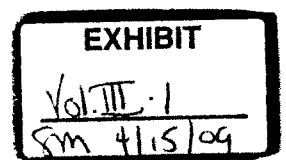


**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: I am applying for Administrative Law Court Seat Number 5.

1. NAME: Ms. Latonya Dilligard Edwards
BUSINESS ADDRESS: SC Second Injury Fund
100 Executive Center Drive Suite 101
Santee Building
Columbia, South Carolina 29210
TELEPHONE NUMBER: (803) 798-2722 ext. 129 (office)

2. Date of Birth: 1970
Place of Birth: Charleston, South Carolina
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married August 29, 1999, to Thomas Stephen Edwards. Never divorced. Two children.
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
I attended Johnson C. Smith University from August 1988-December 1991. I graduated with a Bachelor of Arts degree from Johnson C. Smith University in May 1992. I attended The Ohio State University College of Law from August 1993 to May 1996. I received my Juris Doctor degree from The Ohio State University in June 1996.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
I was admitted to the South Carolina Bar in 1997. I was admitted to the North Carolina Bar in 2003. I took the North Carolina Bar seven times.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
While attending Johnson C. Smith University, I was a Peer Editor for the University Magazine. I was a student tutor, a member of the Honors College and an honor society member.
While enrolled at The Ohio State University College of Law, I was a member and Managing Editor of The Ohio State University Journal on Dispute Resolution, moot court team participant and regional quarterfinalist, and Chief



Justice of the Moot Court Governing Board. I was also a member of the Black Law Student Association.

10. Describe your continuing legal or judicial education during the past five years. Include **only** the title and date of any continuing legal or judicial education course completed

	<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a)	Legal Update	02/18/04;
(b)	2004 Property Rights & Land Use	10/29/04;
(c)	2004 Revised Lawyer's Oath	12/04/04;
(d)	Workers' Compensation Update	08/26/05;
(e)	29 th Annual Education Conf. on Workers' Compensation	10/23-26/05;
(f)	2005 Local Government Attorneys' Institute	12/09/05;
(g)	SC Workers' Compensation	09/26/06;
(h)	SC Black Lawyers' Retreat	09/28/06;
(i)	30 th Annual Educational Conf. on Workers' Compensation	10/22-26/2006;
(j)	Ethics For Government Lawyers	11/09/07;
(k)	Government Law Update	06/20/08;
(l)	Dissecting a Workers' Compensation Case	09/05/08;
(m)	Judicial Selection in SC	09/17/08.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.

On September 26, 2006, I spoke to a group of insurance industry professionals about how to perfect a Second Injury Fund reimbursement claim. On September 5, 2008, I spoke at a Continuing Legal Education Seminar about the impact of the Workers' Compensation Reform Act on the SC Second Injury Fund.

12. List all published books and articles you have written and give citations and the dates of publication for each

While attending Burke High School, in Charleston, South Carolina, one of my poems was published by the Charleston County Young Writers' Conference on November 21, 1987. While I was a student at Johnson C. Smith University, five of my poems were published in the University magazine from 1990-1991. In 1999, one of my poems was published in an anthology by Gateway Publishers. My article entitled, The South Carolina Second Injury Fund Sunrise 1973-Sunset 2013, was published in the May 2008 edition of the South Carolina Lawyer.

13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) South Carolina Bar; September 17, 1997
 - (b) US District Court (South Carolina); October 19, 1998
 - (c) North Carolina Bar; March 22, 2003
 - (d) US District Court (Western District of North Carolina); April 24, 2003
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) August 1996-February 1998: I served as Federal Judicial Law Clerk to Honorable Richard C. Erwin, Senior United States District Court Judge for the Middle District of North Carolina. As Federal Judicial Law Clerk, I drafted memorandum opinions on a variety of federal issues ranging from employment law to criminal matters. One memorandum opinion that I drafted involved a securities issue of first impression.
 - (b) May 1998-June 1998: I served as a contract attorney for John R. Harper, Esquire, and Hemphill P. Pride, Esquire, where I performed legal research and wrote briefs on employment and civil rights matters.
 - (c) July 1998-October 1999: I served as Assistant County Attorney for Richland County. I performed legal research, wrote briefs and represented Richland County before the Circuit Court, Federal Court, Master-in-Equity and Administrative Law Court on various matters. I drafted legal opinions for the Human Resources Department on employment issues, Americans with Disabilities Act, and Family Medical Leave Act. I also served as counsel to the Zoning Board of Appeals and the Procurement Review Panel.
 - (d) October 1999-July 2004: As Chief Legal Counsel for the South Carolina Commission for the Blind, I provided advice and counsel to the Board of Commissioners and agency administration on employment matters, Americans with Disabilities Act, and the Rehabilitation Act. I successfully defended the agency in arbitration, mediation, and in proceedings before the state grievance panel, South Carolina Human Affairs Commission and the Equal Employment Opportunity Commission. I also successfully represented the agency in Federal Court, and in unemployment compensation hearings conducted by the Employment Security Commission.
 - (e) January 2000-September 2005: As a contract attorney for Karaton Services, I reviewed and drafted various contracts, provided legal advice to the owner of the company and performed legal research.
 - (f) October 2005 to present: As General Counsel for the South Carolina Second Injury Fund, I represent the agency before the South Carolina Workers' Compensation Commission, Circuit Courts throughout the state,

the Court of Appeals and the Supreme Court. I also provide advice to agency administration on various procedural and legal matters.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (d) If you are a candidate for **Administrative Law Judge**, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Division.

As Assistant County Attorney for Richland County, I appeared before the Administrative Law Court on Richland County's Motion to Intervene on a matter brought by the Department of Revenue. I have not appeared before the Administrative Law Court since that time.

15. What is your rating in Martindale-Hubbell? I am not rated in the Martindale Hubbell.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?

- (a) federal: 1
(b) state: approximately 3-5 times a year. I also appear before the South Carolina Workers' Compensation Commission on a weekly basis.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

- (a) civil: 100%;
(b) criminal: 0;
(c) domestic: 0.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 0;
(b) non-jury: 10-12 cases.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? I serve as sole counsel in matters before trial courts.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) Triton PCS, Inc. v. Richland County Zoning Board of Appeals United States District Court, Columbia Division, 3:98-2607-19

The Richland County Zoning Board of Appeals denied Triton's request for a special exception to erect a cellular phone tower in an unincorporated area of Richland County. Triton sought relief in the US District Court under the Federal Telecommunications Act. Judge Dennis Shedd affirmed the decision of the Richland County Zoning Board.

The case was significant because it tested the power of county government to promulgate land use rules and regulations that serve the best interest of the county.

- (b) Lillie Harvin d/b/a Secrets II v. SC Dept. of Revenue, 98-ALJ-17-0635-CC
The South Carolina Department of Revenue initiated proceedings to revoke the liquor license of Secrets II, a nightclub adjacent to a residential community. Richland County filed a motion to intervene in order to be heard on the significant number of resources that the Richland County Sheriff's Department had expended in responding to various complaints of criminal activity occurring at the establishment. Judge John D. Geathers heard and granted Richland County's motion. The liquor license was ultimately revoked and the club was closed.
The case was significant because it was an excellent example of how county and state entities combined resources to close an establishment that was fostering residential blight.
- (c) Joe Urbanek v. SC Commission for the Blind United States District Court, Columbia Division, 3:03-1835-22
A blind vendor sued the SC Commission for the Blind because another vendor was selected to operate a full food service cafeteria at Fort Jackson. The aggrieved vendor sued alleging that the SC Commission for the Blind's selection of another vendor violated federal law. Judge Cameron Currie held that the SC Commission for the Blind's selection of another vendor was consistent with the Federal Randolph Sheppard regulations and upheld the agency selection of another vendor. This case was significant because I believe that Fort Jackson was the first federal facility in the state to utilize the Randolph Sheppard Act to choose a vendor for its vending and cafeteria facilities.
- (d) Springs Industries v. SC Second Injury Fund, SC Court of Appeals, 2007-CP-46-00475
A self-insured carrier appealed the decisions of the SC Workers' Compensation Commission and the South Carolina Circuit Court denying additional reimbursement pursuant to S.C. Code Ann. §42-9-400. The SC Second Injury Fund accepted this reimbursement case in 2003 and the Agreement to Reimburse had been signed by all parties and approved by the SC Workers' Compensation Commission. The Fund had been reimbursing the Carrier per the Agreement for more than two years. Carrier sought to unilaterally amend the agreement to include reimbursement for additional medical costs not contemplated by the parties at the time the agreements were signed. This case is currently pending in the South Carolina Court of Appeals. Oral arguments have not been scheduled. This case is significant because it will clarify the extent and scope of contracts in the workers' compensation arena.
- (e) Transportation Insurance Co. v SC Second Injury Fund

