

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

---

Disposition of Complaint 09-215

---

Complainant: No. 1370310640A

Judge: No. 1370310640B

---

**ORDER**

The commission reviewed the complaint filed in this matter and found no evidence of ethical misconduct on the part of the judge. Because the contents of the complaint do not support the claims, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: November 19, 2009.

FOR THE COMMISSION

\s\ Keith Stott

\_\_\_\_\_  
Executive Director

Copies of this order were mailed to the complainant and the judge on November 19, 2009.

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



exposes complete knowledge of this issue and the problems it creates for the also failed to forward proof of insurance to the underlying lien-holder as displayed in the included audits. These wrongs, in addition to a handful of other items, led to the being foreclosed on three (3) separate times in spite of the timely payments made. The three foreclosures occurred in February, May, and September of 1999. Not fully knowing the extent of the problems, the continued to make timely payments and sought help in repairing the wrongs. After allowing nearly two years and receiving nothing but the run-around and attempts to cover up the wrongs, the brought suit in December 2000 (CV- ).

The defining moment for the decision to finally bring suit occurred when Vice-president ( ) attempted to get the to sign a supplemental note agreement (EXHIBIT C) in July 1999 and called for an increase in payment from the from \$1,131.77 to \$1,204.00 per month for no known reason.

It is important to note the time line of events. The were notified that V.P. had taken over the troubled account in

January 1999. In her personal notes obtained through discovery (EXHIBIT D) at FID00093, displays she is aware the force-placed insurance placed on the account by has caused a shortage as early as September 1998 and that the original \$1,131.77 monthly payment is not correct. At FID000100 notes the wrong payoff amount due at closing. Exhibit D is last dated June 1, 1999 and a complete set FID00088 through FID00104 is available. The point that need be understood is that attempts to get the to sign the supplemental note agreement in July 1999 after her own documents express that she fully understands and is aware of the loss and potential future loss to the

The were never fully aware of the underlying problems until suit was brought in 2000 (CV ) and rightfully had refused to sign note supplement. A simple understanding of the supplemental agreement is that it covers up all wrongs by . In fact, the new note balance proposed by was to be higher than the amount at closing over a year **after** the home purchase.

Most egregious however, is what follows refusal to sign attempt at cover-up. The had already been foreclosed on twice by the underlying lien-holder both in February and May of 1999.

“PAID” the costs of these foreclosures to halt the proceedings.

payment of these costs is in itself an admission that they were at fault for the foreclosures. depicted in those same personal notes (FID00088-FID0010) as loss the \$505.76 and \$566.40 respective costs to halt the foreclosures. “PAID” is emphasized here and will be addressed further. Amazingly enough, the are foreclosed on again a third time in September 1999 and refuses to pay the costs associated with it. The had to pay the costs to protect their position in spite of the fact the problem again stemmed from wrongs. The entire events surrounding this third foreclosure are depicted in the included audits. Most draconian however is the following:

-The February 1999 foreclosure caused an expense of \$505.76 with the May foreclosure costing 566.40. This totals \$1,072.16.

- is reimbursed from the foreclosure agent \$327.00 for a filing fee leaving \$745.16 total outlay in costs to halt the proceedings.

-Any balance in the \_\_\_\_\_ account is approximate due to late fees and penalties along with foreclosure costs and is the best that can be assumed for dollar amounts related to the \_\_\_\_\_ account as it is so askew that no numbers exactly correlate as displayed in the included audits.

On June 28, 2000 \_\_\_\_\_ reimburses itself \$724.90 out of \_\_\_\_\_ account servicing account into \_\_\_\_\_ legal department account (EXHIBIT E). The \_\_\_\_\_ never regain these funds and could not. The overage in the \_\_\_\_\_ account was transferred to an account to which the \_\_\_\_\_ could legally lay no claim to. \_\_\_\_\_ had then regained within dollars the amount they had "PAID" for the first two foreclosure proceedings. These two foregoing actions by \_\_\_\_\_ ( \_\_\_\_\_ ) can only be seen as punishing the \_\_\_\_\_ for not going along with the proposed \_\_\_\_\_ cover-up by signing the supplemental note agreement. Every error and wrong was committed by \_\_\_\_\_ and the \_\_\_\_\_ were made to pay for it.

