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(SPACE BELOW FOR FILING STAMP ONLY)

FILED

MAR 19 1996

Commission on  
Judicial Performance

Attorneys for Respondent,  
Bert L. Swift

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

No.

12 INQUIRY CONCERNING A JUDGE

13 NO. 134

11 }  
14 } VERIFIED ANSWER OF BERT L.  
15 } SWIFT TO THE NOTICE OF  
16 } FORMAL PROCEEDINGS DATED  
17 } FEBRUARY 6, 1996

16 Bert L. Swift, a Judge of the San Bernardino County Municipal  
17 Court, Morongo Basin Division, Answers the Notice of Formal  
18 Proceedings as follows (as the paragraphs of the Notice of Formal  
19 Proceedings are unnumbered and many of the paragraphs contain  
20 multiple allegations, Respondent has broken down the Notice of  
21 Formal Proceedings into separate numbered parts). So that the  
22 Commission may following the numbering of this Answer, a copy of  
23 the renumbered Notice of Formal Proceedings is attached hereto,  
24 marked Exhibit A, and incorporated herein by reference. The  
25 paragraph numbering of the Answer follows the numbering set forth  
26 on Exhibit A.

27 (1) Answering Paragraph (1), Respondent admits the  
28 allegations of said paragraph.

1 (2) Answering Paragraph (2), Respondent admits that the  
2 search warrant and supporting affidavit specified that the premises  
3 to be searched was the residence of Tony Soares located at 82528  
4 Quail Springs Road in Joshua Tree. With reference to the  
5 allegation that the items to be seized were Native American  
6 artifacts allegedly stolen from the Joshua Tree National Monument,  
7 Respondent alleges that the warrant specifically sets forth three  
8 items, namely, an olla, a metate, and "manos." The warrant does not  
9 refer to Native America artifacts.

10 (3) Answering Paragraph (3), Respondent admits the  
11 allegations of said paragraph.

12 (4) Answering Paragraph (4), Respondent admits that once he  
13 ascertained that the premises sought to be searched were owned by  
14 him and his wife and that the focus of the search was his stepson,  
15 that there was a conflict of interest which precluded Respondent  
16 from issuing or denying the search warrant.

17 (5) Answering Paragraph (5), Respondent has no recollection  
18 as to when he stopped reading the search warrant documents.  
19 However, there is no issue in this case as to the propriety of  
20 Respondent reading the documents. The issue is whether Respondent  
21 should have disqualified himself from issuing or rejecting the  
22 warrant. Respondent in fact did disqualify himself.

23 (6) Answering Paragraph (6), Respondent admits that he  
24 telephoned his wife from his chambers to inquire as to the  
25 whereabouts of his stepsons. This call took place in the presence  
26 of the law enforcement officers.

27 (7) Answering Paragraph (7), Respondent admits that he took  
28

1 the law enforcement officers and the search warrant documents to  
2 Judge McGuire not for the apparent purpose of turning the decision  
3 on the search warrant over to Judge McGuire, but for the actual  
4 purpose of turning that decision over to Judge McGuire.

5 (8) Answering Paragraph (8), Respondent admits that he  
6 remained in Judge McGuire's chambers.

7 (9) Answering Paragraph (9), Respondent admits that he  
8 remained in the chambers of Judge McGuire and consented to a  
9 voluntary search of the premises sought to be searched by the peace  
10 officers and except as admitted, denies the remaining allegations  
11 of said paragraph.

12 Respondent affirmatively alleges that the reason he  
13 accompanied the officers from his chambers to Judge McGuire's  
14 chambers was to avoid the appearance of any impropriety on his part  
15 by going home (it was then after 4:30 p.m., December 16, 1993) and  
16 leaving the officers with the uncomfortable knowledge that  
17 Respondent was going to be at the very residence that the officers  
18 sought to search.

19 Respondent wanted to ensure that the officers did not  
20 think that Respondent would call his stepson concerning their  
21 request for a warrant.

22 (10) Answering Paragraph (10), Respondent admits that the  
23 subject of the officers' knowledge as to the genuineness of the  
24 artifacts to be seized was a subject discussed on December 16,  
25 1993. However, Respondent has no recollection as to whether that  
26 subject was raised by Respondent, by Judge McGuire, or by  
27 Respondent's wife at the time of the consent search at Respondent's  
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1 residence on December 16, 1993.

