

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-166

Complainant: No. 1380210808A

Judge: No. 1380210808B

ORDER

The complainant alleged a superior court judge failed to disqualify himself despite a financial conflict of interest. After analyzing the allegations and the judge's response, the commission found no evidence of ethical misconduct on the part of the judge. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: October 13, 2010.

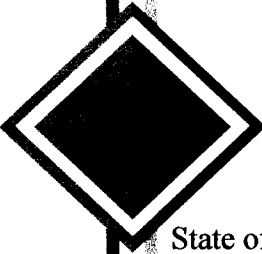
FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on October 13, 2010.

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

2010-166



ATTORNEY AT LAW

June 16, 2010

JUN 25 2010

State of Arizona
Commission on Judicial Conduct
1501 W. Washington Street, Ste. 229
Phoenix, AZ 85007

In re: Judicial Conduct Complaint
Yavapai County Superior Court

To whom it may concern:

Please accept this letter as a formal complaint against Judge _____ of the Yavapai
County Superior Court.

On or about January 29, 2010, I filed a complaint in Yavapai Superior Court against

A copy of the Complaint is attached as

EXHIBIT ONE. The complaint includes allegations that my clients, the _____ were prevented
from procuring a loan re-financing because they had not been told that the _____ and
Deed of Trust had been sold. Because _____ was involved, this transaction was not recorded.
Therefore, despite extraordinary efforts to obtain the identity of the new Note holder, the
refinancing fell through because the title company would not issue a title policy without knowing
the identity of the current owner of the _____ Note. In short, the refinancing agency was not
interested in paying off a Note only to have an undisclosed entity step forward and demand
payment. This extraordinary situation has placed my clients at risk of losing their home.

In fact, on or about February 3, 2010, a forcible detainer action was brought by SABR
Mortgage Loan 2008-1 REO Subsidiary-1 LLC. Thus, for the first time, the identity of the owner
of the Milos' Note became known. (**SEE EXHIBIT TWO**). After filing of this detainer action, I
was able to learn, quite by accident, that Equifirst had sold my clients' Note and Deed of Trust in
2007! I learned this from Equifirst's attorney just prior to the hearing brought by SABR. Prior to
that, I had asked the Substituted Trustee for information on the new Note holder, and was

stonewalled. A representative of could not be located.

I filed a Motion to Consolidate the two actions on April 9, 2010. That Motion is attached as **EXHIBIT THREE**.

A hearing was held by Judge on March 30, 2010. He summarily denied the Motion to Consolidate: oral argument was not allowed. In short, he assumed title was good in SABR and a Minute Entry to this effect was issued on March 20, 2010. (**SEE EXHIBIT FOUR**).

After receipt of this Order, I researched the possibility that Judge might have financial involvement with one of the entities who are defendants in the first complaint. Sure enough, it was discovered that this Judge had and has an on-going relationship with two of the named defendants: Bosco and (**SEE EXHIBIT FIVE**). Still retaining some belief in the integrity of the court system, I filed a Motion for Reconsideration AND A MOTION TO RECUSE BASED ON JUDGE JONES' CLEAR VIOLATION OF CANON 3, JUDICIAL CANONS OF ETHICS. I did not believe it necessary to quote from this Canon as it is and should be second nature for a judge to realize when he has a conflict arising from business relationships. A copy of the Motion for Reconsideration and Motion to Recuse are attached as **EXHIBIT SIX**. Quite remarkably, Judge issued a Minute Entry dated May 4, 2010 in which he set forth his proposed solution to the obvious business related conflict. A copy of that Minute Entry is attached as **EXHIBIT SEVEN**.

