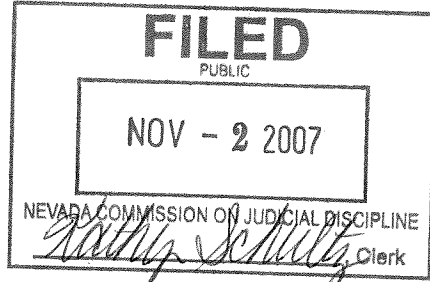


1 Dorothy Nash Holmes, Esq.
2 Nevada Bar No. 2057
3 P.O. Box 18414
4 Reno, NV 89511
5 (775) 250-0330
6 (775) 852-6930 (Facsimile)
7 Special Prosecutor
8 for the Commission



6 BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

7 STATE OF NEVADA

9 In the Matter of the)
10 HONORABLE LEE A. GATES,)
11 District Judge, Eighth Judicial District Court)
12 County of Clark, State of Nevada,)
13 Respondent)

0701-260
CASE NO.: 2005-111 and
CASE NO.: 2006-105

FORMAL STATEMENT
OF CHARGES

15 COMES NOW, Dorothy Nash Holmes, Esq., Special Prosecutor for the Nevada
16 Commission on Judicial Discipline, established under Article 6, Section 21 of the Nevada
17 Constitution, who, in the name of and by the authority of the Commission as found in NRS 1.425
18 through 1.4695, hereby files this Formal Statement of Charges against The Honorable Lee A.
19 Gates, and informs you that the following events occurred and the following acts were
20 committed by you, and they warrant disciplinary action by the Commission under the Nevada
21 Code of Judicial Conduct:

22 **COUNT ONE**

23
24 1. At all times relevant to these charges, you were a District Court Judge for the
25 Eighth Judicial District Court in Clark County, Nevada.

1 2. You stood for election to the Eighth Judicial District Court in 2002, and you
2 campaigned and received campaign contributions.

3 3. Your funds were raised in the name of the Committee to Re-elect Judge Gates and
4 a checking account in that name, account number 004961969859, was maintained at the Bank of
5 America in Las Vegas, NV. You personally controlled that account.

6 4. You received campaign contributions which you reported in August, 2002 to be
7 \$103,264 with another \$1,000 in contributions received and reported by you in October 2002.

8 5. Your Contributions and Expenses Report (hereafter "C&E"), filed by you on
9 August 27, 2002, reports that you received a \$10,000 contribution from your wife, Yvonne
10 Atkinson Gates, on January 24, 2002.

11 6. Yvonne Atkinson Gates, also an elected official required to file C&E Reports and
12 to disclose any disposition of unspent campaign contributions, did not report a \$10,000
13 contribution to you in 2002, 2003 or 2004, or thereafter, so it is unknown if said contribution
14 which you reported receiving from her was a personal contribution or a donation from her own
15 unspent campaign funds.

16 7. You had no opponent in the election in 2002 and were elected to a 6-year term,
17 running from January 2003 through December 2008.

18 8. You retained the unspent campaign funds raised for your 2002 election and
19 thereafter reported the use and disposition of them in subsequent reports filed in October 2002
20 and January 2003 (for 2002 activity); January 2004 (for 2003 activity); January 2005 (for 2004
21 activity); January 2006 (for 2005 activity) and January 2007 (for 2006 activity). In each of those
22 reports, you accounted for unspent contributions from the 2002 election and various expenses or
23 expenditures made during the subsequent years for which you were reporting.
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1 9. On or about February 12, 2004, you made a campaign contribution of \$5,000 to
2 Karen Bennett-Haron (also known as Karen Bennett), who was then the incumbent candidate for
3 Justice of the Peace for Department 7 of the Las Vegas Township. Your contribution to her was
4 made in the form of check #1078 drawn on the Committee to Re-elect Judge Gates bank account.
5 You signed the check "Lee A. Gates." The check showed the address of the Committee to Re-
6 elect Judge Gates as 1961 S. Las Vegas Blvd, Box 109, Las Vegas, NV 89104.

7 10. You were not a candidate for election in 2004 as you were elected to a 6-year
8 term in 2002, and you therefore had no campaign underway yourself.

