INDICTMENT

STATE OF TENNESSEE, COUNTY OF CLAY
DECEMBER 2021 SESSION OF THE CRIMINAL COURT

STATE OF TENNESSEE	§	
	§	
VS.	§	**CASE NO:**_____
	§	
SUSAN BIRDWELL	§	**BOND $**_____

CHARGES

SOLICITING UNLAWFUL COMPENSATION	CLASS E FELONY
MISREPRESENTING INFORMATION TO A STATE AUDITOR	CLASS C MISDEMEANOR
OFFICIAL MISCONDUCT (3 COUNTS)	CLASS E FELONY

A TRUE BILL

Mark Schlak

GRAND JURY FOREMAN

PROSECUTOR(S)

IG [redacted]
Investigator [redacted]
Office of the Comptroller of the Treasury

SA Matthew Gribble
Special Agent Matthew Gribble
Tennessee Bureau of Investigation

HERE duly summoned as a witness and sworn by me and did testify before the Grand Jury on this indictment:

Mark Schlak

GRAND JURY FOREMAN

WITNESS(ES)

THE CLERK shall summon the following witnesses for the State of Tennessee:

IG [redacted]
Investigator [redacted]
Office of the Comptroller of the Treasury

SA Matthew Gribble
Special Agent Matthew Gribble
Tennessee Bureau of Investigation

NATHAN S. NICHOLS
District Attorney General *Pro Tem*
Acting Pursuant to *Tenn. Code Ann.* §8-7-106

COUNT I

SOLICITING UNLAWFUL COMPENSATION (E/F)
TENN. CODE ANN. §39-16-104

THE RECONVENED GRAND JURORS for the State of Tennessee duly impaneled, sworn, and charged to inquire in and for the body of the County of Clay in the State of Tennessee upon their oaths do present that, prior to the finding of this indictment, **SUSAN BIRDWELL**, a public servant as defined in TENN. CODE ANN. §39-16-401, on or about **MARCH 5, 2021**, did unlawfully request a pecuniary benefit for the performance of an official action, to wit: **DRIVER SAFETY SCHOOL INSTRUCTION**, knowing that she was required to perform that action without compensation in violation of **TENN. CODE ANN. §39-16-104** and against the peace and dignity of the State of Tennessee.

DISTRICT ATTORNEY GENERAL *PRO TEM*
Acting Pursuant to Tenn. Code Ann. §8-7-106

COUNT II

MISREPRESENTING INFORMATION TO A STATE AUDITOR
TENN. CODE ANN. §39-16-407

THE RECONVENED GRAND JURORS for the State of Tennessee duly impaneled, sworn, and charged to inquire in and for the body of the County of Clay in the State of Tennessee upon their oaths do further present that, prior to the finding of this indictment, **SUSAN BIRDWELL**, a public servant as defined in TENN. CODE ANN. §39-16-401, on or about **AUGUST 17, 2021**, did unlawfully, knowingly, and with the intent to deceive misrepresent material information related to an audit conducted by an auditor in the department of audit in violation of **TENN. CODE ANN. §39-16-407** and against the peace and dignity of the State of Tennessee.

Nathan Nichols

DISTRICT ATTORNEY GENERAL *PRO TEM*
Acting Pursuant to Tenn. Code Ann. §8-7-106

COUNT III

OFFICIAL MISCONDUCT (E/F)
TENN. CODE ANN. §39-16-402

THE RECONVENED GRAND JURORS for the State of Tennessee duly impaneled, sworn, and charged to inquire in and for the body of the County of Clay in the State of Tennessee upon their oaths do further present that, prior to the finding of this indictment, **SUSAN BIRDWELL**, a public servant as defined in TENN. CODE ANN. §39-16-401, on or about **MARCH 5, 2021**, did unlawfully receive a benefit not otherwise authorized by law, to wit: **MONEY**, in violation of **TENN. CODE ANN. §39-16-402** and against the peace and dignity of the State of Tennessee.

