

D-89-13 (074110)

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2013-130

IN THE MATTER OF	:	
	:	PRESENTMENT
	:	
ROMAN A. MONTES, JUDGE OF	:	
THE MUNICIPAL COURT	:	

The Advisory Committee on Judicial Conduct ("Committee" or "ACJC") hereby presents to the Supreme Court its Findings and Recommendation in this matter in accordance with Rule 2:15-15(a) of the New Jersey Court Rules. The Committee's Findings demonstrate that the charges set forth in the Formal Complaint against Roman A. Montes, Judge of the Municipal Court ("Respondent"), have been proven by clear and convincing evidence. The Committee recommends that Respondent be censured for his conduct as delineated in the Formal Complaint.

I. PROCEDURAL HISTORY

This matter was initiated with the filing of an ethics grievance against Respondent by litigant Miguel Martinez in January 2013. See Stipulations at Exhibit A. At the time he filed his ethics grievance, Mr. Martinez was a defendant in a domestic violence matter pending in the Clark Municipal Court

captioned State v. Miguel Martinez, Complaint-Warrant No. W-12-548. Id. at Exhibits A thru D. The alleged victim in the Martinez matter was Mr. Martinez's then girlfriend (the "victim") who was working as an exotic dancer at Breathless Men's Club located in Rahway, New Jersey.¹ Id. at Exhibits A - C. In his ethics grievance, Mr. Martinez alleged that during the pendency of the Martinez matter Respondent patronized Breathless Men's Club on a single occasion for the express purpose of pursuing a romantic relationship with the victim and, while there, provided her with money, paid for her drinks, and exchanged telephone numbers with her. Id. at Exhibit A. In addition, Mr. Martinez accused Respondent of text messaging the victim on a subsequent occasion in a further effort to pursue a romantic relationship with her. Ibid.

The Committee conducted an investigation into Mr. Martinez's allegations and, as part of that investigation, interviewed seven individuals, including Respondent. Id. at Exhibits F - L. In addition, the Committee collected and reviewed documentation relevant to Mr. Martinez's allegations and received correspondence from Respondent's counsel clarifying Respondent's position in respect of the propriety of his conduct

¹ To preserve the privacy interests of the alleged victim in the Martinez matter, we have excluded her name from this Presentment, though it is known to Respondent.

while presiding over the Martinez matter. Id. at Exhibits C - E; see also Presenter's Exhibits P1 - P3.

On July 31, 2013, the Committee issued a Formal Complaint against Respondent, which accused him of engaging in an inappropriate personal relationship with the victim in the Martinez matter while that matter was pending before him and before its final disposition, in violation of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct. Respondent filed an Answer to the Formal Complaint on August 21, 2013 in which he admitted the factual allegations of the Complaint, but denied violating the cited Canons of the Code of Judicial Conduct and sought dismissal of the Complaint.

Respondent, through counsel, waived his right to a Formal Hearing by letter dated September 13, 2013 and requested an opportunity to submit a statement in mitigation of any anticipated disciplinary sanction, which the Committee granted. On October 1, 2013, Presenter and Respondent filed with the Committee a set of Stipulations attached to which are the documents that comprise, in part, the record in this matter. Presenter subsequently moved into evidence, without objection, three additional exhibits. See P1 thru P3. Prior to the Committee's deliberations and with its express approval, both parties offered legal memoranda in support of their respective

positions, which were filed on October 4, 2013 and considered by the Committee.

After carefully reviewing all of the evidence, the Committee makes the following findings, supported by clear and convincing evidence, which form the basis for its recommendation.

II. FINDINGS

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1992. Complaint/Answer at ¶1. At all times relevant to this matter, and for approximately four years, Respondent has served as a part-time judge in the City of Rahway Municipal Court, a position he continues to hold. Id. at ¶2; see also Stipulations at Exhibit F at 1T2-15 to 1T3-11.² Respondent also serves currently as a part-time judge in the City of Elizabeth Municipal Court, a position he has held since 1998. Ibid.

The salient facts pertinent to this judicial disciplinary matter are uncontested. Those facts are as follows. During the early morning hours of November 21, 2012, Respondent was contacted telephonically by a patrolman with the Rahway Police Department concerning an alleged altercation between Mr. Martinez and the victim, which had occurred in the parking lot of

² "1T" refers to the Transcript of Interview of Respondent conducted on June 4, 2013, which is attached as Exhibit F to the Stipulations.

