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MAY 06 1996

Commission on
Judicial Performance

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE,
NO. 138 } NOTICE OF FORMAL PROCEEDINGS

TO JUDGE D. RONALD HYDE, a judge of the Alameda County Municipal Court,
Livermore-Pleasanton-Dublin Judicial District, from November 15, 1982, to the present, and at all
relevant times therein:

Preliminary investigation pursuant to California Rules of Court, rules 904 and 904.2,
having been made, the Commission on Judicial Performance has concluded that formal
proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with wilful misconduct in office, conduct
prejudicial to the administration of justice that brings the judicial office into disrepute, persistent
failure or inability to perform your judicial duties, improper action, and dereliction of duty within
the meaning of Article VI, section 18, of the California Constitution providing for removal,
censure, or public or private admonishment of a judge, to wit:

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3 COUNT TWO

4 You engaged in a pattern and practice of directing or requesting court staff, including
5 court secretary Michelle Sunseri, to perform work, during court business hours and using county
6 equipment and other resources, that was either for your personal purposes or for non-court
7 related purposes. Court Clerk/Administrator Michael Alexander, upon inquiring into such
8 practices, advised you in 1991 and on more than one occasion thereafter that he was concerned
9 about your excessive use of staff and about the adverse effect of such use on court-related work.
10 After speaking with Mr. Alexander, you continued your use of court staff and did not (except on
11 one occasion in 1995) reimburse the county for the use of these resources. Examples of such
12 practices include, but are not limited to:

13 A

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15 In 1991, 1993 and 1994, primarily during court business hours, you directed or requested
16 court secretary Michelle Sunseri to perform extensive typing, photocopying and other clerical
17 services in connection with a paralegal class that you taught, and for which you received
18 compensation, at St. Mary's College. Ms. Sunseri's work for you included typing a lesson plan
19 that was over 100 pages long, typing mid-term and final exams, photocopying class materials,
20 mailing out graded final examinations using court envelopes and court postage, and typing
21 correspondence. Ms. Sunseri spent the equivalent of approximately ten work days performing
22 these services in 1991. In addition, over 2,000 pages were copied on the court photocopy
23 machine in connection with your class in one day in 1993. On May 9, 1994, Clerk/Administrator
24 Michael Alexander told you that he considered your use of the court's resources in connection
25 with the St. Mary's class to be excessive. You represented to Mr. Alexander that you would
26 discontinue your use of court resources in connection with the St. Mary's class. Thereafter, on
27 May 13, 1994, you caused court resources to be used to send a personal letter and make 25
28 copies of the final examination for your St. Mary's class.

1 B

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3 In or around the fall of 1990, you directed or requested court secretary Michelle Sunseri
4 to prepare correspondence and mailing lists (in excess of twenty pages) for your St. Mary's
5 reunion, primarily during court business hours.
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7 C

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9 Between February 1992 and January 1995, you used a county facsimile machine in the
10 courthouse to send approximately 57 personal facsimile transmissions to Idaho.
11

12 D

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14 Between September 1990 and July 1994, you directed or requested court secretary
15 Michelle Sunseri to prepare approximately 48 personal letters using county computers and on
16 county time; approximately 43 of these letters were prepared and sent on official court stationery.
17 This correspondence includes letters of appreciation for gifts of food, golf opportunities, vacation
18 opportunities and other entertainment, as well as letters relating to personal business, such as
19 investments, home improvement projects, banking, and book clubs.
20

21 E

22
23 On or about January 4, 1991, you directed or requested court secretary Michelle Sunseri
24 to type an "affidavit in lieu of appearance" that you submitted in connection with a complaint you
25 filed in your personal capacity against your neighbor concerning the neighbor's dog.
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1 F

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3 In or around 1992, you directed or requested court secretary Michelle Sunseri to type
4 your application for a federal judgeship. You then directed or requested Clerk/Administrator
5 Michael Alexander to arrange to have your application for a federal judgeship hand delivered to
6 the offices of California senators Dianne Feinstein and Barbara Boxer in San Francisco. You gave
7 the applications to Mr. Alexander on a Friday afternoon and told him they needed to be submitted
8 by 5:00 p.m. that day. Mr. Alexander told you, "I guess we'll have to have Louis take it over,"
9 referring to court attendant Louis Andrade. Mr. Andrade then drove the applications to San
10 Francisco during court business hours, using a county car.

