

STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION

In re:

HON. GREGG P. IDDINGS
Judge, Lenawee County Probate Court
Rex B. Martin Judicial Building
425 N. Main Street
Adrian, Michigan 49221

RFI Nos. 2016-22112
2016-22247

DECISION AND RECOMMENDATION
FOR ORDER OF DISCIPLINE

At a session of the Michigan Judicial Tenure Commission, held on December 12, 2016, in Detroit, Michigan at which the following Commissioners were

PRESENT:

Hon. David H. Sawyer, Chairperson
Hon. Pablo Cortes, Vice-Chairperson
Nancy J. Diehl, Esq., Secretary
Thomas J. Ryan, Esq.
Hon. Nanci J. Grant
Hon. Monte Burmeister
David T. Fischer
Melissa B. Spickler (by telephone)
Hon. Lawrence S. Talon

I. INTRODUCTION

The Hon. Gregg P. Iddings (“Respondent”) is a probate court judge for County of Lenawee. Respondent is representing himself in these proceedings. For the reasons set forth more fully within, the Michigan Judicial Tenure Commission (“Commission”) recommends that the Supreme Court (“Court”) publicly censure Respondent and suspend him, without pay, for a period of 60 days. In addition, Respondent is to continue counseling with Respondent’s current therapist for one year at his expense, and that, within the one year of the date of this Decision and Recommendation, Respondent attend *Maintaining Proper Boundaries Course* jointly

sponsored by the University of Texas Southwestern Medical Center and the Santé Institute of Professional Education and Research in Texas at his expense. Respondent will provide proof of his completion of the counseling and of the *Maintaining Proper Boundaries Course* to the Commission.

II. PROCEDURAL BACKGROUND

The Commission received a Request for Investigation submitted by the Respondent, and assigned it Grievance No. 2016-22112. The Commission also received a second Request for Investigation regarding the Respondent and assigned it Grievance No. 2016-22247. Grievance No. 2016-22247 will be dismissed as part of this decision and recommendation. The Commission obtained Respondent's comments, and the Commission's executive director (acting as the functional equivalent of the Examiner¹) then entered into a Settlement Agreement with the Respondent, a copy of which is appended to this Decision and Recommendation as Attachment A.

III. STANDARD OF PROOF

The standard of proof in a judicial discipline proceeding is a preponderance of the evidence. *In re Morrow*, 496 Mich 291, 298 (2014).

IV. FINDINGS OF FACT

The Commission accepts the facts stipulated to by the parties and adopts them, setting them out in full below:

1. Ms [****]² was Respondent's judicial secretary from July 2010 to November 2015.

¹ Although no formal complaint was issued, the Judicial Tenure Commission's executive director assumes the role of "examiner" for purposes of this proceeding, as he and the Respondent are in adversarial positions, and call upon the Commission in its adjudicatory role. *See* MCR 9.201(B)(F).

² The victim's name is redacted to protect her privacy.

2. Between 2012 and 2015, Respondent engaged in a series of acts that constituted sexual harassment of Ms [*****].

3. Respondent's conduct included,

- a. Sending after-hour text messages to Ms [*****], in which he discussed his marital problems and his personal feelings.
- b. Making an offer to purchase expensive items for Ms [*****] as Christmas gifts and inviting her to Rhianna/Eminem and other high-priced concerts.
- c. Suggesting that Ms [*****] accompany him to exotic locations for court-related conferences where they could share a hotel room.
- d. Showing Ms [*****] a sexually suggestive YouTube video of a high-priced lingerie website, Agent Provocateur.
- e. Making comments which he admits Ms [*****] could have reasonably interpreted as an invitation to have an affair with him.
- f. In a letter of recommendation, while referring to Ms [*****]'s professionalism and dependability, writing "besides, she is sexy as hell." Respondent deleted the language at the request of Ms [*****].
- g. Writing "Seduce [*****]" on the court computerized calendar and then directing Ms [*****] to look at that particular date on the calendar." Respondent deleted the language at the request of Ms [*****].
- h. Telling Ms [*****] that the outfits she wore to work were "too sexy."
- i. Telling Ms [*****] that she "owed him" for allowing her to leave work early to attend her son's after-school activities.
- j. Reaching over her to edit documents which could have put him in physical contact with Ms [*****].

