

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In The Matter Of:)
The Honorable Ron A. Mamiya,) CJC No. 5930-F-144
Seattle Municipal Court Judge)
STIPULATION, AGREEMENT
AND ORDER OF CENSURE

The Washington State Commission on Judicial Conduct and the Honorable Ron A. Mamiya, Judge of the Seattle Municipal 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 accepted by the Commission. The Commission is represented in these proceedings by its counsel, J. Reiko Callner, and Judge Mamiya is represented by his attorney, John A. Holmes.

I. STIPULATED FACTS

1. Respondent, Judge Ron Mamiya, is now and was at all times referred to in this document, a Seattle Municipal Court Judge, a position he has held continuously since 1981. Respondent served as the court's presiding judge in 1984, 1988, 2007 and 2008.

2. In November, 2008, Respondent, through counsel, contacted the Commission's office to report that he had been involved in a consensual affair with

1 a Seattle Municipal Court employee. In a letter dated December 7, 2008,
2 Respondent's counsel explained:

3 Earlier this year, Judge Mamiya was involved in a consensual
4 sexual relationship with an employee of the Court. . . . Judge
5 Mamiya was the presiding judge, but did not directly supervise
6 the employee and had no direct involvement with her job.
7 The employee subsequently resigned from her position. . . .
8 [She] later told her supervisor that . . . her relationship with
9 the judge was part of the reason [she] resigned. The
10 relationship was unknown to anyone else at the Court prior to
11 this disclosure.
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14 The letter further advised that the employee retained a lawyer who provided the
15 City of Seattle a sworn declaration by the employee claiming Judge Mamiya
16 sexually harassed her after their relationship ended and that she felt she had to
17 resign due to a hostile work environment created by the judge's actions. The letter
18 also noted that Judge Mamiya and the City settled the matter without any
19 admission of wrongdoing prior to commencement of formal litigation. Finally,
20 Respondent acknowledged in his letter the inappropriateness of his actions, made
21 assurances that he was committed to not repeating the mistake, and identified
22 various remedial measures he had taken to that end, including his agreement to
23 no longer serve as the court's presiding judge. The letter concluded with Judge
24 Mamiya taking responsibility for his actions by stating: "Judge Mamiya's behavior
25 was a personal and professional mistake for which he has paid, and continues to
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1 pay, dearly. He continues to take steps to assure himself that he will not repeat
2 that mistake.”

3 3. Based upon Respondent’s self-reported complaint, the Commission
4 conducted an independent investigation into this matter pursuant to Commission
5 on Judicial Conduct Rule of Procedure (CJCRP) 17(c). The investigation
6 confirmed the following:
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8 a. In early 2008, Respondent was involved in an extramarital
9 affair with a subordinate court employee. The affair lasted for several months, and
10 included sexual relations on two separate occasions during February, 2008.
11 Respondent was the presiding judge of the court at the time, but he did not directly
12 supervise the employee.
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14 b. The nature of their relationship was not generally known to
15 others until the court employee resigned from the court in August 2008. The
16 employee initially stated her reasons for leaving were due to unrelated family
17 medical issues. She later told a colleague at the court that her decision to resign
18 was due, in part, to her relationship with Respondent.
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20 c. The employee subsequently hired an attorney, who contacted
21 the City of Seattle in September 2008, to advise that the employee intended to
22 assert a claim of sexual harassment, but wished to first pursue mediation of that
23 claim before formally filing a complaint.
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25 d. Through the mediation process, the parties reached a
26 settlement in November 2008. Without admitting any wrongdoing, the City of
27 Seattle and Respondent settled any potential claims the employee might have by
28 agreeing to each pay the employee \$67,500. Respondent further agreed to report

1 this matter to the Commission, to resign his presiding judge and executive
2 committee positions, and to participate in appropriate workplace behavior courses
3 as designated by the court. Judge Mamiya has met all these conditions.

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5 e. On March 21, 2009, *The Seattle Times* published a story
6 detailing the above settlement and attendant circumstances.

7 4. Following its independent investigation, the Commission initiated
8 disciplinary proceedings on April 14, 2009, by serving Respondent with a
9 Statement of Allegations pursuant to CJCRP 17(d). The Statement of Allegations
10 alleged the Respondent violated Canons 1 and 2(A) of the Code of Judicial
11 Conduct by “engaging in an intimate personal relationship with a subordinate
12 Seattle Municipal Court employee which, after the relationship and the resulting
13 claims of sexual harassment became known publicly, brought [Respondent] and
14 the court into disrepute.”

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16 5. Respondent timely answered the Statement of Allegations on May
17 11, 2009. In his answer, Respondent acknowledged that his relationship with the
18 court employee “was inappropriate” and that he “understands how the
19 Commission could find that the relationship, once it became public, is a violation of
20 the Canons.” Respondent also again stated that he regrets his actions and the
21 effects they may have had on the public perception of the judiciary. He reiterated
22 that he clearly realizes he made a mistake and has taken remedial actions to
23 assure he will not repeat the mistake.

