

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-234

Complainant: Adam Watters

Judge: Anne Segal

AMENDED ORDER

After reviewing the complaint, the evidence gathered during preliminary investigation, and the judge's response, the Commission on Judicial Conduct finds that the judge's conduct in this case violated the Code of Judicial Conduct.

According to the Arizona Supreme Court, candidates for judicial office have a First Amendment right to criticize an incumbent judge for intemperate behavior, imprudent actions and delay in rendering decisions. However, under Canon 5(B)(1)(d)(ii) of the 1993 Code of Judicial Conduct and Rule 4.3(A) of the 2009 Code, judicial candidates shall not knowingly or with reckless disregard distribute information or make statements in any form about an opponent that is false or misleading or that falsely identifies the source of a statement. Judge Segal had the right to criticize Judge Watters, but she did not have the right to do it under the guise of a fictitious identity.

Accordingly, the judge is hereby reprimanded for her conduct pursuant to Rule 17(a), and the record in this case, consisting of the complaint, the judge's responses and this order, shall be made public as required by Rule 9(a). All other allegations in the complaint were not substantiated and were dismissed for lack of evidence.

Dated: November 30, 2010.

FOR THE COMMISSION

J. William Brammer, Jr.
Commission Chair

Copies of this order were mailed to the complainant and the judge on November 30, 2010.

This order may not be used as a basis for disqualification of a judge.

To Members of the Judicial Conduct Commission:

I am making a formal complaint against Anne Segal, Justice of the Peace Precinct 1, Pima County Consolidated Justice Court. I believe her conduct, including her admissions regarding her lying about my demeanor on the bench to the public, deserve review by this body.

In pertinent part, I believe Segal, who at all times relevant is and was a member of the Arizona Bar Association, violated the following:

ER 8.2. Judicial and Legal Officials

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct.

Segal publicly, although under a fake or phony name, attacked my demeanor on the bench. She stated that she had firsthand experience appearing before me, and claimed that I was "rude, rude, rude," and that she questioned my "judicial demeanor and temperament." The main problem is, Segal lied. She never appeared before me. She falsely attacked me as a sitting judge in order to garner votes.

By way of background, I was the appointed Justice of the Peace for Precinct 1 of the Pima County Consolidated Justice Court at all times relevant to this complaint. The actions taken by Segal took place during our recent campaign. I was appointed early in 2008 to fill the vacant term of a justice of the peace who retired. Such an appointment meant that I had to run for office in the recent 2008 election cycle. I was, therefore, the sitting Justice of the Peace. Segal, an attorney, ran against me and won the race, and is now the Justice of the Peace. I previously brought some of these issues to the attention of a representative of the judicial conduct committee during the race, and was instructed that if Segal won, that would be a better time to detail my concerns with her activities.

I debated bringing these charges against a member of judiciary; however, given that Segal's conduct demeaned the office she holds, I felt it necessary.

The conduct that is of concern follows:

- 1) Segal, under a fake name, publicly questioned my judicial demeanor and ability on the website of the Arizona Daily Star. The comments she made appeared after that newspaper wrote an article about our race. In brief, using the secretive name of HHastings, Segal responded to the newspaper article in a blog and criticized me. Although the comment, which was originally comment 8 in Exhibit A, was later removed by Star staffers after I complained about its content (Exhibit B), Segal's response (although at the time it was not apparent it was actually her) to the article read as follows:

HHastings

Wow! What a lot of comments. Frankly, the article makes no sense to me. It seems like Ann Segal didn't do anything wrong and Waters is trying to spread rumors that she did. I had a case in front of him before he started running for office. Rude, rude, rude and more rude He's only nice when he wants something – like your vote. I like her slogan. (Exhibit A, comment 8 original)

After reading HHastings' (actually Segal's phony name) message, and being unawares that it was actually my opponent in disguise, I responded and informed that person that I had never, ever received any such complaint from anyone in eight years of working as a judge, and that if someone genuinely had such a concern, they could make a complaint with the Judicial Conduct Committee. (Exhibit A, comment 10)

Also, I commented on previous messages regarding Segal's suspension as a judge while working in New Mexico in that she was removed from hearing DUI and domestic violence cases. (Exhibit A, comment 10)

It was quite surprising then, to note that Segal responded to my comments about Segal's removal in the first person, as herself. (Exhibit A, comment 12) This was obviously an error on her part, a computer/Freudian slip as it were. Others noticed that HHastings was actually Segal, and that she had used a fake name to be critical of me as a sitting judge. (Exhibit A, comment 14). It is clear that in her eagerness to libel me, Segal simply pushed the wrong "send" button on her computer, and was, therefore, caught red-handed.

In the end, as can be seen in the message string, Segal confessed that she was actually HHastings, and admitted that she was being -to use her word - deceptive in her comments regarding my work as a judge. She then compounded the falsehood by again criticizing my judicial demeanor, claiming she appeared in my court, which is absolutely false.

The fact is Segal never appeared before me in any court, ever. She attacked me as a sitting judge by making false comments about my professional ability during an election. Segal, although she hasn't practiced in years, is an Arizona attorney. She wrote that she decided to run for office due to my lack of judicial demeanor and temperament observed after appearing before me. There is no record of such an appearance and Segal cannot produce one. It is disconcerting that someone now sitting on the bench would hide behind a false name, and lie about having appeared before a sitting judge in order to further her own campaign.

But perhaps most disturbing, is that Segal (calling herself HHastings) even went so far as to intentionally misspell her own name (Ann without the e) and my last name to be deceitful and mislead the public about my judicial ability. This shows a premeditation and intent to publicly make a false statement regarding a sitting judge. She thought this out, created a false name, and then published information she knew to be untrue.

2) Although a candidate for justice of the peace, Segal failed to disclose to the Court that her son was facing criminal charges in that same court. Then, after he appeared before me, she called to complain that somehow I "forced" or intimidated him into entering a not guilty plea. First, as even Segal admitted, I had no idea it was her son when he appeared in my court, and second, she failed to comprehend that by law her son had to enter a not guilty plea at his arraignment because he was charged with so-called victim crime.

I believe it is the responsibility of a judge or judicial candidate to reveal that a family member may appear in the court where that person may serve or is currently serving as a judge. Segal only revealed this information after her son appeared in court, at which time she personally called to complain and ask for special treatment of her adult son. Immediately upon receiving information that Segal's son was charged with criminal activity and the case was before me, I recused myself.

I believe Segal violated the Code of Judicial Conduct, which applies to a candidate for political office, and specifically:

Cannon 3(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding or any other interest that could be substantially affected by the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director or trustee of a party;

3) During the campaign, an anonymous "hit piece" was mailed out regarding my work as a judge. (Exhibit C) The piece is a total fabrication and distortion. There is absolutely no doubt in my mind that Anne Segal mailed this out. This belief is supported by the fact that she will – as was demonstrated above - obviously attack me anonymously. The piece was mailed from both Phoenix and Tucson to thousands of voters. Although I admit I cannot prove Segal mailed this document, a great deal of circumstantial evidence points to Segal being the author/distributor. The primary evidence is that on the very day that Segal and I were interviewed for an article in the daily newspaper regarding our campaign, this "hit piece" was anonymously faxed to the reporter writing the article. Since the reporter had talked with just the two of us that day, it is likely that Segal had something to do with the distribution of this mailing and the subsequent faxing to the reporter.

4) Segal repeatedly broke the law by parking in school parking zones during the campaign. This may seem like a trivial matter, but it was her repeated conduct and willingness to break the law that began to cause some parents of schoolchildren concern. She parked illegally because her vehicle was festooned with campaign materials and she wanted to draw attention to herself as part of her campaign. Accompanying this complaint is a photo taken of her car, parked illegally in front of a local middle school/hydrant. (Exhibit D) The parent who took the photo, an attorney, was frustrated with seeing Segal's vehicle continually illegally parked in front of a fire hydrant in the school's fire zone. Segal, a volunteer with the school district, abused her position as such. It is simply hard to believe that Segal did not realize it was improper to park in a fire zone in front of a school, and it is certain she did so on numerous occasions. In addition, Segal violated school district policy by repeatedly handing out campaign literature on school grounds. She was advised that such was improper, but continued to take such action.

In the end, I believe it should be of concern to the members of this committee that someone who was willing to break or bend the laws of this state and libel a sitting judge is now sitting as a Justice of the Peace in one of the busiest courts in this state. That she would intentionally misspell her own name in order to deceive the public regarding a sitting judge demonstrates not only a complete lack of professionalism and ethics, but also shows a darker undercurrent. I am asking that the committee address these issues.

September 1, 2009

EXHIBIT A



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Comments on this Story

Justice of the Peace race, Precinct 1, is hardly genteel

Justice of the Peace, Precinct 1 incumbent Adam Watters and his opponent, Anne Fisher Segal, describe themselves as experienced judges, capable of maintaining the appropriate judicial demeanor under all circumstances.

Filter Profanity

1. Comment by Susan S. (2667) — October 28, 2008 @ 6:22AM Ratings: -1 +3

Isn't there some policy in Justice Court about pro-tems running for elected office? That's probably why Anne Segal wasn't reappointed for 2008.

2. Comment by Ken R. (purist) — October 28, 2008 @ 7:37AM Ratings: -5 +5

...prevented Segal from handling driving-while-under-the-influence and domestic-violence cases because she imposed an illegal sentence in a DUI case.

Do we really want her in our Justice Court? After all, Justice Court is the ONLY court where a citizen can get a fair shake. The judges actually listen.

A lot more digging by this reporter is necessary to get to the bottom of this.

3. Comment by M O. (#4489) — October 28, 2008 @ 7:58AM Ratings: -3 +4

She actually did have complaints against her in Justice Court. She is no longer allowed to preside over evictions there.

