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BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

In Re the Matter of:

The Honorable Rudolph J. Tollefson  
Pierce County Superior Court  
930 Tacoma Avenue South  
Tacoma, Washington 98402

NO. 98-2699-F-81

ANSWER TO STATEMENT OF CHARGES

COMES NOW, the Honorable Rudolph J. Tollefson, by and through his attorney, Daryl L. Graves, and Answers the Statement of Charges served upon him December 16, 1999, as follows:

**A. GENERAL DENIAL ON FACTUAL ALLEGATION**

i. Judge Tollefson, unless specifically admitted, denies that he has done anything improper. Any assertions or implications contained in the Statement of Charges that he has done anything improper are denied. All assertions of fact or law contained in the Statement of Charges, which are not specifically admitted in this Answer, are denied.

**B. ADMISSIONS AND DENIALS AS TO SPECIFIC SECTIONS AND PARAGRAPHS OF THE STATEMENT OF CHARGES**

Judge Tollefson admits and denies the specific sections and paragraphs of the Statement of Charges as follows:

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## I. BACKGROUND

1. Judge Tollefson admits the allegations contained in paragraph 1 of the Statement of Charges.

1.2 Judge Tollefson admits the allegations contained in paragraph 1.2 of the Statement of Charges.

By way of further Answer, Judge Tollefson states that following his Response to the Statement of Allegations, in a five-page letter dated September 2, 1999, he further responded to Ms. Bender's August 18, 1999 letter requesting clarification of certain statements contained in the August 12, 1999 Response to Statement of Allegations. The September 2, 1999 Supplemental Response to Allegations provided copies of certain Court Orders from the Satterwhite Pierce County District Court file and a copy of the docket from that file.

A Supplemental Statement of Allegations was conveyed October 5, 1999 to which Judge Tollefson responded on October 7, 1999. An Amended Supplemental Statement of Allegations was conveyed to Judge Tollefson on October 27, 1999 to which he responded on November 3, 1999 and November 29, 1999.

## II. CONDUCT GIVING RISE TO CHARGES

### 2. Intemperate and Abusive Language and Behavior Toward Court Staff and Colleagues

2.1 Judge Tollefson admits the allegations contained in paragraph 2.1 of the Statement of Charges.

By way of further Answer, Judge Tollefson states that his conduct at that time was excessive, improper, and inappropriate. He did not properly control his anger and reaction to

1 the situation and what Ms. Segamo had said to him. He feels badly and is sorry he acted as  
2 he did. He will not do so again. Recognizing that his conduct was improper, he has taken  
3 the following actions:

4 a. Apologized in writing to Ms. Segamo.

5 b. Apologized in writing to the entire Pierce County Superior Court  
6 Administrative Staff.

7 c. Attended and orally apologized at two Pierce County Superior Court  
8 Judge's meetings to insure that all judges heard his apology.

9 d. Apologized in person to each member of the Pierce County Superior  
10 Court Executive Committee.

11 e. Met with and been mentored by Judge Bruce Cohoe discussing this  
12 situation and how to avoid these kinds of situations in the future.

13 f. Attended and completed a judicial ethics course entitled *Ethics for*  
14 *Judges* at the National Judicial College in Reno November 15–17, 1999.

15 2.2 Judge Tollefson denies telephoning Pierce County Superior Court  
16 Administration on January 3, 1997 and speaking with Deputy Administrator Susan Dye.  
17 Judge Tollefson denies being upset about his courtroom and parking assignments in this or  
18 any conversation with Deputy Administrator Susan Dye. He was not assigned a courtroom at  
19 that time and has had the same parking space since 1979. Judge Tollefson denies using  
20 inappropriate, angry and abusive language in speaking with Ms. Dye.

21 Judge Tollefson admits that on an occasion earlier than January 3, 1997, he  
22 telephoned the Pierce County Court Administration Office. A person who did not identify  
23 herself forwarded him to then Acting Presiding Judge Vicki Hogan. Judge Tollefson denies

1 displaying his anger and/or being verbally abusive to Judge Hogan in that telephone  
2 conversation.

