

**Mediator Qualifications Board**  
*Southern Division*

In Re: William J. Jatczak

Case Number: MQB 2010-010

Panel:           The Honorable Lee A. Schreiber, Chair  
                  Kim Mann  
                  Salvatore Gardino  
                  James O. Williams  
                  Stephanie Buck

Advisor to the Panel:     Yale T. Freeman, Esq.

**APPEARANCES**

Mediator:       William J. Jatczak

Counsel for Mediator:    Glenn M. Blake

**DECISION INCLUDING FINDINGS AND CONCLUSIONS OF THE PANEL**

The Mediator Qualifications Board, Southern Division, by its duly designated five-member panel, held a formal hearing in this matter on March 27, 2012.

**FORMAL CHARGES**

The Mediator was charged with a violation of six counts of the Florida Rules for Certified and Court appointed mediators. The mediator was charged with having violated Rule 10.300, Rule 10.310(b), Rule 10.330, Rule 10.350, Rule 10.370(c) and Rule 10.410.

The initial portion of the hearing was commenced at 10:00 a.m. and recessed at 12:30 p.m. The hearing continued at 1:30 p.m. and ended at 6:15 p.m. During the course of the proceedings, the Prosecutor admitted:

Exhibit 1 - The Mediator Grievance Report

Exhibit 2 - The Florida Rules for Certified and Court Appointed Mediators with an effective date of April 1, 2010

Exhibit 3 - Florida Rules for Certified and Court Appointed Mediators effective January, 2012

Exhibit 4 - Letter from William J. Jatczak to Janice M. Fleischer dated November 9, 2010

Exhibit 5 – Letter from Janice M. Fleischer to William J. Jatczak dated August 5, 2011 with the accompanying Certified Domestic Return Receipts

The mediator introduced the following:

Exhibit 1 – Complaint, Arnold Hecht and Ronnie Hecht v. John Portick and Phyllis Portick, Case No. 562010CA001464 in the County Court of the 19<sup>th</sup> Judicial Circuit In and For St. Lucie County.

Exhibit 2 – Stipulation and Settlement Agreement, Arnold Hecht and Ronnie Hecht v. John Portick and Phyllis Portick, Case No. 562010CA001464 in the County Court of the 19<sup>th</sup> Judicial Circuit In and For St. Lucie County.

Exhibit 3 –Final Judgment Arnold Hecht and Ronnie Hecht v. John Portick and Phyllis Portick, Case No. 562010CA001464 in the County Court of the 19<sup>th</sup> Judicial Circuit In and For St. Lucie County.

Exhibit 4 – Letter of August 30, 2011 from Glenn M. Blake to Leonard Helfand

### **HEARING PROCESS**

The hearing was appropriately and timely scheduled and the Mediator received proper notice of the hearing and the time and place of the hearing.

The Mediator had the opportunity to be heard on the allegations contained in the formal charges. The Mediator was represented by counsel.

### **VIOLATION OF RULES UNDER CONSIDERATION**

#### **Rule 10.300 Mediator's Responsibility to the Parties**

The purpose of mediation is to provide a forum for consensual dispute resolution by the parties. It is not an adjudicatory procedure. Accordingly, a mediator's responsibility to the parties includes honoring their right of self-determination; acting with impartiality; and avoiding coercion, improper influence, and conflicts of interest. A mediator is also responsible for maintaining an appropriate demeanor, preserving confidentiality, and promoting the awareness

by the parties of the interests of non-participating persons. A mediator's business practices should reflect fairness, integrity and impartiality.

**Rule 10.310(b) Self Determination**

Coercion Prohibited. A mediator shall not coerce or improperly influence any party to make a decision or unwillingly participate in a mediation.

**Rule 10.330 Impartiality**

(a) Generally. A mediator shall maintain impartiality throughout the mediation process. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

(b) Withdrawal for Partiality. A mediator shall withdraw from mediation if the mediator is no longer impartial.

(c) Gifts and Solicitation. A mediator shall neither give nor accept a gift, favor, loan, or other item of value in any mediation process. During the mediation process, a mediator shall not solicit or otherwise attempt to procure future professional services.

**Rule 10.350 Demeanor**

A mediator shall be patient, dignified, and courteous during the mediation process.

**Rule 10.370(c) Advice, Opinions, or Information**

Personal or Professional Opinion. A mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, or direct a resolution of any issue. Consistent with standards of impartiality and preserving party self-determination however, a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense. A mediator shall not offer a personal or professional opinion s to how the court in which the case has been filed will resolve the dispute.

