State of Arizona

COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-206

Judge:	Anne Fisher Segal
Complainant:	Robin Auld

ORDER

The complainant alleged that a justice of the peace made false and/or misleading statements during an election campaign.

Rule 4.2(A)(1) of the Code of Judicial Conduct requires judicial candidates "act at all times in a manner consistent with the independence, integrity and impartiality of the judiciary." Rule 4.3(A) mandates that during the course of an election campaign, judicial candidates shall not knowingly or with reckless disregard "post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent that would be deceiving or misleading to a reasonable person." Rule 4.3(F) mandates that during the course of a campaign, judicial candidates shall not knowingly or with reckless disregard "misrepresent the identity, qualification, present position or any other fact about the judicial candidate or an opponent." Finally, Rule 4.3(I) mandates that during the course of an election campaign, judicial candidates shall not knowingly or with reckless disregard "make a false or misleading statement about an opponent's personal background or history."

Justice of the Peace Anne Fisher Segal was at a minimum reckless in making three statements about a campaign opponent that were false and/or misleading. She violated the foregoing rules by so doing.

Accordingly, Justice of the Peace Anne Fisher Segal is hereby publicly reprimanded for the above-described misconduct pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the justice of the peace's response, and this order shall be made public as required by Rule 9(a).

Dated: November 12, 2014.

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the
complainant and emailed to the judicial officer's counsel
on November 13, 2014.

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

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

FOR OFFICE USE ONLY

2014-206

COMPLAINT AGAINST A JUDGE

Name: Robin Auld **Judge's Name:** Anne Segal

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

See Attached

2014-206

THE LAW FIRM OF
ROBIN K. AULD, PLLC

In the Commission on Judicial Conduct

Complaint Against Anne Fisher Segal, Justice of the Peace

Pima County Combined Justice Courts, Precinct #1

June 24, 2014

The Violating Incident

I am the Democratic Candidate for Justice of the Peace in Justice Precinct #1 in Pima County. I recently submitted my signatures and expect to be on the ballot as the only Democrat running with no primary opponent. Anne Segal was a Democrat all her life and was so elected in 2008, beating the Republican incumbent, Adam Watters. But as this Commission well knows, she compiled a record of four (4) judicial reprimands in the last 5 years, and coincidently switched political parties to be a Republican in August, 2013. There are 5,000 more registered Republicans in Pima County than there are Democrats. She now has a primary challenger in the Republican primary—Adam Watters. I will meet the winner after the August 26 primary.

On or about June 2, 2014 incumbent Justice of the Peace Anne Segal caused to be distributed an email that purportedly informed recipients as to an episode in my personal background. The copy I was provided by one of the recipients is enclosed herewith as Exhibit 2. It was sent to a man who is actively involved in a club of Democrats known as DOV (Dems of Oro Valley). He hosted a fundraiser for me June 12. A flyer advertising the event is enclosed herewith as Exhibit 1.

The email is full of falsehoods and total misrepresentations that I believe are a violation of the Code of Judicial Conduct, Rule 4.3 (A) and (I),"Campaign Standards and Communications." The representations are "deceiving or misleading to a reasonable person" and were made knowingly or with reckless disregard. Additionally, they are misleading "about an opponent's personal background or history."

The Email in Question

On its face the email comes from Segal's campaign and is addressed to her personally. (Ex. 6). One must wonder how it arrived on my friend's computer. The answer would be that he and perhaps countless others were sent "Bcc:"---blind copies so the number of recipients is hidden.

7090 N. Oracle Rd. #178, PMB 105 • Tucson, AZ 85704
Cell: (520) 449-4788 • rkauld08@gmail.com

The falsehoods, in order of appearance, are as follows:

1. The first ½ of the paragraph is a total fabrication full of self-serving falsehoods. The *only* conversation Segal and I had was a chance meeting in front of the Fox Theater around Thanksgiving time. We made pleasantries for a bit, then she said *twice* "You can say whatever you want, but I'm not going to be negative." She also said something else *twice,* and that was "I *resigned* from the judgeship in Las Cruces". I knew she was saying that because her 2008 opponent Adam Watters had dug up information that the District Attorney there had recused Segal from hearing anymore of her DUI's and Domestic Violence cases, because she felt Segal wasn't following the law. That, coupled with a loss in a Democratic primary for a higher judgeship caused her to resign. She undoubtedly feared I was going to use that. I had no intention. At no time did I ever say I was "not going to be positive." What I said was I would hold her accountable for her record. It's only natural that considering her record, she would consider that "negative."

   We then talked about who our campaign committees were, and said good-bye.

2. I was *never* recommended for disbarment in Colorado or any state. Note that Segal refers to a link (Ex. 3) she provided which is the state Supreme Court opinion accepting the plea agreement I was financially forced to accept. I had spent a large sum of money defending the criminal case (charges dismissed after 2 days of pretrial hearings) and 3 appeals over almost 3 years, ending in the U.S. Supreme Court. All appeals by the Special Prosecutor were lost. I won. Her reference to the linked case reveals that another lawyer a few years earlier had been compromised (as I was) and then he rolled-over on his clients by wearing a wire and making controlled drug buys. It is in reference to *that case* that Segal is perhaps referring to, and that lawyer came close to disbarment. I feel this is reckless of Segal, and is very harmful to me.

3. The next sentence contains the statement that I accepted a machine gun "in lieu" of cocaine for payment from a client. A more careful reading of the case (her link—Ex.3) reveals that the first run at me to accept contraband for payment was drugs in late September, 1988. No mention was ever made of cocaine, so one must wonder where Segal got that information. I suspect she made it up. The second run at me came over a month later, and I again turned the "client" away, this time with the gun. The third and final time was the next day, and I was goaded into accepting it. Segal's use of the term "in lieu of cocaine" makes it intentionally sound like it was part of a one-time negotiation, which it was not: I did not want the gun, either. The statement is misleading for two reasons: there was not a single flowing negotiation, and she omits that I had said no *twice!*

The overall tenor of the email is that I was engaged in on-going criminal behavior, got caught by an undercover officer accepting payment in contraband, after being targeted as a criminal in the first place. This is entirely false. Law enforcement had no reason to target me for any criminal conduct. Rather, they *wanted* me to accept contraband in lieu of regular fees so they could make me an offer: roll over on your clients and we can make this all go away! That approach had worked in Boulder and the Denver area a few years earlier, and they assumed it would work on me. They were caught quite by surprise when I said I wouldn't have anything to do with it; to"bring it on!" Thus the underlying suggestiveness of the piece is based on a false premise.

4. The agent did not later arrest me. Two police officers from the Durango Police Department did several hours later on my way home. But this slightly erroneous version proves that Segal must have read the linked opinion, because the mistaken version was mentioned there! When I reached the police department I noticed the District Attorney walking around in the hallway, and I called out to him, asking what this nonsense was all about. It was then he informed me, "You've been set-up, Robin, by an undercover agent posing as your client."

5. The suspension from practicing law was by way of a stipulation, not after a full hearing. The District Attorney was also filed on for engineering such a diabolical scheme of turning a lawyer in an informant against his clients, and for perpetrating a fraud upon the court. But he was represented by the Attorney General, and it cost him nothing to contest the charges. He had a full hearing, and got a Public Censure. I had no money to fight the proceeding, and my lawyer encountered a hard-nosed disciplinary prosecutor who wanted blood, so I plead to a range of 3 months to one year, and the court imposed 6 months, noting that unlike the other lawyers they had dealt with, and whose cases were cited in their opinion accepting the plea agreement, I had *not* violated the sanctity of the attorney client privilege, but had kept it.

6. Segal really oversteps the bounds of reality with her next utterance: "Soon after he left the State of Colorado and lived in South America." I cannot for the life of me figure where she got that. My suspension was over on November 13, 1990, and I was automatically reinstated. My first retainer check that day was from our Congressman.

   Seventeen years later, in 2007 my wife and I retired to Costa Rica (Central America) where we planned to spend the rest of our days. But because of numerous medical costs we encountered (she is a disabled veteran who had been covered stateside by the VA at no cost, but not in Costa Rica) and my missing the practice of law, we returned to the U.S. in January 2009.

   What this clearly indicates is that Segal couldn't have read anything on my website like what she represents. The link (Frontier Injustice—Ex.4) in my website, www.robinauldAZ.com is pretty expansive about the matters contained in this

defamatory email of hers. But there is no hint of my leaving the State of Colorado "shortly thereafter" which clearly meant to give the impression that I had run away from a bad reputation.