2 (11) Answering Paragraph (11), Respondent admits inquiring of  
3 the officers regarding the possible criminal consequences for his  
4 stepson, and except as admitted, denies each and every remaining  
5 allegation of said paragraph.

6 (12) Answering Paragraph (12), Respondent admits that he was  
7 present when the subject of the consequences of an unsuccessful  
8 search were discussed. Respondent affirmatively alleges that these  
9 discussions were in the context of the officers advising Judge  
10 McGuire that they had a companion warrant issued in Riverside  
11 County that could only be served in the day time. That they  
12 planned to serve the Riverside County warrant and the warrant they  
13 were then seeking in San Bernardino County simultaneously the  
14 following day, December 17, 1993.

15 The officers further indicated that they did not have the  
16 manpower to serve the warrants on December 16, 1993. There was  
17 discussion that if a warrant were issued by Judge McGuire on  
18 December 16, 1993, but not served until December 17, 1993 and the  
19 warrant, because of the delay in its being served, yielded nothing  
20 at the residence owned by the Respondent, that Respondent could be  
21 criticized on the basis that he might have told his stepson of the  
22 existence of the warrant between the issuance of the warrant on  
23 December 16 and the service of the warrant on December 17. While  
24 Respondent would not in fact have done such a thing, he could be  
25 criticized if the warrant produced none of the requested artifacts.  
26 Except as admitted, Respondent denies each and every remaining  
27 allegation of said paragraph.  
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(13) Answering Paragraph (13), Respondent admits that he was present during discussions exploring possible alternatives to executing the search warrant, including a consent search. Respondent's recollection is that the issue of the possibility of a consent search was raised either by Deputy District Attorney Linda Root or by Judge McGuire and, during that portion of the discussion, Respondent agreed to a consent search of his residence.

Except as admitted, Respondent denies the remaining allegations of said paragraph.

Respondent affirmatively alleges that his reason for agreeing to a consent search was to allow the officers immediate access to the residence they sought to search and to take with them the items set forth in the search warrant. Respondent was concerned that if a warrant was issued on December 16, but not served until December 17, and if the warrant failed to yield the requested items, that that fact would adversely reflect upon the institution of the judiciary and upon the Respondent.

(14) Answering Paragraph (14), Respondent has no information or belief and upon such lack of information or belief, denies each and every allegation of said paragraph.

Respondent affirmatively alleges that the officers came to court in the late afternoon of December 16, 1993, for the purpose of obtaining a search warrant to obtain possession of a metate, manos, and an olla and, that evening in fact searched the premises they sought to search and took with them the items set forth in the warrant.

(15) Answering Paragraph (15), Respondent admits the

1 allegations of said paragraph.

2 Respondent affirmatively alleges that Deputy District  
3 Attorney Root was called to Judge McGuire's chambers concerning all  
4 issues then being discussed.

5 (16) Answering Paragraph (16), Respondent admits that he did  
6 not inform Deputy District Attorney Root that he did not reside at  
7 the subject premises. However, the reason that Respondent did not  
8 so inform Ms. Root is because Respondent and his wife in fact:

9 (a) jointly held title to said residence;

10 (b) resided part-time at Judge Swift's residence in  
11 Yucca Valley and part-time in the subject Joshua Tree residence;

12 (c) Respondent's wife, in December of 1993, had two of  
13 her sons by a previous marriage living at the Joshua Tree  
14 residence, a sixteen year old teenager and a twenty year old adult;

15 (d) Respondent and his wife ate dinner at the Joshua  
16 Tree residence with her sons on an average of six to seven nights  
17 each week;

18 (e) Respondent and his wife stayed overnight in the  
19 Joshua Tree residence an average of two to three evenings per week.  
20 On the evenings she did not stay overnight, she was at the  
21 residence the next morning by 7:00 a.m.;

22 (f) Tony Soares stayed in the Joshua Tree residence  
23 approximately three nights per week on average, living the rest of  
24 the time in Palm Springs with his girlfriend;

25 (g) The bedroom occupied by Tony Soares when he stayed  
26 at the residence was a room that Respondent and his wife had access  
27 to at anytime. The family goes through this room upon occasion to  
28

1 the pool area and frequently take guests and visitors to see the  
2 pottery that Tony Soares had made in the same manner as Native  
3 Americans.

4 (17) Answering Paragraph (17), Respondent denies each and  
5 every allegation of said paragraph and affirmatively alleges that  
6 he in fact did have the legal authority to consent to a search of  
7 the premises.

8 (18) Answering Paragraph (18), Respondent admits the  
9 allegations of said paragraph.

