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1 LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY

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5 **IN THE MATTER OF CHARGES AGAINST**
6 **DISTRICT 21 COUNCILMAN DAN JOHNSON**
7

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9 **RESPONDENT'S RESPONSE TO COMPLAINT**
10

11 Comes now the Respondent herein, Hon. Daniel Johnson, District 21 Louisville
12 Metro Councilman, by counsel, and for his Response to the undated Complaint filed
13 herein, by Jessica E. Green, Angela Leet, S. Brandon Coan, Rick Blackwell, and Robin
14 Engel, submits the following Response, pursuant to Rule 1 of the Louisville Metro Council
15 Removal Hearing Rules and Procedures (hereinafter, "Rules & Procedures"), which
16 provides:
17

18 **RULE 1.** Upon receipt of written charges of removal in conformity with KRS
19 67C.143, the Clerk shall forward them to the member charged and to the
20 President of the Council. The President shall deliver the charges to the full
21 Council at its next regular meeting. Upon delivery of the charges to the full
22 council, the charged member may respond orally at the Council meeting and
23 may file a written response prior to the next regularly scheduled Council
24 meeting.

25 **Allegation No. 1.** Johnson has been verbally abusive and has leveled personal
26 attacks on the character and motives of other members of the Council, the staff, and the
27 public while failing to demonstrate respect for laws that protect citizens from harassment
28 and to be truthful and deliberate in his public statements and actions,

1 **Response to Allegation No. 1.** Kentucky Revised Statute §67C.143(1), as
2 amended by 17 RS BR 1230, provides, *inter alia*:

3 “Unless otherwise provided by law, any elected officer of a consolidated
4 local government in case of misconduct, incapacity, or willful neglect in the
5 performance of the duties of his or her office may be removed from office by
6 the legislative council, sitting as a court, under oath, upon charges preferred
7 by the mayor or by any five (5) members of the legislative council...”

8 Respondent categorically denies every allegation of material fact and legal
9 conclusion contained in Allegation No. 1, and objects to the lack of specificity therein.

10 a. There are no facts presented or alleged indicating that Respondent has ever been
11 verbally abusive to any person.

12 b. There are no facts presented or alleged indicating that Respondent has ever
13 leveled personal attacks on the character and motives of other members of the Council,
14 the staff, or the public.

15 c. There are no facts presented or alleged indicating that Respondent has ever
16 failed to demonstrate respect for laws that protect citizens from harassment.

17 d. There are no facts presented or alleged indicating that Respondent has ever
18 failed to be truthful and deliberate in his public statements and actions.

19 e. Allegation No. 1 presents only conclusions and characterizations of unspecified
20 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
21 due process required by Rule 2. of the Rules & Procedures: “The member charged
22 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
23 of the charges and an opportunity to be heard...”
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27 f. In form and substance, Allegation No. 1 merely presents vague conclusions,
28 rendering anything other than a general denial legally and grammatically impossible. In

1 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
2 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”

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5 **Allegation No. 2.** On June 7, 2017 Councilmember Jessica Green reported to
6 members of her staff that Councilman Dan Johnson had groped her while taking a photo
7 during a press event at Wyandotte Park.

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9 **Response to Allegation No. 2.** Kentucky Revised Statute §67C.143(1), as
10 amended by 17 RS BR 1230, provides, *inter alia*:

11
12 “Unless otherwise provided by law, any elected officer of a consolidated
13 local government in case of misconduct, incapacity, or willful neglect in the
14 performance of the duties of his or her office may be removed from office by
15 the legislative council, sitting as a court, under oath, upon charges preferred
16 by the mayor or by any five (5) members of the legislative council...”

17 a. Respondent is without sufficient information so as to form a conclusion as to the
18 truth of whether or not Councilwoman Jessica Green reported to members of her staff
19 that Councilman Dan Johnson had groped her while taking a photo during a press event
20 at Wyandotte Park, and therefore denies same.

21 b. Respondent categorically denies that he ever, at any time, groped Council-
22 woman Jessica Green.

23 c. In no measure does this Allegation reach the threshold of the KRS §67C.143(1)
24 requirement of proof of “...misconduct, incapacity, or willful neglect in the performance
25 of the duties...”
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1 **Allegation No. 3.** On June 7, 2017 Councilwoman Jessica Green delivered a
2 private and confidential letter to Council President David Yates, Majority Caucus Chair
3 Bill Hollander and Caucus Vice Chair Cheri Bryant Hamilton regarding the groping
4 incident. After Green's letter was leaked to the media, Johnson characterized the
5 allegations as "totally ridiculous" and accused Green of sexual harassment, stating: "Truth
6 is, she touched me first when she nestled against my left side. I was harassed too."
7

8 **Response to Allegation No. 3.** Kentucky Revised Statute §67C.143(1), as
9 amended by 17 RS BR 1230, provides, *inter alia*:

10 "Unless otherwise provided by law, any elected officer of a consolidated
11 local government in case of misconduct, incapacity, or willful neglect in the
12 performance of the duties of his or her office may be removed from office by
13 the legislative council, sitting as a court, under oath, upon charges preferred
14 by the mayor or by any five (5) members of the legislative council..."

15 Respondent categorically denies every allegation of material fact and legal
16 conclusion contained in Allegation No. 3, and objects to the lack of specificity therein.

17 a. Respondent is without sufficient information so as to form a conclusion as to the
18 truth of whether or not Councilwoman Jessica Green ever delivered any private and
19 confidential letter to Council President David Yates, Majority Caucus Chair Bill Hollander
20 and Caucus Vice Chair Cheri Bryant Hamilton, and therefore denies same.

21 b. Respondent has not been provided with a copy of this alleged private and
22 confidential letter, and can only conclude that the letter is neither private nor confidential,
23 since it appears Respondent is among the few individuals in this city who has not received
24 a copy thereof.
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1 c. Respondent freely admits that he characterized the “allegations,” as reported in
2 the local press, as “totally ridiculous.” These allegations have no basis in fact or reality,
3 and, perforce, they are clearly appropriate for ridicule.

4 d. Councilwoman Jessica Green, in her “private and confidential letter” of June 7,
5 evidently alleges that Respondent intentionally assaulted her, by grabbing her buttock in
6 front of approximately 1,000 witnesses, at a public ceremony at Wyandotte Park. Ms.
7 Green, an attorney, certainly understood that there were a number of options available to
8 her at that point in time. She could have complained to the Respondent, and asked him
9 to explain his perceived behavior. She did not. She could have filed a civil lawsuit against
10 Respondent, asking for damages, with the burden of proof resting upon her to prove her
11 allegation to an impartial jury, after being subjected to cross-examination. She did not.
12 She could have sworn to a warrant, claiming that the Respondent criminally assaulted or
13 harassed her; thereby giving Respondent an opportunity to face his accuser in an open
14 court, and requiring the government to prove to an impartial jury, beyond a reasonable
15 doubt, that he was guilty. She did not.

16 e. Instead, Councilwoman Green decided to air her concocted grievance in the
17 court of public opinion, through the use of slurs, innuendo, anonymous leaks, and not a
18 small quantity of dramatic tears. This way, she avoids having her accusations judged by
19 a fair and impartial tribunal. Her choice to proceed in this manner is certainly
20 disappointing, and speaks volumes about her sincerity and truthfulness.

