

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-416

Judge:

Complainant:

ORDER

May 12, 2023

The Complainant alleged a superior court judge made false statements and violated election and criminal laws during a campaign for judicial office.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Roger D. Barton and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on May 12, 2023.

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

21-416

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 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.

Please refer to the attached PDF entitled "Final Complaint - JL" and its exhibits 1 (A through J) and Exhibits 2-50

I. Introduction

This report alleges misconduct by _____ and fellow candidate, now Judge, of _____. It will refer to him as “_____,” because reported activities mostly took place while he campaigned to become a judge last year. I had hoped he would have self-reported all of these by now, but that apparently never happened.

I _____, but this report is _____ the final outcome would have been fine. _____ – win or lose – in a *fair* election is not fine, nor was his public mockery of me for following our laws, which continues to reverberate. As such, and because it has been my duty _____ to report these issues, and I hope that this will improve future outcomes, here we are. If he is to remain a judge, then – for the sake of those who must be judged by him and practice in his court – I hope this report will force him to acquire better judgment. I do not believe that anyone is beyond redemption; however, if _____ is not meaningfully sanctioned in order to grow in true humility from this experience, I doubt that he can be depended upon to fairly judge others.

This body cannot redo the last election to make it fair to me or to _____ County voters, but I also hope that this report and its aftermath, whatever that may be, will help to generally restore fairness and dignity to future elections for judicial office and to _____ County’s _____. Decent potential future candidates who follow rules required of everyone ***should not be discouraged from running for judicial office or from remaining in the legal profession altogether simply because the same rules that serve to limit them, reward those like _____ who disregard them and publicly double-down against those making good faith efforts to follow them.*** _____ regularly disrespected the Rule of Law, honesty, accuracy, and me personally. He has been both vindictive and manipulative, presumably to win, but also in order to attempt to deflect from, and avoid serious consequences for, his actions. Without such consequences, though, there is every reason to believe that his way of running is both a winning and tolerated strategy that others here will follow.

The following encompasses what _____ said, did and failed to do during and/or just after the election. Some of it did not come to my attention until after ballots were fully counted and after my _____. I have contextualized to include reference to the substantial notice and information he was provided about his compliance obligations, and to some of his past apparent failures to police himself. Such is offered in case _____ continues to make-up his own narratives to try to victimize himself and villainize me when responding to this. Such gamesmanship by him and some of his chief allies to promote and defend his occasional lawlessness has dispirited many. It casts a long shadow, and must be adequately addressed by this Commission.

II. Establishing and maintaining an initial pattern of disregarding rules.

A. Ignoring rules and regulations early in the campaign, which led to an Agency Complaint Letter from me and my campaign committee.

By late _____ and our other opponent in the same race, _____, had each regularly failed to follow numerous applicable election-related rules and regulations. It was clear by their statements, signage, and even by what they did and did not submit to the Elections Office, that they were not taking their ongoing responsibilities as candidates seriously. And because it greatly

disadvantaged me timewise to do what they were not doing, I and my committee (i.e., filed a formal complaint with the See Exhibit 1_, , along with its accompanying Exhibits A-J. We hoped that our clear formal protest, which we initially filed privately, would prompt a more level playing field during what remained of the campaign.

Ariz. Code of Judicial Cond. Rule 4.2(a)(2) likewise requires judicial candidates to, among other things: **“comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations.”**

had made numerous declarations “under penalty of perjury” on which acknowledged his duties. These including his declaration that he agreed to comply with Arizona election law, and had read the Secretary of State’s campaign finance and reporting guide. See, e.g., Exhibit 1’s Exhibit E_ p 2 of 2.

All candidates had earlier and repeatedly been advised – by the Elections Director – to review and follow all of the rules of running for office. had personally given oral and written reminders. The County Elections Department website for candidates established similar reminders, along with easy-to-click-on links to the rules. See, e.g., Exhibit 2_.

had run for various AZ public offices before now, including for a different judicial office), so he had had opportunities before now to familiarize himself with the very same rules regulating campaigning, and specifically with those regulating judicial campaigning.

As , he also presumably understood “duty of candor,” etc., and generally what it meant to pledge to “at all times faithfully and diligently to adhere to the rules of professional responsibility and...creed of professionalism,” and to “abstain from all offensive conduct.” As a , he additionally would have ()¹ pledged to support and uphold Arizona’s laws.

Our Agency Letter, filed in late , carefully detailed rules that the Elections Director herself should enforce, while also referencing other candidate legal obligations. In other words, it served as yet another reminder to (and) of the importance of following rules and laws.

Moreover, reading and applying rules and laws to oneself is the least of what is expected of *judicial* candidates who sincerely want a job that requires them to be fair and effective. It requires some time, but a doable amount, even for people who were as busy as and I are and were.

When I entered the race (and) candidate in , I immediately read the laws relating to campaign finance reporting, sign disclosure, , which probably took

¹ started working at the . In , he left there to live for an extended stay with his family in . Sometime after his return, he briefly , and later (in) he campaigned for a different political office, one of several of his political campaign runs over the years. In or around , he would return to employment with the so presumably would have pledged the same twice, as it was standard for all new and returning . I Our mutual opponent , who was briefly a , would have made that same pledge.

a few hours. By late [redacted] and to follow [redacted] laws alone, my campaign had logged approximately 60 hours.²

But according to every local utility company representative with whom [redacted], along with the conspicuous absence of any [redacted] law compliance evidence (ever) beneath and surrounding any and every [redacted] or [redacted] sign, I was the only candidate for judicial office spending any time to follow those laws.