24 25 **II. AGREEMENT**

26 **A. Respondent’s Behavior Violated the Code of Judicial Conduct.**

1 1. Based upon the foregoing stipulated facts, Respondent and the
2 Commission agree Respondent violated Canons 1 and 2(A) of the Code of
3 Judicial Conduct.¹ Canons 1 and 2(A) require judges to uphold the integrity of the
4 judiciary by avoiding impropriety and the appearance of impropriety and by acting
5 at all times in a manner that promotes public confidence in the integrity and
6 impartiality of the judiciary.
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8 2. There is insufficient objective evidence to find Respondent engaged
9 in sexual harassment. Nonetheless, while the relationship at issue was apparently
10 consensual, an intimate relationship between a judge and a subordinate court
11 employee is inherently problematic. As the Commission has previously observed,
12 “intimate relationships between individuals of such unequal power and such
13 proximity are, at best, ill-advised, and by their nature may impair the function of
14 any work environment.”² Here, once the relationship and resulting claims of
15 impropriety became known, it was highly disruptive to the court and brought
16 Respondent – and by extension, the Seattle Municipal Court – into disrepute.
17 Court personnel were understandably dismayed and disappointed in Respondent
18 when they learned of the affair. The fact that public funds were used to pay for
19 Respondent’s actions further erodes public confidence in his integrity.
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22 **B. Imposition of Sanction**

23 1. The sanction imposed by the Commission must be commensurate to
24 the level of Respondent’s culpability and must be sufficient to restore and maintain
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26 ¹ Canon 1 of the Code of Judicial Conduct provides, “Judges shall uphold the integrity and independence
27 of the judiciary.” Canon 2 provides, “Judges should avoid impropriety and the appearance of impropriety in all their
activities,” and Canon 2(A) specifies, “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.”

28 ² *In re Fritzler*, CJC No. 95-2136-F-61 (Stipulation and Order of Censure, filed August 9, 1996).

1 the dignity and honor of the judicial position. The sanction should also seek to
2 protect the public by assuring that Respondent and other judges will refrain from
3 similar acts of misconduct in the future.

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5 2. In entering this stipulation, the Commission must consider the factors
6 set out in CJCRP 6(c).

7 A. Characteristics of Respondent's Misconduct.

8 (1) *Whether the misconduct is an isolated instance or evidence of a*
9 *pattern of conduct.* The affair lasted for a period of several months. It cannot be
10 characterized as an isolated incident, nor is it fairly described as representing a
11 pattern of conduct.

12 (2) *The nature, extent, and frequency of occurrence of the acts of*
13 *misconduct.* The essence of this misconduct is a violation of trust: the public and
14 all court employees had a legitimate expectation that Respondent, as presiding
15 judge in particular, would maintain appropriate workplace boundaries, even in the
16 face of stresses or temptations, and be protective of the court's reputation and his
17 own. The inequitable nature of the relationship demonstrates a lack of judgment
18 and disregard for the norms of the workplace. The inappropriate aspect of the
19 relationship spanned several months.
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22 (3) *Whether the misconduct occurred in or out of the courtroom.*
23 The affair had some obvious association with court facilities, with Respondent
24 frequently interacting and communicating with the court employee during court
25 hours at the courthouse. However, the inappropriate aspect of the relationship
26 primarily occurred outside the courthouse.
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1 (4) *Whether the misconduct occurred in the judge’s official capacity*
2 *or in the judge’s private life.* While the misconduct occurred in Respondent’s
3 private life, as described above, it is the nexus to Respondent’s role as a judge
4 that infringes judicial ethics. The Code of Judicial Conduct is implicated precisely
5 because the relationship was between a judge and a subordinate employee, and,
6 as was foreseeable, the impact of the disclosure of the relationship on others in
7 the workplace was very negative.

9 (5) *Whether the judge flagrantly and intentionally violated the oath of*
10 *office.* There is no evidence Respondent flagrantly or intentionally violated his
11 oath of office.

13 (6) *The nature and extent to which the acts of misconduct have*
14 *been injurious to other persons.* Respondent has acknowledged his actions hurt
15 many people important to him, including his “wife, family and [his] community.” In
16 addition, the deleterious impact of Respondent’s misconduct on the court has
17 been significant. The court employee with whom Respondent had the affair
18 abruptly resigned. Respondent stepped down as the court’s presiding judge and
19 relinquished his position on the court’s executive committee. He took an
20 unexpected and extended leave of absence. Court officials’ and administrators’
21 attention and energy were diverted from the business of the court to focus on the
22 consequences of Respondent’s conduct, and additional staff had to be engaged
23 by the court to address these issues. The court and City of Seattle had to expend
24 considerable resources responding to the misconduct, including employee time
25 and public funds to settle a potential lawsuit, all at a time of serious fiscal crisis
26 and strain on the Seattle Court system.

