

**BEFORE A SPECIAL COMMISSION OF THREE RETIRED JUDGES UNDER  
OHIO REVISED CODE 3.16  
APPOINTED BY  
THE CHIEF JUSTICE OF  
THE SUPREME COURT OF OHIO**

In re: A Proceeding Under Ohio Revised  
Code Section 3.16 Concerning Kenneth : **REPORT OF THE FINAL**  
Johnson, Council Member, City of : **DETERMINATION OF THE**  
Cleveland, Ohio : **SPECIAL COMMISSION**

This matter involves a final determination by a Special Commission of three retired judges appointed by the Chief Justice of the Supreme Court of Ohio under R.C. 3.16, regarding whether a public official, Kenneth Johnson, shall be suspended from office. The Special Commission previously issued a Preliminary Determination suspending Mr. Johnson from the office of City Council for the City of Cleveland, Ohio. Mr. Johnson contested that determination under R.C. 3.16(C)(2), and a meeting of the Special Commission convened on April 16, 2021, to hear Mr. Johnson's objection and position on the matter. At the conclusion of that meeting, the Special Commission determined that Mr. Johnson's administration of, or conduct in the performance of the duties of, his office, as covered by the charges, adversely affects the functioning of the office or adversely affects the rights and interests of the public and, as a result, Mr. Johnson should be suspended from office. The Special Commission makes the following report of its findings and final determination.

Mr. Johnson is an elected City Council Member for the City of Cleveland, Ohio. On February 18, 2021, Mr. Johnson was indicted in federal court on the following felony charges: two counts of Conspiracy to Commit Federal Program Theft (18 U.S.C. 371); six counts of Federal Program Theft (18 U.S.C. 666(a)(1)(A) and (2)); five counts of Aiding and Assisting in the Preparation of False Returns (26 U.S.C. 7206(2)); one count of Tampering with a Witness (18

U.S.C. 1512(b)(1) and (2)); and one count of Falsification of Records in Federal Investigations (18 U.S.C. 1519 and 2).

Based on these charges, Ohio Attorney General Dave Yost initiated the R.C. 3.16 process on February 26, 2021, by filing a notice with the Chief Justice requesting a special commission be appointed to determine whether Mr. Johnson should be suspended from public office. On March 12, 2021, and in accordance with R.C. 3.16(B)(2), Mr. Johnson filed a written statement setting forth the reasons why he should not be suspended from office.

On March 15, 2021, the Chief Justice established this Special Commission composed of three retired judges of a court of record: Hon. Judge Joseph Gibson, Ret.; Hon. Judge L. Alan Goldsberry, Ret.; and Hon. Judge Guy L. Reece, II, Ret. The Chief Justice provided the Special Commission with all documents and materials received from the Attorney General, including the Request to Commence Suspension Proceedings, the criminal indictment against Mr. Johnson, and Mr. Johnson's written statement opposing suspension.

The Special Commission convened on March 16, 2021, to review the documents and materials and to consider the matter, generally. Therefrom, the Special Commission determined that Mr. Johnson's administration of and conduct in his public office, as covered by the charges pending against him, adversely affects the functioning of his office and the rights and interests of the public. The Special Commission issued a Preliminary Determination suspending Mr. Johnson from public office on March 25, 2021.

Mr. Johnson filed a Notice Contesting the Preliminary Determination on April 8, 2021, invoking his right to be heard at a meeting of the Special Commission under R.C. 3.16(C)(2). The Special Commission convened for that meeting on April 16, 2021. Mr. Johnson attended the meeting with legal counsel, Myron Watson and Gina Kuhlman. At the meeting, Mr. Johnson

stated his position against suspension, arguing his innocence on the charges against him and his long history of public service. Mr. Johnson maintains he will have a trial soon (July 2021) and he predicts he will be exonerated.

The question before the Special Commission, per R.C. 3.16(C)(2), is whether the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of that office or adversely affects the rights and interests of the public and, as a result, whether the public official should be suspended from office. The Special Commission finds in the affirmative.

The Special Commission finds that all of the charges against Mr. Johnson relate to his position in public office. Specifically, the indictment alleges that, through his public office, Mr. Johnson had the opportunity to control federal funds that were provided to the Cleveland City Council; that Mr. Johnson fraudulently and unlawfully diverted those funds to himself and others for personal gain; and that Mr. Johnson attempted to cover up the alleged scheme. These numerous felony charges against Mr. Johnson go to the very nature of his elected position – they directly relate to Mr. Johnson's service in public office and the authority he has in that office, and they allege abuse of that trusted position. The functioning of that office and/or the rights and interests of the public would be adversely affected if Mr. Johnson were allowed to continue serving while such criminal charges are pending against him.

The Special Commission hereby holds that Kenneth Johnson is suspended from the office of City Council for the City of Cleveland, Ohio, pursuant to R.C. 3.16(C)(3)(b) and R.C. 3.16(C)(4).

Dated: April 20, 2021

/s Joseph Gibson  
Retired Judge Joseph Gibson

/s L. Alan Goldsberry  
Retired Judge L. Alan Goldsberry

/s Guy L. Reece, II  
Retired Judge Guy L. Reece, II