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JUN 20 2008
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

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In Re the Matter of
The Honorable Judith R. Eiler,
Judge of the King County District Court

No. 5198-F-136

STATEMENT OF CHARGES

Pursuant to authority granted in Washington State Constitution, Article IV, section 31, the Revised Code of Washington, Chapter 2.64, and the Commission on Judicial Conduct Rules of Procedure ("CJCRP"), 17(d)(4)(C), the Commission on Judicial Conduct orders this Statement of Charges filed alleging violations of the Code of Judicial Conduct by Judge Judith R. Eiler.

I. BACKGROUND

1. Judge Judith R. Eiler ("Respondent") is now, and was at all times referred to in this document, a King County District Court Judge. On February 14, 2008, the Commission on Judicial Conduct initiated disciplinary proceedings against Respondent by serving her with a Statement of Allegations pursuant to CJCRP 17(c)(3).

2. Respondent requested, and was granted, an extension of time to respond to the Statement of Allegations. Respondent filed a response to the Statement of Allegations on March 18, 2008.

3. After conducting further investigation, the Commission served Respondent with an Amended Statement of Allegations on April 14, 2008.

4. Respondent requested, and was granted, a thirty-day extension of time to respond to the Amended Statement of Allegations. However, no response to the Amended Statement of Allegations has been filed as of the date of the filing of this Statement of Charges.

- 1. 5. IT0030832, 09-07-2007;
- 2. 6. IT0030811, 09-07-2007;
- 3. 7. 53-007973, 09-20-2007;
- 4. 8. IT0033132, 09-21-2007;
- 5. 9. IO5514482, 09-21-2007;
- 6. 10. 73-001736, 01-14-2008;
- 7. 11. IO5569754, 02-04-2008;
- 8. 12. IO5405813, 02-05-2008;
- 9. 13. IO5282732, 02-05-2008;
- 10. 14. IO5669069, 03-03-2008;
- 11. 15. IO5608421, 03-03-2008.

Count II: Violation of Canons 1, 2(A) and 2(B) of the Code of Judicial Conduct.

Respondent is further charged with violating Canons 1, 2(A) and 2(B) of the Code of Judicial Conduct by reversing an order and dismissing a traffic infraction in case IO50366708 in a fashion that suggested she was motivated by self-interest or otherwise acted for improper purposes. It is charged that Respondent dismissed the infraction only after the defendant complained to the Presiding Judge of the King County District Court about Respondent's demeanor and the way the defendant was treated, and thus Respondent's actions created the appearance Respondent dismissed the ticket to avoid further scrutiny of her demeanor and temperament.

III. BASIS FOR COMMISSION ACTION

On June 13, 2008, the Commission determined that probable cause exists to believe that Respondent has violated Canons 1, 2(A), 2(B), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct (CJC). These sections of the Code state:

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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.

CANON 3

Judges shall perform the duties of their office impartially and diligently.

(A) Adjudicative Responsibilities.

...

1 (3) Judges should be patient, dignified and courteous to litigants, jurors,
2 witnesses, lawyers and others with whom judges deal in their official capacity, and
3 should require similar conduct of lawyers, and of the staff, court officials and others
4 subject to their direction and control.

5 *Comment*

6 The duty to hear all proceedings fairly and with patience is not inconsistent with the
7 duty to dispose promptly of the business of the court. Courts can be efficient and
8 businesslike while being patient and deliberate.

9 (4) Judges should accord to every person who is legally
10 interested in a proceeding, or that person's lawyer, full right to be
11 heard according to law, and, except as authorized by law, neither
12 initiate nor consider ex parte or other communications concerning a
13 pending or impending proceeding. Judges, however, may obtain the
14 advice of a disinterested expert on the law applicable to a proceeding
15 before them, by amicus curiae only, if they afford the parties
16 reasonable opportunity to respond.

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

18 In accordance with CJCRP 20, Respondent may file a written answer to this
19 Statement of Charges with the Commission and serve a copy on disciplinary
20 counsel within twenty-one (21) days after the date of service of the Statement of
21 Charges.

22 DATED this 19th day of June 2008.

23 COMMISSION ON JUDICIAL CONDUCT
24 OF THE STATE OF WASHINGTON

25 
26 J. Reiko Callner
27 Executive Director
28 P.O. Box 1817
Olympia, WA 98507

ORIGINAL

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COMMISSION ON JUDICIAL CONDUCT

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the matter of
The Honorable Judith R. Eiler
Judge, King County District Court

CJC No. 4148-F-116

STIPULATION, AGREEMENT
AND ORDER OF REPRIMAND

The Commission on Judicial Conduct and the Honorable Judith R. Eiler, 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.

