

**COMPLAINT AGAINST JUDGE JOHN SCHMIDT,
CIRCUIT JUDGE, SEVENTH CIRCUIT, FOURTH DISTRICT
FOR VIOLATION OF ILLINOIS CODE OF JUDICIAL CONDUCT
RULE 63, CANON 3, PARAGRAPH C, SECTION (1)
HUBER v. AMERICAN ACCOUNTING ASSOCIATION #2011-MR-000411**

SUMMARY FACTS AND COMPLAINT

1. In August 2002 an Illinois not-for-profit corporation was formed with the name American Accounting Association (Exhibit A), herein referred to as the 2002 Corporation.
2. Illinois General Not For Profit Corporation Act contains the mandate that

“If the corporation is to have no members, that fact *shall be set forth* in the articles of incorporation or the bylaws.” 805 ILCS 105/107.03(c) (emphasis added)
3. The Articles of Incorporation of the 2002 Corporation did not set forth there were to be no members, and in fact created members with full voting rights, including the right to elect both officers and directors. (Exhibit A)
4. I was a member of the 2002 Corporation for certain years from 2002 to 2011, and from 2011 to the present.
5. Only where a not-for-profit corporation has no members or no members entitled to vote on dissolution, the dissolution of a corporation may be authorized by a majority of the directors. 805 ILCS 105/112.05
6. Where a not-for-profit corporation has members entitled to vote on dissolution, the dissolution of a corporation may be authorized by a vote of members entitled to vote. 805 ILCS 105/112.15
7. In June 2011 those in control of the 2002 Corporation illegally dissolved the corporation with no vote from the members stating the corporation had no members and the dissolution was authorized by a majority of the directors. (Exhibit B)
8. Simultaneously with the dissolution of the 2002 Corporation those in control of the 2002 Corporation reinstated a 1935 Corporation by the same name that had been dissolved by the Illinois Secretary of State in 1996.
9. In August 2011 I filed a petition in the Seventh Circuit, Fourth District to vacate the illegal voluntary dissolution of the 2002 Corporation and the reinstatement of the 1935 Corporation, and to judicially dissolve the 2002 Corporation pursuant to Illinois General Not For Profit Corporation Act 805 ILCS 105/112.55(b) which states

“A Circuit Court may dissolve a corporation...In an action by a member entitled to vote...if it is established that the directors or those in control of

the corporation have acted, are acting, or will act in a manner that is illegal, oppressive or fraudulent.”

10. Attached as an exhibit to the petition was the Articles of Incorporation of the 2002 Corporation which created members. (Exhibit A)
11. The case was assigned to Judge John Schmidt.
12. Donald Tracy, Bar Registration Number 03128601 of the firm Brown, Hay & Stephens, 205 S 5th St # 700, Springfield, IL 62701 represented the Respondent.
13. Although Donald Tracy knew that the Articles of Incorporation of the 2002 Corporation did not set forth there were to be no members, in January 2013 Donald Tracy moved to dismiss the second amended petition under Illinois Code of Civil Procedure Section 2-619(a) misrepresenting to the court, “Petitioner lacks standing to sue the 2002 Corporation because he was never a member of the 2002 Corporation. The 2002 Corporation never had any members.” (Docket Entry 01/09/2013, page 5)
14. Although Donald Tracy knew that 805 ILCS 105/112.15 requires that where a a not-for-profit corporation has members entitled to vote on a dissolution, the dissolution may only be authorized by a vote of members entitled to vote, and knew that the members did not vote on the dissolution of the corporation, in January 2013 Donald Tracy moved to dismiss the second amended petition under Illinois Code of Civil Procedure Section 2-619(a) by misrepresenting to the court that the 2002 Corporation had been dissolved and therefore the court had “no jurisdiction over the 2002 Corporation because it had been dissolved.” (Docket Entry 01/09/2013, page 4)
15. Without opinion and contrary to the clear facts and the unambiguous mandate of the law, on March 6, 2013 Judge Schmidt granted Donald Tracy’s motion to dismiss based on his misrepresenting to the court that there were never any members of the 2002 Corporation and the corporation had been dissolved. (If no reason is given by a trial court for dismissing an action, it must be assumed that the dismissal is for the reasons argued by the movant. Zielinski v. Miller, 277 Ill. App. 3d 735, 660 N.E.2d 1289 (1995))
16. An appeal was filed but dismissed for lack of jurisdiction due to late filing the notice of appeal.
17. Subsequent to Judge Schmidt’s dismissing the petition contrary to the facts and the law I discovered that Judge Schmidt had received thousands of dollars in political campaign contributions from Donald Tracy and members of his law firm Brown, Hay, & Stephens, LLP.
18. The mandate of the law is clear and unambiguous. “If the corporation is to have no members, that fact shall be set forth in the articles of incorporation or the bylaws.” 805 ILCS 105/107.03(c).

19. The mandate of the law is clear and unambiguous. Only where a not-for-profit corporation has no members entitled to vote on a dissolution, “the dissolution of a corporation may be authorized by a majority of the directors.” 805 ILCS 105/112.05
20. The facts are clear and unambiguous. The Articles of Incorporation of the 2002 Corporation not only did not set forth there would be no members as mandated by 805 ILCS 105/107.03(c), the Articles of Incorporation of the 2002 Corporation actually created members. (Exhibit A)
21. It is therefore incontrovertible that Judge Schmidt’s dismissing the petition based on Donald Tracy’s argument the 2002 Corporation never had any members was against both the unambiguous mandate of the law and the facts.
22. It is therefore incontrovertible that Judge Schmidt’s dismissing the petition based on Donald Tracy’s argument the 2002 Corporation had been dissolved was against both the unambiguous mandate of the law and the facts.
23. The conclusion therefore is unavoidable. There is a visible connection between Judge Schmidt’s having received thousands of dollars in political campaign payments and the illegal dismissal of the petition. But for Judge Schmidt having received thousands of dollars in political campaign contributions from Donald Tracy, and members of his law firm he could not have ruled against both the unambiguous mandate of the law and the facts.
24. Judge Schmidt therefore violated Illinois Code of Judicial Conduct Rule 63, Canon 3, Paragraph C, Section (1) which states

“A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned...”
25. Judge Schmidt’s granting Donald Tracy’s motion to dismiss the petition against the facts and the requirements of the law after having received thousands of dollars in political campaign contributions from Donald Tracy, and members of his law firm, is publicly known and has been published on various Internet sources, including several law review articles including the *John Marshall Law Review*, and *Southern Illinois University Law Journal*.
26. By granting Donald Tracy’s motion to dismiss the petition against the clear mandate of the law after having received thousands of dollars in political campaign contributions from Donald Tracy, and members of his law firm Judge Schmidt has defied and subverted the mandate of the Illinois State Legislature and can serve as a precedent opening the door for others to do likewise.
27. The integrity of the Illinois judiciary has been severely damaged. It is the responsibility of the Judicial Inquiry Board to restore the integrity of the Illinois judiciary by taking appropriate public disciplinary action against Judge Schmidt.

28. While there is a visible connection between Judge Schmidt's having received thousands of dollars in political campaign payments from Donald Tracy and his law firm and the illegal dismissal of the petition by Judge Schmidt, it is unknown whether there was overt collusion between Donald Tracy and his misrepresentation of the facts and Judge Schmidt, or whether there was merely tacit agreement.