- k. Staring down the front of Ms [*****]'s blouse.
- l. While discussing his Triathlon training, sitting on Ms [*****]'s desk and laying on it while she was sitting at her desk.
4. Shortly after she was hired, Ms [*****] made it clear to Respondent that she had “no sexual attraction towards him.”
5. On several occasions, Ms [*****] told Respondent that his wife would not appreciate his comments and actions.
6. On several occasions, Respondent told Ms [*****] that he was “sorry and should stop” making some of the comments.
7. Ms [*****] was very upset when she learned about a rumor at the courthouse that she was having an affair with Respondent and requested that he “shut it down.”
8. His court officer told Respondent to “watch” how he spoke to Ms [*****].
9. Respondent admitted that he had received a written copy of the county’s policy prohibiting harassment shortly after taking the bench.
10. Respondent admitted that he is well aware of, and familiar with, both Michigan and Federal sexual harassment laws.
11. On March 18, 2016, Ms [*****] filed an EEO complaint against Respondent in which she alleged that Respondent’s harassment caused “an enormous amount of stress, anxiety, discomfort, nervousness, mental breakdowns, mood swings and disruptive sleep.”
12. Lenawee County hired Priscilla Archangel, Ph.D., President, Archangel and Associates, LLC to conduct an investigation of the EEO complaint. Ms. Archangel filed a report of the investigation dated May 2, 2016.
13. The summary findings of the report included that Respondent’s behavior toward Ms [*****],

does constitute “harassment” in the context of “Sexual harassment includes:...unwanted sexual advances...visual conduct that includes...a display of sexually suggestive objects or pictures,...verbal conduct such as making or using derogatory comments based on sex or sexual comments,...verbal sexual advances or propositions;...suggestive/obscene letters,...” as listed in the Lenawee County Statement Prohibiting Harassment. Specifically, he admits showing [*****] a video by Agent Provocateur depicting scantily clad women in lingerie; writing “Besides, she’s sexy as hell” in a reference letter; writing “seduce [*****]” on his electronic calendar and showing it to her; and telling her “you owe me one” when she took vacation time to attend events for her son.

14. The report also stated that it was the “belief of the Investigator that [Respondent’s behavior] constituted, at minimum, an offensive, and more probably a hostile working environment.”

15. On June 20, 2016, Ms [*****] signed a “Resignation Agreement and Release of All Claims” between herself and Lenawee County, Lenawee County Probate Court, and Respondent which provided that Ms [*****] receive monetary compensation to release all claims related to Respondent conduct.

16. Respondent self-reported the EEO complaint to the Judicial Tenure Commission. On May 5, 2016, the Judicial Tenure Commission received RFI 2016-22112 from Respondent. Respondent attached his prepared statement and Ms [*****]’s EEO complaint.

17. Respondent is extremely remorseful over these matters, he has co-operated throughout the investigation, and he is desirous of resolving these grievances.

V. CONCLUSIONS OF LAW

The parties have stipulated, and this Commission agrees and separately finds as well, that Respondent’s conduct violates the Code of Judicial Conduct. The Commission further finds that Respondent’s conduct constitutes:

- (a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205;

(b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205;

(c) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;

(d) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;

(e) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A;

(f) Failure to respect and observe the law and to conduct himself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;

(g) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2);

(h) Lack of personal responsibility for his own behavior and for the proper conduct and administration of the court in which he presides, contrary to MCR 9.205(A); and

(i) Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

The Commission commends Respondent for self-reporting the EEO complaint against him to the Commission, his co-operation with the investigation, and his frank and candid

recognition of his ethical violations, but the public should expect no less from its public servants. These factors have been taken into consideration by the Commission regarding the proper sanction in this matter. However, Respondent's conduct toward his secretary Ms [*****] is so serious that a public censure and a 60-day suspension without pay is the proper response from the judicial disciplinary system.

