



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

September 1, 2015

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Erie County Town Court Justice Should Be Admonished for Making Improper Political Contributions

The New York State Commission on Judicial Conduct has determined that Joseph A. Sakowski, a Justice of the Elma Town Court, Erie County, should be admonished for engaging in prohibited political activity.

Judge Sakowski agreed to the admonition.

From 2003 through January 2014, Judge Sakowski directly made 69 prohibited political contributions totaling \$20,633, and another 36 totaling about \$2,851 through his law firm. Twenty-seven of the contributions by his law firm were for tickets to politically sponsored events outside the judge's "window period"¹ of permissible political activity.

¹ The Rules Governing Judicial Conduct permit a publicly announced candidate for elected judicial office to purchase two tickets to a politically sponsored dinner or other political function only during his or her "window period," defined as a period of nine months before the selection of candidates to six months after the primary, convention, caucus or general election.

*September 1, 2015**Page 2*

The Commission noted that the Rules, Advisory Opinions and its own decisions over the years have long made it clear that judges may not directly or indirectly make political contributions, with certain narrow exceptions applicable to a limited time when they are running for office.

Three Commission members dissented. Richard D. Emery and Joseph W. Belluck argued that the rule prohibiting political contributions was inconsistent with the First Amendment, and Richard A. Stoloff argued that the rule should not apply when the contribution is to a national political campaign.

The Commission addressed both dissents, noting that the Court of Appeals has upheld the constitutionality of the contributions rule, and that there is no exception in the rules for national campaigns.

Judge Sakowski has served as a Justice of the Elma Town Court since 1980. His current term expires on December 31, 2015.

The Commission Proceedings

Judge Sakowski was served with a Formal Written Complaint dated July 15, 2014, containing one charge, and filed an Answer dated August 1, 2014.

On September 24, 2014, the Administrator of the Commission, Judge Sakowski and Judge Sakowski's attorney entered into an Agreed Statement of Facts, stipulating as to the facts and sanction and waiving further submissions and oral argument. However, the Commission deferred consideration of the matter, pending a decision by the United States Supreme Court in *Williams-Yulee v. Florida Bar*, which concerned a rule prohibiting on judicial candidates from personally soliciting campaign contributions.² The Supreme Court decided *Williams-Yulee* on April 29, 2015, upholding the ban. 135 S Ct 1656 (2015).

The Commission accepted the Agreed Statement on June 18, 2015.

The Commission Determination

The Commission filed a determination dated August 20, 2015, in which eight members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joel Cohen, Esq., Jodie Corngold, Paul B. Harding, Esq., Richard A. Stoloff, Esq., and Judge David A. Weinstein. Mr. Stoloff filed an opinion, dissenting only as to the

² The Complaint against Judge Sakowski involved only his making, not soliciting, political contributions.

*September 1, 2015**Page 3*

conclusion that the judge's contributions to political candidates on a national level warrant public discipline.

One member, Richard D. Emery, Esq., filed a dissenting opinion, in which Joseph W. Belluck, Esq., joined, voting to reject the Agreed Statement of Facts.

There is currently one vacancy on the 11-member Commission.

Press Availability

Mr. Tembeckjian is available throughout the day by telephone: (646) 386-4800.

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. Judge Sakowski received it on August 28, 2015, and the Commission was subsequently notified by the Court of Appeals that service was complete. Consequently, the matter is now public.

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 Sakowski does not request review by the Court of Appeals, the Commission will admonish him in accordance with the determination.

If a Commission 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 258 determinations of admonition against judges in New York State. The Commission has issued 313 determinations of censure and 168 determinations of removal.

The Court of Appeals has reviewed 95 Commission determinations. The Court accepted the Commission's sanctions in 79 cases (70 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: nine removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was

*September 1, 2015**Page 4*

rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Sakowski was represented by Daniel M. Killelea, Esq., 121 Prospect Street, Suite 1, Attica, New York 14011, (585) 937-8987.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission; John J. Postel, Deputy Administrator in Charge of the Rochester office; and Senior Attorney David M. Duguay. Senior Investigator Rebecca Roberts assisted in the investigation.

Background Information on Judge Sakowski

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| First took office: | 1980 |
| Year Admitted to NYS Bar: | 1976 |
| Current Term Expires: | December 31, 2015 |
| Salary: | \$35,675 (Source: 2015 Town of Elma Budget) |
| Other Employment: | Partner with the law firm of Sakowski & Markello, LLP |

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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| <p>61 Broadway Suite 1200 New York, New York 10006</p> | <p>Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223</p> | <p>400 Andrews Street Suite 700 Rochester, New York 14604</p> |
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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, 2017 |
| Hon. Terry Jane Ruderman, Vice Chair | Chief Judge Jonathan Lippman | March 31, 2016 |
| Hon. Rolando T. Acosta | Chief Judge Jonathan Lippman | March 31, 2018 |
| Joseph W. Belluck, Esq. | Governor Andrew M. Cuomo | March 31, 2016 |
| Joel Cohen, Esq. | Former Assembly Speaker Sheldon Silver | March 31, 2018 |
| Jodie Corngold | Governor Andrew M. Cuomo | March 31, 2019 |
| Richard D. Emery, Esq. | Former Senate Minority Leader John L. Sampson | March 31, 2016 |
| Paul B. Harding, Esq. | Former Assembly Minority Leader James Tedisco | March 31, 2017 |
| Richard A. Stoloff, Esq. | Former Senate President Pro Tem Dean Skelos | March 31, 2019 |
| Hon. David A. Weinstein | Governor Andrew M. Cuomo | March 31, 2018 |
| Vacant | Governor | March 31, 2017 |