



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Essex County Town Court Justice Censured for Financial Misconduct and Conflict of Interest

The New York State Commission on Judicial Conduct has determined that Arthur S. Miclette, a Justice of the Crown Point Town Court, Essex County, should be censured.

In a determination dated July 1, 2009, the Commission found that Judge Miclette should be sanctioned for failing to make timely deposits and for not remitting funds to the State Comptroller in a timely manner. The judge, who is not an attorney and who is the owner of a car repair business in Crown Point, also filed a small claims action in his own court, presided over the case and failed to transfer it to another court.

The Commission said that as a result of Judge Miclette's "inadequate" supervision of his part-time clerk, court funds were deposited "sporadically" in 2006 and 2007, resulting in a \$350 cumulative deficiency. In addition, for two months, no remittances were made to the State Comptroller.

“Although there is no indication that any money was misappropriated, public confidence in the courts is jeopardized when monies are not scrupulously handled as required by law,” the Commission stated. It noted that since a new clerk was retained, “it appears that these administrative tasks are now being properly performed.”

In addition, Judge Miclette filed a small claim in his own court for \$600 against a customer of his car repair business. When the defendant appeared before the judge in August 2007, the judge told the defendant that he could not hear the matter in his own court, but said that if the debt was not satisfied he would transfer the matter to another court. The Commission said that Judge Miclette – who has no co-judge – should have immediately transferred the case to another jurisdiction and that by not doing so the judge “in effect...engaged in settlement discussions in his own court, from the bench, in a case in which he was a party.”

The determination can be found on the Commission’s web site:
www.scjc.state.ny.us.

The Commission Proceedings

Judge Miclette was served with a Formal Written Complaint dated March 3, 2009, containing two charges. The Administrator of the Commission and the judge entered into an Agreed Statement of Facts on May 21, 2009, stipulating as to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on June 17, 2009.

The Commission Determination

The Commission filed a determination dated July 1, 2009. Judge Thomas A. Klonick (the Commission Chair), Stephen R. Coffey, Esq. (the Vice Chair), Richard D. Emery, Esq., Paul B. Harding, Esq., Elizabeth B. Hubbard, Judge Jill Konviser, Nina M. Moore, Judge Karen K. Peters, and Judge Terry Jane Ruderman concurred.

Joseph W. Belluck, Esq., and Marvin E. Jacob, Esq., were not present.

Court of Appeals Review

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7.

A judge may either accept the Commission's determination or, within 30 days of receipt, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Miclette does not request review by the Court of Appeals, the Court of Appeals will censure him in accordance with the determination.

If the Commission's determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

Statistics Relating to Prior Determinations

Since 1978, the Commission has censured 277 judges in New York State, 195 of who were town or village justices. The Commission has issued a determination of removal as to 160 judges and has admonished 230 judges.

The Court of Appeals has reviewed 88 Commission determinations. The Court accepted the Commission's sanctions in 74 cases (66 of which were removals). Of the remaining 14 cases, two determinations were increased from censure to removal, and 12 were reduced: 9 removal determinations were modified to censure, two censure determinations were modified to admonition, and one censure was rejected and the charges dismissed.

Counsel

In the proceedings before the Commission, Judge Miclette represented himself.

The Commission was represented by Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, and staff attorney Charles F. Farther, Esq. Senior Investigator Donald R. Payette assisted in the investigation.

Members of the Commission

The Commission members serve four-year terms. A list of members is appended.

The Public File

The determination is attached. The record of the proceedings upon which the determination is based is available for inspection by appointment during regular business hours at the Commission's three offices:

61 Broadway
New York, New York 10006

Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223

400 Andrews Street
Rochester, New York 14604

MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2013
Stephen R. Coffey, Esq., Vice Chair	Former Senate President Pro Tem Joseph L. Bruno	March 31, 2011
Joseph W. Belluck, Esq.	Governor David A. Paterson	March 31, 2012
Richard D. Emery, Esq.	Former Senate Minority Leader Malcolm A. Smith	March 31, 2012
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2013
Elizabeth B. Hubbard	Governor David A. Paterson	March 31, 2011
Marvin E. Jacob, Esq.	Assembly Speaker Sheldon Silver	March 31, 2010
Hon. Jill Konviser	Former Governor George E. Pataki	March 31, 2010
Nina M. Moore	Governor David A. Paterson	March 31, 2013
Hon. Karen K. Peters	Former Chief Judge Judith S. Kaye	March 31, 2010
Hon. Terry Jane Ruderman	Former Chief Judge Judith S. Kaye	March 31, 2012