VI. SANCTION ANALYSIS

The Commission has considered the criteria for assessing proposed sanctions set forth in *In re Brown*, 461 Mich 1291, 1292-1293; 625 NW2d 744 (2000). A discussion of each relevant factor follows.

- (a) misconduct that is part of a pattern or practice is more serious than an isolated instance of misconduct**

Respondent engaged in a course of conduct constituting sexual harassment that occurred from 2012 to 2015.

- (b) misconduct on the bench is usually more serious than the same misconduct off the bench**

Respondent's misconduct, although off the bench, was nonetheless very serious, and was related to his administrative duties as a judge.

- (c) misconduct that is prejudicial to the actual administration of justice is more serious than misconduct that is prejudicial only to the appearance of propriety**

Respondent's conduct was found to create an offensive and hostile work environment in the courthouse, which directly affected the job performance of Ms [*****] in her dealings with the public and the court's business and affected the administration of justice.

- (d) misconduct that does not implicate the actual administration of justice, or its appearance of impropriety, is less serious than misconduct that does**

Respondent's conduct did implicate the appearance of impropriety and as indicated under factor (c) had a negative impact on the actual administration of justice.

(e) misconduct that occurs spontaneously is less serious than misconduct that is premeditated or deliberated

Respondent's actions were more deliberate than spontaneous.

Respondent is, unfortunately, not the first judge to have engaged in such behavior. Judge Gerard Trudel, 24th District Court, Allen Park, Michigan, altered a subordinate's computer screen saver message to include sexually suggestive content, changing "Ginger Rogers did everything Fred Astaire did, but backwards and in high heels" to "Ginger Rogers did everything Fred Astaire did, but on her back and in high heels." Judge Trudel also misused certain court facilities and equipment, property, and personnel for his personal use. The Supreme Court accepted the Commission's recommendation and ordered a public censure and a 90-day suspension. The Court recognized that the Commission imposed other conditions, including a probationary period, monitoring, and counseling. *In re Trudel*, 465 Mich 1314 (2002) Judge Trudel faced more accusations of inappropriate sexual discussions with female court employees and accusations of unwelcome physical advances in Formal Complaint 68, as well as other allegations of misconduct. The Commission recommended removal and the Supreme Court would have ordered removal except that Judge Trudel resigned on a disability retirement. The Court ordered respondent to pay costs. *In re Trudel*, 468 Mich 1243 (2003)

Judge Steven Ford of the 92nd District Court was charged with sexual harassment in Formal Complaint 74. The allegations included that he kissed a female court magistrate on the lips on several occasions which were not welcome by the employee; that he made unwelcome physical contact with female court employees, including placing his hands on their buttocks or breasts; that he made sexually suggestive comments to a female court employee; that he used his court computer to view pornographic websites and restricted use of the computer by other court employees to cover up his accessing of pornographic websites; and that he was charged with

fourth degree criminal sexual conduct and misconduct in office. Judge Ford resigned and consented to a public censure as part of a Settlement Agreement with the Examiner. The Commission recommended and the Court ordered a public censure. *In re Ford*, 469 Mich 1251 (2004)

The Commission issued Formal Complaint 75 against 53rd District Court Judge Frank Del Vero alleging that Respondent suggested to his secretary that she had to perform oral sex on Respondent to get a raise; that Respondent made inappropriate comments on the appearance and apparel of women in the court, including referring to women's breasts as "hooters," "boobs," "breasties" and commented on their size; that he described the buttocks of a female employee as "onion butt"; that he made inappropriate comments in sexual assault cases over which he presided; and that he related stories regarding oral sex and speculated that certain court employees got their jobs by sleeping with another judge of the court. The Commission dismissed the Formal Complaint in September 2004 when Respondent retired from office. Respondent did not admit to any wrongdoing.