1 (7) *The extent to which the judge exploited the judge’s official*
2 *capacity to satisfy personal desires.* Respondent has consistently denied
3 engaging in unlawful harassment, and there was no judicial finding of such. The
4 Commission’s independent investigation has not shown sufficient evidence those
5 elements exist. While there is not clear, cogent and convincing proof from the
6 Commission’s independent investigation that Respondent exploited his position as
7 judge, his conduct constituted a failure of responsibility to that position. As a
8 judge, particularly as the court’s presiding judge, Respondent had an affirmative
9 duty to resist engaging in improprieties that would cause others to view him with
10 derision, precisely because he, as official spokesman and leader of the court,
11 embodies its dignity and reputation.
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14 (8) *The effect the misconduct has upon the integrity of and respect*
15 *for the judiciary.* Respondent was prominent and well-respected in the
16 community, and his role as a judge was a central aspect of his reputation. The
17 negative impact of his misconduct has been profoundly disappointing to his
18 workplace colleagues, lawyers who serve in that court, and the broader
19 community that knows him.
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21 B. Service and Demeanor of Respondent.

22 (1) *Whether Respondent has acknowledged or recognized that the*
23 *acts occurred.* Respondent has consistently acknowledged his actions were
24 inappropriate and has expressed remorse for them. Respondent wrote a
25 “Statement Of Judge Ron Mamiya” that was presented to the media in which
26 Respondent acknowledges his mistake and accepts full responsibility.
27 Respondent also wrote a “Letter To Friends And Community Supporters” that was
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1 emailed to friends and colleagues in which he again acknowledges his mistake
2 and takes full responsibility.

3 (2) *Whether the judge has evidenced an effort to change or modify*
4 *the conduct.* Respondent's remedial actions indicate that he takes this matter
5 seriously and has already taken steps to ensure that such behavior will not be
6 repeated. Respondent has voluntarily attended weekly individual counseling
7 sessions for more than a year, and he intends to continue those sessions. He
8 attended a workshop at the Court on "Respect in the Workplace", which focused
9 on sexual harassment issues. He has studied the Code of Judicial Conduct in
10 depth since the incident occurred.

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12 (3) *Respondent's length of service in a judicial capacity.*
13 Respondent has been a judicial officer for twenty-eight years. He has been active
14 in the community for more than 35 years and has served on the board of many
15 civic organizations.

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17 (4) *Whether there has been prior disciplinary action concerning*
18 *Respondent.* There has been no prior disciplinary action imposed against
19 Respondent.

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21 (5) *Whether Respondent has cooperated with the Commission*
22 *investigation and proceeding.* Respondent self reported the incident as directed
23 by his agreement with the City and has fully cooperated with the Commission's
24 investigation.

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

1 “censure” is a written action of the Commission that requires Respondent to
2 appear personally before the Commission and that finds that the conduct of
3 Respondent is a violation of the Code of Judicial Conduct that detrimentally affects
4 the integrity of the judiciary, and undermines public confidence in the
5 administration of justice. It is the highest level of sanction the Commission can
6 impose on its own. With a censure, the Commission could also recommend to the
7 Supreme Court that a respondent judge be suspended or removed from
8 office. The Commission and Respondent agree that such a recommendation is not
9 warranted in this matter, however. A censure shall include a requirement that the
10 respondent follow a specified corrective course of action.
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13 4. Respondent agrees that he will not repeat such conduct in the future,
14 mindful of the potential threat any repetition of his conduct poses to public
15 confidence in the integrity and impartiality of the judiciary and to the administration
16 of justice.

17 5. Respondent agrees that he will promptly read and familiarize himself
18 again with the Code of Judicial Conduct in its entirety and provide the Commission
19 with confirmation of this fact within one month of the date of entry this stipulation,
20 agreement and order.
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22 6. Respondent agrees he will complete a course on judicial ethics at his
23 expense approved in advance by the Commission’s Chair or his designee and
24 provide proof of completion of the course within one year of the date this
25 stipulation is entered.
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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.

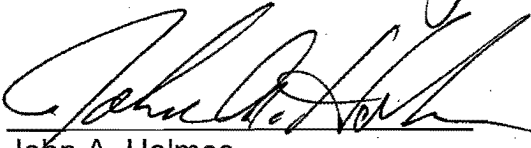
8. Respondent further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.

9. Respondent has been represented by counsel in this matter. He acknowledges that he has had an opportunity to consult with his counsel regarding this stipulation and proceeding and voluntarily enters into this stipulation and agreement.




Honorable Ron A. Mamiya

8/7/09
Date



John A. Holmes
Attorney for Respondent

8/7/09
Date



J. Reiko Callner
Executive Director of the
Commission on Judicial Conduct

8/7/09
Date

