**FILED**

OCT 27 2008

A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2008-223

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| IN THE MATTER OF<br><br>PETER M. TOURISON,<br>JUDGE OF THE MUNICIPAL COURT | FORMAL COMPLAINT |

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge Peter M. Tourison ("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 1976.

2. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Courts of the City of Cape May, Borough of Stone Harbor, and Middle Township.

3. At approximately 10:58 p.m. on March 27, 2008, Respondent was operating his vehicle on Bayshore Road in Lower Township, Cape May County, when the Lower Township Police Department received a report of a motor vehicle, a blue or black BMW, traveling in the wrong lane on Bayshore Road. Patrolman McEwing and Supervising Officer Sanders of the Lower Township Police Department were dispatched to the area.

4. While enroute to the area, Patrolman McEwing was advised that the BMW may have struck another vehicle in the North Cape May Wawa parking lot.

5. Upon arriving at the North Cape May Wawa, Patrolman McEwing observed a black BMW parked next to a white Ford Explorer. As he approached the vehicles, Patrolman McEwing was informed by a witness that the BMW had earlier pulled out of the parking lot of C.J.'s Bar and Grille and crossed over the center line into opposing traffic. The witness was forced to swerve his vehicle onto the shoulder of the roadway to avoid colliding with the BMW. The witness made a u-turn and followed the BMW into the North Cape May Wawa parking lot where he observed the BMW strike the white Ford Explorer which was parked in an adjoining space.

6. Patrolman McEwing observed some markings on the Ford Explorer's driver's side rear tire, as well as debris on the ground from the broken lens cover of the parking light of the BMW.

7. While Patrolman McEwing was speaking to the witness, Officer Sanders spoke with the driver of the BMW, later identified as Respondent. Respondent provided Officer Sanders with his license, insurance card and registration.

8. Patrolman McEwing approached Respondent's vehicle and asked Respondent if he had been drinking. Respondent replied: "Yes." Patrolman McEwing asked Respondent how much he had to drink, to which Respondent replied: "Two drinks." Patrolman McEwing detected an order of alcohol emanating from Respondent's breath.

9. Patrolman McEwing conducted several field sobriety tests on Respondent, most of which Respondent failed.

10. Having failed the field sobriety tests, Patrolman McEwing placed Respondent under arrest and charged him with Driving While Intoxicated ("DWI") in violation of N.J.S.A. 39:4-50, and Careless Driving in violation of N.J.S.A. 39:4-97. Respondent was transported to the Lower Township Police Station for processing.

11. While being processed at the police station, Respondent, on two occasions, attempted to apply chapstick to his lips. After the first occasion, Patrolman McEwing took the chapstick from Respondent and advised him that he was not permitted to put anything near or around his mouth. As Patrolman McEwing turned his head for a brief period of time, Respondent took out another tube of chapstick. Patrolman McEwing again took the chapstick from Respondent and advised him once again that he was not allowed to apply anything to his lips or mouth area, to which Respondent replied: "Ok."

12. Corporal Macomber of the Lower Township Police Department was assigned to administer the Alcotest on Respondent. He waited twenty minutes after Respondent had applied the chapstick to begin the test. When he was about to read the New Jersey Motor Vehicle Commission Standard Statement for Operators of a Motor Vehicle to Respondent, Corporal Macomber observed that Respondent had something in his mouth. Corporal Macomber asked Respondent what was in his mouth to which Respondent replied: "a penny." Corporal Macomber asked Respondent to remove the penny from his mouth, which Respondent did, and then he had Respondent empty his pockets.

13. After waiting an additional twenty minutes, Respondent consented to and was administered the Alcotest by Corporal Macomber. According to the results of the Alcotest, Respondent's blood alcohol level on the evening of his arrest was 0.08.

14. On June 25, 2008, Respondent pled guilty to a charge of DWI before Judge David E. Krell, P.J.M.C. in the Penns Grove Municipal Court. The Prosecutor recommended the dismissal of the careless driving charge.

15. As a result of his guilty plea, Respondent received a fine of $400, plus costs, a $50 Violent Crimes assessment, a $200 DWI surcharge, and a $75 Safe Neighborhood assessment. Respondent's driving privileges were revoked for 90 days and he was ordered to complete 12 hours at the Intoxicated Drivers Resource Center.

16. Respondent's conduct, as enumerated in the preceding paragraphs, impugned the integrity and impartiality of the judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct and demeaned the judicial office in violation of Canon 5A(2). Respondent's actions also constituted misconduct in office 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 Rule 2:15-8(a)(6).

WHEREFORE, Complainant charges that Respondent, Municipal Court Judge Peter M. Tourison, has violated the following Canons of the Code of Judicial Conduct:

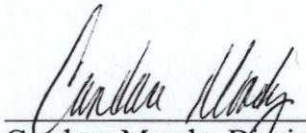
Canon 1, which requires judges to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved;

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 5A(2), which requires judges to conduct all of their extra-judicial activities so that they do not demean the judicial office; and

Complainant also charges that Respondent's conduct was in violation of Rule 2:15-8(a)(1)(6) of the New Jersey Court Rules.

DATED: October 27, 2008



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