

FILED
OCT 2-4 2007
COMMISSION ON JUDICIAL CONDUCT

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

ORIGINAL

In re the matter of)
The Honorable Mark C. Chow)
Judge, King County District Court)

CJC No. 5299-F-134

**STIPULATION, AGREEMENT
AND ORDER OF
ADMONISHMENT**

The Commission on Judicial Conduct and the Honorable Mark C. Chow, Judge of the King 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.

Judge Chow has been represented in these proceedings by attorney Anne Bremner. The Commission has been represented by attorney Steven Reisler.

I. STIPULATED FACTS

A. Judge Mark C. Chow (Respondent) is now, and was at all times referred to in this document, a judge of the King County District Court. Respondent has served in that capacity since 1991.

B. On February 15, 2007, Respondent, through his attorney, contacted the Commission on Judicial Conduct to report an incident which had occurred in his courtroom on January 23, 2007. The Commission, after conducting an independent investigation, commenced initial proceedings on April 10, 2007, by serving Respondent with a Statement of Allegations which alleged that on January 23, 2007, Respondent made inappropriate comments during two separate court proceedings. Respondent answered the Statement of Allegations on May 1, 2007, admitted the factual allegations and said that he was presiding on a Jail Court Calendar in one instance and on the other was presiding in Mental Health Court, where he usually

employs somewhat colloquial language in an effort to communicate more directly with defendants therein or to put them more at ease, and he now realizes his use of language on the specific occasions cited by the Commission were not appropriate for a judge in any court.

C. In case number 570018065, Respondent presided over a hearing in which a defendant entered a guilty plea to a misdemeanor theft charge and Respondent imposed sentence. At the conclusion of that hearing, the defendant made a vulgar suggestion to Respondent, to which Respondent replied, "I would if you pulled it out but you can't find it." This was the incident self-reported by Respondent.

D. In a separate matter, while presiding over Mental Health Court, Respondent asked a female defendant of color, "What flavor are you?" When the defendant responded that she was half Japanese, Respondent asked, "No Chinese? See I'm Chinese." After the woman confirmed she was not Chinese, Respondent said, "That's okay. My wife's Japanese, you've got some good." To the next defendant, also a female of color, Respondent said that "I think I know what flavor you are so I'm not even going to ask."

II. AGREEMENT

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

1. Based upon the foregoing stipulated facts, Respondent agrees he violated Canons 1, 2(A), and 3(A)(3) of the Code of Judicial Conduct.

2. Canons 1 and 2(A) require judges to uphold the integrity of the judiciary by avoiding impropriety and the appearance of impropriety and by acting at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Discourteous and undignified behavior by a judge in the courtroom erodes the public's confidence in the quality of justice administered by that judge. The public is more likely to respect and have confidence in the integrity and fairness of a judge's decision if the judge is outwardly respectful, patient and dignified. Canon

3(A)(3) requires judges to be patient, dignified and courteous to all persons with whom the judges deal in their official capacity.

3. In the first instance above, while the defendant's comment to the court was offensive and contemptuous, Respondent was nonetheless obligated to maintain the decorum of the proceeding and the dignity of his office. Being a judge means being civil even to those who are uncivil and rising above the chaos that sometimes occurs in court to set an example for others. Respondent immediately recognized the impropriety of his retort and shortly thereafter apologized to those in court. In the second instance, in Mental Health Court, Respondent's inquiry into defendants' ethnicity, though well-intentioned, gave the appearance that a person's ethnic background is relevant in his court, either positively or negatively, and further, the use of the term "flavor" could appear to those observing that the judge was being demeaning.

B. Imposition of Sanction

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

2. In entering this stipulation, the Commission takes into account the factors set out in CJCRP 6(c).

A. Characteristics of Respondent's Misconduct. Respondent's violation of the Code of Judicial Conduct is serious. The acts of misconduct are not isolated, but neither are they frequent nor habitual. The misconduct occurred in the courtroom, during court proceedings, and while Respondent was acting in his official capacity. Respondent has credibly explained to the Commission that his intention in using colloquial language in Mental Health Court and by inquiring of only

Asian/American defendants' ethnicity, he was attempting to put them at ease and to express some kind of comradery with them, as a person of Asian American descent himself. The parties agree that inquiring into ethnicity by such language in other settings is not inherently offensive. On further reflection after contact by the Commission, Respondent concedes that even in a therapeutic court setting, the roles of judge and defendant are very unequal. He further acknowledges that raising the question of defendants' ethnicity from the bench could give those in the courtroom the appearance that he might favor or disfavor defendants based on their ethnic backgrounds. A judge should be mindful of the impression his words from the bench make on others present in court. By using such inappropriate language in court, he diminished public confidence in and respect for the courts.

B. Service and Demeanor of Respondent. Respondent has been a judicial officer for 16 years and has had one prior, unrelated, disciplinary action. He self-reported the conduct and has cooperated with the Commission's investigation. He acknowledges that the acts occurred, that they were inappropriate and will not be repeated. He has expressed remorse for his unprofessional behavior and recognizes the need to change his demeanor.

3. Based upon the stipulated facts, upon consideration and balancing of the aggravating and mitigating factors, Respondent and the Commission agree that Respondent's stipulated misconduct shall be sanctioned by the imposition of an admonishment. An "admonishment" is a written action of the Commission of an advisory nature that cautions a respondent not to engage in certain proscribed behavior. An admonishment may include a requirement that the respondent follow a specified corrective course of action. Admonishment is the least severe disciplinary action available to the Commission.

4. Respondent agrees that he will participate in ethics training, approved in advance by the Commission Chair or her designate, at the National Judicial College,

accredited law school or judicial seminar, or a similar institution or program no later than one year from the date this stipulation is accepted by the Commission. Respondent agrees he will complete such training at his own expense and will certify the completion of such training in writing within one year from the date this stipulation is accepted by the Commission.

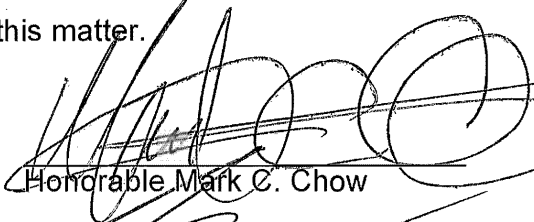
5. Respondent agrees that he will not repeat such conduct in the future, mindful of the potential threat any repetition of his conduct poses to public confidence in the integrity and impartiality of the judiciary and to the administration of justice.


6. Respondent agrees that he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety.

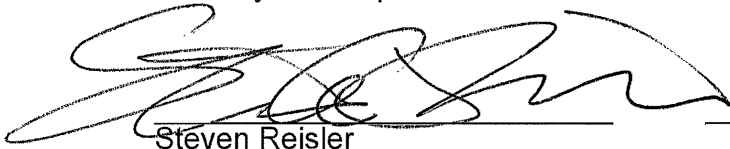
Standard Additional Terms and Conditions

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

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


Honorable Mark C. Chow 10/18/07
Date

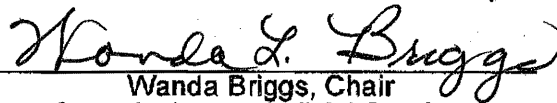

Anne Bremner
Attorney for Respondent 10/18/07
Date


Steven Reisler
Disciplinary Counsel for the
Commission on Judicial Conduct 10.19.07
Date

ORDER OF ADMONISHMENT

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Mark C. Chow, admonished 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 24 day of October, 2007


Wanda Briggs, Chair
Commission on Judicial Conduct