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A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2006-026

IN THE MATTER OF SURROGATE DONALD W. DE LEO	FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Surrogate Donald W. De Leo ("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 1967.

2. At all times relevant to these matters, Respondent served as Surrogate in Hudson County.

COUNT I

3. On or about February 28, 1997, Respondent prepared the Last Will and Testament (the "Will"), Living Will and Limited Power of Attorney for Health Care Purposes of Abraham Kohl, a Hudson County resident.

4. The Will was executed by Abraham Kohl (the "decedent") on May 29, 1997. The Will revoked an earlier Will of the decedent executed in 1995, which resulted in the disinheritance of the decedent's daughter Faye DeRosa, a renaming of the decedent's son Seth Kohl as a successor beneficiary only, and a renaming of the decedent's sister Mae K. Savage as the sole beneficiary.

5. At least as of the time the Will was prepared by Respondent and executed by decedent, Ms. Savage was a neighbor of Respondent.

6. By preparing the Will, Living Will and Limited Power of Attorney for Health Care Purposes of the decedent while also serving as a surrogate, Respondent violated Rule 1:15-1(c), Canons 1 and 2A of the Code of Judicial Conduct and engaged in misconduct in violation of Rule 2:15-8(a)(1).

COUNT II

7. Complainant repeats the allegations contained in Count I of this complaint as if they were set forth fully and at length herein.

8. On November 26, 2003, Respondent, acting in his capacity as Surrogate of Hudson County, signed the letters testamentary to permit Ms. Savage to serve as executrix of the Will.

9. Also on November 26, 2003, Respondent, acting in his capacity as Surrogate of Hudson County, admitted the Will to probate.

10. By signing the letters testamentary and presiding over the probate of the decedent's Will, which Will Respondent had also prepared, Respondent engaged in a conflict of interest in violation of Canons 3C(1) and 5(A)(1) of the Code of Judicial Conduct and in conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(6).

WHEREFORE,.Complainant charges that Respondent, Surrogate Donald W. De Leo, 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;

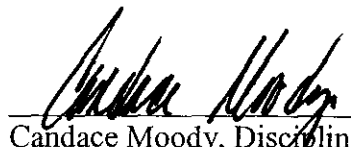
Canon 2A, which requires judges to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

Canon 3C(1), which requires judges to disqualify themselves in proceedings in which their impartiality might reasonably be questioned; and

Canon 5(A)(1), which requires judges to conduct all of their extra-judicial activities in a manner so as to avoid the casting of reasonable doubt as to the judge's capacity to act impartially as a judge.

Complainant also charges that Respondent has violated Rule 1:15-1(c) and engaged in misconduct and conduct prejudicial to the administration of justice that brings the judicial office into disrepute, in violation of Rule 2:15-8(a)(1) and (a)(6).

DATED: December 11, 2006



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