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FILED
JAN 11 2010
A. C. J. C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON JUDICIAL CONDUCT

_____	:	DOCKET NO. ACJC 2009-063
IN THE MATTER OF	:	
	:	ANSWER TO FORMAL COMPLAINT
DENNIS BAPTISTA,	:	
JUDGE OF THE MUNICIPAL COURT	:	
_____	:	

Dennis Baptista ("Respondent"), by and through his counsel, Krovatin Klingeman LLC (Henry E. Klingeman, Esq., appearing), responds to the Formal Complaint filed by Candace Moody, Disciplinary Counsel, Advisory Committee on Judicial Conduct ("Complainant"), and says:

Facts

1. Respondent admits the allegations contained in paragraph 1.
2. Respondent admits the allegations contained in paragraph 2.
3. Respondent admits the allegations contained in paragraph 3.
4. Respondent admits the allegations contained in paragraph 4.
5. Upon information and belief, Respondent admits the allegation contained in paragraph 5 that "[d]uring the 2008/2009 school year, K.H. was a senior at the School." Mr. Baptista further

admits, upon information and belief, that K.H. and C.B. knew who each other were but were otherwise not friendly or acquainted.

6. Upon information and belief, Respondent admits the allegations contained in paragraph 6.

7. Respondent admits the allegations contained in paragraph 7.

8. Upon information and belief, Respondent admits the allegations contained in paragraph 8.

9. Respondent admits the allegations contained in paragraph 9.

10. Respondent denies the allegations contained in paragraph 10. Mr. Baptista went to the Records Room to attempt to obtain the police report, which, he was told by the clerk, was not ready. He neither entered the Police Department nor sought police assistance from any police officers. Mr. Baptista was returning to his car to continue his commute to work when he ran into two officers (Marino and Koeller) by the front door of Town Hall. The officers told Mr. Baptista that Mr. Baptista's son had been in two days earlier to report the vandalism. Mr. Baptista responded that he was seeking the police report because personnel at Phillipsburg High School refused to give him the names or phone number for K.H.'s parents and told him that the School would only release that information to the Phillipsburg police.

11. Respondent is without knowledge sufficient to admit or deny the allegation contained in paragraph 11 that "[t]he home telephone number of J.H., the mother of K.H., was listed in the local, public White Pages of the telephone directory." At the time that Mr. Baptista first attempted to identify K.H.'s parents, he did not know J.H.'s first name. Further, as stated in paragraph 10, personnel at

Phillipsburg High School would not release J.H.'s name and contact information to Mr. Baptista, but told him that the School would only release that information to the Phillipsburg police. Further, Mr. Baptista does not possess the telephone directory described and has not utilized a hard copy telephone directory in several years; instead he relies upon internet telephone directories. Respondent denies the remaining allegations contained in paragraph 11. Mr. Baptista conducted an internet search for the telephone number of J.H. and was unable to locate it. Mr. Baptista's internet white pages search of "H____" identified no results for Lopatcong Township, where, upon information and belief, J.H. lives and a search of "H____" in Phillipsburg, which is, upon information and belief, J.H.'s mailing address, turns up four different persons with that last name, none of whom is K.H.'s mother.

12. Respondent denies the allegation contained in paragraph 12 that Phillipsburg Police Officer Robert Marino assisted Respondent. Mr. Baptista was assisted by a female employee in the Records Room. Upon information and belief, Respondent admits the remaining allegations contained in paragraph 12.

13. Respondent denies the allegation contained in paragraph 13 that Officer Marino acted upon Respondent's "request for assistance," as Respondent did not make a request for assistance. Respondent is without knowledge sufficient to admit or deny the remaining allegations contained in paragraph 13, as Officer Marino may have acted on his own initiative.

14. Respondent admits the allegations contained in paragraph 14, except the allegation that he "solicit[ed] the assistance of the Phillipsburg Police." As previously stated in paragraph 13, Mr. Baptista did not solicit the assistance of the Phillipsburg police.