21 f. At no time did Respondent ever accuse Councilwoman Green of “sexual
22 harassment.” From the outset, the Respondent attempted to be truthful and courteous to
23 all concerned. Respondent immediately explained to Councilwoman Green that the
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1 momentary touching, as the group crowded together for a photograph, was accidental.
2 When it was suggested that Respondent formally apologize to her in writing, he did so. It
3 soon became clear that an apology was not what Councilwoman Green really wanted, and
4 that this entire silly accident was going to be blown all out of proportion, for political gain;
5 despite the fact that Councilwoman Green told Courier-Journal reporter Phillip Bailey
6 that “she had hoped to keep the matter private.”
7

8 g. At this time, it appears that only one eye-witness to the incident has come
9 forward, out of over 1,000 persons in attendance at the Wyandotte Park ceremonies. With
10 all the photographs, cellphone videos, and television cameras present at the occasion, it
11 is remarkable that the investigation by the Charging Committee was so unproductive.
12 A Louisville Metro employee, Chris Doolin, has been quoted as saying, “it didn’t look like
13 he (the Respondent) did it intentionally.” Respondent stated at the scene, and has
14 repeated many times since, that his accidental touching of Councilwoman Green was not
15 intentional. Out of more than 1,000 people, only one, Jessica Green, has suggested that
16 she believes Respondent’s actions were intentional.
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19 h. Respondent reiterates his categorical denial that he ever, at any time, groped
20 Council-woman Jessica Green, or that he intentionally touched her in any manner.
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22 i. In no measure does this Allegation reach the threshold of the KRS §67C.143(1)
23 requirement of proof of “...misconduct, incapacity, or willful neglect in the performance
24 of the duties...”
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1 **Allegation No. 4.** On June 12, 2017, Councilmember Johnson issued a letter of
2 apology to Councilmember Jessica Green stating, “sorry you felt I improperly touched you
3 inappropriately on purpose.”
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5 **Response to Allegation No. 4.** Kentucky Revised Statute §67C.143(1), as
6 amended by 17 RS BR 1230, provides, *inter alia*:

7 “Unless otherwise provided by law, any elected officer of a consolidated
8 local government in case of misconduct, incapacity, or willful neglect in the
9 performance of the duties of his or her office may be removed from office by
10 the legislative council, sitting as a court, under oath, upon charges preferred
11 by the mayor or by any five (5) members of the legislative council...”

12 a. Respondent admits that he attempted to send an apology letter to
13 Councilwoman Jessica Green. This course of action was recommended to Respondent by
14 several of his Council colleagues, and he felt it was the honorable and gentlemanly thing
15 to do.

16 b. Respondent’s courteous apology for Ms. Green’s apparent hurt feelings in no
17 way can be construed to be an admission of wrongdoing by Respondent. In no measure
18 does this Allegation reach the threshold of the KRS §67C.143(1) requirement of proof of
19 “...misconduct, incapacity, or willful neglect in the performance of the duties...”
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21 **Allegation No. 5.** In a letter sent to Councilwoman Green on June 14,
22 Councilman Johnson’s attorney, Thomas A. McAdam III, sent a cease and desist letter
23 accusing Green of slander stating, “Councilman Johnson believes that you, with actual
24 malice, have engaged in publishing and spreading false, destructive, and defamatory
25 rumors about him,”
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1 **Response to Allegation No. 5.** Kentucky Revised Statute §67C.143(1), as
2 amended by 17 RS BR 1230, provides, *inter alia*:

3 “Unless otherwise provided by law, any elected officer of a consolidated
4 local government in case of misconduct, incapacity, or willful neglect in the
5 performance of the duties of his or her office may be removed from office by
6 the legislative council, sitting as a court, under oath, upon charges preferred
7 by the mayor or by any five (5) members of the legislative council...”

8 a. The June 21, 2017, Memorandum sent to Respondent by Majority Chair Bill
9 Hollander and Vice Chair Cheri Bryant Hamilton, concludes: “As such, the (cease and
10 desist) letters also brought embarrassment and public scorn upon the Caucus and are
11 deserving of public censure and expulsion from the Caucus.”

12 b. It is unclear from this whether Mr. Hollander and Ms. Hamilton were suggesting
13 that the Respondent, his attorney, or the letters he wrote on Respondent’s behalf are
14 deserving of public censure, but it is important to note that the Respondent was not the
15 person who made these private communications public. Moreover, it cannot possibly be
16 the position of the Louisville Metro Council that a member should be expelled for
17 exercising his constitutionally-protected rights to legal representation and participation
18 in the legal process, merely because some individual members of the Council disagree
19 with Respondent’s exercising of these rights. In America, a person falsely accused and
20 defamed in the press, or by an individual, has an absolute right to challenge such
21 defamation in a court of law. In court, the burden of proof is on the accuser, and a cease
22 and desist letter is a necessary prerequisite to such litigation.

23 c. Respondent’s constitutionally protected right to legal representation and access
24 to the courts for redress of damages caused by the malicious and false statement by others
25 cannot possibly constitute misconduct by Respondent. In no measure does this
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1 Allegation reach the threshold of the KRS §67C.143(1) requirement of proof of
2 “...misconduct, incapacity, or willful neglect in the performance of the duties...”
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5 **Allegation No. 6.** In addition to the cease and desist letter sent to Green on June
6 14th, Johnson’s attorney also sent the Courier Journal a letter that same day, demanding
7 the retraction of at least three stories regarding the allegations that Johnson had sexually
8 harassed several women, including Green.

9
10 **Response to Allegation No. 6.** Kentucky Revised Statute §67C.143(1), as
11 amended by 17 RS BR 1230, provides, *inter alia*:

12 “Unless otherwise provided by law, any elected officer of a consolidated
13 local government in case of misconduct, incapacity, or willful neglect in the
14 performance of the duties of his or her office may be removed from office by
15 the legislative council, sitting as a court, under oath, upon charges preferred
16 by the mayor or by any five (5) members of the legislative council...”

17 a. The Respondent reiterates that it was not he who made these private cease and
18 desist letters public. Moreover, it cannot possibly be the position of the Louisville Metro
19 Council that a member should be expelled for exercising his constitutionally-protected
20 rights to legal representation and participation in the legal process, merely because some
21 individual members of the Council disagree with Respondent’s exercising of these rights.
22 In America, a person falsely accused and defamed in the press, or by an individual, has
23 an absolute right to challenge such defamation in a court of law. In court, the burden of
24 proof is on the accuser, and a cease and desist letter is a necessary prerequisite to such
25 litigation.
26

27 d. Respondent’s constitutionally protected right to legal representation and access
28 to the courts for redress of damages caused by the malicious and false statement by others

1 cannot possibly constitute misconduct by Respondent. In no measure does this
2 Allegation reach the threshold of the KRS §67C.143(1) requirement of proof of
3 “...misconduct, incapacity, or willful neglect in the performance of the duties...”
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6 **Allegation No. 7.** Similarly, on June 12, 2017, in an interview on 840 WHAS
7 Radio, Councilmember Johnson apologized to Legislative Aide Erin Hinson for dropping
8 his pants and exposing his bare backside in a City Hall parking lot, admitting that he may
9 have exposed himself to Hinson, but could not recall the incident and explained the
10 exposure as accidental.
11

12 **Response to Allegation No. 7.** Kentucky Revised Statute §67C.143(1), as
13 amended by 17 RS BR 1230, provides, *inter alia*:

14 “Unless otherwise provided by law, any elected officer of a consolidated
15 local government in case of misconduct, incapacity, or willful neglect in the
16 performance of the duties of his or her office may be removed from office by
17 the legislative council, sitting as a court, under oath, upon charges preferred
18 by the mayor or by any five (5) members of the legislative council...”

19 Respondent categorically denies every allegation of material fact and legal
20 conclusion contained in Allegation No. 7, and objects to the lack of specificity therein.

21 a. There are no facts presented or alleged indicating that Respondent on any
22 particular date, or at any particular time, dropped his pants and exposed his bare backside
23 in a City Hall parking lot, exposing himself to Legislative Aide Erin Hinson.

24 b. At no time did Respondent ever admit that he exposed himself to Legislative
25 Aide Erin Hinson.
26

27 c. Allegation No. 7 presents only conclusions and characterizations of unspecified
28 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive

1 due process required by Rule 2. of the Rules & Procedures: “The member charged
2 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
3 of the charges and an opportunity to be heard...”

