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RIDDELL WILLIAMS P.S.

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

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In Re the Matter of)	
)	CJC NO. 95-1937-F-67
HONORABLE A. EUGENE)	
HAMMERMASTER, Judge)	ANSWER
)	
Sumner, Orting and South)	
Prairie Municipal Courts,)	
Pierce County, Washington.)	

COMES NOW, the Honorable A. Eugene Hammermaster, by and through his attorney Kurt M. Bulmer, and Answers the Statement of Charges served on him September 2, 1997, as follows:

A. ANSWER

1. As to I. Background, Paragraph A it is admitted.
2. As to I. Background, Paragraph B it is admitted.
3. As to II. Facts Supporting Charges, Paragraph A, 1 including subparts a through n, it is denied except for that portion which asserts that "Such orders would not comply with state law regarding contempt or credit toward fines for time served. See RCW 10.01.180, Ch, 10.82 and 7.21" which are legal conclusions and/or cannot be determined on the facts alleged and therefore Respondent is without knowledge or information sufficient to form a belief as to the truth of the averment so it is denied. Respondent is without knowledge or information sufficient to form a belief as to the truth of the averment that

ANSWER
PAGE 1

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1 the attached transcripts consisting of Exhibits 1 through 12 are
2 accurate transcriptions so it is denied that they are accurate
3 transcriptions.
4

5 4. As to II. Facts Supporting Charges, Paragraph A, 2
6 including subparts a through e, it is denied. Respondent is
7 without knowledge or information sufficient to form a belief as
8 to the truth of the averment that the attached transcripts
9 consisting of Exhibits 13 and 14 are accurate transcriptions so
10 it is denied that they are accurate transcriptions.

11 5. As to II. Facts Supporting Charges, Paragraph A, 3
12 including subpart a, it is denied except that it is admitted
13 that in the matter Respondent did discuss with the defendant the
14 defendant's comment that he was bored. It is denied that there
15 was anything improper in this discussion or that the discussion
16 contained "several inappropriate remarks." It is denied that any
17 inappropriate remarks were made. Respondent is without knowledge
18 or information sufficient to form a belief as to the truth of
19 the averment that the attached transcript consisting of Exhibit
20 15 is an accurate transcription so it is denied that it is an
21 accurate transcription.

22 6. As to II. Facts Supporting Charges, Paragraph A, 4
23 including subpart a, it is denied. Respondent is without
24 knowledge or information sufficient to form a belief as to the
25 truth of the averment that the attached transcript consisting of
26 Exhibits 16 is an accurate transcription so it is denied that it
27 is an accurate transcription.

28 7. As to II. Facts Supporting Charges, Paragraph A, 4

1 including subpart b, it is denied. As to the specific words "I
2 suggest you get rid of her" Respondent is without information
3 sufficient to form a belief as to the truth of the averment that
4 this is a correct transcription of the what was said so it is
5 denied. He will need to obtain and listen to the tape to
6 determine if that is an accurate and/or complete transcription
7 of what was said at the proceeding. Respondent is without
8 knowledge or information sufficient to form a belief as to the
9 truth of the averment that the attached transcript consisting of
10 Exhibit 9 is an accurate transcription so it is denied that it
11 is an accurate transcription.

12 8. As to II. Facts Supporting Charges, Paragraph A, 4
13 including subpart c, it is denied. Respondent is without
14 knowledge or information sufficient to form a belief as to the
15 truth of the averment that the attached transcript consisting of
16 Exhibit 17 is an accurate transcription so it is denied that it
17 is an accurate transcription.

18 9. As to II. Facts Supporting Charges, Paragraph A, 4
19 including subpart d, it is admitted that respondent discussed
20 with the defendant an order to compel the selling of a car. It
21 is denied that there is anything improper in this discussion or
22 that it was demeaning to the defendant. The rest of II. Facts
23 Supporting Charges, Paragraph A, 4 including subpart d is
24 denied. Respondent is without knowledge or information
25 sufficient to form a belief as to the truth of the averment that
26 the attached transcript consisting of Exhibit 18 is an accurate
27 transcription so it is denied that it is an accurate
28 transcription.

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2 10. As to II. Facts Supporting Charges, Paragraph A, 4
3 including subpart e, it is admitted that an order was issued in
4 the nature of a no contact order. It is denied that any order
5 issued was beyond Respondent's authority or that it served to
6 demean the individuals before him. The rest of II. Facts
7 Supporting Charges, Paragraph A, 4, subpart e is denied.

8 11. As to II. Facts Supporting Charges, Paragraph B,
9 including subparts a through d, it is denied. Respondent is
10 without knowledge or information sufficient to form a belief as
11 to the truth of the averment that the attached transcripts
12 consisting of Exhibits 19 and 20 are accurate transcriptions so
13 it is denied that they are accurate transcriptions.

14 12. As to II. Facts Supporting Charges, Paragraph C, 1
15 including subparts a and b, it is denied. Respondent is without
16 knowledge or information sufficient to form a belief as to the
17 truth of the averment that the attached transcript consisting of
18 Exhibits 21 and Exhibit 10, which is referenced within Exhibit
19 21, are accurate transcriptions so it is denied that they are
20 accurate transcriptions.

