DECLARATION OF MATTHEW MONFORTON

I, Matthew Monforton, declare as follows:

1. All statements made herein under are based upon my personal knowledge except for those stated to be under information and belief.
2. I have been a member of the State Bar of California since 1994. I worked as a Deputy District Attorney in Los Angeles County from 1996 to 2005. I have practiced law in Montana from 2006 to the present date.
3. I have known Harris Himes for over 15 years. What struck me most about him (then and now) is his passion for the homeless. After successfully retiring from a successful law practice in California, Mr. Himes moved to Montana and shortly thereafter established a homeless shelter. He has operated it to this day.
4. Mr. Himes has sought my help in his effort to be relieved from actual suspension. I represented Mr. Himes in the defense of his criminal case. It was only after it became clear to both of us that his trial judge was prejudiced against Mr. Himes and, more particularly, did not care for me that Mr. Himes represented himself. After the trial, I represented Mr. Himes as his appellate attorney both before the Montana Supreme Court and then the United States Supreme Court.
5. He and I have kept in touch over the years, and I am aware of his efforts before the California State Bar Court.
6. After carefully reviewing the file immediately after Mr. Himes retained me, I was convinced that Mr. Himes was completely innocent of the charges against him. To this day, I firmly believe that he was wrongly convicted.

7. As to his case, whistleblowers in the auditor's office complained of anti-Christian discrimination, particularly by the deputy securities commissioner, Lynne Egan, who frequently criticized Christians and referred to the Boy Scouts as "Nazi's." She was the state's undeclared expert witness at Mr. Himes's trial. There was substantial evidence that his case was affected by this discrimination.
8. Additionally, the auditor's chief counsel at that time, a State Senator who had opposed pro-family positions in the state legislature, was running for attorney general. Indicting – and convicting – Mr. Himes would appeal to his voter base.
9. There is no doubt in my mind that this was a politically motivated case against Mr. Himes.
10. When we brought a motion to discover the extent of the discrimination, we found our trial judge was prejudiced against our potential whistleblower witnesses and Mr. Himes. In denying my motion, he questioned the whistleblowers' credibility and criticized Mr. Himes: "It is troubling to the undersigned, a Christian, that Himes has offered such a deficient skein of obfuscation purportedly based upon his religious beliefs to avoid defending on the merits." Obviously, such remarks were prejudicial to our case.
11. In an unsuccessful appeal of this denial of our motion to the Montana Supreme Court, Justice Jim Rice commented: "…the evidence Himes has marshaled is not insignificant. Himes has produced sworn testimony of employees offering their firsthand observations of visceral anti-Christian bias on the part of officials within the Auditor's Office, and mistreatment of Christians in that office.… This evidence is nothing short of appalling…." (*Harris Himes v. Montana Twenty-First District, Ravalli County, the Hon. Loren Tucker, District Judge,* OP 13-224, pp. 10-11, May 21, 2013.)

12. While there is always a risk that a judge will retaliate if an attempt is made to disqualify him or her, I had no choice but to attempt to disqualify our trial judge because of his apparent prejudice toward our case. In his response to my motion to disqualify him, the judge strongly criticized me, personally. My motion to disqualify failed.

13. On March 24, 2015, the Montana Supreme Court affirmed Mr. Himes's two felony convictions and reversed the fraudulent practices felony charge because the District Court erred by giving the jury a jury instruction that incorporated an Administrative Rule of Montana, thereby "creating a different evidentiary standard" for the crime of fraudulent practices than that required by statute. (*State of Montana v. Harris Himes,* 2015 MT 91, 345 P.3d 297 (2015), *cert. denied* 136 S. Ct. 111 (2015))

14. The record shows that Mr. Himes apologized to Mr. Serata; and I know, from him, that Mr. Himes regrets any harm he caused to anyone as a result of his participation in this unfortunate event.

15. Mr. Himes, a Vietnam veteran who successfully practiced law in California throughout his career, and has run a homeless shelter in Montana since retiring, has paid a heavy price for crimes he did not commit.

16. Mr. Himes most certainly deserves to have his license to practice law fully restored.

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

Executed this 9th day of November, 2020 at Bozeman, Montana.

Matthew Monforton, Declarant