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12 G

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14 In or about October 23, 1995, you asked court attendant Louis Andrade if he would go to
15 Oakland on his personal time to pick up some forms relating to your candidacy for re-election.
16 Mr. Andrade expressed reluctance to do so. You then asked Mr. Andrade when he would have
17 occasion to go to Oakland on court-related business. Mr. Andrade replied that on occasion he
18 needs to go to the Oakland court to deliver evidence. After being approached by Mr. Andrade
19 and you, Division Chief Joel Pine provided Mr. Andrade with evidence to be delivered to
20 Oakland, although it was not the regular delivery day and there was no particular urgency to
21 deliver the evidence that day. That afternoon, during court business hours, Mr. Andrade drove to
22 Oakland to drop off the evidence and pick up the forms for you.

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24 H

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26 In or around 1993 and 1994, you directed or requested court secretary Michelle Sunseri to
27 baby-sit your elementary school aged daughter during work hours on several occasions. Division
28 Chiefs Cristy Comen and Joel Pine have assisted Ms. Sunseri with the baby-sitting of your

1 daughter to enable Ms. Sunseri to perform work-related tasks while your daughter was present at
2 the courthouse. In addition, in May 1993, you directed or requested Ms. Pine to pick up your
3 daughter from a dental appointment during court business hours, after your court session had
4 been completed for the day.

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6 I
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8 Between 1990 and April 1995, you directed or requested court secretary Michelle Sunseri
9 to perform secretarial work that benefited the Pleasanton-North Rotary Club, an organization of
10 which you were a member and are a past president. In 1990 and 1991, approximately 40 work
11 days of the court secretary's time was spent assisting with such activities. The work performed
12 by the court secretary includes, but is not limited to, preparing a 73-page guest list, 7-page ticket
13 number list, and a 7-page alphabetical list and correspondence for the Rotary Club's Cabaret
14 Night; inserting approximately 1,000 pre-printed invitations to Cabaret Night into envelopes, as
15 well as addressing the envelopes, typing the Bylaws, Constitution, membership committee forms,
16 an information pamphlet, an affidavit and an article for the newsletter of the Rotary Club, and
17 typing approximately 61 pieces of Rotary Club-related correspondence, approximately 32 of
18 which were printed on your official court stationery and approximately 20 of which were sent at
19 county expense on the courthouse facsimile machine or by using county postage.

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21 J
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23 During the fall of 1991 through Spring of 1992, you directed or requested court secretary
24 Michelle Sunseri to create a mailing list for the Children's Theatre Workshop. The list of names
25 was 94 pages long. You then directed or requested the court secretary to generate copies of a
26 fundraising letter personally addressed to those on the mailing list and to type labels for the
27 envelopes and letters. You also directed or requested her to type by-laws and personnel policies,
28 and to use the county word processor to compose at least 12 additional letters, from you to

1 various members of the community, relating to business of the Children's Theatre Workshop.
2 The court secretary spent a total of approximately 24 work days on various Children's Theatre
3 Workshop projects.
4

5 COUNT THREE
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7 In or about November 1991, Clerk/Administrator Michael Alexander complained to you
8 about your excessive use of the court secretary for purposes not related to court business. You
9 became angry and agitated and responded in a raised voice to Mr. Alexander, "I got you your
10 job," or words to that effect. This conversation was the second time within that year that
11 Mr. Alexander had expressed concern to you about your excessive use of the court secretary for
12 purposes not related to court business. On the prior occasion, you also responded by
13 admonishing Mr. Alexander to remember that you had gotten him his job. It appeared to
14 Mr. Alexander, as an at will employee, that your comments were intended to intimidate him and
15 that his job would be in jeopardy if he expressed further concerns to you about your excessive use
16 of the court secretary for unofficial purposes.
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18 COUNT FOUR
19

20 Between 1990 and 1994, you failed to report sources of income, loans and gifts on your
21 annual verified Statement of Economic Interests (Form 721), as required by California
22 Government Code sections 87200 to 87210. Examples of such conduct include, but are not
23 limited to, the following:
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27 Income received from St. Mary's College for teaching a paralegal course in 1993 and
28 1994;

1 B

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3 a \$28,000 secured loan from your friend Jim Nettleton in 1993; and
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5 C

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7 a trip to Hong Kong received as a raffle prize in 1993.
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9 COUNT FIVE
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11 Between November 1990 and March 1995, you used official court stationery for
12 approximately six letters sent to representatives of business entities or public officials under
13 circumstances in which your use of the official court stationery lent or appeared to lend the
14 prestige of judicial office to advance your personal and private interests. These letters include the
15 following:
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17 A

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19 A letter to USAA Casualty Insurance Company, dated March 8, 1995, forwarding a Claim
20 of Loss form regarding a burglary that occurred at your home in December 1994;
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22 B

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24 A letter to the Presidents of Alaska Airlines and Horizon Airlines, dated February 28,
25 1995, complaining about flight delays you experienced during a trip from Oakland to Sun Valley;

