

**BEFORE THE FLORIDA HOUSE OF REPRESENTATIVES  
SELECT COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT**

In Re: Representative Ray Sansom,  
Respondent

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Complaint No. 09-01

**RESPONDENT'S ANSWER AND MOTION TO DISMISS**

Respondent, Ray Sansom, by and through undersigned counsel, files this Answer and Affirmative Defenses to the Special Investigator's Statement of Alleged Violation, Specifications I - IV (numbered 1.- 4. below), as follows:

1. Denied.
2. Denied.
3. Denied.
4. Accepted. Discussed below.

**BACKGROUND**

5. On January 12, 2009, the Florida House of Representatives received a sworn complaint from Susan T. Smith, dated January 6, 2009, alleging that Rep. Sansom had violated five sections of House Rule 15, entitled *Ethics and Conduct of Members*. In the complaint, Ms. Smith alleged that her "respect for the Florida House had been greatly diminished by Speaker Sansom's actions." In 2008, the Okaloosa-Walton College was given its current name, Northwest Florida State College (the College). The College lies

within Rep. Sansom's House district. The complaint revolves around the College and the Rep Sansom's interaction with the College.

6. The complaint was forwarded to Chairman Bill Galvano of the Rules and Calendar Council for a review of legal sufficiency. Chairman Galvano dismissed the alleged violation of House Rules 15.3(a), 15.4, and 15.5, relating to Improper Influence, Conflicting Employment, and Use of Official Position. Chairman Galvano forwarded the remaining allegations relating to a violation of House Rules 15.1 and 15.2 to Speaker *pro tempore* Cretul. The Complainant stated that her "respect for the integrity of the Florida House has been greatly diminished by Speaker Sansom's actions." The Complainant based her complaint solely upon her reading of newspaper articles from media sources around the state without undertaking a personal investigation of the veracity of the articles. Chairman Galvano found the complaint to be based upon the personal knowledge. The allegations against Rep. Sansom are indeed serious and come with significant penalties. There must be some substantiation of the reports found in newspaper articles to support the charges against Rep. Sansom. Otherwise, the Select Committee would be forced to meet year-round to address the barrage of complaints that would result each time a citizen reads a negative piece about the Legislature in a newspaper. As such, the allegations in the Complaint are hearsay and cannot form the basis of the charges against Rep. Sansom.

7. D. Stephen Kahn was appointed as Special Investigator in this proceeding on February 13, 2009. In a February 17, 2009, letter from Speaker *pro tempore* Cretul, he states, "...I appointed and designated D. Stephen Kahn as the Special Investigator to conduct a preliminary investigation into probable cause *regarding the surviving allegations* contained in the above complaint." (Emphasis added.). Mr. Kahn issued a Statement of Alleged Violation on June 26, 2009. According to the Special Investigator, "Representative Sansom's conduct that formed the substance underlying the charges that were dismissed is being realigned to become four specifications under the two surviving *general charges.*" *p. 6, Report of Special Investigator. (Emphasis added).*

The Special Investigator subsequently found probable cause to believe there was a violation in Specifications I-III, as set forth in the Statement of Alleged Violation, and dismissed Specification IV. Mr. Kahn took Rep. Sansom's alleged conduct for the charges that were dismissed and "realigned" them to support the remaining general

charges. *Id.* By his actions, Mr. Kahn inappropriately amended the complaint of Ms. Smith. Specifications I-III, as realigned by Mr. Kahn, are separately addressed below.

### SPECIFICATION I

#### The Charges Against the Representative Sansom Must be Stated with Specificity and Clearly Identified.

8. House Rule 16.2(d)(2)a.4. provides that if the Special Investigator determines that probable cause exists to believe that a violation has occurred that, if proven, would be sufficiently serious to justify the discipline set forth in Rule 16.4, then the Special Investigator shall transmit to the Speaker a Statement of Alleged Violation. Further, House Rule 16.2 provides:

The statement shall be divided into counts, and each count shall be related to a separate violation and shall contain a plain and concise statement of the alleged facts of such violation, *including a reference to the provision of the House Code of Conduct, Joint Rule One, or law, rule, regulation, or other standard of conduct* alleged to have been violated.

(Emphasis added).