In the present case, the Commission recognizes that while Respondent's conduct is serious and unacceptable, his acts and comments constituting sexual harassment of his secretary Ms [*****] did not include any unwelcome physical contact as in FC 68 against Judge Trudel and in FC 74 against Judge Ford. The Commission also recognizes that Respondent self-reported the EEO complaint, that he has admitted his conduct to the Commission, that he recognizes that his conduct was inappropriate, that he accepts responsibility for his conduct, that he voluntarily entered into the Settlement Agreement, and was willing to accept the consequences of his actions. Additionally, the Commission notes that Respondent has voluntarily received counseling. The Commission acknowledges that Respondent was assessed by Kenneth M. Adams, Ph.D., CSAT-S, a licensed psychologist, and has accepted Dr. Adams'


recommendations as part of the Settlement Agreement. The recommendations include that Respondent continue counseling with Respondent's current therapist for one year at his expense, and that, within one year of the date of this Decision and Recommendation, Respondent attend *Maintaining Proper Boundaries Course* jointly sponsored by the University of Texas Southwestern Medical Center and the Santé Institute of Professional Education and Research in Texas, at his expense. Respondent will provide proof of his completion of the counseling and of the *Maintaining Proper Boundaries Course* to the Commission.

Respondent has been candid and frank about his behavior, and the Commission is convinced of his sincerity. The Commission also takes into account that Respondent has no prior disciplinary history. Accordingly, the Commission recommends a public censure and a 60-day suspension, without pay, for this aspect of the misconduct.


VII. CONCLUSION

Respondent's conduct harmed the public's perception of the judiciary, and Respondent recognizes that his actions in this matter were improper. The Commission hopes that public confidence in the integrity of the judiciary can be restored by the faithful workings of the judicial disciplinary system. Accordingly, the Judicial Tenure Commission recommends that the Supreme Court publicly censure Respondent and suspend him, without pay, for a period of 60 days.

STATE OF MICHIGAN
JUDICIAL TENURE COMMISSION



Hon. David H. Sawyer, Chairperson



Hon. Pablo Cortes, Vice Chairperson




Nancy J. Diehl, Esq., Secretary



Thomas J. Ryan, Esq.



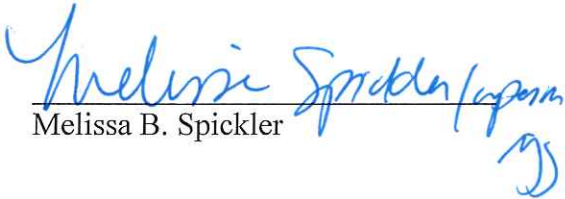
Hon. Nanci J. Grant



Hon. Monte Burmeister



David T. Fischer



MS

Melissa B. Spickler



Hon. Lawrence S. Talon

STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION

In re:

HON. GREGG P. IDDINGS
Judge, Lenawee County Probate Court
Rex B. Martin Judicial Building
425 N. Main Street
Adrian, Michigan 49221

RFI Nos. 2016-22112
2016-22247

Glenn J. Page (P31703)
Interim Executive Director and General Counsel
Judicial Tenure Commission
3034 W. Grand Blvd., Ste. 8-450
Detroit, Michigan 48202
(313) 875-5110

Hon. Gregg P. Iddings (P49074)
Respondent
In pro per
Rex B. Martin Judicial Building
425 N. Main Street
Adrian, Michigan 49221
(517) 264-4610

SETTLEMENT AGREEMENT

Hon. Gregg P. Iddings (“Respondent”) and the Examiner,¹ Glenn J. Page, (collectively, “the parties”) stipulate as follows.

