

**JUN 15 1992**

COMMISSION ON  
HUMAN RIGHTS

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

In re the Matter of )  
 )  
Honorable Ralph G. Turco, ) No. 92-1259-F-30  
Judge of the Tacoma )  
Municipal Court. ) ANSWER TO STATEMENT  
 OF CHARGES

COMES NOW, the Honorable Ralph G. Turco, by and through his attorney, Kurt M. Bulmer, and Answers the Statement of Charges dated May 28, 1992, and served upon him June 10, 1992, as filed by the Commission on Judicial Conduct against him, as follows:

## ADMISSIONS AND DENIALS

1. Respondent admits Background paragraphs 1, 2 and 3.

2. Respondent admits the first sentence of the Facts Supporting Charges, to wit: He admits that on March 9, 1992, he presided over Cause No. 927094, City of Tacoma v. Anthony J. Maggerise.

3. Respondent admits the second sentence of the Facts Supporting Charges, to wit: He admits the defendant was present in court to contest the charges.

4. Respondent admits the third sentence of the Facts Supporting Charges, to wit: He admits the police officer who signed the infraction was not in court.

5. Respondent admits in part and denies in part the fourth sentence of the Facts Supporting Charges, to wit: He denies that the adjudicative process in which the defendant presented his

1 case and in which the Respondent advised the defendant of the  
2 evidence the Respondent was considering were an "initial  
3 discussion." Respondent asserts that this was the fact finding  
4 portion of the case. He further denies that the defendant  
5 produced a coin or that the defendant tossed the coin. He  
6 admits, after the conclusion of the fact taking portion of the  
7 proceeding, that he asked the defendant if he had a coin, that  
8 the defendant said he did not have a coin, that a coin was  
9 produced by a third party, that the third party tossed the coin  
10 and that the Respondent asked the defendant to call the coin  
11 toss.

12 6. Respondent admits in part and denies in part the fifth  
13 sentence of the Facts Supporting Charges, to wit: He admits that  
14 he indicated the defendant lost the call and that Respondent  
15 imposed a fine. He denies that such indication was made and the  
16 fine imposed "instead of adjudicating the matter according to  
17 the Justice Court Traffic Infraction Rules."

18 7. Respondent admits in part and denies in part the fifth  
19 sentence of the Facts Supporting Charges, to wit: He admits that  
20 after his decision, and after the defendant talked to a  
21 newspaper reporter about the case, that Respondent was contacted  
22 by newspaper reporters and that Respondent discussed the court  
23 procedures with those reporters. He denies that his comments  
24 were flippant or that they were widely publicized.

25 8. Respondent admits the sixth sentence of the Facts  
26 Supporting Charges, to wit: He admits that the Commission sent  
27 him a certified letter requesting a response to an initial  
28

1 proceeding and that the letter was received by him.

2 9. Respondent denies the seventh sentence of the Facts  
3 Supporting Charges, to wit: He denies that he failed to present  
4 any relevant information to the Commission as requested under  
5 WAC 292-12-020(3).

6 10. Respondent can neither admit nor deny the assertion  
7 made in the initial clause of the section entitled "Basis for  
8 Commission Action," which states that the Commission has  
9 determined that probable cause exists for believing that  
10 Respondent has violated certain provisions of the CJC, since  
11 Respondent lacks sufficient information to form a belief as to  
12 this assertion. Respondent denies that sufficient probable cause  
13 exists for such determination to have been made.

14 11. Respondent acknowledges the section of the Statement of  
15 Charges entitled "Notification of Right to File Written Answer."  
16 As a citation of procedural steps the matters therein are not  
17 subject to admission or denial.

18 FACTUAL AVERMENTS OF RESPONDENT

19 12. In addition to the factual admissions made above,  
20 Respondent asserts the following facts are relevant to  
21 consideration of this matter.

22 13. This matter stems from an event in Respondent's  
23 courtroom on March 9, 1992. In a traffic violation proceeding a  
24 defendant was contesting a speeding ticket. The defendant's  
25 position was that he had not been speeding and that his ticket  
26 did not show how the police officer had determined the speeding  
27 violation. The police officer's notes indicated that the  
28 defendant had been "paced" and had been speeding. Respondent

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advised the defendant of this.

14. The defendant was still insisting that he could not have been speeding. Respondent asked him if he thought the police were lying and the defendant said "No." When asked if the defendant felt that there had been a mistake, the defendant did not respond but rather continued to argue about the facts.

15. Respondent decided the defendant was guilty of speeding and was prepared to announce that decision. However, Respondent also felt that even if the defendant were to be found not guilty the ends of justice would be served since it was clear the defendant coming to the courthouse to contest the ticket had resulted in a positive remedial impact on defendant. It was clear to Respondent that the defendant felt he was not being treated fairly, so Respondent spontaneously opted to let the defendant flip a coin to resolve the matter.

16. Respondent located a coin, asked the defendant to call a coin toss, the defendant did so and called it wrong. Respondent imposed a fine after reducing it by half.

17. This incident occurred on a busy and difficult day. At the date of the incident Respondent had been a judge for only 14 months.

DEFENSES

18. As to all matters involving legal determinations as to the interpretation of statutes, case law or court rules as they relate to judicial determinations made in Respondent's official capacity as Municipal Court Judge, the Commission is without authority to review such matters and may not substitute its

1 judgement nor impose sanctions as to decisions made by the  
2 Respondent on matters of law or matters which fall within his  
3 discretion in determining appropriate resolution of a case or  
4 controversy before him.

5 19. As to the defense raised in paragraph 18 above,  
6 Respondent asserts that he had determined that the defendant was  
7 guilty but that it was apparent that the defendant strongly felt  
8 that the police officers, while truthful, were wrong about his  
9 true speed. Respondent believed that the defendant would feel  
10 better about the justice system if he felt he had a chance to  
11 avoid the ticket and that even if the defendant prevailed on the  
12 coin toss the defendant would happily accept the result but  
13 still be disinclined to speed in the future because of the  
14 remedial effect of having to come to the courthouse to oppose  
15 the ticket.

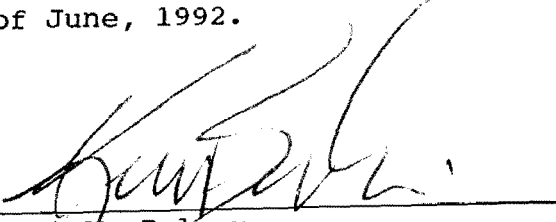
16 20. As to all matters concerning discussions of his  
17 courtroom conduct with newspaper reporters, the Commission is  
18 without authority to impose a sanction since such speech is  
19 protected speech under the United States and Washington State  
20 Constitutions, is protected by freedom of the press provisions  
21 of the United States and Washington State Constitutions, were  
22 made pursuant to Respondent's obligations as a public official  
23 and are allowable conduct pursuant to the provisions of the Code  
24 of Judicial Conduct - Cannon 3 (A) (6) which provides in  
25 relevant part:

26 This section does not prohibit judges from making  
27 public statements in the course of their official  
28 duties or from explaining for public information the  
procedures of the court.

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2 REQUEST FOR DISMISSAL

3 21. Respondent asserts that sanctions are not appropriate  
4 in this matter and asks that all allegations against him be  
5 dismissed.  
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7 Dated this 12th day of June, 1992.  
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10   
11 Kurt M. Bulmer  
12 Attorney for Respondent  
13 WSBA # 5559

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