

STATE OF MINNESOTA

IN SUPREME COURT

File No. _____

Inquiry into the Conduct of the Honorable
Alan F. Pendleton

**FORMAL COMPLAINT OF BOARD
ON JUDICIAL STANDARDS**

On July 9, 2014, the Board on Judicial Standards (“Board”) received information concerning Judge Alan F. Pendleton. The Board conducted an investigation which included a meeting with Judge Pendleton on August 15, 2014. On September 26, 2014, the Board reviewed the results of the investigation and determined that there is reasonable cause to believe that Judge Pendleton committed misconduct as set forth below and that it is necessary to issue a Formal Complaint pursuant to Board Rules 6(f)(5)(iv) and 8.

Board Rule 8(a)(3) requires that Judge Pendleton serve a written response to this complaint within 20 days after service of the complaint.

FACTUAL ALLEGATIONS

The Board alleges:

1. Judge Pendleton was licensed to practice law in Minnesota in 1980. He was appointed to the Tenth Judicial District bench in 1999 and has served continuously as a judge since his appointment. He is currently chambered in Anoka County.

2. The Minnesota Constitution provides: “Each judge of the district court in any district shall be a resident of that district at the time of his selection and during his continuance in office.” Minn. Const., Art. VI, Sec. 4. In 2011, the Supreme Court suspended a judge for residing outside her district and for failing to be candid and honest. *In re Karasov*, 805 N.W.2d 255 (Minn. 2011). The Court stated: “By this sanction, we convey our lack of tolerance for a judge’s failure to comply with her constitutional obligations and for a judge’s failure to act in a candid and honest manner when responding to the Board.” *Id.* at 277.

3. At all times relevant, Judge Pendleton was aware both of the requirement in the Minnesota Constitution that a judge reside within his district and of the *Karasov* opinion.

4. From July 2012 until November 27, 2013, Judge Pendleton owned a condominium in the Tenth Judicial District located at 2200 2nd Ave. N. # 205, Anoka, Minnesota (“the condo”). From approximately 2010 through the present, Judge Pendleton’s wife has owned and resided in a single family home in Minnetonka in Hennepin County, which is not within the Tenth Judicial District. Judge Pendleton states that he and his wife have always

maintained separate residences and that during the period of time he owned the condo, he spent weekends at his wife's Minnetonka residence and stayed at the condo during the work week.

5. Judge Pendleton hired a real estate agent to sell the condo and the condo was put on the market on October 4, 2013. Judge Pendleton entered into a purchase agreement with a buyer on or about October 30, 2013. The closing and sale of the condo took place on November 27, 2013. After November 27, 2013, Judge Pendleton retained no legal interest in the condo. Judge Pendleton states that the last night he spent in the condo was November 25, 2013. On November 26, 2013, Judge Pendleton moved to his wife's Minnetonka residence.

6. Judge Pendleton rented an apartment in Anoka County beginning August 1, 2014.

7. From November 26, 2013 through July 31, 2014, Judge Pendleton resided at the Minnetonka residence and did not maintain a residence in the Tenth Judicial District. During this period, Judge Pendleton did not have a place to live in the Tenth Judicial District and did not stay overnight in the Tenth Judicial District.

8. Judge Pendleton is a candidate for re-election to judicial office in the 2014 election. On May 22, 2014, Judge Pendleton filed an Affidavit of Candidacy with the Minnesota Secretary of State. The Affidavit of Candidacy is attached hereto as Exhibit A. The Affidavit includes blanks where the candidate may insert his "Residence Address." The Residence Address portion of the Affidavit is not submitted under oath. On that portion of the Affidavit, Judge Pendleton listed as his residence address 2200 2nd Ave. N. #205, Anoka, Minnesota. This address is the address of the Anoka condo Judge Pendleton sold on November 27, 2013.

9. Judge Pendleton knowingly made a false statement by listing the address of the Anoka condo as his Residence Address in his May 22, 2014 Affidavit of Candidacy. Judge Pendleton made this false statement for the purpose of concealing the fact that he was living outside his judicial district. From May 22, 2014, through the present, Judge Pendleton's Affidavit of Candidacy has been available to the public at the office of the Secretary of State, and the candidate filings section of the Secretary of State's website lists the Anoka condo address as Judge Pendleton's residence address.

CHARGES

Based upon the foregoing facts, the Board alleges:

1. Judge Pendleton's failure to reside in the Tenth Judicial District from November 26, 2013 through July 31, 2014 violated Rules 1.1, 1.2, and 2.1 of the Code of Judicial Conduct, Article VI, Section 4 of the Minnesota Constitution, and the holding in *In re Karasov*, 805 N.W.2d 255 (Minn. 2011).

