

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2  
3 In the Matter of the )  
4 HONORABLE JEFFREY SOBEL, )  
5 Former District Court Judge, )  
6 Eighth Judicial District, )  
7 County of Clark, )  
8 State of Nevada, )  
9 Respondent. )

Case No. 45651

**FILED**

**JUL 26 2005**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY \_\_\_\_\_  
DEPUTY CLERK

10 **CERTIFIED COPY OF FINDINGS OF FACT, CONCLUSIONS**  
11 **OF LAW, IMPOSITION OF DISCIPLINE AND CONSENT ORDER**

12 Pursuant to Interim Commission Rule 28(2), I hereby certify that the documents attached  
13 hereto are true and correct copies of the Findings of Fact, Conclusions of Law, and Imposition of  
14 Discipline adopted and filed by the Nevada Commission on Judicial Discipline on July 19, 2005.

DATED this 26<sup>th</sup> day of July, 2005.

15 NEVADA COMMISSION ON  
16 JUDICIAL DISCIPLINE  
17 P.O. Box 48  
18 Carson City, NV 89702

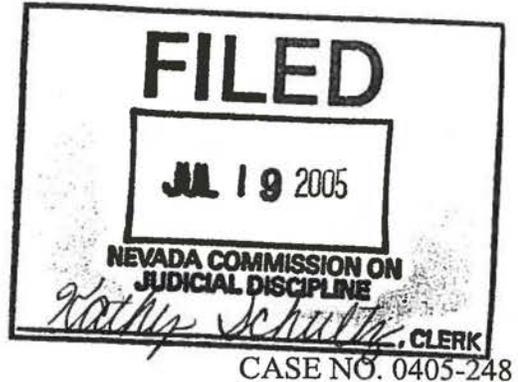
19   
20 DAVID F. SARNOWSKI  
21 General Counsel & Executive Director  
22 Nevada Bar No. 0075

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26 **RECEIVED**  
27 **JUL 26 2005**  
28 JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
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2 STATE OF NEVADA

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Respondent. )



10  
11 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND IMPOSITION OF DISCIPLINE**

12 Pursuant to prior written notice, the above-entitled matter came on for public (formal)  
13 hearing in Las Vegas pursuant to NRS §1.467(3)(c) and Interim Commission Rule 18  
14 (hereinafter referred to as the "hearing") on June 29, 2005, before the Nevada Commission on  
15 Judicial Discipline (hereinafter referred to as the "Commission"). Attorney Mary Boetsch acted  
16 as the Special Counsel and prosecuted the case against the Respondent, Jeffrey Sobel. The  
17 Respondent was present and represented by counsel, Leonard Gang. The Commission  
18 commends both counsel of record for their able and zealous advocacy.

19 After being fully advised of its obligations and duties, the Commission specifically finds  
20 that the hearing was conducted according to the statutes, rules and procedures required by law.  
21 The Commission hereby issues the following Findings of Fact, Conclusions of Law and  
22 Imposition of Discipline pursuant to Commission Interim Rules 27 and 28; and NRS §1.4673  
23 and §1.4677. Following private deliberations the Commission announced its decision that the  
24 evidence presented was sufficient to meet the burden of proof imposed on the Special Counsel.  
25 The Commission also announced the discipline to be imposed, to wit, a public censure and  
26 prohibitions restricting the respondent from appointment to or election to judicial office in  
27 Nevada. The votes as to both the violations and the appropriate discipline were unanimous. The

28 ...

1 instant order constitutes the Commission's final, dispositive ruling and this written order will  
2 supersede any oral pronouncement issued following the hearing.

3 **A. Findings of Fact.**

4 1. That respondent was, at all times applicable to the allegations contained in the Formal  
5 Statement of Charges, a District Judge in the Eighth Judicial District Court in and for the County  
6 of Clark, State of Nevada. Therefore, the Respondent was a judicial officer whose conduct was  
7 subject to the provisions of the Nevada Code of Judicial Conduct (hereinafter the "Code").

8 2. The factual allegations contained in Counts 1 through 3, regarding the Respondent's  
9 election campaign-related conduct, have been established by the required standard of proof, to  
10 wit, clear and convincing evidence. The Commission expressly finds that the Respondent made  
11 the statements attributed to him in paragraphs 6 through 8 of Count 1; that the Respondent  
12 performed the act attributed to him in paragraph 11 of Count 2; and that the Respondent  
13 performed the acts attributed to him in paragraphs 14 through 17 and paragraph 19 of Count 3.  
14 The Commission expressly finds that the Respondent's conduct pertaining to all three counts was  
15 willful, notwithstanding the respondent's explanation for his behavior in his chambers vis-a-vis  
16 attorneys Consul, Silvestri and Boyack; and in light of his persistent efforts to obtain from  
17 attorney Murdock more money or a satisfactory explanation of what the Respondent perceived to  
18 be a disparately large monetary contribution to the Respondent's opponent.

