

**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

PHILIP G. GODIN,

a Justice of the Manheim Town Court,  
Herkimer County.

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**Determination**

THE COMMISSION:

Mrs. Gene Robb, Chairwoman  
Honorable Fritz W. Alexander, II  
John J. Bower, Esq.  
David Bromberg, Esq.  
E. Garrett Cleary, Esq.  
Dolores DelBello  
Victor A. Kovner, Esq.  
Honorable William J. Ostrowski  
Honorable Isaac Rubin  
Honorable Felice K. Shea  
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Stephen F. Downs, Of  
Counsel) for the Commission

G. Gerald Fiesinger, Jr., for Respondent

The respondent, Philip G. Godin, is a justice of the Manheim Town Court, Herkimer County. He serves as a judge part-time and is also a practicing attorney. He was served with a Formal Written Complaint dated December 3, 1982, alleging various acts of misconduct with respect to court funds entrusted to his care. Respondent did not file an answer.

On December 30, 1982, the administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for by Section 44, subdivision 4, of the Judiciary Law, stipulating that the agreed statement be executed in lieu of respondent's answer and further stipulating that the Commission make its determination on the pleadings and the agreed upon facts. Among the exhibits appended to the agreed statement was respondent's testimony before a member of the Commission on October 26, 1982, in the course of the investigation of the matters herein.

The Commission approved the agreed statement as submitted. The administrator and respondent waived oral argument on the issues of misconduct and sanction.

The Commission considered the record of this proceeding on January 19, 1983, and made the following findings of fact.

1. Between August 1980 and June 1981, respondent received \$5022.56 in fines and other court funds which he was required to deposit promptly in his official court account and remit to the State Comptroller. In that period, respondent actually deposited \$3071.80, resulting in a deficiency of \$1950.76, as set forth in Schedule A appended to the agreed statement of facts. Respondent was aware throughout this period that he was depositing

less money than he actually received, and he did so deliberately in order to conceal earlier deficiencies.

2. On June 30, 1981, respondent was asked by examiners from the State Department of Audit and Control to certify the amount of undeposited court funds in his possession. Respondent certified that there were no undeposited court funds, on the form annexed as Exhibit 1 to the agreed statement of facts. In fact, respondent knew at the time that there were over \$1800 in court funds which had not been deposited.

3. On July 3, 1981, when his court account was deficient by more than \$1900, respondent's records were being audited by the Department of Audit and Control. On that date, respondent made deposits of \$1838.61 and \$182.25 into his court account. Respondent then made false entries in his cashbook to indicate that the deposits had been made in May 1981 and January 1981, respectively, as set forth in Exhibits 2 and 3 appended to the agreed statement of facts.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 107, 2019 and 2019-a of the Uniform Justice Court Act, Sections 30.7(a) and 30.9 of the Uniform Justice Court Rules, Section 105.1 of the Recordkeeping Requirements for Town and Village Courts, Sections 100.1, 100.2(a), 100.3(a)(1), 100.3(a)(5) and 100.3(b)(1) of the Rules Governing Judicial Conduct and Canons

1, 2A, 3A(1), 3A(5) and 3B(1) of the Code of Judicial Conduct. The Charge in the Formal Written Complaint is sustained and respondent's misconduct is established.

Respondent deliberately failed to deposit court funds into his official court account over an 11-month period, resulting in a deficiency of more than \$1900. He then made false entries in his records in order to conceal the deficiency from state auditors, and he falsely certified the status of his court funds and accounts in a statement submitted to the auditors. In so doing, respondent engaged in egregious misconduct for which there can be no excuse. In attempting with falsehoods to cover up his original misconduct, respondent acted in a disgraceful manner which has prejudiced the administration of justice and destroyed his credibility as a judge.

By reason of the foregoing, the Commission determines that respondent should be removed from office.

This determination is rendered pursuant to Section 47 of the Judiciary Law in view of respondent's resignation from the bench.

All concur, except for Mr. Bower and Judge Rubin, who were not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: January 26, 1983

  
Lillemor T. Robb, Chairwoman  
New York State Commission on  
Judicial Conduct