10 (19) Answering Paragraph (19), Respondent denies all of the  
11 allegations of said paragraph and affirmatively alleges that Judge  
12 McGuire offered to sign the search warrant, noting that there was  
13 a potential problem (as expressed hereinabove in Paragraph (12) of  
14 this Answer) due to the officers' inability to serve the warrant  
15 before the next day. This led to discussions concerning the issue  
16 of a consent search that would allow the officers to go to the  
17 residence immediately on December 16 and seek to obtain the items  
18 sought by the warrant. Judge McGuire provided one of the officers  
19 with his home telephone number so that if the officer after going  
20 out to conduct a consent search wanted the warrant signed, Judge  
21 McGuire would authorize the issuance of the warrant.

22 (20) Answering Paragraph (20), Respondent admits that he  
23 signed a document consenting to a search of the subject premises,  
24 and except as admitted, denies each and every remaining allegation  
25 of said paragraph. Respondent did not sign a document purporting  
26 to give consent, he signed a document that did in fact give consent  
27 to a voluntary search of the subject premises.  
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1 (21) Answering Paragraph (21), Respondent admits the  
2 allegations of said paragraph.

3 (22) Answering Paragraph (22), Respondent has no information  
4 or belief as to how the law enforcement officers felt by his  
5 presence and whether they limited the scope and duration of their  
6 search because of his presence, and basing his answer upon such  
7 lack of information or belief denies the allegations of this  
8 paragraph.

9 Respondent affirmatively alleges that when the officers  
10 came to the courthouse on December 16, 1993, they sought a search  
11 warrant to obtain possession of a metate, manos, and an olla. They  
12 went to the residence pursuant to the voluntary consent search,  
13 found and took with them the items set forth in their search  
14 warrant affidavit. In fact, the evidence report filed by the  
15 officers notes a total of thirty-five (35) items taken from the  
16 subject premises. The officers went through dresser drawers and  
17 had complete and unfettered access to the residence.

18 (23) Answering Paragraph (23), Respondent has no information  
19 or belief to enable him to answer the allegations of this  
20 paragraph, and on the basis of such lack of information or belief,  
21 denies each and every allegation thereof.

22 Respondent affirmatively alleges that Paragraph (23) is  
23 vague in that it cannot be ascertained when and where the alleged  
24 conversation took place, what was discussed, and who was present.

25 Respondent denies that he ever told Deputy District  
26 Attorney Pyle that charges should be filed against his stepson and  
27 that his stepson would plead guilty.  
28



1                   After the District Attorney declined to file charges,  
2 Respondent told Mr. Pyle that the District Attorney should have  
3 filed the case to let the courts decide the issue of the validity  
4 of the search.

5                   (24) Answering Paragraph (24), Respondent admits that the  
6 District Attorney for San Bernardino County declined to prosecute  
7 Tony Soares. Respondent lacks information or belief to answer the  
8 allegation as to what was in the mind of the District Attorney as  
9 to why it declined to prosecute, and basing his answer upon such  
10 lack of information or belief, denies each and every remaining  
11 allegation of said Paragraph (24).

12                   Respondent affirmatively alleges that the consent search  
13 was in fact valid:

14                   (a) for all of the reasons set forth in Paragraph (16)  
15 above;

16                   (b) two of the categories of items sought by the  
17 officers, namely, the metate and the manos were in plain view,  
18 which would have made them immune from any successful future attack  
19 on the validity of the consent search;

20                   (c) Respondent is informed and believes and upon such  
21 information and belief alleges that the primary reason for the  
22 District Attorney declining to file charges was because there was  
23 insufficient evidence of the commission of any crime by Tony  
24 Soares. That the District Attorney's Office published its  
25 rejection of the filing of a criminal complaint in or around May 3,  
26 1994 during an election campaign wherein a then active Deputy  
27 District Attorney, in the Joshua Tree Branch Office, Gordon Isen,  
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1 and a former San Bernardino County Deputy District Attorney and  
2 Respondent's predecessor as Judge of the Morongo Basin Municipal  
3 Court, Richard Crouter, were running against Respondent for the  
4 judicial seat held by Respondent. That members of the Joshua Tree  
5 Branch of the San Bernardino County District Attorney's Office were  
6 actively seeking removal of the Respondent because he was not as  
7 responsive to the wishes of their office as they felt a present or  
8 former member of their office would be, if elected. The District  
9 Attorney's Office at all times had the right to file charges  
10 against Tony Soares if it believed that in fact there was evidence  
11 to prove that he had committed a crime. The issue of the propriety  
12 of the consent search could have been determined by an  
13 independently assigned Judge from San Bernardino County, or another  
14 county, rather than determining the propriety of the search in the  
15 newspapers during an election campaign. By declining to file  
16 charges against Mr. Soares and apparently claiming that their  
17 primary reason was because of an invalid consent search, the  
18 District Attorney's Office caused the issue to become political  
19 rather than leaving it in the legal arena where it should have been  
20 determined.

