

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

**IN THE MATTER CONCERNING
JUDGE CHARLES R. BREHMER**

**DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT**

This disciplinary matter concerns Judge Charles R. Brehmer of the Kern County Superior Court. Judge Brehmer and his attorney, Paul S. Meyer, appeared before the commission to object to the imposition of a public admonishment, pursuant to rule 116 of the Rules of the Commission on Judicial Performance. Having considered the written and oral objections and argument submitted by Judge Brehmer and his counsel, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18, subdivision (d) of the California Constitution, based on the following statement of facts and conclusions.

STATEMENT OF FACTS AND CONCLUSIONS

Judge Brehmer has been a judge of the Kern County Superior Court since January 2009, when he began his current term.

This public admonishment is based on violations of the Political Reform Act (Act)¹ that occurred during and after the judge's successful 2008 campaign for judicial office. The judge was an attorney-candidate in that election.

On July 18, 2011, following an investigation by the Fair Political Practices Commission (FPPC) that arose from an audit of the judge's campaign committee, the judge signed a stipulation with the FPPC wherein he admitted to three counts of violating the Act and agreed to pay a \$5,500 fine. On September 29, 2011, the stipulation was

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014.

approved by the FPPC and entered as its decision and order. The judge admitted to the following FPPC charges:

- The judge and his campaign treasurer received three cash contributions of \$100 or more, in violation of Government Code section 84300, subdivision (a). The Act prohibits receiving cash contributions of \$100 or more. The cash contributions were (1) \$1,000 from the Law Offices of Young & Nichols, received on or about April 25, 2008; (2) \$500 from Steve Nichols, received on or about October 2, 2008; and (3) \$500 from Todd Gall, received on or about October 2, 2008.
- The judge and his campaign treasurer failed to disclose the true source of a \$15,000 loan that the campaign treasurer made to the campaign on or about October 24, 2008, in violation of Government Code sections 84211, subdivision (g), and 84301. The campaign treasurer provided the loan funds to the judge, so that the judge could contribute the funds from his personal account to the campaign account. On ensuing campaign statements, the loan was reported as having been received from the judge rather than the campaign treasurer, even though the campaign treasurer was the true source of the contribution.
- The judge and his campaign treasurer failed to timely file two semi-annual campaign statements for the reporting periods of January 1, 2009 through June 30, 2009, and July 1, 2009 through December 31, 2009, in violation of Government Code section 84200, subdivision (a). The semi-annual statements were due by July 31, 2009 and January 31, 2010, respectively. The semi-annual statements were required to be filed because of the following campaign activity: during the first reporting period there were expenditures of approximately \$12,300; during the second reporting period there was a \$15,750 payment made to the campaign treasurer to repay the loan.

The commission found that Judge Brehmer also committed violations of the Act not addressed in the FPPC stipulation. The additional violations found by the commission are as follows:

- On a pre-election campaign statement that was filed for the July 1, 2008 through September 30, 2008 reporting period, the judge failed to disclose \$9,000 in contributions, in violation of Government Code section 84211, subdivisions (a), (c), and (f). The undisclosed contributions were (1) \$5,000 from the Bakersfield Police Officers Association PAC; (2) \$2,000 from Lois M. Brehmer; and (3) \$2,000 from Sierra Process Systems, Inc. The judge admitted this conduct in his response to the commission's preliminary investigation letter.
- The judge failed to timely file the semi-annual campaign statement for the October 19, 2008 through December 31, 2008 reporting period, during which there were campaign contributions of \$20,349 and campaign expenditures of \$16,919, in violation of Government Code section 84200, subdivision (a). The semi-annual campaign statement was due by January 31, 2009. The judge admitted this conduct in his response to the commission's preliminary investigation letter.
- The judge failed to deposit the \$15,000 campaign loan that he received from his campaign treasurer into the campaign committee's bank account and instead deposited it into his personal account, in violation of Government Code section 85201, subdivision (c). In his response to the commission, the judge denied that his conduct violated section 85201, subdivision (c). The judge asserted that "[t]he loan was a personal loan and the proceeds were shortly deposited into the campaign account after having been placed into [his] personal account." He also asserted that the funds deposited into the campaign account were his funds "freed up by the loan" from the campaign treasurer. The commission concluded, however, that the loan was clearly intended to be used in connection with the judge's

campaign, as opposed to being a personal loan for other purposes, as evidenced by the written document memorializing the loan, titled "Election Campaign Loan Agreement," which was signed by the judge and the campaign treasurer. Because this was a campaign loan, the proceeds should have been deposited directly into the campaign committee's bank account.

The FPPC found, and the commission concurs, that there is no evidence of any intent to conceal information from the public on the part of Judge Brehmer. In the commission's view, the violations of the Act discussed above were the result of a failure to oversee sufficiently the work of an inexperienced campaign treasurer handling the campaign's reporting requirements. The commission noted that the judge amended his campaign statements after the problems with his filings were brought to his attention (post-election), and that the cash contributions were timely reported in various campaign statements. Judge Brehmer has acknowledged that ensuring that his campaign activities were in compliance with the law was his obligation, and has accepted responsibility for his conduct.

DISCIPLINE

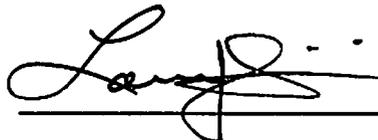
An express purpose of the Political Reform Act, as set forth in Government Code section 81002, subdivision (a), is to ensure that "[r]eceipts and expenditures in election campaigns ... [are] fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited." Judge Brehmer's multiple failures to comply with his campaign reporting obligations undermined this basic purpose of the Act. Public confidence in the integrity of the judicial campaign process and the judiciary is harmed when the public is deprived of important information, such as sources of contributions and amounts of expenditures made by a campaign. The judge's failure to obey the Act's requirements in his campaign for judicial office constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute. In addition, the violations of the Act that occurred after the judge took the oath of judicial office also constitute violations of the Code of Judicial Ethics canon 3B(2), which requires a judge to be faithful to the law, and canon 2A, which requires a judge to comply

with the law and to act at all times in a manner that promotes public confidence in the integrity of the judiciary.

For the forgoing reasons, the commission has determined to impose this public admonishment.

The vote of the commission to impose a public admonishment was 9 ayes and 2 noes. Commission members Mr. Lawrence Simi; Ms. Mary Lou Aranguren; Anthony P. Capozzi, Esq.; Hon. Frederick P. Horn; Hon. Judith D. McConnell; Nanci E. Nishimura, Esq.; Mr. Adam N. Torres; Ms. Maya Dillard Smith; and Mr. Nathaniel Trives voted for a public admonishment. Commission members Hon. Erica R. Yew, and Ms. Sandra Talcott would have issued a private admonishment.

Dated: October 25, 2012

A handwritten signature in black ink, appearing to read "Lawrence J. Simi", written over a horizontal line.

Lawrence J. Simi,
Chairperson