

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-314

Judge:

Complainant:

ORDER

February 10, 2021

The Complainant alleged a superior court judge ignored a conflict of interest and allowed an improper claim to be made.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission member Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 10, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2020-314

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

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.

Commissioner failed to recognize the conflict of interest that existed in the request made by _____ against _____ . At a previous hearing, commissioner _____ addressed concerns about _____ intentions and stated that he would be held to the standard of fiduciary and would need to follow the strict framework of the court. Commissioner ignored any available information on the matter including having/allowing documentation to be sent to an address never listed by the party.

SBA File Nos. _____

By final judgment and order dated _____ the _____ Judge accepted an agreement for discipline by consent by which _____, was reprimanded and placed on probation for _____ that addresses conflicts of interest in probate and estate planning matters _____ also was assessed the _____ costs and expenses totaling \$ _____.

In Court One, _____ represented a client in an estate matter. Their relationship deteriorated, the client terminated _____ and she refused to pay his fees. The engagement letter, other documentation, and court filings conflicted on whether _____ represented the decedent's estate or the client. He filed a motion to withdraw, a motion to re-open probate, and a petition to remove and replace the personal representative, and sought to have his law firm appointed PR in place of the client. The probate court appointed _____ as PR and he administered the estate. He engaged in a conflict of interest and in his "noisy" motion to withdraw as counsel for the client he revealed confidential client information that exposed the client to potential liability to others.

In Court Two, _____ created an estate plan for his clients. He failed to obtain written informed consent, changed the estate plan without one client's knowledge, and overall engaged in a conflict of interest without obtaining client waivers.

Aggravating factors were: Prior disciplinary offenses, pattern of misconduct, multiple offenses, and substantial experience in the practice of law. Mitigating factors were: Absence of selfish or dishonest motive, timely good faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, remorse, and remoteness of prior offenses. _____ violated Rule 42, Ariz. R. Sup. Ct., ERs 1.6 (confidentiality of information), 1.7 (conflict of interest/current clients), 1.9 (duties to former clients), and 1.16(d) (duties on terminating representation).

COUNTY

COMMISSIONER

CLERK OF THE COURT

IN THE MATTER OF THE ESTATE OF:

DECEASED.

REVIEW DECEDENT ESTATE CASES

IT IS HEREBY ORDERED that the Personal Representative file either an appropriate Closing Statement or a Petition for Formal Closing or a Status Report within 60 days from the date on this minute entry order. If a Status Report is filed, the report must set forth the tasks that remain to be completed in administering this estate and a proposed date for accomplishing each of those tasks.

NOTICE: FAILURE TO TIMELY OBEY THE ABOVE ORDER WILL RESULT IN THE COURT REMOVING THE PERSONAL REPRESENTATIVE, REVOKING THE PERSONAL REPRESENTATIVE'S LETTERS OF AUTHORITY AND CLOSING THIS PROBATE WITHOUT DISCHARGING THE PERSONAL REPRESENTATIVE FROM PERSONAL LIABILITY OR EXONERATING THE PERSONAL REPRESENTATIVE'S BOND. REMOVAL MAY RESULT IN LIABILITY TO THE PERSONAL REPRESENTATIVE AND WILL ADVERSELY AFFECT THE PERSONAL REPRESENTATIVE'S ABILITY TO CONVEY LEGAL TITLE TO PROPERTY.

THIS IS THE ONLY NOTICE YOU WILL RECEIVE; NO ADDITIONAL NOTICES WILL BE SENT AND NO HEARING WILL BE SET IF THE PERSONAL REPRESENTATIVE FAILS TO TIMELY COMPLY. THE COURT WILL AUTOMATICALLY TAKE THE ABOVE ACTION.

COUNTY

IF THE PERSONAL REPRESENTATIVE IS NOT ABLE TO CARRY OUT THE DUTIES REQUIRED OF A PERSONAL REPRESENTATIVE AND COMPLETE THE ADMINISTRATION OF THIS ESTATE, A PETITION FOR APPOINTMENT OF SUCCESSOR PERSONAL REPRESENTATIVE MAY BE FILED BY AN HEIR, BENEFICIARY OR OTHER PERSON OR ENTITY INTERESTED IN THIS ESTATE.

A Self Service Center form for the Closing Statement is attached to this minute entry order. The Closing Statement, or either of the documents described above, should be mailed to:

IT IS FURTHER ORDERED setting this matter for internal review by Probate Court Administration on _____ to confirm compliance.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at:

Attachments:

Closing Statement
Closing Statement