Breathless Men's Club. Stipulations at Exhibit A; see also Exhibit B at bates stamp "ACJC010." At the conclusion of that telephone call, Respondent found probable cause for the issuance of a Complaint/Warrant against Mr. Martinez in which he was accused of committing an act of domestic violence against the victim (i.e. State v. Miguel Martinez, Complaint-Warrant No. W-12-548). Id. at Exhibit B, bates stamped "ACJC010 - 012." Mr. Martinez was arrested that evening and ultimately remained in custody for several weeks unable to post bail and produce the handgun he allegedly possessed, which Respondent had made an additional condition of Mr. Martinez's release from custody. Id. at Exhibit A; see also Exhibit B at bates stamped "ACJC 010 - 012;" Exhibit J at 2T6-15-21.³

On November 26, 2012, five days after his arrest, Respondent arraigned Mr. Martinez via teleconference from the Union County Jail. Id. at Exhibit C. The victim was not present in court for the arraignment and did not participate in the proceeding. Ibid. The victim first appeared before Respondent on November 29, 2012, at which time she sought a dismissal of the Martinez matter and the release of Mr. Martinez from jail, both of which Respondent denied. Id. at Exhibit C; see also Exhibit J at 2T3-2 to 2T15-3.

³ "2T" refers to the Transcript of Interview of Richard Fazzari, Esq., City of Rahway Municipal Prosecutor, conducted on July 19, 2013, which is attached as Exhibit J to the Stipulations.

The victim did not appear again in the Rahway Municipal Court on the Martinez matter. Id. at Exhibit F at 1T32-5-16.

Respondent's next interaction with the victim occurred several days thereafter on the evening of December 11, 2012 at Breathless Men's Club ("Breathless" or "Men's Club"), while the victim was working as an exotic dancer. Complaint/Answer at ¶¶3-4; see also Stipulations at Exhibit F at 1T11-19 to 1T13-5; Exhibit H at 3T2-21 to 3T4-4.⁴ Respondent, an occasional patron of the Men's Club, was at Breathless that evening with a male companion at the invitation of the Club's owner. Stipulations at Exhibit F at 1T5-19 to 1T6-15; 1T8-17 to 1T9-12; 1T10-13-21.

While at Breathless that evening, Respondent and his male companion were approached by the victim and another exotic dancer, both of whom danced for Respondent and his companion. Complaint/Answer at ¶5; see also Stipulations at Exhibit F at 1T11-25 to 1T12-12; Exhibit H at 3T7-19 to 3T8-3; 3T11-17 to 3T12-5. Over the course of a couple of hours that evening, Respondent, as he describes it, "flirt[ed]" with the victim while she danced for him, bought alcoholic beverages for her and she for him, and tipped her money presumably as remuneration for her

⁴ "3T" refers to the Transcript of Interview of Jisel Peralta conducted on July 31, 2013, which is attached as Exhibit H to the Stipulations.

dancing. Stipulations at Exhibit F at 1T11-11 to 1T12-12; see also Exhibit H at 3T10-2-13; Complaint/Answer at ¶5; Rb2.⁵

At some point, either at the outset of their interaction that evening as the victim relates, or an hour into their encounter as Respondent contends, the victim revealed to Respondent that she knew he was a judge in the Rahway Municipal Court and that she was the victim in a domestic violence matter pending before him.⁶ Stipulations at Exhibit F at 1T12-9-14; see also Exhibit H at 3T8-1 to 3T9-7; Complaint/Answer at ¶6. Prior to her revelation, Respondent had not recognized the victim as a person affiliated with a pending court matter or recalled the existence of the Martinez matter specifically. Complaint/Answer at ¶8; see also Stipulations at Exhibit F at 1T12-13-16.

Once informed of the victim's identity, Respondent recalled the Martinez matter and the victim's involvement in it, and advised the victim that he could not discuss any aspect of the case with her. Complaint/Answer at ¶8; see also Stipulations at Exhibit F at 1T12-13-24; Exhibit H at 3T8-7 to 3T9-7. While Respondent surmised at that moment that the victim "was trying to

⁵ Consistent with Rule 2:6-8, references to the Presenter's and Respondent's legal memoranda will be designated as "Pb" and "Rb" respectively. The number following this designation signifies the page at which the information may be found.

