

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-182

Complainant: No. 1290300445A

Judge: No. 1290300445B

ORDER

The commission reviewed the complaint filed in this matter and found no misconduct on the part of the judge.

The complaint is dismissed pursuant to Rule 16(a).

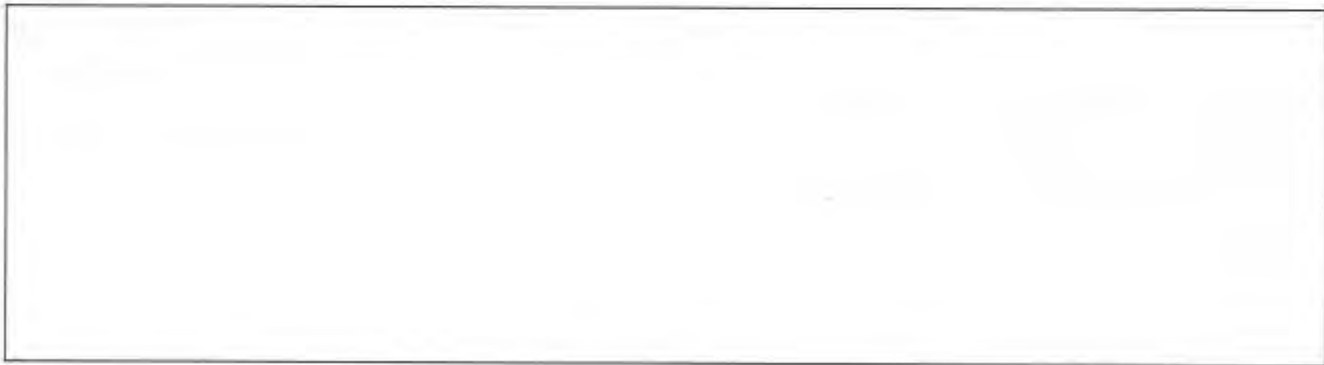
Dated: September 18, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on September 18, 2006.

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



July 7, 2006

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CJC-06-182

COMMISSION ON JUDICIAL CONDUCT
c/o Keith Stott
Executive Director
Suite 229
1501 West Washington
Phoenix, Arizona 85007

Re:

To the Commission:

through counsel intends with this letter to discharge his duties set forth in Canon 3(D)(1) and (2) of the Code of Judicial Conduct and in ER 8.3(a) and (b) of the Rules of Professional Conduct with regard to the actions of Judge Municipal Court. It is our understanding the Commission is the appropriate disciplinary body to which violations of the Code of Judicial Conduct, the Rules of the Commission on Judicial Conduct, the Rules of the Arizona Supreme Court and the Rules of Professional Conduct by a sitting judge should be reported.



Canon 5

Judge violated Canon 5(A)(1)(d) of the Code of Judicial Conduct by intentionally involving herself in the retention process of a judge on the court on which she sat. Judges ethically may neither publicly endorse or publicly oppose the retention of a fellow judge on their own court. She is not exempted from the Code of Judicial Conduct because of her position



An inherent conflict exists when a [redacted] selected by the executive branch of government as a judge and as a [redacted] participates in selection and retention decisions made by the executive branch of government, even ex-officio and non-voting. That judge is forced to choose between her executive branch duties of involvement in the selection and retention of other judges on her court and complying with Canon 5(A)(1)(d). Judge [redacted] had an obligation to understand that inherent conflict, to advise the city of the conflict and refuse to sit on the Judicial Selection Advisory Board. Her position on the board allows her to participate in the decision-making of the executive branch of government directly affecting the judges with whom she is co-equal. She has chosen her executive branch duties over compliance with the Code of Judicial Conduct.

Specifically, Judge [redacted] indirectly and then directly communicated her desire to have Judge [redacted] terminated from his judicial position because of her anger over his communications to her of his objection to her selection of an [redacted] judge. Judge [redacted] communications were not profane, vulgar nor did they threaten violence. They were strongly worded concerns about the way her selection compromised the judicial independence and integrity of the city court bench. Her anger in no way justifies her violation of the language of Canon 5(A)(1)(d) which says: "A judge ... shall not ... actively take part in any political campaign other than his or her own ... retention in office."

