

FILED
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COMMISSION ON JUDICIAL CONDUCT

1
2 **BEFORE THE COMMISSION ON JUDICIAL CONDUCT**
3 **OF THE STATE OF WASHINGTON**

4 In Re the Matter of:) CJC No. 5578-F-137
5)
6 Colleen Hartl,)
7 Former Judge of the Federal Way)
Municipal Court) **STIPULATION, AGREEMENT**
AND ORDER OF CENSURE

8
9 The Washington Commission on Judicial Conduct ("Commission") and Colleen Hartl,
10 former Judge of the Federal Way Municipal Court ("Respondent"), stipulate and agree as
11 provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the
12 Washington Constitution and Rule 23 of the Commission's Rules of Procedure.

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14 **I. STIPULATED FACTS**

15 1. From May 14, 2007, until December 18, 2007, Respondent served as a Federal
16 Way Municipal Court Judge. For six years preceding her service on the Federal Way
17 Municipal Court bench, Respondent was a part-time Judge of the Des Moines Municipal Court.
18 Respondent has not performed judicial functions since December 18, 2007.

19 2. On Friday evening, December 14, 2007, Respondent hosted a holiday party at
20 her house, attended by several Federal Way Municipal Court employees. During the course
21 of her party, Respondent became highly intoxicated and revealed to a group of court employees
22 that she had been sexually intimate with one of the contract public defenders who frequently
23 appeared before her in court. Respondent also showed these court employees a recent text
24 message from the public defender complimenting her appearance.

25 3. On Monday, December 17, 2007, Respondent contacted the Commission office
26 and reported that she had hosted a party for court staff the preceding Friday, during which she
27 became highly intoxicated and told some members of her court staff that she had "gone out for
28 drinks one time" with one of the public defenders and that "some flirtation" had occurred.

1 Respondent assured the Commission staff that was the extent of her disclosure to the court
2 employees at her party. Respondent further assured the Commission staff, upon questioning,
3 that her relationship with the public defender only involved drinks, flirtation and some
4 discussion about “getting together for a date” in the future. She was unequivocal that no
5 further inappropriate activity with the public defender had occurred, and that she had not told
6 staff at the party that anything more than verbal flirtation had taken place.

7 4. Later in the day on December 17, 2007, Respondent left a voice message for
8 the Federal Way Municipal Court Administrator, who was present at the party.¹ In her voice
9 message, Respondent advised the administrator that she had just contacted the Commission.
10 Respondent said she had told the Commission that she and the public defender “went out for
11 drinks and there was a flirtation and, you know, something about dating, quote unquote, and
12 text messages.” Respondent asked the administrator to pass that information on to the other
13 clerks who were present at her party and to let Respondent know if she should “add to that or
14 if they would support that version.”

15 5. Respondent left her employment with the Federal Way Municipal Court on
16 December 18, 2007. Respondent’s sudden departure, together with the foreseeable public
17 dissemination of her admissions and unseemly behavior at her party, received considerable
18 public notoriety and media attention and significantly disrupted the court’s operations.

19 6. The Commission independently investigated Respondent’s self-reported
20 complaint and commenced initial proceedings by serving Respondent with a Statement of
21 Allegations on February 8, 2008. The Statement of Allegations alleged, in part, that
22 Respondent violated the Code of Judicial Conduct by presiding over matters in which a lawyer
23 with whom she had an current intimate relationship appeared as counsel. The Statement of
24 Allegations further alleged Respondent’s submission of facts and details during her telephone
25 call to the Commission was evasive and misleading, and that Respondent’s message to the
26 former court administrator evidenced an attempt to influence the statements and testimony of
27

28 ¹ That administrator has since left the city’s employment.

1 potential witnesses in a Commission proceeding.

2 7. Respondent answered the Statement of Allegations on March 14, 2008. In her
3 answer, Respondent acknowledged having been involved in an intimate relationship with one
4 of the public defenders – what she characterized as a friendly relationship that began in early
5 December 2007, and included a single sexual encounter on December 13, 2007. Respondent
6 acknowledged disclosing that she had a sexual relationship with the public defender to five
7 court employees during her party on December 14, 2007. Respondent denied attempting to
8 induce anyone to be dishonest with the Commission, and wrote that she did not have a clear
9 memory of what she told the Commission staff when she self-reported this matter on
10 December 17, 2007.

11 II. AGREEMENT

12 A. Jurisdiction.

13 The Commission retains jurisdiction and the authority to proceed with disciplinary
14 proceedings against a retired or former judge pursuant to RCW 2.64.057 and CJCRP 2(b)(2).

