

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

**INQUIRY CONCERNING JUDGE
WILLIAM R. DANSER,**

No. 172

**DECISION AND ORDER IMPOSING
CENSURE AND BAR**

This disciplinary matter concerns Judge William R. Danser (Retired), formerly a judge of the Santa Clara County Superior Court. The commission charges in count one that Judge Danser engaged in ticket fixing in 24 traffic cases. In one of those cases, Judge Danser is charged with improper communications with a court commissioner before whom the case was pending. He is charged with improperly transferring the remaining traffic cases to himself and then dismissing them without any legal basis.

Four additional counts charge the judge with misconduct in cases involving driving under the influence of alcohol (DUI). The judge transferred the four DUI cases to his department and then afforded preferential procedural and substantive treatment to the defendants.

The defendants in the traffic and the DUI cases were members of or closely connected to an inner circle of the judge's friends, acquaintances and court staff. They included players and employees of San Jose professional sports teams. Many of the defendants were friends of or had connections with Randy Bishop who was a friend of the judge and a detective previously with the Los Gatos Police Department.

A sixth count charges Judge Danser with abusing his judicial power by attempting to dismiss three citations issued to one of his own minor children. Finally, a seventh count charges the judge with improper demeanor and abuse of power in attempting to prevent the district attorney from obtaining a transcript of the plea and sentencing proceedings in one of the DUI cases.

Judge Danser is represented by James A. Murphy and Harlan B. Watkins of Murphy, Pearson, Bradley & Feeny of San Francisco. The examiners for the commission are Commission Trial Counsel Jack Coyle and Commission Assistant Trial Counsel Bradford Battson.

The Supreme Court appointed three special masters to hold an evidentiary hearing and to report to the commission. The masters are Hon. Harry E. Hull, Jr., Associate Justice of the Court of Appeal, Third Appellate District; Hon. Terrance R. Duncan, Judge of the Monterey County Superior Court; and Hon. Thomas E. Kelly, Judge of the Santa Cruz County Superior Court. Pursuant to a settlement agreement between the parties that later was incorporated in an order issued by the commission on July 22, 2004,¹ the masters took the matter under submission without a hearing. They issued their detailed 108-page Final Report (masters' report or M.Rpt.) to the commission on October 25, 2004. The masters concluded that Judge Danser committed willful misconduct in 34 instances and prejudicial misconduct in one other instance. We concur there were 34 instances of willful misconduct. We conclude there is insufficient evidence of any misconduct by Judge Danser in the remaining instance.

As the hearing before the masters was about to begin on the morning of July 19, 2004, the parties proposed a settlement that included Judge Danser's agreement to retire irrevocably. He did retire that same day. (See Order of July 22, Intro. ¶.) The settlement and subsequent order provide that specified charges against the judge were to be determined based on the transcript and exhibits from the judge's criminal trial (see discussion, *post*, p. 3). (*Id.*, ¶ 2b.) The judge also stipulated that certain other charges were true (*id.*, 2a), and that at a minimum, his actions constituted prejudicial misconduct within the meaning of article VI, section 18 of the California Constitution, and that under that section, the commission could issue a censure and bar against him. (Order of July 22, ¶ 3.)

Article VI, section 18, subpart (d) of the California Constitution, as pertinent to the disciplinary options available to the commission in this matter, provides that the commission may "censure a judge or former judge or remove a judge" for willful or prejudicial misconduct. That section also provides the commission may bar a former judge who is censured from receiving an

¹ A copy of the order is attached, incorporated herein, and described more fully in this opinion (*post*, p. 3). It is referred to as the "Order of July 22."

assignment, appointment, or reference of work from any California state court. Given Judge Danser's retirement, we construe the constitution as prohibiting the commission from imposing discipline more severe than a censure and a bar. Judge Danser's serious misconduct warrants the maximum discipline. Our decision to impose the censure and bar, rather than a removal from office, is because of the constitutional limit on our power.

Judge Danser also was prosecuted criminally for the conduct that underlies this disciplinary proceeding. The jury found him guilty of a felony and seven misdemeanors. The case is pending on appeal (Court of Appeal, Sixth Appellate District, Case No. H027912). The determination of this matter before the commission does not hinge in any manner on the outcome of the criminal appeal because our determinations concerning the *judicial misconduct* are independent of the ultimate decision of whether the conduct also is *criminal*.

Under the Order of July 22, Judge Danser stipulated to the truth of the facts alleged in count five, concerning his efforts to dismiss his son's tickets. (Order of July 22, ¶ 2a.) As to all the other allegations, however, the judge has agreed only that the masters, and ultimately the commission, are to determine the facts based on specified agreed evidence from the judge's criminal trial. (*Id.*, ¶2b.) Based on a review of that evidence, we agree with the masters that the following facts are true.

I. Findings of Fact

A. The Traffic Matters

1. Count One – General Findings (see M.Rpt., pp. 14-19)

In March 1997, Judge Danser engaged in improper ex parte communications with Court Commissioner Gregory Saldivar about a traffic case against Anthony Granato that was pending before the commissioner. In addition, between March 2000 and December 2002, Judge Danser caused to be transferred to his court and then dismissed 24 traffic cases involving 20 different defendants. In nine of those cases, the judge also dismissed a related charge of failure to appear, alleged as a misdemeanor. Many of the defendants in the traffic cases had a relationship with Randy Bishop, a friend of the judge who, at the time, was an officer with the Los Gatos-Monte Sereno Police Department (LGPD). The remaining defendants were either friends or acquaintances of the judge or his former or then-current court staff.

Judge Danser had known Randy Bishop through Little League since 1996. The judge was involved in Los Gatos Little League from 1992 through 2002, and was president from 1998

to 2000. Bishop helped the players with pitching and batting techniques. He also ran a diversion program for juvenile offenders, primarily involving alcohol-related offenses, through which they could perform alternative community service. At the judge's request, Bishop referred young offenders to do maintenance work and other tasks for Little League. The judge and Bishop also had professional contact in connection with the issuance of search warrants. Judge Danser wrote a letter of recommendation for Bishop in support of a grant application.

From 1999 to July 2003, Bishop worked for the San Jose Sharks professional hockey team while he was an officer with LGPD. He handled law enforcement affairs for the Sharks, for which he was paid a total of more than \$50,000 over that period. Judge Danser has been a Sharks fan since about 1990, and bought season tickets to their games; he bought four season tickets for the 2001-2002 season. The defendants whose traffic cases the judge dismissed included five players or employees of the Sharks, the girlfriend of a player, an employee of the Sharks' home arena, two employees of the San Jose Earthquakes soccer team (which was run by the Sharks or their marketing arm), the girlfriend of the Earthquakes' equipment manager, and the owner of a Los Gatos restaurant frequented by Sharks players.

None of the cases Judge Danser dismissed was assigned to him and none would have come before him in the ordinary course of judicial business. There also was no proper basis under Santa Clara County court practices for transfer of any of the cases to Judge Danser's department. Judge Danser was not assigned to a traffic court department at any time during the relevant period.

Judge Danser did not conduct a hearing in any of the subject traffic cases. He made no disclosures on the record of any ex parte communications or relationships to any of the defendants or other involved persons. None of the cases was on calendar when Judge Danser dismissed the respective tickets or other charges. None of the defendants appeared in court in any of the cases, nor did any retained counsel appear on behalf of any of them.

As will be discussed in the following findings concerning the individual tickets (*post*, pp. 5-17), Judge Danser claimed in nearly all of the traffic cases that Bishop had told him that he, Bishop, had the approval of the officer who issued the citation, or someone allegedly acting on the citing officer's behalf, to dismiss a given citation. Based on these alleged *oral* representations by Bishop, for which there was no corroboration, and without creating any record, the judge dismissed the cases. The judge asserted that Vehicle Code section 40500,

subdivision (d) authorized the dismissals. As pertinent here, that section provides that if an arresting officer or other officer of the same agency later determines that a citation should be dismissed “in the interest of justice,” the *facts justifying such dismissal* shall be presented in the form of a *written* recommendation, filed with the court, and thereafter, the court may dismiss the case in connection with entering supporting findings *on the record*. As is critical, however, the section also states, “*under no circumstances shall a personal relationship with any officer, public official, or law enforcement agency be grounds for dismissal.*” (Veh. Code § 40500(d), italics added.)

The masters rejected the judge’s reliance on section 40500(d) as resting on a “plainly unsupportable interpretation of [the statute],” finding the defense to be part of a “subterfuge.” (M.Rpt., p. 19.) The masters also correctly concluded that even if the conversations took place as claimed, they would not shelter the judge from the charges of judicial misconduct. On the contrary, they would buttress the conclusion of *willful* misconduct. (*Ibid.*) We concur with the masters that the statute cannot be twisted to cover these situations and that the claimed conversations likely are a sham or subterfuge. If the judge actually talked with Bishop as he claims, such *ex parte* communications contravened canon 3B(7) and are an additional basis for concluding the misconduct in those instances was willful. (See discussion, *post*, pp. 29-30.)

2. Count One – Specific Findings Concerning Individual Traffic Cases

a. Anthony Granato (see M.Rpt. pp. 20-22)

Granato was cited on December 14, 1996 for speeding and driving without a valid license. He was charged later with a misdemeanor for failure to appear on the original citation. At the time, Granato played for the Sharks. At the request of and as a favor to Randy Bishop, in March 1997 Judge Danser telephoned a court commissioner in the San Martin branch court, before whom the case was pending. The judge told the commissioner Granato wanted to plead guilty to the speeding violation and to have the other two charges dismissed. The judge also advised that no one would appear. Judge Danser and the commissioner had been friends for 25 years.

Prior to the hearing date, the commissioner decided not to accept a guilty plea in absentia, and continued the matter. Upon learning of the continuance, Judge Danser contacted another friend of his, an attorney, and asked him to resolve the matter for Granato. The attorney did not consult with Granato, but appeared before the commissioner ostensibly on Granato’s behalf, and

entered a guilty plea to the speeding charge. The commissioner dismissed the remainder of the case.

