

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

WILLIAM H. FUTRELL,

a Justice of the Montezuma Town Court,
Cayuga County.

**MEMORANDUM BY COUNSEL TO THE COMMISSION
IN SUPPORT OF RECOMMENDATION THAT
RESPONDENT BE REMOVED FROM OFFICE**

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PRELIMINARY STATEMENT

This Memorandum is respectfully submitted by Counsel to the Commission on Judicial Conduct (“Commission”) in support of Counsel’s recommendation that the Honorable William H. Futrell (“Respondent”) be removed from office.

INTRODUCTION

Respondent posted Nazi imagery to his public Facebook page and in so doing glorified and celebrated one of the darkest, bloodiest, and most abhorrent chapters in human history. That misconduct is itself disqualifying. In addition, Respondent engaged in Facebook activity that demeaned and objectified women. Respondent exacerbated the serious charges against him by ignoring the Commission, choosing not to respond to the Formal Written Complaint or the Administrator’s motion for summary determination.

PROCEDURAL HISTORY

A. The Formal Written Complaint

Pursuant to Judiciary Law § 44(4), the Commission authorized a Formal Written Complaint (“Complaint”), dated May 15, 2023, containing two charges. Charge I alleged that Respondent posted Nazi imagery to his Facebook page. Charge II alleged that Respondent’s Facebook page displayed “Likes” of other Facebook pages that depicted images of scantily clad and/or partially naked

women, many of whom were in sexually suggestive poses, and that included content that demeaned or sexually objectified women.

B. Respondent's Failure to Answer

Respondent was served with the Complaint via certified mail on two separate occasions: the first certified mailing, dated May 15, 2023, was confirmed delivered on May 18, 2023; and the second certified mailing, dated June 8, 2023, was confirmed delivered on June 10, 2023. He did not file an Answer.

C. The Summary Determination Proceedings

By papers dated September 20, 2023, Counsel moved for summary determination that the allegations in the Complaint – which were deemed admitted by Respondent's failure to Answer – constituted judicial misconduct. Respondent did not file a response to Counsel's motion.

By decision and order dated October 12, 2023, the Commission granted the motion for summary determination. After noting Respondent's failure to answer the Complaint and respond to the motion, the Commission found that the factual allegations of Charges I and II of the Formal Written Complaint were established and constituted judicial misconduct.

Charge I: In or about April 2022, Respondent posted Nazi imagery to his Facebook page.

Facebook is an internet social networking website and platform that *inter alia* allows users to post and share content on their own Facebook pages, and to

“like” content posted by other users. Facebook users are responsible for managing the privacy settings associated with their accounts. At the option of the account holder, the content of one’s Facebook page – including photographs, textual posts, and “Likes” – may be viewable online by the general public or restricted to one’s Facebook “Friends.” (FWC ¶ 6.)¹

In or around April 2022, Respondent maintained a Facebook account with approximately 500 Facebook “Friends.” Respondent’s profile listed his name as Bill Futrell. (FWC ¶ 7.)

In or around April 2022, Respondent posted on his Facebook page an image of a human skull that appeared identical to the Nazi SS/Totenkopf forces insignia utilized during World War II. The letters “*FF*” (“Futrell Firearms”) were emblazoned above the eye sockets of the skull in a style simulating the appearance of the “*SS*” abbreviation of the Nazi Schutzstaffel. Respondent made this image his profile picture. The profile also falsely indicates that Respondent “Works at NYS Unified Court System.” (FWC ¶ 8.)

In or around July 2022, Respondent posted on his Facebook page a meme of Facebook Co-Founder and CEO Mark Zuckerberg dressed in Nazi military garb, including a Totenkopf medal and Schutzstaffel insignia. The meme appeared on

¹ “FWC ¶” refers to numbered paragraphs in the Formal Written Complaint.

Respondent's Facebook page in two forms: on its own and framed with the words, "EXPOSING FRIENDS TO EXTREMIST CONTENT." (FWC ¶ 9.)

Charge II: In or about 2022. Respondent's Facebook page displayed "Likes" of other Facebook pages that depicted images of scantily clad and/or partially naked women, many of whom were in sexually suggestive poses, and that included content that demeaned or sexually objectified women.

In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Only Men Lovers." That Facebook page consisted of numerous photographs of scantily clad women in sexually provocative and explicit poses. (FWC ¶ 12.)

In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Psychopathic +21." That Facebook page consisted of numerous photographs of scantily clad and/or partially naked women in sexually provocative poses. (FWC ¶ 13.)

In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Dirty Biker Trash." That Facebook page consisted of numerous photographs of scantily clad women in sexually provocative poses. (FWC ¶ 14.)

In or about 2022, Respondent's Facebook "Likes" page displayed a "Like" for a Facebook page entitled "Porngirls." That Facebook page consisted of

numerous photographs of scantily clad women in sexually provocative poses.