9. The disciplinary proceedings in this case are penal in nature and thus, require the charges to be stated with specificity regarding the acts complained of in order to allow Rep. Sansom a fair opportunity to prepare a defense. *See Davis v. Dep't. of Business & Prof. Regulation*, 457 So. 2d 1074 (Fla. 1<sup>st</sup> DCA 1984); *Bowling v. Dept. of Insurance*, 394 So. 2d 165 (Fla. 1<sup>st</sup> DCA 1981) (charges relating to suspension or revocation of a business or professional license must be “particularly and specifically stated”).

House Rule 15 is generally referenced in a footnote in the Special Investigator’s findings of fact, but the Special Investigator acknowledges:

The central problem in the application of House Rule 15 is that the concepts of "public confidence" and "integrity ... of the House" are vague and undefined by Rule or statute. So, as one moves beyond core misconduct covered by other sections of Rule 15 (e.g., taking a bribe for a legislative vote), difficult questions arise such as giving fair notice to those governed by House Rule 15.2 of what conduct is prohibited.

*p. 34, Report of Special Investigator.*

10. The Special Investigator found probable cause to believe that the conduct of Rep. Sansom “regarding his employment as Vice-President of Planning and Development at Northwest Florida State College beginning December 2008, particularly the method he used to create, fund, and plan for construction of a facility to house the Leadership Institute at the College, over which Institute he had and would have had continuing supervisory control and oversight, could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives...” *p. 1, Statement of Alleged Violation. No reference to a specific provision of the House Code of Conduct is identified in the Special Investigator’s Statement of Alleged Violation for Specification I.* It simply says that Rep. Sansom’s actions “could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives.” *Id.*

#### The Legislature Ratified the Appropriation for the Leadership Institute

11. As of April 3, 2008, House Bill 5001, the General Appropriations Act, contained first-year funding of \$25,500,000 for the student services reconstruction project in FY 2008-2009<sup>1</sup>. *p. 19, Report of Special Investigator; see also, Specific Appropriation 20, Community College Projects from Public Education Capital Outlay, ch. 2008-152, Laws of Fla.*<sup>2</sup> The project would include a third floor addition which was intended to house the College’s Leadership Institute. The Special Investigator confesses in his

<sup>1</sup> Page 9, HB 5001, 1st Eng. The entry for the student services reconstruction project reads, “Rem/ren Students Svcs w/addition – Main (w/3<sup>rd</sup> floor LIB) ..... 25,500,000.”

<sup>2</sup> House Bill 5001, as amended by the Conference Committee Report, passed the House and the Senate, and contained \$25.5 million in PECO funding for the College. It was signed by the Governor on June 11, 2008, and became Chapter 2008-152, Laws of Florida.

Report, “I can make no conclusions about precisely how or when or by whom the PECO funding for the Leadership Institute was agreed upon by the 2008 appropriations conferees.” *p. 21, Report of Special Investigator.* Thus, it is unclear exactly what the method, if any, was used by Rep. Sansom to create, fund, and plan for construction of the Leadership Institute. Total PECO funding for the State’s community colleges in 2008 was over \$365 million. *Specific Appropriation 20, Community College Projects from Public Education Capital Outlay, ch. 2008-152, Laws of Fla.* Total PECO funding for the State’s education system was over \$2.63 billion. *Specific Appropriations 15A-28A, ch. 2008-152, Laws of Fla.*<sup>3</sup> Upon the passage of the PECO funding as contained in the budget, each and every limitation imposed by Florida’s law on the use of PECO funding attached to each project.

12. And yet despite the investigator’s incorrect or improper implication that the conference committee or budget process was flawed or somehow manipulated by Rep. Sansom, Article III, Section 19, Fla. Const., provides for a seventy-two hour “cooling off” period for the budget before final passage by either the House or Senate. Section 19(d) reads:

All general appropriation bills shall be furnished to each member of the legislature, each member of the cabinet, the governor, and the chief justice of the supreme court at least seventy-two hours before final passage by either house of the legislature of the bill in the form that will be presented to the governor.

This Constitutional provision is intended to permit all legislators with an opportunity to adequately review and consider the contents of the General Appropriations Act and to prevent any unfair surprise prior to final passage and to question the propriety of an expenditure(s)..