4. Comment by michael s. (colt1969) — October 28, 2008 @ 2:40PM Ratings: -3 +1

I find it interesting that M.O. is informed to the fact that Segal (did have complaints)...Judge Watters is related to Ann Day...is it interesting that Judge Bee (related to Tim Bee - running for office)who had no experience when he was appointed to fill a vacancy

5. Comment by Anne S. (Segal) — October 28, 2008 @ 5:51PM Ratings: -1 +3

I am not aware of not being allowed to preside over evictions in JP Court. I handled a number of cases. I temporarily stopped accepting assignments because I was working on my PhD and teaching three classes at the UA. I think that the defamatory remarks that pertain to Justice Court matters should stop being disseminated. I wonder where M.O could have obtained this information only a Judge would know who is permitted to hear cases.

Report this comment

6. Comment by Anne S. (Segal) — October 28, 2008 @ 5:54PM Ratings: -2 +1

Sory - I did not have complaints against me or Adam Watters. Judge Watters apparently sent out information about me. I don't run against anyone. I am running for the position of Justice of the Peace.

Report this comment

7. Comment by J G. (who cares?) — October 28, 2008 @ 9:12PM Ratings: -2 +3

Dona Ana county magistrate? No such thing. Cities have magistrates! She

MOST COMMENTED STORIES FOR NOVEMBER 4, 2008

- Amid anger, fear, uncertain vision, a divided nation gets its official say - 81 Comments
It's time to agree to disagree, and respectfully - 46 Comments
Election 2008: Today's the day - 26 Comments
Campaign briefs: Alaska board clears Palin in cop firing - 22 Comments
Speed-cam infraction can pack punch - 19 Comments
Dale Dauten: The only thing we have to fear is ... well, FDR knew - 9 Comments
Wildcats could lose scholarship if freshman leaves - 9 Comments
Daily Fitz Fix 11/04/2008 - 8 Comments
Creditworthy shouldn't pay for ills of easy credit - 7 Comments
Passage of ordinance on demolition codes has been ruled illegal - 7 Comments
Letters to the editor - 6 Comments
Wildcats heap praise on hapless Cougars - 5 Comments
Big metal plates on road caused traffic slowdown - 4 Comments
Disability group files complaint vs. county - 4 Comments
Obama big winner in early NH towns' votes - 3 Comments
Carolyn Hax: Don't just hang up on beau - 2 Comments
Circuit City cuts 165 stores; Tucson, Yuma are spared - 2 Comments
Fla. board keeps KKK leader's name at high school - 2 Comments
Did you have any problems at Pima County polls? - 2 Comments
Dear Abby: Baby bores stay-at-home mom - 1 Comments

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Ex-staffer, suspended by LaWall in Schwartz case, seeking her job
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Trial begins for former Nogales officer in sex assault case
Prison beating fractures Schwartz's face
Convicted killer Bradley Schwartz suffers facial fractures in prison attack

HOW-TO: TEXT MARKUP TOOLS

We've added a feature to the comments pages - the ability to easily add paragraph breaks, boldface type and a few other typographical aids to your comments. Launch toolbar

Use single or double carriage returns to put line breaks or paragraph breaks in your comments.

must have been a city magistrate in Las Cruces. High volume court? The city of Las Cruces has a population of about 76,000. Pima county has a population of 1 million. Justice courts have countywide jurisdiction. City magistrate court jurisdiction is contained within a city. There is no way that the court that she worked in had a higher volume than the Tucson Justice Court. Justice courts in AZ have criminal as well as civil jurisdiction. JP courts also conduct preliminary hearings on felony offences. City courts generally do not have civil jurisdiction, and they don't conduct preliminary hearings.

She seems to be pretty defensive. There has to be more to her NM history.

She cites Water's relationship to his mother in law's position on the board for his appointment. Probably true, it works that way. It was a good appointment. I have observed him in court. He is fair. He is polite to all parties. He has a great judicial temperament. He doesn't have that most feared syndrome that lawyers call the "Black Robe Disease."

Now, she mentioned Water's mother in law. Well, I hesitate to say this, but Segal's mother was a superior court judge. This is not to disparage Anne, but her mother always had the lowest bar ratings as a judge.

As the saying goes: The nut doesn't fall far from the tree."

8. Comment by HHastings H. (HHastings) — October 29, 2008 @ 12:08AM

Ratings: -3 +1

[This comment has been removed]

9. Comment by Wayne B. (rain) — October 29, 2008 @ 5:47AM

Ratings: -1 +1

I'm for Judge Watters but not for Segal based on their original interviews in the Star. The newspaper article from New Mexico is certainly good information to have, but that's also a good defense Judge Segal made when she said she and Martinez simply didn't get along. It's true that people sometimes use their workplace powers against others due to personality conflicts. (That's why that defense is used by so many defense lawyers, too)

It's interesting that Judge Segal signed up and gave more defense right here in the comment pages. It was also interesting that M.O. (whom I've never seen comment before) made such a bald statement. Since it was not backed up by anything, the Judge again made the right defense by simply stating it's not true. Her word carries more weight than some anonymous initials. Then she mentioned working on her Ph.D and teaching class. Excellent points, again.

I don't think it matters much if Judge Watters is rude in court to lawyers. Sometimes you have to be as a judge. Victims and police officers should be treated with respect, however, HHastings didn't say who Watters was rude to. I'm still for Watters.

Interestingly, Judge Watters has signed up for comments, too and may chime in today. I noticed that because he answered a question about staggered sentencing in his newspaper profile.