⁶ This factual discrepancy, in the Committee's view, is immaterial given the nature of the charges in the Formal Complaint, which relate strictly to Respondent's conduct after learning of the victim's identity.

get on [his] good side . . . to manipulate the situation," he nonetheless continued to socialize with her that evening, made plans to see her again, and exchanged telephone numbers with her. Stipulations at Exhibit F at 1T14-22 to 1T15-7; 1T17-13 to 1T18-17; 1T69-20 to 1T70-11; see also Exhibit H at 3T8-7 to 3T9-14; 3T12-6-15; Complaint/Answer at ¶9.

The following day, December 12, 2012, Respondent and the victim exchanged text messages in which they relayed pleasantries. Complaint/Answer at ¶10; Rb3. On December 13, 2012, Respondent appeared on his regularly scheduled court day in the Rahway Municipal Court and, while there, orally instructed court personnel to transfer the Martinez matter out of Rahway due to his conflict of interest with the victim in that case. Id. at ¶11. Respondent took no further action in respect of his transfer request, except to inquire of its status with court personnel approximately one week later, at which time he was advised that the matter had not yet been transferred. Ibid. The Martinez matter was not actually transferred out of Rahway until December 27, 2012, more than two weeks after Respondent's encounter with the victim at Breathless. Id. at ¶16.

In the interim, Respondent continued to communicate with the victim by telephone and text message, the substance of which involved not only casual conversation and discussions of dinner dates, but the Martinez matter specifically. Complaint/Answer at

¶12; Stipulations at Exhibit F at 1T17-13-19; 1T47-23 to 1T48-5. During these discussions, Respondent advised the victim of the pending transfer of the Martinez matter to the Clark Municipal Court about which the victim expressed concern and actively sought Respondent's intercession. Complaint/Answer at ¶12; Stipulations at Exhibit F at 1T17-13-19. Indeed, the victim asked Respondent directly if there was "anything" he could do, requested Respondent remain "the judge" in the Martinez matter or "speak to [the judge in Clark]" about the case, and asked Respondent on several occasions about the judge in Clark. Complaint/Answer at ¶12; see also Stipulations at Exhibit F at 1T50-11 to 1T51-8.

Rather than ignore the victim's queries, Respondent entertained them out of an apparent desire to avoid "offend[ing]" the victim, and due to his fear that she would otherwise claim he "was trying to influence" the Clark Municipal Court Judge or "[some]one else." Complaint/Answer at ¶13; see also Stipulations at Exhibit F at 1T50-11 to 1T51-1. Despite these concerns, however, Respondent continued to pursue a relationship with the victim and did not inform his superiors about his interactions with her until he was notified of the Committee's investigation into this matter in the Spring of 2013, approximately six months after he and the victim had ceased communicating with each other.

Stipulations at Exhibit F at 1T66-8 to 1T67-22; 1T68-17 to 1T71-19.

Shortly after the Martinez matter was transferred to the Clark Municipal Court, Clark Municipal Prosecutor Jon-Henry Barr received a telephone call from Mr. Martinez's counsel, Jeffrey E. Tomei, Esq. Stipulations at Exhibit K at 4T7-2-10.⁷ During their discussion, Mr. Tomei informed Mr. Barr of the reason for the transfer of the Martinez matter, i.e. Respondent's "relationship" with the "alleged victim," and detailed for Mr. Barr his understanding of the nature and origins of that relationship, i.e. their meeting, exchange of text messages, and possible "date." Id. at 4T7-2-22. Mr. Barr found this information "startling" and believed that if it were true, Respondent "exercised very poor judgment." Id. at 4T7-12-14; 4T12-10-23. Mr. Tomei, who had expressed similar "shock[]" to Mr. Barr about these events, informed Mr. Barr that either he or his client would be filing a complaint with "the judicial ethics parties." Id. at 4T8-1-5. For his part, Mr. Barr felt it prudent to inform Clark Municipal Court Judge Antonio Inacio of Respondent's relationship with the victim. Id. at 4T13-3-14. Respondent and Judge Inacio have been friends since high school.