13. *Seventy-five House members and thirty-two Senators voted in favor of House Bill 5001.* Any concerns about or perceived defects in the process or Rep. Sansom’s involvement were effectively cured with ratification by a majority vote of both

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<sup>3</sup> The total PECO figure includes over \$1.11 billion in debt service on bonds authorized pursuant to the School Capital Outlay Amendment, subsection (d), section 9, Article XII, Fla. Const.

Houses of the Legislature. Final passage of a budget is the *collective* work of the legislative body and not that of a single individual. To subject Rep. Sansom to these proceedings and the possibility of a reprimand, censure or even removal from office for an appropriation that was approved by a majority of both houses of the Legislature involved is inappropriate.

Representative Sansom Had No Supervisory Authority or Control  
over the Leadership Institute

14. According to the Statement of Alleged Violation for Specification I, Rep. Sansom, as Vice President of Planning and Development at Northwest Florida State College, would have had “continuing supervisory control and oversight of the Leadership Institute,” but that conclusion is simply without support and speculative at best. *p. 1, Statement of Alleged Violation.* The Report of Special Investigator states that “it so happened that the Executive Director who had worked at the college Foundation for many years had announced his retirement and relocation to Maryland. That would create a vacancy in the existing administrative structure of the college. Dr. Richburg immediately focused on the idea of using the vacancy as the basis for a new slot for an additional vice-president.” *p. 23, Report of Special Investigator.* The Leadership Institute’s web site lists a limited staff of three persons, none of whom hold the title of Vice President of Planning and Development.<sup>4</sup> Instead, the Organization Chart for the College shows the Vice President of Community Relations & Workforce Development in an oversight role with the Leadership Institute, answering directly to the President of the College. The Organizational Chart does not list the Vice President of Planning and Development, Rep. Sansom’s former position, as the position charged with supervisory control and oversight of the Leadership Institute. In fact, the official announcement on the College’s web site from its Office of Media/Public Relations provides:

Sansom’s new position as vice president will have expanded responsibilities to include oversight of the college foundation and also the

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<sup>4</sup> <http://www.nwfsc.edu/Contact/EmpSearchResultsDept.cfm?DeptID=46>

development of agreements with local governments for training related to the college's new Community Services Complex...

To conclude that Rep. Sansom would have continuing supervisory control and oversight of the Leadership Institute is speculative and a distortion of the facts.

15. Florida still employs a part-time legislature that meets for 60 days in regular session, and for most legislators, primary employment elsewhere is required. It is certainly not illegal for a member of the Florida House to have other employment. In fact, in *CEO 89-60*, the Commission on Ethics previously concluded that the Speaker of the House could also serve as a chief administrative officer of a community college. *CEO 89-60* cited to several prior opinions in which it concluded that a member of the Legislature may be employed as an administrator of a State university or community college (*CEO 79-59*) and that a State Representative may be employed by a State university (*CEO 81-14*). Rep. Sansom's employment arrangement with the College was no different.

## **SPECIFICATION II**

### **The Charges Against the Representative Sansom Must be Stated with Specificity and Clearly Identified.**

16. House Rule 16.2(d)(2)a.4. provides that if the Special Investigator determines that probable cause exists to believe that a violation has occurred that, if proven, would be sufficiently serious to justify the discipline set forth in Rule 16.4, then the Special Investigator shall transmit to the Speaker a Statement of Alleged Violation. Further, House Rule 16.2 provides:

The statement shall be divided into counts, and each count shall be related to a separate violation and shall contain a plain and concise statement of the alleged facts of such violation, *including a reference to the provision of the House Code of Conduct, Joint Rule One, or law, rule, regulation, or other standard of conduct alleged to have been violated.*

17. The disciplinary proceedings in this case are penal in nature and thus, require the charges to be stated with specificity regarding the acts complained of in order to allow Representative Sansom a fair opportunity to prepare a defense. *See Davis v. Dep't. of Business & Prof. Regulation*, 457 So. 2d 1074 (Fla. 1<sup>st</sup> DCA 1984); *Bowling v. Dept. of Insurance*, 394 So. 2d 165 (Fla. 1<sup>st</sup> DCA 1981) (charges relating to suspension or revocation of a business or professional license must be “particularly and specifically stated”).