9 11. Your 2004 donation to Karen Bennett-Haron was made in unspent campaign
10 funds from your 2002 election campaign.

11 12. At the time of your campaign contribution to Justice Bennett-Haron referenced
12 herein, Canon 5 of the Nevada Code of Judicial Conduct governed a judge's political activity.
13 Canon 5A (1)(b) provided that a judge "shall not publicly endorse or publicly oppose another
14 candidate for public office."
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16 13. At the time of your campaign contribution to Justice Bennett-Haron referenced
17 herein, Canon 5(C)(1) of the Nevada Code of Judicial Conduct provided that a judge could
18 purchase tickets to attend political gatherings.

19 14. At the time of your campaign contribution to Justice Bennett-Haron referenced
20 herein, Canon 5(C)(3) of the Nevada Code of Judicial Conduct provided that a judge who was
21 elected and who received contributions that were not spent could dispose of the money (a) by
22 returning it to contributors; (b) by donating it to the general fund of the governmental entity in
23 which the judge served; (c) by using the money for the judge's next campaign or for the payment
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1 of other expenses related to the judge's public office; or (d) by donating it to a tax-exempt, non-
2 profit entity. All others forms of disposition of the unspent funds were prohibited by the canon.

3 15. At the time of your campaign contribution to Justice Bennett-Haron referenced
4 herein, there existed Advisory Opinion JE 02-005, issued by the Standing Committee on Judicial
5 Ethics and Election Practices, which concluded that "No judge or judicial candidate may
6 contribute to any political candidate in an amount subject to public disclosure as such a
7 contribution constitutes a public endorsement prohibited by the Nevada Code of Judicial
8 Conduct. This prohibition includes the purchasing of tickets for a political gathering in an
9 amount that exceeds the public disclosure threshold. Judicial candidates may not use unspent
10 campaign funds to donate to the campaign of another judicial candidate." The threshold for
11 public disclosure at that time was any contribution over \$100, per NRS 294A.120.

12 16. While Justice Karen Bennett-Haron filed a C&E Report on August 30, 2004, and
13 properly reported that you had given her the \$5,000 campaign contribution, you failed to report
14 that contribution to her in your C&E Reports for activity occurring in 2004.

15 17. You telephoned Investigator Dennis Arnoldy of The Advantage Group, the entity
16 conducting the investigation of your activities for the Commission, on December 19, 2005 and
17 stated that your wife, Yvonne Atkinson Gates, had asked you to contribute to Karen Bennett-
18 Haron \$5,000 of the \$10,000 your wife had contributed to your campaign in 2002, and so you
19 made the contribution through your Committee to Re-elect Judge Gates account. You further
20 stated that you knew Justice Bennett-Haron but that you did not socialize with her, supporting
21 your statement that your contribution was made at the behest and direction of your wife, Yvonne
22 Atkinson Gates.
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1 18. Subsequently, in your Response to the Complaint, filed with the Commission by
2 your counsel on your behalf on September 1, 2006, and again in your Answer to Interrogatories,
3 filed by your counsel on your behalf on May 3, 2007, you stated that "... Judge Gates made the
4 decision to donate to Justice Karen Bennett-Haron's campaign" and you further stated that you
5 were "not following your wife's directive to make the \$5,000 campaign contribution." You also
6 stated that you discussed the contribution with your wife and she had no opposition to it, but the
7 decision was yours.

8 19. The statements contained in paragraphs 17 and 18 above are inconsistent and both
9 cannot be true, therefore one or the other is a misrepresentation to the Commission.

10 20. On January 3, 2006 you again telephoned Investigator Dennis Arnoldy about the
11 Justice Bennett-Haron contribution and stated that you recalled attending between two and five
12 different campaign fund-raising events for Justice Karen Bennett-Haron, which cost \$500 each to
13 attend, and that after your \$5,000 donation to her, you were given "free entry" to her subsequent
14 campaign events.

15 21. On January 18, 2006 you filed a C&E Report stating that in January 2005 you
16 made a loan of \$10,600 to your campaign account.