The SC Second Injury Fund recently submitted a Petition in the Original Jurisdiction of the South Carolina Supreme Court requesting a judgment for declaratory relief regarding the application of S.C. Code Ann. §15-3-600 to reimbursement cases. That section provides a ten-year statute of limitations for certain cases not enumerated within that chapter. Since the passage of the Workers' Compensation Reform Act, which requires the closure of the South Carolina Second Injury Fund effective July 1, 2013, there has been a surge of cases in which carriers are requesting reimbursement in cases where more than ten years have passed since the claimant was injured. The SC Workers' Compensation Commission has held that there is no statute of limitations applicable to reimbursement cases. The SC Second Injury Fund has several cases on appeal in circuit courts throughout the state on this issue but is requesting that these cases be transferred to the South Carolina Supreme Court for final resolution. The SC Supreme Court has not ruled on this petition. This case is significant because an ultimate decision would allow the Fund to adequately forecast its liabilities as it approaches the critical winding down period.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).**
- (a) A.O. Smith Corp. v. SC Second Injury Fund, SC Court of Appeals, 2006-CP-13-089. The Carrier withdrew its appeal on the morning of oral argument.
 - (b) State Accident Fund v. SC Second Injury Fund, SC Court of Appeals, 2008-96866. This case is currently pending.
 - (c) Overnight Transportation v. SC Second Injury Fund, SC Court of Appeals, 2006-CP-1923. Carrier's petition for rehearing was denied on January 26, 2009.
 - (d) Springs Industries v. SC Second Injury Fund, SC Court of Appeals, 2007-CP-46-00475. This case has not been scheduled for hearing in the SC Court of Appeals.
 - (e) Transportation Insurance Company v. SC Second Injury Fund, SC Supreme Court. This recently filed petition has not been ruled upon.
21. List up to five criminal appeals that you have personally handled. I have not handled any criminal appeals. Give the case name, the court, the date of decision and the citation if the case was reported. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).**
22. Have you ever held judicial office? No.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
24. Have you ever held public office other than judicial office? No.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. Not applicable.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? Yes.
In 2001, my husband and I briefly owned a travel business, Lettstravel, where we organized cruises. We dissolved the business after approximately two years.
28. Are you now an officer or director or involved in the management of any business enterprise? Yes. In August 2008, I created 4 More Strings as a sole proprietorship. I play classical music for various functions as a solo cellist.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? No. Have you ever defaulted on a student loan? No. Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No.
36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or

a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None.

39. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None.
40. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek:
- | | | |
|---------------------------------------|----------|-------------------|
| Large (8.5 x11) envelopes and labels: | \$ 41.75 | February 17, 2009 |
| Postage: | \$163.00 | February 23, 2009 |
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No. Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? No. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) South Carolina Bar Association
 - (b) South Carolina Black Lawyers' Association
 - (c) South Carolina Women Lawyers' Association
 - (d) North Carolina Bar Association
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Alpha Kappa Alpha Sorority, Incorporated
 - (b) Kingston Forest Homeowners' Association, Secretary

48. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.
49. References:
- (a) F. Earl Ellis, Esq.,
Ellis Lawhorne & Sims, PA
Post Office Box 2285
Columbia, SC 29202
(803) 212-4950
 - (b) Vernon F. Dunbar, Esq.,
Turner Padgett Graham & Laney
200 East Broad Street
Greenville, SC 29601
(864) 552-4601
 - (c) Delbert Singleton, Esq.,
Assistant Executive Director
SC Budget & Control Board
Office of the Executive Director
P. O. Box 12444
Columbia, SC 29211
(803) 734-2314
 - (d) Ms. Jacqueline F. Brown
Former Chairperson, Board of Commissioners
SC Commission for the Blind
Plum Branch, SC
(864)-443-5170
 - (e) Laura Liakos
Wachovia Bank NA
Balance Confirmation Services
Post Office Box 40028
Roanoke, VA 24022
(540) 563-7323

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT. I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

S/ LaTonya D. Edwards
Date: 03/12/09

April 2, 2009

Mr. Patrick G. Dennis, Esq.
Chief Counsel
House Judiciary Committee
512 Blatt Building
Columbia, South Carolina 29211

Re: Personal Data Questionnaire and Sworn Statement Amendments

Mr. Dennis:

I would like to make the following Personal Data Questionnaire and Sworn Statement amendments:

Personal Date Questionnaire Amendments

Question No. 14:

I was on maternity leave from July 2004 to October 2005. While on maternity leave, I attended continuing legal education courses, and performed document review and analysis relative to the insurance and pharmaceutical industries.

Question No. 47:

I am a cellist in the Columbia Community Orchestra and a member of the Burke High School Foundation. I am a 2008 Graduate of the South Carolina Executive Institute, and I obtained my State EEO professional certification.

Question No. 48:

Prior to attending law school, I worked in the Reading Recovery Program at Angel Oak Elementary School in James Island, South Carolina and I volunteered at the Charleston County Public Defenders' Office. During law school, I worked at the Franklin County Public Defenders' Office from May 1994 to December 1994. During the summer of 1995, I was a Summer Associate at Rosen, Rosen & Hagood in Charleston, South Carolina.

Sworn Statement Amendments:

I would replace Question No. 4 with the following:

Ex parte communications must be avoided because it undermines the integrity of the judicial process. Ex parte communications may be tolerated if the communication involves procedural and administrative issues or emergencies provided no party will gain a tactical advantage and all parties are notified and are given an opportunity to respond.

I would add the following to Question No. 5:

Recusal would also be appropriate if a judge or member of the judge's household had more than a trifling economic interest in the litigation, if a judge has personal knowledge of facts regarding the litigation or if a judge or lawyer with whom the judge was associated served as a lawyer in the matter.

I would add the following to Question No. 7:

Complimentary gifts and awards are allowed as long as they are not perceived as influencing a judicial decision. Gifts from relatives and friends are acceptable as long as they are reasonably valued for the occasion.

I would add the following to Question No. 12:

I would ensure that cases are disposed of promptly and efficiently by monitoring the cases to reduce delays and unnecessary costs. I would devote the necessary time to hearing, reviewing, and making a decision on the cases even if that requires working after the suggested work hours and on weekends.

I would add the following to Question 24:

Since submitting my application, I have completed the Campaign Disclosure Form indicating the amount that was spent in furtherance of my candidacy for Administrative Law Judge.