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5 d. In form and substance, Allegation No. 7 merely presents vague conclusions,
6 rendering anything other than a general denial legally and grammatically impossible. The
7 Allegation does not specify a date or time, making a legal defense impossible. In no
8 measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement of
9 proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
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11
12 **Allegation No. 8.** In a letter sent to Hinson on June 14, two days after Johnson's
13 apology, Councilman Johnson’s attorney, Thomas A. McAdam III, issued a cease and
14 desist letter also accusing Hinson of slander stating, "Councilman Johnson believes that
15 you, with actual malice, have engaged in publishing and spreading false, destructive, and
16 defamatory rumors about him."
17

18 **Response to Allegation No. 8.** Kentucky Revised Statute §67C.143(1), as
19 amended by 17 RS BR 1230, provides, *inter alia*:

20 “Unless otherwise provided by law, any elected officer of a consolidated
21 local government in case of misconduct, incapacity, or willful neglect in the
22 performance of the duties of his or her office may be removed from office by
23 the legislative council, sitting as a court, under oath, upon charges preferred
24 by the mayor or by any five (5) members of the legislative council...”

25 a. Once again, the Louisville Metro Council is reminded of the fact that the
26 Respondent was not the person who made these private communications public.
27 Moreover, it cannot possibly be the position of the Council that a member should be
28 expelled for exercising his constitutionally-protected rights to legal representation and

1 participation in the legal process, merely because some individual members of the Council
2 disagree with Respondent's exercising of these rights. In America, a person falsely
3 accused and defamed in the press, or by an individual, has an absolute right to challenge
4 such defamation in a court of law. In court, the burden of proof is on the accuser, and a
5 cease and desist letter is a necessary prerequisite to such litigation.
6

7 c. Respondent's constitutionally protected right to legal representation and access
8 to the courts for redress of damages caused by the malicious and false statement by others
9 cannot possibly constitute misconduct by Respondent. In no measure does this
10 Allegation reach the threshold of the KRS §67C.143(1) requirement of proof of
11 "...misconduct, incapacity, or willful neglect in the performance of the duties..."
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13
14 **Allegation No. 9.** Johnson's accusations and threats of litigation against Green,
15 Hinson and the Courier-Journal are part of an increasingly disturbing pattern of actions
16 that create conflict and encourage hostility within the Council and the community at large,
17 including past threats of legal action against a Council president regarding City Hall
18 security, and threatening legal action against a Council member over the purchase of a
19 piece of property that was under study for acquisition by Metro Government.
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21 **Response to Allegation No. 9.** Kentucky Revised Statute §67C.143(1), as
22 amended by 17 RS BR 1230, provides, *inter alia*:
23

24 "Unless otherwise provided by law, any elected officer of a consolidated
25 local government in case of misconduct, incapacity, or willful neglect in the
26 performance of the duties of his or her office may be removed from office by
27 the legislative council, sitting as a court, under oath, upon charges preferred
28 by the mayor or by any five (5) members of the legislative council..."

1 Respondent categorically denies every allegation of material fact and legal
2 conclusion contained in Allegation No. 9, and objects to the lack of specificity therein.

3 a. The “accusations and threats of litigation against Green, Hinson and the
4 Courier-Journal” are merely the results of Respondent’s exercise of his constitutionally-
5 protected rights to legal representation and participation in the legal process. In America,
6 a person falsely accused and defamed in the press, or by an individual, has an absolute
7 right to challenge such defamation in a court of law. In court, the burden of proof is on
8 the accuser, and a cease and desist letter is a necessary prerequisite to such litigation. By
9 no stretch of the imagination, can this be construed as a “...part of an increasingly
10 disturbing pattern of actions that create conflict and encourage hostility within the
11 Council and the community at large.”

14 b. There are no facts presented or alleged indicating that Respondent has ever
15 participated in “...an increasingly disturbing pattern of actions that create conflict and
16 encourage hostility within the Council and the community at large.”

18 c. There are no facts presented or alleged indicating that Respondent has ever
19 made any “...threats of legal action against a Council president regarding City Hall
20 security, (or) threaten(ed) legal action against a Council member over the purchase of a
21 piece of property that was under study for acquisition by Metro Government.”

23 d. Allegation No. 9 presents only conclusions and characterizations of unspecified
24 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
25 due process required by Rule 2. of the Rules & Procedures: “The member charged
26 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
27 of the charges and an opportunity to be heard...”
28

1 f. In form and substance, Allegation No. 9 merely presents vague conclusions,
2 rendering anything other than a general denial legally and grammatically impossible. In
3 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
4 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
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6
7 **Allegation No. 10.** Johnson's pattern of threats and accusations are not limited
8 to the Council and staff. Johnson publically accused the Director of the Kling Center of
9 lying, when the director stated that Johnson's legislative aide had recently been
10 terminated by the Kling Center Board for using racial slurs. Johnson claimed the
11 termination was actually brought about by a Council member whom he would not
12 identify.
13

14 **Response to Allegation No. 10.** Kentucky Revised Statute §67C.143(1), as
15 amended by 17 RS BR 1230, provides, *inter alia*:

16
17 "Unless otherwise provided by law, any elected officer of a consolidated
18 local government in case of misconduct, incapacity, or willful neglect in the
19 performance of the duties of his or her office may be removed from office by
20 the legislative council, sitting as a court, under oath, upon charges preferred
21 by the mayor or by any five (5) members of the legislative council..."
22

23 Respondent categorically denies every allegation of material fact and legal
24 conclusion contained in Allegation No. 10, and objects to the lack of specificity therein.

25 a. Respondent specifically denies any behavior which might be construed to
26 constitute a "...pattern of threats and accusations." If this is a veiled reference to
27 Respondent's aforementioned exercise of his constitutionally-protected rights to legal
28 representation and participation in the legal process, it has been addressed, *supra*. As

1 previously stated, a person falsely accused and defamed in the press, or by an individual,
2 has an absolute right to challenge such defamation in a court of law.

3 b. There are no facts presented or alleged indicating that Respondent was incorrect
4 in accusing the Director of the Kling Center of lying, when the director stated that
5 Johnson's legislative aide had recently been terminated by the Kling Center Board for
6 using racial slurs.
7

8 c. There are no facts presented or alleged indicating that Respondent was incorrect
9 in claiming that the termination of his legislative aide was actually brought about by a
10 Council member.
11

12 d. Allegation No. 10 presents only conclusions and characterizations of unspecified
13 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
14 due process required by Rule 2. of the Rules & Procedures: "The member charged
15 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
16 of the charges and an opportunity to be heard..."
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18 e. In form and substance, Allegation No. 10 merely presents vague conclusions,
19 rendering anything other than a general denial legally and grammatically impossible. In
20 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
21 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
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23
24 **Allegation No. 11.** Johnson made inappropriate remarks to a female chamber of
25 commerce staffer while on a GLIDE trip to Austin, Texas last year. His misconduct led to
26 a precedent setting banishment from all events sponsored by Greater Louisville Inc., the
27 lead economic development agency for Metro Louisville and the region.
28

1 **Response to Allegation No. 11.** Kentucky Revised Statute §67C.143(1), as
2 amended by 17 RS BR 1230, provides, *inter alia*:

3 “Unless otherwise provided by law, any elected officer of a consolidated
4 local government in case of misconduct, incapacity, or willful neglect in the
5 performance of the duties of his or her office may be removed from office by
6 the legislative council, sitting as a court, under oath, upon charges preferred
7 by the mayor or by any five (5) members of the legislative council...”

8 Respondent categorically denies every allegation of material fact and legal
9 conclusion contained in Allegation No. 11, and objects to the lack of specificity therein.

10 a. Respondent specifically denies any behavior which might be construed as
11 constituting “...inappropriate remarks to a female chamber of commerce staffer while on
12 a GLIDE trip to Austin, Texas last year.”

13 b. There are no facts presented or alleged indicating that Respondent ever made
14 any inappropriate remarks to a female chamber of commerce staffer while on a GLIDE
15 trip to Austin, Texas last year.

