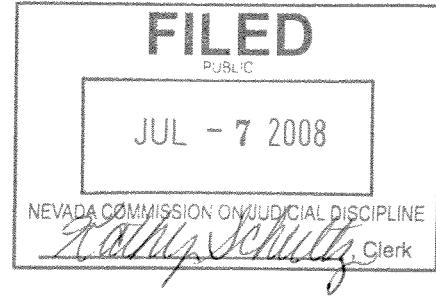


1 BEFORE THE NEVADA COMMISSION ON JUDICIAL DISCIPLINE

2 STATE OF NEVADA

3
4 In the Matter of the)
5 HONORABLE LEE A. GATES,)
6 District Court Judge,)
7 Eighth Judicial District Court,)
County of Clark, State of Nevada,)
8 Respondent.)
9



CASE NO. 0701-260

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

11 Pursuant to prior written notice, the above-entitled matter came on for public (formal)
12 hearing in Las Vegas pursuant to NRS §1.467(3)© and Interim Commission Rule 18 (hereinafter
13 referred to as “the hearing”) on June 26, 2008, before the Nevada Commission on Judicial
14 Discipline (hereinafter referred to as the “Commission”).¹ Attorney Dorothy Nash Holmes acted
15 as the Special Counsel and prosecuted the case against the Respondent, Las Vegas District Court
16 Judge Lee Gates. The Respondent was present and represented by counsel, Thomas F. Pitaro,
17 Esq.

18 On January 28, 2008, the Special Counsel and counsel for Judge Gates filed a Proposed
19 Settlement Agreement. On February 25, 2008, the Commission filed its Order Accepting
20 Proposed Settlement Terms. Due to scheduling difficulties involving counsel and the
21 Commission as well, the public session could not be held until June 26, 2008. At that time,
22 counsel stipulated to delete the portion of the settlement agreement that allowed the imposition
23 of a public censure. The stated reason was because the recent Nevada Supreme Court opinion in
24 the case of *In re Assad*, 124 Nev., Adv. Op. No. 38 (June 12, 2008) called into doubt in the
25

26 _____
27 ¹ The following Commissioners participated in the hearing: Vice-Chairman Daveen Nave,
28 Judge Jerome Polaha, Judge Richard Wagner, Wayne Chimarusti sitting for James Beasley, who was
unavoidably absent, and Bill Hoffman sitting for Karl Armstrong who was unavoidably absent.
Chairman Greg Ferraro was recused and his alternate Shirley Walker also was unavoidably absent.
The six attendees constituted a quorum, pursuant to Commission Interim Rule 3(4). A copy of the
transcript of the proceedings is on file with the Clerk of the Commission.

1 minds of the special counsel and Respondent's counsel whether the violations committed by
2 Judge Gates would warrant a public censure. Following private deliberations, the Commission
3 announced its intent to accept the stipulated agreement, as amended.

4 After being fully advised of its obligations and duties, the Commission specifically finds
5 that the hearing was conducted according to the statutes, rules and procedures required by law.
6 The Commission hereby issues the following Findings of Fact, Conclusions of Law and
7 Imposition of Discipline pursuant to Interim Rules 27 and 28; and NRS §1.4673 and §1.4677.

8 The instant order constitutes the Commission's final, dispositive ruling and this written
9 order will supersede any oral pronouncements issued at the conclusion of the hearing.

10 **A. Findings of Fact.**

11 On or about February 4, 2004, Judge Gates made a campaign contribution of \$5,000.00 to
12 Justice of the Peace Karen Bennett-Haron, who was then the incumbent candidate for
13 Department 7 of the Las Vegas Township Justice Court. Judge Gates' contribution was made
14 from his unspent campaign funds, a check drawn on the Committee to Re-elect Judge Gates bank
15 account, which was signed by Judge Gates.

16 On or about February 23, 2004, Judge Gates made a campaign contribution of \$5,000.00
17 to Nevada Supreme Court Judge Michael Douglas, who was then a candidate for a seat on the
18 Nevada Supreme Court. Judge Gates' contribution was made from his unspent campaign funds,
19 via a check drawn on the Committee to Re-elect Judge Gates bank account, which was signed by
20 Judge Gates.

21 **B. Conclusions of Law.**

22 Each act constituted a separate violation of the Nevada Code of Judicial Conduct Canon
23 5C(3). Although the code specifies several alternate ways for judicial candidates to expend their
24 unspent contributions, the code does not allow judicial candidates to expend any of their unspent
25 contributions on other candidates, whether the others seek election to judicial offices or other
26 offices.

27 ...

28 ...

1 **C. Imposition of Discipline.**

2 (1) Judge Gates shall issue a public apology;²

3 (2) Judge Gates shall attend a course sponsored by the National Judicial College entitled
4 Ethical Issues in the Law at his own expense. He shall not utilize any unspent campaign funds
5 for that endeavor. He shall submit a certificate of completion to the Commission's executive
6 director within twenty (20) days of completing the course. He shall do so before December 31,
7 2008.

8 **D. Order and Notice.**

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

12 Notice is hereby tendered to the Special Counsel and the Respondent pursuant to NRAP
13 3D, an appeal may be taken by filing a notice of appeal with the Clerk of the Commission and
14 serving such notice on opposing counsel within fifteen (15) days of service of this document by
15 the clerk of the Commission.

16 The vice-chairman is authorized to sign this order on behalf of the full Commission.

17 IT IS SO ORDERED.

18 DATED this 7th day of July, 2008.

19 NEVADA COMMISSION ON
20 JUDICIAL DISCIPLINE
21 P. O. Box 48
22 Carson City, NV 89702
23 (775) 687-4017

24 

25 _____
26 DAVEEN NAVE, Commission Vice-Chairman

27 _____
28 ² Judge Gates read his apology into the record when he appeared before the Commission on
June 26, 2008. The transcript has been ordered and will be made a part of the public file when the
reporter submits it.

1 CERTIFICATE OF MAILING

2 I hereby certify that I am an employee of the Nevada Commission on Judicial Discipline
3 and that on the 7th day of July, 2008, I served the foregoing FINDINGS OF FACT.

4 CONCLUSIONS OF LAW AND IMPOSITION OF DISCIPLINE by placing a copy of said
5 Order in the United States Mail, postage pre-paid, addressed to the undersigned:

6 Thomas F. Pitaro, Esq.
7 330 South Third St. Ste 860
8 Las Vegas, NV 89101
9 Counsel for Respondent

10 Dorothy Nash Holmes, Esq.
11 P. O. Box 18414
12 Reno, NV 89511
13 Special Counsel

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15 _____
16 Kathy Schultz
17 Clerk of the Commission
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