Complete and accurate campaign finance reporting, sign content and layout likewise required a consistent good faith effort, yet my opponents were evidently less interested in that than in lobbing cheap shots to unfairly undercut me and my experience, a fraction of which shall be described momentarily.

As stated, when my campaign and I sought relief **through established protocol**, i.e., local and [redacted] complaint procedures, we submitted an Agency Letter to Elections, *id.*, as an initially **private**³ matter. We wanted immediate change, but hoped to avoid embarrassing anyone. And whereas my opponents could have responded to the letter by quietly changing course, each instead showed open indignation toward me and the Letter while continuing to ignore many of the same rules.

First, and in the context of, e.g., political signage mayhem⁴ breaking-out, they directly and indirectly through their supporters, who would not have even known about our Agency Letter unless through the candidates themselves, denounced me and my campaign for having sent it. They mischaracterized it as some version of “ [redacted] ,” “ [redacted] ,” and worse, which in turn forced us to go public with it to dispel the myths being created about it – and me – over social media⁵ and elsewhere. I put a link to it on my website. My [redacted] who assisted me throughout the campaign, worked to dispel falsehoods about it by directing traffic there via his private [redacted] account.

² For the uninitiated, the required [redacted] process includes time initially planning sign locations away from any above-ground evidence of utility line locations. I and my opponents planted signs all across this County, which is the size of [redacted], so even by using [redacted], this effort alone was time consuming, because then it involves marking/reserving those specific locations so that all affected utility companies can send representatives to those same locations to check for below-ground risks and give approval. Then more time is spent for scheduling in-person, on-site meetings with those same representatives when initially-planned sign locations – including many where other campaigns had already planted signs – are deemed dangerous, and so consequently need to be relocated, re-marked, re-surveyed, etc.

³ By “ [redacted] ” I mean that our Agency Letter was not initially shared publicly. We did not post it or send out a press release to public [redacted] hough that would have been well within our right.

⁴ For example, my expensive campaign signs were being vandalized regularly, removed altogether and even trolled across the County. I understand that some of theirs were also tampered with, though I frankly doubt that it was by any of my supporters, or that it happened to their signs as often as it did mine. Furthermore, none of their signs had been trolled as mine were (apparently by [redacted] supporters), with rude signs placed immediately next to theirs, telling people not to vote for them. My [redacted] would call out one of the individuals responsible for this after the election was over, and after that individual had clearly lied about his involvement. [redacted] meanwhile complained vociferously throughout the campaign that supporters appeared to be taking down her signs, so it was a circus.

⁵ Though we never ended-up sending a press release to publicize our Agency Letter, we ultimately felt that we had to post it on social media, which was where many of the falsehoods about it were being most widely promoted.

But the attacks continued. _____, which began as a whisper campaign soon after the Elections Director had provided him a copy on _____, ⁶ distilled our complaint as follows in his formal response to the Elections Department, which was emailed to her on _____:

Exhibit 3_, _____ letter, see p. 2, 3rd full paragraph (emphasis added.)⁷

This suggested that *I* would have an advantage if afforded the same competitive advantage he had. It essentially urged _____ to ignore my irrefutable evidence of his actual advantage of not having to follow the same rules. He also, I believe manipulatively, suggested that all or a part of his response was “ _____,” which under the circumstances, it was not. He was and is _____ who was and is professionally obligated to read and follow the rules.

All of this violated his duty of candor, along with a number of other duties. His accompanying responses to her appear equally disingenuous for various reasons.⁸

Incidentally, he was also at this time _____, which is statutorily charged to generally advise the _____ and did so in practice. Although _____, himself, never practiced on the _____, so would not have personally been in the business of _____ about these matters, it is an open question as to whether his then-position and puffery about his own _____ may have given more weight to such lack of candor, to unduly influence _____. For _____ part and for whatever reason, _____ largely dropped the ball in fulfilling _____ own duty to fairly, timely and lawfully

⁶ See p. 11 of 18 and captioned statement on p. 1 of Exhibit 7_.

⁷ Incidentally, I did not know about this particular statement to Elections until well after the General Election was decided.

⁸ For example, with respect to signage content and blue staking, although _____ finally responded to _____ (in _____), stating prospectively then that “ _____,” this was *after* both his receipt of my initial complaint (in late _____) and his apparently having made and erected new sign orders. None of these newly placed signs followed Blue Staking requirements. None even contained proper “ _____” sizing, though that line on his signs had been at least improved slightly. See, e.g., Exhibit 27_, one of _____ signs, photo taken _____ also evidently ignored _____ albeit strange, non-committal and inappropriate under the circumstances directive – given _____ apparently acting as _____ at the time, see EX 1_ – her captioned statement in caps that included: “ _____”

Exhibit 7_, p. 7 of 18 (emphasis added). There may have been no review, because no “ _____” was ever employed. _____ Also, _____ never provided his absent financial filing information from the early phase of his campaign, and _____ never pressed him on it. Even after the election, he complained about how financially “ _____” it was for him, but never reported on any of his earliest expenditures. He also sloughed off the fact that he had been seen at the collecting signatures *while passing out campaign materials* that must have had some cost associated with them. Instead, he simply claimed to _____ that I had “ _____” see EX 3_ p. 1 #v, and everyone ultimately left it at that. Ultimately, he only ever reported having spent a fraction of what I spent and reported – even though he was in the race campaigning *twice as long as me* (to collect those signatures, etc.). His final spending report also reflected far less than what _____ reported to have spent, and _____ did not even report all of what _____ had spent during her campaign for the same office.

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**