17 22. In your interview with Investigator Dennis Arnoldy on May 16, 2006, you stated
18 that after your contribution to Justice Karen Bennett-Haron, a controversy arose in the media
19 regarding Republican judges who paid \$5,000 to be listed on a Republican slate, which prompted
20 you to do some research on campaign contributions and you discovered for the first time that the
21 Judicial Discipline Commission had a website. You stated that you researched therein and
22 learned for the first time that judges weren't supposed to give a hundred dollars or more so you
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1 decided to put some of your personal funds into the campaign account to cover the campaign
2 contribution you had made to Justice Bennett-Haron.

3 23. You explained the \$10,600 loan to your account referenced in paragraph 21 as
4 your way of reimbursing your campaign account to cover the donation to Justice Bennett-Haron
5 and that you considered it a donation to a tax-exempt, non-profit organization.

6 24. After the investigation of this campaign donation to Justice Karen Bennett-
7 Haron's campaign, on April 6, 2007 you filed an amended C&E Report for 2005 activity,
8 amending your report from January 15, 2005 to reflect your \$5,000 contribution to Karen
9 Bennett, categorizing the expenditure as "H" (expenses related to special events) and "D"
10 (expenses related to advertising). You did not, however, attribute the expense to category "K"
11 which are expenses related to NRS 294A.160 --Disposition of Unspent Contributions-- or Canon
12 5 (C) (3) of the Judicial Code, the sections which authorize an expenditure to a tax-exempt, non-
13 profit entity as a means of disposing of unspent campaign funds.
14

15 25. Your conduct as described herein constitutes violations of:

- 16 a) Canons 1(A), failure to uphold the integrity of the judiciary;
- 17 b) Canon 2(A), failure to avoid impropriety and the appearance of
18 impropriety in all the judge's activities;
- 19 c) Canon 2(B), allowing family to influence the judge's judicial conduct
20 and/or lending the prestige of judicial office to advance the private interests
21 of another;
- 22 d) Canon 5(C)(1), publicly endorsing another judicial candidate;
- 23 e) Canon 5(C)(3), improper and unauthorized disposition of unspent
24 campaign funds; and
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1 f) Canon 5(D), engaging in political activity not authorized by the Code of
2 Judicial Conduct.

3 **COUNT TWO**

4 26 The allegations in paragraphs 1 through 8 of Count One are incorporated by
5 reference herein, as though fully set forth herein, and also apply to this count.

6 27. On or about February 23, 2004, you made a campaign contribution of \$5,000 to
7 Judge Michael Douglas, who was then a candidate for the position of Justice of the Nevada
8 Supreme Court. Your contribution to him was made in the form of a check drawn on the
9 Committee to Re-elect Judge Gates bank account. You signed the check "Lee A. Gates."

10 28. You were not a candidate for election in 2004 as you were elected to a 6-year
11 term in 2002, and you therefore had no campaign underway yourself.

12 29. At the time of your campaign contribution to Judge Douglas referenced herein,
13 Canon 5 of the Nevada Code of Judicial Conduct governed a judge's political activity. Canon
14 5A (1)(b) provided that a judge "shall not publicly endorse or publicly oppose another candidate
15 for public office."

16 30. At the time of your campaign contribution to Judge Douglas referenced herein,
17 Canon 5(C)(1) of the Nevada Code of Judicial Conduct provided that a judge could purchase
18 tickets to attend political gatherings.

19 31. At the time of your campaign contribution to Judge Douglas referenced herein,
20 Canon 5(C)(3) of the Nevada Code of Judicial Conduct provided that a judge who was elected
21 and who received contributions that were not spent could dispose of the money (a) by returning it
22 to contributors; (b) by donating it to the general fund of the governmental entity in which the
23 judge served; (c) by using the money for the judge's next campaign or for the payment of other
24
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1 expenses related to the judge's public office; or (d) by donating it to a tax-exempt, non-profit
2 entity. All others forms of disposition of the unspent funds were prohibited by the canon.