3 Judge Tollefson admits that his behavior outlined in allegation 2.1 demonstrated  
4 inappropriate demeanor and language relating to a court staff person, Raelene Semago.  
5 Judge Tollefson denies that the behavior outlined in allegations 2.1 and 2.2 demonstrates a  
6 pattern of inappropriate demeanor and language in relating to court staff and judicial  
7 colleagues.

8 **3. Improperly Entering Ex-Parte Orders Without Hearing or Notice to Parties**

9 3.1 Judge Tollefson admits entering an Order providing for the conviction and  
10 sentencing of William Satterwhite under Pierce County District Court Cause Number  
11 96C002195 on November 4, 1996 while sitting as a District Court Judge.

12 Judge Tollefson admits that on November 15, 1996, without providing notice to the  
13 prosecutor, the defendant, or defense counsel, and without holding a hearing on the matter,  
14 he provided an Amended Court Order to the Pierce County Jail clarifying that the 36 days in  
15 jail (35 on count 1 and 1 on count 2) provided for in the November 4, 1996 Judgement and  
16 Sentence were to be served as "flat" time. All other conditions of the November 4, 1996  
17 Judgement and Sentence were to remain in effect as originally ordered.

18 The "flat" time required that Mr. Satterwhite actually serve 36 days without any good-  
19 time credit, which was Judge Tollefson's intention in the November 4, 1996 Judgement and  
20 Sentence. The November 15, 1996 Amended Court Order clarified his intention for the  
21 Pierce County Jail to assist in the administration of Mr. Satterwhite's sentence.

1           3.2    Judge Tollefson has insufficient knowledge of and therefore denies the  
2 allegation that he was not scheduled to take the Bench in Pierce County District Court  
3 Number One after December 17, 1996.

4           Judge Tollefson admits the remaining allegations contained in paragraph 3.2 of the  
5 Statement of Charges.

6           By way of further Answer, Judge Tollefson states that William K. Satterwhite was  
7 charged by criminal Complaint, dated May 30, 1996 with two misdemeanor criminal  
8 violations. The first was Domestic Violence Assault in the Fourth Degree (RCW 9A.36.041)  
9 against a seven-year-old by coming to her room after midnight while she was asleep and  
10 sucking on her neck, leaving a "hickey". The girl awakened during the incident and told Mr.  
11 Satterwhite, "No." He also told her not to tell anyone. The second criminal charge was  
12 Unlawful Possession of a Controlled Substance – Marijuana [RCW 69.50.401(e)] by  
13 knowingly possessing less than 40 grams of said substance when arrested on count one.

14           On May 30, 1996, the defendant entered a plea of not guilty, posted a \$750.00  
15 appearance bond and was released on conditions that he have law abiding behavior,  
16 possess no controlled substances, and have no contact with the girl "or any other juveniles."

17           To the best of his recollection, that later condition was added then and, if not then,  
18 certainly later due to the fact that the court was made aware that Mr. Satterwhite had been  
19 charged August 23, 1996, in Pierce County Superior Court with two counts of First Degree  
20 Child Molestation involving the daughter of his fiancée and the older sister of the seven-year-  
21 old. The Superior Court allegations involved six or seven incidents of Mr. Satterwhite rubbing  
22 his exposed penis over the older girl's leg while she lie on the floor. According to her  
23 statement and charging documents, Mr. Satterwhite had ejaculated on her in these incidents.

1 Mr. Satterwhite entered a Statement of Defendant on a Plea of Guilty to both counts of  
2 the criminal Complaint on November 4, 1996. He admitted in writing the possession of less  
3 than 40 grams of marijuana on May 28, 1996, and entered a Newton/Alford Plea on the  
4 count of Domestic Violence Assault. This type of plea permitted Mr. Satterwhite to maintain  
5 his not guilty plea, acknowledge that there would be facts sufficient from which he could be  
6 found guilty on the Domestic Violence Assault, and permitted the court to find him guilty and  
7 sentence him on that count.