19 The Commission is guided by recent Nevada Supreme Court precedent, which requires  
20 application of the "objective reasonable person standard" when applying the canons that  
21 comprise the Nevada Code of Judicial Conduct. *Mosley v. Nevada Commission on Judicial*  
22 *Discipline*, 102 P.3d 555, 560 (Nev. 2004). While the Respondent and even some of the  
23 attorneys who were present at the in-chambers conference may have initially believed the  
24 Respondent was joking—if ever so badly—when he told attorney Boyack he was "f\*\*\*ed" because  
25 he hadn't contributed while the others had, the objectively reasonable person would be hard-  
26 pressed to detect the existence of anything truly humorous or ethical about what the Respondent  
27 said and how he said it, particularly during a pre-trial conference in a contested matter. Nor  
28 would the objectively reasonable person have believed the Respondent was not behaving

1 unethically when he placed attorney Consul in the exceedingly uncomfortable position of having  
2 to admit and then explain the reason for his attendance at a campaign event for the Respondent's  
3 opponent, Jackie Glass. There is little doubt that Mr. Consul felt as if he had been placed in a  
4 position that arguably compromised the position of his client, because he went back and  
5 discussed the matter with a partner in his firm, Mr. Dickerson, who was a long-time friend of the  
6 Respondent. Likewise, Mr. Murdock was subjectively impacted. Indeed, he was irate to the  
7 point of writing a letter to the Respondent asking him to disqualify in the case of *Herrera v.*  
8 *Baron*, Case No. A450123, and accusing the Respondent of trying to extort money from him via  
9 a contribution closer in value to the one Mr. Murdock provided to Ms. Glass, who is the wife of  
10 Mr. Murdock's personal friend, attorney Steve Wolfson.

11 The Respondent conceded at the Commission hearing that what he did was stupid and he  
12 stated he wishes he would not have acted as he did in either instance. He explained that his  
13 anomalous behavior during the pre-trial conference in *Steinberg v. Western Cab Company*, Case  
14 No. A408515, occurred at the end of a day during which he conducted many other pre-trial  
15 conferences with many other lawyers who either had or had not given him contributions. He  
16 testified that during some of the cases involving lawyers from both categories, he revealed what  
17 he did not have to reveal, that is, that some lawyers had contributed to his campaign while others  
18 had not. He also explain that he truly was interested in finding out from Mr. Murdock why there  
19 was a great disparity in his contribution to Ms. Glass vis-a-vis the relatively small contribution  
20 Mr. Murdock provided to him. The Respondent's subjective explanations do not overcome the  
21 evidence against him when examined in light of the applicable legal standard.

22 **B. Conclusions of Law.**

23 The Commission unanimously concludes that it has jurisdiction over the person and the  
24 subject matter. Likewise, it concludes the evidence suffices to prove each count of the Formal  
25 Statement of Charges as follows: A violation of 1, 1A, 2, 2A, 2B, 5 and 5C(2) of the Code  
26 occurred regarding Counts 1 through 3.

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1 **C. Imposition of Discipline.**

2 The Commission concludes that the appropriate discipline to be imposed under  
3 Commission Interim Rule 28 as to said charges shall be as follows:

4 By unanimous vote of the Commission, pursuant to Subsections 5(a) and (b) of Article 6,  
5 Section 21 of the Constitution of the State of Nevada, NRS 1.4653(2), and Commission Interim  
6 Rule 28, the Respondent shall: (1) Be permanently barred from serving as an elected or appointed  
7 judicial officer in Nevada; and (2) Be publicly censured. By way of clarification, the restriction  
8 imposed in item (1) immediately above does not restrict the Respondent from providing services  
9 as a private or court appointed mediator or arbitrator. By way of further clarification, the  
10 restriction imposed in item (1) immediately above does restrict the Respondent from serving in  
11 any of the following positions: Commissioner, Short Trial Judge, Hearing Master, Referee,  
12 Juvenile Master or Settlement Judge appointed pursuant to Nevada Rule of Appellate Procedure  
13 16.

14 The Commission is mindful of the fact that the Respondent has medical problems and is  
15 not a young man. Rather than pursue his former practice as a trial lawyer, he has decided to  
16 pursue a legal practice consisting of mediating and arbitrating. The Respondent asked the  
17 Commission to limit its disciplinary action in order to allow him to do so. The Commission has  
18 exercised its discretion and has decided that the prohibitions on judicial activities, as set forth  
19 above, are not unduly punitive. The Commission's decision gives the Respondent ample  
20 opportunity to support himself and his family, while it also protects the public.