The Commission has been represented in these proceedings by Disciplinary Counsel Steven A. Reisler. Judge Eiler has been represented by Attorney Kurt M. Bulmer.

STIPULATED FACTS

1. Judge Judith R. Eiler (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 1992.

2. On October 6, 2004, the Commission on Judicial Conduct sent a certified letter to Respondent informing her that the Commission was pursuing initial disciplinary proceedings against her pursuant to Commission on Judicial Conduct Rule of Procedure (CJCRP) 17(d). Enclosed with the letter was a Statement of Allegations alleging Respondent violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct by engaging in a pattern or practice of rude, impatient

1 and undignified treatment of pro se litigants in the courtroom. The Commission
2 alleged that Respondent interrupted litigants; addressed them in an angry,
3 condescending or demeaning tone of voice; threatened to rule against litigants who
4 interrupted or annoyed her; and otherwise failed to conduct herself in a judicious
5 manner. By way of example, the Commission identified nine hearings that occurred
6 between December 2002 and December 2003 wherein such behavior was evidenced.
7 (An audio recording of portions of one of those hearings is appended hereto and is
8 made part of the record as an illustration of the behaviors described above.)

9 3. Respondent answered the Statement of Allegations on November 8,
10 2004. In her answer Respondent agreed, after reviewing the hearings identified by
11 the Commission, that they demonstrated as a whole that she had been intemperate
12 in her comments and that she had not shown all those who appear before her the
13 respect to which they are entitled.

14 15 AGREEMENT

16 17 **Respondent's Conduct Violated the Code of Judicial Conduct**

18 Based upon the foregoing stipulated facts, Respondent agrees she violated
19 Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4) of the Code of Judicial Conduct.¹

20 1. Canons 1 and 2(A) require judges to uphold the integrity of the judiciary
21 by avoiding impropriety and the appearance of impropriety and by acting at all times
22 in a manner that promotes public confidence in the integrity and impartiality of the
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24 ^{1/} Canon 1 of the Code of Judicial Conduct provides, "Judges shall uphold the integrity and
25 independence of the judiciary." Canon 2 provides, "Judges should avoid impropriety and the appearance of
26 impropriety in all their activities," and Canon 2(A) specifies, "Judges should respect and comply with the law
27 and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the
28 judiciary." Canon 3 provides, "Judges shall perform the duties of their office impartially and diligently." Canon
3(A)(1) specifies in part, "Judges should be faithful to the law and maintain professional competence in it;"
Canon 3(A)(3) specifies, "Judges should be patient, dignified and courteous to litigants, jurors, witnesses,
lawyers and others with whom judges deal in their official capacity, and should require similar conduct of
lawyers, and of the staff, court officials and others subject to their direction and control;" and Canon 3(A)(4)
specifies in part, "Judges should accord to every person who is legally interested in a proceeding, or that
person's lawyer, full right to be heard according to law."

1 judiciary. Discourteous and intolerant behavior by a judge in the courtroom erodes
2 the public's confidence in the quality of justice administered by that judge. The public
3 is more likely to respect and have confidence in the integrity and fairness of a judge's
4 decision if the judge is outwardly respectful, patient and dignified. By not treating all
5 persons before her with patience, dignity and respect, Respondent undermined public
6 confidence in, and respect for, both the integrity of the judicial system and herself as
7 a judge.

8 2. Canon 3(A)(1) requires judges to be faithful to the law. On several
9 instances, Respondent warned parties before her that if they "want to lose, annoy me"
10 or "if you annoy me, that would be a bad thing" or words to that effect. These
11 comments are inappropriate and violate Canon 3(A)(1). They indicate Respondent
12 would act arbitrarily and base her decision on factors other than the objective
13 application of the evidence to the law.

14 3. Canon 3(A)(3) requires judges to be patient, dignified and courteous to
15 all persons with whom the judges deal in their official capacity. Respondent breached
16 this basic mandate by chastising, belittling, interrupting and berating certain pro se
17 litigants who appeared before her. By doing so, she abused her judicial power.
18 Although judges have an obligation to control their courtrooms to minimize disruption
19 of court proceedings, they must do so in a manner consistent with the requirements
20 of the Code of Judicial Conduct. On numerous occasions, Respondent failed in her
21 duty to be patient, dignified and courteous.

