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**BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON**

**FILED**  
JUN 10 2005  
COMMISSION ON JUDICIAL CONDUCT

In re the matter of: )  
 )  
The Honorable Merle Krouse, )  
Former Judge of the Lewis )  
County District Court )  
 )  
\_\_\_\_\_ )

CJC No. 4560-F-117

**STIPULATION, AGREEMENT  
AND ORDER OF REPRIMAND**

The Commission on Judicial Conduct and Merle Krouse, former judge of the Lewis County District Court, stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission’s Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct.

**I. STIPULATED FACTS**

**A. The Commission on Judicial Conduct has Jurisdiction to Impose Discipline**

1. Former Judge Merle Krouse (Respondent) was at all time referred to in this document a judicial officer in the state of Washington. Respondent served as a municipal court judge for the City of Centralia from 1993 to 2003. In 2003, he was appointed to the Lewis County District Court. In November 2004, Respondent lost a contested public election to retain his seat on the Lewis County District Court.

**B. Factual Basis for Finding Judicial Misconduct**

1. During Respondent’s 2004 judicial campaign, his campaign committee co-chairperson created a campaign e-mail account (prefixed with “judgekrouse”) to communicate with Respondent’s known supporters. The e-mail account had a mailing list of approximately forty addresses. On three occasions – September 6, 8 and 11, 2004 – Respondent’s campaign

1     committee co-chairperson sent e-mails from the campaign e-mail account to individuals on the  
2     account's mailing list. These e-mails contained requests for monetary donations or  
3     contributions to assist in Respondent's campaign. The e-mails were written in the first person  
4     and two of the e-mails conclude with "Merle" in the typed signature line. Thus, as written, the  
5     e-mails appeared to have been sent directly by Respondent. (The three e-mails are attached  
6     hereto as Exhibit A.)

7             2.     On September 16, 2004, at Respondent's direction, Respondent's co-  
8     chairperson sent an e-mail to the individuals on the mailing list clarifying that he, not  
9     Respondent, wrote and transmitted all communications from the campaign e-mail account, and  
10     that Respondent's campaign committee was responsible for all fund-raising requests and  
11     communications sent from that account

12             3.     In late August 2004, Respondent presided over a traffic infraction hearing.  
13     After the hearing concluded and court was adjourned for the day, Respondent questioned the  
14     attorney involved in the hearing about the attorney's apparent support for Respondent's judicial  
15     opponent in the forthcoming election. Specifically, Respondent inquired why a campaign sign  
16     endorsing Respondent's opponent was displayed in the yard in front of the attorney's law  
17     office, and whether the display meant the attorney was supporting Respondent's opponent. The  
18     conversation was cordial, but it occurred in Respondent's courtroom, while Respondent was  
19     on the bench wearing his judicial robe and immediately following a hearing in which the  
20     attorney participated.

21             4.     In 2002, when Respondent was a municipal court judge (and a judicial candidate  
22     for a seat on the district court bench), he attended a political function for U.S. Congressional  
23     candidate Trent Matson, at which time he personally contributed \$75 to Mr. Matson's political  
24     campaign.

## 25                                     II. AGREEMENT

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

27             1.     Based upon the foregoing stipulated facts, Respondent agrees he violated  
28

1 Canons 1, 2(A), and 7(B)(2) of the Code of Judicial Conduct by appearing to personally solicit  
2 campaign contributions in the three e-mails referenced above. Canons 1 and 2(A) require  
3 judges to uphold the integrity of the judiciary by avoiding impropriety and the appearance of  
4 impropriety and by acting at all times in a manner that promotes public confidence in the  
5 integrity and impartiality of the judiciary. Canon 7(B)(2) provides in part, "Candidates,  
6 including incumbent judges, for a judicial office that is filled by public election between  
7 competing candidates shall not personally solicit or accept campaign contributions."  
8 Respondent acknowledges that the manner in which the e-mails were drafted gave the  
9 appearance the request for contributions therein were initiated by him directly. Respondent  
10 maintains he was unaware of the e-mail communications prior to their dissemination, and that  
11 the violations were inadvertent and were promptly corrected upon discovery. Canon 7(B),  
12 however, places the responsibility upon the judicial candidate to control the content of  
13 communications made on the candidate's behalf by individuals subject to the candidate's  
14 direction or control. Even though the e-mails at issue were transmitted by a member of  
15 Respondent's campaign committee, it was Respondent's duty to assure those communications  
16 complied with the Code of Judicial Conduct.

17 2. Respondent further agrees he violated Canons 1, 2(A) and 2(B)<sup>1</sup> of the Code of  
18 Judicial Conduct by asking an attorney to explain why a campaign sign endorsing  
19 Respondent's opponent was displayed in front of the attorney's office building. Although, as  
20 noted, the conversation was described as casual and non-threatening, it was nonetheless  
21 inappropriate because it took place in the courtroom during court hours and while Respondent  
22 was on the bench in his judicial robe. In these circumstances, Respondent's conduct could  
23 reasonably be perceived as an attempt to exert, at least implicitly, influence over the attorney.  
24 Judges must be careful to avoid even the perception of exploiting the power inherent in the  
25 judicial office to advance their private interests.