A. BACKGROUND

1. Respondent is, and at all material times was, a judge of the Lenawee County Probate Court, Adrian, Michigan.
2. As a judge, he is subject to all the duties and responsibilities imposed on judges by the Michigan Supreme Court, and he is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

¹ Although no formal complaint has been issued, the Judicial Tenure Commission’s executive director assumes the role of “examiner” for purposes of this proceeding, as he and the Respondent are in adversarial positions, and call upon the Commission in its adjudicatory role. See MCR 9.201(B)(F).

3. Request for Investigation Nos. 2016-22112 and 2016-22247 (“the Grievances”) are currently pending before the Michigan Tenure Commission (“the Commission”) regarding the Respondent. RFI 2016-22247 will be dismissed by the Commission as part of this settlement agreement.

4. Respondent has agreed to admit the factual basis of the allegations, as set forth in more detail below. The parties stipulate that the Commission may review Respondent’s admissions, his answer to the Commission’s request for his comments, and any attachments or materials he submitted with that answer.

5. The Commission may make findings of fact based on the stipulated facts in this Settlement Agreement, as well as draw reasonable inferences from those stipulated facts. The Commission may also make conclusions of law and recommend a sanction regarding the judicial misconduct, if any, which may have occurred.

6. The parties further stipulate that the Commission’s recommended sanction, if any, shall be a public censure and a 60-day suspension without pay. The sanction shall include Respondent complying with the recommendation of Dr. Ken Adams that Respondent shall continue counseling with Respondent’s current therapist for one year at his expense, and that, within the next year, Respondent attend *Maintaining Proper Boundaries Course* jointly sponsored by the University of Texas Southwestern Medical Center and the Santé Institute of Professional Education and Research in Texas at his expense. Respondent will provide proof of his completion of the counseling and of the *Maintaining Proper Boundaries Course* to the Commission.

7. If the Commission approves this Settlement Agreement, the Commission shall issue a Decision and Recommendation and may append a copy of this Settlement Agreement to

that decision. The Commission shall file its Decision and Recommendation with the Supreme Court as a public document, pursuant to MCR 9.220.

8. If the Commission rejects the proposed settlement, this Settlement Agreement is null and void.

9. Respondent acknowledges that this Settlement Agreement covers only these Grievances, and nothing in this Settlement Agreement precludes the Commission from investigating or pursuing other grievances that may be filed after this Settlement Agreement has been signed, which are unrelated to this Grievance.

10. Respondent acknowledges that he is entering this Settlement Agreement freely and voluntarily and that it is his own choice to do so. He further acknowledges that although he is representing himself, he has the right to seek legal counsel and have counsel appear on his behalf, and he is voluntarily and freely choosing not to exercise that right.

B. ADMISSIONS OF FACT

11. Ms [****]² was Respondent's judicial secretary from July 2010 to November 2015.

12. Between 2012 and 2015, Respondent engaged in a series of acts that constituted sexual harassment of Ms [*****].

13. Respondent's conduct included,

- Sending after-hour text messages to Ms [*****], in which he discussed his marital problems and his personal feelings.
- Making an offer to purchase expensive items for Ms [*****] as Christmas gifts and inviting her to Rhianna/Eminem and other high-priced concerts.

² The victim's name is redacted to protect her privacy.

- Suggesting that Ms [*****] accompany him to exotic locations for court-related conferences where they could share a hotel room.
- Showing Ms [*****] a sexually suggestive YouTube video of a high-priced lingerie website, Agent Provocateur.
- Making comments which he admits Ms [*****] could have reasonably interpreted as an invitation to have an affair with him.
- In a letter of recommendation, while referring to Ms [*****]'s professionalism and dependability, writing “besides, she is sexy as hell.” Respondent deleted the language at the request of Ms [*****].
- Writing “Seduce [*****]” on the court computerized calendar and then directing Ms [*****] to look at that particular date on the calendar. Respondent deleted the language at the request of Ms [*****].
- Telling Ms [*****] that the outfits she wore to work were “too sexy.”
- Telling Ms [*****] that she “owed him” for allowing her to leave work early to attend her son’s after-school activities.
- Reaching over her to edit documents which could have put him in physical contact with Ms [*****].
- Staring down the front of her blouse.
- While discussing his Triathlon training, sitting on her desk and laying on it while she was sitting at her desk.

