

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING
JUDGE MICHAEL E. PLATT,
NO. 162.

FIRST AMENDED NOTICE OF
FORMAL PROCEEDINGS

To Michael E. Platt, a judge of the San Joaquin County Superior Court from September 16, 1994, to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

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

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COUNT ONE

You had a personal relationship with Edward (Eddie) Guardado, including the fact that in October 1998 Mr. Guardado loaned you approximately \$3500, which debt was discharged in July 1999 by way of bankruptcy proceedings.

Sometime on or after December 28, 1999, Mr. Guardado's wife, Lisa Marie Limbaugh-Guardado, telephoned you and informed you that her niece Deanna Marie Molina had received a speeding ticket in San Joaquin County.

Although Ms. Molina's speeding ticket would not have come before you for any purpose in the regular course of judicial business, you instructed your clerk Mary Ann Nayer to locate the court records of the speeding ticket. Subsequently, on or about February 29, 2000, you instructed Ms. Nayer to dismiss Ms. Molina's ticket. As a result, case no. LA66173 was dismissed on the court's own motion without an appearance by Ms. Molina and without a hearing.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2), 3B(7), 3E(1) and 3E(2).

COUNT TWO

Count One is incorporated by reference. Sometime on or after February 8, 2000, Ms. Limbaugh-Guardado telephoned you and informed you that her husband Eddie Guardado had received a speeding ticket in San Joaquin County.

Although Mr. Guardado's speeding ticket would not have come before you for any purpose in the regular course of judicial business, you instructed your clerk Ms. Nayer to locate the court records of the speeding ticket. Subsequently, on or about February 29, 2000, you instructed Ms. Nayer to dismiss Mr. Guardado's ticket. As a result, case no. Z155786 was dismissed on the court's own motion without an appearance by Mr. Guardado and without a hearing.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2), 3B(7), 3E(1) and 3E(2).

COUNT THREE

Count One is incorporated by reference. Sometime on or after November 16, 2000, Ms. Limbaugh-Guardado telephoned you and informed you that she had received a speeding ticket in San Joaquin County. Although Ms. Limbaugh-Guardado's speeding ticket would not have come before you for any purpose in the regular course of judicial business, you instructed your clerk Ms. Nayer to locate the court records of the speeding ticket.

Subsequently, on December 26, 2000, you telephoned your former courtroom clerk Cathy Graham, then the courtroom clerk for another San Joaquin County judge. You told Ms. Graham that you wanted to be certain that Ms. Limbaugh-Guardado would be eligible for traffic school in connection with her outstanding traffic ticket. As a result, Ms. Graham made the following entry on the court records in case no. Z167114: "Ms[.] Guardado phoned that she would be in today to sign up for traffic school/ OK'd with Judge Platt to do traffic sc[hool]."

On January 9, 2001, you telephoned Ms. Graham again, told her that you wanted Ms. Limbaugh-Guardado's ticket dismissed and asked her to enter the dismissal on the court records. You told Ms. Graham to keep the matter between you and her. After the telephone conversation, Ms. Graham decided to not enter the dismissal and so informed you.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2), 3B(7), 3E(1) and 3E(2).

COUNT FOUR

At some time after March 27, 2000, your bailiff, San Joaquin County Deputy Sheriff Rick Adams, informed you that Frank S., III had received a speeding ticket in San Joaquin County. Frank S., III was the minor son of Frank S., Jr., a reserve deputy with the San Joaquin County Sheriff's Department who had acted as your bailiff on occasion. Deputy Adams explained the circumstances

of Frank S., III receiving the speeding ticket and asked you if you could do something to help.

Thereafter, you contacted the California Highway Patrol officer who gave the speeding ticket to Frank S., III and discussed the case ex parte with him. Although the speeding ticket would not have come before you for any purpose in the regular course of judicial business, on or about May 23, 2000, you dismissed or directed the dismissal of the speeding ticket issued to Frank S., III in case no. LN58650 without a hearing.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2), 3B(7), 3E(1) and 3E(2).

