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MAY 19 2011
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SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2009-301

IN THE MATTER OF HAROLD P. COOK, III JUDGE OF THE MUNICIPAL COURT	FORMAL COMPLAINT

Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), complaining of Municipal Court Judge Harold P. Cook, III ("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 1980.

2. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Courts of the Boroughs of North Haledon, Haledon, Ringwood and Wanaque in Passaic County, New Jersey. As of the filing of this Formal Complaint, Respondent continues in his capacity as the municipal court judge in these municipalities.

   a. Respondent has served as the municipal court judge in North Haledon since 1988;

   b. Respondent has served as the municipal court judge in the Boroughs of Ringwood and Wanaque since 1991; and

   c. Respondent has served as the municipal court judge in the Borough of Haledon since 2000.

3. At all times relevant to this matter, Respondent also served as counsel to the Wyckoff Zoning Board and the Elmwood Park Planning Board. As of the filing of this Formal Complaint, Respondent continues to serve as counsel to these municipal Boards.

4. Until November 2010, Respondent was also a member of the law firm of Perconti & Cook, LLC, located at 886 Belmont Avenue, in North Haledon, New Jersey.

5. In or around November 2010, Respondent and his law partner, Joseph Perconti, dissolved the law firm, after which Respondent started his own law practice with several former associates from Perconti & Cook, LLC.

6. Respondent also has an interest in or is affiliated with over forty limited liability companies in New Jersey, for which, in many instances, either he or his business partner are listed as the Registered Agent.

7. Upon information and belief, a majority of the limited liability companies in which Respondent either has an interest or with which Respondent is affiliated are in the business of purchasing, developing and/or selling real estate located in New Jersey and New York.

8. Additionally, Respondent is the President, Registered Agent and majority shareholder of Jefferson Loan Company, Inc. ("Jefferson Loan"), which, until approximately 2006, was in the business of lending money, primarily in the form of automobile and small consumer loans.

a. In or around December 2006, Jefferson Loan became insolvent and was forced to liquidate.

b. Upon information and belief, Jefferson Loan continues to operate post-liquidation; however, the company's business is limited to collecting on outstanding loans.

Count I

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

10. Respondent has been sued both personally and in his capacity as a member of more than forty limited liability companies in approximately *forty-three* cases in the Superior Court of New Jersey.

11. In many of these lawsuits, either Respondent or an associate of Respondent's law firm represents both Respondent's interests and that of the limited liability company at issue.

12. The allegations against Respondent in these various lawsuits include, but are not limited to, breach of fiduciary duty to investors, fraudulent transfer of real property, fraudulent concealment of the financial health of various entities with which Respondent was/is intrinsically involved, legal malpractice, fraudulent concealment of fraud by third-parties, failure to obtain informed consent from investors, securities fraud, and default on promissory notes and personal guarantees in the aggregate sum of more than $20 million.

13. A significant portion of these lawsuits concern defaults by the limited liability companies in which Respondent has an interest on promissory notes executed by and between those limited liability companies and various financial institutions, which were personally guaranteed by Respondent.

14. In at least one lawsuit, Sachs v. Jefferson Loan Company, Harold P. Cook, III, et al., Docket No. A-5744-08T3, HUD-L-1414-07, Respondent has been found to have breached his fiduciary duty to Jefferson Loan's debenture holders. The Hudson County Superior Court awarded Plaintiffs $99,400.00 in damages. Respondent has filed an appeal in this matter.

15. Several of Respondent's creditors have been awarded final monetary judgments against him personally in the aggregate sum of $2,707,661.36. In an effort to collect on these judgments, certain of Respondent's judgment creditors have sought and obtained wage execution orders directed at Respondent's wages as a municipal court judge. Currently, Respondent's municipal court wages in all four of the municipalities in which he sits are being garnished to satisfy these judgments.

16. In the midst of these multiple litigations, Respondent has improperly transferred his real property to either family or other limited liability companies in an apparent effort to avoid his judgment creditors.

