

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

JOHN M. ARONIAN,

DETERMINATION

a Justice of the North Salem Town Court,
Westchester County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Jodie Corngold
Honorable John A. Falk
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Eric Arnone, Of
Counsel) for the Commission

DerOhannesian & DerOhannesian (by Paul DerOhannesian, II) for
respondent

Respondent, John M. Aronian, a Justice of the North Salem Town Court, Westchester County, was served with a Formal Written Complaint (“Complaint”) dated July 13, 2022 containing one charge. The Complaint alleged that from May 2020 to October 2020, respondent voluntarily prepared and submitted character reference letters, which invoked his judicial title, in support of pistol license applications filed in County Court, Westchester County, by Susan Koch and Daniel Koch and wrote a letter on his judicial stationery to County Court Judge Susan Cacace, requesting that she reconsider her denial of Susan Koch’s pistol license application.

On September 26, 2022, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On October 27, 2022, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the North Salem Town Court, Westchester County, since January 2016. His current term expires on December 31, 2023. He was admitted to the practice of law in New York in 2004.

2. Susan Koch has been respondent's neighbor since 2003. Ms. Koch has served as a court clerk in the North Salem Town Court since 2015.

3. Daniel Koch is Susan Koch's husband and has been respondent's neighbor since 2001.

4. On May 4, 2020, Susan Koch asked respondent to serve as a character reference in support of unrestricted pistol license applications for herself and Daniel Koch. Respondent agreed, and Susan Koch provided respondent with two blank "Character Reference Letter" forms from the Pistol License Unit of the Westchester County Police.

5. On May 4, 2020, respondent completed and signed Character Reference Letter forms on behalf of Susan Koch and Daniel Koch. In each letter, respondent identified his occupation as "JUDGE."¹

A. In the reference letter for Susan Koch, respondent described her, *inter alia*, as a "neighbor, friend, and co-worker," and stated that she "currently serves as my appointed Court Clerk."

B. In the reference letter for Daniel Koch, respondent described Mr. Koch, *inter alia*, as a "wonderful and trusted friend and neighbor."

6. Sometime after May 4, 2020, respondent gave both completed Character Reference Letter forms to Susan Koch, who submitted them to the Westchester County Department of Public Safety. The pistol permit applications

¹ The documents referenced herein are appended to the Formal Written Complaint.

of both Susan and Daniel Koch were referred for decision to County Court, Westchester County, pursuant to Penal Law Section 265.00(10).

7. By Decision and Order dated September 2, 2020, County Court Judge Susan Cacace denied Susan Koch's application for an unrestricted New York State pistol/revolver "full carry" license. In her decision, Judge Cacace found, *inter alia*, that Susan Koch "failed to substantiate [her] claim by providing any information revealing any of the dates, frequency and details of these encounters, as might have been demonstrated through the submission of police reports and/or corroborating witness statements" and "failed to adequately substantiate her claim that her safety concerns associated with her employment as a Court Clerk may only be adequately met by her Full Carry use of a handgun without restriction."

8. Shortly thereafter, Susan Koch told respondent her pistol license application had been denied and showed him a copy of Judge Cacace's Decision and Order. Ms. Koch told respondent she planned to submit a request for reconsideration of the denial, and she asked respondent to write a letter to Judge Cacace in support of that application.

9. Respondent personally placed a telephone call to the Westchester County Courthouse to inquire about the process for an applicant to appeal the denial of a pistol permit application and spoke with a court clerk. Respondent

learned that a letter of reconsideration could be submitted to the judge who denied the initial application.

10. Thereafter, respondent wrote a letter on behalf of Susan Koch to Judge Cacace, dated October 2, 2020, on North Salem Town Court stationery, which identified him as one of the “JUSTICES” and Ms. Koch as “COURT CLERK.” In the letter, respondent, *inter alia*, stated, “I am a [sic] currently a sitting Town Justice in the Town of North Salem, New York,” and he noted that Ms. Koch had served as the court’s “head Court Clerk for the past four years.” He also proffered reasons why, in his estimation, Ms. Koch’s employment as a court clerk in the North Salem Town Court warranted the issuance of a full carry pistol license, and he argued in favor of her application being granted. Respondent concluded the letter by inviting Judge Cacace to contact him directly if she needed additional information. Respondent signed the letter, “Hon. John M Aronian” and provided his cellphone number.

11. Respondent gave the letter to Susan Koch, who submitted it to Judge Cacace with her own letter requesting reconsideration of the decision denying her application. Judge Cacace thereafter referred respondent’s conduct to the Commission.

12. At no time did Judge Cacace, the Westchester County Police Pistol License Unit, or any other official or agency ask or authorize respondent to submit character references on behalf of Susan and/or Daniel Koch.

Additional Factors

13. Respondent has taken full responsibility for his actions and has been forthright, cooperative and contrite with the Commission throughout this inquiry. Although respondent says he wrote the October 2nd letter on judicial stationery because it recited Ms. Koch's duties and responsibilities as Court Clerk and noted employment-related concerns for her personal safety, he now acknowledges it was wrong for him to do so and regrets failing to abide by the rules. Respondent avers that he believed he was in the best position to address the personal security concerns of his court clerk and her husband and acknowledges that this is not permitted by the Rules. Respondent pledges never to do so again, and to be more mindful of his ethical obligations both on and off the bench.

14. Respondent has no prior judicial disciplinary history.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(B) and 100.2(C) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the

Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent's misconduct is established.

Respondent acted in a manner that was inconsistent with his obligations to maintain high standards of conduct and to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

(Rules, §§100.1, 100.2(A)) The Rules specifically provide that "[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others. . . ." (Rules, §100.2(C)) Respondent violated his ethical obligations when he completed the two Character Reference Letter forms, in which he identified himself as a judge. He again violated the Rules when, using his judicial stationery, he wrote a letter to the County Court judge arguing for reconsideration of the denial of Susan Koch's pistol license application.

Respondent's conduct violated the ethical rules requiring judges to observe high standards of conduct both on and off the bench and prohibiting judges from lending the prestige of judicial office to advance their private interests or those of another. As the Court of Appeals held in *Matter of Lonschein*, 50 N.Y.2d 569, 571-572 (1980), "no Judge should ever allow personal relationships to color his conduct or lend the prestige of his office to advance the private interests of others."

It is well-established that writing a letter using judicial stationery to advance the private interests of another person violates the Rules. "Regardless of a judge's

intent, communications of this type convey the appearance of using the prestige of judicial office to advance private interests. . .” *Matter of Ramirez*, 2018 NYSCJC Annual Report 232, 241; *Matter of Smith*, 2014 NYSCJC Annual Report 208; *Matter of Sharlow*, 2006 NYSCJC Annual Report 232.² When he invoked his judicial status and used his judicial stationery to write to the County Court judge to advocate reconsideration of the denial of Susan Koch’s application, respondent created the improper appearance that he expected special treatment and deference because of his status as a judge.

In accepting the jointly recommended sanction of admonition, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

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

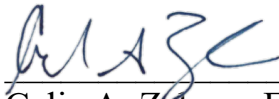
Mr. Belluck, Ms. Grays, Judge Camacho, Ms. Corngold, Judge Falk, Judge Mazzairelli, Judge Miller, Mr. Raskin, Mr. Rosenberg, Mr. Seiter and Ms. Yeboah concur.

² The Advisory Committee on Judicial Ethics has opined that a judge “should not serve as a character reference for a friend who is applying for a pistol permit.” *Adv. Op.* 10-17.

CERTIFICATION

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

Dated: November 7, 2022



Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct