

FILED

SEP -8 2023

COMMISSION ON JUDICIAL CONDUCT

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

In Re the Matter of)	
)	CJC No. 11092-F-208
The Honorable Jonathan M. Volyn)	
Judge of the Chelan County District Court)	STIPULATION, AGREEMENT
)	AND ORDER OF ADMONISHMENT
_____)	

The Commission on Judicial Conduct and Chelan County District Court Judge Jonathan Volyn 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 is represented in these proceedings by its Executive Director, J. Reiko Callner, and Judge Volyn is representing himself.

I. STIPULATED FACTS

A. Judge Jonathan Volyn (Respondent) is currently a full-time judge of the Chelan County District Court. He was elected to that position in November 2022. Prior to his election, in addition to maintaining a private law practice, Respondent frequently worked as a periodic part-time judge for the Chelan County District Court.¹

B. On July 25, 2022, Respondent was serving as a part-time judge for the Chelan County District Court. At that time, he was also a judicial candidate running for an open seat on that court. During regular court hours, Respondent approached a court employee while the

1/ When serving in a judicial capacity, Respondent was usually referred to by others working there as a judge pro tem, but he served often enough to be defined as a part-time judge under the Code of Judicial Conduct, and thus subject to more judicial ethics restrictions than an occasional pro tem judge. See Code of Judicial Conduct, Application and Terminology Sections. Those additional restrictions are not applicable here, however.

employee was working at her desk and asked the employee if she would be willing to distribute his campaign envelopes to court employees who wished to endorse him. Respondent handed the employee approximately a dozen campaign envelopes and showed the employee how to indicate one's endorsement of Respondent on the preprinted form. The employee took the envelopes from Respondent but rather than distribute them, the employee retained the envelopes at her desk for some time because she was concerned about the propriety of the request. The employee ultimately brought her concerns to the attention of the court's presiding judge who in turn spoke to Respondent. The envelopes were not distributed to any court employees.

C. When Respondent learned during the course of his campaign that the propriety of his actions described above was questioned, he reviewed the Code of Judicial Conduct more thoroughly as it relates to campaign conduct and recognized that his actions could violate Rule 4.1. Respondent thereafter promptly contacted the Commission and self-reported this incident.

D. Following a confidential investigation under CJCRP 17, the Commission and Respondent have reached this agreement.

II. AGREEMENT

A. Respondent's Conduct Violated the Code of Judicial Conduct.

1. Based upon the foregoing stipulated facts, Respondent agrees he violated Canon 1 (Rules 1.1, 1.2, and 1.3) and Canon 4 (Rule 4.1(A)(9)) of the Code of Judicial Conduct by personally soliciting endorsements for his 2022 judicial campaign from a subordinate court employee in a non-public area of the Chelan County District Court during work hours. Both his access to the court locations and his influence and authority over court staff stemmed from his status as a part-time judge. Such access, influence and authority were not available to other attorney candidates for the judicial office he sought.

2. Rules 1.1 and 1.2 express the overarching principles of the Code of Judicial

Conduct. Those rules require judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Rule 1.3 declares it is improper for a judge to “abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.” Rule 4.1(A)(9) prohibits judges from using “court staff, facilities, or other court resources in a campaign for judicial office except as permitted by law.”

3. While judges are permitted under Rule 4.2 of the Code to “seek, accept, or use endorsements from any person or organization,” the manner and circumstances in which Respondent solicited endorsements here – approaching a subordinate court employee during work hours and in a location not generally accessible to the public and requesting the employee distribute endorsement envelopes to other court employees – was an abuse of his judicial position and a misuse of court facilities and resources.²

B. Sanction.

1. In determining the appropriate level of sanction, the Commission evaluates the characteristics of the misconduct and the service and demeanor of the judge through the factors listed in the Commission’s Rules of Procedure (CJCRP) 6(c).

a. Characteristics of Misconduct. The nature of this misconduct concerns the misuse of the judicial position for personal benefit, which inherently undermines public respect for the judiciary. The manner in which a candidate seeks and obtains judicial office reflects both on the individual and on the judiciary as a whole. While the conduct did not occur in the courtroom or involve core judicial functions, there was a clear nexus to Respondent’s judicial position: it is because of his judicial position that Respondent had special access to the location (which was not correspondingly available to his non-incumbent challenger), and had access to individuals who, as