Canon 3(E)(c) and (d)(iii) of the Judicial Canons reads as follows:

"E. Disqualification. (1). A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(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

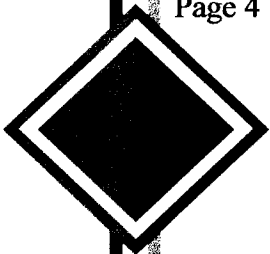
matter in controversy or in a party to the proceeding or any other interest that could be substantially affected by the proceeding;

(d)(iii): is known by the judge to have an interest that could be substantially affected by the proceeding.

Prescott is a small town. As has previously been demonstrated by undersigned, politics plays much too large a role in the conduct of the justice system. One's business opportunities are relatively limited. This is particularly true in the financial arena: while there are some nationally chartered banks in operation, there are also several locally owned banks. In either instance, it is nearly impossible to keep one's financial affairs private, and even more difficult to hide behind the size of nationally chartered banks because of Prescott's small population. In short, it takes no time at all to learn of a prominent citizen's involvement in and/or success or failure with the banks.

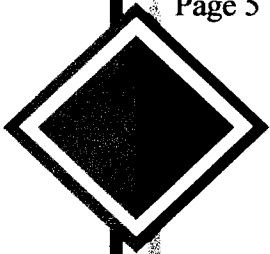
In addition to the foregoing, it must be kept in mind that Judge is up for re-election in a relatively short period of time. Given his prior failure to win an election, or to be appointed through the local bar association's nominating process, there is a real chance Judge may not be re-elected. In that event, it should be assumed that he may have to "start over again" with his practice of law. This would necessarily create a reduction in his income, and his ability to pay his debts. One of those debts would be the Note and Deed of Trust referenced in **EXHIBIT FIVE**. Given the current economic climate, it is entirely possible that one of Judge first debt related decisions would involve communications with the **EXHIBIT FIVE** Trustee and Beneficiary. Like so many other people, he may need to request a loan modification from the very entities who directly benefitted from his denial of my Motion to Consolidate.

What was Judge thinking when he denied the Motion to Consolidate? The litigation sought to be consolidated represented the missing piece of the puzzle: the identity of the owner of the Milos' Note and Deed of Trust (not surprisingly, no disclosures have been made as to the terms of SABR'S purchase, what was paid and when, why the sale was not recorded, and the exact nature of their relationship to Bank of America, rumored to be the owner of SABR). The



extensive investigation and inquiries by this office and the to obtain this information were unsuccessful, often because of overt obstructionism. Did Judge impartially analyze the interrelationship of both causes of action? Why didn't he explain why he summarily denied the Motion to Consolidate? Was there something to hide.....something that might injure Judge personally? These are legitimate questions. The language of Canon 3 is there to expressly prevent this kind of result! It is there to protect legally naive citizens like the Milos from their own justice system! What do you suppose the think now.....that their Court System has at least tried to impartially apply the law? To the contrary, the and those who will listen to them, believe there is no justice. That people cannot expect to be treated impartially in their own court system. Under the described circumstances, how has Judge conduct served to protect the integrity of the bench?

As previously pointed out in other complaints, there is something very wrong about the way in which the Yavapai County Superior Court system conducts itself. This office has engaged in rather extensive historical research relating to the conduct of judges. It appears that the problems described in my complaints have been ongoing for a substantial period of time. There are a few attorneys who know this, and take advantage. The question being asked by many is: when is the honor and integrity of our justice system going to be fully addressed? Changes must come from the highest levels: the JEC and the State Bar. Until responsible parties accept responsibility, and take appropriate action, the situation will not change. As a result, people who employ attorneys, and pay precious money to obtain relief under the law, will have to be told that such may not be possible.....that a well documented and legally sound case may count for nothing. Why?? Perhaps because an impartial, unbiased consideration of their case may not be possible because of the court's attitude toward the attorney, undisclosed judicial conflicts, or just plain and



intentional abuses of discretion. How can justice prevail when such discussions must occur?

I urge you to take appropriate action. It is not too late to address the problems I have described in this and other complaints.

RESPECTFULLY submitted this 16th day of June, 2010.