21 13. As to II. Facts Supporting Charges, Paragraph C, 2
22 including subparts a and b, it is denied except it is admitted
23 that Ms. Buyak filed an informal affidavit of prejudice against
24 Respondent and that a plea of guilty was entered by Ms. Buyak
25 before the court on September 24, 1996, while Judge David
26 Hammermaster was presiding and without any objection from Ms.
27 Buyak. Respondent is without knowledge or information sufficient
28 to form a belief as to the truth of the averment that the

1 attached transcripts consisting of Exhibits 22 and 23 are
2 accurate transcriptions so it is denied that they are accurate
3 transcriptions.

4 14. As to III. Basis for Commission Action, it is admitted
5 that the Commission made the probable cause determination. It is
6 denied that probable cause exists for believing that Respondent
7 violated any Canons of the Code of Judicial Conduct. It is
8 denied that Respondent violated any of the Canons cited or any
9 other Canons.

10 15. As to IV. Notification of Right to file Written Answer,
11 it is procedural in nature and requires neither admission nor
12 denial.

13 B. RESPONDENT'S FURTHER DENIALS, AFFIRMATIVE DEFENSES, AND
14 REQUEST FOR DISMISSAL

15 16. Respondent denies that he has done anything improper
16 and puts the Commission to its burden of proof.

17 17. Respondent denies that he acted outside his authority
18 or has abused that authority.

19 18. Respondent's demeanor is respectful and dignified and
20 he does not demean those before him nor does he demean their
21 relationships.

22 19. Respondent has an affirmative responsibility to
23 properly seek to require defendants to meet the terms of their
24 sentences. A failure to do would be a failure on the part of the
25 Respondent to meet his obligations as a judge.

26 20. Any and all trials held in absentia are held pursuant
27 to the rules of law of the State of Washington which permit such
28 trials.

1 21. The Commission may not make determinations as to the
2 legal sufficiency of orders or other actions taken by the
3 Respondent in his official capacity. The Commission is not an
4 appellate court and even if Respondent is wrong as a matter of
5 law on some of his determinations, the Commission may not make
6 a legal determination that he is wrong on the law nor may it
7 find him in violation of the Code of Judicial Conduct even if he
8 is wrong about the law. Defendants can appeal any and all such
9 decisions but the Commission is without authority to first
10 determine if specific rulings and orders of the Respondent were
11 lawful and to then determine that if they were not lawful that
12 they constituted violations of the Code of Judicial Conduct.

13 22. As to all matters involving legal determinations and
14 determinations as to appropriate manner and means to carry out
15 sentencing made in Respondent's official capacity as judge, the
16 Commission is without authority to review such matters and may
17 not substitute its judgement nor impose sanctions for
18 Respondent's actions in carrying out his duties.

19 23. As to all matters involving how Respondent carried out
20 the imposition of sentencing and any terms and conditions
21 thereof, the Commission is without authority to determination
22 that such actions violate the Code of Judicial Conduct or to
23 impose sanctions in relation thereto since to do so would be an
24 improper intrusion into the independence of the judiciary and
25 the discretionary authority granted to a judicial officer.
26 Furthermore, determinations of violations of the Code of
27 Judicial Conduct and imposition of sanctions will chill the
28 rights of defendants to receive a determination from a judge who

1 is free from worry that his or her lawful decisions will subject
2 him or her to discipline proceedings.

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4 24. The Commission is without authority to substitute its
5 judgement for Respondent's as to the best means to make clear to
6 defendants that their perceived defenses and excuses were not
7 adequate.

8 25. Any words attributable to Respondent in the context of
9 the proceedings cited in the Statement of Charges are protected
10 speech under the United States Constitution and the Washington
11 State Constitution.

12 26. There was no violation of any provisions of the Code
13 of Judicial Conduct nor is any sanction justified since judges
14 are required to conduct themselves in a proper manner but are
15 not subject to a standard of conduct based on the most hyper-
16 sensitive of persons in the community but rather are subject to
17 a standard of a reasonable person in the community who was
18 aware of the relevant facts. A reasonable person in the
19 community who was aware of all the relevant facts in the cases
20 identified by in the Statement of Charges would not believe that
21 the Respondent acted in a manner contrary to the Code of
22 Judicial Conduct.

23 27. The Statement of Allegations makes generalized
24 assertions of misconduct including generalized references to
25 transcripts without identifying specific words or actions that
26 are alleged to be improper. Until such time as sufficient detail
27 is provided as to these matters, Respondent reserves his right
28 to amend his Answer and to raise additional defenses.

1 28. The Statement of Charges alleges specific provisions of
2 the Code of Judicial Conduct which are alleged to have been
3 violated but does not identify which provisions are alleged to
4 have been violated by specific factual allegations. As such
5 Respondent is without adequate notice as to which provisions of
6 the Code of Judicial Conduct are alleged to have been violated
7 as they relate to specific factual allegations.

8 29. Having done nothing improper, Respondent asks that the
9 charges against him be dismissed and that the Commission take
10 all steps, which at a minimum should at least be consistent with
11 the steps taken by it in the distribution of the Statement of
12 Charges, to advise the public of the dismissal so the Respondent
13 can have some modicum of his honor and integrity restored to
14 him.

15 Dated this 23rd day of Sept., 1997.

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19 Kurt M. Bulmer, WSBA No. 5559
20 Attorney for the Honorable
21 A. Eugene Hammermaster
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