26 \_\_\_\_\_  
27 1/ Canon 2(B) of the Code of Judicial Conduct provides in part, "Judges should not lend the prestige of  
28 judicial office to advance the private interests of the judge or others; nor should judges convey or permit others  
to convey the impression that they are in a special position to influence them."

1           3.       Finally, Respondent agrees he violated Canons 1, 2(A) and 7(A)(1)(f) of the  
2 Code of Judicial Conduct when he contributed \$75 to Trent Matson’s congressional campaign  
3 in 2002. Canon 7(A)(1)(f) prohibits judges or candidates for election to judicial office from  
4 “contribut[ing] to a political party, a political organization or nonjudicial candidate.”  
5 Respondent’s monetary donation was a personal political contribution to a nonjudicial  
6 candidate expressly prohibited by the Code of Judicial Conduct.

7 **B.       Imposition of Sanction**

8           1.       Based upon the stipulated facts, upon consideration and balancing of the  
9 aggravating and mitigating factors set out in CJCRP 6(c), Respondent and the Commission  
10 agree that Respondent’s stipulated misconduct shall be sanctioned by the imposition of a  
11 reprimand. A “reprimand” is a written action of the Commission that requires a respondent  
12 to appear personally before the Commission and that finds that the conduct of the respondent  
13 is a violation of the Code of Judicial Conduct, but does not require censure or a  
14 recommendation to the supreme court that the respondent be suspended or removed. A  
15 reprimand shall include a requirement that the respondent follow a specified corrective course  
16 of action. Reprimand is the intermediate level of disciplinary action available to the  
17 Commission.

18           2.       In entering this stipulation, the Commission takes into account that Respondent  
19 served as a judicial officer for 12 years and had no prior disciplinary actions. He self-reported  
20 the violations described above in paragraphs I.B.1 and I.B.2 and fully cooperated with the  
21 Commission’s investigation. He candidly acknowledged that the acts occurred and that they  
22 were inappropriate. On the other hand, the foregoing acts of misconduct constitute more than  
23 one incident, and are distinct in nature. The Canons proscribing the misbehavior in which  
24 Respondent engaged are clear, and his failures to abide by these clear and determined ethical  
25 standards demonstrate an unacceptable laxity toward his ethical obligations.

26           3.       Respondent agrees that he will not repeat such conduct in the future, mindful  
27 of the potential threat any repetition of his conduct poses to public confidence in the integrity

1 and impartiality of the judiciary and to the administration of justice.

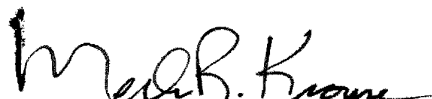
2 4. Respondent agrees he will promptly read and familiarize himself with the Code  
3 of Judicial Conduct in its entirety.

4 5. Respondent agrees he will, prior to seeking election to a judicial office,  
5 complete a course on judicial campaign ethics approved in advance by the Commission's Chair  
6 or her/his designee.

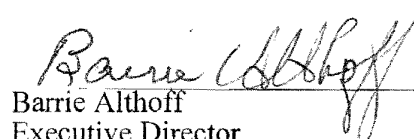
7 Standard Additional Terms and Conditions

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

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

14   
15 Merle Krouse

15 5-2-05  
Date

16  
17   
18 Barrie Althoff  
19 Executive Director  
Commission on Judicial Conduct

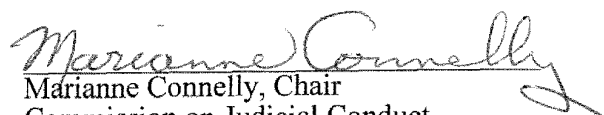
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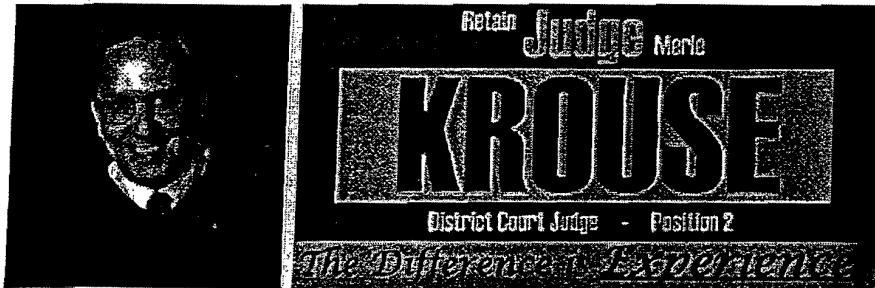
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**ORDER OF REPRIMAND**

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Merle Krouse, reprimanded for the above set forth violations of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 10 day of June, 2005

  
Marianne Connelly, Chair  
Commission on Judicial Conduct



Dear Friends,

This week we have been making great progress both in doorbelling and in signage. If you travel North Pearl street in Centralia, you may have noticed a sudden surge in my signs there! I greatly appreciate all those who have provided sign locations, and we are always looking for more! Let me know if there is any way you, or someone you know can help.