Judge Segal's newspaper profile has some comments removed but a good recommendation from New Mexico.

Since the newspaper is afraid to ask, I wish both Judges would comment on their stance on the 2nd Amendment and the right to own a firearm, especially in the light of the Heller case. That's what a lot of people would like to know about what a Judge is thinking.

Report this comment

10. Comment by Adam W. (AWatters) — October 29, 2008 @ 8:25AM

Ratings: -1 +3

First, to Hastings, I apologize if you felt I was rude. In the 8 years I have worked as a parttime and fulltime judge, I have never received any such complaint from anyone who has been before me, ever, and people can easily file such complaints with the Judicial Conduct Commission. As for Ms. Segal and Ms. Martinez simply not getting along, as a former newspaper editor, I verified that information and personally spoke with District Attorney Martinez about the news article in New Mexico and those events. DA Martinez informed me that she and Ms. Segal repeatedly met in her office and discussed my opponent's refusal to jail DUI offenders, despite mandatory sentencing requirements. That refusal was the basis of the complaints made against my opponent in New Mexico by the DA, and the basis for Judge Caleb Chandler's suspension of her from those cases. Although there were points in the article I felt were misleading - and everyone has their own bias when reading an article - the fact is, the article is accurate overall. The information I felt was misleading or confusing was the implication that somehow I had something to do with my opponent not being asked back as a pro tem at Justice Court. I simply did not have any input in that decision. I will not otherwise comment, except to say I do not disagree with MO's comment. As for the Heller case, obviously a Justice of the Peace rarely gets involved with 2nd Amendment issues; however, I have stripped gun owners of their weapons - ordering them to turn all handguns over to the sheriff- when they have threatened someone in a domestic violence case. However, as an owner of several WWII collectible firearms, I am always mindful of our Constitutional right to bear arms.

11. Comment by Wayne B. (rain) — October 29, 2008 @ 11:46AM

Ratings: -1 +2

services, the impersonation of another site user, threatening or harassing postings and the use of vulgar, abusive, obscene or sexually oriented language, defamatory or illegal material. You may not post content that degrades others on the basis of gender, race, class, ethnicity, national origin, religion, sexual preference, disability or other classification. It's fine to criticize ideas, but ad hominem attacks are prohibited. Users who violate those standards may lose their privileges on azstarnet.com.

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**1 flat stomach rule:
obey**

I cut out 2 lbs of stomach fat per week by obeying this 1 old rule.

CathysWeightLoss.com

10. Comment by Adam W. (AWatters)

Good answers, Judge Watters, that clears up everything I was wondering about.

I realize that you may have to strip gun rights sometimes in domestic violence cases; however, that is where abuse has occurred in other cases across the country I have read about. It seems obvious that some Judges will go too far because of their personal feelings.

Glad to hear that you are always mindful of our Constitutional right to bear arms.

12. Comment by HHastings H. (HHastings) — October 29, 2008 @ 12:30PM

Ratings: [thumbs up] [thumbs down] -1 +3

Adam Watters:
As a sitting Judge, do you honestly think I sat and chatted with the District Attorney about how I should decide cases? Did it occur to you that the reason why we "didn't get along" was because I refused to meet privately with her. I know that you do not meet with Barbara LaWall about how to decide cases.
I was the first woman and the first attorney elected to the Magistrate Court in Dona Ana County. Don't you think it was odd that as the only attorney on the bench, I was recused by the long-time DA from hearing "her" cases.
As a media law professor, I instructed my students about defamation. One should never believe everything that is published in the newspapers. The facts are the facts - I was not suspended by Judge Chandler or anyone else.

I think your continued effort to discredit me and my qualifications should be subject to review.

13. Comment by Anne S. (Segal) — October 29, 2008 @ 5:52PM

Ratings: [thumbs up] [thumbs down] -5 +0

Report this comment

14. Comment by Wayne B. (rain) — October 30, 2008 @ 5:29AM

Ratings: [thumbs up] [thumbs down] -1 +1

Well, it appears that HHastings is actually Ann Segal or he posts from her computer, and they forgot to log off the HHasting account before she posted as herself. The number 8 comment by HHastings has been removed but it basically accused Watters of being rude and claimed to have had a case before him.

Report this comment

15. Comment by Adam W. (AWatters) — October 30, 2008 @ 7:17AM

Ratings: [thumbs up] [thumbs down] -1 +2

It is now obvious that that Ms. Segal is actually HHasting. Comment 8 (above) was removed, but I kept a copy. Compare it was Comment 12. Here is Comment 8 in its entirety:
"HHastings H. (HHastings)
Wow! What a lot of comments. Frankly, the article makes no sense to me. It seems like Ann Segal didn't do anything wrong and Watters is trying to spread rumors that she did. I had a case in front of him before he started running for office. Rude, rude and more rude. He's only nice when he wants something - like your vote. I like her slogan."