Canon 3(D)(1)

Judge [redacted] also directed a recently appointed judge, [redacted] to file a complaint with the Commission on Judicial Conduct against Judge [redacted] four weeks before the [redacted] was scheduled to consider the Judicial Selection Advisory Board which recommended Judge [redacted] be retained. She caused the complaint to be filed, "on behalf of the [redacted] Municipal Court," without notice to, or authorization from the other members of the court for filing the complaint. Judge [redacted] actions in directing a judge over whom she had administrative responsibility to file a complaint on her behalf shows a lack of candor with this Commission and violates her responsibilities under Canon 3(D)(1). If Judge [redacted] really believed Judge [redacted] violated the Code of Judicial Conduct, she had a duty she could not delegate to others to file a complaint. By directing a judge who was newly appointed and over whom she had administrative responsibility to file the complaint on her behalf, Judge [redacted] should not be able to avoid personal responsibility before this Commission for the baseless nature of the complaint nor her use of the complaint in her campaign to have Judge [redacted] terminated by the city council.

Rule 8.2(a), Rules of Professional Conduct

The complaint Judge [] caused to be filed included an allegation Judge [] violated the Code of Judicial Conduct for violating Judicial Ethics Advisory Opinion No. 99-01. Judicial Ethics Advisory Opinion No. 99-01 advises a judge applying for higher judicial office against soliciting directly or indirectly support in selection proceedings from lawyers who appear in front of the judge on pending legal matters. Judge [] made the allegation Judge [] violated Ethics Opinion No. 99-01 before the complaint was filed in a letter to Judge [] Assuming Opinion No. 99-01 might be extended to apply to his situation, Judge [] immediately responded in writing that he had not directly or indirectly solicited any lawyers who appeared and endorsed his retention. The lawyers independently learned about Judge [] attempt to purge Judge [] and on their own came to speak on his behalf. Despite this knowledge she continued to make the claim through Judge [] in the ethics complaint either without asking the attorneys involved whether it was true or knowing it was false. All of the attorneys who came and spoke on Judge [] behalf have denied they were directly or indirectly solicited by Judge [] to speak on his behalf and denied that Judge [] asked them whether they had been solicited by Judge [] By repeating the false claim Judge [] violated Ethics Advisory Opinion No. 99-01, Judge [] violated the Rules of Professional Conduct for all attorneys by making a statement that she knew "to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge." Rule 8.2(a), Rules of Professional Conduct, Rule 42, Arizona Supreme Court.

In addition, Judge [] has on multiple occasions falsely characterized Judge [] motivation for criticizing her appointment of Judge [] as his desire to have his [] appointed [] judge. Judge [] knew this claim was false, but repeated it to discredit Judge [] and assist her campaign to bring about the loss of his job as a judge with the City [] By repeating the false claim publically about Judge [] motivations, Judge [] violated the Rules of Professional Conduct for all attorneys by making a statement that she knew "to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge." Rule 8.2(a), Rules of Professional Conduct, Rule 42, Arizona Supreme Court.

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Rule 9, Rules of the Commission on Judicial Conduct

Judge [redacted] publicly referred to the judicial ethics complaint in violation of Rule 9 of the Rules of the Commission on Judicial Conduct as a part of her campaign to discredit Judge [redacted] and bring about his termination as a judge.

Judge [redacted] has since given his assent to make the complaint public in an attempt to respond to Judge [redacted] campaign to discredit him and terminate his judicial career.

Canons 1 and 2, Code of Judicial Conduct

Judge [redacted] publicized internal e-mails of the City [redacted] Municipal Court as part of her campaign to discredit Judge [redacted] and bring about his termination in violation of Rule 123(E)(8)(b) of the Arizona Supreme Court. She selectively violated the disclosure rules as a part of her campaign to discredit Judge [redacted] and terminate his judicial career. Selectively violating the Rules of the Arizona Supreme Court about the disclosure of intra-court e-mails violates Canon 1's admonition a "judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards..." and Canon 2's requirement a "judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

We respectfully request that the Commission investigate fully the matters set forth in this letter. Should you have any questions or should you wish further information, please do not hesitate to contact us.

Very truly yours,

[redacted]

[redacted]