

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-048

Judge:	No1052714887A
Complainant:	No1052714887B

ORDER

The complainant alleged that a superior court commissioner was unprepared for hearings, acted as the opposing party's advocate, and made erroneous rulings.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After review, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of court rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: April 2, 2014.

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on April 2, 2014.

This order may not be used as a basis for disqualification of a judge.

CONFIDENTIAL

State of Arizona

Commission on Judicial Conduct

1501 W. Washington Street, Suite 229

Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2014 048

COMPLAINT AGAINST A JUDGE

Name: _____ **Judge's Name:** _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

See attached narrative

Complainant:

Judge:

I was the Petitioner in the Matter of the Trust Estate of The Trust, Case Number

. At our first Hearing on on my Petition To Remove the Successor Trustee, said we were there to discuss a matter that was scheduled for the next week, an emergency petition that would be moot after the current hearing. The Respondent asked for a continuance because his attorney told him to ask for the continuance as the attorney was out of town. On the record, Respondent stated he had an attorney and mentioned his name to us. The granted the continuance to the next hearing date that had been set for

. It was very apparent from the beginning of the Hearing that the Commissioner 1) had not read the filings, and 2) never planned to go forward with the originally scheduled Hearing. We later found out that the Respondent was not represented and lied to the Court. We tried to point this out to the but he refused to consider it. At any subsequent Hearings, never addressed Respondent's claim that he was represented by counsel, and Respondent never appeared with counsel. Throughout the entire proceedings, bent over backwards for the Respondent. It appeared that since the Respondent was not represented by counsel, the took it upon himself to act very much like counsel for the Respondent. I attach copies of the and hearing transcripts for your information.

also continued to make clear he had not read Petitioner's filings prior to the Hearings. He misstated the reasons for the hearings several times. In one instance, he stated that we were there to discuss damages when his Minute Entry stated the damages issue would be continued but we would discuss production of documents and sanctions. The Respondent did not appear for this hearing. The ME was ambiguous and never ruled on the Motion To Continue by either denying or granting Petitioner's Motion. (Minute Entry dated attached).

One of most egregious acts was during the hearing on . There he stated to the Respondent by telephonic conference that he thought Respondent hadn't appeared because he had filed bankruptcy. Then went on to basically tell the Respondent that he should file bankruptcy. asked us what we hoped to have happen with this case and we stated we hoped to get a judgment against the Respondent. words were "that can be washed in a bankruptcy." I attach a copy of the pertinent pages of that court transcript. That afternoon at the deposition of the Respondent he stated that the had advised him to file for bankruptcy. (Deposition pages 9 and 12 attached).

Complainant:

Judge:

The Evidentiary Hearing was held on .
After the Hearing, issued a Minute Entry where he stated that we could not try our case by "filing documents." I am not sure what he meant by that. That's what you do in litigation, file documents. He made a comment about the "mounds of paperwork" filed in the matter. seemed quite irritated by our filings. He also seemed to discount our Exhibits, but only allowed them because the Respondent didn't object as he had no legal theories to do so.

also stated in the Minute Entry that a Trust document was never filed. At some point, should have requested that he see the Trust document if this was relevant to my case. He had plenty of opportunity for this request as we were in his Court starting . As stated previously, I do not believe the ever fully read documents presented. Minute Entry was full of statements that gave the Respondent much ammunition for an Appeal of this matter. (Minute Entry dated attached).

What I truly can not comprehend is the total lack of understanding how the Respondent was engaging in very serious breaches of his fiduciary duty, embezzlement and criminal activities. My attorney stated that we wanted a Judgment because of the fraud and embezzlement perpetrated by the Respondent. response was that it was a matter for the Attorney General and by inference not something he needed to be concerned with in his Court. Attached is Petitioner's Motion For New Trial and Minute Entry denying same. In this ME, dated the once again misunderstands the request. He states to award the car would double the assessment. As stated in our Motion For A New Trial, the judgment would be credited with the value of the car if the car were turned over to Petitioner. also, once again, denies that the Respondent had engaged in acts that could be construed to be criminal. The Respondent obviously engaged in embezzlement and fraud as found by the expert report provided to the Court and which the Court refers to "(See the summary chart as part of the report)." I also attach this page for your reference.

In conclusion, I believe engaged in judicial misconduct per the Code of Judicial Conduct Rules 2.2, 2.3 and 2.5.

If you desire a complete copy of the deposition and expert report referenced herein, please contact me and I will provide them. Thank you for your consideration of this matter.