14. Shortly after she was hired, Ms [*****] made it clear that she had “no sexual attraction towards him.”

15. On several occasions, Ms [*****] told Respondent that his wife would not appreciate his comments and actions.

16. On several occasions, Respondent told Ms [*****] that he was “sorry and should stop” making some of the comments.

17. Ms [*****] was very upset when she learned that there was a rumor around the courthouse that she was having an affair with Respondent and requested that he “shut it down.”

18. His court officer told Respondent to “watch” how he spoke to Ms [*****].

19. Respondent admitted that he had received a written copy of the county’s policy prohibiting harassment shortly after taking the bench.

20. Respondent admitted that he is well aware of, and familiar with, both Michigan and Federal sexual harassment laws.

21. On March 18, 2016 Ms [*****] filed an EEO complaint against Respondent in which she alleged that Respondent’s harassment caused “an enormous amount of stress, anxiety, discomfort, nervousness, mental breakdowns, mood swings and disruptive sleep.”

22. Lenawee County hired Priscilla Archangel, Ph.D., President, Archangel and Associates, LLC to conduct an investigation of the EEO complaint. Ms. Archangel filed a report of the investigation dated May 2, 2016.

23. The summary findings of the report included that Respondent’s behavior toward Ms [*****]

does constitute “harassment” in the context of “Sexual harassment includes:...unwanted sexual advances...visual conduct that includes...a display of sexually suggestive objects or pictures,...verbal conduct such as making or using derogatory comments based on sex or sexual comments,...verbal sexual advances or propositions;...suggestive/obscene letters,...” as listed in the Lenawee County Statement Prohibiting Harassment. Specifically, he admits showing [*****] a video by Agent Provocateur depicting scantily clad women in lingerie; writing “Besides, she’s sexy as hell” in a reference letter; writing “seduce [*****]” on his electronic calendar and showing it to her; and telling her “you owe me one” when she took vacation time to attend events for her son.

24. The report also stated that it was the “belief of the Investigator that [Respondent’s behavior] constituted, at minimum, an offensive, and more probably a hostile working environment.”

25. On June 20, 2016, Ms [*****] signed a confidential “Resignation Agreement and Release of All Claims” between herself and Lenawee County, Lenawee County Probate Court, and Respondent which provided that Ms [*****] receive monetary compensation to release all claims related to Respondent’s conduct.

26. Respondent self-reported the EEO complaint to the Judicial Tenure Commission. On May 5, 2016, the Judicial Tenure Commission received RFI 2016-22112 from Respondent. Respondent attached his prepared statement and Ms [*****]’s EEO complaint.

27. Respondent is extremely remorseful over these matters, he has co-operated throughout the investigation, and he is desirous of resolving these grievances.

28. Respondent acknowledges that the conduct described above constitutes misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205 with regard to his:

a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30 and MCR 9.205;

b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205;

c) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;

d) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;

- e) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A;
- f) Failure to respect and observe the law and to conduct himself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;
- g) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2);
- h) Lack of personal responsibility for his own behavior and for the proper conduct and administration of the court in which he presides, contrary to MCR 9.205(A); and
- i) Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

Respectfully submitted,



Glenn I. Page (P31703)
Interim Executive Director and General Counsel
Judicial Tenure Commission
3034 W. Grand Blvd., Ste. 8-450
Detroit, Michigan 48202
(313) 875-5110

DATED: 11-30-16



Hon. Gregg P. Iddings (P49074)
Respondent
In pro per
Rex B. Martin Judicial Building
425 N. Main Street
Adrian, Michigan 49221
(517) 264-4610

DATED: 11-29-16