

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

**IN THE MATTER CONCERNING
JUDGE HENRY J. WALSH**

**DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT**

This disciplinary matter concerns Judge Henry J. Walsh, a judge of the Ventura County Superior Court. Judge Walsh and his attorney, Edith R. Matthai, appeared before the commission on January 27, 2016, to object to the imposition of a public admonishment, pursuant to rule 116 of the Rules of the Commission on Judicial Performance. Having considered the written and oral objections and argument submitted by Judge Walsh and his counsel, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18(d) of the California Constitution, based on the following statement of facts and conclusions.

STATEMENT OF FACTS AND CONCLUSIONS

Judge Walsh has been a judge of the Ventura County Superior Court since 1998. His current term began in 2013.

Judge Walsh was in a contested reelection in 2012 and received campaign contributions from many individuals, including attorneys with cases before the judge. As set forth below, the commission determined that Judge Walsh engaged in a pattern of failing to disclose the campaign contributions of attorneys who appeared before him after the election.

During his campaign for reelection, Judge Walsh received contributions of \$100 or more from more than 150 attorneys. Some of the attorneys made their first contributions after the June 5, 2012 election, when Judge Walsh was reelected.

In 2010, effective January 1, 2011, subdivision (a)(9)(C) was added to Code of Civil Procedure section 170.1 to require judges to disclose campaign contributions of \$100 or more. This requirement is intended to ensure impartiality and to promote public confidence in the impartiality of an elected judiciary by providing parties and lawyers

with information about campaign contributions. Canon 3E of the Code of Judicial Ethics provides for the manner of disclosure and, in 2012, required judges to disclose on the record “information that is reasonably relevant to the question of disqualification under Code of Civil Procedure section 170.1, even if the judge believes there is no actual basis for disqualification.” Regarding the duration of the duty to disclose, a formal ethics opinion issued by the California Judges Association in 1999 and the California Judicial Conduct Handbook, third edition published in 2007, advised judges to disclose campaign contributions from attorneys of \$100 or more for a minimum of two years. (Cal. Judges Association, Opinion No. 48, pp. 4-6 (1999); Rothman, Cal. Judicial Conduct Handbook (3d ed. 2007) § 7.56, p. 364.) Canon 3E was amended effective January 2013 to expressly require disclosure of campaign contributions for two years after a candidate takes the oath of office, or for two years after the date of the contribution, whichever is later. (Canon 3E(2)(b)(iii).)

When attorneys who contributed to Judge Walsh’s campaign committee, either before or after the election, appeared before him after the election, Judge Walsh did not fulfill his duty to disclose the campaign contributions of those attorneys when they appeared before him.

An example of this pattern is the case of *Randall S. Richman v. Mark Hartley*, No. 56-2011-00401599-CU-BC-VTA, which was pending before Judge Walsh between August 2011 and September 2014. Among the matters litigated in 2012 was a summary judgment motion filed by defendant Mark Hartley, which Judge Walsh granted in August 2012.

Judge Walsh received campaign contributions of more than \$100 from the attorneys involved in *Richman v. Hartley*, including a contribution of \$1,499 from defendant Hartley’s lead attorney Peter Goldenring on April 2, 2012; \$1,000 from Mr. Goldenring’s law partner, James Prosser, on March 26, 2012; and \$250 from plaintiff’s counsel Richard Francis on May 10, 2012. Judge Walsh did not disclose those contributions on the record when the case came before him for a hearing on defendant’s motion for summary judgment on July 16, 2012, 41 days after the election.

According to Judge Walsh, he did not believe he was required to disclose contributions after the election and he did not do so when attorneys who had contributed to his campaign appeared before him after the election. The commission noted that the judge's position severely restricts the extent of disclosure of campaign contributions and leads to the result that post-election contributions would never be disclosed. The commission found the judge's position to be contrary to the intent of the disclosure requirements and the ethics opinions available to the judge.

The commission found that Judge Walsh's conduct was inconsistent with his duty to disclose on the record information reasonably relevant to the question of disqualification, as set forth in canon 3E(2), and inconsistent with Code of Civil Procedure section 170.1, subdivision (a)(9)(C). Judge Walsh's failure to disclose campaign contributions after the election deprived the parties and attorneys appearing before him of information to which they were entitled. Even if the amount of a campaign contribution does not require disqualification, the perception of an impartial and independent judiciary is fundamental to public respect for the judicial system and the rule of law. In turn, public confidence in a fair and impartial judiciary depends on a transparent process through disclosure of information that may reasonably be relevant to the question of disqualification. Particularly with respect to campaign contributions, failure to disclose can give rise to public distrust in the independence and impartiality of the judiciary.

Commission members Hon. Erica R. Yew; Anthony P. Capozzi, Esq.; Ms. Mary Lou Aranguren; Ms. Patty A. Kasparian; Hon. Thomas M. Maddock; Dr. Michael A. Moodian; Nanci E. Nishimura, Esq.; Hon. Ignazio J. Ruvolo; Ms. Sandra Talcott; and Mr. Adam N. Torres voted for imposition of this public admonishment. Mr. Richard Simpson did not participate.

Dated: February 10, 2016



Hon. Erica R. Yew,
Chairperson