16. Comment by Anne S. (Segal) — October 30, 2008 @ 9:16PM

Ratings: [thumbs up] [thumbs down] -3 +1

I guess I am not good at being deceptive or confrontational. The truth is when I appeared before you, you were very rude. Admittedly, it was before you sought election. Part of the reason why I decided to run for this position was due to your lack of judicial demeanor and temperament.
Your statement that you wish to "shake hands" is equally deceiving. You made the statement at the same time you were seeking disclosure of all of my husband's private e-mails through a Freedom of Information request.
My other comments remain as stated: The idea that I discussed cases with the district attorney is insulting to my deep respect for the impartiality of the judiciary.
I really like my slogan.
Anne Segal

Report this comment

17. Comment by golf1 h. (golf1) — October 30, 2008 @ 11:30PM

Ratings: [thumbs up] [thumbs down] -1 +2

Both of these candidates should be deeply ashamed of their tactics. I suggest we not vote for either of these clowns and write in Judge Bobby Gibson.

Report this comment

18. Comment by Wayne B. (rain) — October 30, 2008 @ 11:50PM

Ratings: -1 +1

I'm still for Judge Watters but not for Judge Segal based on everything I've read in the articles and comments.

When Judge Watters thought he might have been rude based a comment later found to be deceptive, he apologized, and that says a lot to me, as in, it takes a big man to do that. He has also been very forthright and seems honest.

Perhaps these other issues discussed need to be worked out by some higher judicial authority, but I don't know how that would work.

Report this comment

19. Comment by Luis C. (JLCjr.) — October 31, 2008 @ 3:38PM

Ratings: -1 +1

"link text" + http://regulus2.azstarnet.com/comments/index.php?id=264468

20. Comment by Nic V. (NicNic) — October 31, 2008 @ 8:16PM

Ratings: -0 +1

This is starting to look like the kind of catfight teenagers engage in through nasty back-and-forth comments on MySpace, right down to the childish attempt at anonymity.

(I do have to agree with #18 that at least Judge Watters addressed what he thought at the time was an authentic complaint with a level of professionalism, but I would think the comments page of an Arizona Daily Star blog isn't the most appropriate place to address any of these issues.)

Report this comment

Leave a Comment

You are logged in as Adam W. Log Out

Formatting Help

 You may also write a letter to the editor.

EXHIBIT B

The following comment has been deleted:

HHastings H. (HHastings)

Wow! What a lot of comments. Frankly, the article makes no sense to me. It seems like Ann Segal didn't do anything wrong and Waters is trying to spread rumors that she did. I had a case in front of him before he started running for office. Rude, rude and more rude. He's only nice when he wants something -- like your vote. I like her slogan.

Thank you for taking the time to report comments to StarNet that violate the StarNet User Guidelines. Please continue your support of the user community through responsible reporting of future offenders of the guidelines.

This message was sent from an unmonitored e-mail address. Replies will be ignored.

EXHIBIT C

Adam Watters was appointed to be the Justice of the Peace by the Board of supervisors in May 2008. His mother-in-law, Ann Day, was on the Board of supervisors when he was appointed to this \$80,000+++a year job.

He never held public office. He never volunteered for the community. He recently set an extremely low bond for a teen-age murder suspect accused of shooting his sister. In the afternoon, he often starts court at 2:00 when the other judges start at 1:00 p.m. On Sept. 29th, he had one case scheduled; Sept. 30th, 6 cases, Oct 1st, 4 cases with the last one set for 11:00 a.m. The other judges divide the 170,000 annual cases.

A huge billboard at a local high school advertises his advice to students:
"JUDGE ADAM WATTERS...the quality of a decision is like the well-timed swoop of a falcon which enables it to strike and destroy its victim."

These are a few facts. End nepotism.
DO NOT VOTE FOR ADAM WATTERS
JUSTICE OF THE PEACE IN PRECINCT ONE.
Do not re-anoint Adam Watters.

EXHIBIT D

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Anne Fisher Segal, J.D.

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October 14, 2009

NOV 16 2009

Keith Stott, Disciplinary Counsel
Commission on Judicial Conduct
1501 W. Washington Street, Ste. 229
Phoenix, AZ 85007

COMPLAINT NUMBER 09-234

Members of the Commission:

This letter is generated in response to the allegations made by Adam Watters on September 2, 2009 wherein Mr. Watters enumerated various incidents in which he alleged I violated the Judicial Code of Conduct. I am responding to the allegations in the enumerated order stated by Mr. Watters. My response to each in every allegation is made to the best of my knowledge, information and belief:

I am currently serving as a Justice of the Peace in Pima County, Precinct One. I was elected in November 2008 and defeated Adam Watters who had been appointed in May 2008. At the time these allegations were made, I was a licensed Arizona attorney.

To best understand the allegations of complaint described as ER8.2 "Judicial and Legal Officials," it is important for the Commission to consider some background information. During the course of the election, I reported Adam Watters to the judicial commission for violations of the Code of Conduct under this canon. According to my complaint against Mr. Watters, I reported that he published and repeatedly attempted to publish false information stating that I had been suspended from my position as a magistrate judge in New Mexico. He successfully published this statement in the Arizona Daily Star as a "blog" following a newspaper article summarizing our roles as candidates. His comment generated anonymous responses favoring his candidacy.