In the aftermath of the *Granato* dismissal by the commissioner, Judge Danser's presiding judge advised him he was to discontinue further communications with court commissioners concerning pending cases to avoid the impression of pressuring them. Judge Danser subsequently told Randy Bishop that his presiding judge "was not happy with what [he] had done" in the *Granato* case. (M.Rpt., p. 22). From that point forward, when Bishop brought a case to the judge's attention or otherwise sought his intervention, instead of contacting the commissioner to whom the case had been assigned, the judge transferred the matter to his own department and then dismissed it himself.

b. Paul Pavicich (see M.Rpt., pp. 22-24)

Pavicich was cited on February 7, 2000 for failing to stop at a metering light on a freeway on-ramp. The citing officer from the California Highway Patrol (CHP) was two cars behind Pavicich, observed the violation, and testified that Pavicich admitted he drove through the red metering light. The Pavicich family is a prominent Los Gatos family and the judge knows various family members. Judge Danser knows Paul Pavicich from Little League, and in 2000, the two of them played in a golf foursome that also included Todd Mayo and Scott Cruse. (As will be discussed, the judge dismissed tickets issued to Pavicich, Mayo, Mayo's wife and Cruse's wife.)

Pavicich told Judge Danser at Little League about his ticket. The judge directed his clerk to get the file in the *Pavicich* case, which she did. On March 23, 2000, the judge dismissed the case. The minute order reflects the dismissal was in the "interests of justice." The judge claimed Bishop had told him that he, Bishop, had talked "to the guys" at the Highway Patrol. The judge admitted, however, that Bishop gave him no reason the ticket should be dismissed. (M.Rpt., p. 24.)

Neither Pavicich nor a retained attorney was present in court on March 23 when the case was dismissed. The minutes reflect, however, the defendant was represented on that occasion by an attorney named Daily. The judge testified that he told Terrence Daily, an attorney who happened to be present in court, "I am going to dismiss this ticket. You can be a big hero of the Pavicich family. I will put your name on it." (M.Rpt., p. 23.) According to the judge, he thought it would be "funny" to put Daily's name in the minutes. (*Id.* at p. 24.)

c. Todd Mayo (see M.Rpt., pp. 24-26)

Mayo was cited by the Campbell police on April 4, 2000 for speeding. Mayo and the judge had been friends since about 1996, through Little League and golf, and had other social connections. Mayo talked to Judge Danser about his ticket. The judge claimed he dismissed the ticket after Bishop said the issuing “cops” who had no objection to it being dismissed. (M.Rpt., pp. 25-26.)

Judge Danser dismissed the Mayo ticket on March 23, 2000, the same day as he dismissed the Pavicich ticket (§ b, *ante*, p. 6). The minute order states the dismissal was in the “interests of justice.” The case was not calendared and there was no appearance by the defendant or retained counsel. (M.Rpt., p. 25.) Nonetheless, the minutes state that attorney “Daily” appeared. The judge admitted he directed this minute entry, again, because it “was kind of a funny thing.” (*Ibid.*) Attorney Terrence Daily was in Judge Danser’s court that day, but he testified he did not represent Mayo and did not authorize the use of his name in the minutes.

d. Robert Davis (see M.Rpt., pp. 26-27)

Davis was cited by an officer from the San Jose Police Department (SJPD) on September 26, 2000 for failing to stop at a stop sign. Davis testified that he did fail to stop. He was the telecommunications manager for the San Jose arena operated by the Sharks. Davis knew Randy Bishop, and although Davis denied speaking with Bishop about the ticket, Bishop told Judge Danser about it. The file was sent to Judge Danser’s court on January 17, 2001, and the judge dismissed the case the following day. The minute order states the dismissal was in the “interests of justice.” Judge Danser admits, however, the actual reason for the dismissal was as a favor to Bishop. Judge Danser testified he dismissed the ticket after Bishop told him “someone” had indicated it was “okay” to do so. (M.Rpt., p. 27.)

e. Joseph Will (see M.Rpt., pp. 28-29)

Will was cited by the SJPD on August 18, 2000 for speeding, and subsequently was charged with a misdemeanor failure to appear. Will had worked for the Sharks for many years and was the assistant to the Sharks’ general manager. Will gave his ticket to Randy Bishop, who said he would see what could be done about it. Will assumed Bishop would “take care of” the ticket. (M.Rpt., p. 28.) Bishop told Judge Danser about the ticket and of Will’s connection to the Sharks. The judge dismissed the ticket on February 6, 2001 “in the interests of justice,” according to the minute order. The judge admitted the dismissal was in fact a favor to Bishop.

The ticketing officer testified he did not talk to Bishop about the ticket and that he never recommended to anyone that it be dismissed and knew of no reason it should be dismissed. The judge admitted Bishop provided no basis for a dismissal. Furthermore, even if there had been a request by the officer to dismiss the speeding ticket, such request would not provide a basis for dismissal of the failure to appear charge without any appearance by or on behalf of the defendant.

f. Evgeni Nabokov (see M.Rpt., pp. 29-31)

Nabokov was cited by the Santa Clara County sheriff on December 29, 2000 for driving without a license and unsafe passing. Nabokov was the Sharks' goalie and asked Bishop for advice concerning the ticket. Bishop talked to Judge Danser about the ticket and may have described the circumstances surrounding it. The judge knew Nabokov was a goalie for the Sharks. Judge Danser had his clerk obtain the file and on March 12, 2001, he dismissed the ticket. According to the minute order, the dismissal was in the "interests of justice," but the judge admitted in his testimony that the real reason was as a favor to Bishop.

The ticketing officer testified he never was contacted by anyone about the ticket and knew of no reason it should have been dismissed. The judge claimed Bishop told him that someone "at the police" had no objection to the dismissal, although admittedly, Bishop offered no basis for the dismissal. (M.Rpt., pp. 30-31.) The judge admitted that since Bishop brought the ticket to him initially, Bishop had an interest in the matter and could not be considered impartial.

g. Rhonda Sulpizio (see M.Rpt., pp. 31-32)

Sulpizio was cited by the CHP on January 15, 2001 for driving with an expired registration and without proof of financial responsibility. She subsequently was charged with a misdemeanor for failing to appear. At the time, Sulpizio was the girlfriend of former Sharks player Jeff Friesen. After Bishop learned of the ticket, he told Judge Danser that Sulpizio was the girlfriend of "one of the Sharks guys." (M.Rpt., p. 32.) The file was sent to Judge Danser's department at his request, and the following day, May 24, 2001, he dismissed all charges in the "interests of justice," according to the minute order.

Judge Danser testified he dismissed all charges after Bishop said he had seen either the registration or proof of insurance and that "everything was in order." (M.Rpt., p. 32.) The file does not indicate a dismissal based on correction of the registration or insurance violations, and there is no evidence of either. There also is no indication of payment of the \$10 statutory fee

assessed in connection with dismissal of a correctible offense. Furthermore, there is no apparent basis for the dismissal of the failure to appear charge without an appearance by or on behalf of the defendant.

h. Debra Mayo (see M.Rpt., pp. 33-34)

Mayo was cited by the SJPD on September 18, 2001 for speeding. She is the wife of Todd Mayo, whose ticket Judge Danser previously dismissed (§ c, *ante*, p. 7). She knew the judge through her husband's Little League activities, and the Mayos had been to dinner with the judge and his wife. Debra Mayo told her husband about the ticket and he told Judge Danser about it. The judge asked Todd Mayo for the ticket and "agreed to help with the ticket or take care of it." (M.Rpt., p. 33.) After the file was sent to Judge Danser's department at the judge's request, he dismissed the ticket the following day, October 24, 2001. The minute order states the dismissal was in the "interests of justice," but the judge admitted he intervened as a favor for a friend. The judge claimed Bishop told him the issuing officer or agency did not object to the dismissal, but the issuing officer did not corroborate this claim during his testimony.

i. Gregory Jamison (see M.Rpt., pp. 34-38)

Jamison is the president and CEO of the Sharks and of Silicon Valley Sports and Entertainment, the marketing arm of the Sharks. He has known Randy Bishop since 1998 or 1999. Judge Danser dismissed three tickets issued to Jamison:

Citation 1: Jamison was cited by the Santa Clara County sheriff on January 20, 2000 for speeding. Shortly after the ticket was issued, Randy Bishop attempted to get the sheriff's office to dismiss the ticket, but the ticketing officer declined to consent to the dismissal. Jamison testified he paid this ticket in 2000, but there was no evidence of that fact. The check that Jamison thought was for this ticket was in fact in payment of a speeding ticket received by his son.

Citation 2: Jamison was cited by the CHP on January 20, 2001 for having unlawfully tinted windows in his vehicle. He was charged later with a misdemeanor failure to appear. Jamison has a cancelled check showing payment of this ticket in June 2001, but there is no record of payment in the court file.

By letter dated June 28, 2001, the Department of Motor Vehicles (DMV) notified Jamison that the two citations had not been paid and that his driver's license could not be issued until proof of payment or correction had been received by DMV. Jamison asked Bishop to

investigate, and Bishop subsequently told Judge Danser that Jamison's license was going to be suspended over some tickets Jamison claimed he had paid.

Citation 3: On August 5, 2001, an LGPD officer left a ticket on a vehicle registered to Jamison, for failure to display a front license plate and for unlawfully tinted windows. Jamison's son was driving the car at the time, but the father remembered receiving a copy of the ticket. Neither father nor son could remember showing proof of correction concerning either violation to anyone, and there is no proof of correction in the court file for Citation 3, nor is there evidence of payment of a statutory \$10 correction fee. Nonetheless, on October 25, 2001, the day after the Citation 3 file was sent to Judge Danser's department, the judge dismissed the case, in the "interests of justice" according to the minute order.

At Judge Danser's request, the files for Citations 1 and 2 were sent to his department on November 7, 2001. On that day, the judge dismissed the underlying charge and the failure to appear charge in connection with Citation 1, even though he admits he knew of nothing to suggest Jamison had not been speeding. The judge was handling a preliminary hearing calendar that day. On November 7, Judge Danser also dismissed the tinted window violation charge in Citation 2, although again he admitted knowing of no basis for doing so.

Two months later, on January 2, 2002, the minutes for Citation 2 were "corrected" to add a dismissal of the failure to appear charge, in the "interests of justice" according to the minute order. The judge was handling a preliminary hearing calendar that day. The judge also exonerated bail and set aside the forfeiture, thereby entitling Jamison to a refund of the \$310 fine he had paid. The judge's clerk prepared an abstract of judgment indicating Citation 1 had been dismissed; such an abstract was a prerequisite for the DMV to update its system. The judge called Bishop to notify him that the abstract had been prepared because of a concern that Jamison's license otherwise would be suspended.