17. Respondent transferred his real property in Beach Haven, New Jersey on two separate occasions, the second of which occurred while a lawsuit was pending against him to void the initial transfer. The Superior Court vacated those transfers, finding in at least one instance that the transfer was fraudulent (Kleinert v. Harold P. Cook, III, et. al, OCN-C-7-11). Specifically:

a. Kleinert v. Harold P. Cook, III, et al., BER-C-274-10: Plaintiff alleged that he had a monetary claim against Respondent for $355,000, and that Respondent deliberately and fraudulently transferred certain of his real estate interests, including his personal residence in Beach Haven, New Jersey and his office property, to his wife and several limited liability companies in consideration for $1.00 per property. Plaintiff alleged these transfers were made with the actual intent to hinder Plaintiff from collecting the monies owed to him by Respondent. By Order dated October 4, 2010, the Bergen County Superior Court effectively reversed Respondent's transfers of his real property and found them susceptible to any judgment levy and execution obtained by Plaintiff against Respondent.

b. Kleinert v. Harold P. Cook, III, et. al, OCN-C-7-11: This matter involved the same Plaintiff as in the Bergen County case (BER-C-274-10). While the Bergen County case was pending, Respondent drew and recorded a deed to further transfer his personal residence in Beach Haven from his wife to his wife and daughter. Upon learning of this additional transfer, Plaintiff was forced to file a complaint in Ocean County to void the transfer

of the Beach Haven property once again. By Order dated April 15, 2011, the Ocean County Superior Court granted summary judgment in favor of Plaintiff and voided the further transfer of the Beach Haven property from Respondent's wife to Respondent's wife and daughter, finding it "of no force or effect . . . as to the Plaintiff . . . ."

18. In an apparently similar effort to avoid his judgment creditors, Respondent has been found, on at least three occasions, to have violated a litigant's rights by failing to respond to information subpoenas served on him by judgment creditors seeking financial information to aid in the collection of their judgments against him.

a. Two of these three violations occurred in the same case, Kleinert v. Harold P. Cook, III, MON-L-2151-10, resulting in the issuance of an Order adjudging Respondent to have waived his rights to a levy upon his personal property before his real property. Plaintiff Kleinert has levied upon Respondent's real property interests and is seeking leave of the Superior Court to sell that property.

b. Respondent was also assessed counsel fees and costs as a result of his violation of litigant's rights in Sachs v. Jefferson Loan Company, et al., HUD-L-1414-07.

19. During the course of these multiple litigations, Respondent has been consistently uncooperative with opposing counsel. He has demonstrated a pattern of failing to return telephone calls, ignoring discovery requests, failing to appear for scheduled depositions and failing to produce discovery that he had previously promised to produce.

20. Respondent has also not reported his involvement in any of these forty-three cases to the Administrative Office of the Courts as he is required to do pursuant to Administrative Directive #4-81.

21. Administrative Directive #4-81 requires judges to report to the Acting Administrative Director of the Courts, with a copy to the Chief Justice of the New Jersey Supreme Court, their "[p]ersonal involvement . . . in any type of litigation" in which the judge is either named personally or is a "party in interest."

22. A reminder of the requirements of Directive #4-81 was issued to all judges on September 26, 1988 by the Acting Administrative Director of the Courts Robert D. Lipscher.

23. Respondent's position as a municipal court judge has been severely compromised by his interests in and affiliations with various limited liability companies, which are the subject of approximately forty-three lawsuits involving Respondent, personally, and which allege, in some cases, fraudulent conduct on the part of Respondent, or which indicate an attempt by Respondent to avoid his judgment creditors. Most disturbingly, Respondent has been found to have breached his fiduciary duties to his investors and to have fraudulently transferred his real property. Respondent's position as a municipal court judge, having been severely and irrevocably impaired by such allegations and judicial determinations, impugns the integrity of the Judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct and demeans the Judicial office in violation of Canon 5A(2).

24. Respondent's position as a municipal court judge has been further compromised by the garnishments against his municipal court wages, which involve taxpayer dollars, to satisfy his personal judgments. Respondent's position as a municipal court judge, having been compromised by such garnishments, impugns the integrity of the Judiciary in violation of Canons 1 and 2A of the Code of Judicial Conduct and demeans the Judicial office in violation of Canon 5A(2).