18. The Special Investigator found probable cause to believe that the conduct of Rep. Sansom “regarding his knowledge of, participation in, execution of, and his motives behind planning and funding the construction of the Northwest Florida State College's Joint Use Facility to be located at the Destin airport, and the benefit said facility was planned to bring directly to Jay Alan Odom of Destin and to his company, Destin Jet, LLC, and/or to the College, and indirectly to Rep. Sansom, could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives, more particularly as she alleged it did in her sworn complaint.” *p. 2 Statement of Alleged Violation. No reference to a specific provision of the House Code of Conduct is identified in the Special Investigator’s Statement of Alleged Violation for Specification II.* Again, it simply says that Rep. Sansom’s actions “could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives.”

#### The Legislature Ratified the Appropriation for the Joint Use Facility

19. According to the *Report of Special Investigator*, the Joint Use Facility was funded in the General Appropriations Act for FY 2007-08 with \$6 million<sup>5</sup> in PECO funds, from a total of \$3.88 billion in 2007 PECO funds for the state’s education system. *p. 44, Report of Special Investigator; see also, Specific Appropriation 26, Community College Projects from Public Education Capital Outlay, ch. 2007-72, Laws of Fla.*<sup>6</sup>

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<sup>5</sup> Page 9, SB 2800, 2<sup>nd</sup> Eng. The entry for the Joint Use Facility reads, “Okaloosa Jt Use Emergency Response Workforce Center .....6,000,000.”

<sup>6</sup> The total PECO figure includes over \$1 billion in debt service on bonds authorized pursuant to the School Capital Outlay Amendment, subsection (d), section 9, Article XII, Fla. Const.

Upon the passage of the PECO funding as contained in the budget, each and every limitation imposed by Florida's law on the use of PECO funding attached to each project.

20. Senate Bill 2800, as amended by the Conference Committee Report, passed the House and the Senate, and contained \$6 million in funding for the Joint Use Facility. It was signed by the Governor on May 24, 2007, and became Chapter 2007-72, Laws of Florida. *One hundred fifteen House members and thirty-eight Senators voted in favor of Senate Bill 2800.* Any concerns about or perceived defects in the process or Rep. Sansom's involvement were effectively cured with ratification of by a majority vote of both Houses of the Legislature. Final passage of a budget is the *collective* work of the legislative body and not that of a single individual. In this case, the budget process worked exactly as designed. The House and Senate negotiate their respective budget positions and settle on a final budget during the conference committee process. During the time leading up to the meeting of conference committees, each legislator seeks funding for projects and programs that will benefit his or her district and constituency. This is one of their duties as elected representatives of the Florida Legislature. Again, in *CEO 89-60*, the Commission on Ethics explained that:

whether serving as Speaker or in another capacity within the House the member's public duties relate to the enactment of legislation affecting the interests of the State, its governmental agencies, and its people. Although the member's ability to influence the legislative process would increase while serving as Speaker, his responsibility to his constituents and the State as a whole remained identical...

To subject Rep. Sansom to these proceedings and the possibility of a reprimand, censure or even removal from office for being an effective legislator is inappropriate.

#### Lease of the Joint Use Facility was Beyond Representative Sansom's Control

21. The Board of Trustees for the College had the statutory authority to lease its space (Joint Use Facility) to a private entity had it ultimately chosen to do so and it fully complied with applicable state law. Section 1013.15(1), Florida Statutes, provides that a board may lease property in an educational facility "to any person or entity, if the

board determines the lease to be in its best interests.” *AGO 2006-28* (June 29, 2006).<sup>7</sup>  
The budget sets forth parameters for each project funded based upon the funding source.

22. The determination as to whether a portion of the proposed space in the Joint Use Facility would ultimately be leased to a private entity was beyond Rep. Sansom’s control and lies squarely with the College’s Board of Trustees. Florida law requires that the College’s Board of Trustees hold a public meeting before reaching any lease agreement, with the additional requirement that any such meeting be properly noticed as required by section 1013.15(1), Florida Statutes. At the time the Legislature passed the budget, there was no lease of space to a private entity and, in fact, no space to lease. Certainly, Rep. Sansom would have no control over such lease – by law, that decision ultimately fell to the College’s Board of Trustees and Rep. Sansom has never served as a member of that Board.

