

FILED  
JUN 18 2004  
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

In re the Matter of	)	
HON. FRANCIS deVILLA	)	CJC No. 4169-F-112
Magistrate, Seattle Municipal Court	)	<b>STIPULATION, AGREEMENT</b>
	)	<b>AND ORDER OF ADMONISHMENT</b>

The Commission on Judicial Conduct and Seattle Municipal Court Magistrate Francis deVilla stipulate and agree as provided herein. This stipulation is submitted pursuant to the Washington Constitution, Article IV, Section 31 and Rule 23 of the Commission's Rules of Procedure. It shall not become effective until approved by the Washington Commission on Judicial Conduct.

**I. STIPULATED FACTS**

**A. Background**

1. Respondent Francis deVilla is now, and has been since 1991, a Seattle Municipal Court Magistrate.

2. In August 2003, the Commission on Judicial Conduct received information indicating Respondent failed to attend portions of a judicial education conference that was paid for in advance with public funds by the City of Seattle. Following an independent investigation, the Commission contacted Respondent in February 2004, to inform him that it was commencing initial proceedings. At that time, the Commission served Respondent with a Statement of Allegations and invited his response. Respondent answered the Statement of Allegations on March 5, 2004.

**B. Conduct Giving Rise to Charges of Misconduct**

1. In May 2002, Respondent registered to attend the American Judges Association's 2002 Annual Educational Conference. His attendance at the conference was approved in

1 advance by the presiding judge of the Seattle Municipal Court. The conference was held in  
2 Maui, Hawaii in September 2002, and offered six educational sessions over a four day period.

3 2. Prior to the conference, the City of Seattle paid Respondent's \$350 conference  
4 registration fee and advanced him his estimated expenses to attend the conference, which totaled  
5 \$884.08. Respondent paid for his travel, including airfare, to and from the conference.

6 3. Respondent attended the first educational session of the conference. He did not  
7 attend the remaining five educational sessions. His non-attendance was without justification.

8 4. Upon his return to Seattle, Respondent voluntarily reimbursed the City of Seattle  
9 \$1,234.08, the amount of money the City of Seattle paid in advance for him to attend the  
10 conference. Respondent also voluntarily took four days of annual leave to account for the days  
11 of the conference he missed.

## 12 II. AGREEMENT

### 13 A. Respondent's Conduct Violated the Code of Judicial Conduct

14 1. Respondent stipulates and agrees that his conduct, described above, violates  
15 Canons 1 and 2(A) of the Code of Judicial Conduct. Canon 1 of the Code of Judicial Conduct  
16 provides, "Judges shall uphold the integrity and independence of the judiciary." Canon 2  
17 provides, "Judges should avoid impropriety and the appearance of impropriety in all their  
18 activities." Canon 2(A) specifies, "Judges should respect and comply with the law and should  
19 act at all times in a manner that promotes public confidence in the integrity and impartiality of  
20 the judiciary."

21 2. The City of Seattle paid for Respondent to attend the judicial education  
22 conference referenced above. Respondent was there at public expense, while on public payroll  
23 time and as a representative of the Seattle Municipal Court. He was expected to personally and  
24 substantially participate in the conference. By terminating his participation in the conference  
25 without justification to pursue non-judicial activities, Respondent misused public resources and  
26 frustrated reasonable public expectation that he would attend the conference in good faith. His  
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1 actions thereby undermined public confidence in the integrity of the judiciary.<sup>1</sup>

2 3. Although Respondent promptly reimbursed the City of Seattle the amount of  
3 money it had advanced to him to attend the conference, his conduct nonetheless created the  
4 appearance that he used the conference as a pretext to take a vacation at public expense.

5 **B. Sanction**

6 1. The sanction imposed by the Commission must be commensurate to the level of  
7 Respondent's culpability and sufficient to restore and maintain the dignity and honor of the  
8 judicial position. The sanction imposed must also be sufficient to protect the public by assuring  
9 that Respondent and other judicial officers will refrain from similar acts of misconduct in the  
10 future.

11 2. In arriving at this disposition, the Commission takes into account the aggravating  
12 and mitigating factors enumerated in Rule 6(c) of its Rules of Procedure.

13 a. *Characteristics of the Misconduct.* Respondent's misconduct was limited  
14 to a single, isolated incident that occurred outside the courtroom. The available evidence shows  
15 his decision to abandon the conference was not predetermined or done with aforethought.  
16 Respondent has consistently stated he decided to reimburse the City of Seattle for the costs  
17 associated with the conference at the time he decided to discontinue his participation in the  
18 conference. His actions did not injure any specific individual. These factors mitigate  
19 Respondent's behavior. There are, however, factors that aggravate Respondent's misconduct  
20 as well. Although, as noted above, his misconduct occurred off the bench, Respondent was at  
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22 1/ The Commission distinguishes Respondent's actions from those of Seattle Municipal Court  
23 Magistrates Charles Duffey, Shirley Wilson and Deborah Hankins who, it was widely reported, also failed to  
24 attend portions of the same judicial education conference. The evidence shows that these magistrates missed  
25 only one or two educational sessions, and did so because they believed those sessions were not applicable to  
26 their judicial responsibilities. Like Respondent, these magistrates voluntarily repaid the City of Seattle a portion  
27 of the money advanced to them and took vacation leave for the day(s) they did not attend an educational  
28 session. In addition, like Respondent, they agreed to pay fines to the Seattle Ethics and Elections Commission  
for their actions, and publicly acknowledged exercising poor judgment by not attending portions of the  
conference. The Commission does not condone their actions; they too arguably misused, albeit to a lesser  
degree, public resources. After considering the totality of all relevant circumstances, however, and recognizing  
that not all transgressions of the Code of Judicial Conduct warrant disciplinary action, the Commission declines,  
in the interest of justice, to sanction these three magistrates.