7. The last paragraph is indicative of her malice is printing these matters. She sent this email to a man who was throwing a fundraiser for me, and the last paragraph is a rather shallow attempt to shame him into backing off. What's troubling is the secretive, deceptive way she uses the addressing mechanism to send it to him (Bcc:??) and anyone else she wishes. Hence I have no idea how broad the scope of her communication, and the potential harm it has caused.

In addition to the above-listed acts of *commission*, Segal's violation of Rule 4.3 (A) and (I) is further aggravated by her acts of *omission.* They are as follows:

a. Segal never mentions that the criminal case against me was dismissed.

b. Segal never mentions the three appeals that the Special Prosecutor pursued, seeking to reinstate charges, and lost over a period of almost three (3) years. (See, Ex.5 for the first appeal to the Colorado Court of Appeals.)

c. She never mentions that I sued the Sheriff, District Attorney and Chief of Police for violating my civil rights (after I had taken a six-month suspension!) and they settled with me in about 4 months. (N.B.: There was no internet record of this fact as I had the complaint prepared and filed it with the court, but not served on law enforcement officials until after the US Supreme Court had denied cert, thus ending the matter. The file was sealed and could not be revealed without a court order. Had Segal taken the trouble to simply read my website she would have learned all of this, or at least have been tipped off to the fact I was alleging it to be the true story, and maybe prompted her to dig a little further and deeper. Additionally, had curiosity compelled her to search the Durango Herald, she would have found my name all over the news stories—including front page pieces—for several years.)

d. This episode began 26 years ago; I took the suspension 24 years ago, and haven't had a problem anywhere since. I've been admitted in Washington State in May 2009 and Arizona in January, 2012, each time having passed a full Character and Fitness background examination.

Analysis

As you well know Judge Anne Segal is no stranger to this committee. She has had four (4) Reprimands for violations of the Code of Judicial Conduct. But what makes this incident appalling in the fact that the first of her violations was for a violation of Rule 4.3 in her campaign against Adam Watters in 2008. (See, CJC 09-234).

In her response to his complaint she wrote on October 14, 2009 in "Allegation 3--I feel that disseminating false or negative information is an inappropriate tactic and should be condemned."

So condemn her.

She has painted me in a false light. She has made blatantly false allegations which could have been avoided by reading the very link she used in her email, and reading my website which certainly would have put her on notice that her statements needed further investigation.

Since the scope of the communication is unknown, the damage she has done my campaign is presently incalculable.

Lastly, it should be noted that the grammar and syntax of her email is apparently written by a person who misuses verbs that don't fit, and leaves words out. This should be seen as "plausible deniability" which she used in her first case before this Commission (CJC 09-234) brought by her 2008 opponent Adam Watters. There, she had used the alias "HHastings" to smear and defame Judge Watters, and tried to gain "plausible deniability" by misspelling her own name, "Ann Segal" without an "e" on the end of Ann.

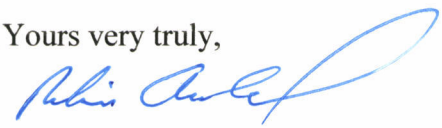
I believe any court would allow such evidence to be considered under Rule 404(b) as it shows pattern and design, and clearly identity. It's her M.O.; her *modus operandi.*

Conclusion

I feel Judge Anne Segal should be sanctioned by this body for her recidivist disregard for the Code of Judicial Conduct, specifically Rule 4.3 (A) and (I). It appears that she has either never read the Rules, based on her record, or has read them and repeatedly chooses to ignore them. Reprimands simply do not stop her.

I would also like to request this body put this case on a fast track. Perhaps it could result in a publicly published opinion by the primary election so that the Pima County voters can elect a Justice of the Peace based on full information as to the incumbent's current conduct, knowledge of her record, and not a schmaltzy, over-the-top PR campaign. Or just more of a smearing one.

Yours very truly,



Robin Auld, Candidate

Justice of the Peace, Justice Precinct #1

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August 19, 2014

Via Federal Express and E-mail

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jeperkins@courts.az.gov

Re: Preliminary Response in Case Nos. 14-206,

Dear Members of the Commission:

I provide you this response to the August 6, 2014, request of your counsel, Jennifer Perkins, on behalf of my client, Justice of the Peace Anne Segal. Judge Segal takes the allegations made against her extremely seriously, and both she and I thank you in advance for your careful attention to what we have to say.