8 Judge Tollefson heard arguments from the deputy prosecutor and defense counsel.  
9 Christine Conner, Mr. Satterwhite's girlfriend testified. She is the natural mother of the 7  
10 year-old, a 14 year-old, and a 4 year-old, all of whom lived with Ms. Conner. To the best of  
11 his recollection, Ms. Conner's concerns were that Mr. Satterwhite did or may have sexually  
12 assaulted all three of her daughters. She further indicated that the family and 7 year-old  
13 were afraid of Mr. Satterwhite and wanted protection from him. The 7 year-old was so  
14 frightened she did not want to go to school. She had told Satterwhite to leave her alone and  
15 had been instructed by him to not tell anyone about what he did to her. Ms. Conner alleged  
16 Mr. Satterwhite had been calling her home while in the Pierce County Jail.

17 As a way to protect the seven-year-old and other juveniles from Mr. Satterwhite,  
18 portions of the Court Order included a "phone block" in the jail so that he could not call her  
19 home, no contact with her or any juvenile, a probation evaluation regarding release etc. while  
20 he was in custody, psychosexual evaluation and any recommended treatment, and Pre-Trial  
21 Services to activate a "victim alarm" at his expense as a condition of his release from  
22 custody. Pre-Trial Services was to set up the "victim alarm" prior to the defendant's release,  
23 rather than permitting him to go to Pre-Trial Services upon his release to set up the "victim

1 alarm." This precaution was invoked due to the victim's and her mother's levels of fear and  
2 Mr. Satterwhite's numerous alleged sexual improprieties.

3 Judge Tollefson imposed 365 days with 335 suspended on the assault, and 90 days  
4 with 89 days suspended on the marijuana charge. The jail suspension required satisfactory  
5 compliance with all conditions of the Court Order. He was also to have law abiding behavior,  
6 no similar incidents, supervised/appropriate counseling and to be on active probation. Mr.  
7 Satterwhite was taken into custody on November 4, 1996.

8 On November 26, 1996, counsel for Mr. Satterwhite brought a motion to reconsider  
9 the November 15, 1996 "flat" time determination. As was the custom with Pierce County  
10 District Court at that time, the then pro tem Judge Kelly Seidlitz declined to hear this motion  
11 addressing the major provisions of Judge Tollefson's November 4, and November 15, 1996  
12 orders. This matter was set over to be heard by him at a later time.

13 Pre-Trial Services interviewed defendant Satterwhite in custody on November 22,  
14 1996, to obtain a Probation Agreement prior to his release. That agreement required, among  
15 other things, him to immediately report to probation upon release, be referred at that time to  
16 a state certified sexual deviancy agency for a psychosexual evaluation, and to attend and  
17 complete sexual deviancy treatment, as required by the evaluator.

18 The docket in this case indicates on December 13, 1996, the court was notified by  
19 telephone from Pre-Trial Services that Mr. Satterwhite was not willing to pay for his home  
20 detention (in lieu of his continued in-custody status) and not willing to pay for the "victim  
21 alarm" ordered by the court on November 4, 1996. Pre-Trial Services determined that he  
22 was in violation of previous Court Orders and served a \$10,000.00 cash only warrant on him  
23 in the Pierce County Jail. Pre-Trial Services filed their December 10, 1996 in-custody report

1 outlining the allegations of the 7 year-old and her 14 year-old sister, and Christine Conner's  
2 concerns about the safety and well being of her other children and Mr. Satterwhite's 4 year-  
3 old natural daughter. The matter was set for the December 17, 1996 in-custody docket as  
4 Mr. Satterwhite was in non-compliance with the court's previous order. The state moved to  
5 impose the balance of the jail time imposed by Judge Tollefson on November 4, 1996.

6 Commissioner Judy Jasprica, contrary to then Pierce County District Court Number  
7 One customary procedure, modified major provisions of the previous Court Orders entered  
8 by Judge Tollefson. On December 17, 1996, she ordered Mr. Satterwhite released forthwith,  
9 suspended the order for the victim alarm intended to protect the seven-year-old, continued  
10 the No Contact Order with the seven-year-old or any juvenile, required Mr. Satterwhite to  
11 report to probation upon his release and required a psychosexual evaluation including follow  
12 up treatment, if recommended.

