STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

VINCENT G. BRADLEY,

DETERMINATION

a Justice of the Supreme Court, 3rd Judicial
District, Ulster County.

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THE COMMISSION:

Henry T. Berger, Esq., Chair
*Honorable Frederick M. Marshall, Vice Chair
Honorable Frances A. Ciardullo
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Mary Holt Moore
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the Commission

Joseph D. Hill for Respondent

*Judge Marshall died on September 10, 2002. The vote in this case was taken on June 20, 2002.

The respondent, Vincent G. Bradley, a Justice of the Supreme Court, Ulster County, was served with a Formal Written Complaint dated December 3, 2001, containing two charges. Respondent filed an answer dated January 7, 2002.

On June 20, 2002, the Administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based upon the agreed facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On June 20, 2002, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a Justice of the Supreme Court since 1981.

As to Charge I of the Formal Written Complaint:

2. On or about May 25, 2000, the parties in Nosonowitz v. Nosonowitz appeared before respondent for trial in an action for divorce. Prior proceedings between the parties had been held before another judge, and the wife had been represented in the prior proceedings by attorney Martin T. Johnson, but was represented by a new attorney in the proceedings before respondent. Respondent did not know Mr. Johnson and he had never appeared before respondent.

3. On May 25, 2000, the parties and their attorneys agreed to a settlement of the matter and respondent held a discussion on the record with regard to the

settlement. During the discussion on the record, respondent stated that the attorneys' fees would have to be paid according to the ratio of the parties' incomes, and then stated of the wife's former attorney:

> Now, granted, she has been overcharged by some clam Johnson. Who is he? I want to get a shot at him someday. Where is he?

4. The husband's attorney responded that Mr. Johnson was from Pearl River and had been president of the matrimonial section, and respondent interrupted and said:

> I'm putting this on the record. Mr. Johnson is an absolute thief, and you can tell him I said so and you can tell him my phone number and my address. But anyway... And he stole from you, too, because you're going to have to pay a chunk of it. I hope the next time you see him, tell him what I think of him. And you can add your own. So go in there and resolve it.

5. The matter of Mr. Johnson's legal fee was not directly before respondent, except insofar as it constituted a debt which affected the wife's assets, and there was no claim by either of the parties in the proceeding before respondent that the fee was excessive. In March 1999, the wife had entered into a settlement agreement with Mr. Johnson after an arbitration and she had agreed to pay to him a legal fee in the reduced amount of $17,000.

6. In June 2000, a motion by Mr. Johnson to confirm the arbitration award of his legal fee in the Nosonowitz case was assigned to respondent. In or about

August 2000, respondent was assigned to another matrimonial action, Owen v. Owen, in which Mr. Johnson's firm, Johnson and Cohen, appeared as counsel. Respondent neither disclosed to Mr. Johnson or his partner respondent's earlier remarks concerning Mr. Johnson, nor offered to disqualify himself from either matter. It was not until May 2001, after Mr. Johnson became aware of respondent's remarks and complained to the Commission, that respondent disqualified himself from Nosonowitz and Owen.

7. Respondent asserts that he did not intend to personally denigrate Mr. Johnson and that his remarks were intended only figuratively, to convey his impression that the legal fee was exorbitant in relation to the size of the marital estate.

As to Charge II of the Formal Written Complaint:

8. Respondent made the remarks concerning Mr. Johnson, as set forth under Charge I above, notwithstanding that respondent had been cautioned by the Commission, by letter dated May 2, 1996, to refrain from improper public comment and to avoid impropriety, after respondent engaged in the following conduct:

(a) On or about June 21, 1995, respondent spoke to a reporter for the Kingston Daily Freeman newspaper regarding Town of Esopus v. George Kakoullas and Ram of Ulster, Inc., a/k/a The Club, a proposed settlement agreement over which respondent had just presided on June 15, 1995. Respondent stated to the reporter that he was "outraged" at how Town of Esopus officials had allegedly misrepresented respondent's role in the settlement agreement in the press; referred to the officials as

"bald-faced liars"; and stated that the town supervisor had "backed out" of the proposed settlement because of pressure from constituents; and

(b) On or about June 28, 1995, in disqualifying himself from an Order to Show Cause in Town of Esopus v. George Kakoullas and Ram of Ulster, Inc., a/k/a The Club, respondent stated from the bench that the town laws had been changed to accommodate a town official (in an unrelated matter) and suggested that the press "look into" this. Respondent's comments were gratuitous and had nothing to do with the subject matter of the Order to Show Cause. Respondent's comments were intended to retaliate for respondent's perception that town officials had untruthfully characterized respondent's role in the Kakoullas case in the press.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(3), 100.3(B)(6), 100.3(B)(8) and 100.3(E)(1) of the Rules Governing Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Respondent's gratuitous, insulting comments in open court concerning a matrimonial litigant's former attorney (who was not even present at the time) were improper. Referring to the attorneys' fees in the matter, respondent called the attorney "a clam" and "a thief" who "stole" from the parties. Such comments violated well-established ethical standards which require a judge to be dignified and courteous in

performing judicial duties (Section 100.3[B][3] of the Rules Governing Judicial Conduct).

Respondent's intemperate comments -- particularly his statement that he would like to "get a shot" at the attorney some day -- also conveyed the appearance that he was biased against the attorney. A judge's disqualification is mandated when the judge's impartiality can reasonably be questioned (Section 100.3[C] of the Rules). Notwithstanding the ethical mandates, respondent failed to promptly recuse himself when the attorney appeared before him shortly afterwards in two matters, one of which was a motion to confirm the attorney's fee in the same case; nor did respondent disclose his recent, prejudicial remarks. Not until months later, after the attorney learned of respondent's comments and made a complaint to the Commission, did respondent disqualify himself in the matters.

Respondent's comments in Nosonowitz are similar in tenor to those for which he was previously cautioned. In the Kakoullas case, even after his statements to a reporter required his disqualification in the case, respondent made gratuitous, prejudicial comments concerning the parties from the bench. As a Supreme Court justice since 1981, respondent should recognize that such statements are inconsistent with the proper role of a judge.

By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

Mr. Berger, Judge Ciardullo, Mr. Coffey, Mr. Goldman, Ms. Moore, Judge Luciano and Judge Ruderman concur.

Judge Peters did not participate.

Ms. Hernandez, Judge Marshall and Mr. Pope were not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: October 1, 2002

Henry T. Berger, Esq., Chair
New York State
Commission on Judicial Conduct