

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-458

Judge:

Complainants:

ORDER

May 17, 2024

The Complainants alleged a superior court judge made improper rulings in a civil case and is not diligently overseeing a probate case.

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).

Copies of this order were distributed to all appropriate persons on May 17, 2024.

Complainant:

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Request for Review

and are filing this complaint regarding poor judicial ethics as evidenced by lack of timely response, poor judicial discretion, and possible conflict of interests by Judge in Arizona Court case .

This is a partition action among family members, where the family has mutually agreed to sell the properties. Judge has determined which proposal by plaintiff's and defendant's that sale is to follow. However, there are several significant problems with Judge ruling which follows the plaintiff's proposal. These problems are as follows:

- Properties were to be listed within days of the order. This does not give sufficient time to form and file an appeal. Order was made on . Properties were listed on .
- An emergency stay order was filed on , on the order so that defendants could obtain financing. Prior to this court decision, defendants had asked plaintiffs numerous times for copies of leases and financial statements for the commercial properties. Copies of only the leases were provided .
- Judge order for the sale of the properties did not have Rule 54b and 54c provisions. Documents were filed on , asking Judge to add these rules to court order so that an appeal could be made.
- Judge did not have a hearing on the emergency stay request or Rule 54b and 54c request until – 5 days after it was filed with the court. At this time, the properties were already active on the MLS property listing service and offers were received. No action was taken by Judge to add Rule 54b and 54c so that the action could be appealed.
- Regarding the property sale recommendations by the defendants, it was noted that the plaintiff's recommended real estate firm, , had an agent, , that was business partners with , whom was one of the plaintiffs. This was noted to be a conflict of interest, and and his employing firm, , has previously had contentious business dealings (election campaign fraud) within the community.
- The court order also had the following provisions which significantly reduce the value of the properties:
 - All properties, some of which were commercial and others which were residential, were grouped into one lot for sale. These properties were not of the same types or in the same proximity.
 - It was directed that the properties did not need to have personal property be removed and cleaned up
 - Since the properties were grouped for sale, the defendants could not focus their limited funds on a single property that they wanted, and buy the property. In fact, due to the grouped property sale, it would take approximately () to buy the properties, where as a single desirable property to the defendants could be had for . This is especially harming and hurtful to the defendants, since the

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properties were given to the family by their parents. The defendants stood no chance of ever owning any of these properties due to this action.

- To the best understanding of the defendants, Judge has never had a hearing to understand the basis for this action from the plaintiffs and defendants. For the record, the defendants “ ” this partition action due to their asking to have an operating agreement on the properties that were jointly held, to be paid their share of back rents and rents, and to have access to their shares of the properties.

It has also been noted and has not been informed to the court that was indicted for illegal campaign contributions with regard to real estate “ ” within the downtown area, which is where of the commercial properties were located. Furthermore, review of Judge financial disclosures, for public officials, list N/A in all sections of the disclosures, including properties owned and investments owned.

The defendants are asking for a review of based on the facts that there is no provision to appeal the Judge’s decision and listing actions place the defendants at significant financial harm as compared to the plaintiffs.

Upon Judge direction and lack of ability to appeal, the following occurred:

- Properties were listed at of appraised value.
- Defendants were not consulted on the listing price, marketing plans, and access to would-be buyers to the properties. Defendants were not restricted these communications by Judge , however, the plaintiffs and their real estate agent kept this information from the plaintiffs and their counsel.
- Defendants were not informed of the listing fees and were not included in signing the listing agreement, which they should have been.
- Instructions on how the bidding process was to be done (competing offers submitted within hours) was omitted from the listing agent instructions
- Properties were not advertised
- Properties did not have for sale signs put on them
- Leases and financial status of the lessors were not provided to interested parties (ie. would-be buyers) when asked which is part of the due diligence process
- **Interested parties were denied access to the properties which is part of the due diligence process**
- Properties were not sold “in the open market” and at an “arms length” transaction. The only non-plaintiff or non-defendant bidder was the uncle of an agent from . One may assume that the uncle was used to make this an arms length transaction to appear legitimate for IRS taxation purposes. The uncle also listed in the property offer contract that , one of the plaintiffs, would be given first right of refusal, should the uncle ever wish to sell the property.
- **Properties sold at less than optimal value due to grouping the properties, denying due diligence access, and no marketing.**

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Furthermore, Judge is overseeing the probate case for estate (case #). is the father of the plaintiffs and the defendant, . We are also asking Judicial Board inquiry in this case due to the probate actions do not comply with Arizona statutes on how a probate should be handled, that being:

- Handled in a timely manner, typically less than 1 year. Large estates may take longer, however this estate is only approximately (), which should be a “small” estate.
- Personal representative has not done the necessary probate actions – itemization of assets, securing assets (assets have been sold and/or concealed), notification of last will, notification of creditors, etc.
- Personal representative is trying to keep all decedent assets for himself.

Background information is as follows:

- passed away .
- Personal representative, , did not open probate and due “necessary” actions of personal representative such as itemization of assets, notification of creditors, informing family of will, etc. This holds true up to current time.
- , daughter of , and , wife of , had counsel force filing of probate from in with Judge .
- was asked numerous times in and to follow-up on probate status, which she never did. Ultimately, abandoned counsel for in and / terminated for lack of action in . lack of action caused statute of limitations to expire for many discovery actions and caused statute of limitations claims to be expired for .
- Approximately , Judge asked for status update by the personal representative. At this time, , personal representative did not have probate work completed and was given an extension to complete probate until , . Currently, heirs will be informed of probate status after per Judge letter to family members.

We ask that the Judicial Review Board review the above events for judicial misconduct due to timeliness, lack of proper legal processes, and lack of upholding the law. We also ask for discretion in the probate matter review, because we do not want to have excessive prejudice by Judge with respect to participation in the estate decisions.

Thank you for your attention into these matters.