Judge Danser concedes he had no evidence that Jamison had paid any of the tickets, and there is no evidence in any of the files suggesting payment or correction. The judge testified he dismissed a number of tickets for Jamison because he knew him to be "an important man with the Sharks" and "had no reason to disbelieve" the tickets had been paid. (M.Rpt., pp. 37-38.) Even if they had been paid, that would not have been a basis for dismissal of the tickets or of the failure to appear charges.

j. Shelby Holcomb (see M.Rpt., pp. 38-39)

Holcomb was cited by the CHP on August 1, 2001 for following too closely and driving with an expired registration. He admitted the latter violation. Holcomb was a personal trainer at the Fitness Clinic in Los Gatos during the period 2000 to 2002 and provided fitness training to the judge and the judge's sons. Holcomb discussed the ticket with the judge shortly after receiving it, and on October 31, 2001, Judge Danser dismissed the charges. According to the minute order, the dismissals were in the "interests of justice." Judge Danser testified that the real reason was that he wanted to help Holcomb.

According to Judge Danser, Bishop had told him that he, Bishop, had talked to somebody and "they had no objection" to a dismissal because the matter was not serious. (M.Rpt., p. 39.) The citing officer did not corroborate this claim. The judge admitted he knew of no reason why the officer allegedly was willing to have the ticket dismissed.

k. Kenneth Holbach (see M.Rpt., pp. 39-41)

Holbach received two tickets within a 5-hour period on October 18, 2001 from the same SJPD officer for speeding at the same intersection, violations which Holbach admitted. The defendant's brother, Ben Holbach, was a CHP officer and a friend of Bishop; the two regularly ate lunch together.

Shortly after the tickets were issued, Officer Holbach's father told him about the tickets. Officer Holbach had lunch with Randy Bishop a couple of days later and inquired if Bishop knew anyone the officer could talk to about getting the tickets "consolidated" so his brother could go to traffic school. The officer later gave Bishop copies of the tickets, which Bishop gave to Judge Danser.

On November 9, 2001, the day after the files were sent to Judge Danser's department, he dismissed both charges. The minute order states the dismissals were in the "interests of justice." Bishop relayed information of the dismissals to Officer Holbach.

Judge Danser testified that prior to dismissing these tickets Bishop had advised him that Bishop had ascertained that some police official had no objection to the dismissal. The arresting officer testified, however, that he had never told Bishop he approved of dismissal, nor had he recommended dismissal and he knew of no facts justifying dismissal.

l. Michael Ensley (see M.Rpt., pp. 41-44)

Ensley was cited by the SJPD on October 3, 2001 for speeding. Ensley testified that he was speeding. Nonetheless, the day after being cited, Ensley complained about the ticket to a waitress at the Southern Kitchen, a Los Gatos restaurant. A man sitting at the counter overheard Ensley's complaint and told him he could get the ticket fixed if Ensley made out a check to the Los Gatos Little League. Although Ensley claimed not to know this man, he gave him the ticket. On November 6, 2001, Ensley wrote a check for \$200 to the Los Gatos Little League and gave it to another man he claimed not to know, but who allegedly had been sitting next to the first man to whom he had given the ticket previously. The check was deposited into the league's checking account in April 2002, with a hand-written note on it, "Major's Tigers." Judge Danser managed the league's "major league" team called the "Tigers."

Judge Danser was told of Ensley's ticket by Brad Tomy, a friend of the judge who served with him on the Little League board of directors. Ensley admitted he knew Tomy, but as the result of various testimonial denials by Ensley and Tomy, it is unclear how the check got from Ensley into the Little League account. The judge denied knowledge of Ensley's check to the Little League.

Judge Danser spoke with Tomy about the ticket and obtained the actual ticket from him. After directing his clerk to have the file sent to his department, the judge dismissed the ticket on December 4, 2001. The minute order states the dismissal was in the "interests of justice." Judge Danser hand-delivered a copy of the dismissal order to Tomy at the Little League field, and Ensley picked up a copy of the order at either the Southern Kitchen or the Los Gatos Roasting Company.

Judge Danser claimed he asked Bishop to look into the matter concerning Ensley's ticket and that he dismissed the ticket after Bishop told him that the officers involved had no objection to a dismissal. The ticketing officer testified he had no conversation with Bishop, never recommended dismissal and did not believe dismissal was warranted. Judge Danser admitted he never heard any reason why the ticket should be dismissed.

m. Stephanie Lynott (see M.Rpt., pp. 44-46)

Lynott was cited by the LGPD on June 12, 2001 for driving without a seat belt. She subsequently was charged with a misdemeanor failure to appear in connection with the original ticket. The judge knew Lynott as his three sons' second grade teacher at St. Mary's School in

Los Gatos. In about November 2001, Lynott phoned the Danser residence and spoke with either Judge Danser or his wife (who is a Santa Clara County Superior Court judge). Following that call, the ticket was delivered to Judge Danser, and on November 30, 2001, the file was sent to Judge Danser's department. On December 4, 2001, he dismissed both charges.

The judge admitted he had no reason to believe the ticket was unjustified. He dismissed it based on a conversation with Lynott and because of the "minor nature of the matter." (M.Rpt., p. 46.) He testified, "I knew what kind of person she was. I believed the story she was telling me, and the cost and effort of sort of putting this back into the system to me just did not seem worth it." (*bid.*) The judge's own improper diversion of the case to his department was the reason the ticket was "out of the system." Moreover, it was a simple matter to return the file to traffic court, where it belonged and where it should have been handled in the ordinary course of judicial business.

n. Peter Stemkowski (see M.Rpt., pp. 46-48)

Stemkowski was cited on January 7, 2002 by the CHP for speeding in a school zone. He was a radio analyst for the Sharks and a broadcast partner of Anthony Granato; it was Granato's ticket about which the judge spoke with the court commissioner in the San Martin branch court (§ a, *ante*, pp. 5-6). Stemkowski talked to Bishop about the ticket and Bishop spoke to Judge Danser about it. The judge knew Stemkowski was a Sharks broadcaster and Granato was coaching Little League with Judge Danser at the time.

On April 5, 2002, Judge Danser dismissed the ticket in the "interests of justice," according to the minute order. The judge claimed Bishop told him there was no objection to the dismissal, although concededly, Bishop did not tell the judge of any justification for the dismissal. The issuing officer, however, testified he was not contacted. According to the officer, he would have recommended against dismissal because Stemkowski was rude and went on a "verbal tirade" when the officer cited him. (M.Rpt., p. 48.)

o. Cataldo Maresco (see M.Rpt., pp. 48-49)

Maresco was given a speeding ticket by the CHP on February 14, 2002, and Maresco testified he was speeding. He is the owner of Aldo's Restaurant in Los Gatos and considers Randy Bishop a friend. Bishop ate at Aldo's on occasion with Sharks players. Shortly after receiving the ticket, Maresco talked to Bishop about it and gave him the actual ticket. Bishop told Judge Danser about the ticket and told him Maresco was a strong supporter of the police

department. On April 15, 2002, Judge Danser dismissed the ticket; the minute order states the dismissal was in the “interests of justice.” The judge testified Bishop said there was no objection to a dismissal. The issuing officer testified he never recommended a dismissal and knew of no facts justifying such action.

p. Evgeni Nabokov (see M.Rpt., pp. 49-50)

Nabokov was cited by the CHP on April 4, 2002 for speeding and admitted in his testimony he was speeding.² Nabokov talked to Bishop about the ticket and left it in his locker, as requested by Bishop. Bishop then told Judge Danser about the ticket and gave it to him. The judge in turn gave the ticket to his clerk who had the file sent to Judge Danser’s courtroom. On June 14, 2002, *while Judge Danser was on vacation*, he ordered the ticket dismissed. Judge Danser testified that Bishop told him the “people responsible” for issuing the ticket did not object to it being dismissed. The issuing officer testified he had no such conversation.

q. Phyllis Cruse (see M.Rpt., pp. 50-52)

Cruse was cited by the SJPD on May 9, 2002 for speeding. Cruse told her husband, Scott, about the ticket. At the time, Scott Cruse knew that Judge Danser had dismissed a ticket for their mutual friend, Todd Mayo (§ c, *ante*, p. 7). Both Scott and Phyllis Cruse were good friends with Judge Danser through a variety of social, sports and school connections. Scott asked Judge Danser at the Little League field “if he [the judge] could take care” of the ticket. (M.Rpt., p. 51.) On June 12, 2002, the case file was sent to the Hall of Justice “per Judge Danser.” (*ibid.*) Again *while Judge Danser was on vacation* on June 14, 2002 (see § p, *ante*), he ordered the ticket dismissed. The judge claimed Bishop reported “the officers” had no problem if the judge wanted to dismiss. (*Id.* at p. 52.) The issuing officer testified he was never notified the ticket was contested and knew no reason it should be dismissed.

r. Tadd Whitmire (see M.Rpt., pp. 52-53)

Whitmire was cited in Gilroy during or about June 2002 for a non-functioning taillight and for lacking proof of insurance. He was stopped two blocks from the home of Kathi Bringuel, Judge Danser’s clerk, where he had just picked up Victoria Enos from a party. Enos is Whitmire’s former wife and she recently had begun working as a courtroom clerk in Judge

² Nabokov was the defendant in another case handled by Judge Danser and his brief biographical description and connections to the judge and Bishop are set forth in section f, *ante*, page 8.

Danser's department. Enos contacted Bringuel and asked what they needed to do to take care of the ticket. Enos testified that Bringuel responded she "would look into it and take care of it." (R.T. 1062:20-24.) In contrast, Bringuel asserted she told Enos that since the ticket involved only a "fix-it" violation, Enos should just get the taillight fixed. (R.T. 2254:2-6.) There is *no* evidence concerning the disposition of the ticket. Although Bringuel testified the case was "heard in Judge Danser's department" (R.T. 2254:18-28), there is no evidence of a court record showing that to be a fact or of *any* involvement by Judge Danser with the ticket.

s. Erasmus Galvan (see M.Rpt., pp. 53-54)

Galvan was cited by the CHP on July 23, 2002 for making an improper U-turn. He is the father of Georgina Galvan-Colin who worked as a court reporter in Judge Danser's department from 2001 to 2003. The court reporter had heard that another staff person, Victoria Enos, had been able to get Tadd Whitmire's ticket (see § r, *ante*, p. 14) transferred to Judge Danser's department. After Galvan-Colin told the judge about the ticket, he told her to give the details to Bringuel; Galvan-Colin gave the actual ticket to Bringuel. Judge Danser directed Bringuel to get the file from traffic court, and on September 16, 2002, the judge dismissed the ticket. Judge Danser had Bringuel call the defendant's home to let him know the ticket had been dismissed. Bringuel also filled out an abstract of judgment showing the dismissal.