3 32. At the time of your campaign contribution to Judge Douglas referenced herein,
4 there existed Advisory Opinion JE 02-005, issued by the Standing Committee on Judicial Ethics
5 and Election Practices, which concluded that "No judge or judicial candidate may contribute to
6 any political candidate in an amount subject to public disclosure as such a contribution
7 constitutes a public endorsement prohibited by the Nevada Code of Judicial Conduct. This
8 prohibition includes the purchasing of tickets for a political gathering in an amount that exceeds
9 the public disclosure threshold. Judicial candidates may not use unspent campaign funds to
10 donate to the campaign of another judicial candidate." The threshold for public disclosure at that
11 time was any contribution over \$100, per NRS 294A.120.

12 33. While Judge Michael Douglas filed a C&E Report on October 25, 2004 and
13 properly reported that you had given him the \$5,000 campaign contribution from the Judge Lee
14 Gates campaign account, you failed to report that contribution from your unspent campaign
15 funds in your C&E Reports for activity in 2004.

16 34. You had knowledge that the Commission was investigating you for improper
17 campaign contributions to other judges, by virtue of their investigator's contacts and interviews
18 of you regarding the Justice Karen Bennett-Haron donation in Case No. 2005-111, and you knew
19 you had made a similar unreported campaign contribution to Judge Michael Douglas also in the
20 year 2004, and yet you failed to advise the Commission or its investigators of your campaign
21 contribution to Judge Douglas on at least three separate occasions: to wit, December 19, 2005
22 when you telephoned Investigator Dennis Arnoldy to discuss the investigation; on January 3,
23 2006, when you telephoned Investigator Dennis Arnoldy to discuss the investigation; and on
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1 May 16, 2006 when you were interviewed in person on the Justice Bennett-Haron case by
2 Investigator Dennis Arnoldy in the presence of your attorney.

3 35. After you began discussing the Commission's investigation of your Justice
4 Bennett-Haron contribution in late 2005, on January 18, 2006 you filed a C&E Report stating
5 that in January 2005 you made a loan of \$10,600 to your campaign account. That was intended
6 to reflect a reimbursement with your personal funds to cover the campaign contributions to both
7 Justice Bennett-Haron and Judge Douglas.

8 36. You never revealed your campaign contribution to Judge Michael Douglas until
9 your interview for Case No. 2006-105 held on November 2, 2006 by Investigator Dennis
10 Arnoldy, again conducted in the presence of your attorney.

11 37. During your November 2, 2006 interview with Investigator Dennis Arnoldy, you
12 attributed your lack of reporting of the Douglas contribution to "bad bookkeeping" or the fact
13 that you kept "three sets of checks, not in a checkbook...in my car, in my office...at my house"
14 and also to the fact that you rented a private mail box then moved and did not get mail and went
15 "six months without receiving a batch of returned checks," stating that a year later you had to
16 reconstruct your finances from notes, given the "hundreds if not thousands of checks" you had
17 written on the account.

18 38. After the investigation of this campaign donation to Judge Michael Douglas, on
19 April 6, 2007 you filed an amended C&E Report for 2005 activity, amending your report from
20 January 15, 2005 to now reflect your \$5,000 contribution to Judge Michael Douglas,
21 categorizing the expenditure as "H" (expenses related to special events) and "D" (expenses
22 related to advertising). You did not categorize the expenditure as "K" a disposition of unspent
23 campaign funds.
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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss
3)

4 DOROTHY NASH HOLMES, Esq., being first duly sworn under oath, according to
5 Nevada law, and under penalty of perjury, hereby states:

6 1. I am an attorney duly licensed to practice law in the State of Nevada, and I have
7 been retained by the Nevada Commission on Judicial Discipline to serve in the capacity of
8 Special Prosecutor in The Matter of the Honorable Lee A. Gates, Cases No. 2005-111 and 2006-
9 105.

10 2. I have prepared and reviewed the foregoing Formal Statement of Charges against
11 the Honorable Lee A. Gates, and pursuant to the investigation conducted in this matter and based
12 on the contents of that investigation, and following reasonable inquiry, I am informed and
13 believe that the contents of the Formal Statement of Charges are true and accurate.

14 Dated this 2nd day of November, 2007.

15
16 *Dorothy Nash Holmes*
17 DOROTHY NASH HOLMES

18
19 Subscribed and sworn to before me, a Notary Public,
20 this 2nd day of November, 2007.

21 *Emelinda B. Carlson*
22 _____
23 NOTARY PUBLIC
24
25