^{2/} See *In re Federspiel*, CJC No. 8333-F-172 (2017).

employees of the court system, are particularly sensitive to the prestige of judicial office. Although here the court employee appropriately declined to fulfill Respondent's request, under the circumstances, the request itself was improper and implicitly coercive, and could subject an employee to concerns about possible retaliation should they decline the request. Judges must be careful to avoid even the perception of exploiting the power inherent in the judicial office to advance their private interests.³ In mitigation, Respondent's actions were isolated to a single incident on a particular day. In addition, Respondent explained that this was his first judicial campaign, he did not have a campaign manager or adviser, and he was not as familiar with the relevant campaign rules as he should have been, though he understands it is his responsibility to comply with them. Finally, Respondent maintains that this violation was unintentional and that he simply had not fully considered the contextual implications of his actions.

b. Service and Demeanor of the Judge. Once concerns about Respondent's conduct were brought to his attention, Respondent promptly contacted the Commission and self-reported this incident. He has cooperated with this investigation. By entering into this agreement, he has acknowledged responsibility for his actions, evidenced an understanding of the concerns raised in this matter and has expressed a genuine commitment not to repeat the conduct that gives rise to this proceeding. Respondent has no prior disciplinary history.

2. Based upon the stipulated facts, upon consideration and balancing of the factors set out in CJCRP 6(c), Respondent and the Commission agree that Respondent's stipulated misconduct shall be sanctioned by the imposition of an admonishment. An "admonishment" is a written action of the Commission of an advisory nature that cautions a respondent not to engage

3/ See, e.g., Ethics Advisory Opinion 86-09 and *In re Krouse*, CJC No. 4560-F-117 (2005). EAO 86-09 opines that a judge should not solicit court employees to volunteer for the judge's campaign as such conduct may create an appearance of exploiting the judicial position. In *In re Krouse*, the judge was disciplined, in part, for questioning an attorney's endorsement of the judge's campaign opponent from the bench, which created the perception of exploiting the power of his judicial position to influence the attorney.

in certain proscribed behavior. Admonishment is the least severe disciplinary action available to the Commission.

3. Respondent agrees that he will promptly read and familiarize himself with the Code of Judicial Conduct in its entirety and will provide proof by declaration or affidavit within 30 days of the public filing of this stipulation.

4. Respondent agrees that, within 24 months of the public filing of this stipulation, he will satisfactorily complete at least one hour of training in judicial campaign ethics, not at Commission expense, pre-approved by the Commission Chair or the chair's delegate.

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

6. 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.

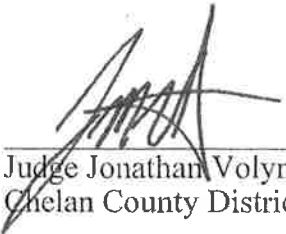
7. Respondent affirms he has consulted with or has had an opportunity to consult with counsel prior to entering into this stipulation.

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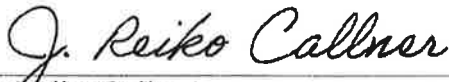
8. Respondent further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.



Judge Jonathan Volyn
Chelan County District Court

9-3-23

Date



J. Reiko Callner
Executive Director
Commission on Judicial Conduct

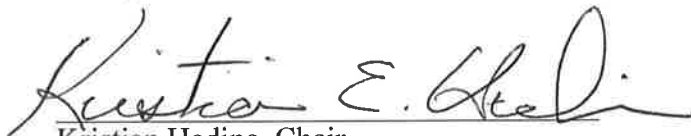
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Date

ORDER OF ADMONISHMENT

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Jonathan Volyn, Admonished for violating Canon 1 (Rules 1.1, 1.2 and 1.3) and Canon 4 (Rule 4.1(A)(9)) of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all the terms of the Stipulation and Agreement as set forth therein.

DATED this 8th day of September 2023.



Kristian Hedine, Chair
Commission on Judicial Conduct