13 On December 18, 1996, the state through their deputy prosecutor, Anne Masterson,  
14 filed a written Motion to Reconsider Judge Jasprica's December 17, 1996 modification of the  
15 previous sentence removing the requirement for the "victim alarm." On December 13, 1996,  
16 Judge Tollefson had ordered a docket entry made indicating that, if Mr. Satterwhite was not  
17 willing to pay for the previous conditions and/or comply with them, that he would serve all  
18 remaining jail time until willing to do so. He wanted his intentions clear to any judge or  
19 commissioner hearing the Satterwhite case.

20 After seeing the state's Motion to Reconsider and Commissioner Jasprica's order,  
21 Judge Tollefson entered an Amended Court Order on December 18, 1996, vacating the  
22 December 17, 1996, ruling of Commissioner Jasprica, imposing 365 days in jail on count 1  
23 and 90 days in jail on count 2 to be served concurrently with 49 days credit served against



1 each. The jail time was to be "flat" time, probation was waived, and the law abiding  
2 behavior/no similar incidents and no contact with the seven-year-old or any other juvenile  
3 were continued as conditions of this order. Copies of this amended order were provided to  
4 the jail, deputy prosecutor Masterson, probation, then defense attorney, Anna Woods, and  
5 the defendant.

6 Judge Tollefson's concern was the safety and welfare of the seven-year-old, her  
7 family, and any other juvenile with whom Mr. Satterwhite may come in contact following his  
8 release from jail. He was unwilling to undergo the psychosexual evaluation and unwilling to  
9 pay for the victim alarm ordered on November 4, 1996. He was charged with two Class A  
10 felonies (Child Molestation 1<sup>st</sup> Degree), one of which he was convicted of and is now  
11 incarcerated in prison.

12 The state filed a motion requesting the reinstatement of the victim alarm. The only  
13 way to be certain of protecting the seven-year-old was to keep Mr. Satterwhite in custody or  
14 get his agreement to comply with previous conditions. He refused to comply with those  
15 conditions. Judge Tollefson believed his detention was critical to the seven-year-old's and  
16 her family's state of mind and/or safety. He did not believe a hearing could be held prior to  
17 his release since Commissioner Jasprica ordered him released "forthwith."

18 **4. Improperly Engaging in Ex-Parte Contacts; Failing to Maintain Impartiality in a**  
19 **Case Before the Court**

20 Judge Tollefson denies that following his ruling affirming the Commissioner's dismissal  
21 of Ms. Allen's petition to modify a parenting plan on October 17, 1997 that he received and  
22 considered two letters from Ms. Allen in making further rulings upon the case, not revealing  
23

1 those letters to the opposing party, his counsel, or to the Guardian ad Litem. Any such  
2 letters were filed by Ms. Allen and copies were provided by her to counsel for Mr. Inderbitzen.

3 Judge Tollefson admits the remaining allegations contained in paragraph 4 of the  
4 Statement of Charges.

5 By way of further Answer, Judge Tollefson states that he was initially involved in the  
6 Inderbitzen vs. Allen matter, Pierce County Superior Court Cause Number 94-5-00454-5, to  
7 hear a pro se motion by Lynda Allen to revise Commissioner Paul Boyle's September 24,  
8 1997 dismissal of Ms. Allen's petition to modify a parenting plan, remove the GAL, and for a  
9 CR35 examination of Inderbitzen. He was involved in the case until April 23, 1998, when he  
10 recused himself by a letter of that date. On April 27, 1998, he entered an order vacating his  
11 January 23, 1998 order.

12 As a result of the concerns listed below, on January 23, 1998, he discharged Steve  
13 Downing as GAL and appointed Doug Schafer, granted Lynda Allen weekend visitation, and  
14 ordered Mark Inderbitzen to undergo a psychosexual evaluation. His concerns were based  
15 on the following:

16 a. The GAL's report and the petitioner's attorney both indicated Shari  
17 Inderbitzen had recanted the sexual allegation against Mark Inderbitzen. No  
18 declaration or affidavit was filed in support of Shari recanting. Shari denied recanting  
19 those allegations.

