

FILED  
OCT - 3 2014  
COMMISSION ON JUDICIAL CONDUCT

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

4 In Re the Matter of: )  
5 ) CJC No. 7377-F-160  
6 The Honorable Kathleen E. Hitchcock )  
7 Judge of the Granger Municipal Court ) **STIPULATION, AGREEMENT AND**  
**ORDER OF CENSURE**

8 The Commission on Judicial Conduct and Kathleen E. Hitchcock, Granger Municipal  
9 Court Judge, do hereby stipulate and agree as provided for herein. This stipulation is entered  
10 pursuant to Rule 23 of the Commission on Judicial Conduct Rules of Procedure.

11 The Commission is represented in these proceedings by its Executive Director, J. Reiko  
12 Callner, and Judge Hitchcock is represented by Attorney Gregory L. Scott.

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14 **I. STIPULATED FACTS**

15 1. Judge Kathleen E. Hitchcock ("Respondent") is currently a part-time judge of the  
16 Granger Municipal Court. Respondent has served as a part-time judge of the Granger Municipal  
17 Court since July 2005, and served as a part-time judge of the Wapato Municipal Court from  
18 January 1, 2010 until December 31, 2013.

19 2. On Wednesday, July 24, 2013, at approximately 8:00 a.m., Respondent was pulled  
20 over by a state patrol officer for speeding on I-82 south of Yakima between the towns of Zillah  
21 and Granger. This traffic stop ultimately resulted in Respondent being arrested for driving under  
22 the influence of alcohol and/or drugs (DUI). A breath test administered within an hour of her  
23 arrest showed Respondent's breath alcohol content (BAC) to be .250 / .248.<sup>1</sup> During the contact  
24 with the state trooper, Respondent twice volunteered information that she was a judge in Granger  
25 and that she was on her way to meet police officers at the courthouse. When asked by the  
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27 <sup>1</sup> Respondent maintains that because of her unique medical condition as a hemophiliac, the BAC  
28 reading in this instance was an inaccurate indicator of the level of alcohol in her system at the time of the test.  
This issue, however, was never formally challenged in a legal proceeding, and is, therefore, unresolved.

1 arresting officer whether she had consumed any alcohol that morning or the preceding night, she  
2 replied that, due to her medical condition (hemophilia), she had not consumed any alcohol that  
3 morning. She did not answer whether she had consumed alcohol the evening before. Later, when  
4 specifically asked by the officer about drinking the previous evening, Respondent acknowledged  
5 drinking margaritas with dinner and taking a half of a hydrocodone earlier that morning.

6 3. Respondent contacted the Commission's office on July 29, 2013, to inform the  
7 Commission that she had been arrested for DUI. Following an independent investigation, the  
8 Commission initiated formal disciplinary proceedings on October 11, 2013, and filed a public  
9 Statement of Charges on July 14, 2014.

10 4. Respondent was charged in Yakima County District Court with one count of DUI  
11 on August 16, 2013. After a number of continuances, on August 6, 2014, in an agreement with  
12 the State, she pleaded guilty to DUI with a BAC under .15. She was sentenced to serve 15 days  
13 of electronic home monitoring (EHM) (i.e. a jail term of 364 days, with 349 days suspended, all  
14 to be served by 15 days of EHM), ordered to pay standard fines and costs of approximately  
15 \$1,000, and was placed on probation for five years with standard terms and conditions that  
16 included, among other things, she not possess or consume alcohol.

## 17 18 **II. AGREEMENT**

### 19 **A. Respondent's Conduct Violated the Code of Judicial Conduct**

20 1. Based upon the above stipulated facts, Respondent agrees that she violated Canon  
21 1, Rules 1.1, 1.2 and 1.3, of the Code of Judicial Conduct.

22 a) Rules 1.1 and 1.2 of the Code of Judicial Conduct express the overarching  
23 principles of the Code: that because of the special position judges hold in our society and their  
24 central role in preserving the principles of justice and the rule of law, their conduct must at all  
25 times be above reproach in order to preserve public confidence in our legal system. Thus, Rule  
26 1.1 requires judges to "comply with the law, including the Code of Judicial Conduct," and Rule  
27 1.2 requires judges to "act at all times in a manner that promotes public confidence in the  
28 independence, integrity, and impartiality of the judiciary, and [to] avoid impropriety and the

1 appearance of impropriety.”

2           b) Rule 1.3 of the Code of Judicial Conduct prohibits a judge from “abus[ing]  
3 the prestige of judicial office to advance the personal or economic interests of the judge or  
4 others.” A comment to Rule 1.3 explains this prohibition clearly: “It is improper for a judge to  
5 use or attempt to use his or her position to gain personal advantage or deferential treatment of any  
6 kind. For example, it would be improper for a judge to allude to his or her judicial status to gain  
7 favorable treatment in encounters with traffic officials.”<sup>2</sup>

8           2. Respondent agrees that she violated the foregoing Code provisions by committing  
9 the criminal offense of driving under the influence of alcohol and/or drugs and by gratuitously  
10 identifying herself as a judge to the arresting officer which created, at a minimum, the appearance  
11 that she was attempting to use the prestige of office to gain favorable treatment.

12           **B. Imposition of Sanction**

13           1. The sanction imposed by the Commission must be commensurate to the level of  
14 Respondent’s culpability, sufficient to restore and maintain the public’s confidence in the integrity  
15 of the judiciary, and sufficient to deter similar acts of misconduct in the future. In determining the  
16 appropriate level of discipline to impose, the Commission takes into account those factors listed  
17 in CJCRP 6(c).

18           a) Mitigating Factors

19           Respondent has no prior criminal history and no prior judicial misconduct history. The  
20 misconduct occurred outside the courtroom. Respondent has acknowledged the acts occurred.  
21 By entering into this agreement and having pleaded guilty to the underlying criminal charge of  
22 DUI, she has accepted responsibility for her conduct and has evidenced an effort to avoid  
23 repeating the behavior that led to this disciplinary action. The fact that Respondent is on  
24 probation in the district court matter gives the Commission added assurances the misconduct will  
25 not recur in that Respondent faces serious repercussions in the event of a violation of the terms  
26 of her probation. Respondent has served in a judicial capacity for nine years and has had no prior

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28           <sup>2</sup> Rule 1.3, Comment [1].

1 discipline imposed against her. She self-reported this incident, and fully cooperated with the  
2 Commission throughout these proceedings.

3 b) Aggravating Factors

4 Driving under the influence is a serious offense that can result in great bodily injury.  
5 Respondent's conduct was particularly alarming given her high BAC, the hour of day and the fact  
6 she was driving at an excessive speed on the interstate. Moreover, as a municipal court judge,  
7 DUI and alcohol-related offenses are some of the most serious cases over which Respondent  
8 frequently presides. It is reasonable for the public to expect that judges will comply with the  
9 criminal laws they enforce upon others. Although, as noted above, the behavior at issue was off-  
10 bench misconduct, Respondent indicated she was on her way to the Granger courthouse to discuss  
11 matters in her official capacity. In addition, referencing her status as a judge to the investigating  
12 officer – whatever Respondent's intent – could reasonably be viewed as an attempt exploit her  
13 judicial office, in part by intimating she was friendly with police. Finally, Respondent's initial  
14 statements to the arresting officer that she had not consumed any alcohol were evasive and/or  
15 misleading. Such failure to be forthright is a serious matter for a judicial officer. It further erodes  
16 public confidence in Respondent's integrity and undermines public respect for the judiciary.

17 2. The Commission's cases in recent years sanctioning judges charged or convicted  
18 of similar offenses have resulted in the sanction of reprimand. In those cases, however, the  
19 Commission has expressly noted that were there other aggravating factors, such as an abuse of  
20 judicial office, a higher sanction might be warranted. This matter presents such additional  
21 aggravating factors – specifically, Respondent's apparent abuse of judicial office, her failure to  
22 be forthright with the arresting officer and the fact that she was en route to the courthouse under  
23 the influence of alcohol.

24 3. Weighing and balancing the above factors, Respondent and the Commission agree  
25 that Respondent's stipulated misconduct shall be sanctioned by the imposition of a CENSURE.  
26 A "censure" is a written action of the Commission that finds the conduct of the Respondent  
27 violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, and  
28 undermines public confidence in the administration of justice. Censure is the most severe

1 disciplinary action the Commission can issue.

2 4. Respondent agrees she will strictly comply with all the terms of her probation in  
3 Yakima County District Court No. 3Z0591642.

4 5. Respondent agrees to complete the following remedial measures.

5 a) Within two years of the acceptance and filing of this stipulation,  
6 Respondent shall complete ten hours of courses in judicial ethics, not at Commission expense.  
7 The courses are to be approved in advance by the Chair of the Commission or his designate.

8 b) Within three months of the acceptance and filing of this stipulation,  
9 Respondent will obtain a drug and alcohol evaluation by a counselor approved in advance by the  
10 Chair of the Commission or his designee. Commission staff shall have access to the counselor  
11 in order to provide information from witnesses to the incidents that gave rise to this case, in  
12 addition to information from Respondent. If a course of treatment is recommended by the  
13 counselor, Respondent shall promptly enter into compliance with a treatment program, approved  
14 in advance by the evaluator and by the Chair of the Commission or his designee, and show proof  
15 of completion or good faith progress towards completion, as defined by the treatment provider,  
16 within two years of the date of entry of this stipulation. If a course of treatment is recommended,  
17 Respondent shall ensure that progress reports are submitted by the treatment provider to the  
18 Commission every six months.

19 c) Respondent agrees she will promptly read and familiarize herself with the  
20 Code of Judicial Conduct in its entirety.

21 Standard Additional Terms of Commission Stipulation

22 6. Respondent further agrees she will not retaliate, or appear to retaliate, against any  
23 person known or suspected to have cooperated with the Commission, or otherwise associated with  
24 this matter.


25 7. Respondent agrees she will not repeat such conduct in the future, mindful of the  
26 potential threat any repetition of her conduct poses to public confidence in the integrity and  
27 impartiality of the judiciary and to the administration of justice.

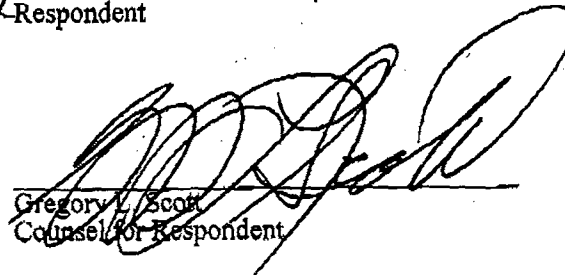
28 8. Respondent is represented in these proceedings; she affirms she enters into this

1 stipulation after consultation with her counsel.

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

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Honorable Kathleen E. Hitchcock Date 9-18-14  
Respondent

  
Gregory V. Scott Date 18 SEPT 2014  
Counsel for Respondent

\_\_\_\_\_  
J. Reiko Callner Date \_\_\_\_\_  
Executive Director  
Commission on Judicial Conduct

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Honorable Kathleen E. Hitchcock  
Respondent

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Date

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Gregory L. Scott  
Counsel for Respondent

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J. Reiko Callner  
Executive Director  
Commission on Judicial Conduct

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**ORDER OF CENSURE**

Based upon the above stipulation and agreement, the Commission on Judicial Conduct hereby orders Respondent Kathleen Hitchcock CENSURED for violating Canon 1, Rules 1.1, 1.2 and 1.3 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 3 day of October, 2014.



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Joseph G. Bell, Chair  
Commission on Judicial Conduct