16 c. There are no facts presented or alleged indicating the name or position of the
17 “female chamber of commerce staffer.” Without a name, this person cannot be
18 subpoenaed or confronted. The term “inappropriate remarks” is so vague and undefined
19 as to be undeserving of any response.
20

21 d. Allegation No. 11 presents only conclusions and characterizations of unspecified
22 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
23 due process required by Rule 2. of the Rules & Procedures: “The member charged
24 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
25 of the charges and an opportunity to be heard...”
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1 e. In form and substance, Allegation No. 11 merely presents vague conclusions,
2 rendering anything other than a general denial legally and grammatically impossible. In
3 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
4 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
5

6
7 **Allegation No. 12.** These failures of civility, respect for law, and truth are
8 misconduct on Johnson's part.

9 **Response to Allegation No. 12.** Kentucky Revised Statute §67C.143(1), as
10 amended by 17 RS BR 1230, provides, *inter alia*:
11

12 “Unless otherwise provided by law, any elected officer of a consolidated
13 local government in case of misconduct, incapacity, or willful neglect in the
14 performance of the duties of his or her office may be removed from office by
15 the legislative council, sitting as a court, under oath, upon charges preferred
16 by the mayor or by any five (5) members of the legislative council...”

17 Respondent categorically denies every allegation of material fact and legal
18 conclusion contained in Allegation No. 12, and objects to the lack of specificity therein.

19 a. Respondent specifically denies any behavior which might be construed as
20 constituting “...failures of civility, respect for law, and truth.”

21 b. There are no facts presented or alleged indicating that Respondent ever engaged
22 in any behavior even remotely constituting “...failures of civility, respect for law, and
23 truth.”

24 c. Allegation No. 12 presents only conclusions and characterizations of unspecified
25 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
26 due process required by Rule 2. of the Rules & Procedures: “The member charged
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1 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
2 of the charges and an opportunity to be heard...”

3 e. In form and substance, Allegation No. 12 merely presents vague conclusions,
4 rendering anything other than a general denial legally and grammatically impossible. In
5 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
6 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
7

8
9 **Allegation No. 13.** Johnson has conducted himself in a manner that undermines
10 the public’s trust in his ability to perform his duties as a Councilmember, having displayed
11 an inability to recall recent incidents, to accept responsibility for the consequences of his
12 actions, and to avoid the appearance of impropriety in management of his public and
13 private obligations.
14

15 **Response to Allegation No. 13.** Kentucky Revised Statute §67C.143(1), as
16 amended by 17 RS BR 1230, provides, *inter alia*:
17

18 “Unless otherwise provided by law, any elected officer of a consolidated
19 local government in case of misconduct, incapacity, or willful neglect in the
20 performance of the duties of his or her office may be removed from office by
21 the legislative council, sitting as a court, under oath, upon charges preferred
22 by the mayor or by any five (5) members of the legislative council...”

23 Respondent categorically denies every allegation of material fact and legal
24 conclusion contained in Allegation No. 13, and objects to the lack of specificity therein.

25 a. Respondent specifically denies any behavior which “...undermines the public’s
26 trust in his ability to perform his duties as a Councilmember.”

27 b. There are no facts presented or alleged indicating that Respondent ever
28 performed any act which undermines the public’s trust in his ability to perform his duties

1 as a Councilmember, or ever displayed an inability to recall recent incidents, to accept
2 responsibility for the consequences of his actions, or ever attempted to avoid the
3 appearance of impropriety in management of his public and private obligations.

4 c. The term “appearance of impropriety” is so vague and undefined as to be
5 undeserving of any response. “Appearance of impropriety” is not a term mentioned or
6 defined in KRS §67C.143, and cannot legally serve as a basis for removal of a member of
7 the Louisville Metro Council.
8

9 d. Allegation No. 13 presents only conclusions and characterizations of unspecified
10 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
11 due process required by Rule 2. of the Rules & Procedures: “The member charged
12 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
13 of the charges and an opportunity to be heard...”
14

15 e. In form and substance, Allegation No. 13 merely presents vague conclusions,
16 rendering anything other than a general denial legally and grammatically impossible. In
17 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
18 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
19
20

21 **Allegation No. 14.** Johnson revealed that a head injury in 1976 “could be the
22 cause of some problems I may have been having recently, I’m just doing the best I can” in
23 an interview on 840 WHAS Radio.
24

25 **Response to Allegation No. 14.** Kentucky Revised Statute §67C.143(1), as
26 amended by 17 RS BR 1230, provides, *inter alia*:

27 “Unless otherwise provided by law, any elected officer of a consolidated
28 local government in case of misconduct, incapacity, or willful neglect in the

1 performance of the duties of his or her office may be removed from office by
2 the legislative council, sitting as a court, under oath, upon charges preferred
3 by the mayor or by any five (5) members of the legislative council...”

4 Respondent categorically denies every allegation of material fact and legal
5 conclusion contained in Allegation No. 14, and objects to the lack of specificity therein.

6 a. Respondent admits suffering a head injury more than 40 years ago, but
7 specifically denies that this injury has resulted in any incapacity, as referenced in KRS
8 §67C.143.

9
10 b. There are no facts presented or alleged indicating that Respondent is incapable
11 of performing the duties of Louisville Metro Councilman.

12 c. Respondent admits that he is doing the best he can, and assumes all of his
13 colleagues on the Louisville Metro Council are doing the same.

14
15 d. Allegation No. 14 presents only conclusions and characterizations of unspecified
16 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
17 due process required by Rule 2. of the Rules & Procedures: “The member charged
18 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
19 of the charges and an opportunity to be heard...”

20
21 e. In form and substance, Allegation No. 14 merely presents vague conclusions,
22 rendering anything other than a general denial legally and grammatically impossible. In
23 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
24 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
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1 **Allegation No. 15.** In responding to public reports that he behaved
2 unprofessionally with a female employee of Greater Louisville Inc. in an interview,
3 Johnson said he had no memory of the incident. However, on two separate occasions
4 offered two additional explanations including the ban being politically motivated and
5 later suggesting that it was after his hosts “force fed us beer.”
6

7 **Response to Allegation No. 15.** Kentucky Revised Statute §67C.143(1), as
8 amended by 17 RS BR 1230, provides, *inter alia*:

9 “Unless otherwise provided by law, any elected officer of a consolidated
10 local government in case of misconduct, incapacity, or willful neglect in the
11 performance of the duties of his or her office may be removed from office by
12 the legislative council, sitting as a court, under oath, upon charges preferred
13 by the mayor or by any five (5) members of the legislative council...”

14 Respondent categorically denies every allegation of material fact and legal
15 conclusion contained in Allegation No. 15, and objects to the lack of specificity therein.

16 a. Respondent admits that his memory of every detail of the GLIDE trip to Austin,
17 Texas last year is not perfect.

18 b. Respondent specifically denies any behavior which might be construed as
19 constituting inappropriate remarks to a female chamber of commerce staffer while on the
20 Greater Louisville Inc. trip.

21 c. There are no facts presented or alleged indicating that Respondent ever made
22 any inappropriate remarks to a female chamber of commerce staffer while on the Greater
23 Louisville Inc. trip.

24 d. There are no facts presented or alleged indicating the name or position of the
25 “female chamber of commerce staffer.” Without a name, this person cannot be
26
27
28

1 subpoenaed or confronted. The term “inappropriate remarks” is so vague and undefined
2 as to be undeserving of any response.

3 e. There are no facts presented or alleged indicating that Respondent is incapable
4 of performing the duties of Louisville Metro Councilman.

5 f. Allegation No. 15 presents only conclusions and characterizations of unspecified
6 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
7 due process required by Rule 2. of the Rules & Procedures: “The member charged
8 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
9 of the charges and an opportunity to be heard...”

