

JUL 21 2016

COMMISSION ON JUDICIAL QUALIFICATIONS

STATE OF KANSAS

BEFORE A HEARING PANEL FOR FORMAL JUDICIAL COMPLAINTS

Inquiry Concerning a Judge)
Linda S. Trigg)

Docket No. 1238

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DISPOSITION

On December 4, 2015, Panel B of the Commission on Judicial Qualifications issued a Notice of Formal Proceedings, pursuant to Rule 611(b) (2015 Kan. Ct. R. Annot. 796), against Linda S. Trigg, District Magistrate Judge of the 10th Judicial District. The Notice of Formal Proceedings alleged that Respondent engaged in certain conduct which violated Rules 1.1 and 1.2 of Canon 1 (2015 Kan. Ct. R. Annot. 753-754); Rules 2.1, 2.2, and 2.5 of Canon 2 (2015 Kan. Ct. R. Annot. 755 and 757); and Rule 3.15 of Canon 3 (2015 Kan. Ct. R. Annot. 778-780).

On June 22, 2016, a public hearing was held in Topeka, Kansas, before Panel A of the Commission on Judicial Qualifications, at which hearing the Panel accepted stipulations and heard evidence on the record.

Members of the Panel present for this hearing were: Honorable Mary B. Thrower, Chair; Nancy S. Anstaett; James S. Cooper; Honorable Robert W. Fairchild; and Norman R. Kelly. Todd N. Thompson appeared in support of the Notice of Formal Proceedings. Respondent appeared personally.

Having heard the evidence and arguments of counsel, the Panel makes the following findings of fact, conclusions of law, and disposition of complaint.

FINDINGS OF FACT

- 1. On April 8, 2016, the Honorable Mary B. Thrower, Chair of Hearing Panel A, presided over a prehearing conference. Examiner Thompson appeared on behalf of the Commission on Judicial Qualifications. The Respondent appeared in person and advised she would not retain counsel.
2. On April 26, 2016, the parties entered an order containing the following stipulations:
"1. The facts stated in the first two paragraphs of the Allegations on page 5 of the Formal Notice are true and correct.
"2. Respondent received proper notice of the formal complaint in Docket No. 1238."

3. As of April 15, 2015, Respondent failed to timely file her annual Financial Disclosure Form.
4. Respondent failed to promptly respond to a reminder notice mailed May 11, 2015.
5. Respondent received phone call reminders on June 4 and June 10, 2015.
6. After receiving a letter from the Commission sent July 22, 2015, Judge Trigg filed the 2014 Report on September 4, 2015.
7. This is not the first year Respondent has failed to timely file her annual Financial Disclosure Form.

CONCLUSIONS OF LAW

1. The Notice of Formal Proceedings alleges that Respondent's conduct violated the provisions of Canon 1, Canon 2 and Cannon 3 of Rule 601B of the Rules of Supreme Court to Judicial Conduct.
2. CANON 1 of the Code of Judicial Conduct, Rule 601B, provides:

"A judge shall uphold and promote the *independence, integrity, and impartiality* of the judiciary, and shall avoid *impropriety* and the appearance of impropriety."
3. RULE 1.1, "Compliance with the Law," provides:

"A judge shall comply with the *law*, including the Code of Judicial Conduct.
4. RULE 1.2, "Promoting Confidence in the Judiciary," provides:

"A judge shall act at all times in a manner that promotes public confidence in the *independence, integrity, and impartiality* of the judiciary, and shall avoid *impropriety* and the appearance of impropriety."

COMMENT

- [1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.
-
- [3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

....

[5] Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

5. Rule 601B defines "Impropriety" as follows:

"Impropriety" includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge's independence, integrity, or impartiality. See Canon 1 and Rule 2.2."

6. CANON 2 of the Code of Judicial Conduct provides:

"A judge shall perform the duties of judicial office *impartially*, competently, and diligently."

7. RULE 2.1, "Giving Precedence to the Duties of Judicial Office," provides:

"The duties of judicial office, as prescribed by *law*, shall take precedence over all of a judge's personal and extrajudicial activities."

8. RULE 2.2, "Impartiality and Fairness," provides:

"A judge shall uphold and apply the *law*, and shall perform all duties of judicial office fairly and *impartially*."

COMMENT

....

"[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

9. RULE 2.5, "Competence, Diligence, and Cooperation," provides:

"(A) A judge shall perform judicial and administrative duties, competently and diligently.

"(B) A judge shall cooperate with other judges and court officials in the administration of court business."

COMMENT

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

....

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

10. Canon 3 of the Code of Judicial Conduct, Rule 601B, provides:

"A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office."