According to the judge, he was advised by Bishop prior to dismissing the ticket that the issuing officer/agency "had no problem" with the dismissal. (M.Rpt., p. 54.) The issuing officer testified he never received notice the ticket was being contested and knew of no reason it should be dismissed.

t. Mark Smith (see M.Rpt., pp. 54-56)

Smith was cited on September 21, 2001 by the LGPD for a non-functioning brake light. He subsequently was charged with a misdemeanor failure to appear in connection with the original ticket. Smith played for the Sharks at the time. Although he did not recall discussing the ticket with Bishop, Bishop nonetheless discussed it with Judge Danser. The judge knew Smith played for the Sharks. On September 17, 2002, the file was sent to Judge Danser's department and the judge dismissed both charges that day. The minute order states the dismissal was in the "interests of justice." At the judge's request, his clerk, Kathi Bringuel, phoned Smith to advise him of the dismissal and prepared an abstract of judgment for the DMV so that Smith's record of his non-appearance could be cleared more quickly.

The judge testified that Bishop told him Smith's ticket was a "fix-it" violation and that the brake light had been fixed. There is no proof of correction in the file. Bishop did not show the judge any proof of correction, and Smith testified he had no recollection of showing proof of correction to a law enforcement official. There is no evidence in the file of payment of the statutory \$10 fee in connection with the dismissal upon correction of the violation. There also is no explanation for the dismissal of the failure to appear charge.

u. Dwayne DeRosario (see M.Rpt., pp. 56-58)

DeRosario was cited on June 25, 2002 by the SJPD for speeding. He subsequently was charged with a misdemeanor failure to appear. While he was a player with the San Jose Earthquakes soccer team, he heard Bishop tell the players at a meeting they should come to him with any legal issues. DeRosario told Bishop about the ticket. Bishop told the judge about it, adding the information that DeRosario was with the Earthquakes. On October 18, 2002, the judge dismissed both charges. The minute order states the dismissal was in the "interests of justice."

The judge admitted he involved himself with the matter solely because Bishop asked him to do so. He claims he dismissed it only after Bishop told him there was no objection, although concededly no basis was given for the dismissal. The citing officer testified he had not recommended a dismissal and did not know of any basis for dismissal. There is no explanation for the dismissal of the failure to appear charge.

v. Rebecca Linton (see M.Rpt., pp. 58-60)

On June 13, 2002, Linton was cited by the SJPD for a carpool lane violation. She admitted the violation in her testimony. She subsequently was charged with a misdemeanor failure to appear. At the time of the criminal trial, Linton was the fiancée of Malcolm Phillips, the Earthquakes' equipment manager. She talked to him about the ticket. Phillips had heard Bishop suggest at an Earthquakes' players meeting that the players should contact him with any "issues" because he was involved with law enforcement. Phillips talked to Bishop about Linton's ticket and gave him the paperwork. Bishop asked the judge to handle the ticket. The judge testified Bishop told him Linton had paid the ticket but that the check had been returned and that she just wanted to contest the failure to appear charge. Nonetheless, the judge dismissed both charges on December 16, 2002. He admitted he became involved because of Bishop's request.

The judge gave conflicting explanations for his actions. Initially he claimed Bishop told him Linton had come to court and been turned away. He also testified Bishop said there was no objection to a dismissal, although he later retracted this assertion. The judge also changed his testimony to state that Bishop had told him Linton had come to *Judge Danser's department* and had been sent away, causing the judge to “feel bad about her coming down there, having to make a second trip” to his court. (M.Rpt., p. 60.)

The citing officer testified he never was contacted concerning a possible dismissal. He had not recommended and did not know of any reason for a dismissal.

w. Bruce Morgan (see M.Rpt., pp. 60-62)

Morgan was cited on May 23, 2002 by the SJPD for an illegal left turn. He was charged later with a misdemeanor failure to appear. Morgan was the head athletic trainer for the Earthquakes. He testified Bishop stated at a player presentation that he, Bishop, was an officer with the LGPD and employed by the Sharks as part of the security staff, and that he might be able to help players with legal difficulties. Morgan had the resulting impression that Bishop could take care of traffic tickets. Morgan gave Bishop the ticket at Bishop's request and understood the ticket would be “expunged.” (M.Rpt., p.61.)

Bishop told Judge Danser about Morgan's ticket, and on December 16, 2002, the judge dismissed the charges. The judge admitted he handled the case because Bishop asked him to do so. He claimed that he dismissed the charges only after Bishop told him there was no objection. The citing officer, however, testified he never received notice the ticket was being contested. He had not been contacted by Bishop and knew no reason to recommend dismissal. There is no evidence to justify the dismissal of the failure to appear charge.

B. The DUI's – Findings of Fact

Judge Danser also is alleged to have committed misconduct in connection with his handling of four cases in which the defendants were charged with driving under the influence of alcohol (DUI). The misconduct charges concerning the DUI's are set forth in counts two, three, eight and nine. We adopt the following findings of the masters:

1. Paul Dellanini (Count Two) (see M.Rpt., pp. 76, 77-80)

Dellanini was arrested in Gilroy on January 27, 2002; his blood alcohol level was .12 percent. He was a firefighter with the state Department of Forestry and wanted to avoid going to jail for the DUI.

Dellanini's sister, Patricia Corona, was a friend of Judge Danser's clerk, Kathi Bringuel, and the two had worked together at the court in San Jose. Corona was aware that Judge Danser typically would not impose jail or weekend work time as part of a sentence for a first-time DUI offense. Corona told Bringuel about Dellanini's arrest. Corona later told her mother they should have the case transferred to Judge Danser because he did not give jail sentences. Bringuel told the judge about the arrest and added that the defendant's mother had worked at the South County facility for many years and was embarrassed about her son's case and did not want it heard in South County. Judge Danser agreed to hear the case if Dellanini was prepared to plead guilty. The judge told Bringuel to calendar the case for plea and sentencing.

On March 15, 2002, Dellanini's case was transferred to San Jose. Judge Ray Cunningham, who was assigned to South County, testified he did not object to the transfer because he knew the defendant's mother quite well and he thought it was appropriate for the case to be transferred. Judge Cunningham and Judge Danser had been friends for nearly 25 years, shared season tickets to the Sharks, and socialized together at sports events.

Judge Danser was the only pretrial judge at the time that did not impose jail or weekend work for a first-time offense and blood alcohol level below .20 percent. At the South County facility, where a DUI case with a Gilroy arrest normally would be heard, the typical sentence in such a case would have included 48 hours in jail or 6 days of weekend work, with credit for 8 hours time-served.

On March 26, 2002, Dellanini appeared before Judge Danser without counsel and pled guilty to the offense of driving with a blood alcohol level of .08 percent or higher. The judge dismissed the DUI charge and imposed a sentence that was close to the minimum allowed by law. The sentence was more lenient than the defendant was otherwise likely to have received. Judge Danser did not sentence the defendant to any jail time or the weekend work program. There was no court reporter present and the judge did not disclose on the record his ex parte conversation with Bringuel or explain why the case was in his department.

2. Anna-Marie Keane (Count Three) (see M.Rpt., pp. 76, 80-87)

Keane was arrested by the Los Altos police on August 2, 2002 for a DUI. Her biggest concern was about going to jail. Keane knew Randy Bishop from Los Altos Police Officers Association (POA) golf tournaments and she told him about her arrest later in August 2002. About September 2002, Bishop told Judge Danser that someone who had participated in a POA

golf tournament had been arrested for DUI and that the case was pending in the Palo Alto branch court (where a case involving a Los Altos arrest would be assigned pursuant to local court rules).

Bishop asked Judge Danser if he would hear the case. The judge agreed, provided the defendant was willing to plead guilty. When Bishop asked what the likely sentence would be, the judge described terms that did not include jail time or weekend work. Bishop then reported to Keane that Judge Danser had agreed to hear her case if she would plead guilty, and that if she did so, she would not be going to jail. Bishop later gave the judge Keane's name and date of birth so the judge could get the case file.

Keane retained attorney Horner to represent her. Horner told her the case would be heard in Palo Alto and that a normal sentence would include weekend work. Keane told Horner that Judge Danser was going to bring the case to San Jose. On September 24, 2002, an attorney from Horner's office appeared before Judge Southard in Palo Alto for arraignment. A pretrial conference was set on that date for October 10. Normally at a pretrial conference, a representative from the district attorney's office would be present and the attorneys and the judge would discuss possible settlement; typically, a possible plea and sentence might be discussed.

Judge Danser's clerk, Kathi Bringuel, advised the judge that the *Keane* case was pending in Palo Alto. Judge Danser phoned Judge Southard's clerk on October 9, 2002 and asked that the file be sent to him for a pretrial conference on October 15, 2002. Judge Southard's clerk gave a note to Judge Southard, but he forgot about the matter until he discovered the note several days later under some papers on his bench. In the interim, the previously scheduled pretrial occurred before Judge Southard on October 10. He indicated a likely sentence, consistent with his normal practice for a "nonaggravated, nonmitigated" first-time DUI, which would include 10 days weekend work, minus one-day credit. (M.Rpt., p. 83.)

After the pretrial conference before Judge Southard, the case file was transferred to Judge Danser. Judge Southard testified that he transferred the file because he assumed Judge Danser had another case involving the same defendant and that the parties wanted to consolidate the matters for disposition. Judge Southard did not know Judge Danser's request for the transfer was at the behest of a friend of Judge Danser.

Without issuing a minute order, Judge Danser continued the case until October 29 and gave the new date to Bishop. Bishop told Keane to be present in court that date and Keane

relayed the information to her lawyer. Because of the lack of a minute order, the district attorney had no notice of the transfer or hearing.

Bishop placed a three-minute telephone call to Judge Danser's chambers at 8:48 a.m. on October 29, 2002 and was present in Judge Danser's courtroom, sitting next to Keane, when the case was called shortly thereafter. Keane was present with her lawyer, Horner. The judge was hearing felony motions that morning, and Deputy District Attorney (DDA) Tracy Gilliam was present in Judge Danser's courtroom on a law and motion matter. Gilliam was not assigned to misdemeanor DUI cases. She did not have a copy of the *Keane* file and did not know the case was on calendar until she arrived in court that morning.