10 g. In form and substance, Allegation No. 15 merely presents vague conclusions,
11 rendering anything other than a general denial legally and grammatically impossible. In
12 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
13 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”

14
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18 **Allegation No. 16.** In an interview questioning Johnson about reports that his
19 pants fell down exposing his bare backside and more to a female legislative aide, Johnson
20 said he “had no memory of the incident,” but offered an excuse that his belt was too loose
21 and “that sometimes my pants fall down. I’ve had a thin waist and a full waist and it
22 depends on where I was at as to what might've happened but I sure don't remember it.”

23
24 **Response to Allegation No. 16.** Kentucky Revised Statute §67C.143(1), as
25 amended by 17 RS BR 1230, provides, *inter alia*:

26 “Unless otherwise provided by law, any elected officer of a consolidated
27 local government in case of misconduct, incapacity, or willful neglect in the
28 performance of the duties of his or her office may be removed from office by

1 the legislative council, sitting as a court, under oath, upon charges preferred
2 by the mayor or by any five (5) members of the legislative council...”

3 Respondent categorically denies every allegation of material fact and legal
4 conclusion contained in Allegation No. 16, and objects to the lack of specificity therein.
5

6 a. There are no facts presented or alleged indicating that Respondent is incapable
7 of performing the duties of Louisville Metro Councilman.

8 c. Having a thin waist, or a full waist, or a loose belt, can in no way be construed
9 to serve as a basis of removal from the Metro Council, under the provisions of KRS
10 §67C.143(1).
11

12 d. Allegation No. 16 presents only conclusions and characterizations of unspecified
13 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
14 due process required by Rule 2. of the Rules & Procedures: “The member charged
15 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
16 of the charges and an opportunity to be heard...”
17

18 e. In form and substance, Allegation No. 16 merely presents vague conclusions,
19 rendering anything other than a general denial legally and grammatically impossible. In
20 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
21 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
22

23
24 **Allegation No. 17.** Johnson's inability to recall these recent incidents limits his
25 capacity to be accountable for his actions and to avoid the appearance of impropriety in
26 management of his public and private obligations.
27
28

1 **Response to Allegation No. 17.** Kentucky Revised Statute §67C.143(1), as
2 amended by 17 RS BR 1230, provides, *inter alia*:

3 “Unless otherwise provided by law, any elected officer of a consolidated
4 local government in case of misconduct, incapacity, or willful neglect in the
5 performance of the duties of his or her office may be removed from office by
6 the legislative council, sitting as a court, under oath, upon charges preferred
7 by the mayor or by any five (5) members of the legislative council...”

8 Respondent categorically denies every allegation of material fact and legal
9 conclusion contained in Allegation No. 17, and objects to the lack of specificity therein.

10 a. Respondent specifically denies any behavior which “...limits his capacity to be
11 accountable for his actions.”

12 b. There are no facts presented or alleged indicating that Respondent ever
13 performed any act which could reasonably be construed to indicate any limitation to his
14 capacity to be accountable for his actions.

15 c. The term “appearance of impropriety” is so vague and undefined as to be
16 undeserving of any response. “Appearance of impropriety” is not a term mentioned or
17 defined in KRS §67C.143, and cannot legally serve as a basis for removal of a member of
18 the Louisville Metro Council.

19 d. Allegation No. 17 presents only conclusions and characterizations of unspecified
20 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
21 due process required by Rule 2. of the Rules & Procedures: “The member charged
22 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
23 of the charges and an opportunity to be heard...”

24 e. In form and substance, Allegation No. 17 merely presents vague conclusions,
25 rendering anything other than a general denial legally and grammatically impossible. In
26
27
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1 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
2 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
3

4
5 **Allegation No. 18.** This inability to avoid the appearance of impropriety led
6 Johnson to write bad checks to the Metro Finance Department for the costs of the
7 personal use of his city-issued cell phone August 14, 2014. The Finance Department, in
8 an unprecedented action, withdrew funds from the District 21 office accounts.

9
10 **Response to Allegation No. 18.** Kentucky Revised Statute §67C.143(1), as
11 amended by 17 RS BR 1230, provides, *inter alia*:

12 "Unless otherwise provided by law, any elected officer of a consolidated
13 local government in case of misconduct, incapacity, or willful neglect in the
14 performance of the duties of his or her office may be removed from office by
15 the legislative council, sitting as a court, under oath, upon charges preferred
16 by the mayor or by any five (5) members of the legislative council..."

17 Respondent categorically denies every allegation of material fact and legal
18 conclusion contained in Allegation No. 18, and objects to the lack of specificity therein.

19 a. Respondent specifically denies writing "...bad checks to the Metro Finance
20 Department for the costs of the personal use of his city-issued cell phone August 14, 2014."

21 b. Respondent fully paid each and every check he wrote to the Metro Finance
22 Department, regardless of whether it was initially erroneously dishonored by his bank.

23 c. The term "appearance of impropriety" is so vague and undefined as to be
24 undeserving of any response. "Appearance of impropriety" is not a term mentioned or
25 defined in KRS §67C.143, and cannot legally serve as a basis for removal of a member of
26 the Louisville Metro Council. If the writing of dishonored checks by Metro Councilmen
27
28

1 becomes grounds for their impeachment, Respondent respectfully suggests that the
2 Council will be involved with much business in the future.

3
4 d. Allegation No. 18 presents only conclusions and characterizations of unspecified
5 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
6 due process required by Rule 2. of the Rules & Procedures: “The member charged
7 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
8 of the charges and an opportunity to be heard...”

9
10 e. In form and substance, Allegation No. 18 merely presents vague conclusions,
11 rendering anything other than a general denial legally and grammatically impossible. In
12 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
13 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”

14
15 **Allegation No. 19.** As with the incident with Metro Finance, Johnson appeared
16 to be involved in improprieties by issuing bad checks to at least two local business that
17 were only paid after the businesses filed suit against him in the Jefferson County Courts.
18 Recently Johnson has been charged with Theft by Deception in Madison County,
19 Kentucky.

20
21 **Response to Allegation No. 19.** Kentucky Revised Statute §67C.143(1), as
22 amended by 17 RS BR 1230, provides, *inter alia*:

23
24 “Unless otherwise provided by law, any elected officer of a consolidated
25 local government in case of misconduct, incapacity, or willful neglect in the
26 performance of the duties of his or her office may be removed from office by
27 the legislative council, sitting as a court, under oath, upon charges preferred
28 by the mayor or by any five (5) members of the legislative council...”

1 Respondent categorically denies every allegation of material fact and legal
2 conclusion contained in Allegation No. 19, and objects to the lack of specificity therein.

3 a. Respondent specifically denies writing “...issuing bad checks to at least two local
4 business that were only paid after the businesses filed suit against him in the Jefferson
5 County Courts...”

6 b. Respondent has paid each and every check he has written, regardless of whether
7 it was initially erroneously dishonored by his bank.

8 c. The allegation of Theft by Deception in Madison County, Kentucky, involved a
9 misunderstanding, and was dismissed by the Madison District Court, with prejudice.
10

11 d. Allegation No. 19 presents only conclusions and characterizations of unspecified
12 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
13 due process required by Rule 2. of the Rules & Procedures: “The member charged
14 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
15 of the charges and an opportunity to be heard...”
16

17 e. In form and substance, Allegation No. 19 merely presents vague conclusions,
18 rendering anything other than a general denial legally and grammatically impossible. In
19 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
20 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
21
22

23
24
25 **Allegation No. 20.** These failures of memory, accountability and propriety
26 demonstrate Johnson's incapacity.
27
28

1 **Response to Allegation No. 20.** Kentucky Revised Statute §67C.143(1), as
2 amended by 17 RS BR 1230, provides, *inter alia*:

3 “Unless otherwise provided by law, any elected officer of a consolidated
4 local government in case of misconduct, incapacity, or willful neglect in the
5 performance of the duties of his or her office may be removed from office by
6 the legislative council, sitting as a court, under oath, upon charges preferred
7 by the mayor or by any five (5) members of the legislative council...”

8 Respondent categorically denies every allegation of material fact and legal
9 conclusion contained in Allegation No. 20, and objects to the lack of specificity therein.

