

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of:

The Honorable A. Mark Vanderveen,
Pro tem Judge, Edmonds Municipal Court

4793-F-122

STIPULATION, AGREEMENT AND
ORDER OF CENSURE

The Commission on Judicial Conduct and A. Mark Vanderveen, former pro tem Edmonds Municipal Court Judge (Respondent), do hereby stipulate and agree as provided herein. This stipulation is submitted pursuant to the Washington Constitution, Article IV, Section 31 and CJCRP 23, and shall not become effective until approved by the Washington Commission on Judicial Conduct.

Respondent is represented by Attorney Kurt Bulmer in this proceeding.

STIPULATED FACTS

1. Respondent was at all relevant times discussed herein a pro tem judge of the Edmonds Municipal Court, in Snohomish County, Washington.
2. On July 22, 2005, Mr. Vanderveen pled guilty in U.S. District Court in Seattle to the felony crime of Failing to File a Currency Transaction Report, a violation of Title 31, United States Code, Sections 5331(a) and 5322.
3. The felony offense of Failing to File a Currency Transaction Report is punishable by imprisonment for up to five years, a fine of up to \$250,000, and a period of supervised release of two to three years to follow imprisonment.
4. Mr. Vanderveen has, since his guilty plea, ceased to serve as pro tem judge for the City of Edmonds or in any other judicial capacity.

AGGRAVATING AND MITIGATING FACTORS

In accepting this stipulation, the Commission has taken into account the following

1 aggravating and mitigating factors¹:

2 **A. Aggravating Factors:**

- 3 1. Whether the misconduct is an isolated incident or evidence of a pattern of
4 misconduct; and whether there has been prior discipline against the judge

5 Respondent has no prior history of judicial misconduct.

- 6 2. Nature, extent, and frequency of occurrence of the acts of misconduct

7 The misconduct is a single incident based on Respondent having taken two cash
8 payments totaling \$20,000 and then failing to file Form 8300 as required by law. This is
9 a violation of a federal felony statute

- 10 3. Whether the misconduct occurred in or out of the courtroom; and whether in
11 the judge's official capacity or in the judge's private life

12 The misconduct occurred out of the courtroom, in the judge's life as an attorney.
13 The Code of Judicial Conduct is applied to a judge's personal conduct when that conduct
14 impacts the ability of the judge or others to properly discharge their official duties or where
15 the judge's personal conduct otherwise adversely reflects on the judge's integrity or fitness
16 for office.

- 17 4. The nature and extent to which the acts of misconduct have been injurious
18 to other persons

19 A federal felony offense by a judge is is injurious to the integrity of the bench and
20 to society as a whole.

- 21 5. The extent to which the judge exploited the judge's official capacity to satisfy
22 personal desires

23 Although Respondent, as both an attorney and as a pro-tem judge, was in a position
24 of trust and responsibility, there is no indication that he exploited his status as judge in
25 engaging in the misconduct at issue.

- 26 6. The effect the misconduct has upon the integrity of and respect for the
27 judiciary

28 Conviction of a serious felony of this nature brings public disrepute to the bench.

¹CJCRP 6(c)

1 **B. Mitigating Factors:**

2 7. Whether the judge has acknowledged or recognized that the acts occurred

3 Respondent has acknowledged the behavior, pled guilty, and has accepted
4 responsibility for his actions.

5 8. Whether the judge has evidenced an effort to change or modify the conduct

6 At this writing, Respondent is pending sentencing in federal court.

7 9. The judge's length of service in a judicial capacity

8 Respondent has been a pro tem judge in Edmonds Municipal Court since 2001.

9 10. Whether the judge cooperated with the commission investigation and
10 proceeding

11 Respondent has cooperated with the investigation and proceeding.

12 **AGREEMENT**

13 1. Based upon the foregoing stipulated facts, Respondent agrees that he
14 violated Canons 1 and 2(A) of the Code of Judicial Conduct².

15 2. Respondent hereby agrees to accept a censure and to the imposition of
16 corrective terms and conditions. A censure is a written action of the Commission that finds
17 that the conduct of the respondent violates a rule of judicial conduct, detrimentally affects
18 the integrity of the judiciary, and undermines public confidence in the administration of
19 justice. It is the highest level of discipline the Commission can impose.

20 3. This stipulation is accepted partly in recognition of the fact that Respondent
21 has ceased to serve as pro tem judge for the City of Edmonds.

22 4. Respondent agrees that he will not repeat this misconduct in the future.

23 5. Respondent further agrees he shall not seek nor hold any judicial office, nor
24 perform any judicial duties in the future without first securing approval from the
25 Commission in the manner provided in CJCRP 28, or its successor or replacement rule.
26 Respondent agrees that should Respondent seek any position involving judicial or quasi-

27 _____
28 ²See attachment

1 judicial functions, the Commission may release information to a governmental or judicial
2 qualifications organization pursuant to CJCRP 11, or the successor or replacement rule.
3
4
5
6

7
8 
Respondent A. Mark Vanderveen

Dated: 08 November 2005

9
10 
Kurt Bulmer, Attorney for Respondent

Dated: 12/1/05


11
12 
J. Reiko Calner
13 Executive Director
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: 12-7-05

1
2
3
4 **ORDER OF CENSURE**
5

6 Based upon the above Stipulation and Agreement, the Commission on Judicial
7 Conduct hereby orders and Judge A. Mark Vanderveen is hereby CENSURED for violating
8 Canons 1 and 2(A) the Code of Judicial Conduct. Respondent shall fulfill the terms of the
9 agreement as above set forth.

10
11 DATED this 7th day of December, 2005.
12
13
14

15 
16 Marianne Connelly, Chairperson
17 Commission on Judicial Conduct
18
19
20
21
22
23
24
25
26
27
28

Attachment

CANONS 1 and 2(A)
of the Code of Judicial Conduct

CANON 1

Judges shall uphold the integrity and independence of the judiciary.

An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining and enforcing high standards of judicial conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

Comment

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

CANON 2

Judges should avoid impropriety and the appearance of impropriety in all their activities.

(A) Judges should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) Judges should not allow family, social, or other relationships to influence their judicial conduct or judgment. Judges should not lend the prestige of 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. Judges should not testify voluntarily as character witnesses.

Comment

Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities.

The testimony of judges as character witnesses injects the prestige of their office into the proceeding in which they testify and may be misunderstood to be an official testimonial. This canon however, does not afford judges a privilege against testifying in response to a subpoena.