⁷ "4T" refers to the Transcript of Interview of Jon-Henry Barr, Esq. conducted on July 19, 2013, which is attached as Exhibit K to the Stipulations.

Stipulations at Exhibit L at 5T6-2-8.⁸ By all accounts, however, Respondent's relationship with the victim did not affect the manner in which the Martinez matter was adjudicated in the Clark Municipal Court. Id. at 5T16-13-24; Stipulations at Exhibit K at 4T15-2-19.

The Martinez matter was subsequently heard and disposed of by Judge Inacio, per a plea agreement, on February 27, 2013. Complaint/Answer ¶17; see also Stipulations at Exhibit D. Shortly thereafter, Judge Inacio spoke for the first time with Respondent about the circumstances surrounding the transfer of the Martinez matter to the Clark Municipal Court. Id. at ¶18; see also Stipulations at Exhibit L at 5T19-17-22. As a consequence of their conversation, Judge Inacio was led to believe that the relationship between Respondent and the victim was sexual in nature. Stipulations at Exhibit L at 5T21-13-25.

III. ANALYSIS

The burden of proof in judicial disciplinary matters is clear-and-convincing. Rule 2:15-15(a). Clear and convincing evidence is that which "produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence, so clear, direct

⁸ "5T" refers to the Transcript of Interview of the Honorable Antonio Inacio, J.M.C. conducted on July 19, 2013, which is attached as Exhibit L to the Stipulations.

and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the precise facts in issue." In re Seaman, 133 N.J. 67, 74 (1993) (citations and internal quotations omitted).

In this judicial disciplinary matter Respondent has been charged with violating Canons 1, 2A and 5A(2) of the Code of Judicial Conduct by engaging in a personal relationship with a victim in a matter that was pending before him and prior to its final disposition, albeit in another court. We find, based on our review of the significant evidence in the record, that these charges have been proven by clear and convincing evidence and that Respondent's conduct violated the cited Canons of the Code of Judicial Conduct.

Canon 1 requires judges to maintain high standards of conduct so that the integrity and independence of the Judiciary are preserved. Canon 2A directs that judges conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the Judiciary. This ethical obligation extends beyond judges' public lives to include conduct in their private lives. In re Hyland, 101 N.J. 635 (1986) ("[The] Court's disciplinary power extends to private as well as public and professional conduct by attorneys, and a fortiori by judges.") (internal citation omitted).

As clearly explained in the Commentary to Canon 2:

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety and must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on personal conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

Code of Judicial Conduct, Canon 2, Commentary.

The Commentary emphasizes the special role that judges play in our society and the significance of their public comportment. "[J]udges have a special responsibility because they are 'the subject of constant public scrutiny;' everything judges do can reflect on their judicial office. When judges engage in private conduct that is irresponsible or improper, or can be perceived as involving poor judgment or dubious values, '[p]ublic confidence in the judiciary is eroded.'" In re Blackman, 124 N.J. 547, 551 (1991). As recognized by our Supreme Court, adherence to this principle is of the utmost importance, especially in our municipal courts where the greatest numbers of people are exposed to the judicial system. In re Santini, 126 N.J. 291, 298 (1991); see also In re Murray, 92 N.J. 567, 571 (1983); In re Hardt, 72 N.J. 160, 166-167 (1977).

In keeping with this high standard, Canon 5A(2) requires judges to conduct all of their extra-judicial activities in a manner so as not to demean the judicial office.

In the instant matter, Respondent, by his own admission, pursued a personal relationship with a victim in a domestic violence matter pending before him (i.e. the Martinez matter) despite knowing of the victim's direct involvement in that matter and notwithstanding his belief that the victim sought to use her association with Respondent to manipulate the outcome of the case. He further admits to fielding questions from the victim concerning the Martinez matter despite having previously recused himself from the case, but contends that his prompt recusal and subsequent transfer of the Martinez matter, and his continual refusal to assist the victim as she had requested, renders his conduct in both instances compliant with the Code of Judicial Conduct. We disagree. Respondent's course of conduct in this matter manifests a gross lack of sound judgment and self-control, and a disrespect for the judicial office the effect of which impugned the integrity and impartiality of the judiciary and demeaned the judicial office in violation of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct. These facts also betray Respondent's proclivity to place his personal interests ahead of his judicial obligations, a circumstance we find extremely disquieting.