25. Respondent's failure to report his involvement in these approximately forty-three lawsuits, as required by Directive #4-81, constitutes a violation of the Directive and Canon 3B(1) of the Code of Judicial Conduct, which requires judges to "diligently discharge the administrative responsibilities of the office . . . ." Such conduct also violates Canons 1 and 2A of the Code of Judicial Conduct.

26. Respondent's conduct in abusing the judicial process by failing to respond to information subpoenas, ignoring discovery requests, failing to appear for scheduled depositions and making false promises to produce documents, and by grossly obfuscating the civil litigation process, violates Canons 1 and 2A of the Code of Judicial Conduct.

Count II

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

28. On October 17, 2003, April 24, 2004 and May 8, 2004, while Respondent was a municipal court judge, he made three political contributions in the aggregate sum of $1,660.00 to the "Friends of Senator Hank McNamara."

29. In 2004, the law firm of Perconti & Cook, LLC donated $500 to the "Passaic County Regular Republican Organization."

30. Additionally, two of Respondent's limited liability companies, Puddingstone Funding, LLC and Jefferson Loan Company, Inc., of which Respondent was an owner and/or majority shareholder, made political donations while Respondent was a municipal court judge, as follows:

a. In 2006, Puddingstone Funding, LLC made a $1000 donation to Senator John A. Girgenti;

b. On February 1, 2006, Puddingstone Funding, LLC made a $1000 donation to Senator Paul Sarlo;

c. On February 13, 2008, Puddingstone Funding, LLC made a $500 donation to Patrick J. Botbyl, Mayor of Hawthorne;

d. On May 2, 2009, Puddingstone Funding made a $500 donation to Senator John A. Girgenti; and

e. On April 12, 2000, Jefferson Loan Company, Inc. made a $500 donation to William Gervens, Passaic County Freeholder.

31. Respondent's political contributions to the "Friends of Senator Hank McNamara," as well as the political contributions made by his law firm, Perconti & Cook, LLC, and by two of his business concerns – Puddingstone Funding, LLC and Jefferson Loan Company, Inc. -- violate Canon 7A(4) of the Code of Judicial Conduct, which prohibits a judge from making contributions to political organizations or candidates.

Count III

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

33. On multiple occasions during a three year period between 2008 and 2010, Respondent's law firm, Perconti & Cook, LLC, represented Paterson police officers in civil and criminal matters involving the officers' conduct in their official capacities, while Respondent served as a municipal court judge in the same County.

34. The City of Paterson is located in Passaic County, which is the same County in which Respondent sits as a municipal court judge.

35. Respondent's firm's representation of these Paterson police officers was arranged by and through Corporation Counsel for the City of Paterson and memorialized in multiple Resolutions of the City of Paterson, which were adopted by the Municipal Council of the City of Paterson.

36. The representation of Paterson police officers by Respondent's firm while Respondent was a municipal court judge in several municipal courts in the same County violated Rule 1:15-1(b) and Rule 1:15-4 (a) and (b) of the New Jersey Rules of Court.

37. By engaging in such conduct in violation of Rule 1:15-1(b) and Rule 1:15-4(a) and (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.

WHEREFORE, Complainant charges that Respondent, Municipal Court Judge Harold P. Cook, III, 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 3B(1), which requires judges to diligently discharge the administrative responsibilities of the office and to maintain professional competence in judicial administration;

Canon 5A(2), which requires judges to conduct their extra-judicial activities in a manner that does not demean the judicial office; and

Canon 7A(4), which prohibits a judge from, inter alia, making a contribution to a political organization or candidate.

Complainant also charges that Respondent's conduct in failing to report his involvement in approximately forty-three lawsuits violates Administrative Directive #4-81.

Complainant also charges that Respondent violated Rule 1:15-1(b) and Rule 1:15-4 (a) and (b) when his law firm undertook to represent Paterson police officers in both civil and criminal matters involving conduct in their official capacities.

DATED: May 19, 2011

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