

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

CHAD. R. HAYDEN,

a Justice of the Aurelius Town Court,
Cayuga County.

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
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

Gerald Stern (John J. Postel and Seema Ali, Of Counsel) for the
Commission

William G. Moench, Jr., for Respondent

The respondent, Chad R. Hayden, a justice of the Aurelius Town Court,
Cayuga County, was served with a Formal Written Complaint dated February 23, 2000,

containing one charge. Respondent filed an answer dated April 10, 2000.

By Order dated July 31, 2000, the Commission designated Patrick J. Berrigan, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on October 25, 2000, and the referee filed his report dated February 10, 2001, with the Commission.

The parties submitted briefs with respect to the referee's report. On May 10, 2001, the Commission heard oral argument, at which respondent and his counsel appeared, and thereafter considered the record of the proceeding and made the following findings of fact.

1. Respondent has been a justice of the Aurelius Town Court since 1994.
2. Respondent is a graduate of Cornell Law School and was admitted to the practice of law in 1973. Since 1995, respondent has maintained his own law practice, engaged primarily in estate law and real estate law.
3. In January 1998, Jerry Lamphere was involved in an automobile accident while operating a motor vehicle owned by Lindsey Ide. Ms. Ide, who was at home at the time of the accident, told her father that she had been operating the vehicle when the accident occurred. The accident caused substantial damage to the car.
4. Respondent and Edward Ide, Ms. Ide's father, are close personal

friends, and Mr. Ide sometimes assists respondent, as a volunteer, at court.

5. On January 14, 1998, Lindsey Ide, then age 18, was issued traffic tickets for Speeding and Failure To Keep Right, arising from the accident. The tickets were returnable in the Moravia Town Court.

6. Mr. Ide told respondent that Lindsey had been involved in an auto accident, and respondent offered to help. Respondent met with Ms. Ide, who told him that the accident had occurred when she was operating the vehicle.

7. Respondent represented Ms. Ide in connection with the traffic tickets and the accident. On behalf of Ms. Ide, respondent entered a plea of not guilty on the traffic charges and requested a trial date.

8. Thereafter, Ms. Ide acknowledged to her father that Mr. Lamphere had been operating the automobile at the time of the accident, and Mr. Ide so informed respondent.

9. Respondent advised Ms. Ide to disclose this information to the State Police, and Ms. Ide did so.

10. In the course of representing Lindsey Ide, respondent asked Patricia Lawler, an assistant district attorney of Cayuga County, what position her office would take if an individual lied in a statement to police and then came forward with the truth.

11. Ms. Lawler advised respondent that she was aware that Lindsey Ide had changed her story and told respondent that she, Ms. Lawler, would recommend that

the traffic tickets be dismissed. Thereafter, the traffic tickets were dismissed.

12. On November 3, 1998, Lindsey Ide filed a small claims action against Jerry Lamphere in the Aurelius Town Court. Appearing before respondent, Ms. Ide described her claim against Mr. Lamphere, and respondent prepared the Notice of Small Claim for \$3000, alleging emotional distress and damage to Ms. Ide's automobile arising from unauthorized use of the vehicle by Mr. Lamphere.

13. Respondent caused the Notice of Small Claim to be mailed to Mr. Lamphere's residence in Weedsport, New York, scheduling a hearing in the matter in respondent's court for December 15, 1998. There is no indication that Mr. Lamphere ever received the registered letter.

14. On the return date, Mr. Lamphere did not appear. Respondent took testimony from Lindsey Ide and granted a default judgment in her favor for \$1950 plus \$15 disbursements. This amount represented \$1600 for damages to the automobile, \$200 for lost clothing, \$50 for towing and \$100 for missing a week of school.

15. Respondent's court lacked jurisdiction over Mr. Lamphere, pursuant to Section 1801 of the Uniform Justice Court Act, since Mr. Lamphere did not reside in the town of Aurelius, or have regular employment or an office for the transaction of business in the town.

16. On March 14, 2000, after the Formal Written Complaint in this matter was filed, respondent advised Jerry Lamphere and Lindsey Ide that he lacked

jurisdiction over the defendant and was vacating the judgment and dismissing the case.

Ms. Ide never collected from Mr. Lamphere the amount awarded in the default judgment.

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)(1), 100.3(E)(1), 100.3(E)(1)(a)(i), 100.3(E)(1)(a)(ii) and 100.3(E)(1)(b)(i) of the Rules Governing Judicial Conduct. Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established.

Respondent, a part-time justice who is permitted to practice law, presided over a small claims action involving a claimant whom he had represented as a client in a traffic case involving the same incident and whose father was respondent's friend and court assistant.

As a judge for four years and a practicing attorney for 25 years, respondent should have recognized the inherent conflicts in presiding over the small claims case. The manifest conflicts required his disqualification: the claimant was the daughter of his close friend; she was a recent client; and he had represented her in a matter involving the same fact situation now before him as a judge. Disqualification is required in matters where a judge has a personal bias concerning a party, has personal knowledge of disputed evidentiary facts or has previously served as a lawyer in the matter in controversy, or in

any matter in which the judge's impartiality might reasonably be questioned (Sections 100.3(E)(1), 100.3(E)(1)(a)(i), 100.3(E)(1)(a)(ii) and 100.3(E)(1)(b)(i) of the Rules). *See* Matter of Ross, 1990 Ann Report of NY Commn on Jud Conduct, at 153; Matter of Cerbone, 1997 Ann Report of NY Commn on Jud Conduct, at 83; Matter of Robert v. Comm. on Jud. Conduct, 89 NY2d 745 (1997).

The appearance of impropriety is exacerbated because respondent granted a default judgment in the claimant's favor, relying exclusively on her testimony, notwithstanding that he lacked personal jurisdiction over the defendant, who was not a resident of the town and who apparently never received the Notice of Small Claim that respondent had prepared. In view of his conspicuous conflicts in the matter, respondent's error of law on the jurisdictional issue compounds the appearance of impropriety.

By his handling of the matter, respondent showed insensitivity to his obligation not only to be impartial, but to appear to be impartial in matters over which he presides. His conduct undermines public confidence in the fair and impartial administration of justice.

In determining sanction, the Commission has considered respondent's assurances that he now recognizes the importance of maintaining a strict separation between the private practice of law and the performance of his judicial duties.

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

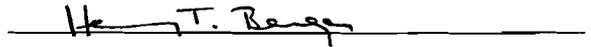
Mr. Berger, Judge Ciardullo, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Marshall, Judge Peters, Mr. Pope and Judge Ruderman concur.

Judge Luciano was not present.

CERTIFICATION

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

Dated: June 27, 2001

A handwritten signature in black ink, appearing to read "Henry T. Berger", is written over a horizontal line.

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