Ms. Perkins's August 6 letter requested we address six specific allegations. I note at the outset that these allegations have been chosen from among several lodged against Judge Segal. We are presuming these are the matters the Commission believes are the more serious and about which it is most interested in hearing at this time. Accordingly, without relinquishing Judge Segal's right to respond the other allegations, should the Commission determine it necessary to consider them, we answer these six in turn.

As an overarching theme, which the Commission can observe as readily as we, all these complaints are made within the context of a hotly contested political contest for Judge Segal's Justice of the Peace office in Pima County.

Of course, judicial ethics complaints arising from the heat of an election is nothing new to the Commission.

* ALSO ADMITTED IN COLORADO + ALSO ADMITTED IN WASHINGTON, D.C.
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A. The initial matter we address is Ms. Perkins's first request, Mr. Auld's June 24, 2014 complaint, Commission Case 14-206. Let us examine Mr. Auld's complaint together:

1. The "Violating Incident" referred to in the second paragraph of Mr. Auld's complaint asserts that Judge Segal "caused to be distributed an email that purportedly informed recipients as to an episode in [Auld's] personal background." He further states he was provided a copy of the email by "one of the recipients," an active Democrat who hosted an Auld fundraiser on June 12, 2014. Mr. Auld claims the email is "full of falsehoods and total misrepresentations" he believes violate Rules [Canons] 4.3 (A) and (I) of the Arizona Code of Judicial Conduct ("Code").

2. The email attached to Mr. Auld's complaint appears to be from Mr. Matthew Rabb, a host of the political fundraiser, to Mr. Auld. It is dated June 4, 2014, and purports to forward a message from Judge Segal dated June 2, 2014, sent at 7:14 p.m.
    a. Judge Segal received an email invitation from the Democrats of Oro Valley, originating from elathram@demsov.org, to attend a June 12, 2014, fundraiser for Mr. Auld, and an attached flyer for the event. Exhibit A.
    b. The invitation asked the recipients to RSVP to matthewlrabb@gmail.com.
    c. Judge Segal sent an email to Mr. Rabb on June 2, 2014 at 10:14 p.m. Exhibit B.
    d. The Exhibit B email was sent from one of Judge Segal's political email addresses Justice@thinklegalvotesegal.com to Segal@justiceofthepeace1.com, another of her addresses. A blind copy of the email was sent to Mr. Rabb's address – the one he provided on the flyer, Exhibit A, for responding and noting attendance at the fundraiser for Mr. Auld.
    e. The Exhibit B email was sent to no person other than Mr. Rabb.
    f. Close examination of the email message attached to Mr. Auld's complaint shows that it differs slightly from the Exhibit B email. Judge Segal has no explanation for the differences other than possibly Mr. Rabb had included other comments – since redacted - when he forwarded the email to Mr. Auld. Perhaps it was modified for purposes of attaching it to the complaint.

3. Mr. Auld complains of the contents of Judge Segal's email message to Mr. Rabb on several grounds. He first says that he was "*never* recommended for Disbarment in

Colorado or any state." (emphasis in complaint). Of course, Judge Segal's email states "Robin Auld was recommended for disbarment in Colorado . . . ," going on to say that "Auld was not disbarred from practicing law, but he was suspended from practicing law for six months." The March 19, 1990 order of the Colorado Supreme Court, attached to Mr. Auld's complaint, imposes the six-months' suspension but says nothing about whether he had been recommended for disbarment. Judge Segal's statement in that latter regard may be erroneous. We are attempting to review further records of that matter to determine what disciplinary recommendation other than suspension may have been made that preceded the agreed discipline.