21 **D. Order.**

22 IT IS HEREBY ORDERED that the Respondent is hereby publicly censured and he is  
23 hereby permanently barred from seeking or holding appointive or elective judicial office in  
24 Nevada.

25 IT IS HEREBY ORDERED that the Executive Director of the Judicial Discipline  
26 Commission is to take the necessary steps to file this document in the appropriate records of the  
27 Commission and with the Nevada Supreme Court.

28 . . .

1 IT IS HEREBY ORDERED that the Clerk's Certificate of Mailing, found below, shall  
2 constitute notice of entry of this document pursuant to Commission Interim Rule 34, and the  
3 clerk shall promptly serve it on the Respondent's Counsel and the Special Counsel.

4 **E. Recommendation.**

5 Because of the relationship between judges and attorneys, who are officers of the court,  
6 campaign activities by judges involving attorneys should be carried out with great caution. In  
7 soliciting donations, endorsements or political organization help from attorneys, judges can  
8 easily place attorneys in a position where the attorneys feel coerced. Attorneys may be concerned  
9 for their pending and future cases before judges who are requesting campaign help and believe  
10 that there is an obligation to give such help, if their clients are to be assured fair treatment by the  
11 judge.

12 IT IS, THEREFORE, THE RECOMMENDATION of this Commission that judges not  
13 engage in any communication with attorneys within the courtroom, courthouse or even in  
14 chambers during the course of any judicial proceeding, whether formal or informal, which can  
15 reasonably be construed to be soliciting campaign help from such attorney or anyone closely  
16 connected with such attorney. Such communication includes direct solicitation for such  
17 campaign help, as well as any innuendo or remarks which could reasonably be construed to be  
18 soliciting such help or criticizing an attorney for not giving such help.

19 In addition, judges should avoid, even during normal campaign activities, soliciting  
20 campaign help from attorneys which an objective observer might reasonably construe to be  
21 coercive under all of the circumstances. Such circumstances include:

- 22 1. an attorney's pending litigation before such judge,
- 23 2. the reasonable likelihood of future litigation before such judge,
- 24 3. the monetary amount of litigation before such judge involving such attorney, and
- 25 4. the serious nature of court proceedings before such judge involving such attorney  
26 or his law firm.

27 Judges should not pressure attorneys for campaign help, nor communicate directly or by  
28 intimation that an attorney should not help an opponent of such judge, under circumstances that

1 an attorney might reasonably believe that he or his clients' interests before such judge might be  
2 negatively affected by failure to comply with the judge's request for campaign assistance.

3 **E. Notice.**

4 Notice is hereby tendered to the Special Counsel and the Respondent that pursuant to  
5 NRAP 3D, an appeal may be taken by filing a notice of appeal with the Clerk of the Commission  
6 and serving such notice on the opposing counsel within fifteen (15) days of service of this  
7 document by the clerk of the Commission.

8 DATED this 19th day of July, 2005.

9 **NEVADA COMMISSION ON JUDICIAL DISCIPLINE**

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11 \_\_\_\_\_  
11 STEVE CHAPPELL, Commissioner and Chairman

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13 DAVEEN NAVE, Commissioner and Vice-Chairman

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15 \_\_\_\_\_  
16 GREG FERRARO, Commissioner

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18 \_\_\_\_\_  
18 JEROME POLAHA, Commissioner and  
18 Presiding Officer

19 \_\_\_\_\_  
20 RICHARD WAGNER, Alternate Commissioner

21 \_\_\_\_\_  
22 KARL ARMSTRONG, Commissioner

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24 \_\_\_\_\_  
25 JAMES BEASLEY, Commissioner

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7 document by the clerk of the Commission.

8 DATED this 15th day of July, 2005.

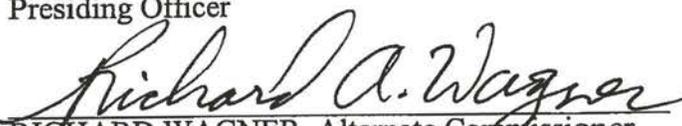
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GREG FERRARO, Commissioner

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RICHARD WAGNER, Alternate Commissioner

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22 Karl W. Armstrong  
KARL ARMSTRONG, Commissioner

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JAMES BEASLEY, Commissioner

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KARL ARMSTRONG, Commissioner

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JAMES BEASLEY, Commissioner

CERTIFICATE OF MAILING

I hereby certify that on the 20<sup>th</sup> day of July, 2005, I placed the above-referenced FINDINGS OF FACT, CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE in the United States Mail, postage pre-paid, addressed to the undersigned

Leonard Gang, Esq.  
P. O. Box 8416  
Incline Village, NV 89452  
Counsel for Respondent

Mary Boetsch, Esq.  
448 Hill Street  
Reno, NV 89501  
Special Counsel

  
\_\_\_\_\_  
Kathy Schultz, Commission Clerk

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