23. It should be noted that in 2007 the City of Destin requested a Community Issue Budget Request (CIBR) be filed in the amount of \$6 million for the purpose of building a fixed base operator facility and airplane hangar. The facility would have benefitted a private entity, as well as the City during times of hurricanes and other emergencies. These facts are acknowledged in the *Report of Special Investigator*. pp. 35-38, *Special Investigator’s Report*. And yet, Rep. Sansom and his Senate counterpart decided not to fund CIBR requests in 2007, including the \$6 million request that would have directly and partially benefitted both a private entity and the City. The Legislature did not fund CIBR’s in 2007.

### **SPECIFICATION III**

#### **The Charges Against the Representative Sansom Must be Stated with Specificity and Clearly Identified**

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<sup>7</sup> In the opinion, the Attorney General concluded:

... I am of the opinion that the school board may convey real property pursuant to a lease-purchase agreement entered into pursuant to section 1013.15, Florida Statutes, without determining that the property is unnecessary for educational purposes, provided that it determines that the agreement is in the best interests of the school district and complies with the notice and hearing requirements specified in that statute and in the rule relating to lease-purchase agreements.

24. As with Specifications I and II, the disciplinary proceedings in this case are penal in nature and thus, require the charges to be stated with specificity regarding the acts complained of in order to allow Rep. Sansom a fair opportunity to prepare a defense. The Special Investigator found probable cause to believe that the conduct of Rep. Sansom “regarding his knowledge of, participation in, and motives behind the planning for and holding of the "private" legislative briefing meeting of the Board of Trustees of Okaloosa-Walton College in Tallahassee on March 24, 2008, could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives, more particularly as she alleged it did in her sworn complaint.” *p. 2, Statement of Alleged Violation. No reference to a specific provision of the House Code of Conduct is identified in the Special Investigator’s Statement of Alleged Violation for Specification III.* Again, it simply says with impermissible vagueness that Rep. Sansom’s actions “could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives.”

The Board of the College Was Charged with the Ultimate Responsibility for Compliance with any Notice Requirements of a Public Meeting

25. The Statement of Alleged Violation finds probable cause to believe that Rep. Sansom’s “knowledge of, participation in, and motives behind the planning for and holding of the ‘private’ legislative briefing meeting of the Board of Trustees of the Okaloosa-Walton College” could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives.” *p. 2, Statement of Alleged Violation.* The Statement of Alleged Violation makes clear that the meeting was indeed a meeting of the Board of the College.

26. Article III, Section 4(e), Fla. Const., provides that all legislative meetings shall be open and noticed to the public. It reads:

(e) The rules of procedure of each house shall provide that all legislative committee and subcommittee meetings of each house, and joint conference committee meetings, shall be open and noticed to the public. The rules of procedure of each house shall further provide that all

prearranged gatherings, *between more than two members of the legislature*, or between the governor, the president of the senate, or the speaker of the house of representatives, *the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken*, regarding pending legislation or amendments, shall be reasonably open to the public. All open meetings shall be subject to order and decorum. This section shall be implemented and defined by the rules of each house, and such rules shall control admission to the floor of each legislative chamber and may, where reasonably necessary for security purposes or to protect a witness appearing before a committee, provide for the closure of committee meetings. Each house shall be the sole judge for the interpretation, implementation, and enforcement of this section.

(Emphasis added.)

27. The meeting referenced in the Statement of Alleged Violation which forms the basis for Specification III was not a legislative meeting between two or more members of the Legislature, but one in which the Rep. Sansom was asked to provide a legislative briefing to the Board of the College as an invited guest. As such, the meeting was subject to the provisions of the Government in the Sunshine Law, section 286.011, Florida Statutes, and not to any notice requirements of Article III, Sec. 4(e), Fla. Const., or applicable House rules.

28. Notwithstanding the allegation that Rep. Sansom may have been involved in the scheduling of the meeting, the Board of the College was charged with the responsibility of ensuring that it was properly noticed and interested persons be given a reasonable opportunity to attend, regardless of its location. *Rhea v. School Board of Alachua County*, 636 So. 2d 1383 (Fla. 1<sup>st</sup> DCA 1994). Again, Rep. Sansom was simply an invited guest.

