

REVISED

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 2002

In the Matter of the Adoption )  
of Amendments to the )  
Rules Governing the )  
Commission on Judicial )  
Conduct and Ethics )

IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

FEB - 3 2003

*Judy Pacheco*  
JUDY PACHECO, CLERK

**ORDER ADOPTING AMENDMENTS TO THE  
RULES GOVERNING THE COMMISSION ON  
JUDICIAL CONDUCT AND ETHICS**

This matter came before the Court by direction of the Board of Judicial Policy and Administration to amend the Rules Governing the Commission on Judicial Conduct and Ethics. It is therefore,

ORDERED that the amendments to the Rules Governing the Commission on Judicial Conduct and Ethics, a copy of which is attached hereto, are adopted; that said rules shall be published in the advance sheets of the Pacific Reporter and in the Wyoming Reporter; that said rules shall become effective May 1, 2003, shall be spread at length upon the journal of this court and shall thereupon amend the current Rules Governing the Commission on Judicial Conduct and Ethics.

Dated this 3<sup>RD</sup> day of February, 2003.

BY THE COURT:

*William U. Hill*

WILLIAM U. HILL  
Chief Justice

**Rules Governing the Commission on Judicial Conduct and Ethics**

**PART II: PROVIDING FOR PROCEDURES FOR THE OPERATION OF THE COMMISSION INCLUDING EXERCISE OF THE COMMISSION'S DISCIPLINARY POWERS**

**State of Wyoming Rules for the Commission on Judicial Conduct and Ethics**

....

**Rule 3. Organization and authority of commission.**

....

(h) Once a member of the commission is recused from a proceeding for any reason, such member shall not subsequently be permitted to consider any aspect of such proceeding.

**Rule 7. Proceedings confidential.**

(a) ~~*Papers and proceedings.*~~ - Unless otherwise permitted by these rules, or from public documents, or from public hearing, all proceedings before the commission, and all information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the commission in the course of its work, shall be confidential. No member of the commission or its staff and no employee or agent of the commission, disciplinary counsel and disciplinary counsel's staff, and no testifying witness shall disclose such proceeding, information, communications, materials, papers, files, or transcripts, except in the course of official duty or as otherwise authorized by the rules for the commission. ~~All papers filed with and proceedings before the commission shall be confidential.~~ Only a record filed by the commission with the Wyoming Supreme Court loses its confidential character upon its filing. Any violation of the provision for confidentiality shall constitute an act of contempt and be punishable as such. Provided, however, the commission may, in its discretion, release statistical information that does not identify judges whose cases are confidential. The deliberations of the commission, whether oral or written, shall remain confidential.

....

**Rule 10. Preliminary investigation.**

(a) *Complaints.* - All complaints shall be in writing and may be initiated by a member of the commission based upon any source that may be

deemed reasonably reliable. Complaints shall be verified and addressed to the commission, except when initiated by commission inquiry. By presenting to the commission (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief formed after inquiry reasonable under the circumstances:

....

(b) *Investigation.* - Upon receiving a verified statement complaint alleging facts indicating that a judge has engaged in judicial misconduct or that the judge has a disability that seriously interferes with the performance of duties, and is or is likely to become permanent, the investigatory panel shall review the information and shall act as follows:

....

(2) *Initial inquiry investigation.* - For complaints not dismissed forthwith and after notifying the judge informally, the investigatory panel shall make an initial inquiry investigation or direct disciplinary counsel to make an initial inquiry investigation to determine whether or not the complaint contained in the verified statement warrants further examination. In making an initial inquiry investigation, the investigatory panel or disciplinary counsel may obtain and consider any information deemed pertinent. Upon its own motion without receiving a verified statement, the investigatory panel may make or require disciplinary counsel to make an initial inquiry on the basis of information coming to the commission's attention from other sources that, if substantiated, would constitute judicial misconduct.

(3) *Preliminary investigation.* - If, after the initial inquiry investigation, the investigatory panel concludes that further investigation is warranted, the investigatory panel shall require disciplinary counsel to conduct a preliminary investigation, after first notifying the judge in writing of the nature of the charge and that a preliminary investigation has been authorized. In the course of the preliminary investigation, the accused judge shall be afforded reasonable opportunity to present matters. In conducting the investigation, disciplinary counsel may consider any information obtained during the course of the initial inquiry investigation.

....

(c) Commission initiated investigations. - Upon receiving a complaint by a member of the commission, the chair may appoint an investigatory panel which may make, or require disciplinary counsel to make, an initial investigation on the basis of information coming to the commission's attention from other sources that, if substantiated, would constitute judicial misconduct.

(ed) *Notice of investigation.* – The judge shall be notified of any investigation or examination by registered mail addressed to the judge at the judge’s chambers and the judge’s last known residence.

**Rule 13. Settlement and corrective notice.**

(a) *Settlement.* - A judge accused of misconduct who wishes to propose a settlement of the case, whether or not admitting misconduct, may present a settlement proposal to disciplinary counsel or if no disciplinary counsel has been appointed, to the presiding officer of the adjudicatory panel. Disciplinary counsel or the presiding officer of the adjudicatory panel have has no authority to settle any case, but may comment upon a judge’s proposal. Any proposal shall be referred to the full commission which may accept it, reject it, or propose an alternative, with or without hearing. Disciplinary counsel may propose a settlement to the accused judge which, if acceptable to the judge, may be referred to the commission. A judge who proposes a settlement or agrees to a settlement proposal made by disciplinary counsel waives any complaint that consideration of settlement compromises the commission or any of its members in later proceedings.

....

**Rule 25. Contempt.**

~~The presiding commissioner and the hearing officer shall have the same contempt powers as the Wyoming district courts. Contempt proceedings shall be governed by Rule 42, Wyoming Rules of Criminal Procedure.~~

Any violation by any person of the requirements of the commission’s rules and orders shall constitute contempt and shall be punishable as such. The commission may initiate a proceeding pursuant to Rule 42, W.R.Cr.P., before any district judge, requiring any person accused of violating the commission’s rules or orders to appear and show cause why such person should not be held in contempt.

Rules Governing the Commission on Judicial Conduct and Ethics

**PART III: RULES OF PROCEDURE FOR DISCIPLINE AND INCAPACITY PROCEEDINGS BEFORE ADJUDICATORY PANELS; DUTY OF COOPERATION; RIGHT TO APPEAR BEFORE FULL COMMISSION**

....

**Rule 13. Confidentiality.**

Unless otherwise permitted by these rules, or from public documents, or from a public hearing, ~~no person shall disclose information obtained by that person during the commission proceedings or from papers filed with the commission all proceedings before the commission, and all information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the commission in the course of its work, shall be confidential. No member of the commission or its staff, and no employee or agent of the commission, disciplinary counsel and disciplinary counsel's staff, and no testifying witness shall disclose such proceedings, information, communications, materials, papers, files, or transcripts, except in the course of official duty and as otherwise authorized by the rules for the commission. Any violation by any person of the requirements of confidentiality shall be dealt with in accordance with Part II, Rule 25. In the event of a private censure, the complainant shall be advised in general terms that appropriate corrective action has been taken. Any person violating confidentiality rules may be subject to a proceeding for contempt in any district court in the State of Wyoming which contempt proceeding shall be conducted pursuant to Rule 42 of the Wyoming Rules of Criminal Procedure.~~

....