15. Respondent is without knowledge sufficient to admit or deny the allegations contained in paragraph 15.

16. Respondent admits the allegations contained in paragraph 16. Mr. Baptista intended to resolve amicably the matter with J.H. on behalf of her son and expected the phone call to conclude the matter. Only after J.H. told Mr. Baptista to deal directly with her son (who, upon information and belief, was judgment-proof) and only after J.H. made clear that she had no intention to assist Mr. Baptista in obtaining payment from her son that Mr. Baptista questioned her parenting.

17. Respondent admits the allegations contained in paragraph 17.

18. Respondent admits the allegations contained in paragraph 18.

19. Upon information and belief, Respondent admits the allegations contained in paragraph 19. Mr. Baptista was not aware of the Chief Justice's order at the time it was issued, however, but only learned of it when Superior Court Judge Robert Coyle issued an order on or about December 16, 2008 vacating his judgment and transferring venue to Middlesex County.

20. Respondent admits the allegations contained in paragraph 20.

21. Respondent admits the allegations contained in paragraph 21. K.H. admitted to the Second Count of negligently causing the damage to Mr. Baptista's vehicle.

22. Respondent denies the allegations contained in paragraph 22 to the extent that he fulfilled his ethical responsibilities by filing the Report of Involvement in Litigation. There is no express requirement that Mr. Baptista follow up further with the Administrative Office of the Courts. Further, Mr. Baptista had no reason to believe that a change of venue was warranted because neither Judge Coyle nor Mr. Baptista knew each other. Finally, and through no fault or responsibility of Mr. Baptista, Judge Coyle did not receive the Chief Justice's December 3, 2008 Order until December 16, 2008, after proceedings had occurred.

23. Respondent admits the allegations contained in paragraph 23. As stated previously in paragraph 22, through no fault or responsibility of Mr. Baptista, Judge Coyle did not receive the Chief Justice's December 3, 2008 Order until December 16, 2008, after proceedings had occurred.

24. Respondent admits the allegations contained in paragraph 24.

25. Respondent admits the allegations contained in paragraph 25. Mr. Baptista further states that the settlement was reached with the participation of J.H., despite J.H.'s previous statement to Mr. Baptista that he would have to resolve the matter directly with her son and despite J.H.'s having previously made clear that she had no intention to assist Mr. Baptista in obtaining payment from her son. Further, J.H. stated under oath before Judge Coyle that at no time did Mr. Baptista ever represent himself to her as being a judge.

26. Upon information and belief, Respondent admits the allegations contained in paragraph 26.

27. Respondent admits the allegations contained in paragraph 27. In many civil cases, Mr. Baptista states, claims are asserted that have the effect of embarrassing the party against whom the claims are made. Further, in many civil cases, claims are made to gain settlement leverage. Provided the claims are made in good faith, i.e., supported by facts and law (as Mr. Baptista's claims were), such claims are legitimate and proper and ethical, whether they are asserted by a part-time judge or an attorney or a pro se party.

Count I

28. Respondent repeats the answers contained in the foregoing paragraphs 1 through 27 as if each were set forth fully and at length herein.

29. Respondent denies the allegations contained in paragraph 29.

30. Respondent denies the allegations contained in paragraph 30.

Count II

31. Respondent repeats the answers contained in the foregoing paragraphs 1 through 30 as if each were set forth fully and at length herein.

32. Respondent denies the allegations contained in paragraph 32.

Count III

33. Respondent repeats the answers contained in the foregoing paragraphs 1 through 33 as if each were set forth fully and at length herein.

34. Respondent denies the allegations contained in paragraph 34.

WHEREFORE, Respondent denies violating the following Canons of the Code of Judicial Conduct and Court Rules:

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 avoid creating the appearance of impropriety and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

Canon 2B, which requires judges to avoid lending the prestige of their office to advance the private interests of others; and

Rule 2:15-8(a)(6), which prohibits conduct prejudicial to the administration of justice that brings

the judicial office into disrepute.

ACCORDINGLY, Respondent respectfully requests that the Formal Complaint be DISMISSED.

DATED: January 8, 2010



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