SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

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COURT JUDGMENT - GENERAL

COMMISSION ON JUDICIAL PERFORMANCE VS. ELAINE M. HOWLE ET AL

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

COMMISSION ON JUDICIAL PERFORMANCE,

Petitioner/Plaintiff,

v.

ELAINE M. HOWLE, in her official capacity as CALIFORNIA STATE AUDITOR, and the CALIFORNIA STATE AUDITOR'S OFFICE,

Respondents/Defendants.

Case No. CPF-16-515308

[PROPOSED] JUDGMENT

Exempt from Filing Fees Pursuant to Government Code 6103

Department 504
Honorable Suzanne Bolanos
Action Filed: October 20, 2016

[~~PROPOSED~~] JUDGMENT

The Court having reviewed the pleadings, declarations, evidentiary exhibits, and other papers submitted by counsel, heard the oral arguments of counsel, reviewed the record again in light of those arguments; the matter having been submitted for decision; and the Court having issued the Order Granting Petition for Writ of Mandate, or in the Alternative, Complaint for Declaratory and Injunctive Relief that judgment and a peremptory writ of mandate issue in this proceeding, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

For the reasons stated in the Court's Statement of Decision, the Petition for Writ of Mandate, or in the Alternative, Complaint for Declaratory and Injunctive Relief is GRANTED IN ITS ENTIRETY.

1. JUDGMENT IS ENTERED in favor of Petitioner the Commission on Judicial Performance on each of Petitioner's causes of actions.
2. A peremptory writ of mandate directed to Respondents shall issue under the seal of this Court ordering that:
    a. Respondents Elaine M. Howle, in her official capacity as California State Auditor, and the California State Auditor's Office shall not seek any records from Petitioner Commission on Judicial Performance which are confidential pursuant to Commission on Judicial Performance Rule 102.
    b. Respondents Elaine M. Howle, in her official capacity as California State Auditor, and the California State Auditor's Office shall not conduct any inquiry into topics 2, 5, or 12 listed in the August 10, 2016 Analysis of Audit Request by the State Auditor to the extent such inquiry involves reweighing evidence or second-guessing the propriety of Commission on Judicial Performance's determinations in individual matters presented to it.
3. The Court issues the following declaratory relief:
    a. The Court finds and declares that the State Auditor has no legal authority to review any document in the possession of the CJP made confidential by CJP

Rule 102;

b. The Court finds and declares that Government Code section 8545.2 violates Article VI section 18, subdivision (i)(1) of the California Constitution to the extent it purports to override CJP Rule 102;

c. The Court finds and declares that the CJP and its agents have no legal obligation to provide any materials to the State Auditor which are confidential under CJP Rule 102;

d. The Court finds and declares that the State Auditor may not lawfully conduct audit topics 2, 5, or 12 to the extent such topics involve "reweighing evidence or second-guessing the propriety of CJP's determinations based on the facts presented to it"; and

e. The Court finds and declares that the State Auditor has no legal authority to charge the CJP for the cost of any audit it conducts of the CJP.

4. Petitioner is the prevailing party and shall be awarded its costs.

Dated: 12/20, 2017

HON. SUZANNE BOLANOS
Judge of the Superior Court