



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

FOR RELEASE November 28, 2011

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New York City Civil Court Judge Admonished for Misleading Campaign Literature

The New York State Commission on Judicial Conduct has determined that Shari R. Michels, a Judge of the New York City Civil Court, New York County, should be admonished for distributing misleading literature during her 2006 judicial campaign.

The Commission concluded that the literature, a palm card, was deceptive in that it juxtaposed Judge Michels' photograph with that of another candidate and included the language "Endorsed by the *New York Times*" in such a way that it could be construed as referring to both candidates, when in fact Judge Michels did not have the *Times*' endorsement. There were three candidates for two vacant Civil Court positions.

Two days before the election, the other candidate pictured with Judge Michels, Rita Mella, voiced her objections to the palm card and asked Judge Michels to cease distributing the literature. Judge Michels continued to hand out the card until the election.

“This behavior exacerbates [Judge Michels’] misconduct, further conveying the appearance that her campaign traded on Mella’s status by knowingly and intentionally making misleading use of the *Times*’ endorsement,” the Commission said in its determination.

The vote totals were as follows:

Rita Mella 37,859
Shari Michels 9,808
Kelly O’Neill Levy 7,814.

As the two highest vote recipients, Ms. Mella and Ms. Michels were elected.

The Commission dismissed another charge that Judge Michels’ campaign received contributions from her family in excess of the maximum allowed by law.

Judge Michels has been a Judge of the Civil Court of the City of New York since January 2007, and her term expires on December 31, 2016.

The determination can be found on the Commission’s website: www.cjc.ny.gov.

The Commission Proceedings

Judge Michels was served with a Formal Written Complaint dated January 26, 2009, containing two charges. The Administrator of the Commission, Judge Michels’ attorney and Judge Michels entered into two Agreed Statements of Facts, stipulating as to the facts and sanction, but the Commission rejected both.

On March 25, 2010, the Commission designated Honorable Janet A. Johnson as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held in New York City on September 14 and 15, 2010, and the referee filed a report dated May 29, 2011. The parties submitted briefs with respect to the referee’s report and the issue of sanctions. Commission counsel recommended the sanction of censure, and the judge’s counsel recommended dismissal. The Commission heard oral argument on August 4, 2011.

The Commission Determination

The Commission filed a determination dated November 17, 2011. Judge Thomas A. Klönick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Paul B. Harding, Esq., Nina M. Moore, Judge Karen K. Peters and Richard A. Stoloff, Esq., concurred except that three members – Judge Klönick, Judge Ruderman and Ms. Moore – dissented and voted to sustain the dismissed charge,

and, in a dissenting opinion, three members – Judge Rolando T. Acosta, Joseph W. Belluck, Esq., and Richard D. Emery, Esq. – voted to dismiss both charges.

Commission Member Joel Cohen, Esq., did not participate.

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 from 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 Michels does not request review by the Court of Appeals, the Commission will admonish her 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 issued 244 determinations of admonition against judges in New York State. The Commission has issued 163 determinations of removal and 294 determinations of censure.

The Court of Appeals has reviewed 91 Commission determinations. The Court accepted the Commission's sanctions in 75 cases (66 of which were removals, six were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: 9 removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Michels was represented by David Godosky of Godosky & Gentile, PC, 61 Broadway, 20th Floor, New York, New York 10006, (212) 742-9700.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, Edward Lindner, Deputy Administrator for Litigation, and Staff Attorney Brenda Correa.

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:

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| 61 Broadway Suite 1200 New York, New York 10006 | Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223 | 400 Andrews Street Suite 700 Rochester, New York 14604 |
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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 |
| Hon. Terry Jane Ruderman, Vice Chair | Former Chief Judge Judith S. Kaye | March 31, 2012 |
| Hon. Rolando T. Acosta | Chief Judge Jonathan Lippman | March 31, 2014 |
| Joseph W. Belluck, Esq. | Former Governor David A. Paterson | March 31, 2012 |
| Joel Cohen, Esq. | Assembly Speaker Sheldon Silver | March 31, 2014 |
| 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 |
| Nina M. Moore | Former Governor David A. Paterson | March 31, 2013 |
| Hon. Karen K. Peters | Former Governor David A. Paterson | March 31, 2014 |
| Richard A. Stoloff, Esq. | Senate President Pro Tem Dean Skelos | March 31, 2015 |
| Vacant | Governor | March 31, 2015 |