

FILED
JUL 11 2008
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In Re the Matter of

The Honorable Judith Eiler
King County District Court

NO. 5198-F-136

ANSWER TO STATEMENT OF
CHARGES

COMES NOW the Honorable Judith R. Eiler (hereinafter "Judge Eiler"), by and through her attorneys of record Stafford Frey Cooper and Anne M. Bremner, and, pursuant to CJCRP 20 answers the Statement of Charges filed by the Commission on Judicial Conduct as follows:

I. BACKGROUND

1. Answering Paragraph 1, Judge Eiler admits the allegations contained therein.

2. Answering Paragraph 2, Judge Eiler admits the allegations contained therein.

3. Answering Paragraph 3, Judge Eiler admits she received an Amended Statement of Allegations from the Commission on or about April 14, 2008. Judge Eiler is without sufficient information to form a belief as to the truth or falsity of whether the Commission conducted further investigation and, therefore, denies the same.

1 **III. BASIS FOR COMMISSION ACTION**

2 9. It is denied that probable cause exists to believe that Judge Eiler violated
3 Canons 1, 2(A), 2(B), 3(A)(3), and 3(A)(4) of the Code of Judicial Conduct. The cited
4 sections of the Code and Comments are accurately set forth.

5 **IV. RIGHT TO FILE A WRITTEN ANSWER**

6 10. The section of the Statement of Charges identified as "IV. Right to File a
7 Written Answer" is procedural in nature and does not require either admission or denial.

8 **DEFENSES**

9 11. Judge Eiler alleges the following defenses but asserts she is not required
10 to do so by the rules and that failure to identify any defense does not constitute a waiver
11 of any additional defense which may be raised in the future.

12 12. Presentation of the facts will demonstrate that Judge Eiler may have made
13 an occasional error, as happens with all judges, but she did not violate the Code of
14 Judicial Conduct and that at all times she conducted herself properly.

15 13. The burden of proof in a Commission proceeding is "clear, cogent and
16 convincing" evidence, which requires that it be "highly likely" that Judge Eiler violated
17 the Code of Judicial Conduct. The Commission cannot meet its burden of proof in this
18 matter.

19 14. Judge Eiler has been denied due process by the process in which this
20 matter was investigated and ordered to hearing by the Commission. She was denied
21 the reasonable opportunity to respond, was not provided with all information known by
22 the Commission to which she was being held accountable and was not given
23 meaningful access to the Commission while it sat as a decision-making body. During

1 the decision-making sessions, Disciplinary Counsel had access to the Commission
2 through the Commission's investigator. The Commission had been given information
3 independently and without knowledge of Judge Eiler and any member who received
4 such information cannot now properly sit on any further consideration of this case once
5 he or she voted for probable cause.

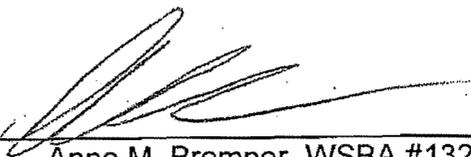
6 15. The cited provisions of the Code of Judicial Conduct are too vague, in
7 violation of the Fourteenth Amendment of the United States Constitution and Art. 1,
8 Section 3 of the Washington State Constitution, to provide fair notice to Judge Eiler that
9 her actions constituted violations of the Code of Judicial Conduct.

10 16. The Commission has no authority to enforce cited Canons or other
11 provisions of the Code that are merely guidelines or goals, including, but not limited to,
12 provisions that provide judges "should" be patient, dignified and courteous. Such
13 Canons or provisions are merely goals to which judges should aspire and are not
14 mandated rules enforceable by the Commission.

15 WHEREFORE, having answered the Statement of Charges, Judge Eiler asks
16 that all charges against her be dismissed.

17 Dated this _____ day of July, 2008.

18 STAFFORD FREY COOPER

19
20 By 

21 Anne M. Bremner, WSBA #13269
22 Attorney for Judge Judith Eiler
23

1 Certificate of Service

2 The undersigned certifies under the penalty of perjury according to the laws of the
3 United States and the State of Washington that on this date I caused to be served in the
4 manner noted below a copy of this document entitled on the following individual(s):

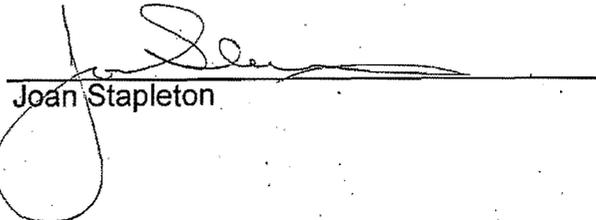
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VIA MESSENGER

VIA E-MAIL and US MAIL

11 DATED this 11th day of JULY, 2008, at Seattle, Washington.

12 
13 Joan Stapleton