15 B. Respondent's Conduct Violated the Code of Judicial Conduct.

16 1. Respondent agrees her conduct, described above, violated Canons 1, 2(A),
17 3(A)(5) and 3(D)(1) of the Code of Judicial Conduct.

18 2. Canons 1 and 2(A) of the Code require judges to uphold the integrity of the
19 judiciary by avoiding impropriety and the appearance of impropriety and by acting at all times
20 in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
21 Canon 3(A)(5) requires judges to perform judicial duties without bias or prejudice, and Canon
22 3(D)(1) requires that judges disqualify themselves from presiding over a proceeding in which
23 their impartiality might reasonably be questioned.

24 3. By entering into an intimate relationship with a lawyer who practiced before
25 her, and then presiding over matters in which the lawyer appeared as counsel, Respondent
26 failed to act in a manner that promotes public confidence in the integrity and impartiality of
27 the judiciary, in violation of Canons 1 and 2(A). Continuing to preside over cases in which
28

1 the lawyer appeared during the relationship also raises reasonable concerns about partiality,
2 favoritism and a lack of detached neutrality, in violation of Canon 3(A)(5) and 3(D)(1). In
3 addition, Respondent's behavior on December 14, 2007, becoming highly intoxicated in front
4 of her court staff and revealing to them details of her sexual encounter with the public
5 defender, was undignified and in violation of Canons 1 and 2(A). Her subsequent
6 conversations with the Commission staff and her voice message to the court administrator
7 reasonably appeared to be an effort to conceal her misconduct by misleading the Commission
8 and by suggesting other potential witnesses withhold relevant information. This behavior
9 calls into question her integrity, and thus violates Canons 1 and 2(A).

10 **C. A Censure is the Appropriate Sanction for Respondent's Misconduct.**

11 1. The sanction imposed by the Commission must be commensurate to the level
12 of Respondent's culpability, sufficient to restore and maintain the public's confidence in the
13 integrity of the judiciary, and sufficient to deter similar acts of misconduct in the future. The
14 Commission carefully considered the factors set out in Rule 6(c) of its Rules of Procedure in
15 determining the appropriate level of discipline to impose.

16 2. The Commission recognizes that Respondent is well-liked by many people in
17 the legal community and, until this current matter, she has had no prior disciplinary action
18 taken against her. The Commission further recognizes there is no evidence her brief personal
19 relationship with the public defender – said to have begun in early December and effectively
20 ended December 14th – actually influenced Respondent's actions in any of the cases involving
21 the attorney. Nonetheless, Respondent's misconduct had a significantly deleterious effect on
22 the public's respect for her and the judiciary. Moreover, Respondent's behavior at her party
23 was unbecoming a judicial officer and her subsequent lack of candor is inimical to the role of
24 a judicial officer.

25 3. Based upon the stipulated facts, upon consideration and balancing of the above
26 factors, Respondent and the Commission agree that Respondent's stipulated misconduct shall
27 be sanctioned by the imposition of a censure. A "censure" is a written action of the

1 Commission that requires Respondent to appear personally before the Commission and that
 2 finds Respondent's conduct violated the Code of Judicial Conduct in a manner that
 3 detrimentally affects the integrity of the judiciary and undermines public confidence in the
 4 administration of justice. A censure is the most severe disciplinary action the Commission can
 5 issue.

6 4. Respondent agrees that following the execution of this Stipulation, she shall not
 7 seek or serve in any position performing judicial functions without first securing the express
 8 approval from the Commission

9
 10 Standard Additional Terms of Commission Stipulation

11 5. Respondent further agrees she will not retaliate, or appear to retaliate, against
 12 any person known or suspected to have cooperated with the Commission, or otherwise
 13 associated with this matter.

14 6. Respondent is represented in these proceedings, and enters into this stipulation
 15 after consultation with her counsel.

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

20
 21 Colleen A Hartl 6-11-08
 Colleen Hartl Date

22
 23 Anne Brenner 6-12-08
 Anne Brenner Date
 24 Attorney for Respondent

25
 26 J. Reiko Callner 7-17-08
 J. Reiko Callner Date
 27 Executive Director
 Commission on Judicial Conduct

1 **ORDER OF CENSURE**

2 Based on the above Stipulation and Agreement, the Commission on Judicial Conduct
3 hereby orders Respondent, former Judge Colleen Hartl, censured for the above set forth
4 violations of the Code of Judicial Conduct. Respondent shall not seek or accept any judicial
5 position or judicial assignment or perform judicial functions in the future without first securing
6 the express approval from the Commission.

7
8 DATED this 1st day of August, 2008

9
10 *Gerald J. Roach*
11 ~~Wanda Briggs, Chair~~ *Gerald F. Roach,*
12 Commission on Judicial Conduct *Acting Chair*