Sincerely,

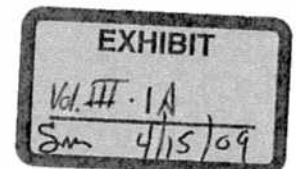
Latonya Dilligard Edwards

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Administrative Law Court
(New Candidate)

Full Name: Latonya Dilligard Edwards
Business Address: South Carolina Second Injury Fund
100 Executive Center Drive Suite 101
Santee Building
Columbia, South Carolina 29210
Business Telephone: 803) 798-2722 ext. 129

1. Do you plan to serve your full term if elected? Yes.
2. Do you have any plans to return to private practice one day? I am not currently in private practice and I do not envision entering private practice.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.
4. What is your philosophy regarding *ex parte* communications? I believe that *ex parte* communications must be avoided because it undermines the integrity of the judicial process. Are there circumstances under which you could envision *ex parte* communications being tolerated? An *ex parte* communication may be tolerated if it involves procedural and administrative issues, or emergencies.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? Though I would judge a case based solely on its merits and not based on any personal or professional relationship I have had with the attorneys, I would recuse myself to avoid the appearance of impropriety.
6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? Since I believe that a party would not make such a motion frivolously, I would give considerable deference to a motion requesting my recusal and would grant such a motion if the situation required such.
7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality? I would not accept gifts from anyone who had the potential to appear before the Administrative Law Court nor would I accept a gift that was being given solely because of my position. I would participate in social hospitality as long as it is not extended solely because of my position.



8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? If I became aware of misconduct by a lawyer or fellow judge, I would communicate my concern with the lawyer or fellow judge directly, if appropriate, or report the violation to the appropriate entity.
9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated? No,
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Yes. As a member of Alpha Kappa Alpha Sorority, I have participated in fundraising events that promote scholarships and community service.
11. How would you handle the drafting of orders? I would provide order instructions to all parties and request that the prevailing party draft the order. I would also require that the prevailing party forward the draft Order to the opposing party to insure that the opposing party has had an opportunity to respond. I would also allow a law clerk to draft and forward orders to all parties so that they will have an opportunity to respond. I would insure that draft orders are thoroughly reviewed and adequately reflect my ruling prior to approval.
12. What method would you use to ensure that you and your staff meet deadlines? I would insure that duties and responsibilities are prioritized with attainable deadlines.
13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I believe that a judge should reasonably interpret the law and not create broad rules to reflect personal or political agendas. Judges should not assume a legislative role by creating laws and establishing public policy.
14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? I would speak at seminars and continuing legal education events, write articles, and do what is requested within the bounds of the code of judicial ethics to improve the legal system. I would also make sure that I am current on emerging issues in the body of law applicable to the Administrative Law Court to insure that justice is effectively and efficiently administered.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? Prior to my undertaking this endeavor, I spoke with my family to make sure that I had their full support. I am confident that serving as a judge will not strain my personal relationships but if this does occur, I believe that the bond that I share with my family lends itself to an appropriate resolution.

16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.
17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved? While a de minimis financial interest in a party does not require recusal, if the de minimis financial interest would call into question my impartiality, I would recuse myself.
18. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas. While serving as Assistant County Attorney for Richland County from 1998-1999, I appeared before the Administrative Law Court on a motion to intervene in an action that was brought by the Department of Revenue involving a night club. The club was adjacent to a residential community and had received several complaints regarding after hours criminal activity and noise. The Department of Revenue was trying to revoke the club's liquor license and Richland County wanted to be heard based on the considerable amount of resources that the county had expended in responding to incidents at the Club. The motion to intervene was granted by the Administrative Law Court and Richland County was heard on the matter. The club was ultimately closed.
21. What do you feel is the appropriate demeanor for a judge?
I believe that a judge should be courteous, professional, respectful, and listen to all evidence prior to rendering a decision.
22. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? I believe that a judge's character, professionalism, and demeanor should be above reproach at all times in both their business and private dealings.
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant? I don't believe that public displays of anger are appropriate and I don't think that it is appropriate to respond to anger with anger. I believe that a judge should maintain professional decorum at all times.
24. How much money have you spent on your campaign? \$204.75. If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? I have not reported this amount to the House and Senate Ethics Committees because I was informed by the State Ethics

Commission that this reporting requirement does not apply to judicial candidates.

25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not applicable.
26. Have you sought or received the pledge of any legislator prior to this date? No.
27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
28. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? No. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
29. Have you contacted any members of the Judicial Merit Selection Commission? No.
30. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Latonya Dilligard Edwards

Sworn to before me this 13th day of March, 2009.

Notary Public for S.C.

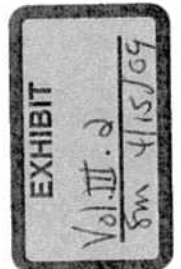
My Commission Expires: 10/4/2017

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Administrative Law Court,
Seat 5

1. NAME: Mr. Christopher McGowan Holmes
BUSINESS ADDRESS: 222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
TELEPHONE NUMBER: (office): 843-388-2966
2. Date of Birth: 1949
Place of Birth: Charleston, SC
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married July 30, 2005, to Patricia Ann Martin Holmes. Divorced August 25, 2004, Elizabeth Graham Holmes, Charleston County; one year continuous separation. Three children.
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) University of South Carolina 1968-1973 BA;
 - (b) University of South Carolina School of Law 1975-1978 JD.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
South Carolina 1978.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
 - (a) Order of Wig and Robe;
 - (b) South Carolina Law Review.
10. Describe your continuing legal or judicial education during the past five years. Include **only** the title and date of any continuing legal or judicial education course completed.

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) SCAARLA The Evolving World of Administrative Law	9/19/08;
CCBA What Works	2/13/09;
(b) Lunch & Learn A&RL Committee	5/18/07;
2007 SCAARLA Conference	9/21/07;
CCBA 4 th Annual "What Works"	12/20/07;
(c) SCAARLA Seminar	9/22/06;



- | | | |
|-----|-----------------------------|-----------|
| | SC Bar A&R Committee | 11/3/06; |
| | CCBA "What works for me" | 12/1/06; |
| | CCBA "What works for you" | 12/15/06; |
| (d) | Attorney ECF Training | 9/7/05; |
| | SCAARLA Educational Seminar | 9/23/05; |
| | Anatomy of a Trial | 11/29/05; |
| | CCBA "What works for me" | 12/9/05; |
| | CCBA "What works for you" | 12/16/05; |
| (e) | Revised Lawyer's Oath CLE | 7/22/04; |
| | SCAARLA Annual Meeting | 10/1/04. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.
I lectured on coastal zone management issues at a joint North Carolina/South Carolina seminar in the late 1980's. I have given presentations to various professional groups and associations in the Charleston area on issues relating to regulations of wetlands and dock permitting.
12. List all published books and articles you have written and give citations and the dates of publication for each. None.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) All South Carolina Courts 1978;
(b) U. S, District Court, District of South Carolina 1979;
(c) U. S. Fourth Circuit Court of Appeals 1990;
(d) United States Claims Court 1990.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) 1978-1979 - Partner with Gene W. Dukes, St. George, SC. General practice including civil, criminal, domestic, administrative and estate planning;
- (b) 1979-1985 - Hired in September 1979 as staff attorney for newly created South Carolina Coastal Council; promoted to General Council in 1983 and Deputy Director in 1984. Advised agency staff and Board members on legal and regulatory matters, drafted regulations, reviewed contracts, represented agency at administrative hearings and in circuit and appellate courts. As Deputy Director, headed up agency's Charleston office supervising a staff of approximately 25 professional and clerical employees;
- (c) 1985-1994 - Associate with McNair Law Firm in Columbia and Charleston; member of administrative and regulatory section, representing clients in variety of environmental and regulatory matters;
- (d) 1994-present Private law practice in Charleston and Mt. Pleasant.

Primary focus on representing clients before administrative agencies and Administrative Law Court and appellate courts on issues involving environmental permits.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (d) If you are a candidate for **Administrative Law Judge**, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Division.

Since establishment of the Administrative Law Court, approximately 90% of my practice has been before that tribunal. With one exception, I have appeared before every current and former ALJ. Virtually all matters I have handled have involved DHEC's coastal zone, water quality, air quality or stormwater permits. Approximately half of the time my client's position has been allied with the agency and the other half in opposition. Over the last ten years, I have averaged approximately four to five contested case hearings before the ALC annually.

15. What is your rating in Martindale-Hubbell? Not rated for unknown reasons.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?