**Rule 10.410 Balanced Process**

A mediator shall conduct mediation sessions in an even-handed, balanced manner. A mediator shall promote mutual respect among the mediation participants throughout the mediation process and encourage the participants to conduct themselves in a collaborative, non-coercive, and non-adversarial manner.

### **DISPOSITION**

After a full hearing with the parties being given adequate opportunity to present evidence and argument, the Panel met and reconvened. The following findings occurred:

1. As to Count 1, relating to Rule 10.300, the Panel finds by clear and convincing evidence that the Mediator did not maintain an appropriate demeanor in the instant mediation by virtue of his comments on the wife's appearance and the jewelry.
2. As to Count 2, the Panel finds there is no clear and convincing evidence of any violation of Rule 10.310(b), Improper Influence.
3. As to Count 3, the Panel finds there is no clear and convincing evidence of violation of Rule 10.330 dealing with impartiality.
4. As to Count 4, the Panel finds there is clear and convincing evidence that this Mediator violated Rule 10.350 in that he did not conduct the mediation in a dignified, courteous manner which included, again, his comments on the wife's physical appearance, and to include references to the punishment aspect of the commentary.
5. As to Count 5, the Panel finds no clear and convincing evidence of a violation of Rule 10.370(c).
6. As to Count 6, the Panel finds no clear and convincing evidence of a violation of Rule 10.410.

### **SANCTIONS**

Based on the foregoing findings, the Panel imposes the following sanctions:

#### A. Six Additional Continuing Mediator Credits

1. The Mediator, William J. Jatczak, shall complete an additional six hours of continuing mediator credits specifically on the subjects of demeanor, impartiality, how the parties are reacting to the mediator and insuring a balanced process. The additional six hours further needs to address and encompass "sensitivity training."

2. These additional six hours may not be counted toward the required 16 hours of CME for maintaining a County Mediator Certification. These additional six hours must consist of at least three separate lectures on the subject.
  3. The training shall be pre-approved by the Dispute Resolution Center.
  4. After the completion of the six additional hours the Mediator, William J. Jatzak, will submit a reflective report on what he learned from the experience and the educational materials utilized.
- B. Mediation observations:
1. Five separate, non-credit union, non-credit card collection mediations involving five different mediators with the County Mediators being approved by the Dispute Resolution Center.
  2. The Mediator, William J. Jatzak, is to provide verification of those observations in a form substantially similar to that which new mediators who are trying to be certified would have the mediator conducting the mediation sign off on.
- C. The Mediator is to accomplish the sanctions set forth above by July 24, 2012 and to provide documentation to the Dispute Resolution Center of his completion of the sanctions by July 24, 2012. That notice providing documentation shall be sent by Certified Mail, Return Receipt Requested to the Dispute Resolution Center.
- D. The Panel imposes the reasonable and necessary costs of these proceedings to be borne by the Mediator, William J. Jatzak, and the Panel reserves jurisdiction to determine that amount.

**ADDITIONAL FINDINGS AND CONCLUSIONS**  
**SUPPLEMENTAL TO THE PROCEEDING**

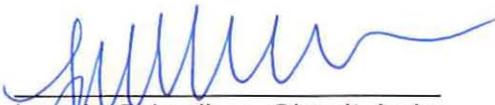
1. The Panel believes that it is important to address the issue of the Dispute Resolution Center's letter of August 5, 2011 to Mr. William J. Jatzak which was responded to by Glenn M. Blake via Email to Mr. Helfand. They suggested that counsel for the Mediator, Glenn M. Blake, review the protocol set forth in that Dispute Resolution Center letter of August 5, 2011 which indicates

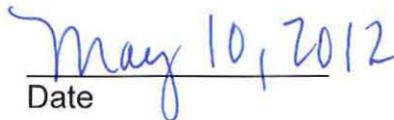
that the acceptance must be in writing and delivered by Certified Mail within 20 days. The letter required that action and that specific protocol was not followed.

The Panel specifically notes that this issue was in no way determinative of the Panel's deliberations and its ultimate findings. The Panel did want to clarify, on the record, that there is a protocol and its Return Receipt Requested is for a reason and that specific protocol was not followed in this matter.

2. The Mediator, William J. Jatzak, is permitted to continue mediating. He is not de-certified. He is not suspended. There is no prohibition against him to continue to mediate so long as he is in compliance with the sanctions set forth above.

3. Jurisdiction is reserved for the entry of further decisional orders as may be necessary.

  
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Lee A. Schreiber, Circuit Judge  
Hearing Panel Chair

  
\_\_\_\_\_  
Date