4. Mr. Auld's next complaint of Judge Segal's email is that it stated he had "accepted a machine gun 'in lieu' of cocaine for payment from a client." Judge Segal's email actually stated he had "accepted a stolen Uzi fully automatic machine gun, allegedly in lieu of cocaine, for payment from a client . . . actually an undercover drug investigation agent . . . ." Although the Colorado Supreme Court's suspension order describes the underlying facts as "the undercover officer asked [Auld] if he would accept drugs. . . ," the January 17, 1991 order of the Colorado Court of Appeals upholding the dismissal of criminal charges against Mr. Auld, stated: "[T]he undercover agent asked if the remainder could be paid by giving something in trade. [Auld] immediately replied that if cocaine was being suggested, he would not accept it," going on to say that "he might be interested in a gun at 'a black market price.'"
    a. Mr. Auld "suspects" Judge Segal "made it up" when she said he took the gun "allegedly in lieu of cocaine." Of course, she was just using the word the Colorado Court of Appeals had attributed to him in its decision. She made up nothing.
    b. Mr. Auld was suspended from practicing law in Colorado for six months, precisely as Judge Segal reported. The basis of that suspension was his acceptance of a stolen Uzi weapon – again, just as Judge Segal stated. Before he accepted the weapon, he was offered drugs, maybe cocaine as Auld surmised – the record is unclear. No one now knows whether he had been recommended for disbarment, but the record is clear he chose to accept an agreed suspension. Judge Segal may have been wrong when she stated in her June 2 email that he had been recommended for disbarment – perhaps this item will be informed by further investigation.

5. Mr. Auld's complaint asserts Judge Segal's June 2 email erroneously reported him going to South America soon after he was suspended. He says he retired to Costa Rica, Central America, in 2007, but never disclaims that he had gone to South America. Judge Segal's statement about him going to South America was based on a report from her nephew, a Tucson City Councilmember, and the son of a lawyer and a former Arizona legislator, stating that Mr. Auld had said at a political function at Judge Segal's sister's home that he had gone to South America shortly after leaving Colorado. Judge's Segal's statement was not made without basis, but instead was founded on information she had received from a trusted source. She should have investigated the accuracy of that information further before including it in the June 2 email. It may be inaccurate, although there is nothing in the record to contradict it (the only other evidence, that Mr. Auld retired to Costa Rica, Central America, in 2007, does not suggest he did not go to South America at some other time), and it was not made maliciously and was addressed to only one person – the subject of the next item.

6. Mr. Auld complains of the manner in which Judge Segal's June 2 email was transmitted, using a "(Bcc.)" to send it to Mr. Rabb. The complaint suggests she may have sent it to other persons, although no evidence supports that inference. Indeed, Judge Segal sent but one email and it was sent only to Mr. Rabb as Exhibit B demonstrates.

7. Mr. Auld complains that Judge Segal "never mentions that the criminal case against [him] was dismissed." Why would she have to do that, when her email never mentioned any criminal prosecution of any person, particularly Mr. Auld? The same is true of his complaints that she "never mentions the three appeals" the prosecutors pursued, nor his legal action against the "Sheriff, District attorney and Chief of Police." Having said nothing in her email to Mr. Rabb about any of these things, Judge Segal should not have to defend against failing to have made any mention of them.

Mr. Auld concludes his complaint with a request that Judge Segal be sanctioned pursuant to "[Canon] 4.3 (A) and (I)" . . . and that it be in a "published opinion [issued] by the primary

election." What could be a more clear case of using this administrative disciplinary process as a political tool?

Instead of talking politics, Judge Segal will turn to a review of her conduct as measured by the two Canon subsections Mr. Auld has cited:

Canon 4.3 (A) requires a candidate for judicial office, during the campaign, to not "knowingly or with reckless disregard" "publish . . . or distribute information concerning . . . an opponent that would be deceiving or misleading to a reasonable person." Canon 4.3(I) requires a judicial candidate to not "[m]ake a false or misleading statement about an opponent's personal background or history."

1. Fairly read, the only two items to be gleaned from Mr. Auld's complaint that could fall within these proscriptions would be Judge Segal's statements that he had been recommended for disbarment, and that "soon after" his suspension he had moved to South America from Colorado.
    a. Based on Mr. Auld's statement that he moved to Costa Rica, Central America, and that the move was not on the heels of his suspension from law practice, despite no evidence that he did not move to South America, Judge Segal acknowledges her statement that he did may be inaccurate.
    b. Based on Mr. Auld's statement that he "*never*" had been recommended for disbarment, Judge Segal also acknowledges her statement that he had been is inaccurate.[1]
    c. However, Judge Segal's statement about where and when Mr. Auld had moved was based on information she received from a trusted family member, was not made knowingly, or with the intention to deceive, but undoubtedly could have been investigated more thoroughly. The same can be said of her statement that the move was "soon after" the suspension.