21 Dated: March 18, 1996.

JONES, MAHONEY, BRAYTON & SOLL

22  
23  
24 By: Thomas C. Brayton  
Thomas C. Brayton  
25 Attorneys for Respondent  
26  
27  
28

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I have read the foregoing ~~Verified Answer of Bert L. Swift to the Notice of Formal Proceedings Dated February 6, 1996~~ and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am  an Officer  a partner  a \_\_\_\_\_ of \_\_\_\_\_

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.  I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.  The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

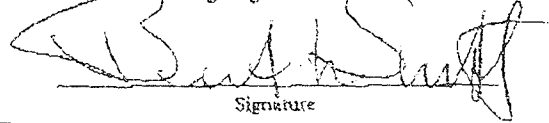
I am one of the attorneys for \_\_\_\_\_

a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on ~~March 16~~, 1996, at ~~Joshua Tree~~, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Bert L. Swift  
Type or Print Name

  
Signature

PROOF OF SERVICE  
IVISA (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF \_\_\_\_\_

I am employed in the county of \_\_\_\_\_, State of California.

I am over the age of 18 and not a party to the within action; my business address is: \_\_\_\_\_

On \_\_\_\_\_, 19\_\_\_\_, I served the foregoing document described as \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_ in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list;

by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL

\*I deposited such envelope in the mail at \_\_\_\_\_, California.

The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing.

Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at \_\_\_\_\_

California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, California.

\*(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature

STUART'S EVIDENCE TAKER (REVISED 5/1/88)  
NEW DISCOVERY LAW 2000 AND 2001 CCP  
(May be used in California State or Federal Courts)

(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)  
\*(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

IN SAN DIEGO COUNTY LOCAL RULE 87 REQUIRES ALL PROOFS OF SERVICE FILED WITH THE COURT AS OF JULY 1, 1997 MUST SPECIFY THE NAME OF THE PARTY SERVED, THE NATURE AND DATE OF SERVICE, AND THE NAME, ADDRESS AND PHONE NUMBER OF HIS/HER COUNSEL OF RECORD.

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STATE OF CALIFORNIA  
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE,  
NO. 134.

NOTICE OF FORMAL PROCEEDINGS

To JUDGE BERT L. SWIFT, a judge of the San Bernardino County Municipal Court, Morongo Basin Division, from January 3, 1989, to the present, and at all relevant times therein:

Preliminary investigation pursuant to California Rules of Court, rules 904 and 904.2, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, improper action, and dereliction of duty within the meaning of Article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge, to wit:

[On December 16, 1993, Todd Swain and Marion Damiano-Nittoli, law enforcement officers of the National Park Service, appeared at your chambers seeking the issuance of a search warrant]

[The search warrant and supporting affidavit specified that the premises to be searched were the

1 residence of a Tony Soares, located at 82528 Quail Springs Road in Joshua Tree, and that the items  
2 to be seized were Native American artifacts allegedly stolen from Joshua Tree National Monument.]

(3) 3 [You indicated to the law enforcement officers that the premises described in the search  
4 warrant documents were owned by you and/or your wife, and that Tony Soares was your stepson.]

(4) 5 [Despite this conflict of interest] <sup>(5)</sup> [you continued to read the search warrant documents] <sup>(6)</sup> [and telephoned  
6 your wife from your chambers to inquire as to the whereabouts of your stepson, in the presence of  
7 the law enforcement officers.]

(7) 8 [You then took the law enforcement officers and the search warrant documents to Superior  
9 Court Judge James McGuire in his chambers, for the apparent purpose of turning the decision on the  
(8) 10 search warrant over to Judge McGuire] [Despite your conflict of interest and your acknowledgment  
(9) 11 thereof, you remained in Judge McGuire's chambers] [and participated in the ensuing decision-making  
12 process regarding the search of the subject premises.]