11. RULE 3.15, "Reporting Requirements," provides:

"(A) A judge shall publicly report:

(1) compensation received for extrajudicial activities as permitted by Rule 3.12 and compensation received by the judge's spouse or domestic partner. Reportable compensation means income received for the personal services of the judge in an amount in excess of \$500 from any single payor or in excess of \$3,000 from all payors during the reporting period; income received for the personal services of the judge's spouse or *domestic partner* in an amount in excess of \$3,000 from a single source during the reporting period; and income derived from business; royalties, including ownership of mineral rights; annuities; life insurance and contract payments.

(2) fees and commissions. A judge shall report each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions the judge, the judge's spouse, or the judge's *domestic partner* received an aggregate in excess of \$3,000 during the reporting period. The phrase "client or customer" relates only to businesses or combination of businesses. The term "business" means any corporation, association, partnership, proprietorship, trust, joint venture, or a governmental agency unit, or a governmental subdivision, and every other business interest, including ownership or use of land for income. The term "combination of businesses" means any two or more businesses owned or controlled directly by the same interests. The term "other business interest" means any endeavor which produces income, including appraisals, consulting, authorships, inventing or the sale of goods and services.

- (3) ownership interests. A judge shall report any corporation, partnership, proprietorship, trust, retirement plan, joint venture, and every other business interest, including land used for income, in which either the judge, the judge's spouse or *domestic partner*, dependent children, or dependent step children have owned a legal or equitable interest exceeding \$5,000 during the reporting period.
- (4) gifts and other things of value as permitted by Rule 3.13(C), unless the value of such items, alone or in the aggregate with other items received from the same source in the same calendar year, does not exceed \$200.
- (5) reimbursement of expenses and waiver of fees or charges permitted by Rule 3.14(A), unless the amount of reimbursement or waiver, alone or in the aggregate with other reimbursements or waivers received from the same source in the same calendar year, does not exceed \$200. Expense reimbursement limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or *domestic partner* should be reported as a gift. Any payment in excess of such an amount is to be reported as compensation.
- (6) positions. A judge shall report any business, organization, labor organization, educational or other institution or entity in which the judge now holds or has held a position of officer, director, associate, partner, proprietor, trustee, guardian, custodian, or similar *fiduciary*, representative, employee, or consultant at the time of filing this report or during the reporting period.
- (7) liabilities. A judge shall report all of the judge's, the judge's spouse's or *domestic partner's*, dependent children's, and dependent step children's liabilities to any creditor which exceeded \$10,000 at any time during the reporting period except for any liability owed to a spouse, parent, brother, sister, or child; any mortgage secured by real property which is a personal residence of the judge or the judge's spouse or *domestic partner*; any loan secured by a personal motor vehicle, household furniture, or appliances that does not exceed the purchase price of the item securing the liability; student loans or loans from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; any revolving charge account, the balance of which did not exceed \$10,000 at the close of the reporting period; and political campaign funds.

- "(B) A judge shall report annually the information listed above in (A)(1) through (7) on a form provided by the Commission on Judicial Qualifications. The judge's report for the preceding calendar year shall be filed as a public document in the office of the Clerk of the Appellate Courts on or before April 15 of each year.
12. A judge has a duty under the Code of Judicial Conduct to file an annual Financial Disclosure Report. Respondent's failure to file her Financial Disclosure Report is a clear violation of Code of Judicial Conduct and also presents action that is not conducive to promoting public confidence in the judiciary. This is not Respondent's first instance of failing to timely file an annual Financial Disclosure Form.
13. The Panel unanimously finds that Respondent's conduct, established by clear and convincing evidence, violated Canon 1, Rule 1.1 and Rule 1.2 (comments 3 and 5); Canon 2, Rule 2.1 and 2.5 (comments 1 and 4); and Canon 3, Rule 3.15(A) & (B).

DISPOSITION

Pursuant to Supreme Court Rule 620 (2015 Kan. Ct. R. Annot. 800-801), based on the foregoing Findings of Fact and Conclusions of Law, and based on a unanimous vote of the members, the Panel orders the Respondent cease and desist from future activity in violation of the above-cited Canons.

DATED this 21st day of July, 2016.

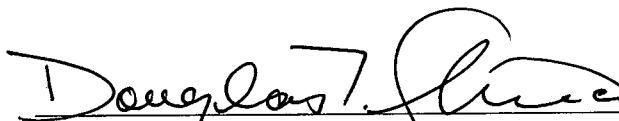
FOR THE COMMISSION ON
JUDICIAL QUALIFICATIONS



MARY B. THROWER, Chair

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the Findings of Fact, Conclusions of Law and Recommendation was mailed to the Honorable Linda S. Trigg, Respondent, Johnson County District Court, 100 N. Kansas Ave., Olathe, Kansas 66061 and Todd N. Thompson, P. O. Box 1264, Lawrence, Kansas 66044-8264, by depositing same in the United States mail, postage prepaid, on the 21st day of July, 2016.



DOUGLAS T. SHIMA, Secretary
Commission on Judicial Qualifications