Nathan Nichols

DISTRICT ATTORNEY GENERAL *PRO TEM*
Acting Pursuant to Tenn. Code Ann. §8-7-106

COUNT IV

OFFICIAL MISCONDUCT (E/F)
TENN. CODE ANN. §39-16-402

THE RECONVENED GRAND JURORS for the State of Tennessee, duly impaneled, sworn, and charged to inquire in and for the body of the County of Clay in the State of Tennessee upon their oaths do further present that, prior to the finding of this indictment, **SUSAN BIRDWELL**, a public servant as defined in TENN. CODE ANN. §39-16-401, on or about **MARCH 5, 2021**, did unlawfully and with the intent to gain a benefit knowingly violate a law relating to her office, to wit: **TENN CODE ANN. §39-16-104**, in violation of **TENN. CODE ANN. §39-16-402** and against the peace and dignity of the State of Tennessee.

DISTRICT ATTORNEY GENERAL *PRO TEM*
Acting Pursuant to Tenn. Code Ann. §8-7-106

COUNT V

OFFICIAL MISCONDUCT (E/F)
TENN. CODE ANN. §39-16-402

THE RECONVENED GRAND JURORS for the State of Tennessee, duly impaneled, sworn, and charged to inquire in and for the body of the County of Clay in the State of Tennessee upon their oaths do further present that, prior to the finding of this indictment, **SUSAN BIRDWELL**, a public servant as defined in TENN. CODE ANN. §39-16-401, on or about **AUGUST 17, 2021**, did unlawfully and with the intent to harm another knowingly violate a law relating to her office, to wit: **TENN CODE ANN. §39-16-407**, in violation of **TENN. CODE ANN. §39-16-402** and against the peace and dignity of the State of Tennessee.

DISTRICT ATTORNEY GENERAL *PRO TEM*
Acting Pursuant to Tenn. Code Ann. §8-7-106

October TERM, 2021, CRIMINAL COURT

STATE OF TENNESSEE

VS. NO. 2021-D-1862

SUSAN BETH BIRDWELL

PROSECUTOR: [redacted]

CHARGE: **Cts. 1-6 Forgery**
Cts. 7-9 Tamp. w/Governmental Records
Cts. 10 & 11 Official Misconduct

FILED
Davidson County
Criminal Court Clerk
NOV 10 2021
BY TK
Deputy Clerk

Witness(es) before the Grand Jury:

[redacted]

The above witness(es) appeared; was/were duly sworn by me, the foreperson, and gave testimony before the Grand Jury in the above-styled cause this 10th day of November, 2021.

☒ **A TRUE BILL** ☐ **A NO TRUE BILL**

L Parker Tales

Foreperson
Davidson County Grand Jury

SUBPOENA THE FOLLOWING WITNESSES FOR THE STATE OF TENNESSEE:
COMPLAINT NO(S): 2021-0573027

[redacted], c/o Office of the Comptroller of the Treasury, 425 Rep. John Lewis Way N., Nashville, TN 37243

INDICTMENT

State of Tennessee, Davidson County

COUNT 1

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **10th** day of **June, 2020**, in Davidson County, Tennessee and before the finding of this indictment, knowingly and with the intent to defraud **the Tennessee Bureau of Investigation** did pass or otherwise utter forged documents, to wit: **orders for the expungement of criminal offender record**, in violation of Tennessee Code Annotated § 39-14-114, and against the peace and dignity of the State of Tennessee.

COUNT 2

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **12th** day of **July**, **2020**, in Davidson County, Tennessee and before the finding of this indictment, knowingly and with the intent to defraud **the Tennessee Bureau of Investigation** did pass or otherwise utter forged documents, to wit: **orders for the expungement of criminal offender record**, in violation of Tennessee Code Annotated § 39-14-114, and against the peace and dignity of the State of Tennessee.

COUNT 3

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **4th** day of **August, 2020**, in Davidson County, Tennessee and before the finding of this indictment, knowingly and with the intent to defraud **the Tennessee Bureau of Investigation** did pass or otherwise utter forged documents, to wit: **orders for the expungement of criminal offender record**, in violation of Tennessee Code Annotated § 39-14-114, and against the peace and dignity of the State of Tennessee.