29. The College's Board received a letter from the Attorney General advising it as to the notice and procedural requirements of the Government-in-the-Sunshine law, referencing a number of provisions from section 286.011, Florida Statutes. The Board

indeed acknowledged its responsibilities under the law regarding its meeting in Tallahassee, and responded<sup>8</sup>:

In an abundance of caution, when a legislative briefing in Tallahassee was scheduled for March 24, 2008, a notice was published March 17 in the Northwest Florida Daily News, in the same manner as are all notices from the college, as the paper is the largest circulation newspaper in the region served by the college. The March 24 meeting was further announced in a public meeting of the Board Facilities and Program Committee which met in Niceville, March 18. Minutes of that meeting record that “He (Dr. Richburg) also reminded the trustees of their legislative meeting in Tallahassee on March 24.

#### **SPECIFICATION IV**

30. The Special Investigator found no probable cause as to Specification IV, the misuse of a fax machine, and dismissed this charge. Notwithstanding the dismissal of this charge, it too, suffers from the same infirmity as Specifications I-III, in that it fails to state with specificity the specific rule that could have been violated.<sup>9</sup> Because there was a finding of no probable cause, Specification IV will not be addressed in detail and is accepted.

#### **CONCLUSION**

31. With regard to Specifications I-III, the charges in the Special Investigator’s Report do not state with specificity the acts complained of in order to allow Rep. Sansom a fair opportunity to prepare a defense. The Statement of Alleged Violation simply contains a general pronouncement that Rep. Sansom’s actions “could reasonably have caused the complainant to lose faith and confidence in the integrity of the Florida House of Representatives.” Specificity of the charges is required under applicable case

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<sup>8</sup> The College posted a statement on its website regarding the letter. See <http://www.nwfsc.edu/news/newsDetail.cfm?ID=146>

<sup>9</sup> Page 3, *Statement of Alleged Violation*. On Page 75 of the Report of Special Investigator there is a general reference to House Rule 15.

law and House Rule 16.2 in order that Rep. Sansom have an opportunity to prepare a proper defense.

32. With regard to Specifications I-II, any appropriations that benefitted the College, be they for the Leadership Institute or the so-called Joint Use Facility, were contained in the General Appropriations Acts for 2007 and 2008. The final version of that legislation was available for review and consideration by the Legislature for at least 3 days (72 hours) prior to final passage. Further, the legislation received a majority vote of both the House and Senate, and was the product of a *collective* body, not of a single individual.

When the Legislature enacted the FY 2007-08 budget, no lease existed concerning the Joint Use Facility and Rep. Sansom would have had no control over any lease or the terms thereof. Under Florida law, that decision was vested in the College's Board of Trustees, a body of which Rep. Sansom has never been a member.

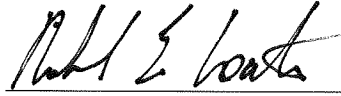
33. With regard to Specification III, section 286.011, Florida Statutes, charges the Board of the College with the responsibility of ensuring that any meeting it held was properly noticed and that interested persons be given a reasonable opportunity to attend, regardless of its location. *Rhea v. School Board of Alachua County*, 636 So. 2d 1383 (Fla. 1<sup>st</sup> DCA 1994). Representative Sansom was simply an invited guest.

34. Finally, the Complainant found that her "respect for the integrity of the Florida House has been greatly diminished by Speaker Sansom's actions," based solely upon her reading of newspaper articles from media sources around the state. The Complaint was found to be based upon the personal knowledge and yet the Complainant *undertook no personal investigation of the accounts in these articles*. There must be some substantiation of the reports found in newspaper articles to support the serious charges against Rep. Sansom.

### **MOTION TO DISMISS**

FOR THE ABOVE REASONS, the Respondent moves that the House Select Committee on Standards of Official Conduct dismiss the charges outlined in Specifications I-III, and grant any other relief the Select Committee deems proper.

Respectfully submitted this 16<sup>th</sup> day of November 2009, by:



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Attorney for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served by and through the United States Postal Service and by facsimile mail on this 16<sup>th</sup> day of November 2009, upon:

Melanie Ann Hines, Esquire  
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Richard E. Coates