10 a. Respondent specifically denies any behavior which indicates “...failures of
11 memory, accountability and propriety...” or tends to demonstrate Respondent's
12 incapacity.

13 b. There are no facts presented or alleged indicating that Respondent ever
14 performed any act which could reasonably be construed to indicate any limitation to his
15 capacity to serve as Metro Councilman.

16 c. The term “failures of memory, accountability and propriety” is so vague and
17 undefined as to be undeserving of any response. “Failures of memory, accountability and
18 propriety” are not terms mentioned or defined in KRS §67C.143, and cannot legally serve
19 as a basis for removal of a member of the Louisville Metro Council.
20
21

22 d. Allegation No. 20 presents only conclusions and characterizations of
23 unspecified behavior on the part of Respondent, and fails to rise to even minimal levels
24 of substantive due process required by Rule 2. of the Rules & Procedures: “The member
25 charged (hereafter, the Respondent) shall be afforded fundamental due process,
26 including notice of the charges and an opportunity to be heard...”
27
28

1 e. In form and substance, Allegation No. 20 merely presents vague conclusions,
2 rendering anything other than a general denial legally and grammatically impossible. In
3 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
4 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
5

6
7 **Allegation No. 21.** Johnson has failed in his duty to the public and the Council,
8 bringing shame on the Metro Council by defying and diminishing the office of the
9 President of the Metro Council, and by failing to properly vet his legislative aide Bryan
10 Matthews.
11

12 **Response to Allegation No. 21.** Kentucky Revised Statute §67C.143(1), as
13 amended by 17 RS BR 1230, provides, *inter alia*:

14 "Unless otherwise provided by law, any elected officer of a consolidated
15 local government in case of misconduct, incapacity, or willful neglect in the
16 performance of the duties of his or her office may be removed from office by
17 the legislative council, sitting as a court, under oath, upon charges preferred
18 by the mayor or by any five (5) members of the legislative council..."

19 Respondent categorically denies every allegation of material fact and legal
20 conclusion contained in Allegation No. 21, and objects to the lack of specificity therein.

21 a. Respondent specifically denies any behavior which indicates that he "...failed in
22 his duty to the public and the Council, bringing shame on the Metro Council by defying
23 and diminishing the office of the President of the Metro Council..."

24 b. There are no facts presented or alleged indicating that Respondent ever failed
25 "...to properly vet his legislative aide Bryan Matthews."
26
27
28

1 c. The term “failing to properly vet” is so vague and undefined as to be undeserving
2 of any response. “Failing to properly vet” is not a term mentioned or defined in KRS
3 §67C.143, and cannot legally serve as a basis for removal of a member of the Louisville
4 Metro Council.
5

6 d. Allegation No. 21 presents only conclusions and characterizations of unspecified
7 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
8 due process required by Rule 2. of the Rules & Procedures: “The member charged
9 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
10 of the charges and an opportunity to be heard...”
11

12 e. In form and substance, Allegation No. 21 merely presents vague conclusions,
13 rendering anything other than a general denial legally and grammatically impossible. In
14 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
15 of proof of “...misconduct, incapacity, or willful neglect in the performance of the duties...”
16
17

18 **Allegation No. 22.** Johnson intentionally disregarded his duty to the Council and
19 his constituents by hiring an aid (sic) that had been fired for mismanagement and using
20 racial slurs, and had a constitutional conflict, as Matthews was serving as Jefferson
21 County Judge/Executive.
22

23 **Response to Allegation No. 22.** Kentucky Revised Statute §67C.143(1), as
24 amended by 17 RS BR 1230, provides, *inter alia*:

25 “Unless otherwise provided by law, any elected officer of a consolidated
26 local government in case of misconduct, incapacity, or willful neglect in the
27 performance of the duties of his or her office may be removed from office by
28 the legislative council, sitting as a court, under oath, upon charges preferred
by the mayor or by any five (5) members of the legislative council...”

1 Respondent categorically denies every allegation of material fact and legal
2 conclusion contained in Allegation No. 22, and objects to the lack of specificity therein.

3 a. Respondent specifically denies any that his "...aid (sic) ... had been fired for
4 mismanagement and using racial slurs."

5
6 b. There are no facts presented or alleged indicating that Respondent ever "...
7 intentionally disregarded his duty to the Council and his constituents by hiring an aid
8 (sic)..."

9
10 c. Allegation No. 22 presents only conclusions and characterizations of unspecified
11 behavior on the part of Respondent, and fails to rise to even minimal levels of substantive
12 due process required by Rule 2. of the Rules & Procedures: "The member charged
13 (hereafter, the Respondent) shall be afforded fundamental due process, including notice
14 of the charges and an opportunity to be heard..."

15
16 e. In form and substance, Allegation No. 22 merely presents vague conclusions,
17 rendering anything other than a general denial legally and grammatically impossible. In
18 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
19 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
20

21 **Allegation No. 23.** Johnson also intentionally disregarded his duty to the
22 Council when the Council President directed him to stay off the second floor of City Hall
23 and further directed Johnson to send an email to him an hour before entering the building
24 because some employees were fearful and intimidated by his physical presence. The
25 President's action was a result of Johnson's legal actions against Erin Hinson, described
26 in paragraph 7.
27
28

1 **Response to Allegation No. 23.** Kentucky Revised Statute §67C.143(1), as
2 amended by 17 RS BR 1230, provides, *inter alia*:

3 “Unless otherwise provided by law, any elected officer of a consolidated
4 local government in case of misconduct, incapacity, or willful neglect in the
5 performance of the duties of his or her office may be removed from office by
6 the legislative council, sitting as a court, under oath, upon charges preferred
7 by the mayor or by any five (5) members of the legislative council...”

8 Respondent categorically denies every allegation of material fact and legal
9 conclusion contained in Allegation No. 23, and objects to the lack of specificity therein.

10 a. This Allegation refers to a letter, dated July 4, 2017, from Louisville Metro
11 President David Yates to the Respondent. (see Respondent’s Exhibit A, attached)

12 b. Louisville Metro Council President David Yates had no legal authority to write
13 and send his letter of July 4, 2017, and had no legal authority to bar Respondent from
14 entering the Second Floor of City Hall, and had no legal authority to require Respondent
15 to notify Yates’ office “...at least an hour prior to arriving at City Hall...” This letter and
16 the demands contained therein constitute an extreme example of dictatorial tyranny,
17 unbecoming an elected official in a democracy operating under the rule of law.
18 Respondent was and is under no legal obligation to obey or otherwise respond to the
19 outrageous demands contained in Yates’ letter.
20
21

22 c. Allegation No. 23 presents a petty complaint that Respondent did not obey the
23 unlawful commands of a Louisville Metro Council president who, acting *ultra vires*,
24 attempted to exceed his statutory powers. It fails to rise to even minimal levels of
25 substantive due process required by Rule 2. of the Rules & Procedures: “The member
26 charged (hereafter, the Respondent) shall be afforded fundamental due process,
27 including notice of the charges and an opportunity to be heard...”
28

1 e. In form and substance, Allegation No. 23 merely presents vague conclusions,
2 rendering anything other than a general denial legally and grammatically impossible. In
3 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
4 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
5

6
7 **Allegation No. 24.** Johnson did not respond to the President directly and
8 instead stated in an interview on 840 WHAS Radio, "I'll never do that, because I am a
9 councilman and I'm able to go to my office if I feel like it."
10

11 **Response to Allegation No. 24.** Quid ergo? Kentucky Revised Statute
12 §67C.143(1), as amended by 17 RS BR 1230, provides, *inter alia*:

13 "Unless otherwise provided by law, any elected officer of a consolidated
14 local government in case of misconduct, incapacity, or willful neglect in the
15 performance of the duties of his or her office may be removed from office by
16 the legislative council, sitting as a court, under oath, upon charges preferred
17 by the mayor or by any five (5) members of the legislative council..."