COUNT 4

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **14th** day of **September**, **2020**, in Davidson County, Tennessee and before the finding of this indictment, knowingly and with the intent to defraud **the Tennessee Bureau of Investigation** did pass or otherwise utter forged documents, to wit: **orders for the expungement of criminal offender record**, in violation of Tennessee Code Annotated § 39-14-114, and against the peace and dignity of the State of Tennessee.

COUNT 5

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **7th** day of **October**, **2020**, in Davidson County, Tennessee and before the finding of this indictment, knowingly and with the intent to defraud **the Tennessee Bureau of Investigation** did pass or otherwise utter forged documents, to wit: **orders for the expungement of criminal offender record**, in violation of Tennessee Code Annotated § 39-14-114, and against the peace and dignity of the State of Tennessee.

COUNT 6

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **29th** day of **December**, **2020**, in Davidson County, Tennessee and before the finding of this indictment, knowingly and with the intent to defraud **the Tennessee Bureau of Investigation** did pass or otherwise utter forged documents, to wit: **orders for the expungement of criminal offender record**, in violation of Tennessee Code Annotated § 39-14-114, and against the peace and dignity of the State of Tennessee.

COUNT 7

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **25th** day of **February**, **2021**, in Davidson County, Tennessee and before the finding of this indictment, did present a document, to wit: **orders for the expungement of criminal offender record**, with knowledge of their falsity and with the intent that they would be taken as genuine government records in violation of Tennessee Code Annotated § 39-16-504, and against the peace and dignity of the State of Tennessee.

COUNT 8

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **8th** day of **March**, **2021**, in Davidson County, Tennessee and before the finding of this indictment, did present a document, to wit: an **order for the expungement of criminal offender record**, with knowledge of its falsity and with the intent that it would be taken as a genuine government record in violation of Tennessee Code Annotated § 39-16-504, and against the peace and dignity of the State of Tennessee.

COUNT 9

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

on or about the **12th** day of **April**, **2021**, in Davidson County, Tennessee and before the finding of this indictment, did present a document, to wit: an **order for the expungement of criminal offender record**, with knowledge of its falsity and with the intent that it would be taken as a genuine government record in violation of Tennessee Code Annotated § 39-16-504, and against the peace and dignity of the State of Tennessee.

COUNT 10

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

between the **10th** day of **June**, **2020**, and the **29th** day of **December**, **2020**, in Davidson County, Tennessee and before the finding of this indictment, while at all times relevant a public servant, did unlawfully, knowingly, and with the intent to harm **the Tennessee Bureau of Investigation**, violate a law relating to her office, to wit: Tenn. Code Ann. § 39-14-114, in violation of Tennessee Code Annotated § 39-16-402, and against the peace and dignity of the State of Tennessee.

COUNT 11

THE GRAND JURORS of Davidson County, Tennessee, duly impaneled and sworn, upon their oath, present that:

SUSAN BETH BIRDWELL

between the **25th** day of **February**, **2021**, and the **12th** day of **April**, **2021**, in Davidson County, Tennessee and before the finding of this indictment, while at all times relevant a public servant, did unlawfully, knowingly, and with the intent to harm **the Tennessee Bureau of Investigation**, violate a law relating to her office, to wit: Tenn. Code Ann. § 39-14-114, in violation of Tennessee Code Annotated § 39-16-402, and against the peace and dignity of the State of Tennessee.

NATHAN S. NICHOLS
DISTRICT ATTORNEY GENERAL PRO TEMPORE
TWENTIETH JUDICIAL DISTRICT

IN THE CIRCUIT & CRIMINAL COURTS FOR CLAY COUNTY, TENNESSEE
THIRTEENTH JUDICIAL DISTRICT SITTING AT CELINA

IN RE: INDICTMENT OF SUSAN BIRDWELL, CLERK OF THE CRIMINAL & CIRCUIT COURTS FOR CLAY COUNTY, TENNESSEE

ORDER OF SUSPENSION

THIS MATTER came to be considered by the Court upon Motion of the State of Tennessee to summarily suspend Susan Birdwell, Circuit Court Clerk for Clay County, Tennessee from office based upon indictments being found against her for certain felonious offenses related to her duties as clerk. After reviewing the State's Motion and the indictments returned by both the Davidson and Clay County Grand Juries, receiving the testimony of [redacted] Investigator for the Tennessee Comptroller of the Treasury, hearing the arguments of the District Attorney General *Pro Tem*, and considering all applicable law, the Court finds the following:

1. On November 10, 2021, the Davidson County Grand Jury returned an eleven (11) count indictment against SUSAN BIRDWELL, Clerk of the Criminal and Circuit Courts for Clay County, Tennessee, for the felonious offenses of six (6) counts of forgery, three (3) counts of tampering with government records, and two (2) counts of official misconduct;

2. On December 14, 2021, the Clay County Grand Jury returned a five (5) count indictment against SUSAN BIRDWELL for the felonious offenses of soliciting unlawful compensation and three (3) counts of official misconduct. The Clay County indictment further alleges SUSAN BIRDWELL committed the misdemeanor offense misrepresenting information to a state auditor;

3. On December 14, 2021, the Chief Justice of the Tennessee Supreme Court designated the Honorable Mike Pemberton, Circuit Court Judge for the Ninth Judicial District, to preside over matters relating to SUSAN BIRDWELL's Clay County indictment due to the fact that all Circuit and Criminal Court Judges for the Thirteenth Judicial District recused themselves;

4. On December 14, 2021, the District Attorney General *Pro Tem* for the Thirteenth Judicial District delivered notice to the Court of the indictments returned against SUSAN BIRDWELL in Davidson and Clay Counties and did move the Court, *ex parte*, to summarily

suspend SUSAN BIRDWELL from office pending final disposition of the indictments returned against her;

5. On December 16, 2021, the Court held an *ex parte* hearing on the State's motion during which the Court reviewed the indictments found by the Davidson and Clay County Grand Juries were reviewed and sworn testimony received from [redacted] Investigative Auditor with the Office of the Tennessee Comptroller of the Treasury;

6. The indictments returned against SUSAN BIRDWELL in Davidson and Clay Counties are genuine documents and the offenses alleged in those indictments relate directly to SUSAN BIRDWELL'S office and her service as Clerk of the Criminal and Circuit Courts for Clay County, Tennessee;

7. *Tenn. Code Ann.* §18-1-302 empowers the courts of this State to suspend their clerks "...immediately upon indictment found against [those] clerk[s] for a felony or misdemeanor in office..." Further, any such suspension may remain effective until "a final decision can be had [on the indictment]...";

8. In light of the foregoing facts and authority, the Court finds SUSAN BIRDWELL should be SUSPENDED as Clerk of the Criminal and Circuit Courts for Clay County, Tennessee until such time as the indictments returned against her are finally disposed.

IT IS, THEREFORE, ORDERED, as follows:

I. SUSAN BIRDWELL, Clerk of the Circuit and Criminal Courts for Clay County, Tennessee be hereby SUSPENDED from office pending further orders of the Court;

II. Due to the fact that SUSAN BIRDWELL also serves as Clerk of the General Sessions and Juvenile Courts for Clay County, Tennessee by virtue of holding the office of Circuit Court Clerk, SUSAN BIRDWELL is SUSPENDED from those offices as well;

III. SUSAN BIRDWELL shall immediately surrender all keys, papers, equipment, and any other items belonging to Clay County, Tennessee and any Court she serves as clerk;

IV. CLAY COUNTY, TENNESSEE shall immediately cease payment of any salary, fee, emolument, or other benefit due to SUSAN BIRDWELL by virtue of her service as Criminal, Circuit, General Sessions, and Juvenile Court Clerk until further order of the Court; however, any such payments to which SUSAN BIRDWELL became entitled prior to the entry of this order shall be paid to her immediately;

V. SUSAN BIRDWELL is prohibited from entering the Clay County Circuit Court Clerk's Office and any other location within Clay County, Tennessee where court proceedings are regularly held or the business of a Court is regularly conducted unless compelled to be present therein by such court;

VI. SUSAN BIRDWELL shall be immediately removed as an authorized signatory on all banking, trust, fiduciary, and charge accounts belonging to Clay County, Tennessee, the Circuit, Criminal, General Sessions, and Juvenile Court Clerk's Offices, and the wards of any court;

VII. THE MAYOR OF CLAY COUNTY, TENNESSEE shall immediately cause all exterior and interior door locks leading into the offices of the Clerk of the Criminal, Circuit, General Sessions, and Juvenile Courts to be changed and shall also change the locks to all courtrooms;

ALL OTHER MATTERS ARE HEREBY RESERVED

ENTER: This 16th day of December, 2021.

