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	:	SUPREME COURT OF NEW JERSEY
	:	ADVISORY COMMITTEE ON
IN THE MATTER OF	:	JUDICIAL CONDUCT
	:	
MELANIE D. APPLEBY	:	DOCKET NO: ACJC 2013-037
JUDGE OF THE SUPERIOR COURT	:	
	:	
	:	ANSWER TO
	:	FORMAL COMPLAINT

Melanie D. Appleby, Judge of the Superior Court (Respondent), by way of Answer to the Formal Complaint, and utilizing the same defined terms as contained therein, hereby says:

COUNT I

1. Respondent admits the allegations of paragraph 1 of the Formal Complaint.
2. Respondent admits the allegations of paragraph 2 of the Formal Complaint.
3. It is admitted that Respondent received a letter dated May 3, 2012 from Donohue. Respondent is without knowledge or information sufficient to form a belief as to the date she received said letter, but reserves the right to supplement this response

upon receipt of discovery. It is denied that Donohue's letter challenged the obligation to "continue to pay" for their son's educational expenses as Donohue had never been paying for the educational expenses of his children. However, it is admitted that the letter related to child support.

4. Respondent admits that she spoke about the Child Support matter with her secretary and that there was a conversation about Respondent's desire to obtain legal representation. Respondent denies that her secretary made a specific recommendation as to any attorney to represent her interests.

5. Respondent admits that she was familiar with Louis as a local family law attorney. Respondent denies the term "secretary's recommendation" in paragraph 5 of the Formal Complaint. Respondent admits that Louis had certain matters filed and pending in the Family Part in Ocean County at the time, but by way of explanation and clarification, Respondent denies that any particular motion, hearing or contested issue was "pending" before Respondent at that date or time.

6. Respondent admits the allegations of paragraph 6 of the Formal Complaint except that Respondent is without knowledge or information sufficient to form a belief as to the date on which Respondent met with Louis. Respondent reserves the right to supplement this answer upon receipt of discovery.

7. Respondent admits that the May 3, 2012 letter was in her possession when she met with Louis but Respondent denies that she considered said meeting with Louis as an "initial consultation".

8. Respondent admits that she and Louis discussed Donohue's letter and the details of her divorce from Donohue as well as the concern for a conflict of interest but Respondent denies that the primary focus of the discussion was Louis' concern with a conflict of interest.

9. Respondent admits the allegations of paragraph 9 of the Formal Complaint.

10. Respondent admits the allegations of paragraph 10 of the Formal Complaint.

11. Respondent admits the allegations of paragraph 11 of the Formal Complaint.

12. Respondent admits that she communicated with Louis through email regarding Child Support matter. At this time, Respondent is without knowledge or information sufficient to form a belief as to whether she communicated with Louis through telephone calls. Respondent reserves the right to supplement or amend her answer to this paragraph upon receipt of discovery.

13. Respondent admits the allegations of paragraph 13 of the Formal Complaint.

14. Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 14 of the Formal Complaint.

15. Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Formal Complaint.

16. Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Formal Complaint.

17. Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Formal Complaint.

18. Respondent admits the allegations of paragraph 18 of the Formal Complaint.

19. Respondent admits the allegations of paragraph 19 of the Formal Complaint.

20. Respondent admits the allegations of the first sentence of paragraph 20. Respondent admits the allegations of the second sentence of paragraph 20 with the clarification that the Respondent, who was a family judge for only eleven months at the time and who had never practiced family law in private practice, neither knew nor recognized the name "Biel" nor realized that it referred to Mark Biel or his law firm.

21. Respondent admits the allegations of paragraph 21 of the Formal Complaint.

22. Respondent admits the allegations of paragraph 22 of the Formal Complaint.

23. Respondent admits that Louis incorporated Respondent's edits into the Final Letter. Respondent admits that a copy of the Final Letter was sent to the Respondent by email. Although Respondent truly believed at that time that the Final Letter was signed by Biel and sent to Donohue by Biel, Respondent is without knowledge or information sufficient to form a belief at this time as to who actually signed and sent the Final Letter to Donohue. Respondent reserves the right to amend this response after receipt and review of discovery.

24. Respondent admits the allegations of paragraph 24 of the Formal Complaint.

25. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 25. Respondent reserves the right to supplement this answer upon receipt of discovery.

26. Respondent admits the allegations of paragraph 26 of the Formal Complaint.

27. Respondent admits the allegations of paragraph 27 of the Formal Complaint but requests the opportunity to offer evidence in explanation and mitigation for her conduct set forth in this paragraph.

28. Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 28.

29. Respondent is without information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 29.

30. Respondent admits that by consulting with Louis about the Child Support matter, providing him with personal information related to the matter, and reviewing and editing the Draft Letter prepared by Louis, Respondent should have known that Louis was representing her in the Child Support matter. Respondent denies that she consciously recognized that Louis was representing her at that time. Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegation that the Final Letter that she received on Biel's stationery with Biel's purported signature was Louis' attempt to conceal the conflict of interest between Respondent and

Louis. Respondent denies that she intentionally facilitated or acquiesced in any such concealment.

31. Respondent denies intentionally demeaning the judicial office and denies knowingly facilitating or consciously acquiescing in Louis' concealment.