18 Respondent categorically denies every allegation of material fact and legal
19 conclusion contained in Allegation No. 23, and objects to the lack of specificity therein.

20 a. This Allegation refers to a letter, dated July 4, 2017, from Louisville Metro
21 President David Yates to the Respondent. (see Respondent's Exhibit A, attached)

22 b. Louisville Metro Council President David Yates had no legal authority to write
23 and send his letter of July 4, 2017, and had no legal authority to bar Respondent from
24 entering the Second Floor of City Hall, and had no legal authority to require Respondent
25 to notify Yates' office "...at least an hour prior to arriving at City Hall..." This letter and
26 the demands contained therein constitute an extreme example of dictatorial tyranny,
27 unbecoming an elected official in a democracy operating under the rule of law.
28

1 Respondent was and is under no legal obligation to obey or otherwise respond to the
2 outrageous demands contained in Yates' letter.

3
4 c. Allegation No. 24 presents a petty complaint that Respondent did not obey the
5 unlawful commands of a Louisville Metro Council president who, acting *ultra vires*,
6 attempted to exceed his statutory powers. It fails to rise to even minimal levels of
7 substantive due process required by Rule 2. of the Rules & Procedures: "The member
8 charged (hereafter, the Respondent) shall be afforded fundamental due process,
9 including notice of the charges and an opportunity to be heard..."

10
11 e. In form and substance, Allegation No. 24 merely presents vague conclusions,
12 rendering anything other than a general denial legally and grammatically impossible. In
13 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
14 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."

15
16
17 **Allegation No. 25.** Johnson dismissed the President's request and intentionally
18 visited the second floor in an act of defiance and disrespect.

19 **Response to Allegation No. 25.** Quid ergo? Kentucky Revised Statute
20 §67C.143(1), as amended by 17 RS BR 1230, provides, *inter alia*:

21 "Unless otherwise provided by law, any elected officer of a consolidated
22 local government in case of misconduct, incapacity, or willful neglect in the
23 performance of the duties of his or her office may be removed from office by
24 the legislative council, sitting as a court, under oath, upon charges preferred
25 by the mayor or by any five (5) members of the legislative council..."

26 Respondent categorically denies every allegation of material fact and legal
27 conclusion contained in Allegation No. 25, and objects to the lack of specificity therein.
28

1 a. This Allegation refers to a letter, dated July 4, 2017, from Louisville Metro
2 President David Yates to the Respondent. (see Respondent's Exhibit A, attached)

3 b. Louisville Metro Council President David Yates had no legal authority to write
4 and send his letter of July 4, 2017, and had no legal authority to bar Respondent from
5 entering the Second Floor of City Hall, and had no legal authority to require Respondent
6 to notify Yates' office "...at least an hour prior to arriving at City Hall..." This letter and
7 the demands contained therein constitute an extreme example of dictatorial tyranny,
8 unbecoming an elected official in a democracy operating under the rule of law.
9 Respondent was and is under no legal obligation to obey or otherwise respond to the
10 outrageous demands contained in Yates' letter.
11

12 c. Allegation No. 25 presents a petty complaint that Respondent did not obey the
13 unlawful commands of a Louisville Metro Council president who, acting *ultra vires*,
14 attempted to exceed his statutory powers. It fails to rise to even minimal levels of
15 substantive due process required by Rule 2. of the Rules & Procedures: "The member
16 charged (hereafter, the Respondent) shall be afforded fundamental due process,
17 including notice of the charges and an opportunity to be heard..."
18

19 e. In form and substance, Allegation No. 25 merely presents vague conclusions,
20 rendering anything other than a general denial legally and grammatically impossible. In
21 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
22 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
23
24
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28

1 **Allegation No. 26.** By his disrespect of the Council's elected leader, and his
2 disregard for the qualifications of his legislative aide, Johnson has been willfully negligent
3 in performing his duties as 21st District Councilmember.
4

5 **Response to Allegation No. 26.** Kentucky Revised Statute §67C.143(1), as
6 amended by 17 RS BR 1230, provides, *inter alia*:

7 “Unless otherwise provided by law, any elected officer of a consolidated
8 local government in case of misconduct, incapacity, or willful neglect in the
9 performance of the duties of his or her office may be removed from office by
10 the legislative council, sitting as a court, under oath, upon charges preferred
11 by the mayor or by any five (5) members of the legislative council...”

12 Respondent categorically denies every allegation of material fact and legal
13 conclusion contained in Allegation No. 26, and objects to the lack of specificity therein.

14 a. This Allegation falsely characterizes Respondent’s refusal to follow the unlawful
15 orders from Louisville Metro Council President David Yates as disrespect. To the
16 contrary, Respondent’s actions demonstrate a higher level of respect for the Louisville
17 Metro Council, the Louisville Metro Ordinances, and the laws of the Commonwealth of
18 Kentucky than demonstrated by Louisville Metro Council President David Yates.
19 Resistance to unlawful orders by an elected official can never be reasonably construed as
20 disrespect for the office. Any elected official who dictates unlawful orders deserves
21 disrespect from all honest men.
22

23 b. Louisville Metro President David Yates had no legal authority to write and send
24 his letter of July 4, 2017, and had no legal authority to bar Respondent from entering the
25 Second Floor of City Hall, and had no legal authority to require Respondent to notify
26 Yates’ office “...at least an hour prior to arriving at City Hall...” This letter and the
27 demands contained therein constitute an extreme example of dictatorial tyranny,
28

1 unbecoming an elected official in a democracy operating under the rule of law.
2 Respondent was and is under no legal obligation to obey or otherwise respond to the
3 outrageous demands contained in Yates' letter.
4

5 c. Allegation No. 26 presents a petty complaint that Respondent did not obey the
6 unlawful commands of a Louisville Metro Council president who, acting *ultra vires*,
7 attempted to exceed his statutory powers. It fails to rise to even minimal levels of
8 substantive due process required by Rule 2. of the Rules & Procedures: "The member
9 charged (hereafter, the Respondent) shall be afforded fundamental due process,
10 including notice of the charges and an opportunity to be heard..."
11

12 e. In form and substance, Allegation No. 26 merely presents vague conclusions,
13 rendering anything other than a general denial legally and grammatically impossible. In
14 no measure does this Allegation reach the threshold of the KRS §67C.143(1) requirement
15 of proof of "...misconduct, incapacity, or willful neglect in the performance of the duties..."
16
17
18

19 **Charging Committee's Request for Relief.** "The members of the Charging
20 Committee believe these acts have exposed the Metro Council to scorn and
21 embarrassment; have created unnecessary and destructive conflict with members of the
22 Council and other community leaders and citizens and have created a perception that
23 Council members are exempt from standards of common civility and decency; and have
24 created a hostile work environment.
25

26 "Therefore we request that the Louisville Metro Council convene a hearing on the
27 preceding charges that Councilmember Dan Johnson has demonstrated misconduct,
28

1 incapacity and willful neglect in the performance of his duties. We respectfully request
2 that this hearing be set at the earliest date convenient to the Council so that the Council
3 may decide whether to remove him from office under KRS 67C.143.”
4

5
6 **Response to Charging Committee’s Request for Relief.**

7 a. Respondent first learned that a formal complaint had been filed against him,
8 when he received a Memorandum from Louisville Metro Council Democratic Caucus
9 Chair Bill Hollander and Vice Chair Cheri Bryant Hamilton, dated June 21, 2017. The
10 Memorandum requested a response from the Respondent, within fourteen days, “... to
11 determine if internal corrective action is warranted.” Mr. Hollander and Ms. Hamilton
12 indicated that they would withhold delivering the Memorandum to the Democratic
13 Caucus as a whole, until the period allowed for Respondent’s response had expired.
14 Indeed, the Memorandum was clearly marked “confidential,” and Respondent was
15 therefore led to believe that the Caucus would proceed in an ethical and honorable
16 approach to investigate the facts in this matter.
17

18
19 b. One can therefore understand Respondent’s dismay at learning that copies of
20 the June 21 Memorandum have been widely circulated around City Hall, and that a copy
21 was provided to a local newspaper reporter even before Respondent received my copy.
22 The untrue allegations made against Respondent have been spread around the
23 community by a series of rumors, leaks, and anonymous communications to the press.
24 Naturally, a person’s first response to such a back-door campaign of lies and innuendo is
25 to ignore it, and trust that people of good will are able to see this attack for what it is: A
26
27
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1 political lynching and effort to destroy the good reputation of an elected official who has
2 faithfully served his community for over a quarter century.

