

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-110

Judge:

Complainant:

ORDER

July 24, 2019

The Complainant alleged a superior court judge entered a judgment against him in a civil matter that was not supported by the evidence.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Copies of this order were distributed to all appropriate persons on July 24, 2019.

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2019-110

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

- | | | |
|----|--|--------|
| A. | Letter | 4 pgs |
| B. | Letter | 3 pgs |
| C. | Judgment | 4 pgs |
| D. | plaintiff Initial Disclosure | 14 pgs |
| E. | Affidavit | 6 pgs |
| F. | Addendum 1 | 1 pg |
| G. | Buyer Inspection Notice | 4 pgs |
| H. | Seller's Response | 2 pgs |
| I. | e-mail of Seller's Agreeing to revised Close of Escrow | 1 pg |
| J. | Seller's Response | 1 pg |
| K. | Addendum 2 | 1 pg |
| L. | Cure Period Notice | 1 pg |
| M. | E-mail Long to | 1 pg |
| N. | First Deposit check other Buyer | 1 pg |
| O. | Purchase Contract extract | 1 pg |
| P. | 2 nd deposit checks other Buyer | 1 pg |
| Q. | Buyer Acceptance | 1 pg |
| R. | E-mails | 3 pgs |
| S. | E-mails | 5 pgs |
| T. | VA Estimated HUD Statement showing POE (revised) | 1 pg |
| U. | ATTY Letter to Seller | 2 pgs |

Executive Director

Arizona Commission on Judicial Conduct

1501 W. Washington St.
Phoenix, AZ 85007

Ref.

Hon.

Dear

I am writing to complain that Judge _____ failed to assure all available evidence was presented and properly considered in determining the Court's verdict. Failed to honor my Purchase Agreement contract with the Seller/Defendant; effectively scuttling it and denying me any protections afforded by it. Failed to arrive at a verdict solidly underpinned by the evidence; issuing an incomplete, non-sensical verdict, based on what appeared Not to have occurred; rather than what actually had occurred.

Judge's verdict correctly states that Seller rejected my request to extended the close of escrow until _____ however failed to mention or consider the Seller's counteroffer to extend the close date to _____ days earlier. I accepted the Seller's counteroffer with " _____ " and instructed my Agent to make an Amendment accordingly (to _____); which she did; and submitted to Escrow. Since the fundamental purpose of extending the close of escrow date was to facilitate the property's inspections under due diligence, for _____ funding; the Judge's statement that my agreement to extend the inspection period did not extend the date of close of escrow is in error.

Judge's verdict that the seller did not breach the contract is in error and not supported by the evidence. Seller was cooperative during the inspections; making access to the property

available. It was not until I shared a copy of the Inspection Report with the seller on _____ that she breached my contract by demanding to “_____” the sale on _____ issued a Cure Notice on _____ issued two checks to a different title company as “_____” on _____ and _____ respectively and refused to perform any and all further communication or comply with contract requirements on my contract. It’s clear that the seller pushed my deal aside in favor of a more lucrative offer from another third party cash buyer.

There is no evidence that I failed to do anything wrong! There is substantial evidence that the Seller refused and failed to perform the contract. It is clear that the Seller was fully cooperative until _____ when I shared the Inspection Report along with a proposal to share the cost of indicated structural repairs. Angered, Seller then breached our contract; declaring “_____..”

There was failure of the Seller’s Agent’s duties and the Escrow company do deal with honesty and fairness. This contract breach was willful and contrived to displace me; in favor of a third party cash buyer; for additional _____ cash profit.

Notice to Cure was issued without regard for proper notice or for a credible reason; solely for the purpose of disposing of my contract. It was done surreptitiously; under the cover of a long, _____ fully aware that escrow would be out of the office until _____. The result was confusion at the escrow company, as to what to do about the sudden existence of the notice and direction to me to “_____”. Days later, that direction turned to “_____”. Following that direction, my Attorney informed the Seller and Agent on _____ that their continued failure to respond to the escrow to complete their contract duties, would be a breach of the contract.

I relied on fair and honest business dealing; but didn’t get it. Arizona’s laws governing ethics and legalities in business dealing are very apparently ineffective; to be flouted so brazenly. I carried my escrow to the revised close of escrow date; completed all contract tasks required of me. My inability to close escrow was due expressly to the failure of the Seller to perform their required contractual tasks.

The Judge faulted me; that I “_____”. The verdict failed to say specifically, exactly what my failure was; in accepting this contract change; extending the escrow date to _____ Whatever that failure was, that I was

judged to have done wrong or improperly is still unknown to me. Everyone was working to the _____ date; except the Seller. How might I have reasonably anticipated or foreseen such a failure; which effectively voided my contract rights? How might I have avoided such a debacle? What are the facts that the Judge considered and weighed in arriving at the verdict that I did something wrong or improper? How is that decision process reconciled with all of the evidence available? What protections afforded to me in my contract did I benefit in? Of what value was my contract to me?

I believe the Judge failed to consider all of the available evidence:

I don't believe the attached evidence was ever presented in court.

Persistent interruptions by Defense Attorney to object to presentation of every item of evidence significantly added to court time.

After _____ years and multiple court appearances for various Motions, Judge's concern for trial's budget time was apparent.

My attorney knew that I was out of money to continue to pay him; so did not push to ensure all evidence was presented.

It appeared to me that the Judge considered and arrived at a decision over the _____; quickly disposing a _____ year old Breach of Contract case.

I believe the Judge failed to honor and enforce my Purchase Agreement contract.

Due diligence structural inspections were regarded with indifference as to their importance. It met with a shrug.

A non-sensical decision was not underpinned at all by my contract; but rather, had the effect of negating and vacating it.

Did not acknowledge or consider any evidence subsequent to

Did not acknowledge the Seller's cooperative role with inspections; up until

Did not acknowledge that the Seller was Not in a rightful position to unilaterally declare "_____"; as she did on

Did not acknowledge that such a declaration and subsequent failure to vie responsive and participate in the escrow constituted a breach of the contract.

Did not acknowledge Buyer's Attorney's letter of _____ to the Seller advising them of the breach.

Failed to notice the Seller's and Agent's deceptive and duplicitous activities and the covert manner with which the efforts were carried out, for what it was - a deliberate and successful effort to displace me; in favor of another buyer; offering more money.

Failed to observe and consider the incompetence of an ethics-challenged Seller's Agent and the Escrow.

Escrow was easily duped; regarding the Amendment extending the close of escrow date to _____; a date counteroffered by the Seller on _____ and accepted by the Buyer; with direction to my Agent to make up the Amendment; which she did and submitted.

Escrow did not know how to handle the surprise Notice to Cure and instructed me, the Buyer to "_____"; as they went off to figure out what to do.

Failed to observe the receipt of two checks, totaling _____ from a third party buyer and the opening of another escrow at another company for the same property; and the deceptive manner in which these actions were done

Authenticity of the signature on the two checks is open to question.

Seller pushed my Inspection Report off on to their new buyer; downplaying the property's defects; in a rush to complete the new deal.

A fair and honest deal is just that. The truth speaks for itself. I believe that I was cheated by the Seller and Seller's Agent; that I was abandoned by the State in failing to uphold and enforce my contract and was judged poorly.

All I tried to do was purchase a home for me and my family; using my _____ Home Loan benefit. I am now in Federal Bankruptcy Court in _____

Sincerely yours,

CC

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**