32. Respondent admits that her consultation with Louis created a conflict of interest, but denies that there is a reasonable doubt as to her ability to act impartially in the future as a judge nor any potential to interfere with her judicial duties in the future. By way of explanation and mitigation, Respondent asserts that she made no independent findings nor decided any contested issues in any matter involving Louis after she discussed the Child Support matter with him, and that Respondent placed Louis on her conflicts list upon her own volition well prior to being advised of any complaint against her or investigation into her judicial conduct.

COUNT II

33. Respondent repeats her answers to paragraphs 1-32 of the Formal Complaint as if set forth at length herein.

34. Respondent admits the allegations in paragraph 34 of the Formal Complaint.

35. Respondent admits the allegations in paragraph 35 of the Formal Complaint.

36. Respondent admits that on June 19, 2012, Respondent heard from Louis and opposing counsel, took testimony from the parties, found that the parties' divorce agreement was entered into voluntarily and knowingly, and entered a Judgment of

Divorce. Respondent specifically denies that she made any finding that the divorce settlement agreement was fair and equitable for both parties. In fact, Respondent asserts that she specifically advised the parties that she made no such finding as to the fairness or reasonableness of the settlement agreement but recognized that the parties had testified that, in their opinion, it was fair and reasonable. Respondent adds, by way of explanation and mitigation, that uncontested divorce hearings are considered to be routine in nature, and that Respondent neither made, nor was she required to make, any findings as to the fairness or adequacy of any equitable distribution, support, custody or other issue, and that she was requested by both sides to approve a settlement that each had entered into voluntarily and knowingly, with the advice and assistance of counsel.

37. Respondent admits the allegations of paragraph 37 of the Formal Complaint.

38. Respondent admits the allegations of paragraph 38 of the Formal Complaint except notes that, by way of explanation and mitigation, that proceeding conducted in court was a calendar call.

39. Respondent admits the allegations of paragraph 39 of the Formal Complaint with the clarification that the order signed by Respondent was a consent order specifically requested by both sides and that Respondent made no independent findings nor decided any contested issues between the parties.

40. Respondent admits the allegations of paragraph 40 of the Formal Complaint with the clarification that, by way of explanation and mitigation, that the relief was

agreed to by the defendant-husband's attorney and that Respondent made no independent findings nor decided any contested issues between the parties.

41. Respondent admits the allegations of paragraph 41 of the Formal Complaint with the clarification that, by way of explanation and mitigation, that the order was entered with the consent of both parties and Respondent made no independent findings nor decided any contested issues.

42 Respondent admits the allegations of paragraph 42 of the Formal Complaint with the clarification that, by way of explanation and mitigation, that the order was entered with the consent of both parties and Respondent made no independent findings nor decided any contested issues.

43. Respondent admits the allegations of paragraph 43 of the Formal Complaint with the clarification that, at the time she sent the memo to the Assignment Judge requesting that Louis be added to her list of conflicts, she did not know nor had she ever been advised by anyone, including Louis, of any of the allegations or factual information set forth in paragraphs 25, 28 or 29 of the Formal Complaint, nor was she aware of any complaint or investigation about her judicial conduct.

44. Respondent admits that her communications with the Louis and Louis's assistance in representing her interests created a conflict of interest which required her disqualification from any court proceeding involving Louis.

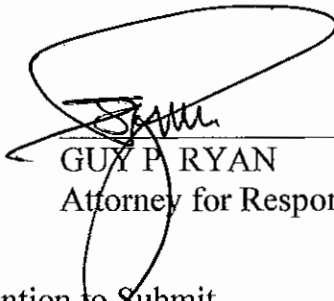
45. Respondent admits the allegations of paragraph 45 of the Formal Complaint.

46. Respondent admits that she engaged in a conflict of interest. Respondent neither admits nor denies the remainder of the allegations of paragraph 46 of the Formal Complaint as the same are legal conclusions. Instead, Respondent submits to the discretion of the Committee as to whether she violated Canons 1 and 2A of the Code of Judicial Conduct. By way of explanation and mitigation, Respondent states that she did not intend to violate Canons 1 and 2A of the Code of Judicial Conduct.

WHEREFORE, Respondent submits herself to the discretion of the Committee and respectfully requests that the Committee accept evidence of mitigation and explanation for Respondent's conduct and demonstrate leniency in its recommendations based upon Respondent's evidence in explanation and her prior unblemished record as an attorney and prior unblemished, albeit brief, record as a judge.

Dated:

11/19/13



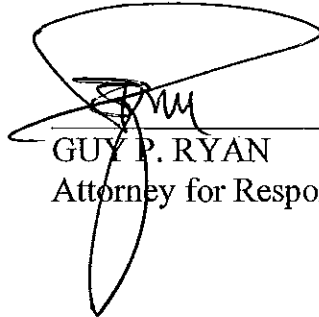
GUY P. RYAN
Attorney for Respondent

Notice of Intention to Submit
Evidence in Mitigation and Explanation

Respondent respectfully requests the opportunity, and hereby reserves the right, to submit evidence in explanation and mitigation of the charges set forth in the Formal Complaint, pursuant to R. 2:15-14(d). Further, the Respondent reserves the right to request that the Committee apply to the Supreme Court for permission to seal certain

evidence in mitigation that relates to personal, family, medical or other protected or confidential information, pursuant to R. 2:15-20(b).

Dated: 11/19/13



GUY P. RYAN
Attorney for Respondent