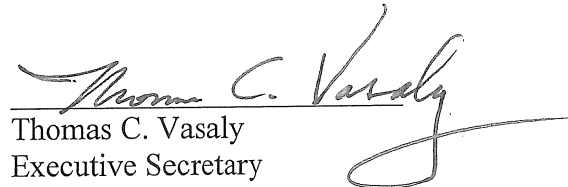
2. Judge Pendleton's knowingly false statement of his Residence Address in his Affidavit of Candidacy violated Rules 1.1, 1.2, and 4.1(a)(9) of the Code of Judicial Conduct.

WHEREFORE, the Board requests that the Supreme Court appoint a panel to conduct a hearing in this matter pursuant to Board Rule 8 and that the Court impose such sanctions as are just and proper.

MINNESOTA BOARD ON JUDICIAL
STANDARDS

Dated: October 7, 2014

By:


Thomas C. Vasaly
Executive Secretary

2025 Centre Pointe Boulevard, Suite 180
Mendota Heights, MN 55120
(651) 296-3999

609706



Office of the Minnesota Secretary of State
AFFIDAVIT OF CANDIDACY

Filing #	19
Cash/Check #	1260
Amount \$	300

Instructions

All information on this form is available to the public. Information provided will be published on the Secretary of State's website. If filing for partisan office and not a major party candidate, you must file both an affidavit of candidacy and a nominating petition. (Minn. Stat. 204B.03)

Candidate Information

Name and Office: Mon. Alan F. Pendleton

Candidate Name (as it will appear on the ballot): Mon. Alan F. Pendleton

Office Sought: 10th Judicial District Court Judge #36 District #: 10th

For Partisan Office, Provide Political Party or Principle: N/A

For Judicial Office, Provide Name of Incumbent: Mon. Alan F. Pendleton

Residence Address

Do not complete if residence address is to be private and checkbox below is marked. All address and contact information is optional for federal, judicial, county attorney, and county sheriff office candidates.

Street Address: 2200 2nd Ave N #205

City: Anoka State: MN Zip Code: 55303

My residence address is to be classified as private data. I certify a police report has been submitted, or I have an order for protection regarding my safety or my family's safety, and I have attached a separate form listing my residence address.

Campaign Address and Contact

Candidate Phone Number (Required): 763-998-1508

Campaign Contact Address (Required for those who have checked the box above):

Street Address: N/A

City: _____ State: _____ Zip Code: _____

Website: _____ Email: _____

Affirmation

For all offices, I swear (or affirm) that this is my true name or the name by which I am generally known in the community.

If filing for a state or local office, I also swear (or affirm) that:

- I am eligible to vote in Minnesota;
- I have not filed for the same or any other office at the upcoming primary or general election (except as provided in M.S. 204B.06, subd. 1 (2));
- I am, or will be on assuming office, 21 years of age or more;
- I will have maintained residence in this district for at least 30 days before the general election; and
- If a major political party candidate, I either participated in the party's most recent precinct caucuses or intend to vote for a majority of that party's candidates at the next general election.

If filing for one of the following offices, I also swear (or affirm) that I meet the requirements listed below:

- United States Senator - I will be an inhabitant of this state when elected and I will be at least 30 years old and a citizen of the United States for not less than nine years on the next January 3rd, or if filled at special election, within 21 days after the election.
- United States Representative - I will be an inhabitant of this state when elected and I will be at least 25 years old and a citizen of the United States for not less than seven years on the next January 3rd, or if filled at special election, within 21 days after the election.
- Governor or Lieutenant Governor - I will be at least 25 years old on the first Monday of the next January and a resident of Minnesota for not less than one year on election day. I am filing jointly with 021538
- Supreme Court Justice, Court of Appeals Judge, District Court Judge, or County Attorney - I am learned in the law and licensed to practice law in Minnesota. My Minnesota attorney license number is 021538 and a copy of my license is attached.
- State Senator or State Representative - I will be a resident of Minnesota not less than one year and of this district for six months on the day of the general or special election.
- County Sheriff - I am a licensed peace officer in Minnesota. My Board of Peace Officer Standards and Training license number is _____ and a copy of my license is attached.
- School Board Member - I have not been convicted of an offense for which registration is required under Minn. Stat. 243.166.
- County, Municipal, School District, or Special District Office - I meet any other qualifications for that office prescribed by law.

Candidate Signature: Alan F. Pendleton Date: 5-22-14

Subscribed and sworn to before me this 22 day of May 2014

Notary public or other officer empowered to take and certify acknowledgement

Cynthia D. Reichert
Notary Public
Minnesota
My Commission Expires January 31, 2016
(Notary Stamp)