20 b. The medical examination of Kristi Inderbitzen (1984 case) indicated that  
21 she had a torn vagina indicating a probability of sexual molestation.

22 c. The GAL's report indicated the physical examination of Amy (1994 case)  
23 was a normal genital exam. The GAL's report did not include that Dr. Makari indicated

1 a normal genital exam that did not preclude the possibility of child sexual abuse or  
2 possible penetration of the hymen.

3 d. The GAL's report omitted one of three polygraph examinations  
4 completed by Mark Inderbitzen in 1994. The omitted polygraph exam of July 8, 1994  
5 found Inderbitzen to be attempting deception. The two polygraph examinations  
6 mentioned (July 12, and 14, 1994) resulted in one truthful and one inconclusive result.

7 Contrary to these results, the GAL's report said the polygraph examination  
8 clearly indicated Mark Inderbitzen was being truthful.

9 e. Linda Inderbitzen took two polygraph examinations. She passed one  
10 and one was found to be inconclusive. The GAL report did not mention the  
11 examination that Linda passed.

12 f. Richard Peterson, a psychologist issuing a report on behalf of Mr.  
13 Inderbitzen, mis-stated the results of polygraph examinations done in 1984 on Mr.  
14 Inderbitzen. Mr. Peterson indicates that Inderbitzen was cleared by polygraph  
15 examination of any wrongdoing and no charges were filed. In fact, a January 13,  
16 1984, examination found he was attempting deception. A similar examination was  
17 found to be truthful and a third examination on January 27, 1984, was found to be  
18 deceptive. A subsequent examination by the January 27, 1984 polygrapher was  
19 found to be inconclusive. A subsequent review by John Clark, Pierce County Sheriff,  
20 of the previous inconclusive result indicated that Mr. Inderbitzen was leaning toward  
21 deception. A final review of the same chart from a person with the National Academy  
22 of Lie Detection and California Polygraph Licensing Board concluded that Mr.  
23 Inderbitzen was being deceptive.

1           g.       The GAL's report said the 1984 sexual allegations were fully investigated  
2 and Mark Inderbitzen was found to be innocent. His report further stated Mark and his  
3 daughter had open and routine alternating weekend visitation. The file suggests by  
4 polygraph and medical evidence that Mark may have been sexually inappropriate with  
5 Kristi. Judge Verharen ordered supervised visitation and counseling for Shari and  
6 Kristi to be paid for by Mark.

7           h.       Mark Inderbitzen met and began having sex with Shari Inderbitzen (1984  
8 dissolution) in 1974 when he was 21 years-of-age and she was 10 years-of-age. They  
9 were married and had a child in 1981, who was the victim in sexual allegations in the  
10 1984 dissolution.

11          i.       Psychological evaluations of Shari and her daughter done in the 1984  
12 dissolution concluded that probably neither fabricated the sexual allegations against  
13 Mark Inderbitzen.

14       As Judge Tollefson indicated in his March 13, 1998 decision, he was concerned about  
15 whether Shari Inderbitzen, Mark Inderbitzen's first wife from whom he was divorced in Pierce  
16 County Cause Number 84-3-00264-5, recanted the allegations that Mark Inderbitzen had  
17 been sexually inappropriate with their young child, Kristi. This matter was before him on Ms.  
18 Allen's motion for access to school records of her daughter with Mr. Inderbitzen, Kristina, to  
19 discharge the GAL and to modify the parenting plan. To the best of his recollection, the  
20 information in the 1994 case before him provided by Mr. Fuhrman, attorney for Mr.  
21 Inderbitzen and attorney, Steve Downing, GAL, was that Shari Inderbitzen had recanted  
22 those allegations of sexual improprieties that arose in the 1984 dissolution heard by Judge  
23 Verharen. Judge Verharen had granted the 1984 dissolution and ordered that Mark

1 Inderbitzen have only supervised visitation with his daughter. He had also ordered that Mark  
2 Inderbitzen pay for counseling for his former wife Shari and the daughter. Mr. Fuhrman had  
3 provided to Richard Washburn as part of the information for Mark Inderbitzen's psychological  
4 evaluation in the 1994 case, a hand-written statement purported to be by Shari Inderbitzen  
5 recanting her allegations of Mark Inderbitzen's sexual improprieties with their daughter in the  
6 1984 case. That statement was neither a declaration nor affidavit, nor was it filed with the  
7 court. Judge Tollefson was concerned about that statement's reliability.