In the complaint now before the commission, he refers to a statement allegedly made by HHastings. The blog statement by HHastings was deleted upon its online publication. I cannot answer or respond to its content as it was deleted.

Mr. Watters further alleges that I authored an online blog regarding his behavior during court proceedings. The Canon precludes an attorney from making a statement the lawyer knows to be false or with reckless disregard to its truth or falsity concerning the qualifications or integrity of a judge. I observed Judge Watters while I was assisting a friend and also while learning eviction procedures. I am sorry if his abrasive conduct as a judge generated a negative impression. I sincerely regret responding to his published comments about me in an equally debasing manner.

Allegation 2

I have an adult son named Stephen Segal. When he was 19 years old and no longer living in our home, apparently he was arrested for a third degree misdemeanor trespass at our country club, La Paloma. This occurred in August, 2008. He chose not to tell my husband or me, about the arrest. He appeared in the Pima County Justice Court on September 5, 2008 hoping to resolve the matter without parental assistance. After his court date, however, he contacted me as he was extremely scared by the courtroom conduct of Adam Watters. Stephen related that his case had been assigned, albeit arbitrarily, to Adam Watters. There are three "Segal" families in Pima County - my family consisting of my husband and three children, my mother-in-law and a distant cousin. Although it was one month before the election, which was contentious, Judge Watters did not make any inquiry of my son, Stephen Segal, as to whether he was related to me, his political opponent, Anne Segal.

He conducted a proper arraignment and reset the case for further proceedings. My son reported, however, that while he waited for his case, he overheard courtroom chatter about me which was demeaning. After Stephen told me everything, I immediately contacted the chief clerk, Lisa Royal. Ms. Royal indicated that she was the correct person for me to contact. I suggested to Lisa Royal that Stephen's case be immediately transferred to Tucson City Court, which it was. Judge Watters did not recuse himself until I brought this matter to the attention of the chief clerk, Lisa Royal.

I concur that a judge cannot act on behalf of a family member, but I cannot understand Adam Watters' allegation of my violation of Cannon 3(c). I do not have a financial interest in the controversy nor was I a party to the proceeding nor do I have any interest that could be substantially affected by the proceedings. If there was the appearance of impropriety by my request that my son's case be transferred, again, I apologize as I am not aware of any other procedure that I could have employed other than asking for the case to be transferred once I learned of it.

Allegation 3

Adam Watters describes an anonymous "hit piece" [his term] that was mailed out regarding his work as a judge. While I certainly understand my responsibility to properly respond to each and every allegation made by Mr. Watters, this one has me baffled. I have no idea to what he is referring. The only authenticating remark that I can state is that Adam Watters refers to our consecutive interviews for a newspaper article when the "hit piece" was allegedly faxed to the reporter. As I recall, I discussed this matter with the reporter who also asked me about her contemporaneous receipt of a faxed copy of the letter. I was away from home when I spoke to the reporter, and, as I recall, I was at a location that did not have wired telephones. (Puerto Penasco, Mexico)

I am sorry that any person resorted to using negative allegations about an opponent during a campaign election. I feel that disseminating false or negative information is an inappropriate tactic and should be condemned.

Allegation 4

I am very sorry that I may have parked illegally at Catalina Foothills High School (CFHS). On the other hand, during part of the election, I had two children enrolled at the high school, one CFHS graduate with a high school girl friend. My husband also attended functions at the school. At the time, we had five licensed drivers and seven cars. I am not certain who parked our car at that location. I will, however, take full responsibility for parking illegally on the date and time described in the photo and I am sorry that I caused any difficulty to the school community. I have also attached a copy of the parking permit that I had for my car. The permit authorizes me to park in the lane with a red curb.

Closing Allegations

I did not know when I misspelled my name. Actually, the Pima County Justice Court judicial secretaries spelled my name as "Ann" when they recently ordered my stationary. "Anne" can be correctly spelled as "Ann." I am not aware that it is an indication of a "darker undercurrent."

It is my sincerest regret that these allegations were brought before you. I tried to keep the campaign free of personal misconduct. I am dedicated to upholding the integrity of our legal profession, as well as the judiciary. I am very proud to be a member of the Arizona legal community and only hope that I will be able to continue to serve as a judge in Pima County and in this state with honor and dignity.

Please do not hesitate to contact me if further information, clarification or assistance is needed.

Sincerely,

Anne Fisher Segal
Justice of the Peace
Pima County Justice Court
Tucson, Arizona

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December 8, 2009

Via Electronic Mail & First-Class Mail

DEC 08 2009

Keith Stott, Executive Director
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

Re: Case No. 09-234
Anne Fisher Segal

Dear Keith:

This Firm represents Judge Anne Fisher Segal in connection with the above-referenced complaint filed by Adam Watters. This response focuses on the conduct described in Mr. Watters's complaint and those provisions of the Code of Judicial Conduct and the Rules of Professional Conduct that Mr. Watters cites as pertinent to the alleged conduct.¹ Because the acts Mr. Watters describes are either unsubstantiated or do not violate any of Judge Segal's ethical responsibilities, the complaint should be dismissed.