22 4. Canon 3(A)(4) requires judges to accord every party who has a legal
23 interest in a proceeding a full right to be heard according to law. Respondent
24 prevented some litigants from fully presenting their case by interrupting them without
25 justification. Moreover, fear of Respondent's temper or sarcasm intimidated other
26 litigants and discouraged some of them from presenting their testimony or their
27 positions in court.

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1 **Imposition of Sanction**

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

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

9 A. Characteristics of Respondent's Misconduct. Respondent's
10 violations of the Code of Judicial Conduct are serious. The acts of misconduct are
11 not isolated. Respondent displayed a pattern of intemperate, disrespectful and
12 injudicious behavior over an extended period of time. The misconduct occurred in the
13 courtroom, during court proceedings, and while Respondent was acting in her official
14 capacity. By intimidating and demeaning pro se litigants, she abused the authority of
15 her judicial position and undermined public confidence in and respect for the courts.
16 As such, Respondent's misconduct strikes at the core of an effective judiciary. In
17 mitigation, Respondent has explained that she was experiencing particular stresses
18 in her personal life during the period of time referenced herein and failed to realize at
19 the time the inappropriateness of her conduct, which she now recognizes.

20 B. Service and Demeanor of Respondent. Respondent has been
21 a judicial officer for 12 years and has had no prior disciplinary actions. She has
22 cooperated with the Commission's investigation. She acknowledges that the acts
23 occurred and that they were inappropriate. She has expressed remorse for her
24 unprofessional behavior and recognizes the need to change her demeanor. In that
25 regard, Respondent began taking steps, prior to the Commission contacting her, to
26 ameliorate her temperament and avoid inappropriate behavior in the future. She has
27 thus demonstrated a sincere effort to modify her conduct.

1 3. Based upon the stipulated facts, upon consideration and balancing of
2 the aggravating and mitigating factors and Respondent's desire to resolve this matter,
3 Respondent and the Commission agree that Respondent's stipulated misconduct
4 shall be sanctioned by the imposition of a reprimand. A "reprimand" is a written action
5 of the Commission that requires a respondent to appear personally before the
6 Commission and that finds that the conduct of the respondent is a violation of the
7 Code of Judicial Conduct and does not require censure or a recommendation to the
8 supreme court that the respondent be suspended or removed. A reprimand shall
9 include a requirement that the respondent follow a specified corrective course of
10 action. Reprimand is the intermediate level of disciplinary action available to the
11 Commission.

12 4. Respondent agrees that she will participate in ethics training, approved
13 in advance by the Commission Chair or his/her designate, at the National Judicial
14 College, accredited law school or judicial seminar, or a similar institution or program
15 no later than one year from the date this stipulation is accepted by the Commission.
16 Respondent agrees she will complete such training at her own expense and will certify
17 the completion of such training in writing within one year from the date this stipulation
18 is accepted by the Commission.

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

22 6. Respondent agrees that she will promptly read and familiarize herself
23 with the Code of Judicial Conduct in its entirety.

24 7. Respondent agrees that she will participate in behavioral therapy with
25 an emphasis on sensitivity training by a qualified health care professional, approved
26 in advance by the Commission Chair or his/her designate, until such professional has
27 certified, in writing, that such treatment is no longer necessary.

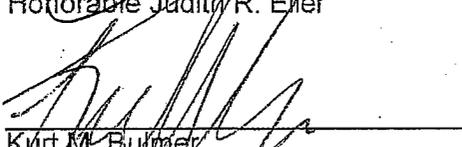
1 Standard Additional Terms and Conditions

2 8. Respondent agrees that by entering into this stipulation and agreement,
3 she waives her procedural rights and appeal rights in this proceeding pursuant to the
4 Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the
5 Washington State Constitution.

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

9
10 
11 Honorable Judith R. Eifer

1/26/05
Date

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13 
14 Kurt M. Bulmer
15 Attorney for Respondent

1/21/05
Date

16 
17 Steven A. Reisler
18 Disciplinary Counsel for the
19 Commission on Judicial Conduct

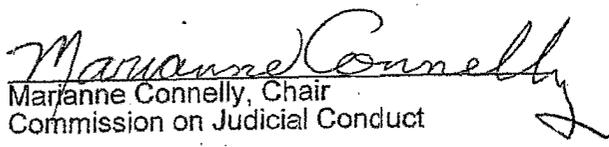
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ORDER OF REPRIMAND

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judith R. Eiler, 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 4th day of February, 2005


Marianne Connelly, Chair
Commission on Judicial Conduct