8 4.1 Judge Tollefson admits that on December 18, 1997 he telephoned attorney,  
9 Barbara Jo Sylvester. Judge Tollefson denies that Ms. Sylvester was Mr. Inderbitzen's  
10 attorney from the 1984 dissolution. Barbara Jo Sylvester represented Mrs. Inderbitzen (Shari  
11 Inderbitzen, now Steinbacher).

12 Judge Tollefson admits that Ms. Sylvester returned his call the following day and  
13 declined to discuss the 1984 dissolution with him. Judge Tollefson denies that he initiated  
14 detailed discussion of the 1994 case currently before him.

15 By way of further Answer, Judge Tollefson admits that he intended to determine two  
16 things by contacting Ms. Sylvester: **(1)** Whether Shari Inderbitzen recanted the sexual  
17 allegations made against Mark Inderbitzen, as part of the 1984 dissolution, and **(2)** Whether  
18 Shari and her daughter completed counseling ordered by Judge Verharen to be paid by Mr.  
19 Inderbitzen in the 1984 dissolution.

20 4.2 Judge Tollefson has insufficient knowledge as to whether Mark Inderbitzen's  
21 former spouse did or did not understand why a judge had requested she call him at his home  
22 and as such denies that allegation. Judge Tollefson denies discussing in detail the current  
23 court case before him involving Mark Inderbitzen with his former wife in that telephone

1 conversation. Judge Tollefson has insufficient knowledge of whether he informed the former  
2 Mrs. Inderbitzen that he was appointing Douglas Schafer as the Guardian ad Litem in the  
3 new Inderbitzen case and directing her to call Mr. Schafer to discuss her knowledge of Mr.  
4 Inderbitzen. As such, he denies doing so. Judge Tollefson admits the remaining allegations  
5 contained in paragraph 4.2 of the Statement of Charges.

6 By way of further Answer, Judge Tollefson states that he asked the former Mrs.  
7 Inderbitzen the same two questions that he had intended to ask Ms. Sylvester. Mrs.  
8 Steinbacher, formerly Inderbitzen, indicated that she did not recant the sexual allegations  
9 against Mark Inderbitzen and she and her daughter did not complete the therapy that Judge  
10 Verheran had ordered to be paid by Mr. Inderbitzen.

11 4.3 Judge Tollefson has insufficient knowledge on the date that he left a message  
12 for Richard Washburn, Ph.D. and as such denies that it was January 22, 1998. Judge  
13 Tollefson denies that he was interested in questioning Dr. Washburn regarding his  
14 psychological evaluations of the parties in April 1995.

15 By way of further Answer, Judge Tollefson states the purpose of his call to Dr.  
16 Washburn was to obtain a copy of the psychological evaluations completed by him as a part  
17 of the 1994 case. When first reviewing the file, Judge Tollefson found a cover sheet but not  
18 the full report. He believed that reviewing the full report was necessary to the case before  
19 him. He later found the full report and had no further contact with Dr. Washburn's office. He  
20 did not question Dr. Washburn, nor did he intend to do so.

21 By way of further Answer, Judge Tollefson states that he contacted the office of  
22 Richard Peterson, Ph.D., by telephone for the same reason and under similar circumstances  
23 as those pertaining to Dr. Washburn.

1 Dr. Peterson had performed a psychological evaluation on Mark Inderbitzen. Judge  
2 Tollefson wanted a copy of that evaluation. He did not question, nor did he intend to  
3 question Dr. Peterson.

4 4.4 Judge Tollefson admits contacting Julia Moore, M.D., child psychiatrist, by  
5 telephone. He does not recall the date but it may have been January 22, 1998.

6 Judge Tollefson wanted to know whether she was aware of and/or took into  
7 consideration the allegations by Shari Inderbitzen in 1984 that Mark Inderbitzen had been  
8 sexually inappropriate with their daughter. He wanted to know whether those allegations  
9 would have affected the opinions in her report had she been aware of them.