I. Introduction and Background

A. Judge Segal's Background

Judge Segal was born and raised in Arizona. She graduated from the University of Arizona and received her Juris Doctorate from the University of San Diego School of Law in 1979. She began her legal career as an Assistant Public Defender in San Diego, where she worked for four years. Judge Segal then went to work as a prosecutor in Illinois until moving to New Mexico in 1994. From 1994 through 2008, Judge Segal has devoted herself to legal education. She taught in the Dona Ana County (New Mexico) Community College's Paralegal Program and later as an adjunct professor at New Mexico State University and the University of Arizona. During that time, she taught courses in criminal law, criminal procedure, communications law, the courts and the legal process, and administrative law.

In 2000, Judge Segal was elected to the Dona Ana Magistrate Court, a New Mexico court of limited jurisdiction. She was the first attorney and second woman to be elected in Dona Ana

¹ As you are well aware, effective September 1, 2009, Arizona adopted revisions to the Code of Judicial Conduct. Among other changes, the Canons are now re-numbered and referred to as Rules. This letter refers to and analyzes the Judicial Canons in effect before September 1, 2009, as the underlying events occurred before that date.

County. During her tenure, from 2000 until 2004, in addition to initiating new alternative sentencing procedures and calendaring systems, Judge Segal was also appointed to serve on the New Mexico Supreme Court Rules Committee for limited jurisdiction courts. She also served as the liaison for the new court building committee and received training in court design. In 2004, Judge Segal and her husband, Robert, moved to Tucson to be closer to their aging mothers.

Judge Segal is extremely active in the Tucson community. She is co-chairing the Pima County Bar Association's joint meeting with the Medical Society, actively participates in her children's schools (both college and high school), and is also very involved in the Jewish community.

B. Judge Segal's Contact with Mr. Watters

In May of 2008, Mr. Watters was appointed to fill the vacant seat of one of Pima County's justices of the peace who had retired. At the end of his appointed term, he sought to be elected to the position. Judge Segal ran against him in that election.

The election was hard fought by both parties. Over the course of the election, the local newspaper published several stories discussing the candidates. Because the articles appeared online, readers were allowed to publish their own comments at the end of the articles. As is often the case in political elections, both parties used this forum to influence voters. Things turned ugly, however, after Mr. Watters used the internet discussion boards to publish false information regarding Judge Segal's tenure as a magistrate judge in New Mexico. Upset with the false accusations, Judge Segal posted comments of her own on which Mr. Watters based this complaint.

The tension between the political opponents grew worse after Mr. Watters was assigned to a misdemeanor trespassing case involving Judge Segal's son, Stephen Segal. Although there are only three "Segal" families in Pima County, Judge Watters did not think to inquire whether Stephen was related to Judge Segal—his political opponent. When Judge Segal learned that Stephen had been arrested and his case had been assigned to Mr. Watters, she immediately contacted the court to request that his case be transferred. It was only after she made that call that Mr. Watters recused himself.

Judge Segal eventually prevailed in the election and has been serving as a Justice of the Peace in Pima County ever since. Nearly 10 months after Judge Segal was elected and more than a year since the e-mail exchanges in question, Mr. Watters filed this complaint against Judge Segal alleging various acts of unethical behavior.

II. Response to Allegations of Unethical Conduct

In his complaint, Mr. Watters accuses Judge Segal of four acts of misconduct. As this response makes clear, the acts Mr. Watters describes are either unsubstantiated or do not violate any ethical responsibilities under the Arizona Rules of Professional Conduct or the Arizona Judicial Code of Conduct.

A. Judge Segal did not make a statement that she knows to be false concerning the qualifications or integrity of a judge.

ER 8.2 of the Arizona Rules of Professional Conduct provides that “[a] lawyer shall not make a statement *that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity* of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.” Ariz. Rules of Prof'l Conduct ER 8.2 (emphasis added). The conduct described in Mr. Watters’s complaint does not violate this ethical rule.

Mr. Watters alleges that Judge Segal violated ER 8.2 by posting comments about his judicial demeanor on an internet discussion board. Specifically, Mr. Watters alleges that Judge Segal falsely stated that she had had a case in front of him and that he is rude. *See Compt.* at 2.

To constitute a violation of ER 8.2, a lawyer’s statement must meet two criteria: (1) the statement must concern the qualifications or integrity of a judge and (2) the lawyer must know that it is false or have made it with reckless disregard as to its truth. *See* ER 8.2. Neither of Judge Segal’s statements meets these criteria.

Although Judge Segal has never literally appeared as a lawyer or litigant before Mr. Watters, her statement obviously does not concern Mr. Watters’s qualifications or integrity and her statement that Mr. Watters is “rude” did not violate ER 8.2 because there is no evidence that Judge Segal knew the statement was false or that she made the statement with reckless disregard as to its truth. Judge Segal did, in fact, observe Mr. Watters preside in the court room on a number of occasions. She made the statement that Mr. Watters is rude based upon those observations. As such, her statement cannot be said to have violated ER 8.2.

Judge Segal admits that it was wrong to imply that she had appeared before Mr. Watters when in fact she had only been an observer in his courtroom. However, her lapse in judgment in responding to Mr. Watters’s misleading comments in this manner in the context of a heated election campaign does not constitute a violation of ER 8.2 because the false implication obviously had nothing to do with Mr. Watters’s qualifications or integrity.