THE HONORABLE MIKE PEMBERTON
CRIMINAL COURT JUDGE
THIRTEENTH JUDICIAL DISTRICT
BY DESIGNATION

Approved for Entry:

NATHAN S. NICHOLS (#30283)
District Attorney General Pro Tem
Thirteenth Judicial District
226 Anne Dallas Dudley Blvd., Suite 800
Nashville, TN 37219
(615) 532-1864
nsnichols@tndagc.org

IN THE CIRCUIT & CRIMINAL COURTS FOR CLAY COUNTY, TENNESSEE
THIRTEENTH JUDICIAL DISTRICT SITTING AT CELINA

IN RE: APPOINTMENT OF A CIRCUIT & CRIMINAL COURT CLERK *PRO TEMPORE* FOR CLAY COUNTY, TENNESSEE

ORDER APPOINTING CRIMINAL & CIRCUIT COURT CLERK *PRO TEMPORE*

IT APPEARS the elected Clerk of the Criminal & Circuit Courts for Clay County, Tennessee has been suspended from office following her indictment by the Davidson and Clay County Grand Juries for felonious offenses related to her office. IT FURTHER APPEARS, in accordance with *Tenn. Code Ann.* §18-1-302, it is necessary for the Court to appoint a Criminal and Circuit Court Clerk *Pro Tempore* for Clay County, Tennessee until final disposition of the elected clerk's indictments;

IT IS, THEREFORE, ORDERED, as follows:

1. Having full confidence in the abilities of her to hold such office, the Court hereby appoints JENNIFER RITTER, an adult resident of Clay County, Tennessee, to serve as Criminal and Circuit Court Clerk *Pro Tempore* for Clay County, Tennessee with said office to be assumed immediately following administration of the appropriate Oath of Office;

2. JENNIFER RITTER shall also serve as Clerk *Pro Tempore* of the General Sessions and Juvenile Courts for Clay County, Tennessee;

3. Any Judge, Chancellor. or other official empowered by law to do so is hereby authorized to administer the appropriate Oath of Office to JENNIFER RITTER and the same shall be spread upon the minutes of the Court;

4. Upon taking the Oath of Office, the Clerk *Pro Tempore* shall be empowered, authorized, and commanded to perform any and all acts necessary to carry out the duties of such office including, but not limited to, the issuance of warrants for arrest and all other court process, the appointment of deputy clerks, the receipting of and accounting for monies received into the Court, and the filing of any pleadings or other papers. Any act performed by the Clerk *Pro Tempore* shall have the same effect as if done by the regular official;

5. Upon taking the oath of office, JENNIFER RITTER shall receive any salary, fees, emoluments, and all other benefits due to be paid to the elected Circuit Court Clerk by Clay County, Tennessee, or any other source;

6. The Clerk *Pro Tempore* shall take possession of all papers, books, equipment, and any other item whatsoever belonging to the Office of the Criminal, Circuit, General Sessions, and Juvenile Court Clerk for Clay County, Tennessee and the Court and safely keep the same for her official purposes;

7. The Clerk *Pro Tempore* shall take all steps necessary to assume authority over the banking, trust, retail charge, and all other business accounts over which the elected clerk currently has authority;

8. This appointment shall be effective until further orders of the Court;

ALL OTHER MATTERS ARE HEREBY RESERVED

ENTER: This 16th day of December, 2021.

THE HONORABLE MIKE PEMBERTON
CRIMINAL COURT JUDGE
THIRTEENTH JUDICIAL DISTRICT
BY DESIGNATION