FILED
MAR 2 3 2011
A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2009-050

IN THE MATTER OF SETH I. DAVENPORT, FORMER JUDGE OF THE MUNICIPAL COURT	FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of former Municipal Court Judge Seth I. Davenport ("Respondent"), says:

1. Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1984.

2. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Court of Montville Township, a position he no longer holds.

COUNT I

3. Between approximately January 2003 and at least December 2004, Respondent, in his capacity as an attorney and while he was the Municipal Court Judge of Montville Township, represented John Rosellini, the then Mayor of Montville Township, in various personal legal matters, including but not limited to, a Trust and Estate matter involving Mr. Rosellini's parents and Mr. Rosellini as Trustee and Executor (*John F. Rossellini, Sr. Trust* and the *Estate of Olympia Rosellini*), the sale of real estate by and between Mr. Rosellini and several third parties (*e.g.* sale of property located at 323 Changebridge Road, Pine Brook, New Jersey and the sale of property located at 1707 Bay Boulevard, Lavallette, New Jersey), the financing of property

owned by Mr. Rosellini (*i.e.* mortgage loan held by Wheeler Municipal Corporation on Mr. Rosellini's property located at 101 Coleman Lane, Lavallette, New Jersey and its subsequent satisfaction in August 2004), and lease negotiations between Mr. Rosellini and a limited liability company seeking to lease space in a property owned by Mr. Rosellini for use as a daycare facility.

4. Respondent admitted during an interview with staff to the Advisory Committee on Judicial Conduct on October 5, 2010 that his conduct in representing Mr. Rosellini while Mr. Rosellini was the Mayor of Montville Township and Respondent was the Municipal Court Judge in Montville Township was "improper."

5. By acting as counsel for Mr. Rosellini in various personal legal matters while Mr. Rosellini served as the Mayor of Montville Township and Respondent served as the Municipal Court Judge for Montville Township, Respondent violated Rule 1:15-1(b) of the New Jersey Rules of Court.

6. By engaging in such conduct in violation of Rule 1:15-1(b), Respondent has failed to observe the high standards of conduct expected of judges, has undermined the integrity of the Judiciary, and has engaged in improper conduct in violation of Canons 1 and 2A of the Code of Judicial Conduct.

COUNT II

7. Complainant repeats the allegations contained in the foregoing paragraphs as if each were set forth fully and at length herein.

8. On or about December 14, 2004, a complaint was filed in the Morris County Superior Court, Law Division, in the matter of South Salem Street Assoc. et al. v. The Planning Board of Montville, et al., Docket No. L-3369-04. The Planning Board of Montville Township and Montville Township (the "Defendants") are the defendants in the South Salem Street Assoc. matter.

9. On or about October 27, 2006, Respondent executed a certification (the "Certification") in the South Salem Street Assoc. matter, of which he was not a party, on behalf of the Defendants.

10. In the Certification, Respondent states that after he was appointed to the Municipal Court in Montville Township, he "completely ceased" his "representation of John Rosellini."

11. Thereafter, while being interviewed by staff to the Advisory Committee on Judicial Conduct on October 5, 2010, Respondent admitted that the statement in his Certification regarding his termination of his representation of John Rosellini was "incorrect."

12. By his lack of candor while certifying to the Morris County Superior Court in the South Salem Street Assoc. matter, Respondent impugned the integrity of the Judiciary and exhibited poor judgment. Such conduct undermines public confidence in the integrity of the Judiciary and violates Canons 1 and 2A of the Code of Judicial Conduct.

WHEREFORE, Complainant charges that Respondent, former Municipal Court Judge Seth I. Davenport, has violated the following Canons of the Code of Judicial Conduct:

Canon 1, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved; and

Canon 2A, which requires judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Complainant also charges that Respondent's conduct was in violation of Rule 1:15-1(b) of the New Jersey Court Rules.

DATED: March 23, 2011

Candace Moody, Disciplinary Counsel
ADVISORY COMMITTEE ON JUDICIAL CONDUCT
Richard J. Hughes Justice Complex
25 Market Street
P. O. Box 037
Trenton, NJ 08625
(609) 292-2552