



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 05-0847-CC & 06-0164-CC

PUBLIC REPRIMAND

**HONORABLE DON WINDLE
COUNTY PROBATE COURT
DENTON, DENTON COUNTY, TEXAS**

During its meeting in Austin, Texas, on August 10, 2006, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Don Windle, Judge of the County Probate Court in Denton, Denton County, Texas. Judge Windle was advised by letter of the Commission's concerns and provided a written response. Judge Windle appeared before the Commission on August 10, 2006, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Don Windle was Judge of the County Probate Court in Denton, Denton County, Texas.

Judge Windle's Relationship with Beverly McClure

2. In or around August 2003, Judge Windle married his court investigator, Beverly McClure. The marriage ended in a divorce, which was granted in or around March 2004.
3. At some point in or before 2003, Judge Windle approached the Denton County Commissioner's Court about budgeting for a program that would provide guardianship services for incapacitated persons.
4. In late 2003, the Denton County Commissioners Court allocated \$75,000 for a guardianship program such as that which had been promoted by Judge Windle.

5. In late 2003, McClure began the process of establishing Guardianship Services, Inc.
6. On January 9, 2004, the entity was incorporated as a Texas nonprofit organization.
7. As stated in its Articles of Incorporation, the specific purpose of Guardianship Services, Inc., is “[t]o provide guardianship services as directed by the Denton County Probate Court for indigent and other needy incapacitated individuals residing in Denton County, Texas and such other services as may be needed by the Ward or as directed by the Denton County Probate Court.”
8. In late 2003, Denton County published a Request for Proposal (“RFP”) for the guardianship program. McClure, on behalf of Guardianship Services, Inc., was the sole applicant.
9. The initial proposal from Guardianship Services, Inc. was not accepted because officials in Denton County determined that the specifications for the RFP needed to be revised.
10. On or about February 12, 2004, a revised RFP was approved by the Denton County Commissioners Court.
11. On or before March 8, 2004, Guardianship Services, Inc. submitted a proposal in response to the revised RFP. Once again, it was the only applicant.
12. In support of the proposal, Judge Windle submitted an undated letter of recommendation in which he extolled the “skills and abilities” of some of the principals of Guardianship Services, Inc. This was done in response to a requirement of the RFP that “[a]pplicants must also have the support and acceptance of the Denton County Probate Court.”
13. On or about April 5, 2004, Denton County officials recommended entering into a contract with Guardianship Services, Inc. The contract went into effect on May 1, 2004, and was renewed on October 5, 2004.
14. In his sworn written response to the Commission’s initial inquiry, Judge Windle represented that his former wife’s company, Guardianship Services, Inc., was not created until after their March 2004 divorce.
15. Judge Windle also represented in his sworn written response that Guardianship Services, Inc. was first awarded the contract during Denton County’s October 2004 budget process.
16. When questioned by a Commissioner about the discrepancies between his sworn written responses and his oral testimony, Judge Windle acknowledged that some of his written statements were incorrect.

Judge Windle’s Relationship with Rick Woolfolk

17. Rick Woolfolk, an investment broker with Raymond James in Denton County, has been a friend and business partner of Judge Windle since approximately 1997.

18. Specifically, Judge Windle and Woolfolk have a limited partnership with a corporate general partner that owns an airplane. Woolfolk also owns an option to buy a one-half interest in the hangar housing the airplane. The company that owns the hangar is Windle and Windle Investments, Inc., whose sole shareholder is Judge Windle. Judge Windle also carries a debt owed to him by Woolfolk in connection with Woolfolk's ownership interest in the airplane.
19. During the period of time of their friendship and business association, Judge Windle has appointed Woolfolk to serve as a commissioner in eminent domain cases handled by Judge Windle's court.
20. According to a *Dallas Morning News* article dated May 27, 2005, Woolfolk has "received at least 47 appointments [as an eminent domain commissioner] worth almost \$30,000."
21. In the same *Dallas Morning News* article, it was reported that Woolfolk's investment firm "also earns money, with Judge Windle's approval, safeguarding stocks belonging to dead or incapacitated people in probate court."
22. Although Judge Windle disputed some of the facts asserted in the *Dallas Morning News* article, he never challenged the accuracy of the reporter's information when it was published, nor at any time thereafter.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.
2. Canon 2B of the Texas Code of Judicial Conduct states, in relevant part: "A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge."
3. Canon 4D(1) of the Texas Code of Judicial Conduct states, in relevant part: "A judge shall refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judicial duties, exploit his or her judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves."

CONCLUSION

The Commission concludes from the facts and evidence before it that through his efforts to assist his wife, Beverly McClure's company, Guardianship Services, Inc., obtain an exclusive contract with Denton County to provide services to the Denton County Probate Court, which efforts included a letter of recommendation from the Denton County Probate Court, and through the numerous court appointments given to Rick Woolfolk, a friend and business partner who owed him money, Judge Windle lent

the prestige of judicial office to advance his own private interests and the private interests of McClure and Woolfolk, and conveyed the impression that McClure and Woolfolk were in special positions to influence him, in violation of Canon 2B of the Texas Code of Judicial Conduct. Furthermore, Judge Windle's business relationships with McClure and Woolfolk reflected adversely on the judge's impartiality and involved the judge in frequent transactions with persons likely to come before the court, in violation of Canon 4D(1) of the Texas Code of Judicial Conduct. As a result of the judge's actions, the *Dallas Morning News* published an article raising serious questions about the judge's impartiality, integrity, and independence and casting public discredit upon the judiciary and administration of justice in Denton County. In reaching this conclusion, the Commission also notes that Judge Windle provided false and misleading information to the Commission in his sworn written responses to the Commission's initial inquiry. Judge Windle's lack of candor to the Commission proved to be an aggravating factor in reaching a final decision in this case.

In condemnation of the conduct described above that violated Canon 2A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Don Windle, Judge of the County Probate Court in Denton, Denton County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC REPRIMAND** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 31st day of August, 2006.

ORIGINAL SIGNED BY

Honorable Monica A. Gonzalez, Chair
State Commission on Judicial Conduct