B. Judge Segal did not violate any ethical standard by failing to disclose that her son was appearing before the court.

Mr. Watters suggests that Judge Segal violated the Arizona Judicial Code of Conduct, and consequently the Arizona Rules of Professional Responsibility, by “fail[ing] to disclose to the Court that her son was facing criminal charges” in the court in which she was seeking election. This allegation is without merit for two reasons.

First, Judge Segal did not know that her son was appearing in court. At the time her son was arrested for the alleged trespass, he was not living at home. Hoping to resolve the matter himself, he did not inform his parents of the incident. It was only after Stephen overheard several individuals talking about his mother as he waited for trial that he decided to notify her.

Judge Segal immediately contacted the chief clerk, Lisa Royal, and suggested that Stephen's case be transferred to Tucson City Court.² In making this suggestion, Judge Segal sought to avoid the appearance of impropriety and satisfied any ethical obligation implicated by the Arizona Code of Judicial Conduct.

Second, even if Judge Segal had known that her son was appearing in court, she was under no ethical obligation to disclose that information to anyone. Mr. Watters cites Canon 3(E) of the Arizona Code of Judicial Conduct in support of his belief that "it is the responsibility of a judicial candidate to reveal that a family member may appear in the court where that person may serve." However, by omitting the first sentence of Canon 3(E), Mr. Watters inexplicably misrepresents the scope and purpose of the rule. The first sentence of Canon 3(E) makes it clear that the rule governs *disqualification* not disclosure. See Ariz. R. Sup. Ct. 81, Canon 3(E) (setting for the circumstances under which a judge must disqualify himself or herself). Specifically, it states that "a judge shall disqualify himself or herself in any proceeding" in which the judge knows that the judge's child has any interest that could be substantially affected by the proceeding or is a party to the proceeding. *Id.* at Canon 3(E)(1)(c)-(d)(i). Had Judge Segal been a judge at the time her son appeared before the court, she would have certainly had to disqualify herself from any involvement in that proceeding under Canon 3. However, there is simply no authority suggesting that, as a judicial *candidate*, Judge Segal was required to disclose that her son was appearing before the court. The complaint indicates that Mr. Watters misunderstands the rule. More important, the facts demonstrate that upon learning of her son's impending appearance in the Justice Court where she was seeking to serve as a judge, Judge Segal was keenly aware of and responded to the principle underlying the disqualification rule.

C. Judge Segal did not mail out the anonymous "hit piece."

Mr. Watters accuses Judge Segal of mailing out an anonymous "hit piece." Judge Segal denies doing so. Moreover, Mr. Watters provides no credible evidence in support of his unsubstantiated accusation other than his unfounded suspicions.³ This baseless accusation should be rejected out of hand.

² It is worth noting that Ms. Royal informed Judge Segal that she (Ms. Royal) was the appropriate person to contact in this situation. As a result, when Judge Segal's son later appeared before the court for a traffic ticket, Judge Segal again contacted Ms. Royal, as previously directed, to request that the case be transferred to another court. Despite the fact that Judge Segal complied with Ms. Royal's instruction Judge Felix nonetheless filed a complaint against Judge Segal which is also pending before the Commission.

³ Mr. Watters admits that he has only circumstantial evidence to support his theory but nevertheless insists that "there is no doubt in [his] mind that Anne Segal mailed it out."

D. Judge Segal's trivial parking violation does not merit discipline under Canon 2(A).

Canon 2(A) of the Arizona Rules of Judicial Conduct provides that a judge shall respect and comply with the law. Ariz. R. Sup. Ct. 81, Canon 2(A). The parking violation set forth in Mr. Watters's complaint is obviously insufficient to merit discipline under this rule.

Mr. Watters alleges that Judge Segal "repeatedly broke the law parking in school parking zones during [her] campaign." It is nearly impossible to respond to this allegation because Mr. Watters does not provide any detail as to dates, times, or locations of the alleged incidents. He offers only a single photo which he did not even take himself as evidence of her allegedly repeated behavior. Based upon this single piece of evidence, he asserts, again without any substantiation whatsoever, that "it is certain she did so on numerous occasions."

Mr. Watters's frivolous, unsubstantiated allegations about unsubstantiated parking violations simply do not merit the Commission's attention.

III. Conclusion

As the analysis above demonstrates, Judge Segal has not committed any violation of her ethical duties as either a lawyer or a judge. She realizes in retrospect that even in the context of an emotionally-charged election campaign, she should not have responded to the false statements her opponent made about her by posting comments on the internet discussion board using a pseudonym. As a result of this experience, Judge Segal will avoid such conduct in the future.

In view of the fact that Judge Segal's conduct did not violate any provision of the Code of Judicial Conduct or the Rules of Professional Conduct, we urge the Commission to dismiss this complaint. However, if you have any questions or require any further information, please do not hesitate to contact either me or my colleague, Brandon A. Hale, who is also familiar with this matter.

Sincerely,

Mark I. Harrison

MIH:BAH/jjm