1 the time acting in his official capacity as a representative of the Seattle Municipal Court. It was  
2 his judicial position that provided him the opportunity to be in Maui, Hawaii. His conduct  
3 occurred during the height of a city and state-wide budget crisis. His impropriety received a  
4 great deal of media attention and, understandably, the public expressed strong condemnation  
5 for his actions when reported. As a consequence, Respondent's misconduct diminished the  
6 public's confidence in the integrity of the state's judiciary.

7           b. *Service and Demeanor of the Respondent.* Respondent has been a magistrate  
8 since 1991 and has had no prior disciplinary actions brought against him. Respondent  
9 cooperated with the Commission's investigation. He candidly admitted wrongdoing and  
10 immediately expressed recognition that his actions demonstrated poor judgement. In his  
11 response to the statement of allegations, Respondent acknowledged that his behavior "reflected  
12 poorly upon the judiciary and may have given at least the appearance of impropriety as set forth  
13 in Canons 1 and 2(A) of the Code of Judicial Conduct."<sup>2</sup> Moreover, Respondent acquiesced  
14 willingly to a Seattle Ethics and Elections Commission's investigation and agreed in that  
15 proceeding to pay a \$500 fine for his misuse of public resources and error in judgment. Finally,  
16 Respondent made full and complete reparations to the City of Seattle and its municipal court  
17 prior to being contacted by the Commission or the Seattle Ethics and Elections Commission.  
18 The responsible and forthright manner in which Respondent has dealt with this situation  
19 evidences a commitment to refrain from acts of misconduct in the future and militates against  
20 a more severe sanction.

21           3. Based upon the stipulated facts, upon consideration and balancing of the  
22 aggravating and mitigating factors and Respondent's desire to resolve this matter, Respondent  
23 and the Commission agree that Respondent's stipulated misconduct shall be sanctioned by the  
24 imposition of an admonishment.

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26 2/       See, Response to Statement of Allegations, dated March 5, 2004, attached as Exhibit 1.

1        Standard Additional Terms of Commission Stipulation

2            4.        Respondent represents that he either consulted or had an opportunity to consult  
3 with counsel of his choosing regarding this stipulation and proceeding. Respondent voluntarily  
4 enters into this stipulation.

5            5.        Respondent agrees that by entering into this stipulation and agreement, he waives  
6 his procedural rights and appeal rights in this proceeding pursuant to the Commission on  
7 Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State  
8 Constitution.

9            6.        Respondent further agrees that he will not retaliate against any person known or  
10 suspected to have cooperated with the Commission, or otherwise associated with this matter.

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14        Honorable Francis deVilla, Respondent  
          Seattle Municipal Court Magistrate

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16        6/17/04  
          Date

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18        Barrie Althoff, Executive Director  
          Commission on Judicial Conduct

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20        June 17, 2004  
          Date

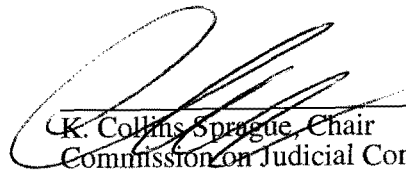
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27        **STIPULATION, AGREEMENT AND**  
28        **ORDER OF ADMONISHMENT - 5**

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**ORDER OF ADMONISHMENT**

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent Francis deVilla admonished for the above set forth violations of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future.

DATED this 18<sup>TH</sup> day of JUNE, 2004

  
K. Collins Sprague, Chair  
Commission on Judicial Conduct

Response to Statement of Allegations  
CJC Complaint No. 4169

In October 2002 I was registered to attend the American Judges Association Annual Conference on Maui, Hawaii. I paid airfare and hotel accommodations in advance. Seattle Municipal Court paid tuition for the conference. I received a check from the court for anticipated expenses incurred in attending the conference about a week before my departure.

After attending the first morning of the conference and having an opportunity to review the conference agenda, I decided to terminate my participation. Having made this decision, I also determined that it would be appropriate to reimburse the court for all expenses and advances paid to me relative to the Maui conference. Additionally, I was going to charge the remaining four workdays against my personal vacation days. My decision to take these actions upon my return was made when I decided to terminate my participation. I did in fact do so after returning to Seattle.

In regards to the conduct violating the City of Seattle Code of Conduct I believe there may have been an issue of jurisdiction in this case. Does the executive branch of government have the authority to discipline a member of the judiciary for conduct related to their work? Rather than involving the city in what could have been prolonged litigation of that issue, I decided that it would be better for the court, city and myself to settle the matter. In fact it was the Municipal Court Magistrates who initiated contact with the ethics commission upon hearing that an investigation of the incident was being contemplated. It was the magistrates who first proposed settlement of the matter.

I agree that such conduct may have reflected poorly upon the judiciary and may have given at least the appearance of impropriety as set forth in Canons 1 and 2 (A) of the Code of Judicial Conduct. This certainly was not my intention.

It is my intention to settle this complaint in a fair and expeditious manner by stipulation prior to the filing of the Statement of Charges.

I certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

March 5, 2004  
Seattle, Washington

  
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Francis deVilla, Magistrate  
Seattle Municipal Court