Before proceeding with the *Keane* matter, Judge Danser did not hold a pretrial conference and sought no involvement or input from anyone from the district attorney's office. The judge called the *Keane* case at the beginning of the calendar and asked for appearances; attorney Horner announced he was present with the defendant. Keane entered a no contest plea to the offense of driving with a blood alcohol level of .08 percent or higher.

As the judge began to question Keane about the waiver of rights form Horner had filed, DDA Gilliam interrupted and asked Judge Danser who from the DA's office was assigned to the case. He replied, falsely, "This came from Palo Alto. They wanted to have it here for some reason, I said we'd do it." (M.Rpt., p. 85.) The judge asked Gilliam if she wanted to handle the case. She responded she did not know a lot about the case. The judge replied that it was "just a typical DUI case." (*Ibid.*) That statement was not true in light of Keane's high blood-alcohol test results of .223 percent at the time of the arrest and breath test results two hours later of .18 and .19 percent. All of those results would be considered high. In addition, this was not Keane's first offense, contrary to what Judge Danser told DDA Gilliam. Keane had an alcohol-related reckless driving conviction from 12 to 17 years previously. Although Judge Danser testified he never considered "stale priors" in sentencing, a prosecutor who was aware of the prior conviction would have been entitled to argue its relevance at sentencing.

Judge Danser accepted Keane's guilty plea, dismissed the DUI charge, and gave her a sentence close to the minimum allowable. The sentence was less than she likely would have received from Judge Southard. When DDA Gilliam questioned Judge Danser's failure to impose jail time in light of the .18 percent blood alcohol level, he stated he did not impose jail or weekend work time unless the level was over .20 percent.

At trial, Judge Danser offered three different explanations for why he transferred the case to himself. Ultimately, he said he “forgot” why Bishop and Keane wanted the case transferred. The inescapable inference is that he made the transfer as a favor to Bishop so that Keane could receive a lighter sentence than she otherwise would have received.

On November 1, 2002, three days after the *Keane* plea and sentencing hearing, DDA Gilliam sought to get a transcript of the hearing. Judge Danser attempted to prevent her from doing so, and his misconduct in that connection is the subject of count six (discussed *post*, pp. 24-25, 34).

3. Niklas Sundstrom (Count Eight) (see M.Rpt., pp. 87-90)

Sundstrom was arrested by the Campbell police on May 9, 2000 for DUI. Breath tests showed blood alcohol levels of .22 and .23 percent. Sundstrom played for the Sharks at the time. Randy Bishop referred Sundstrom to the attorney who represented him in the case. The case was set for arraignment in a court other than Judge Danser’s department.

Someone, likely Bishop, asked Judge Danser if he would hear the case. Judge Danser agreed, provided Sundstrom would plead guilty. The judge asked his clerk to have the matter transferred to his department.

During Judge Danser’s handling of the case, he afforded substantively lenient treatment to Sundstrom in two respects. First, although neither the defendant nor his counsel appeared for a hearing on June 23, 2000, the judge did not issue a bench warrant for the defendant’s arrest, contrary to his normal practice. Second, Sundstrom pled guilty, thereby admitting a blood alcohol level of .20 percent or more. There is evidence, including Judge Danser’s own testimony, that he usually imposed jail time in cases with blood alcohol at that level. In contrast to his usual practice, the judge did not impose jail or weekend work time on Sundstrom when he plead guilty. There was no court reporter at the sentencing hearing and the judge made no disclosures on the record of any *ex parte* communications about the case.

4. Edward Meyers (Count Nine) (see M.Rpt., pp. 90-92)

Meyers was arrested for DUI on December 22, 2001. Breath tests indicated blood alcohol levels of .19 and .20 percent. He was a sergeant for the Santa Clara County Department of Correction and worked at the county jail with the husband of Judge Danser’s courtroom deputy/bailiff, Susan Taylor. The Meyers and Taylor families were friends. Meyers told Susan Taylor about the arrest shortly after it happened. She said she could ask Judge Danser if he

would take the case, explaining that he did not necessarily sentence first-time offenders to the weekend work program.

Susan Taylor told Judge Danser about Meyers's arrest, adding that Meyers was a friend who worked in the Department of Correction. She asked if the judge would hear her friend's case. The judge agreed, provided Sgt. Meyers was willing to plead guilty. Judge Danser had the case transferred to his department from Judge Erica Yew's department. Judge Yew normally sentenced DUI defendants to the weekend work program. Susan Taylor told Meyers his case would be heard in Judge Danser's department.

On February 5, 2002, Sgt. Meyers appeared with counsel before Judge Danser and pled guilty. The judge imposed a minimum sentence that did not include jail or weekend work time. He did not make any disclosures on the record that the defendant was a friend of his bailiff or concerning why the case was pending before him.

C. The Family Citations – Findings of Fact (Count Five) (see M.Rpt., pp. 94-97)

Judge Danser has stipulated to the truth of the allegations in count five concerning his attempts to dismiss three citations issued to one of his minor children. (Order of July 22, ¶ 2a.)

A summary of the admitted facts is as follows:

1. On November 22, 2002, LGPD Officer Todd Fleming cited one of Judge Danser's minor children for failing to stop at a stop sign and for a violation in connection with his provisional driver's license. Upon learning of the citation, the judge phoned Bishop at home to complain about the ticket, threatening to file a formal complaint against Officer Fleming. The judge also phoned his friend, LGPD Captain Duino Giordano, and asked why Fleming had not given the child a break given the judge's position and his relationship with the LGPD. Judge Danser asked or suggested the ticket be dismissed. When Giordano called back to say the LGPD had no authority to dismiss the ticket, the judge expressed his unhappiness with that decision. The judge stated he would no longer make himself as readily available to the LGPD as he had in the past.

2. On November 12 and December 12, 2002, the LGPD issued citations to a vehicle registered to the judge and his wife. The vehicle was being driven on those dates by the same minor child referenced in the preceding section 1. Both citations were for parking without a permit and neither was timely paid. Although Vehicle Code section 40215, subdivision (a) provides that within 21 days after the issuance of a notice of parking violation, a person may

request an initial review by the issuing agency, no such request was made concerning either ticket.

On January 7, 2003, the judge phoned the LGPD, spoke with a records person and told her he was going to order the tickets dismissed. He asserted on the telephone that the tickets had been issued erroneously. Two days later, the judge sent a letter to the LGPD on his official court stationery ordering that the two parking citations be dismissed.

3. LGPD Chief of Police Scott R. Seaman sent Judge Danser a letter refusing to dismiss the two citations referenced in the preceding section 2. Approximately January 22, 2003, the judge again phoned his friend LGPD Captain Giordano, expressed anger at Chief Seaman's letter, and reiterated that he no longer would make himself available to the LGPD. The next day, the judge faxed Giordano a letter apologizing for the phone call, admitting it was "totally inappropriate." In the judge's faxed letter, he added, "perhaps my interaction with your officers and other employees at the police department should be on a more professional level and I will stop my informal contact with them." The judge requested that Giordano advise LGPD personnel of the changed relationship. (M.Rpt., pp. 96-97.)

4. On January 23, 2003, Judge Danser sent a letter to LGPD Chief Seaman on official court stationery concerning the parking citations referred to in section 2, falsely stating "there was no violation and the citations should not have been issued." The judge also made the misleading statement in his letter that his child "has a permit from the high school that allows him to park." In fact, the permit did not allow parking in a faculty space. The judge included two additional sarcastic comments in his letter: "It is nice to know that the police department has the resources to pursue such important matters" and "I now understand why the kids at the high school complain about the Los Gatos police officers."

5. On January 24, 2003, Judge Danser called Chief Seaman and spoke to his secretary, Nancy McVay, who offered to take a message since the chief was busy. The judge raised his voice and told McVay in a very angry tone that she could give the following message to the chief: "Don't send your officers to my house; don't contact me; as far as I'm concerned, business between us is done!" The judge added an additional disparaging remark about the LGPD.

D. Unjudicial Demeanor and Abuse of Power in Denying Transcript – Findings of Fact (Count Six, ¶ G) (see M.Rpt., pp. 103-106)

Judge Danser is charged with misconduct in connection with his attempts to prevent DDA Tracy Gilliam from obtaining a transcript of the *Keane* plea and sentencing hearing (see § 2, *ante*, pp. 18-21). We adopt the following findings of the masters:

On November 1, 2002, which was three days after the *Keane* plea and sentencing hearing, DDA Tracy Gilliam left a voicemail message at 9:00 a.m. in Judge Danser's department requesting a copy of the transcript of that earlier hearing. When the clerk, Kathi Bringuel, advised the judge of the message, he told her "it wasn't her [Gilliam's] case" and that Gilliam could not have the transcript. (M.Rpt., p. 104.) At 10:30 a.m., Bringuel left a whispered return voicemail message for Gilliam that "you're not hearing this from me," but that Gilliam was not getting the transcript without coming to court and requesting it from Judge Danser. (*Ibid.*) When Gilliam and Bringuel spoke directly by phone shortly thereafter, Bringuel said she did not know why the judge had disallowed the transcript and that Gilliam would need to ask the judge directly. Bringuel warned Gilliam that the judge was angry.

DDA Gilliam went to Judge Danser's courtroom shortly before 11:00 a.m.; the judge was on the bench. During a recess, Gilliam approached the court reporter, asked for a copy of the transcript, and started to give the reporter the case number. The judge interrupted and asked "That DUI?" When Gilliam replied in the affirmative, indicating she wanted a copy of the *Keane* transcript, Judge Danser said "Denied. You can't have it." The judge asked Gilliam why she wanted the transcript. She replied that her boss, Karyn Sinunu, had asked her to get it and that Gilliam was uncertain as to Sinunu's reasons. Gilliam said she would have Sinunu call the judge. He said he would refuse the call and that Sinunu would need to come over. (M.Rpt., p. 105.)