- (a) federal: 0;
(b) state: 3-4 times a year.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

- (a) civil: 98%;
(b) criminal: 0%;
(c) domestic: 2%;

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 0%;
(b) non-jury: 100%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) Guerard v. Whitner, 276 SC 521, 280 SE2d 539 (SC 1981) – First case interpreting the SC Coastal Zone Management Act standard of review. The Court held that, notwithstanding statutory statement

that review was *de novo*, the substantial evidence test is to be applied in judicial review;

- (b) Carter v. SC Coastal Council, 281 SC 201, 314 SE2d 327 (SC 1984) – First case challenging agency regulation of privately owned wetlands as unconstitutional “taking.” The Court held that agency’s action was a legitimate exercise of police powers to prevent public harm and not a regulatory “taking;”
 - (c) Brown v. SCDHEC, 348 SC 527, 560 SE2d 410 (SC 2002) – First case setting forth the proper standard of review by an agency Board on appeal from the Administrative Law Court. The Court held that the ALJ was the finder of facts and the DHEC Board, as a reviewing tribunal, lacked authority to make its own factual findings. The case effectively led to adoption of legislation (2006 Act No. 387) eliminating agency board and circuit court review of ALJ decisions which now go directly to Court of Appeals;
 - (d) Setzer and Gilgen v. SC DHEC, Case No. 03-CP-15-980, June 2004. Following denial of permit and affirmation of decision by ALJ, plaintiffs appealed to circuit court (Hon Jackson V. Gregory) successfully arguing decision was improperly based on agency policies never promulgated and adopted as regulations as required by APA;
 - (e) Concerned Citizens of Jamestown v. Southern Aggregates. Actually four different circuit court cases alleging trespass and nuisance against a limestone quarry and administrative appeals of mining permits before the Mining Council. The various proceedings went on for nearly four years and was resolved by negotiated payment of substantial damages and an agreement to significantly modify future mining methods to minimize impacts on surrounding lands.
20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).**
- (a) Brownlee v. SCHEC, SC Court of Appeals, January 29, 2007, 372 SC 119, 641 SE2d;
 - (b) Brown v. SCDHEC; SC Supreme Court, February 25, 2002; 348 SC 527, 560 SE2d 410;
 - (c) Concerned Citizens, etc. v. SC Coastal Council, et al.; SC Supreme Court, November 9, 1992; 310 SC 267, 423 SE2d 134;
 - (d) State ex rel Medlock v. SC Coastal Council, et al.; SC Supreme Court, July 28, 1986; 289 SC 445, 346 SE2d 716;
 - (e) Carter v. SC Coastal Council; SC Supreme Court, March 26, 1984; 281 SC 201, 314 SE2d 327.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).** None.
22. Have you ever held judicial office? No.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions. N/A.
24. Have you ever held public office other than judicial office? N/A.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. N/A.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?
Yes. In February of 2006 I filed as a candidate for Administrative Law Court seat 5 and in September of 2008 I filed as a candidate for Administrative Law Court seat 4. Both times I was found qualified but not nominated.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? No.
28. Are you now an officer or director or involved in the management of any business enterprise? No.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?
In 1966, I was charged with DUI. I believe the fine was less than \$125; however, I disclosed this information to the Committee on Character and Fitness prior to being admitted to the SC Bar in 1978.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? No. Have you ever defaulted on a student loan? No. Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No.
36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.

38. S.C. Code § 8-13-700 provides, in part, that “[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.” Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None.
39. S.C. Code § 8-13-765 provides, in part, that “[n]o person may use government personnel, equipment, materials, or an office building in an election campaign.” Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None.
40. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None.
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No. Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? No. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
 - (a) South Carolina Bar;
 - (b) SC Bar Administrative & Regulatory Law Committee;
 - (c) Charleston County Bar;
 - (d) SC Administrative and Regulatory Law Association.
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

St. Andrews Episcopal Church.

48. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

I have practiced in a small town (St. George) and large cities (Charleston and Columbia). I have represented a state agency, and I have represented members of the regulated public. I have worked in a government setting, a large law firm setting, and as a sole practitioner. For the last twenty nine years, the majority of my practice has been in the administrative law setting.

My experiences in these various roles have provided me with a broad perspective of the legal environment likely to be encountered by an Administrative Law Judge, both in terms of issues and personalities.

I know how the agency attorneys are often stretched to their maximum in the variety and quantity of matters they have pending at any particular time, from contested case hearings, administrative and judicial appeals and providing general counsel to agency staff and commissions or boards.

I am familiar with the intense environment under which attorneys in large firms operate and the difficulties encountered by small firm and solo practitioners with more limited resources to draw upon.

I have represented large, well financed clients as well as individual citizens with limited means, and I have represented the agency viewpoint. I believe this prepares me to be open minded with the various positions that will be presented in a given case.

In addition to appearing before all but one of the past and present Administrative Law Judges, I have appeared before a number of state and federal court judges since joining the Bar in 1978. I would strive to emulate those characteristics of the judges who made me feel welcome in their courtroom and who were attentive of the position I was advocating. Those characteristics are courtesy, respect, a knowledge of the applicable law and a familiarity with the pleadings and issues. I understand today, more than ever, how difficult and demanding the practice of law is, and I would endeavor to make the parties - and especially their counselors - leave feeling whatever the outcome, they had a full, complete and fair hearing.

49. References:

- (a) Hugh C. Lane, Jr.
Bank of South Carolina
P.O. Box 538
Charleston, SC 29402
(843)724-1500
- (b) Mary D. Shahid
McNAIR LAW FIRM, PA
P.O. Box 1431
Charleston, SC 29402
(843)723-7831
- (c) Joseph K. Qualey
23 Broad Street
Charleston, SC 29401

- (843) 577-3434
- (d) H. Wayne Beam
P.O. Box 11863
Columbia, SC 29211
 - (e) Margaret D. Fabri
1612 Harborview Road
Charleston, SC 29412

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Christopher McGowan Holmes

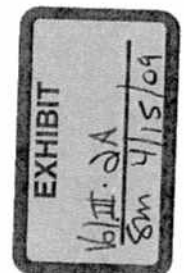
Date: 03/12/09

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Administrative Law Court
(New Candidate)

Full Name: Christopher McGowan Holmes
Business Address: 222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
Business Telephone: 843-388-2966

1. Do you plan to serve your full term if elected? Yes
2. Do you have any plans to return to private practice one day? No
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? *Ex parte* communications between a judge and one party without the knowledge and participation of all parties are unacceptable. Even if the matters discussed do not go to the merits and are not "prejudicial," they raise the specter of bias and lack of impartiality in the mind of the absent party.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? My philosophy on recusal is that if any party feels grounds for recusal exist and timely moves for recusal before the tribunal, the motion should be granted.
6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? I would give strong deference to any party seeking my recusal; however, whether the motion would be granted would depend on a number of factors such as at what stage of the proceedings the disclosure and motion are made. It would seem that the earlier in the process the disclosure and motion are made, the less potential there would be for prejudice to the other parties in obtaining a timely hearing if recusal was granted. However, if I only became aware of the information leading to the disclosure just prior to a scheduled hearing, I would have to consider the prejudice any delay would have on the non-moving party, the reason the information was late in being disclosed, and the reasons for, and sincerity of, the objections.
7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality? If I felt the invitation was extended solely because of my position (and was not a general invitation extended to all ALJ's), I would decline to accept. As far as gifts are concerned, at my age I know who gives me gifts on special occasions. Gifts from any others would be declined or returned.