10 Judge Tollefson denies any other allegation contained in paragraph 4.4 of the  
11 Statement of Charges.

12 4.5 Judge Tollefson admits the allegations contained in paragraph 4.5 of the  
13 Statement of Charges.

14 By way of further Answer, Judge Tollefson states that he found relevant and could not  
15 locate Allen Traywick's, Ph.D., report in the court file. It had either never been filed or been  
16 removed from the file. Judge Tollefson called Dr. Traywick, the author of the report, to obtain  
17 a copy of the report, not to discuss the report or its contents with him. Judge Tollefson  
18 admits Dr. Traywick would not provide his report without a subpoena. Judge Tollefson had  
19 no further contact with Dr. Traywick following his telephone conversation.

20 4.6 Judge Tollefson admits discussing this case and the parties with attorney,  
21 Douglas Schafer, in January 1998 in detail sufficient only to determine his availability to serve  
22 as GAL in this case.

1 Judge Tollefson admits that through the course of his discussion with Mr. Schafer, he  
2 learned that Mr. Schafer had approximately two years prior received an unsolicited letter from  
3 a Lynda Allen regarding his (Schafer's) efforts to amend the probate guardianship laws in the  
4 Washington State Legislature (which Ms. Allen misunderstood to mean GAL laws). As Mr.  
5 Schafer customarily did, he forwarded that letter by fax to several legislative offices. Mr.  
6 Schafer did not know and had never met nor represented Lynda Allen.

7 Judge Tollefson has insufficient knowledge as to whether Mr. Schafer had knowledge  
8 of the existing Guardian ad Litem which may be termed "negative," and as such denies that  
9 allegation.

10 Judge Tollefson denies that Mr. Schafer was not qualified by experience or training to  
11 serve as a Guardian ad Litem in this particular child custody case. Judge Tollefson denies  
12 that Mr. Schafer had a conflict of interest regarding Ms. Allen and GAL Downing. Judge  
13 Tollefson denies Mr. Schafer's lack of qualifications for the appointment in this case.

14 By way of further Answer, Judge Tollefson states that at the time he appointed Mr.  
15 Schafer on January 23, 1998 Mr. Schafer had not completed the curriculum developed by  
16 OAC and was not on the Pierce County Guardian ad Litem Register List. Judge Tollefson  
17 felt he needed an assertive and unbiased investigator. Mr. Schafer had a reputation for  
18 being such. Mr. Schafer had been on the Pierce County Superior Court Probate and the  
19 GAL Registry since 1995. Mr. Schafer has asserted that his GAL service prior to January  
20 1998 exempted or "grandfathered" him from the training requirements of RCW 26.12.177.

21 Mr. Schafer could have and perhaps should have been appointed as a Special Master  
22 or Referee on behalf of the court pursuant to RCW 2.24.060. Judge Tollefson's intention  
23 was to let Mr. Schafer conduct a prompt, thorough and impartial investigation on the



1 adequacy of the previous Guardian ad Litem's investigation. For those reasons, he  
2 appointed Mr. Schafer.

3 4.8 Judge Tollefson admits that on May 13, 1998 the Tacoma News Tribune  
4 published an article written by John Gillie discussing the 1994 Inderbitzen case and Judge  
5 Tollefson's solicitation of such article. Judge Tollefson denies soliciting the publication of  
6 such an article.

7 Judge Tollefson admits speaking with John Gillie, reporter from the Tacoma News  
8 Tribune. Judge Tollefson does not recall the date of that conversation. Judge Tollefson  
9 denies initiating the contact and conversation with Mr. Gillie. Judge Tollefson admits  
10 discussing with Mr. Gillie what he termed an interesting case before him where the facts  
11 before him were very similar to the facts on a closed case. He also admits indicating that  
12 one party was involved in the present case as well as the closed case.

13 5. Judge Tollefson denies the allegations and conclusions contained in paragraph 5 of  
14 the Statement of Charges.