In refusing Gilliam's transcript request, Judge Danser stated "It's really none of your business" and that "it just happened that we were sentencing somebody when they [the DA's] were in there." (M.Rpt., p. 105.) Judge Danser appeared angry. Speaking in a loud voice, he said, "Screw your office. Screw Karyn Sinunu. Screw you. I don't care about your damn cases. You can keep your damn cases. If you want to take me from the bench, go ahead. I can do something else. I am so hot about this. Screw your office. And you can tell Karyn Sinunu I said screw her." (*Id.* at p. 106.)

Deputy Public Defender Susan Shores was present in court when Gilliam came in just before 11:00 a.m. Shores did not see Gilliam do anything rude or inappropriate in connection with her request for the transcript. Shores confirmed that the judge told Gilliam her office could stay out of his courtroom and said words to the effect of “you guys can go screw yourself.” (M.Rpt., p. 106.)

Judge Danser testified he denied Gilliam’s transcript request because she had not completed appropriate paperwork. The explanation is not credible. An attorney may obtain a non-confidential transcript, such as this, directly from the reporter without court approval. The judge admitted he had never previously interfered with the preparation of a transcript.

II. Conclusions of Law

Judge Danser has stipulated that he committed at least prejudicial misconduct in connection with the combined charges against him. This concession concerns the judge’s *overall* conduct, but it does limit the issue to be decided by us. The remaining question is whether any of Judge Danser’s admittedly improper actions satisfies the standard of the more serious willful misconduct. The masters concluded that in each instance but the traffic case involving Tadd Whitmire (§ r, *ante*, pp. 14-15), the judge committed willful misconduct; the masters determined that the *Whitmire* case involved prejudicial misconduct. We agree with the masters and their analyses that all instances except the one involve willful misconduct. As to *Whitmire*, we conclude there is no evidence of any action taken by Judge Danser.³

The levels or types of judicial misconduct that may subject a judge to discipline by the commission are described in article VI, section 18, subpart (d), of the California Constitution. The most serious form of wrongdoing, willful misconduct, is defined by the California Supreme Court as consisting of (1) unjudicial conduct that is (2) committed in bad faith (3) by a judge acting in his or her judicial capacity. (*Broadman v. Commission on Judicial Performance* (1998) 18 Cal.4th 1079, 1091 (*Broadman*); *Dodds v. Commission on Judicial Performance* (1995) 12 Cal.4th 163, 172 (*Dodds*).

³ The evidence concerning *Whitmire* is summarized in section r, *ante*, pp. 14-15. The case appears to have been transferred to Judge Danser's department, although even that was not established. No evidence linked Judge Danser to the transfer. Similarly, the case apparently was dismissed, but there is no evidence that demonstrates either that fact or that the judge took any actions concerning the case. Simply stated, there is *no* evidence of any conduct, let alone any misconduct, by Judge Danser.

In order to determine whether a judge's conduct is "unjudicial" under the first prong of the foregoing standard, the conduct is measured with reference to the California Code of Judicial Ethics. (*Dodds, supra*, 12 Cal.4th at p. 172; accord, *Oberholzer v. Commission on Judicial Performance* (1999) 20 Cal.4th 371, 395 (*Oberholzer*)). "The failure of a judge to comply with the canons 'suggests performance below the minimum level necessary to maintain public confidence in the administration of justice.'" (*Adams v. Commission on Judicial Performance (Adams II)* (1995) 10 Cal.4th 866, 878, citing *Adams v. Commission on Judicial Performance (Adams I)* (1994) 8 Cal.4th 630, 662.)

The "bad faith" requirement for willful misconduct is satisfied when a judge is "(1) performing a judicial act for a corrupt purpose (which is any purpose other than the faithful discharge of judicial duties), or (2) performing a judicial act with knowledge that the act is beyond the judge's lawful judicial power, or (3) performing a judicial act that exceeds the judge's lawful power with a conscious disregard for the limits of the judge's authority." (*Broadman, supra*, 18 Cal.4th at p. 1092.)

The "judicial capacity" prong of the willfulness test has been defined as follows: "A judge is acting in a judicial capacity while performing one of the functions, whether adjudicative or administrative in nature, that are associated with the position of a judge or when the judge uses or attempts to use the authority of the judicial office for an improper purpose." (*Broadman, supra*, 18 Cal.4th at p. 1104, citing *Dodds, supra*, 12 Cal.4th at p. 172.)

It is an abuse of power, and willful misconduct, for a judge to engage in a patterned behavior of handling cases that are not pending before the judge as part of normal court business. (*Inquiry Concerning Judge David E. Wasilenko*, No. 170 (CJP 2005), p. 24 (*Wasilenko*)).

The use of the power of judicial office to benefit a friend is a "casebook example of willful misconduct." (*McCullough v. Commission on Judicial Performance* (1989) 49 Cal.3d 186, 194 (*McCullough*), citing *Spruance v. Commission on Judicial Qualifications* (1975) 13 Cal.3d 778, 798 (*Spruance*)). In this case, we again confront the vice inherent in a two-track system of justice, where favored treatment is afforded friends and other favored few, and which is easily recognized as "corruption at the core of our system of impartial equal justice, and ... intolerable." (*Wasilenko, supra*, p. 24.) A judge who runs such a two-track system commits willful misconduct. (*Ibid.*)

Corruption is inherent in Judge Danser’s pervasive scheme of dismissing tickets without any proper basis, under the guise of being in “interest of justice.” In fact, “ticket fixing is a quintessential bad act of a judge” (*Inquiry Concerning Judge Michael E. Platt*, No. 162 (CJP 2002), p. 20 (*Platt*)). It is “among the most obvious forms of abuse of authority ... [-] ‘an abuse that citizens unquestionably understand and are suspicious about.’” (*id.* at p. 20, quoting masters’ report.)

In each of the counts in which Judge Danser is charged with wrongdoing, the masters applied the Supreme Court’s test for willful misconduct and found it satisfied, except in the *Whitmire* case, as noted. We reach the same conclusion for the same and additional reasons. We now separately analyze the three parts of the test to show how each is satisfied. The following discussion applies to each of the traffic matters, excluding *Whitmire*, that Judge Danser transferred to himself.

A. The Traffic Cases – Conclusions of Law (see M.Rpt., pp. 62-70)

1. Unjudicial Conduct

The masters concluded, as do we, that by improperly transferring the traffic cases to himself and then affording family, friends, court staff and others with special connections access to a preferential justice system, Judge Danser violated canon 1 (requiring a judge to maintain high standards of conduct so as to uphold the integrity and independence of the judiciary), canon 2 (requiring a judge to avoid impropriety and the appearance of impropriety in the judge’s activities), and canon 2A (requiring a judge to respect and comply with the law and act in a manner that promotes public confidence in the integrity and impartiality of the judiciary).⁴

Canon 2B(1) prohibits a judge from allowing family, social or other relationships to influence the judge’s judicial conduct or judgment, and also prohibits a judge from conveying or

⁴ In the *Granato* matter (§ a, *ante*, pp. 5-6), the judge sought to cause a dismissal through ex parte communications with the court commissioner before whom the case was pending and with a lawyer the judge contacted to act on the defendant’s behalf. There is not an abuse of power in *Granato* related to an improper transfer, but instead, there is an equivalent abuse of judicial authority in the efforts to influence another bench officer. (Cf. *Platt*, *supra*, pp. 8-9, 13-14.) The conduct was in violation of canons 1, 2, 2A, 2B(1), and 2B(2); the provision of canon 3B(7) prohibiting ex parte contacts also was violated. The content of each implicated canon is discussed in the text. An additional provision of canon 2B(2) prohibits a judge from initiating communications with a sentencing judge, which Judge Danser also violated in his contacts and attempted influence over the commissioner.

permitting others to convey the impression that anyone is in a special position to influence the judge. Canon 2B(2) proscribes a judge from lending the prestige of judicial office to advance the pecuniary or other interests of the judge or others. Judge Danser violated both of these canons in each of the traffic cases by allowing his relationships with his friends, including Bishop and court staff and various defendants, to influence his judicial conduct and judgment. He also conveyed the impression that they were in a special position to influence him, and lent the prestige of his judicial office to advance the pecuniary and personal interests of his inner circle and of the defendants.

Canon 3B(7) contains dual prohibitions applicable here. First, this canon requires a judge to afford all interested persons, or counsel, a “full right to be heard according to law.” In all of the traffic cases (except *Granato*), Judge Danser dismissed the cases without affording the prosecution a right to participate. While it appears that the DA typically does not appear in traffic matters in Santa Clara County, the citing law enforcement officer or agency is to be notified of contested citations and has a right to be heard. That right was abridged by Judge Danser in violation of canon 3B(7). (M.Rpt., p.64.) Second, the canon prohibits *ex parte* communications, with certain exceptions not applicable here. In the traffic matters, including *Granato*, the judge had repeated *ex parte* contacts. The contacts were with Bishop, other members of the judge’s inner circle, and the commissioner and counsel in *Granato*. These *ex parte* contacts violated canon 3B(7).

In all of the traffic matters except *Granato*, the judge also violated canon 3B(8), requiring a judge to dispose of all judicial matters “fairly, promptly, and efficiently.” Judge Danser’s summary dismissals of the contested traffic cases deprived law enforcement of the right to be heard and thus the judge failed to dispose of the cases “fairly” in compliance with this canon.

Canon 3E(1) requires recusal when “disqualification is required by law,” which, as relevant here, is required under Code of Civil Procedure section 170.1, subdivision (a)(6). That section requires disqualification if “[f]or any reason (A) the judge believes his or her recusal would further the interests of justice, (B) the judge believes there is a substantial doubt as to his or her capacity to be impartial, or (C) a person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial.” In all of the transferred traffic cases, the judge was disqualified, *at a minimum* under subdivision (C).

Under the related canon 3E(2), a judge is required to disclose *on the record* information the judge believes the parties or the lawyers might consider relevant to the question of disqualification, even if the judge believes there is no basis for disqualification. Having improperly transferred the cases to himself for an improper purpose, Judge Danser could not have had any legitimate subjective doubt that he was required to disqualify himself. Having failed to recuse, however, he certainly was required under canon 3E(2) to make requisite and proper disclosures. His failure to do so was in violation of this canon. Because *Granato* was not pending before Judge Danser, the dual disqualification/disclosure requirements of canon 3E are inapplicable.

