

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

LEWIS J. LUBELL,

a Justice of the Supreme Court,
Westchester County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Vickie Ma, Of
Counsel) for the Commission

Kutner Friedrich, LLP (by Charles E. Kutner) for respondent

Respondent, Lewis J. Lubell, a Justice of the Supreme Court, Westchester County, was served with a Formal Written Complaint (“Complaint”) dated August 27, 2024 containing one charge. Charge I of the Complaint alleged on August 19, 2022, after having spoken with his friend Mitchell P. Lieberman about a pending matrimonial case that Mr. Lieberman, an attorney, had before Supreme Court Justice Thomas Quinones (Westchester County), respondent initiated an *ex parte* conversation about that case with Judge Quinones and gave him advice on an issue Mr. Lieberman had raised. The Complaint further alleged that on September 16, 2022, respondent had another *ex parte* conversation with Judge Quinones about Mr. Lieberman’s case, *inter alia* asking if Judge Quinones had considered firing his court attorney over the matter raised by Mr. Lieberman.

On September 20, 2024, 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 24, 2024, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 1995.

He was an Acting Justice of the Ardsley Village Court from 2003 to 2005. He has been a Justice of the Supreme Court since 2006, having been assigned to sit in Orange County, then Westchester County. Respondent's current term expires on December 31, 2033.

2. At all times relevant to the matters herein, respondent and Mr. Lieberman were friends who would socialize and occasionally meet for dinner.

3. At all times relevant to the matters herein, respondent was acquainted as a fellow judge with Thomas Quinones, who was a judge of the Yonkers City Court from 2016 to 2021, and has been a Justice of the Supreme Court, Westchester County, since 2022. Respondent and Judge Quinones socialized together and with mutual acquaintances, their Supreme Court chambers were near to each other in 2022, and from time to time, respondent gave Judge Quinones professional advice.

4. On August 17, 2022, Edit Shkreli,¹ who at the time was Judge Quinones' court attorney, conducted a case conference in *Allison Cooper Cohen v Jacques Cohen* ("Cohen"), a contested matrimonial matter. Mr. Lieberman's law partner, John O. Farley, appeared with his client, Ms. Cooper Cohen; attorney Stuart P. Slotnick appeared with his client, Mr. Cohen; and attorney Tiffany Gallo

¹ In January 2024, Ms. Shkreli took office as an elected judge of the New York City Civil Court, serving in Bronx County.

appeared on behalf of the children.

5. On August 19, 2022, Mr. Lieberman spoke to respondent about the August 17 conference in *Cohen*. Mr. Lieberman complained that Mr. Farley had had a bad experience with Ms. Shkreli, and that she had made an unflattering comment about their firm in the presence of the parties and their attorneys. Mr. Lieberman asked respondent what he should do. Respondent replied that Mr. Lieberman needed to speak to Judge Quinones.*

6. On August 19, 2022, respondent asked Judge Quinones to his chambers and said he had become aware of a problem involving Ms. Shkreli during the August 17 conference conducted by Ms. Shkreli in the *Cohen* case. Respondent suggested that Judge Quinones insulate Ms. Shkreli from handling any cases involving Mr. Lieberman or his firm, and that he should speak to Mr. Lieberman to work things out.

7. On September 16, 2022, respondent had another conversation with Judge Quinones in respondent's chambers. Respondent asked Judge Quinones if he had considered replacing Ms. Shkreli as his court attorney. Judge Quinones replied, in words or substance, that he had no intention of firing her and that she had not done anything to warrant being fired.

8. Neither respondent nor Judge Quinones disclosed respondent's conversations with Mr. Lieberman, or respondent's conversation with Judge

* See addendum.

Quinones, to the parties, the defense attorney or the attorney for the children.

Additional Factors

9. Respondent has served as a judge for more than 20 years and has never been disciplined previously.

10. Respondent has been contrite and cooperative throughout the Commission's inquiry, and forthrightly acknowledged the impropriety of his conversations with Judge Quinones.

11. Respondent commits to being especially mindful of the rule against unauthorized *ex parte* communications, whether with lawyers, fellow judges or others engaged in pending litigation.

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), 100.2(C), and 100.3(B)(6) 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's conduct 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, with limited exceptions not applicable here, prohibit a judge from initiating, permitting or considering *ex parte* communications about a pending matter. (Rules, §100.3(B)(6)) In addition, the Rules 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 engaged in improper, undisclosed communications regarding the *Cohen* matter with attorney Lieberman and with his co-judge.

The Court of Appeals held in *Matter of Lonschein*, 50 NY2d 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.” *See, Matter of Young*, 2001 Ann Rep of NY Commn on Jud Conduct at 129, 130 (“respondent intervened on behalf of another in a pending proceeding and used the prestige of judicial office in an attempt to advance his friend’s private interests. Such assertion of influence is clearly prohibited by the ethical standards. . .”).

Respondent violated the Rules when he had communications about the *Cohen* matter with his friend, attorney Lieberman, who was plaintiff’s counsel in the *Cohen* matter. At the time of their communication, the *Cohen* matter was pending before Judge Quinones, respondent’s co-judge. After speaking with his friend about the *Cohen* matter, respondent then initiated *ex parte* communications

with Judge Quinones about the matter. Respondent improperly gave Judge Quinones advice on an issue that Mr. Lieberman had raised.² In addition, respondent exacerbated his misconduct when he failed to disclose his *ex parte* communications. “Even ‘brief and unsolicited’ *ex parte* communications must be disclosed to the parties.” *Matter of Carter*, 2021 Ann Rep of NY Commn on Jud Conduct at 71, 79 (citation omitted).

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, Mr. Cambareri, Mr. Doyle, Judge Falk, Professor Moore, Mr. Raskin, Judge Singh and Ms. Yeboah concur.


Judge Miller did not participate.

CERTIFICATION

² On October 3, 2024, the Commission issued a determination in *Matter of Quinones* which is available at: <https://cjc.ny.gov/Determinations/Q/Quinones.Thomas.2024.10.03.DET.pdf>

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

Dated: November 7, 2024



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

Addendum

There is no finding that Judge Shkreli made the “unflattering comment” referenced in paragraph 5 of the determination, and there is no suggestion that she engaged in any misconduct.