I want you to be the first to know about an upcoming event! This coming Wednesday, September 9th from 7:00 PM to 9:00 PM, there will be a "Get-to-Know Merle" gathering at the home of .

This will be a great opportunity for people to get to know me, and become familiar with my judicial background and experience. It will also be a chance for those who would like to donate time or money to my campaign to jump on board! I would greatly appreciate your help in spreading the word about this event to friends that might be interested.

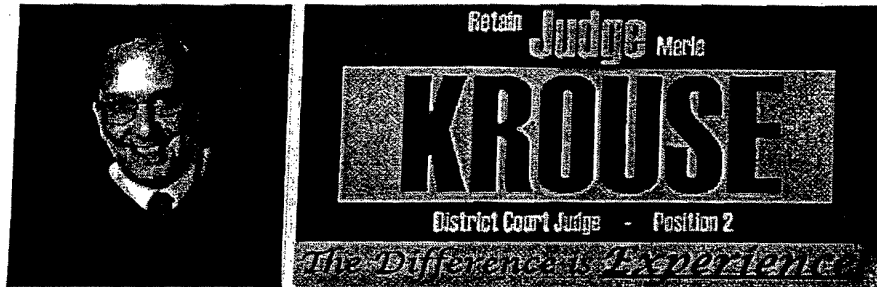
Needless to say, all these signs, brochures, and ads are an ongoing expense. The hardest part of running a campaign is asking friends and family for help. I hope you can find the time to attend on Wednesday , but if you can't and would like to make a donation of time, money, or help in some other way, please let me know. Monetary donations can be made to "People for Merle Krouse" and sent to the address below. If you want to volunteer your time and energy, just reply to this e-mail!

Thank you so much for your support!

Merle

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EXHIBIT NO. **A** (1/3)



Dear Friends,

Thank you for joining our Internet Campaign Team! Through this mailing list, I will keep you updated on our progress during the weeks ahead, and let you know what you can do to help make a difference. Just by forwarding my E-mails to friends and family in the area, you can help me spread the word about my candidacy for District Court Judge, my experience, and my dedication to the courts and people of Lewis County.

We are in constant need of donations and volunteers, and there are many ways that you can help today! If you can assist in any of the following ways, please let me know as soon as possible:

- Allow us to use your name for endorsement
- Monetary donation
- Help with passing my literature in your neighborhood
- Sign locations
- Helping put up and maintain signs in your area
- Encourage friends to join this temporary mailing list

The position of District Court Judge is one of great responsibility. With over 17 years practicing law and more than 12 years serving as a judge, I believe I have the experience needed to serve the people of Lewis County efficiently, impartially, and with integrity. Getting my message to voters, however, will take the help of people like you. Together, we can make all the difference in November.

Thanks so much for your support!

Merle

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The Difference is Experience!  
People for Merle Krouse - District Court Judge  
PO Box 597, Napavine, WA 98565

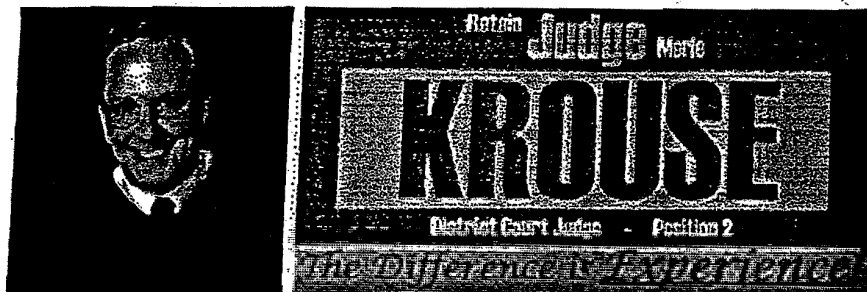
EXHIBIT NO. A (2/3)



Subject: Can you spare \$20.04?

Date: Sat, 11 Sep 2004 13:01:02 -0800

From: People for Merle Krouse <judgekrouse@spamex.com>



Dear Friends:

Can you spare \$20.04? It seems like a small amount, but your donation of \$20.04 will buy one 60-second radio spot! Radio is a highly effective tool in the Lewis County area, and we plan on taking advantage of that as best we can.

Your donation really can have a tremendous impact on our campaign efforts. Every donation of \$20.04 allows me to reach hundreds of potential voters throughout Lewis County, and particularly those in the harder-to-reach remote areas. The people that hear *your ad* could be the ones that make all the difference!

It may seem like a long time until the general election, but with so many precincts voting by mail these days, a majority of votes will already be cast long before that. We have to be ready to make an impact when the absentee ballots are released, and that's only about a month away! An incredible amount of information about my experience and dedication to the courts can be put into a 60-second radio ad. The more of them we have running, the better the chance that my message will be heard, and most importantly...remembered when the ballot is cast!

Please join the effort by sending a donation of \$20.04 (or more) to "People for Merle Krouse", PO Box 597, Napavine, WA 98565.

Many thanks for your continued support -I couldn't do it without you!

\*\*\*\*\*

The Difference is Experience!  
People for Merle Krouse - District Court Judge  
PO Box 597, Napavine, WA 98565

EXHIBIT NO. A (3/3)