(FWC ¶ 15.)

ARGUMENT

POINT I

RESPONDENT’S MISCONDUCT IN GLORIFYING NAZI IMAGERY AND PUBLICLY ENDORSING DEMEANING AND SEXUALLY OBJECTIFYING IMAGES OF WOMEN, MANDATE HIS REMOVAL FROM OFFICE.

Respondent’s decision to publicly promote imagery associated with Nazi racism and barbarism on his Facebook page is appalling, and “truly egregious” by any standard. *See Matter of Putorti*, __ NY3d __, 2023 NY Slip Op 5304 at *3 (Oct 22, 2023) (judges are subject to removal for “truly egregious” misconduct); *Matter of Ayres*, 30 NY3d 59, 64 (2017).

Any adoption – let alone promotion or glorification – of Nazi-related imagery is *per se* offensive and demonstrates a stunning lack of integrity. Here, Respondent not only publicly posted on Facebook the image of a skull virtually identical to the terrifying Nazi SS insignia but modified the original “SS” initials to “FF” as a means of adopting the image – and all its barbaric connotations – for his private business. Even a remote doubt about Respondent’s purposeful use of Nazi symbolism is resolved by his separate posting on Facebook of a meme of Facebook Co-Founder and CEO Mark Zuckerberg in Nazi garb with a Totenkopf/skull and “SS” pins. By posting such an image, Respondent trivialized, or worse celebrated,

the indelibly barbaric Nazi legacy. Whether Respondent deliberately sought to promote Naziism or posted these images out of an unimaginable ignorance of their meaning, his brazen conduct renders him unfit for judicial office. *Cf Putorti*, 2023 NY Slip Op 5304 at *3 (judge removed for misconduct that exploited “a classic and common racist trope”); *Matter of Cerbone*, 1984 Ann Rep of NY Commn on Jud Conduct at 76, 78 (removing judge and holding that “racist conduct by a member of the judiciary will not be tolerated”).

Respondent committed additional misconduct when he repeatedly promoted sexually provocative images of women on his public Facebook page, akin to the demeaning and derogatory communications about women that has resulted in the removal of other judges. *See Matter of Stilson*, 2023 Ann Rep of NY Commn on Jud Conduct at 290, 294 (removing judge for making “public Facebook posts which ... objectified and denigrated women and included degrading, vulgar and disturbing images of women that are not appropriate for a judge to be posting publicly”); *see also Matter of Miller*, 35 NY3d 484, 491 (removing judge for *inter alia* making sexually charged comments to the clerk of his court); *Matter of Abramson*, 2011 Ann Rep of NY Commn on Jud Conduct at 62 (removing judge who *inter alia* made improper comments of a sexual nature about a litigant’s shirt). Finally, Respondent’s failure to cooperate with the Commission’s inquiry exacerbated his other misconduct and further warrants his removal as the

appropriate sanction. He ignored his obligation to serve an Answer to the Complaint against him (Judiciary Law 44[4], Commission Operation Rules and Procedures, §7000.6[b]), despite two formal notices. Additionally, he refused to participate in the Commission’s summary determination process, entirely ignoring Counsel’s motion and the Commission Clerk’s scheduling order. Respondent’s demonstrated contempt for Commission proceedings is incompatible with Court of Appeals holdings that a judge’s “willingness to cooperate with the Commission’s investigations and proceedings is not only required – it is essential.” *Matter of O’Connor*, 32 NY3d 121, 129 (2018). *See also, Matter of Mason*, 100 NY2d 56, 60 (2003); *Matter of Cooley*, 53 NY2d 64, 66 (1981).

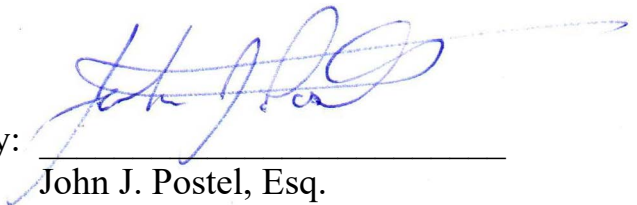
CONCLUSION

For the foregoing reasons, Commission Counsel respectfully requests that the Commission, based upon Respondent's collective established misconduct, issue a determination that Respondent be removed from office.

Dated: November 2, 2023
Rochester, New York

Respectfully submitted,




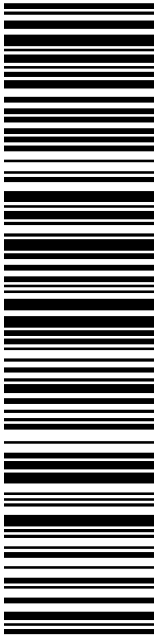

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