8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? I would first consult with the person to see if I had correctly perceived the conduct as improper and explain why I felt so. If the person agreed that misconduct was involved, I would strongly counsel disclosure to the appropriate authority or oversight board with the understanding that if not self reported I would have a duty to report it. If the person disputed that the conduct was improper, I would seek counsel from an attorney or judge to confirm that I was correctly construing the conduct as improper, and if there was concurrence I would repeat my advice to the person involved.
9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated? No
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No
11. How would you handle the drafting of orders? If the issues were clear, the facts not disputed and my decision apparent to me at the conclusion of the hearing, I would ask the prevailing attorney to prepare and submit a proposed order with a copy to the opposing counsel who would be given an opportunity to make any suggested revisions. I would then determine if the proposed order correctly reflected my reasoning and correctly stated the law, and if it did, I would sign it. Otherwise, I would make my own corrections. If the facts or applicable law (or both) were in dispute, I would ask both parties to prepare proposed orders which I would then use to help reach a final decision and as a framework to craft an order.
12. What method would you use to ensure that you and your staff meet deadlines? I would keep a regular calendar and a computer log which would contain all cases assigned to me and their current status and deadline. My assistant would also keep a calendar and we would meet at least once a week to go over the calendar and schedule upcoming activities and tasks.
13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I firmly believe that each branch of government has its functions and should refrain from intruding into those of the others. While the term "judicial activism" is somewhat ambiguous, I tend to prefer Black's Law Dictionary definition as a "[j]udicial philosophy which motivates judges to depart from strict adherence to judicial precedent in favor of progressive and new social policies which are not always consistent with the restraint expected of appellate judges." An Administrative Law Judge's duty, primarily, is to apply statutes and regulations to the facts as he finds them to be. I believe the promotion of public policy is, as a general rule, more properly left to the legislative branch for codification and to the executive branch for implementation.

14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? I would continue to actively participate in the Bar's Administrative and Regulatory Law committee and to interact with the SC Administrative and Regulatory Law Association. I would make myself available to speak at public functions on the role of the Administrative Law Court in particular and the judiciary in general.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? No. How would you plan to address this? I cannot conceive of how my service as an ALJ could strain personal relationships.
16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved? Not unless the parties were informed and agreed to my going forward.
18. Do you belong to any organizations that discriminate based on race, religion, or gender? No
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes
20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas. Since establishment of the ALC, approximately 90% of my practice has been before that tribunal. Since the creation of the Administrative Law Court, I have appeared at least once before every current and previous Administrative Law Judge. With the exception of one tax appeal, all matters I have handled have dealt with DHEC's coastal zone, water quality or air quality permits. Approximately half of the time my client's position has been allied with the agency and the other half in opposition. Over the last five (10) years, I have averaged approximately four to five contested case hearings annually before the ALC and an equal number that settled before hearing.
21. What do you feel is the appropriate demeanor for a judge? A judge should at all times be fair and objective and enter each proceeding with an open mind as to the merits of all parties' positions. All parties, witnesses and counsel should be treated with courtesy and patience. However, a judge must be in control of his courtroom, which requires firmness at times.
22. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? 24/7
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? No. Is anger ever

- appropriate in dealing with attorneys or a pro se litigant? No. I believe a judge can be firm without exhibiting anger.
24. How much money have you spent on your campaign? Zero. If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?
 25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
 26. Have you sought or received the pledge of any legislator prior to this date? No.
 27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
 28. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? No. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
 29. Have you contacted any members of the Judicial Merit Selection Commission? No.
 30. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Christopher McGowan Holmes

Sworn to before me this 12th day of March, 2009.

Notary Public for S.C.

My Commission Expires: 10/10/2013

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Administrative Law Court,
Seat 5

1. NAME: Mr. S. Phillip Lenski
BUSINESS ADDRESS: S.C. Senate Judiciary Committee
104 Gressette Building
P.O. Box 142
Columbia, South Carolina 29202
TELEPHONE NUMBER: (office): 803 212-6617

2. Date of Birth: 1963
Place of Birth: Iola, Kansas

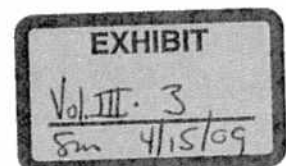
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes

5. Family Status: Married November 9, 1999, to Laura Brant Lenski. Three children. Divorced June 8, 1998, from Ashlyn Kae Kuersten, Circuit Court, Michigan. Irretrievable breakdown (one year's separation).

6. Have you served in the military?
I continue to serve in the United States Army Reserves. I was first commissioned a Second Lieutenant (2LT) in the United States Army on May 16, 1986. I went on active duty after graduating from law school from January 3, 1990 until August 30, 1995. I have been in the Army Reserves since that time, and am currently a Lieutenant Colonel (LTC), serving with the 12th Legal Support Organization, headquartered at Fort Jackson, South Carolina.

7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
(a) University of Denver, Denver, Colorado (September 1982 – June 1986); B.A. Economics and Political Science (*Cum Laude*)
(b) Emory University School of Law, Atlanta, Georgia (August 1986 – May 1989); J.D.

8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
(a) Member of the South Carolina Bar since 1995.
(b) Member of the Colorado Bar since 1989.
I am a member in good standing of both the South Carolina and Colorado Bars. I have always been a member in good standing with both the State of South Carolina and Colorado.



9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.

During college I was on an Army ROTC scholarship. As a result, I was very involved with Army ROTC training activities and promotional events. I held numerous leadership positions, culminating in my becoming the cadet battalion commander (top leadership position) for my Army ROTC unit during my senior year of college. In addition to my ROTC activities, I served as a student tour guide for the University, providing on campus tours to visiting prospective students, and I held part time positions working in restaurants.

During law school, I was a member of the Moot Court Team and participated in Moot Court Competitions during my second year. I was awarded the Best Oral Advocate award at the Georgia Intrastate Law School Moot Court Competition held at Mercer University in Macon, Georgia. I then served as the Director of Special Teams for the Moot Court team during my third year of law school coaching six moot court teams that participated in law school sponsored moot court competitions throughout the United States. In addition to my moot court activities, I performed part time research for two faculty members of the law school during my first and second years of law school.

10. Describe your continuing legal or judicial education during the past five years. Include **only** the title and date of any continuing legal or judicial education course completed.

	<u>Conference/CLE Name</u>	<u>Date(s)</u>
A.	12 th Legal Support Organization Law of Land Warfare	4/17/04;
B.	SC Bar SC Admin. and Regulatory Law Assoc. Meeting	10/1/04;
C.	SC Senate Judiciary Court Legislative Drafting Seminar	11/2/04;
D.	US Army JAG Corps JAG Reserve Component On-Site	1/7/05;
E.	SC Bar Children Issues in Family Court	3/18/05;
F.	US Army JAG Corps Winning the Long War – Law of Land Warfare	5/6/06;
G.	Lorman BCI Basic Workers' Compensation	9/27/06;
H.	SC Association of Counties Local Government Attorneys CLE	12/8/06;
I.	SCJILB Changes in Immigration Law	4/6/07;
J.	12 th Legal Support Organization	11/16/07;

	JAG Reserve Component CLE	
K.	SC Association of Counties 2007 SC Local Government	12/07/07;
L.	SC Solicitor's Association SC Solicitor's Assoc. Fall Conference	9/28/08;
M.	SC Admin. and Regulatory Law Assoc. The Evolving World of Admin. Law	9/19/08;
N.	SC Association of Counties SCAC Local Government Attorney's Conference	12/12/08;
O.	213 th Legal Support Organization Army Reserve CLE	2/7/09.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

I have been teaching pre-law courses to undergraduate students at the Shaw Air Force Base extension campus of St. Leo University since 2000. I have taught the following courses: Criminal Law, Criminal Procedure, Constitutional Law, Business Law, Law Enforcement, and Employment Law. I generally teach three classes per year at St. Leo University.

In 2008 I gave four lectures at the University of South Carolina to undergraduate business and political science majors on the recently enacted South Carolina Immigration Reform Act of 2008. I lectured to two separate classes of business students and two separate classes of political science students.

In October of 2008 I lectured about the legislative process and the role of attorneys to a law school class at the University of South Carolina School of Law.

