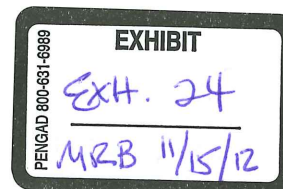


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Master-in-Equity
(New Candidate)

Full Name: Martin Rast Banks
Business Address: 716 Huff Drive, N, St.
Matthews, SC 29135
Business Telephone: 803.874.2100



1. Do you plan to serve your full term if appointed? Yes
2. If appointed, 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 undermine the bar's and public's confidence in a fair and unbiased judicial process. Except for administrative scheduling purposes, I do not entertain *ex parte* communications.

5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I believe that a judge should recuse himself when there is even an appearance of impropriety. I have no former associates or law partners. I will recuse myself in cases where my impartiality is reasonably questioned. I could not foresee recusing myself simply because a lawyer-legislator was before me. If the lawyer-legislator approved my candidacy, I would disclose that and rule on any motion related to that, if offered.

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?

If my disclosure in some way revealed my opinion of the case, before the case was completed, I would give great deference to the party requesting my recusal. I would err on the side of caution and likely grant the motion. If the disclosure had an equally reasonable, innocent connotation or inference, I would not give as much deference to the moving party. Of course, I would have to hear the argument and consider the circumstances to determine if there was not some

other reason that the moving party might want the case delayed. However, having said that, I would at all times consider and apply the principle that I must not give the appearance of bias.

7. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?

I do not think I have ever accepted a gift or hospitality from someone with whom I did not have a close relationship. Any unexpected gift or offer would be viewed with suspicion and most likely be declined. Any gift accepted by me or immediate family greater than \$100 would be reported annually and disclosed if the person or entity ever appeared before me in court. I would weigh whether I could remain impartial and entertain any motion to that effect. I do not recall ever being offered an opportunity for social hospitality, and would weigh the offer as I would that of a gift.

8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would approach the offender about self-reporting. If that fails, I am bound by the code of ethics to report the offender myself.

9. Are you affiliated with any political parties, boards or commissions that would need to be evaluated if you are appointed? No

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No

11. If appointed, how would you handle the drafting of orders?

Typically I would request the successful party to draft a proposed order according to my ruling, instructing them to forward the proposed order to the opposing party for review. Occasionally, in close cases I might ask both parties to submit orders.

12. If appointed, what method would you use to ensure that you and your staff meet deadlines?

I would have everything on my computer calendar with reminders set. I would also analyze my monthly reports and follow up.

13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I disagree with judicial activism. I consider and appreciate public policy as it is now, not as someone thinks it should be. As an equity judge, I have limited effect on public policy and use it as part of my decision-making.

14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?

I have been active within the Master-in-Equity Association analyzing the how we fit into the current system and advocating for how we can improve our role in the administration of justice.

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?

There may be some strain on interpersonal relationships and some isolation; however, being a part time Master-in-Equity position, I have not experience much and I do not foresee much of a problem in this area.

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?

A judge must recuse himself when the judge's impartiality might reasonably be questioned. The test is based on the mere appearance of partiality, and does not depend on the judge's subjective feelings. This general test is premised on the idea that even the appearance of partiality erodes public confidence in the judiciary. The fact that the judge has a financial interest creates a duty to recuse that cannot be avoided by waivers of the parties involved. Therefore, after disclosure, if a party objected I would likely recuse myself after hearing the argument.

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 do you feel is the appropriate demeanor for a judge?

A judge should be sober, discreet, punctual, decisive, calm, deliberate, informed, respectful, open, trustworthy, dependable, truthful, patient, dignified and courteous.

21. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?

No one can maintain this demeanor around the clock every day. However, I believe that they are good qualities to practice daily. They are certainly most important to practice while on the job, or in other places that you are known to hold the position of judge.

22. Do you feel that it is ever appropriate to be angry with a member of the public appearing before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

A display of anger from the bench toward anyone is distasteful and taints the equitable nature of the proceedings, so anger should be rarely displayed. However, there are times when controlled anger can be appropriate. For example, it is more common to see anger from a judge in perjury-like and contempt-like proceedings.