The \_\_\_\_\_ brought suit charging \_\_\_\_\_ with Breach of Contract, tort claims for Gross Negligence, Intentional Infliction of Emotional Distress, and Punitive damages. The foregoing exhibits substantiate the charges

brought by the at least enough to get a day in court.

denied all charges and hired the firm of and

Special Master

Due to complete denial of any wrong-doing and disarray of the account the requested the services of an audit to sort out the numbers for the COURTS. It should not be of importance but clearly proved to be so that the naming of as Special Master is done by attorneys and signed off on by then acting Judge

(EXHIBIT F). produces his first audit in June 2003 (EXHIBIT G).

concludes at page 10 that the suffered only token monetary damages of \$1,505.17 and ignores all else. had been granted Junior Judge status and could dictate the outcome of the case with full authority to examine all aspects of the case. included resume displays he is no slouch but his second 2006 audit completely disposes of the integrity of this first 2003 audit. had clearly chosen to aid

defense by providing an incorrect and incomplete audit. It can easily be surmised that would misuse his position and cater to what pads his wallet as he would not likely have reason to perform work for the

again. He certainly could have reason to work for either  
or attorneys in the future or had worked for them in the  
past due to the position held. The were charged \$2,500.00 for  
the 2003 audit by This 2003 audit led then acting Judge to  
dismiss the case with prejudice (EXHIBIT H). As will be seen, had  
clearly misled court to the outcome desired by a favored client  
thereby clearly committing an act of malpractice.

The promptly appealed the ruling and were allowed to introduce  
the Gale Report which exposed (EXHIBIT J). Upon appeal,  
is redirected by the Courts to revisit his 2003 audit and produces a second  
audit in 2006 (EXHIBIT K). In this second audit only now attempts  
to perform what should have been completed correctly three years earlier.  
At its simplest, had then been exposed. The tone of the audit has  
now changed drastically. may have thought his first 2003 audit  
would have been enough to send the away for good and now was  
forced to decide between covering his own backside as opposed to



However, in trying to maintain allegiance to \_\_\_\_\_ declines to finalize what is the most damning of issues. On page 9 (EXHIBIT K) at paragraph 1 \_\_\_\_\_ states, "I accepted \_\_\_\_\_ explanation that showed that the \$724.90 check from the escrow account ( \_\_\_\_\_ ) to dated June 28, 2000 with the notation residual fees was actually transferred from \_\_\_\_\_ account servicing department to its legal department for the benefit of the Plaintiffs". "For that reason, I did not comment on it in my original 2003 audit". "I should have completed a more thorough analysis of this payment...." \$45,000.00 in legal fees to the \_\_\_\_\_ and three years later. Paragraphs 2, 3, and 4 at page 9 are self-explanatory. At paragraph 5 \_\_\_\_\_ states, "Furthermore, none of the records I have available to me prove unequivocally that the transfer occurred as \_\_\_\_\_ claims". \_\_\_\_\_ continues, "I withheld judgment on this one item pending \_\_\_\_\_ further disclosure of transactions on the escrow account after May 2000". This audit was performed by \_\_\_\_\_ in 2006 and even though he is afforded the authority to do so, he declines to extract the information from \_\_\_\_\_ knowing the ramifications of the action. **We are not** talking about a \$724.90 dollar issue in light of the thousands of dollars expended in the life of this case. **We are** talking about the act of \_\_\_\_\_ recouping funds they had fronted to halt foreclosures they had caused. It is an act of embezzlement.

goes on to state in paragraph 6, page 9, "I realized that did not pay all the costs as they originally claimed". Again, never mind the have had to expend an additional \$45,000.00 to get there.

In this case of vs. simply fell in line and marched lock-step for and their counsel. Lead counsel for had documented prior to 2003 audit, "PAID the foreclosure costs making the plaintiffs whole" (EXHIBIT L, Defendant motion for Partial Summary Judgment, August 15 2002, page 5). Again in June 2003 documents that, "fully PAID the costs with the first two forfeiture proceedings..." (EXHIBIT M, Defendants stipulated issue outline, June 15, 2003, page 2). then submits his first audit on September 2, 2003 mirroring defense of In that had gone along with the program documents on December 6, 2005, "There is no evidence to support the position" that reimbursed itself for the first two forfeiture proceedings (EXHIBIT N), page 3, middle of page. Plati continues in paragraph 3, "paid for all late charges and penalties that were charged the". because of the appeal and the introduced Gale Report found himself in a bind. then submits his second audit May 19, 2006 with a

different take but would still not finalize findings on the reimbursement issue as afore mentioned even though fully able to do so.

Taken in the correct context, an unbiased, impartial audit performed back in 20003 would have significantly altered the direction and outcome of this case. has no business in the position of JUNIOR JUDGE in a civil society as he obviously will abuse his position and mislead Courts to biased decisions.

The had sought help by filing a complaint with the Arizona Accountancy Board in October 2008 to stop this type of malpractice. Unexplainably, the Accountancy Board dismissed the complaint in spite of the fact that a review of audits is held by the outsourced third-party accounting firm of LLP. LLP was unable to explain to the the Accountancy Board's reluctance to fully investigate the complaint. Like the Accountancy Board will fail to uphold the position they maintain.

Judge

After appealing Judge [redacted] incorrect ruling based solely on

2003 audit the case was remanded back to new acting Judge

Under Judge [redacted] jurisdiction [redacted] had been ordered to revisit his 2003

audit and subsequently produced the second 2006 audit at an additional cost

of \$6,387.50 charged to the [redacted] Without explanation, a full trial

discussed early on in [redacted] Court was never granted to the

To cite the obvious seems redundant but entirely necessary at this point.

The fact that the [redacted] had prevailed on appeal should have served

notice to [redacted] The fact that this is then seven (7) years removed from

the onset of the case should have served notice to [redacted] The fact that

[redacted] produced two different, incomplete audits should have served notice

to [redacted] The fact that [redacted] 2006 audit is yet incomplete with regards

to the foreclosure and reimbursement issues, should have served notice to

[redacted] The fact that [redacted] specifically states in his 2006 audit that he had

previously accepted [redacted] side of the story of reimbursement without

investigation and now finds it not to be correct should have served notice to

Given the proceeding, the fact that [redacted] had

documented knowingly false statements to mislead the courts should have served notice to [redacted] The fact that [redacted] had paraded out the firm of [redacted] for seven years to defend \$1,505.17 ( [redacted] 2003 audit amount of damage) or \$8,099.97 ( [redacted] 2006 audit amount of damage) should have served notice to [redacted] The [redacted] expended \$132,787.50. [redacted] certainly expended that or more. It made no economic sense for a company the size of [redacted] to choose what they chose if it were simply a Breach of Contract. The fact that [redacted] got their guy in to do the audit (EXHIBIT F) and then sought to ensure payment to him through the Courts (EXHIBIT P) for the second audit should have served notice to [redacted] The [redacted] had been directly billed by and paid [redacted] for the 2003 audit. What concern would it have been to that [redacted] pay their half of the cost of 2006 audit? Even the most blurry-eyed of individuals could see the blatantly obvious. Had the [redacted] been granted their day in court the entire listed facts contained in this complaint could have been brought to the forefront. In fact, the Gale Report would have proved out entirely correct. [redacted] review and the next 100 audits would prove so. Judge [redacted] clearly will not uphold the seat to which she has been placed in an unbiased and impartial manner. The [redacted] had overcome a lying law firm and a dishonest

special master to find a coward in the Justice System they could not surmount.

### The Damage

The                    had expended over \$22,000 in legal fees by the time had offered \$5,000.00 in settlement early on in the life of this case. Given even                    still incorrect 2006 audit damage of \$8,099.97 the would have been out over \$30,000.00 but receiving only \$5,000.00. This does not include that, at that time                    still was mishandling the account and future problems or losses could show up. In fact, the                    sold the property due to divorce from the stress of the suit with                    in 2004.                    would not, and could not, provide a correct pay-off balance for the sale of the home. This can be confirmed with Security title agent                    who handled the sale.

The                    were forced to expend a total of almost \$50,000.00 in legal fees to arrive at                    \$1,505.17 2003 audit damage amount. The                    were then forced to expend an additional \$45,000.00 in legal fees to arrive at                    \$8,099.97 damage amount. The point needs not be

lost here. The [redacted] were forced to expend \$95,000.00 to retrieve monies that should never have been lost to fiduciary agent [redacted]

Somehow this is unexplainably missed by Judge [redacted] Clearly, [redacted] had more concern than some token dollar amount and [redacted] and [redacted] covered for them.

Being denied trial again, the [redacted] were limited to sound-byte hearings prevailing only on the Breach of Contract charge to which [redacted] ordered the \$8,099.97 be paid by [redacted] and only Breach of Contract legal fees for a total of approximately \$31,000.00. The fact that the evidence proves the actions of Fidelity went far beyond Gross Negligence and Intentional Infliction of Emotional Distress had been quietly dismissed by [redacted] nothing more than what is the cowardly act of a Superior Court Judge.

Upon notice of a second appeal, [redacted] promptly offered \$51,000.00 in settlement to the [redacted] Fearing the lack of integrity in the Courts the [redacted] were forced to consider settling with thieves no different than those who would break into your home and do so with the legal system's blessing. After a \$132,787.50 loss and over eight years of a mock judicial

system run by liars and thieves Mr. would not sign off on this agreement. It would mean the crooks run the place.

I respectfully request your attention, investigation, and intervention into this matter. Otherwise, there is no need for a Justice System in this state. Any notion of right and wrong and of fairness would call for this case to finally be heard by a court with the integrity expected by the people who place them in their positions.

If I may be of further assistance or can provide you with additional documentation please let me know.

Cc:

Judge Helene Abrams