In April of 2007 I lectured at a continuing legal education seminar sponsored by the South Carolina Journal of International Law and Business on the South Carolina Immigration Reform Act.

In March of 2005, I lectured on current legislation pending in the SC General Assembly relating to Family Court at a CLE sponsored by the SC Bar.

For nearly twenty years, while serving as a Judge Advocate for the United States Army, both while on active duty and in my current capacity as a Reserve officer, I have provided dozens of briefings (lectures) on subjects such as military criminal law, military justice, military administrative law, personnel law, claims processing, and federal legal benefits and protections for Reserve and National Guard soldiers who are called to active duty and deployed in support of military operations in the United States or abroad.

12. List all published books and articles you have written and give citations and the dates of publication for each. I have not published any articles or books.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.

- (a) South Carolina Supreme Court (June 13, 1995);
 - (b) Colorado Supreme Court (October 25, 1989);
 - (c) United State District Court for the District of Colorado (November 28, 1989);
 - (d) United States Court of Military Appeals (now called the Court of Appeals for the Armed Forces) (April 1, 1990).
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) United States Army, Judge Advocate General's Corps, Active Duty, January 1990 - August 1995. I served in numerous capacities during nearly six years on active duty as a JAG officer in the U.S. Army. I served as a Defense Counsel and Administrative Law Attorney from 1990 - 1993 while stationed at Fort Richardson, Alaska. I represented soldiers at all levels of courts-martial in forty-five cases for offenses including rape, child sexual abuse, drug distribution, drunk driving, aggravated assault, and economic crimes. As an administrative law attorney, I directly supervised one attorney and one support staff member, and I provided legal representation to commanders in the areas of real property law, administration of Army Regulations, environmental law, and legal issues involving the day-to-day operation of the installation. I provided instruction to soldiers in the area of the code of conduct and the law of war. I served as Chief, Criminal Law Division while stationed at Fort Jackson, South Carolina from 1993 - 1995. While there, I directly supervised and managed the caseloads of three attorneys and three support staff members. I served as lead prosecutor in five jury trials, and provided guidance to junior counsel in twelve other trials. I tried cases with charges including involuntary manslaughter, felony drunk driving and rape. I provided legal instruction to soldiers in the area of criminal law and the law of war.
 - (b) United States Army, Judge Advocate General's Corps, Reserve Duty, January 1996 to present. I have served as a Judge Advocate for the United States Army Reserves since January of 1996. In that part-time capacity, I have held numerous positions and served in many capacities. I conducted numerous administrative separation boards for Reserve soldiers who committed various acts of misconduct including illegal drug use and being convicted of crimes in civilian courts. I have provided legal assistance to over one thousand soldiers and family members in the area of estate planning, debtor/creditor law, family law, and administrative law. I have served as a training officer, a mobilization officer, and am currently a Deputy Commander of my Reserve Unit. In February of 2003 I was activated and mobilized to Kuwait, and then

Iraq, where I served as the chief prosecutor for the Coalition Forces Land Component Command, which was the Joint Command that invaded and occupied Iraq. As the chief prosecutor, I tried fifteen general courts-martial and advised on over two dozen other courts-martial pending in the theater of operations. I tried the first five courts-martial in a combat zone since Vietnam. I also was the lead prosecutor on the first prisoner abuse cases reported during the Iraq war, which occurred at Camp Bucca, Iraq (Southern Iraq outside the city of Um Quasr) in May of 2003.

- (c) Associate General Counsel, South Carolina Department of Insurance, December 1995 - February 1997. Senior Staff Attorney at the Department and worked directly for the General Counsel. I managed a junior counsel and an administrative specialist. I was responsible for all legal aspects of the regulation of the insurance industry in South Carolina. I drafted legislation, litigated rate hearings and administrative disciplinary actions, and provided legal opinions to Department administrators.
- (d) Adjunct Professor, Saint Leo University, Shaw Air Force Base Campus, Sumter, South Carolina, January 2002 - Present. I teach undergraduate level law courses to students of the University in an adjunct capacity. Courses include criminal law, criminal procedure, and introduction to law and the legal process.
- (e) Associate General Counsel, South Carolina Department of Labor, Licensing and Regulation, February 1997 - October 2002. I provided all litigation support to eleven state regulatory boards, including the South Carolina Real Estate Commission, the Contractor's Licensing Board, the Board of Architectural Examiners, and the Board of Engineers and Land Surveyors. I was responsible for all litigation for my boards, including prosecuting disciplinary hearings and handling all appeals at all levels of State and Federal Courts. Provided assistance in drafting and reviewing proposed legislation for the boards.
- (f) Counsel to the Clerk, South Carolina Senate. October 2002 - September 2004. I provided legal support to the Clerk of the South Carolina Senate, Senators, and to the Senate Committees. My duties included providing general legal research for Senators and Committees, researching and drafting legislation and amendments, and providing litigation services in all cases where the Senate was a party.
- (g) Staff Attorney, South Carolina Senate Judiciary Committee. September 2004 - Present. I provide legal support to the largest committee of the South Carolina Senate. My duties included researching and drafting legislation, amendments, and legal memoranda for the President *Pro Tempore* of the South Carolina Senate and the members of the Committee. My additional duties include tracking and managing legislation through the legislative process.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (a) If you are a candidate for **Administrative Law Judge**, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Division.

The majority of my legal experience has been before the Administrative Law Court. When I first began practicing in South Carolina in 1995 after leaving active duty in the Army, I was a staff attorney at the South Carolina Department of Insurance. In that capacity I conducted disciplinary hearings and insurance rate hearings before the Administrative Law Court. At that time I appeared at the Administrative Law Court on a monthly basis for either an insurance agent/broker disciplinary hearing, or for an insurance rate hearing.

From 1997 through 2002 I was a staff counsel for the South Carolina Department of Labor, Licensing and Regulation. During those years I represented at least a dozen licensing boards, including the Real Estate Commission, the Contractor's Licensing Board, the Board of Architectural Examiners, the Board of Engineering, the Board of Nursing, and the Board of Accountancy. I handled all of the disciplinary actions for those boards, appeals of which were held before the Administrative Law Court. During those six years, I appeared before the Administrative Law Court for an appeal of a disciplinary action on the average of twice a month.

15. What is your rating in Martindale-Hubbell?

Although I am listed in Martindale-Hubbell, I am not rated. I do not know the reason I am not rated.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?

- (a) federal:
(b) state:

Since October 2002, I have been employed as an attorney for the South Carolina Senate. In my capacity as Counsel to the Clerk, I was one of the counsel involved in the case of *Sloan v. Wilkins*, 362 S.C. 430, 608 S.E.2d 579 (2005), which case was heard by the South Carolina Supreme Court in 2004 and decided in 2005. However, aside from that case, my practice has not involved making court appearances since 2003.

From 1996 through 2002, when I served as staff counsel for the Department of Insurance and then the Department of Labor Licensing and Regulation, I appeared exclusively before state courts on a weekly basis.

My answers to the remaining questions regarding my court appearances and caseload apply to the period of time when I was conducting litigation as a staff

counsel for the Department of Insurance and the Department of Labor, Licensing and Regulation from 1996 – 2002.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

(a) civil: (administrative) – 95%

(b) criminal:

(c) domestic: Less than 5% (court appointments in DSS matters).

Since 1995, my only criminal experience has been when I served as a prosecutor in the Army in Iraq and Kuwait in 2003, where I prosecuted fifteen courts-martial (federal court) over a seven month period.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

(a) jury:

(b) non-jury: 100%

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?

During the period of time when I was conducting litigation as a staff counsel for the Department of Insurance and the Department of Labor, Licensing and Regulation from 1996 – 2002, all of my litigation work was before the various licensing boards at LLR, the Administrative Law Court, or one of the Circuit Courts. All of the proceedings were non-jury. In the vast majority of the cases, I was the sole counsel, however, there were a few where I served as a co-counsel.