3 c. Several of Respondent's friends and supporters have suggested to him that he
4 simply continue to ignore this whole affair. They told him that the Metro Council
5 members have already made up their collective minds that he is "guilty as charged," and
6 should therefore be expelled from the Louisville Metro Council.
7

8 d. But Respondent's years of experience with his colleagues on the Metro Council
9 and the old Board of Aldermen lead him to the opposite conclusion. He has worked
10 alongside these legislators, and developed strong bonds of friendship with most of them.
11 More importantly, Respondent has gained a great deal of respect for the integrity and
12 reasonableness of his fellow Metro Council members. If presented with clear evidence,
13 Respondent cannot believe that they would allow personal bias or political intimidation
14 to keep them from fairly judging the scandalous allegations that have been made against
15 him.
16
17

18 e. The local newspaper has continued to stir the pot, with over a dozen salacious
19 and sensational articles about this minor incident. It has contacted women's rights
20 organizers, who have criticized Respondent for being a sexual predator. It has contacted
21 African American ministers, who have concluded that Respondent's behavior is somehow
22 racially motivated. That this sort of crazed mob action can occur in a compassionate city
23 like Louisville, is disappointing, to say the least.
24

25 f. While the June 21 Memorandum originally indicated that the complaint against
26 Respondent "...would be limited to the Wyandotte Park incident..," the Complaint of the
27 Charging Committee has now been expanded to 26 individual charges. Clearly, this
28

1 indicates a decision to allow rumor, unfounded and unproven allegations, and innuendo
2 to be used against Respondent, without affording him any opportunity to know the name
3 of his accuser, face his accuser, cross-examine his accuser, or present evidence on his own
4 behalf. Respondent finds it impossible to believe that his colleagues on the Louisville
5 Metro Council will agree that this is either fair or just.
6

7 g. Subsequent to the leaking of the June 21 Memorandum, Councilwoman Green
8 circulated an email around City Hall, containing some remarkable commentary. In the
9 June 23 email chain, she said she was “completely astonished that the confidential
10 investigative report was leaked once again” before she had an opportunity to see its
11 recommendations. She asked Democratic leaders to address the “breaches of
12 confidentiality in an effort to avoid further embarrassment.” While Respondent certainly
13 shares her astonishment, he respectfully suggests that some serious thought and
14 consideration be given to the question of who had the motive and opportunity to leak this
15 to the press. Who, of all the actors in this affair, has the most to gain from exploiting this
16 scandal in the press?
17
18

19 h. The June 23 email chain contains several reasonable responses from
20 Councilmen Barbara Sexton Smith, David James, Cindi Fowler, and Vicki Aubrey Welch;
21 to the effect that they are reserving comment and judgment until all the facts are in.
22 Councilman Pat Mulvihill, on the other hand, indicates that he has somehow obtained a
23 copy of the confidential June 21 Memorandum, and has unilaterally concluded that the
24 report’s recommendations are warranted and that he thinks “the punishment fits the
25 crime.” Respondent can perhaps be forgiven if he has concerns about Councilman
26 Mulvihill’s impartiality.
27
28

1 i. Two final comments from Respondent's colleagues contained in the June 23
2 email chain are worth noting. Councilman Brent Ackerson suggests that "Somebody's
3 head needs to roll for leaking..." and "I'm embarrassed to be a Louisville Metro
4 Councilman at the moment." This is a sentiment shared by the Respondent.
5

6 j. Finally, Councilwoman Vicki Aubrey Welch stated what many other Metro
7 Councilmen must be thinking, when she wrote: "I'm just hoping it can come to a close
8 pretty quickly because it's causing angst, not only for Councilwoman Green, but for the
9 whole Caucus." This, too, is a sentiment shared by the Respondent.
10

11 k. The Respondent didn't create this embarrassing mess. He didn't file the
12 complaint. He didn't leak documents and pander to the press. But Respondent pledges
13 to do everything in his power to bring it to an end.

14 l. The Respondent has served his constituents in an honorable fashion, to the best
15 of his abilities, since January of 1992. He has always tried to treat his colleagues on the
16 Board of Aldermen, and, later, on the Louisville Metro Council, with respect and decency.
17 Respondent has been blessed with the opportunity to provide many services and benefits
18 to the wonderful folks who have honored him with continuous re-election. He have
19 served in this position longer than any other elected official in the City of Louisville. To
20 reach the end of his political career with his character besmirched with such ugly
21 allegations is a pain which is almost unbearable for him.
22

23 m. It is Respondent's firm conviction that he is innocent of the malicious
24 allegations that have been made against him. He remains confident that that his
25 innocence would be evident at any fair and reasonable hearing, presided over with
26 substantial due process. Respondent cannot believe that his accusers can prove, by
27
28

1 competent evidence, the charges they have made against him; particularly if forced to
2 prove them before an unbiased and disinterested tribunal.

3 n. The Respondent harbors no animosity and bears no grudge against any of the
4 individuals involved in this matter, and he looks forward to working together with the
5 entire Louisville Metro Council to bring about a speedy and just resolution of this
6 controversy; after which he looks forward to continuing with his legislative colleagues in
7 their concerted efforts to address the many challenges facing our community.
8

9 o. Respectfully, the Respondent calls upon the Louisville Metro Council to dismiss
10 the Complaint filed by the Charging Committee.
11

12
13 Respectfully submitted,

14 

15
16 Thomas A. McAdam, III,
17 Attorney for Respondent
18 2950 Breckenridge Lane, Suite 9
19 Louisville, Kentucky 40220
20 (502) 584-7255 FAX: 585-2025
21 thomas@mcadam.com KBA: 45200

22 **CERTIFICATE OF SERVICE**

23 The undersigned attorney certifies that copies hereof were hand-delivered to Hon. H.
24 Stephen Ott, Louisville Metro Council Clerk, at Louisville City Hall, 601 West Jefferson
25 Street, Louisville, Kentucky 40202, on this date: 08/24/17.
26

27 

28 Thomas A. McAdam, III



LOUISVILLE METRO COUNCIL
OFFICE OF PRESIDENT DAVID YATES

July 4, 2017

Councilman Dan Johnson,

In light of recent events and in order to preserve decorum of the Louisville Metro Council, I am hereby removing you as Vice Chair of the Community Affairs, Housing, Health and Education Committee pursuant to Metro Council Rule 4.01(a). I have been advised by the County Attorney that I do not have the explicit power to remove you from committees, therefore you are still a member of Community Affairs, Housing, Health and Education Committee, Budget Committee and the Appropriations, NDF's & CIF's Committee.

Furthermore, it has recently been brought to my attention that some metro council employees are fearful and intimidated by your physical presence. In an effort to amicably resolve the situation I am requesting that you refrain from the second floor at any time and that you notify my office, via email (david.yates@louisvilleky.gov) at least an hour prior to arriving at City Hall to provide an opportunity for those employees to make any necessary arrangements.

I understand the situation is not ideal, however given the recent events and allegations I do not believe these requests are overly burdensome and thus, appreciate your anticipated willingness to accommodate.

Sincerely,

David Yates

Louisville Metro Council President
District 25 Councilman

Lisa Franklin Gray, Assistant to the President • lisa.franklingray@louisvilleky.gov
601 West Jefferson Street • (502) 374-1125 • Louisville, KY 40202 • david.yates@louisvilleky.gov

Respondent's Exhibit A