

HAWAII

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the Establishment of the

HAWAII SUPREME COURT'S COMMISSION ON PROFESSIONALISM

ORDER ESTABLISHING THE HAWAII SUPREME COURT'S COMMISSION ON PROFESSIONALISM

(By: Moon, C. J., for the court)

WHEREAS, in August 1996, the Conference of Chief Justices (CCJ) passed a resolution calling for a national study and action plan regarding lawyer conduct and professionalism, wherein the CCJ noted a significant decline in professionalism in the bar and a consequent drop in the public's confidence in the profession and the justice system in general and concluded that a strong coordinated effort by the state supreme courts to enhance their oversight of the profession was needed; and

WHEREAS, in March 1999, the CCJ's January 1999 National Action Plan on Lawyer Conduct and Professionalism was published and disseminated to chief justices, lawyer disciplinary agencies, and state bar associations throughout the United States; and

WHEREAS, the National Action Plan sets forth programs, initiatives, and recommendations designed to increase the efficacy of the state supreme courts' exercise of their inherent regulatory authority over the legal profession; and

WHEREAS, on August 2, 2001, the CCJ adopted the strategies for implementing the National Action Plan formulated by the American Bar Association in its report, entitled the Role of the Court in Improving lawyer Conduct and Professionalism: Initiating Action, Coordinating Efforts and Maintaining Momentum; and

WHEREAS, the Hawaii Supreme Court's Committee to Formulate Strategies for Implementing the Conference of Chief Justices' National Action Plan on lawyer Conduct and Professionalism (National Action Plan Committee), charged with the task of reviewing the National Action Plan and Making recommendations to the supreme court, issued its final report on May 24, 2004.

NOW, THEREFORE, upon the recommendation of the National Action Plan Committee,

IT IS HEREBY ORDERED that:

(1) The Hawaii Supreme Court's Commission on Professionalism is hereby established.

(2) The commission is charged with enhancing professionalism among Hawaii's lawyers. The Commission's major responsibilities shall be to:

(a) develop strategies and recommendations to implement the National Action Plan initiatives, including the ABA's accompanying plan, as prioritized;

- (b) identify barriers to implementation;
- (c) identify action steps to overcome barriers;
- and
- (d) propose a post-implementation evaluation process.

(3) The Chair of the Commission shall be the Chief Justice or the Chief Justice's designee. Commission members shall be appointed by the Chief Justice, upon a concurrence of a majority of the justices of the supreme court. In addition to the Chair, the Commission shall be comprised of a total of nineteen (19) members that reflect racial, ethnic, gender, and geographic diversity and as prescribed below:

(a) Judges.

- (i) Four (4) incumbent Hawaii trial court judges chosen from the First, Second, Third, and/or Fifth Judicial Circuits;
- (ii) Two (2) incumbent judges chosen from the Hawaii Supreme Court or the Intermediate Court of Appeals or both; and
- (iii) One (1) incumbent judge chosen from the United States District Court for the District of Hawaii or the United States Court of Appeals for the Ninth Circuit.

(b) Practicing Lawyers. Four (4) practicing lawyers who are members of the Hawaii State Bar Association, chosen from a list of ten (10) nominees recommended by the Board of Directors of the Hawaii State bar Association.

(c) Law School Faculty. One (1) law school faculty member who is a full-time faculty member from the University of Hawaii Richardson School of Law, chosen from a list of three (3) nominees recommended by the dean of the law school.

(d) Attorney Regulatory Entities. One representative each from (i) the disciplinary Board of the Hawaii Supreme Court, (ii) the Lawyers' Fund for Client Protection, (iii) the Attorneys and Judges Assistance Program, and (iv) the Board of bar Examiners, chosen from a list of three (3) nominees recommended by the board and/or trustees of each respective entity.

(e) Public Members. Three (3) non-lawyer citizens active in public affairs.

(4) With the exception of the Chair of the Commission, the members of the Commission shall serve for a term of four (4) years provided, however, in the discretion of the chief justice, the initial appointments may be for a term of less than four (4) years so as to accomplish staggered terms for the membership of the Commission. A Commissioner may be appointed for additional terms.

(5) A Commissioner who no longer meets the qualifications of this rule shall be deemed to have completed the Commissioner's term and Commissioner's office shall be deemed vacant. Any vacancy on the Commission shall be filled by the chief justice, upon the concurrence of a majority of the justices of the supreme court, for the unexpired term.

(6) The Commission shall serve in an advisory capacity only, shall give continuing consideration to the enhancement of professionalism in the practice of law, and shall make reports and/or recommendations to the supreme court, annually, regarding implementation of the National Action Plan and any other relevant information regarding the work of the Commission.

(7) Commission members shall not receive compensation for their services, but may be reimbursed for travel and other expenses that are incidental to the performance of their duties.

(8) The Commission shall have no authority to impose discipline upon any members of the Hawaii State Bar or to amend, suspend, or modify the Hawaii Rules of

professional Conduct (HRPC). The Commission, however, may, if appropriate, recommend amendments to the HRPC to the supreme court for consideration.

IT IS FURTHER ORDERED, pursuant to the foregoing, that the following individuals are appointed as members of the Commission on Professionalism, effective immediately upon the filing of this order and for the term as specified below:

For a term expiring on March 13, 2007

Hon. Karen Radius, First Judicial Circuit
Hon. Terence Yoshioka, Third Judicial Circuit
Hon. Daniel Foley, Appellate Court
Hon. Susan Oki Mollway, federal Court
Susan Arnett, HSBA
Terence O'Toole, HSBA
Carol Muranka, Lawyers Fund for Client Protection
Steven Dixon, Attorneys & Judges Assistance Program
Wesley Park, Public member

For a term expiring on March 13, 2009

Hon. Joseph Cardoza, Second Judicial Circuit
Hon. Trudy Senda, Fifth Judicial Circuit
Hon. Steven Levinson, Appellate Court
Calvin Young, HSBA
Michael Nauyokas, HSBA
Carol Mon Lee, Richardson School of Law
Carole Richelieu, ODC
Grace Nihei Kido, Board of Bar Examiners
Petra Bray, Public member
Nathan Nikaido, Public member

IT IS FINALLY ORDERED that the HONORABLE JAMES E. DUFFY JR., is appointed as the Chief Justice's designee and shall serve as Chair of the Commission.

DATED: Honolulu, Hawaii, March 14, 2005.