Judge Danser claims he had judicial discretion to dismiss tickets based on Bishop's oral statements that the citing officer/agency had no objection to the dismissal. The masters concluded, as do we, that the entire attempted cover of reliance on Bishop was a subterfuge. Moreover, the section of the Vehicle Code the judge claimed empowered him to act in fact expressly disempowered him with the following language: "Under no circumstances shall a personal friendship with any officer, public official, or law enforcement agency be grounds for dismissal." (Veh. Code § 40500(d).) The point is also academic in that Judge Danser had no judicial authority over the transferred cases. A judge cannot confer judicial power or discretion on himself or herself by means of a wholesale pattern of illicit case transfers. (*Wasilenko, supra*, p. 21.)

To the extent Judge Danser did in fact seek the consent of any of the citing officers/agencies to dismiss any of the tickets issued to members of his inner circle, he thereby violated canons 2B(1) and 2B(2). Any such efforts, direct or indirect through Bishop, would demonstrate the judge was allowing his personal relationships to influence his judicial conduct and judgment. The actions also would have conveyed the impression that members of the inner circle were in a position to influence the judge, and would have lent the prestige of judicial office to advance their pecuniary or personal interests, in contravention of these two canons.

If such advance "approval" was sought from the citing officers, the communications were in violation of canon 3B(7), based on Judge Danser's own description of the conversations as having been out of the presence of the parties. Judge Danser also could not reasonably rely on Bishop as a messenger, given Bishop's own personal interest in the outcome of his friends' tickets. Moreover, if Judge Danser did in fact rely on Bishop as an intermediary in any regard,

he thereby denied fundamental fairness and due process to law enforcement, which also would contravene the separate provision of canon 3B(7) requiring that matters be handled “fairly.”

Judge Danser’s conduct was “unjudicial” under the *Broadman* standard because of the foregoing violations of the canons.

2. Bad Faith

The “bad faith” component of willful misconduct is satisfied because Judge Danser acted in each of the traffic cases, including *Granato*, “for a corrupt purpose,” that is, a “purpose other than the faithful discharge of judicial duties.” (*Broadman, supra*, 18 Cal.4th at p. 1092.)

In *Granato*, Judge Danser contacted the court commissioner and discussed a dismissal of the ticket. When the commissioner had second thoughts about dismissing the case in the absence of the defendant, the judge requested a lawyer to appear. In the *Platt* case, we found that it was prejudicial misconduct for Judge Platt to call a court commissioner to say that the judge’s godfather had received a ticket and that the man was active in the community. There was no evidence in *Platt* that the case would come before the commissioner or that the judge asked the commissioner for favorable consideration. The contact alone was misconduct. (*Platt, supra*, p. 13.) Here, Judge Danser discussed a dismissal in an actual case pending before the commissioner. He was overtly “using the power of the bench to benefit a friend,” an act the Supreme Court has cited as “a casebook example of wilful misconduct.” (*McCullough, supra*, 49 Cal.3d at p. 194.)

After Judge Danser was advised by his presiding judge to avoid a repeat of *Granato* by abstaining from contacting court commissioners, Judge Danser shifted strategies and compounded his wrongdoing. He transferred the subsequent cases to his own department through a wholesale abuse of power, and as a means to bypass the commissioners to whom such cases normally were assigned. The transfers were the first step of the corrupt scheme of affording preferential treatment to his inner circle. The process culminated in the wholesale dismissals without legal justification. The entire scheme was patently for a corrupt purpose and in bad faith under *Broadman*.

3. Judicial Capacity

In dismissing the transferred traffic cases, Judge Danser was acting in his judicial capacity within the meaning of *Broadman*. (*Broadman, supra*, 18 Cal.4th at p. 1104.) That conclusion pertains notwithstanding his corrupt purpose. “[I]f a judge uses, or attempts to use,

his authority as a judge *for improper ends*, regardless of location, we consider the judge to be acting in his judicial capacity.” (*Dodds, supra*, 12 Cal.4th at p. 172, italics added.) Judge Danser’s assertion of influence over the court commissioner in the *Granato* matter also was an act taken in his judicial capacity. (See *Platt, supra*, p. 8-9, 13-14 [Judge Platt was acting in a judicial capacity and committed willful misconduct when he asked another judge to grant preferential treatment to a relative of a personal acquaintance of Judge Platt].)

B. The DUI Cases – Conclusions of Law (see M.Rpt., pp. 92-94)

Judge Danser also improperly transferred the four DUI cases to his courtroom following his improper ex parte communications. None of the cases was assigned to Judge Danser and none would have been assigned or transferred to him in the ordinary course of court business. Following each of the transfers, the judge afforded procedural preferences and imposed more lenient sentences than the defendants otherwise likely would have received. The judge’s actions fulfill the three-fold test of *Broadman* for willful misconduct in that they were unjudicial, in bad faith and while he was acting in his judicial capacity.

As in the traffic cases, the judge’s conduct in all four cases was unjudicial in that it violated canons 1, 2, 2A, 2B(1), 2B(2), as well as the ex parte prohibitions and the right to be heard provisions of 3B(7), the “fairness” standard of 3B(8), and canons 3E(1) and 3E(2).⁵

The judge’s actions in the DUI cases constitute bad faith based on the same or similar considerations as in the traffic cases. The initial transfer of the cases to his department was an abuse of authority and for a corrupt purpose under *Wasilenko*, and thus in bad faith under *Broadman*. The fact that another bench officer may have facilitated one or more of the transfers does not exonerate Judge Danser. Judge Danser’s corruption extended as well to affording preferential procedural treatment and lenient sentencing in order to benefit defendants with contacts in the judge’s inner circle.

Finally, Judge Danser was acting in his judicial capacity in directing or causing the case transfers to his own department, accepting pleas and imposing sentences, notwithstanding the impropriety of all such acts. (*Dodds, supra*, 12 Cal.4th at p. 172.)

⁵ The provisions of these several canons are summarized in the text, *ante*, at pages 27-29.

C. The Family Citations – Conclusions of Law (see M.Rpt., pp. 97-102)

1. Judge Danser's efforts to get the LGPD to dismiss the ticket issued to the judge's son by Officer Fleming constituted willful misconduct. His statements to Detective Bishop and Captain Giordano were unjudicial, in bad faith and in his judicial capacity.

The judge's statements were unjudicial in that they were in violation of canons 1, 2, 2A, 2B(1) and 2B(2). The content of the phone calls suggest the judge had been providing services to the police in exchange for an unspecified payback, and if the son's ticket were not dismissed, the judge would retaliate by withdrawing his special judicial services and by filing a complaint against Officer Fleming. His family relationship influenced his judicial conduct and judgment contrary to canon 2B(1). He lent the prestige of judicial office to advance his or his son's personal, familial and pecuniary interests in violation of canon 2B(2). In so doing, the judge did not observe the high standards of conduct required of a judge under canons 1 and 2. The conduct involved impropriety and the appearance thereof contrary to canon 2, and was inconsistent with promoting public confidence in the integrity and impartiality of the judiciary as required under canon 2A. The judge's purpose appears to be nothing other than to benefit himself or his son. The judge was using his power as a judge and therefore clearly was acting in his judicial authority. His actions, however, were not in the faithful discharge of judicial duties, and rather, were corrupt and in bad faith.

2. Vehicle Code section 40215, subdivision (a), provides that within 21 days after the issuance of a notice of parking violation, a person may request an initial review by the issuing agency. Rather than avail himself of that provision, Judge Danser adjudicated his son's tickets, determining for himself they had been improperly issued. Thereafter, in a flagrantly biased abuse of judicial power, he attempted to use his status as a judge to order them dismissed. The judge's oral and written dismissal orders constituted willful misconduct. (Cf. *Spruance, supra*, 13 Cal.3d at pp. 794, 799 [willful misconduct to solicit another judge to dismiss traffic ticket Judge Spruance had received].)

The judge's conduct was unjudicial in that it violated numerous canons. The conduct was incompatible with canon 2B(1) because the judge allowed his family relationship to influence his judicial conduct and judgment. He used the prestige of office to advance his or his son's personal, familial and pecuniary interests, contrary to canon 2B(2). The improper use of judicial stationery contravened canon 2B(4). The judge was disqualified from hearing his son's case

under Code of Civil Procedure section 170.1, subdivision (a)(1) (requiring disqualification when a person within the third degree of relationship to the judge is known to the judge to be a likely material witness) and subdivision (a)(6) (requiring disqualification when a person aware of the facts might reasonably entertain a doubt the judge would be impartial). Accordingly, his failure to recuse therefore contravened canon 3E(1). Because of the foregoing, the judge also violated canons 1, 2 and 2A.

Judge Danser acted in bad faith because he acted for the corrupt purpose of benefiting his son. In identifying himself on the phone as a judge, and using his judicial stationery, the judge was acting in a judicial capacity, albeit improperly so.

3. Judge Danser's statements to Captain Giordano that he would cease making himself available to LGPD officers was in retaliation for Chief Seaman's refusal to dismiss the parking tickets, and constituted willful misconduct. The threatened withdrawal of services carries an inherent suggestion that previous services were offered as part of a bargained exchange and in violation of canons 1, 2 and 2A. The judge's conduct was unjudicial for the additional reasons that the judge allowed his family relationships to influence his judicial conduct and judgment, in violation of canon 2B(1). Because the judge used the prestige of office to advance his or his son's personal, familial and pecuniary interests, he acted contrary to canon 2B(2). The judge was acting in his judicial capacity, and his inappropriate anger during his telephone conversation with Captain Giordano violated canon 3B(4) (requiring a judge to be patient, dignified, and courteous to persons with whom the judge deals in an official capacity.)

The judge's phone call and follow-up fax were to obtain preferential treatment for himself or his son and were patently corrupt. By invoking his powers as a judge in an effort to obtain the favorable treatment, the judge was acting in a judicial capacity.

4. Judge Danser's letter to Chief Seaman constituted willful misconduct. The letter had an improper sarcastic and derogatory tone, contained false and misleading statements, and evidenced a lack of impartiality toward Los Gatos police officers who likely might appear before the judge. Accordingly, it was unjudicial in that it contravened canons 1, 2, 2A and 3B(4).

The judge's conduct was unjudicial for the further reasons that he allowed his family relationships to influence his judicial conduct and judgment, contrary to canon 2B(1). The judge used the prestige of office to advance his or his son's personal, familial and pecuniary interests, and thereby acted contrary to canon 2B(2).

The purpose of the judge's conduct, while acting in a judicial capacity using judicial stationery, was for the corrupt purpose of obtaining favorable treatment for himself or his son.