COUNT FIVE

On or about July 16, 1998, you telephoned San Joaquin County Superior Court Judge Lesley D. Holland at his chambers in Stockton, where Judge Holland was assigned to the juvenile dependency calendar. You told Judge Holland that a case that was or would be assigned to him involved the family of a former law client of yours, Mr. S.

You gave Judge Holland information regarding the S. family and the case, including the following: that Mr. S. and/or his wife had contacted you regarding their two sons who were dependents of the court; that Mr. S. allegedly had absconded with the younger child; that the family was dysfunctional; that you had advised Mr. S. to return with the boy and to cooperate with child protective services; and that Mr. or Mrs. S. had inquired when they would be seeing a judge. You asked Judge Holland when the S. matter would be before him. Judge Holland told you that the matter would be heard that day or the next, that the parents would be assigned counsel, and that a date would be scheduled for a jurisdictional hearing.

The S. matter (*In re Jeremiah and Austin S.*, case no. J01450) came before Judge Holland for a hearing on or about July 17, 1998. During either that hearing or a subsequent hearing in approximately July or August 1998, you entered Judge Holland's courtroom through a side door and remained in the courtroom near the door, creating the impression that you were in a special position to influence the judge, and that you were attempting to lend the prestige of your judicial office to advance the interests of Mr. S or his family.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2) and 3B(7).

COUNT SIX

Sometime in 1999 or 2000, you telephoned Commissioner Barbara A. Kronlund assigned to the Tracy branch of the San Joaquin Unified Superior Court. You said that you were calling about a friend of yours whom you identified as Oscar. You asked Commissioner Kronlund questions concerning the handling of traffic tickets in the Tracy branch court, in particular the handling of late fees. Oscar was Oscar Anzaldo, whom you have referred to as your godfather. Mr. Anzaldo had received a speeding ticket on October 12, 1999.

Mr. Anzaldo appeared before Commissioner Kronlund on April 12, 2000, pled guilty to the speeding ticket and was ordered to pay a fine and fees, including a late fee.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2) and 3B(7).

COUNT SEVEN

At the end of a work day in approximately 1999, you approached clerk Pamela Edwards in the clerk's office of the San Joaquin County Courthouse concerning a stay of execution of an order that had been issued by Judge Sandra B.

Smith in an unlawful detainer action. Judge Smith, who had presided over the case, had granted the landlord possession of the premises. You approached Ms. Edwards shortly after Judge Smith had denied the tenant's request for a stay of execution of her order. The tenant, who was a personal acquaintance of yours, accompanied you on your visit to Ms. Edwards in the clerk's office. You had with you both the case file and a newly prepared order granting the stay. You instructed Ms. Edwards to enter your order granting a stay, effectively vacating Judge Smith's order denying the stay. Pursuant to your direction, Ms. Edwards filed your stay order that day. You acted in this regard at the ex parte request of a personal acquaintance, in a matter that was not pending before you and that would not have come before you in the regular course of judicial business for any purpose, and without notice to the landlord or to Judge Smith.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2), 3B(7), 3E(1) and 3E(2).

COUNT EIGHT

During or about spring or summer 2000, you visited Judge James E. Hammerstone, Jr., at his chambers in the Stockton branch of the San Joaquin County Superior Court. You told Judge Hammerstone ex parte that a personal acquaintance of yours or a family member of the acquaintance was being held in the county jail for a theft-related offense. You asked Judge Hammerstone to grant an own recognizance release or call the jail and order the individual released on her own recognizance. Judge Hammerstone declined to do so. Your actions in this regard were an improper use of the prestige of your judicial office to advance the personal interests of an acquaintance.

Your conduct was in violation of the Code of Judicial Ethics, canons 1, 2A, 2B(1), 2B(2) and 3B(7).

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal, contained in the California Rules of Court. The notice of formal proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This notice of formal proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: 12/5/01

/s/

MICHAEL A. KAHN
CHAIRPERSON