The record before us evinces Respondent's breach of his ethical obligations under the cited Canons of the Code of Judicial Conduct in two material respects. First, by pursuing a

relationship with a victim in a matter that was then pending in the Rahway Municipal Court, Respondent permitted a situation to exist in which the victim believed, and led the grievant to believe, that she would be able to exert influence over Respondent because of their personal relationship. Cf. In re Hyland, supra, 101 N.J. 635 (reprimanding judge for creating a situation in which his secretary, with whom he had a sexual relationship, could believe she had influence over the judge because of their intimacies). It is axiomatic that such perceptions lead, minimally, to an appearance that the judicial office has been compromised, a circumstance wholly intolerable in our system of justice and antithetical to the integrity and impartiality of the Judiciary. Second, by pursuing a relationship with the victim whose court matter remained pending, irrespective of its transfer, and whom he believed sought to manipulate the judicial process, Respondent subverted his judicial obligations to promote the integrity and impartiality of the judiciary for his personal gratification in violation of Canons 1, 2A and 5A(2) of the Code.

As to the first issue, perceptions of a compromised judicial process are not cured, as Respondent would have us believe, simply by a judge's recusal, but rather remain a constant for the duration of the case and, as such, demand a judge's total separation from the matter. See In re Perskie, 207 N.J. 275

(2011) (finding that judge's appearance at the trial of a case from which he had recused impugned the integrity and independence of the judiciary in violation of his judicial obligations). Indeed, the victim's intent to solicit Respondent's judicial intervention in the Martinez matter, albeit implicitly obvious to Respondent at the outset of their interactions, became self-evident *following* Respondent's stated intention to transfer the matter to the Clark Municipal Court, as revealed by her multiple text messages to Respondent on that exact issue. That Respondent entertained those pleas for help while simultaneously rejecting them to avoid "offend[ing]" the victim and out of a fear that she would otherwise claim he "was trying to influence" the process, only heightens his impropriety. Aside from the obvious contradiction in Respondent's logic, his conduct offends the exacting standards to which jurists are held in this State, which may never yield to the feelings of others, especially one seeking to subvert the judicial process. See Code of Judicial Conduct, Canon 2B ("A judge should not allow family, social, . . . or other relationships to influence judicial conduct or judgment"). To suggest otherwise would undermine the core principles of integrity and independence on which our Judiciary depends. Respondent's acknowledgement that he conformed his conduct in this case out of a concern for the victim's feelings and a fear

of potential reprisal also raises grave concerns about his judgment, which is an essential ingredient for one who holds judicial office, and is patently improper.

In a similar vein, we reject, as misplaced, Respondent's reliance on the fact that the Martinez matter was ultimately the subject of a plea agreement as a defense to these disciplinary charges.⁹ The absence of any evidence that Respondent actually interfered with the Clark Municipal Court's disposition of the Martinez matter is immaterial to our analysis. The mere perception of a compromised judiciary, as exists here, necessarily impugns the integrity and impartiality of the Judiciary and demeans the judicial office in violation of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct.

In respect of the second issue, i.e. Respondent's subordination of his judicial obligations to a level beneath that of his personal satisfaction, we find such conduct inexcusable and an affront to the judicial office. Respondent, though believing from the outset that the victim "was trying to get on [his] good side . . . to manipulate the situation," exploited her vulnerability so as to advance his personal desire to socialize with her. By any measure, such exploitation is

⁹ We cannot, as Respondent urges, consider his communications with the victim to have occurred after the Martinez matter had been "completely adjudicated" as those are not the facts before us. Rb5.

deplorable. When committed by a member of the Judiciary, however, it is also deleterious to the dignity and integrity of the Judiciary and the public's perceptions thereof, and represents a complete departure from the high standards of conduct demanded of jurists under Canons 1, 2A and 5A(2) of the Code of Judicial Conduct. The record, in fact, reveals that Respondent's pursuit of the victim, rumors of which reached the Clark Municipal Court, caused the Clark Municipal Prosecutor and defense counsel, as well as the grievant, to question his integrity and judgment as a municipal court judge. Those same rumors prompted the Clark Municipal Court Judge to telephone Respondent to discuss the matter after the case had been concluded. Such rumors, which are the direct result of Respondent's imprudent behavior, further compound the harm done to the Judiciary's reputation for integrity.

