

# COMMONWEALTH OF KENTUCKY

## JUDICIAL CONDUCT COMMISSION

### PRIVATE REPRIMAND

The Commission issues this private reprimand to a judge for violation of SCR 4.300, the Code of Judicial Conduct.

The Commission determined after an informal investigation that the judge shared ownership in two parcels of real estate with a lawyer who practiced before the judge's court, and had a landlord-tenant relationship with the lawyer as to a third property. The judge did not disqualify in cases the lawyer practiced in the judge's court, and did not disclose the shared property interests.

The Commission concludes that the judge violated Canon 1 by failing to observe high standards of conduct so that the integrity and independence of the judiciary will be preserved; Canon 2 by failing to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary; Canon 3E(1)(a) by failing to disqualify in proceedings in which the judge's impartiality might reasonably be questioned; and Canon 4D(1)(b) by engaging in financial activities that involved the judge in a continuing business relationship with a lawyer who practiced before the judge's court.

In issuing this private reprimand, the Commission duly considered that there was no evidence of a pattern of such conduct, that the property connections with the lawyer no longer exist, and that the judge fully cooperated in the investigation.

DATE: 3-31, 2010

STEPHEN D. WOLNITZEK, CHAIR



**ARBITRATION & MEDIATION**  
**Settle With Experience**

**John W. Hays**  
John Hays has been mediating cases for over 10 years and has extensive experience with mediating construction, employment, commercial and personal injury disputes. He has served as a mediator for cases from all parts of the Commonwealth and several surrounding states. He is a mediator and arbitrator for AAA and is on the CPR panel of distinguished neutrals for Kentucky. Mr. Hays is a past president of the Mediation Association of Kentucky.

**Robert F. Duncan**  
Since 1995 Mr. Duncan has successfully mediated civil matters involving issues pertaining to personal injury, professional liability, construction, health care, insurance coverage/bad faith, as well as hospital and nursing home liability. He is the Chair of the Mediation Section of the Fayette County Bar Association. Mr. Duncan received his undergraduate degree in Civil Engineering from the University of Kentucky and is a graduate of the University of Kentucky School of Law.

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The Rules of the Kentucky Supreme Court require the following statement:  
THIS IS AN ADVERTISEMENT.

**COMMONWEALTH OF KENTUCKY  
JUDICIAL CONDUCT COMMISSION**

**IN THE MATTER OF:  
ROGER P. ELLIOTT  
SENIOR STATUS SPECIAL JUDGE**

**ORDER OF PUBLIC REPRIMAND**

Judge Roger P. Elliott, a retired Judge, and a participant in the Senior Status Program for Special Judges, has waived formal proceedings and has agreed to the entry of this Order by the Commission. Judge Elliott has also agreed to resign from the Senior Status Judge Program and not seek to re-enter that Program.

Before his retirement, Judge Elliott was District Judge for the 29<sup>th</sup> Judicial District consisting of Adair and Casey Counties. At the times of the events referred to in this Order, Judge Elliott was a Senior Status Judge. However, at a point in time after the institution of criminal proceedings regarding Judge Elliot, he was suspended from the Senior Status Program.

The Pulaski County criminal proceeding, 09-CR-121, was resolved by Judge Elliott's entry of an Alford plea to the Indictment and participation in pretrial diversion. The Indictment was for Labor Already Rendered concerning an insufficient funds check, a Class D felony. Pursuant to the Alford plea, Judge Elliott asserted his innocence to the allegations of criminal conduct and pursuant to the pretrial diversion portion of the plea, at the expiration of the period of pretrial diversion the Indictment will be dismissed.

On August 28, 2009, Judge Elliott was indicted in Jessamine Circuit Court Case No. 09-CR-00187 for Theft by Deception for an insufficient funds check, a Class D felony. That Indictment was dismissed on September 28, 2009, after Judge Elliott made restitution.

Even though the Pulaski County conviction is subject to being set aside and expunged, the case has been a matter of public record and will continue to be so until an Order of Expungement is entered.

Judge Elliott through his attorney filed answers denying the charges. Also, in the Alford plea in the Pulaski County case, Judge Elliott denied his guilt of the underlying offense charged. In light of his resignation and in the interest of fiscal responsibility, it is not necessary that the Commission resolve each and every issue raised. It is sufficient to note that the issues raised were serious and that the alleged conduct, if proved at a hearing, would violate the Code of Judicial Conduct, SCR 4.300: Canon 1, failure to observe high standards of conduct so that the integrity and independence of the judiciary will be preserved; and Canon 2A, failure to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

If the allegations against Judge Elliott had been proven at a hearing, the Commission would have removed him from his office as Senior Status Judge. As Judge Elliott is resigning from his participation as a Senior Status Judge, the only office he held at the times in this Order, a public reprimand is the most severe sanction available.

Therefore, by unanimous vote of the Commission, Judge Elliott is hereby publicly reprimanded.

This Order is issued on June 25, 2010.

STEPHEN D. WOLNITZEK, CHAIR

AGREED TO:

PETER OSTERMILLER  
Counsel for Judge Roger Elliott

GEORGE F. RABE  
Counsel for the Commission

JUDGE ROGER P. ELLIOTT