During the period of time that I served as a prosecutor in the Army in Iraq and Kuwait in 2003, I prosecuted fifteen courts-martial. Eight of those were jury trials. I was the sole prosecutor for ten of the cases, and served as co-counsel in five of them.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) *Sloan v. Wilkins*, 362 S.C. 430, 608 S.E.2d 579 (2005). This case, held in the original jurisdiction of the Supreme Court of South Carolina, addressed the “one subject” requirement in the South Carolina Constitution mandating that all legislation enacted by the General Assembly must be about one subject. The General Assembly was sued by an individual who claimed that a large piece of legislation enacted in 2004 violated the one subject requirement, and I was one of the attorneys who represented the General Assembly in the ensuing litigation. The Supreme Court’s order in that case represented the latest interpretation of that constitutional provision.

(b) *U.S. v. Gorman, U.S. v. Canjar, and U.S. v. Edmunds* (May – August 2003). These cases were unreported general courts-martial (criminal proceedings) filed in southern Iraq against 3 soldiers from the 800th Military Police Brigade in June of 2003. These were the first prisoner

abuse cases filed against U.S. military personnel (pre Abu-Ghraib). I was the chief prosecutor who led the investigation, filed the charges, and conducted the pre-trial hearings pursuant to Article 32 of the Uniform Code of Military Justice (tantamount to grand jury proceedings). These cases were the most difficult I have ever handled. Logistically, I had to conduct a detailed criminal investigation at a prisoner of war camp located in a combat zone. I had to arrange counsel for the soldiers and schedule their travel from Germany, into Kuwait, and then across the border into Iraq. I had to locate and arrange the transportation of witnesses from across the area of combat operations, and I had to conduct a detailed pre-trial hearing, complete with international media scrutiny, in a tent city constructed at the prisoner of war camp. The cases were ultimately pleaded out, and the soldiers were all discharged.

- (c) *SCDLLR (Real Estate Commission) v. James E. MacDonald*, (97 ALJ 11 0374 IJ, 97 ALJ 11 0598 AP, 99 ALJ 11-0527 AP). This case, or rather, series of cases involving a South Carolina Real Estate broker, was ultimately a very important decision in professional licensing law in that it demonstrated that professional licensing boards could ultimately force disciplined licensees to stop engaging in the unlicensed practice of their profession. In this case, the Respondent continued to practice real estate despite his license being revoked and no stay being granted. Ultimately, after being ordered by the Administrative Law Court to cease and desist, I brought the Respondent back before the Administrative Law Court and proved that he had violated the court's order. For the first time in the history of the Administrative Law Court, the Respondent was held in contempt and sent to jail. This case has been used in numerous continuing legal education seminars discussing the power of the Administrative Law Court.
- (d) *SCDLLR (Board of Veterinary Medicine) v. Stan Gorlitsky, D.V.M.*, (01-ALJ-11-0403-AP). This was a case before the Board of Veterinary Medicine. The case was significant because it received a huge amount of publicity in both Columbia and Charleston, where the veterinarian was practicing, which made the investigation and prosecution of the complaint very difficult. The case involved numerous allegations of maltreatment of animals by the Respondent. The Board suspended the license of the Respondent, and I was able to successfully get the appeal dismissed for untimely filing.
- (e) *W.F. Hewitt and Associates v. SCDLLR (Contractor's Licensing Board)*, (91-ALJ-11-0486-AP). This case was significant because in this case the Contractor's Licensing Board determined that, in addition to other misconduct committed by a licensed contractor, the failure of a general contractor to pay his sub-contractors, even when he was not paid by the homeowner himself, constituted misconduct. On appeal, the Administrative Law Court upheld the decision of the Board on this issue.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
- (a) *James E. MacDonald v. SCDLLR (Real Estate Commission)*, (before the Administrative Law Court on appeal from the Real Estate Commission) (multiple appeals):
97 ALJ 11 0598 AP, dates of decisions – 3/25/98 and 8/20/98;
99 ALJ 11-0527 AP, date of decision – 10/27/99.
 - (b) *Stephen P. Herlong v. SCDLLR*, (before the Administrative Law Court on appeal from the Board of Architectural Examiners), 00-ALJ-11-0001-AP, date of decision – 1/9/2001.
 - (c) *James F. Johnston, III v. SCDLLR*, (before the Administrative Law Court on appeal from the Real Estate Appraiser’s Board), 01-ALJ-0015-AP, date of decision – 8/8/2001 (my client was ultimately successful before the South Carolina Supreme Court [365 S.C. 293, 617 S.E.2d 363 (2005)], and while I worked on this appeal through the Circuit Court, I left the agency before the final decision was rendered by the Supreme Court.
 - (d) *Mary C. Hofer v. SCDLLR*, (before the Administrative Law Court on appeal from the Real Estate Commission), 01-ALJ-11-0127-AP, date of decision – 3/20/2002.
 - (e) *Thomas P. Smarsh, RN v. SCDLLR* (before the Administrative Law Court on appeal from the Nursing Board), 01-ALJ-11-0255-AP, date of decision – 12/7/2001.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.
I have not handled criminal appeals except as a law clerk.
22. Have you ever held judicial office? I have never held judicial office.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
24. Have you ever held public office other than judicial office? Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? I have never held public office.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.
I have never served as a judge.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?
Aside from my years as a soldier where I served as a Judge Advocate and which I have previously described in detail, I have not engaged in any occupation, business, or profession other than the practice of law.
28. Are you now an officer or director or involved in the management of any business enterprise? No.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek
I am not aware of any financial arrangement or business relationship that I have or have had that could constitute or result in a possible conflict of interest.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law
No. I have been cited for minor traffic violations and paid fines not exceeding \$125.00.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No.
36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.
I do not have any charges or allegations of any nature pending against me.

39. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.
I am unaware of any charges or informal allegations.
40. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.
(a) Printing of personal information cards, November 2008, - \$191.12;
(b) Stamps, November 2008 - \$126.00.
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship.
I have received no contributions and none have been made on my behalf.
42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened?
I have not directly or indirectly sought the pledge of any member of the General Assembly as to my campaign for the Administrative Law Court.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
I have not asked a friend or colleague to contact a member of the General Assembly on my behalf, and am unaware of anyone initiating such contact.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
(a) South Carolina Bar (member since 1995);
(b) Richland County Bar Association (member since 1995);
(c) Colorado Bar (member since 1989);
(d) Colorado Bar Association (member since 1989)
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

I am an adjunct professor at St. Leo University's Shaw Air Force Base campus where I teach pre-law classes in the evening.

48. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

Since I began my legal career upon entering law school, I have attempted to take advantage of every opportunity to develop my legal skills as broadly as possible. I have always believed that wisdom and understanding are learned through a life full of many and varied experiences. In law school, I tried to gain experience in as many areas of the law as possible. I worked for a criminal defense lawyer after my first year of law school, and then for an insurance defense firm across the country the following summer. During school, I worked for a professor researching corporate law issues, and I was a member of, and ultimately an officer of the moot court team.

After graduation, I served my country on active duty for nearly six years as a Judge Advocate for the U.S. Army. I practiced criminal law, administrative law, environmental law, labor law, and I assisted soldiers with trust and estate matters, consumer credit problems, and landlord tenant issues. When I decided to leave active duty and practice law in South Carolina, I began practicing administrative law with the Department of Insurance. I learned a tremendous amount about administrative law and the Administrative Law Court, and it was during that eighteen month period of employment that I developed an interest in the Administrative Law Court. At my next position with the Department of Labor, Licensing and Regulation (LLR), I regularly appeared before the Administrative Law Court, and as my knowledge of and experience before the court grew, so did my interest in it.