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3 A letter to Mayor Ben Tarver and the members of the Pleasanton City Council, dated June
4 1, 1993, asking that the Council "act affirmatively on Prudential Properties' request for
5 modification of their PUD as Prudential Properties has been most supportive of CTW as well as
6 many other non-profit organizations in this City." In the first paragraph of the letter, you state
7 that you are writing in your capacity as President of the Board of Directors of the Children's
8 Theater Workshop;

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10 D

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12 A letter to Carrie Lena of Northwestern Mutual Life, dated November 12, 1991, regarding
13 things that need to be "corrected" concerning your insurance policy;

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15 E

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17 A letter to Barbara Barcliff of Notable Trials Library, dated October 9, 1991, regarding a
18 billing dispute between you and Notable Trials Library; and

19
20 F

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22 A letter to Bob Philcox, President of Community First National Bank, dated July 22,
23 1991, "reconfirming" your interest in serving as a member of the Board of Directors of the
24 Alameda County Fair.

25
26 COUNT SIX

27
28 Between November 1991 and November 1995, you made sexually offensive or

1 demeaning comments about or directed toward female court employees and which were offensive
2 to some court employees who witnessed the conduct. Examples of such conduct include, but are
3 not limited to, the following:

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7 One afternoon during the week of October 23, 1995, Presiding Judge Hugh Walker and
8 two division chiefs (Joel Pine and Cristy Comen) were engaged in an impromptu discussion of
9 court policies and procedures, and changes that could be made to improve court operations. The
10 discussion took place in an open area in the civil division. The discussion included complaints
11 about how the judges handled matters and suggestions about what the judges could do to improve
12 the way matters were handled. You walked by and overheard the discussion. You turned to Ms.
13 Pine and asked, "Are we having a PMS day?" Rae Marie Harrison, Judge Hyde's clerk, overheard
14 your remarks and said, "Judge Hyde, you can't say things like that."

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16 B

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18 In or about November 1991, you asked Clerk/Administrator Michael Alexander if he had
19 been spreading rumors about your involvement with the court secretary. After Mr. Alexander
20 denied any involvement in the rumors, you said to him: "It must be June. She's a fucking cunt
21 and I'm going to fire her." The "June" you referred to was Chief Deputy Clerk June Weight.

22
23 COUNT SEVEN

24
25 Between May 1993 and April 1995, you absented yourself from the courthouse during
26 work hours on a regular basis without reporting those days (or partial days) as vacation time.
27 During this time, you regularly left the courthouse on Fridays after the calendar was completed
28 around noon, and did not return for the rest of the day. In addition, you were absent from the

1 courthouse on days not reported as vacation time on the following dates: Monday, May 17, 1993
2 (full day); Tuesday, September 7, 1993 (full day); Tuesday, September 28, 1993 (full day);
3 Monday, October 4, 1993 (full day); Monday April 4, 1994 (full day, except to pick up
4 messages); Monday, April 18, 1994 (full day); and Monday, April 25, 1994 (3/4 day). On a
5 number of these days, as well as days when you were present and apparently available, the county
6 incurred additional expense for the part-time service of a commissioner to hear civil trials, small
7 claims matters, or traffic matters.

8
9 YOU ARE HEREBY GIVEN NOTICE, pursuant to California Rules of Court, rule 905,
10 that formal proceedings have been instituted and shall proceed in accordance with California
11 Rules of Court, rules 901-922.

12
13 Pursuant to California Rules of Court, rule 906, you have the right to file a written answer
14 to the charges against you within fifteen (15) days after service of this notice upon you. An
15 original and eleven (11) legible copies of the answer may be filed with the Commission on Judicial
16 Performance, 101 Howard Street, Suite 300, San Francisco, California 94105. The answer shall
17 be verified and shall conform in style to subdivision (c) of rule 15 of the Rules of Appeal. The
18 notice of formal proceedings and answer shall constitute the pleading. No further pleadings shall
19 be filed and no motion or demurrer shall be filed against any of the pleadings.

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21 This notice of formal proceedings may be amended pursuant to California Rules of Court,
22 rule 911.

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BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATE 4/18/96
Jan. G. Miskerson

CHAIRPERSON

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DECLARATION OF SERVICE BY MAIL

I, Elaine D. Sweet, declare:

I am over 18 years of age, and not a party to the within cause; my business address is 101 Howard Street, Suite 300, San Francisco, CA 94105. That on the 25th day of April, 19 96, I caused a copy of the within

Notice of Formal Proceedings

to be sealed and deposited in the United States mail at San Francisco, California, the county in which I am employed, with the postage thereon fully prepaid to the following:

Ephraim Margolin, Esq.
240 Stockton Street, Third Floor
San Francisco, CA 94108-5300

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 25, 1996 at San Francisco, California.

Elaine D. Sweet