This misconduct is in no measure allayed by Respondent's self-serving claims that he rebuffed the victim's attempts to implicate his judicial office in the adjudication of the Martinez matter. Rather than behave as he did, Respondent should have stopped the conversation with the victim upon learning of her identity and had no further communication with her until the matter was fully adjudicated. His failure to do so placed his judicial office at risk of being compromised and

demonstrated a lack of respect for the dignity of his judicial station and the sound administration of justice.

Having concluded that Respondent violated Canons 1, 2A and 5A(2) of the Code of Judicial Conduct as charged in the Formal Complaint, the sole issue remaining for our consideration is the appropriate quantum of discipline. In this undertaking, we are mindful of our obligation to examine, with care, the facts and circumstances underlying Respondent's misconduct, including any aggravating or mitigating factors that may bear upon that misconduct. In re Collester, supra, 126 N.J. at 472; see also In re Connor, 124 N.J. 18, 22 (1991); In re Mathesius, 188 N.J. 496 (2006); In re Seaman, 133 N.J. 67, 98 (1993).

Respondent argues that the only appropriate measure of discipline in this matter is a reprimand. In advancing this argument he confines his misconduct to having created an appearance that the victim enjoyed influence over his judicial office, which he characterizes as "de minimis" misconduct. In support of this argument, Respondent relies on two cases, neither of which are applicable to the instant matter. In re Perskie, supra, 207 N.J. 275 (censuring judge for failing to recuse timely in a matter in which a conflict existed and appearing at the trial of the court matter following his recusal); In re Santini, supra, 126 N.J. 291 (reprimanding judge for contacting another judge and that judge's staff on behalf of

a client). In respect of the Perskie matter, Respondent argues that his conduct was much less egregious than that of Judge Perskie, who failed to recuse in the face of a conflict, particularly given Respondent's recusal from the Martinez matter after learning of his conflict with the victim in that case. In the instant matter, Respondent has been charged with creating the perception of a compromised judiciary and subverting his judicial obligations for his personal gratification, conduct which, though distinguishable in kind from that in Perskie, is no less significant. The same may be said for Respondent's reliance on Santini, which involved the respondent judge's attempted participation in a pending municipal court matter concerning one of the judge's longstanding clients.

As revealed by the record before us, Respondent's misconduct was serious and its detrimental effect on the integrity and impartiality of the Judiciary significant. By his conduct, Respondent was complicit in creating the appearance that his judicial office had been compromised and demonstrably apathetic to his obligation as a jurist to preserve and promote the sanctity of that office in the conduct of his private life, conduct which we find offensive and alarming.

In determining the appropriate quantum of discipline for such misconduct, we are cognizant of several aggravating factors. First, the misconduct at issue demonstrates a gross

lack of good judgment and self-control on the part of Respondent. It also reveals a lack of respect for the Judiciary and the judicial office. As evidenced by the statements of the Clark Municipal Court Prosecutor and the grievant, Respondent's reputation as a jurist has been tarnished and by extension that of the Judiciary.

Second, it is clear from a review of the record that Respondent lacks an appreciation for the impropriety of his conduct and the perceptions that conduct created. Our concerns in this regard are enhanced considerably by Respondent's decision to place his personal desires ahead of his judicial integrity and his admission that he was motivated to act as he did out of concern for the victim's feelings and fears of reprisal.

Finally, while this is the first judicial misconduct complaint filed against Respondent, it implicates a disturbing disregard for the judicial office and the judicial process as a whole, both of which Respondent has been entrusted to preserve and protect. If we hope to promote the public's confidence in the Judiciary and Respondent's ability to serve honorably as a member of the Judiciary, then Respondent must be disciplined in accordance with the severity of his misconduct.

Finally, we note the absence of any mitigating factors that would warrant the imposition of discipline less than a public censure.

IV. RECOMMENDATION

For the foregoing reasons, the Committee recommends that Respondent be censured for his violations of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct. This recommendation takes into account Respondent's ethical infractions, both of which seriously weaken the public's confidence in the integrity and independence of the Judiciary, and demonstrate a disturbing lack of good judgment.

Respectfully submitted,

ADVISORY COMMITTEE ON JUDICIAL CONDUCT

March 28, 2014

By:



Alan B. Handler, Chair