2. What Mr. Rabb thought when he read these statements is unknown, although we must presume he is a "reasonable person," and could have been misled by them. What that might have meant to Mr. Rabb cannot be known either, although in context these

[1] Research continues to determine whether Mr. Auld indeed was recommended for suspension at the outset of his disciplinary matter. It is quite possible this information will be unavailable due to confidentiality concerns. But, clearly, Judge Segal had no evidence to support her statement that he had been recommended for disbarment. Should the statement prove to be true, the Commission will have to determine what to do with that situation.

statements are fairly innocuous, compared to Mr. Auld having accepted a stolen firearm and having been suspended from the practice of law as a result. Those are the facts most important when considering a person for a judicial position, not where or when he might have moved from the country. Nor is it significant in context that Mr. Auld's suspension was not preceded by a recommendation for disbarment. He was not disbarred, as Judge Segal noted, but instead was suspended from law practice for committing an illegal act – again the operative information when considering his fitness for the judicial office he seeks.

3. We submit that these three statements, assuming they are false, nevertheless were not made knowingly, but at worst recklessly, and in context were insignificant compared to the accurate and damning information surrounding Mr. Auld's illegal conduct that lead to his suspension from the practice of law.

The last piece to this analysis involves Comment 3 to Canon 4.3 regarding fair response in the political context, and Commission Rule 19 involving mitigating and aggravating factors. Both are instructive, and applicable here. Comment 3 states: "Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates. . . ." And, "[a]s long as the candidate does not violate this rule, [she] may make a factually accurate public response."

Judge Segal's sole reason for sending Mr. Rabb anything about Mr. Auld in the first place was the report she had received of Mr. Auld's venomous statements about her during at least one previous gathering of Democrats. Exhibit C is a copy of an email Francine Shacter sent Judge Segal on February 1, 2014 at 10:39 p.m. discussing his negative presentation about his candidacy. Judge Segal also had received other verbal reports of negative comments Mr. Auld had made about her. Although Judge Segal prefers to engage only in positive campaigning, she felt it important to let Mr. Rabb, as the contact person for the event, know the type of person who would be in his group.

Rule 19 provides several items to consider, both in aggravation and mitigation, when determining appropriate discipline. Factor (d) is one to consider here in mitigation. It relates to whether anyone was injured by the conduct, or if respect for the judiciary was diminished thereby.

Here, there is no evidence Judge Segal's three inaccurate statements about whether, when or where Mr. Auld may have moved, or whether his suspension from the practice of law had been preceded by a disbarment recommendation, injured Mr. Auld. The only person to whom these statements were communicated was Mr. Rabb, a licensed attorney and former political candidate for Oro Valley Town Council. There is no evidence he thought any less of Mr. Auld based on those three discrete statements, than he did based on the fact he had been suspended from legal practice for having received a stolen weapon. In fact, he hosted the party for him as promoted. Further, no evidence has been presented suggesting Mr. Rabb thought any less of the judiciary after receiving the email than he may have before. A reasonable assumption would be that he did not, otherwise he would have said something about it in communicating Judge Segal's email to Mr. Auld, including perhaps cancelling the fundraiser altogether.

In sum, Judge Segal's email contained overwhelmingly truthful information about Mr. Auld, borne out by the materials he has attached to his complaint. She did not try to conceal her name, and the message was attributed as being political through use of her campaign email addresses. The three discrete inaccurate statements Mr. Auld has urged to support disciplining Judge Segal are insignificant adjuncts to the substance of the story the email tells about him. Judge Segal admits, however, that they may well be inaccurate.

Judge Segal's email did not originate in a vacuum, but rather in response to intemperate statements Judge Segal learned Mr. Auld had made publicly about her. Canon 4.3's Comment 3 permits fair response to such comments as long as the response is truthful and does not injure anyone or cause anyone to think less of the judiciary. At bottom, the affect the truthful statements had on Mr. Rabb, their only recipient, could not have been exacerbated or diminished by the three discrete and insignificant inaccurate ones. Further, no one was injured by these statements, nor did they cause anyone to respect the judiciary less.

What we have is a political candidate searching for any advantage available, and using the Commission process to advance his candidacy over Judge Segal's. She admits the inaccuracies included in her email should not have been stated. They are not, however, adequate to warrant judicial discipline under these circumstances. Should the Commission disagree, Judge Segal submits the Discipline should be limited to a dismissal of this complaint with a warning to her to be certain of the accuracy of her information before she publishes it.

Commission on Judicial Conduct

Pages 8 – 29 of the response are redacted

Sincerely,

J. William Brammer, Jr.