In late 2002, I left LLR to take a position with the South Carolina Senate. While my new position, as well as my service in Iraq and Kuwait in 2003, took me away from practicing directly before the Administrative Law Court, I have still been involved with the court in that I have participated in drafting numerous statutes to amend various parts of the Administrative Procedures Act. I have maintained both my interest in and knowledge of the court by participating in administrative law continuing legal education seminars. My position on the Senate Judiciary Committee has given me a very broad view of the entire judicial system in South Carolina, including the Administrative Law Court. And so while it has been some years since I tried cases in the Administrative Law Court, I believe that these years in the Senate have given me a richer understanding of the court and the various groups, agencies, and individuals who appear before the judges.

I believe that all of my experiences, coupled with my longstanding and strong interest in the Administrative Law Court, will enable me to be a professional, competent, and understanding jurist. I appreciate the time the Commission has spent considering my application, and I look forward to answering any

questions any member of the Commission may have about me or my desire to serve our state as the next Administrative Law Court judge.

49. References:

- (a) Thomas Stowe Mullikin
Moore and Van Allen, PLLC
100 N. Tryon Street, Suite 4700
Charlotte, NC 28202
(704) 331- 1000
- (b) William Clyde "Sonny" Barnes, Jr.
Turner, Padgett, Graham, and Laney, PA
P. O. Box 5478
Florence, SC 29502
(843) 656-4443
- (c) Alicia K. Clawson
Allen, Kopet and Associates, PLLC
P. O. Box 1481
Columbia, SC 29202
(803) 714-9606
- (d) Richard Wayne Simmons, II
McWhirter, Bellinger and Associates, P.A.
485 N. Lafayette Drive
Sumter, SC 29150
(803) 252-0497
- (e) Bank of America
1301 Gervais Street
Columbia, SC 29201
(803) 929-5671

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT. I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

S/ S. Phillip Lenski

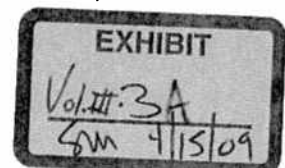
Date: 03/16/09

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Administrative Law Court
(New Candidate)

Full Name: S. Phillip Lenski
Business Address: South Carolina Senate
104 Gressette Building
P.O. Box 142
Columbia, South Carolina 29202
Business Telephone: 803 / 212-6617

1. Do you plan to serve your full term if elected? Yes.
2. Do you have any plans to return to private practice one day? No.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?
Generally, *ex parte* communications are inappropriate and are to be avoided. Even with regard to purely administrative matters such as scheduling, or in emergencies, while it is permissible to engage in *ex parte* communications, the communication should not enable one party to gain an advantage, and the non-participating party should be immediately notified of the substance of the communication. *Ex parte* communications are covered in the Rules of Judicial Conduct (Canon 3).
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? A judge should recuse himself in those cases where he has personal knowledge of the facts of a case, if he has a close personal relationship with one of the parties, or whenever facts and circumstances exist that create an appearance of impropriety or a lack of impartiality. In cases involving lawyer-legislators, former associates, or former law partners, I would recuse myself whenever I felt that my personal relationship with that person might create an appearance of impropriety or raise a question as to my impartiality. If I merely knew a lawyer legislator or if a former associate who appeared before me but did not have a personal relationship with that person, I would disclose that information to counsel, and if a party requested me to recuse myself, I would strongly consider that request.



6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? I would give great deference to such a request. I believe that it is important that all parties who appear before any court feel that they are getting a fair hearing, and if there are facts that could reasonably create an appearance of bias or impartiality, then a request for recusal by a party should be granted.
7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality? The Code of Judicial Conduct outlines how judges should respond to offers of gifts or social hospitality. I would strictly follow the Judicial Canons. Accepting gifts and social hospitality are potentially very dangerous subjects, and judges should take every precaution and to refuse any gift or offer of hospitality that might create an appearance of impropriety.
8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? First, I would encourage the judge to self-report if I became aware of facts that led me to believe that another judge or attorney had engaged in misconduct. If that person failed to report the misconduct, then I would be compelled to report it myself to the appropriate body.
9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated? No.
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No.
11. How would you handle the drafting of orders? I believe judges should draft their own orders, and I would certainly adhere to that belief and practice as an Administrative Law judge.
12. What method would you use to ensure that you and your staff meet deadlines? Good record keeping, communication, and proper monitoring are the benchmarks for meeting deadlines. As an Administrative Law Judge, I would ensure that deadlines are met by my staff by requiring excellent record keeping, having a tracking system to remind me and my staff of upcoming deadlines, and having regular meetings to review the progress of my staff in meeting deadlines in a timely and professional manner.
13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I am a firm believer that the Legislature makes the law and judges interpret it. I believe that judicial activism is inappropriate, and I would certainly not practice it if I were elected an Administrative Law judge. When the law is ambiguous, it is incumbent on judges to interpret it, however,

that must be done with great deference to the intent of the Legislature and any precedent existing in the law.

14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? I believe that it is important that practitioners in any field of the law become engaged in reviewing current legislation for weaknesses and suggesting improvements. As an Administrative Law judge, I would work with groups and associations to improve our state's administrative laws and procedures.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? I do not believe that serving as a judge will strain my personal relationships with my wife and children. I have a very busy life, but I have learned to balance the needs of my family with the requirements of my job. I do not anticipate that if I become an Administrative Law judge this will change.
16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.
17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved? My inclination would be to hear such a case. A de minimus interest is an insignificant interest that does not raise a reasonable question as to the judge's impartiality. Therefore, absent additional facts, I would likely hear cases where I or a member of my family might have a de minimus financial interest in a party involved.
18. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas. Since leaving active duty in the Army, virtually all of my legal experience has involved appearing before the Administrative Law Court. From 1995 until 1997, I was a staff attorney at the South Carolina Department of Insurance. In that capacity I conducted disciplinary hearings and insurance rate hearings before the Administrative Law Court. At that time I appeared at the Administrative Law Court on a monthly basis for insurance agent/broker disciplinary hearings, and for insurance rate hearings. From 1997 through 2002 I was a staff counsel for the South Carolina Department of Labor, Licensing and Regulation. During those years I represented at least a dozen licensing boards, including the Real

Estate Commission, the Contractor's Licensing Board, the Board of Architectural Examiners, the Board of Engineering, the Board of Nursing, and the Board of Accountancy. I handled all of the disciplinary actions for those boards, appeals of which were held before the Administrative Law Court. During those six years, I appeared before the Administrative Law Court for an appeal of a disciplinary action approximately twice a month.

21. What do you feel is the appropriate demeanor for a judge? A judge should be patient, he should be courteous, and he should be dignified. A judge should also know the law and be confident in dispensing it.
22. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? I believe that a judge's demeanor should continue off the bench, too. A judge should be cognizant of the fact that even off the bench his conduct is being scrutinized, and therefore, it is important that a judge remain dignified, patient, and courteous at all times.
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant? Anger is never appropriate when dealing with either a litigant or with counsel. Anger is counterproductive and in almost every situation where I have observed a judge lose his/her temper, it creates a perception that the judge has also lost his/her objectivity. While litigants and counsel can, at times, be frustrating, it is incumbent upon a judge to maintain judicial temperament and act in a professional manner. If a judge fails to maintain control over his/her temper, then the proceeding is out of control. This is not to say that a judge should permit litigants or counsel to take over a proceeding with inappropriate behavior. A judge must always maintain control of a proceeding over which he/she presides. However, a judge must maintain control using appropriate means and methods. Litigants, counsel, and witnesses may be admonished, they may be sanctioned, and, under the appropriate circumstances, they may be held in contempt. However, any of these actions should be administered by a judge in a professional manner, free from any display of anger.
24. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? I have spent \$317.12 on stamps and printing costs. This has been reported to the House and Senate Ethics Committees.
25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
I am not a sitting judge.

26. Have you sought or received the pledge of any legislator prior to this date? No.
27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
28. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
29. Have you contacted any members of the Judicial Merit Selection Commission? No.
30. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/S. Phillip Lenski

Sworn to before me this 16th day of March, 2009.

Notary Public for S.C.

My Commission Expires: 1/28/2018