15 By way of further Answer, Judge Tollefson states he is alleged to have failed to remain  
16 a detached and neutral decision-maker in that he demonstrated a bias and lack of impartiality  
17 in the Inderbitzen matter. As the paperwork indicates, this was a very voluminous,  
18 contentious, complicated and troubling case. The allegations of the parties were serious and  
19 affected the lives of three human beings: the mother, father, and child. Judge Tollefson  
20 understands the inferences drawn by and conclusions of those who believe he demonstrated  
21 bias and lack of impartiality. What he intended to do was a thorough, assertive, and fair fact-  
22 finding regarding a number of serious allegations. He believed all information sought was  
23 relevant, proper, and necessary to a complete adjudication of the issues of this case. He

1 does not believe any one has said that he was seeking information to which he was not  
2 entitled. Rather, the allegations are that the manner in which he sought to obtain this  
3 information was improper.

4 At the time Judge Tollefson acted, he believed that he had the authority to act as he  
5 did. He candidly acknowledged several ex parte contacts to Mr. Fuhrman. He told him he  
6 thought he had the authority to act as he did. Judge Tollefson acted in good faith and  
7 believed that his duty to insure and protect the best interest of the child, and his inherent  
8 authority to control the court's own appointments (GAL) authorized him to act as he did. He  
9 thought the question of his power was a legal issue. Court of Appeals, Division 2  
10 Commissioner Donald Meath in his April 3, 1998 order granting review of this matter  
11 disagreed with him. Commissioner Meath, citing Sherman v. State, 128 Wn. 2d 164 (1995)  
12 and CJC Canon 3(A) (4), found his ex parte contacts to be improper. Commissioner Meath  
13 was not persuaded by the best interest of the child standard and the court's inherent  
14 authority to control its own officers. Commissioner Meath ruled that utilization of discovery  
15 and in-court examination could legitimately obtain the information necessary to decide this  
16 case, while at the same time preserving the appearance of and impartiality of the judiciary.  
17 After receiving that decision, Judge Tollefson vacated his January 23, 1998 order and  
18 entered an order recusing himself from this case.

19 When faced with this situation again, he will strictly comply with the dictates of  
20 Sherman, supra, and the Code of Judicial Conduct.

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1 **6. Failure to Establish, Maintain and Enforce High Standards of Judicial Conduct,**  
2 **and to Personally Observe Those Standards so That the Integrity and**  
3 **Independence of the Judiciary will be preserved.**

4 6.1 Judge Tollefson denies the allegations and conclusions contained in paragraph  
5 6 of the Statement of Charges.

6 **III. BASIS FOR COMMISSION ACTION**

7 **7.** Judge Tollefson admits the facts alleged in paragraph 7 contained in the Statement of  
8 Charges.

9 **8.** Judge Tollefson admits the facts alleged in paragraph 8 contained in the Statement of  
10 Charges.

11 **9.** Judge Tollefson admits the facts alleged in paragraph 9 contained in the Statement of  
12 Charges.

13 Judge Tollefson denies that he violated Canons 1, 2(A), 2(B), 3(A), (1), (2), (3), (4),  
14 (5), and (7), 3(B)(1), 3(B)(3), and 3(D)(1) of the Code of Judicial Conduct.

15 **C. RESPONDENTS FURTHER DENIALS, AFFIRMATIVE DEFENSES, AND REQUEST**  
16 **FOR DISMISSAL**

17 By way of further Answer, denial, and affirmative defense, Judge Tollefson states that  
18 the allegations contained in paragraph 2.2, 3.1, and 3.2, are barred by the applicable statute  
19 of limitations.

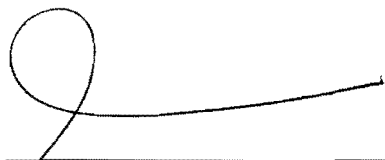
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1           **WHEREFORE** having fully answered the Statement of Charges, Judge Tollefson asks  
2 that the charges against him be dismissed.

3           **DATED** this 6<sup>th</sup> day of January, 2000.

4   
5 \_\_\_\_\_  
6 **DARYL L. GRAVES**  
7 **WSBA #7561**  
8 **Attorney for the Honorable**  
9 **Rudolph J. Tollefson**