

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-186

Complainant: No. 1290310019A

Judge: No. 1290310019B

ORDER

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

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

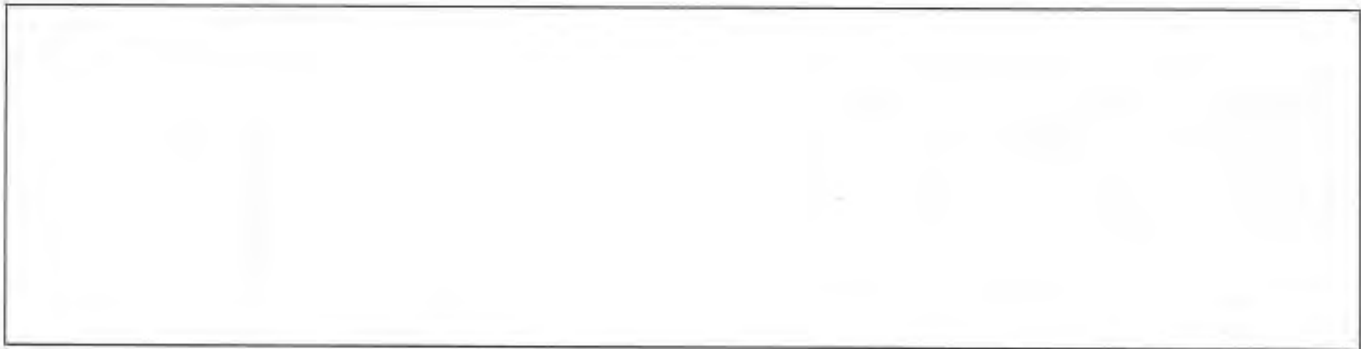
Dated: September 19, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on September 19, 2006.

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



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July 12, 2006

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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 conduct of Judge of the Municipal Court. It is our understanding the Commission is the appropriate disciplinary body to consider alleged violations of the Code of Judicial Conduct, the Rules of the Arizona Supreme Court and the Rules of Professional Conduct by a sitting judge.

Some of the circumstances which led to this complaint have already been reported to the Commission on Judicial Conduct in connection with a Response filed to Complaint We will not repeat the general history and chronology of events set forth in those documents.

Canons 1 and 2(A)

Canon 1, Code of Judicial Conduct, states that a "judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards" Canon 2(A), Code of Judicial Conduct, requires that a judge "shall act at all times in a manner that promotes public confidence in the integrity ... of the judiciary."



Judge [] filed a complaint against Judge [] *under penalty of perjury*, which alleged that:

- (1) the Complaint was filed "on behalf of [] Municipal Court;"
- (2) another judge on the [] Municipal Court, who was not the target of the Complaint and who had no relevance to the allegations against Judge [] had acted improperly;
- (3) he claimed to have knowledge of facts that, in actuality, could only have been personally known and attested to by Judge [] [] or other judges of the [] Municipal Court.

Furthermore, he filed that complaint despite his personal belief that the complaint lacked merit.

On the date the Complaint was filed, Judge [] was a sworn member of the [] Municipal Court Bench, having been appointed to that position several weeks prior to the filing of the Complaint.

With respect to the allegation that the Complaint was filed on behalf of the [] Municipal Court, Judge [] did not contact the other judges of the court before filing the Complaint, nor were they aware of the Complaint. In reality, the Complaint was filed on behalf of Judge [] Furthermore, Judge [] acknowledged to other judges on the [] Municipal Court Bench, *both before and after the Complaint was filed*, that he did not believe that a judicial complaint based on these facts had merit, other than "possibly" with respect to the issue dealing with the attorneys who appeared on behalf of Judge [] at the meeting of the Judicial Selection Advisory board. He specifically acknowledged to one judge that he filed the Complaint because he "did what [he] was asked to do," and that the motives and authorship of the Complaint were "transparent."

Judge [] based the allegations in the Complaint upon conduct about which he had no knowledge other than what was told to him by Judge [] who he knew was intent upon exacting retribution against Judge [] for expressing criticism of one of her administrative decisions. Judge [] also alleged "misconduct" by another judge, Judge [] who he knew was not the subject of the Complaint and whose conduct he had not personally witnessed.

In the Complaint, Judge [] alleges that "[t]he tone of the exchanges from Judge [] to Judge [] both by e-mail and in person, were not constructive and were personally disparaging to Judge []. He also alleges that "[t]he timing of the exchanges appeared to be deliberate and with intent to incite others to join in this negative barrage to undermine the authority of the office of the [] Judge and [] Judge, and not merely to voice an opposing position." None of the e-mails that formed the basis of those allegations against Judge [] nor any correspondence by Judge [] was addressed or copied to Judge []. Furthermore, he was not present at the meeting that took place between Judge [] Judge [] and Judge [].

Despite his lack of firsthand knowledge as to the facts alleged, Judge [] filed the Complaint against Judge [], at the behest of Judge [] not upon "information and belief," but under the avowal that "I affirm, under penalty of perjury, that the foregoing information and allegations contained in the attached complaint are true." It was an avowal, given his lack of personal knowledge and the clearly subjective nature of most of the allegations, that he simply could not make. His conduct in filing the Complaint was reckless, demonstrated a lack of candor toward this Commission, and in violation of his obligation to maintain "high standards of conduct" and to "act at all times in a manner that promotes public confidence in the integrity ... of the judiciary." Canons 1 and 2(A), Code of Judicial Conduct.

ER Rule 8.2, Rules of Professional Conduct

Judge [] alleges in the Complaint that Judge [] solicited attorneys to speak on his behalf at the Judicial Selection Advisory Board meeting at which his retention was being considered. Judge [] had no personal knowledge regarding the circumstances which led to the appearance of attorneys who spoke on Judge [] behalf at the Judicial Selection Advisory Board meeting. The only knowledge he had concerning that allegation was that there had been an exchange of correspondence between Judge [] and Judge [] regarding that issue, in which Judge [] had informed Judge [] that he had not solicited *any* attorneys to speak on his behalf. Again, that allegation was made with knowledge of its falsity or with reckless disregard as to its truthfulness regarding the integrity of a judge.

Commission on Judicial Conduct

[Redacted]

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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.

[Redacted]