(10) 13 [You participated in questioning the law enforcement officers regarding the basis of their  
(11) 14 knowledge as to the genuineness of the artifacts to be seized] [You participated in questioning the  
15 law enforcement officers regarding the possible criminal consequences for your stepson] [You  
(12) 16 participated in discussions regarding potential political consequences that a search of the subject  
(13) 17 premises might have on your judicial reelection campaign] [You participated in discussions exploring  
18 possible alternatives to executing the search warrant, including a consent search.]

(14) 19 [These discussions became intimidating and a matter of concern to the law enforcement  
(15) 20 officers] [Deputy District Attorney Linda Root was called to Judge McGuire's chambers to advise  
21 the law enforcement officers regarding the propriety of a consent search] <sup>(16)</sup> [You, however, failed to  
(17) inform Ms. Root that you did not reside at the subject premises] <sup>(17)</sup> [You incorrectly represented that  
(18) 23 you had the legal authority to consent to a search thereof] [You also represented that you could  
24 obtain your stepson's consent to the search.]

(19) 25 [Judge McGuire, despite appearing to find probable cause to issue the search warrant, decided  
26 to proceed with a search by consent in lieu of a search by warrant] <sup>(20)</sup> [You signed a document  
27 purporting to give your consent to a search of the subject premises] <sup>(21)</sup> [When the law enforcement  
28 officers went to the subject premises to conduct the search, you accompanied them.] [The law  
29

22 1 enforcement officers seized some items, but, because they felt restricted by your presence, they  
2 limited the scope and duration of their search.]

(23) 3 [Thereafter, you engaged in conversation with Deputy District Attorney Ray Pyle, in which  
4 you improperly exhibited advocacy and a continuing involvement in the case. You inquired of Mr.  
5 Pyle as to the status of the case against your stepson. When Mr. Pyle informed you that a decision  
6 had not yet been made, you told Mr. Pyle that charges should be filed against your stepson, and that  
(24) 7 he would plead guilty.] [Ultimately, the Office of the District Attorney for San Bernardino County  
8 declined to prosecute your stepson, Tony Soares, for any crime related to the seized items, primarily,  
9 because your consent to search was invalid.]

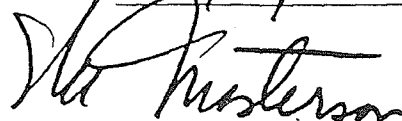
10  
11 YOU ARE HEREBY GIVEN NOTICE, pursuant to California Rules of Court, rule 905, that  
12 formal proceedings have been instituted and shall proceed in accordance with California Rules of  
13 Court, rules 901-922.

14 Pursuant to California Rules of Court, rule 906, you have the right to file a written answer to  
15 the charges against you within fifteen (15) days after service of this notice upon you. An original and  
16 eleven (11) legible copies of the answer may be filed with the Commission on Judicial Performance,  
17 101 Howard Street, Suite 300, San Francisco, California 94105. The answer shall be verified and  
18 shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal. The notice of formal  
19 proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no  
20 motion or demurrer shall be filed against any of the pleadings.

21 This notice of formal proceedings may be amended pursuant to California Rules of Court,  
22 rule 911.

23  
24 BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

25  
26 DATED: 2/6/96

27 

28 CHAIRPERSON

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing \_\_\_\_\_ and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am  an Officer  a partner \_\_\_\_\_  a \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.  I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.  The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for \_\_\_\_\_, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

PROOF OF SERVICE

1013A (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of LOS ANGELES, State of California.

I am over the age of 18 and not a party to the within action; my business address is: \_\_\_\_\_

150 West First Street, Suite 280, Claremont, CA 91711

On March 16, 1996, I served the foregoing document described as \_\_\_\_\_

Verified Answer of Bert L. Swift to the Notice of Formal Proceedings Dated February 6, 1996

\_\_\_\_\_ on All Interested Parties in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:  
 by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

Commission on Judicial Performance  
Attn: Jack Coyle, Trial Counsel  
101 Howard Street, Suite 320  
San Francisco, CA 94105

MAP 19 1996

Original by Federal Express

\*I deposited such envelope in the mail at Claremont, California.

The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing.

Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at \_\_\_\_\_ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 16, 1996, at Claremont, California.

\*(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Carole M. Ramaley

Type or Print Name

*Carole M. Ramaley*  
Signature

STUART'S EXBROOK TIMESAVER (REVISED 5/1/88)

NEW DISCOVERY LAW 2030 AND 2031 CCP

(May be used in California State or Federal Courts)

\*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

\*\* (FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)