5. The judge's telephone statements to Nancy McVay were in retaliation for Chief Seaman's refusal to dismiss the parking tickets, and constituted willful misconduct. The threatened withdrawal of services again carries an inherent suggestion that previous services were offered as part of a bargained exchange that was in violation of canons 1, 2 and 2A. The judge's conduct also was unjudicial in that he allowed his family relationships to influence his judicial conduct and judgment, in violation of canon 2B(1). The judge used the prestige of office to advance his or his son's personal, familial and pecuniary interests, and thereby acted contrary to canon 2B(2). The judge was acting in his judicial capacity, and his anger and undignified language during his telephone conversation with McVay violated canon 3B(4).

The purpose of the judge's conduct again was corrupt in that it was to obtain favorable treatment for himself or his son. By referencing his powers as a judge in his threatened retaliation ("Don't send your officers to my house"), the judge was acting in his judicial capacity. "[I]f a judge uses, or attempts to use, his authority as a judge for improper ends, regardless of location, we consider the judge to be acting in his judicial capacity." (*Dodds, supra*, 12 Cal.4th at p. 172.)

D. Unjudicial Demeanor and Abuse of Power in Denying Transcript – Conclusions of Law (see M.Rpt., pp. 106-107)

Judge Danser's statement to DDA Gilliam that "if you want to take me from the bench, go ahead; I can do something else []" suggests the judge knew that his handling of the *Keane* case could lead to judicial discipline. Because of this, the judge interfered with Gilliam's routine request for a transcript and tried to intimidate her and her office from pursuing the matter. The judge's actions constituted willful misconduct.

The conduct was unjudicial because it was contrary to several canons. The order denying production of the transcript violated canons 1, 2 and 2A. The judge's crude comments were highly discourteous and injudicious and constituted an inappropriate display of temper in violation of canon 3B(4).

The judge's actions were in bad faith, for the corrupt purpose of inhibiting the gathering of evidence relating to his handling of the *Keane* case. The judge used the power of his position and was acting in a judicial capacity in denying the request for a transcript.

III. Discipline

Our determination of the appropriate sanction to impose against Judge Danser is guided by the Supreme Court's explanation of the purpose of judicial discipline, the responsibility for which is entrusted to this commission by the California Constitution. According to the court, the purpose "is not punishment, but rather the protection of the public, the enforcement of rigorous standards of judicial conduct, and the maintenance of public confidence in the integrity and independence of the judicial system." (*Broadman, supra*, 18 Cal.4th at pp. 1111-1112, citing *Adams II, supra*, 10 Cal. 4th at p. 912.) The combination of the shocking nature of this judge's behavior and the pervasive scope of his corruption clearly warrants the maximum discipline. Indeed, Judge Danser agrees that his conduct warrants a censure and bar. (Order of July 22, ¶ 3.)

In 2002, we removed Judge Michael E. Platt from office for misconduct that included ticket fixing on a scale that pales in significance compared to that of Judge Danser. In the following discussion, we highlight certain examples of Judge Danser's wrongdoing to demonstrate the egregiousness of his behavior. In doing so, we remain mindful of the overall magnitude of the corruption. There are, however, certain examples of behavior that stand out as shocking the conscience.

Near the outset of Judge Danser's ticket-fixing scheme, he dismissed two traffic tickets on March 23, 2000, following Bishop's intercession. The cases involved the judge's friends Paul Pavicich (§ b, *ante*, p. 6) and Todd Mayo (§ c, *ante*, p. 7). Neither defendant was present, and neither was represented by counsel when the tickets were dismissed. Consistent with his standard practice in the many fixed-ticket cases, the judge directed the falsification of the official court record to reflect a dismissal "in the interests of justice." In these two instances, he went further and falsified the record to reflect that attorney Terrence Daily had appeared on behalf of both defendants. Mr. Daily happened to be present in court that day, and the judge testified he thought it would be "funny" to put Daily's name in the minutes as counsel for the defendants. In the *Pavicich* case, according to the judge's testimony, the "fun" included using his judicial power to turn Mr. Daily into a "big hero of the Pavicich family," a prominent local family, by adding Daily's name to the minutes.

Two years later, on June 14, 2002, the judge again dismissed two tickets. One had been issued to Evgeni Nabokov, the Sharks' goalie (§ p, *ante*, p. 14), and other to the judge's friend,

Phyllis Cruse (§ q, *ante*, p. 14). Neither case was on calendar and neither defendant present in court – and Judge Danser *was on vacation* that day.

Judge Danser dismissed three tickets given to Gregory Jamison, the CEO of the Sharks organization (§ i, *ante*, pp. 9-10), because, as the judge testified, he knew Jamison to be “an important man with the Sharks” and because he “had no reason to disbelieve” Jamison had paid the tickets.

Judge Danser displayed shockingly inappropriate behavior in adjudicating his own son’s tickets and engaging in the related abuses of power and threats directed at staff and officers of the Los Gatos Police Department.

The judge lied and misrepresented the facts to DDA Tracy Gilliam when she legitimately questioned why the *Keane* DUI sentencing hearing was taking place without a representative of the prosecutor’s office present. (§ 2, *ante*, pp. 18-21.) Honesty is a *minimum* qualification expected of every judge (*Kloepfer v. Commission on Judicial Performance* (1989) 49 Cal.3d 826, 865), and certainly is owed to litigants and counsel. Three days later when Ms. Gilliam sought to obtain a transcript of the proceedings she witnessed, the judge made comments indicating his awareness of the potential wrongdoing in connection with his earlier actions. He sought to prevent the DA’s office from obtaining evidence of his conduct, as would be contained in a transcript. That alarming abuse of judicial power was compounded by Judge Danser’s inappropriate anger and coarse language directed at Ms. Gilliam, her supervisor, and the prosecutor’s office in general.

This opinion is issued as an unqualified denunciation of *all* of Judge Danser’s misconduct in an effort to enforce rigorous standards of conduct. We thereby also seek to repair the damage Judge Danser has caused the reputation of the judiciary by his wholesale transgressions of those standards. We endeavor to rehabilitate and maintain ongoing public confidence in the integrity and independence of the judicial system by censuring Judge Danser in the strongest terms possible.

Judge Danser is seriously lacking in the requisite minimum qualities to be a judge. Our settlement agreement with him accomplished his early retirement. The final remedy available to us, a bar, is designed to protect the public going forward by ensuring Judge Danser does not wear a judicial robe again in this state. Judge Danser is hereby censured and barred from receiving an assignment, appointment, or reference of work from any California state court.

Commission members Mr. Marshall B. Grossman, Judge Frederick P. Horn, Mr. Michael A. Kahn, Mrs. Crystal Lui, Ms. Patricia Miller, Mr. Jose C. Miramontes, Mrs. Penny Perez and Ms. Barbara Schraeger voted to impose a censure and bar. Former commission member Justice Vance W. Raye abstained from the vote because he would complete his term as a member prior to the completion of this written decision. Commission member Justice Judith D. McConnell had not been appointed to the commission at the time of the vote and did not participate in this decision. Commission member Judge Risë Jones Pichon is recused and there is currently one public member vacancy on the commission.

Dated: June 2, 2005

/s/

Marshall B. Grossman
Chairperson

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE WILLIAM R. DANSER,

No. 172.

ORDER APPROVING STIPULATION
AND DIRECTING DETERMINATION OF
MATTER WITHOUT EVIDENTIARY
HEARING AND ON OTHER AGREED
TERMS

The examiner and respondent proposed a stipulation on July 19, 2004 (“the Stipulation” hereafter) for determining this matter without an evidentiary hearing before the special masters and on other agreed terms as described below. Pursuant to the Stipulation, respondent William R. Danser has irrevocably retired from his judicial office effective July 19, 2004, and good cause otherwise appearing,

IT IS HEREBY ORDERED:

1. The Stipulation is hereby approved;
2. This matter is submitted to the special masters for the issuance of their final report pursuant to Commission Rule 129 without an evidentiary hearing and on the following terms and conditions:
 - a. Respondent stipulates to the truth of the allegations in Count Five of the First Amended Notice of Formal Proceedings, filed on February 17, 2004 (“Notice” hereafter);

b. The following specified counts in the Notice are submitted on the transcripts and exhibits from the criminal case against respondent (*People v. William R. Danser*, Santa Clara County Superior Court No. 210838) (“criminal case” hereafter): Count One except for subpart (R); Count Two; Count Three; Count Six, subpart (G) only; Count Eight; Count Nine;

c. Respondent stipulates that at a minimum he engaged in conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of article VI, section 18 of the California Constitution;

(1) A copy of the relevant transcripts and exhibits from the criminal case shall be delivered to each of the special masters as soon as practicable. Thirty days after receipt of such documents by the special masters, the examiner and respondent shall file proposed findings and conclusions pursuant to Commission Rule 129, subdivision (b), and sixty days after receipt of such documents, the special masters shall issue their final report. Pursuant to rule 129, subdivision (c), within the 60-day period, the masters may require such additional briefing and argument by the examiner and respondent as they may desire;

(2) In making their findings of fact and conclusions of law, including resolving conflicts in testimony or determining the credibility of a witness, the masters shall not rely on any verdict in the criminal case;

d. The following counts in the Notice are dismissed in the interest of justice: Count One, subpart (R) only; Count Four; Count Six except for subpart (G); Count Seven;

3. Following issuance of the special masters’ final report, the matter shall be determined by the commission pursuant to its rules and the terms of the Stipulation, including but not limited to respondent’s agreement that at a minimum he engaged in conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of article VI, section 18 of the California Constitution, that there is sufficient basis for the commission to issue a censure and bar against him pursuant to article VI, section 18 of the

Constitution, and that he waives his right of review by the California Supreme Court under article VI, section 18, subdivision (d) of the California Constitution;

4. Nothing contained herein affects the rights and duties of the commission respecting respondent under article VI, section 18, subdivision (c) of the Constitution.

Commission members Justice Vance W. Raye, Marshall B. Grossman, Esq., Judge Frederick P. Horn, Michael A. Kahn, Esq., Ms. Patricia Miller, Mr. Jose C. Miramontes, Mrs. Penny Perez and Ms. Barbara Schraeger participated. Commission members Judge Risë Jones Pichon and Mrs. Crystal Lui did not participate. There is one vacancy on the commission.

Dated: July 22, 2004

/s/

Honorable Vance W. Raye
Chairperson