute under its domestic laws however the host state may not have a legal system to address the problems due to its political instability. Moreover, if the troop contributing country does not investigate and prosecute the individual may not face any penalties.

The problem of follow-up by troop contributing country is demonstrated by review of cases involving allegations of sexual exploitation and abuse where there was 61 follow-up with member states but only 52 responses (no information on disposition). In cases involving other abuses there were 102 follow-up with member states but only 62 responses from member states (no information on disposition) (United Nations Conduct and Discipline Unit, 2015). Therefore, some have suggested prosecution through international courts for certain violations (O'Brien, 2012). The most egregious abuses such as murder, sexual abuse and exploitation, and other violent crimes may warrant prosecution through international tribunals (O'Brien, 2012). However, it is difficult to prosecute widespread corruption when the UN relies on the states to prosecute/cooperate which may be difficult to hold criminal accountability. Because prosecution or dealing with serious misconduct of peacekeeping forces is left to the discretion of the national government there is no mechanism if the state fails to act and there is no ramification for the misconduct.

Therefore, it may be more beneficial to use resources to prevent corruption rather than punish violations. Transparency International (2013) suggests seven ways to address the problem of corruption:

1. the Secretary General should make a strong statement of UN policy towards recognizing corruption;
2. Member states should carefully consider how they may contribute to reducing corruption risk in UN operations;
3. prepare guidance on how to approach corruption issues when designing Settlement and Mission Mandate;
4. Prepare guidance for peacekeeping forces on how to address corruption in mission operations;
5. Prepare guidance in all areas where there is a risk of corruption, i.e., troop selection; reimbursement; mission subsistence allowance; equipment; funding; and natural resources;
6. Establish counter-corruption training requirements for peacekeeping forces and staff; and
7. Establish an independent and professionalized oversight and investigation capability

(p. 8-11). Specifically, the fourth recommendation addresses the issue of peacekeeping forces and how corruption may be reduced or prevented. This requires cooperation from the host country and the troop contributing country as well as the UN. Unfortunately, due to the reliance on member states it may be difficult to create such guidance. The troop contributing country is responsible for providing training and resources and if that state is limited by time and money compromises may occur. However, the commitment of the international community and the UN with the support of non-governmental agencies there is an effort to address issues facing peacebuilding and peacekeeping operations. The fact that the issue of corruption is widely accept as being reprehensible further prosecution of peacekeeping forces may be possible.

IV. Conclusion

Global ethics requires a consideration of the international society and the global community. Whether there are a set common morals or ethics is up for debate. The difficulty in reaching a consensus on ethics does not prohibit organizations from recognizing unacceptable

behavior. In context of international public organizations the issue of ethics and ethical standards are more defined yet organizations such as the United Nations faces differing views on acceptable behavior. One example of difficulties facing management of the UN is corruption. Even with the universal covenant and UN offices addressing issues of corruption the peacekeeping operations faces continued violations of standards. However, having non-governmental agencies hold the countries and organizations accountable helps to focus on ethics and corruption.

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