

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

SCOTT OKOLOWICZ,

a Justice of the Riga Town Court,
Monroe County.

DETERMINATION

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. Mazzairelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Ronald J. Rosenberg, Esq.
Graham B. Seiter, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and David M. Duguay, Of Counsel)
for the Commission

Bond, Schoeneck & King PLLC (by Michael R. Wolford) for Respondent

Respondent, Scott Okolowicz, a Justice of the Riga Town Court, Monroe County,
was served with a Formal Written Complaint (“Complaint”) dated July 21, 2021
containing one charge. The Complaint alleged that on four occasions between January

2016 and June 2016, respondent inaccurately certified to the New York State Department of Labor (“DOL”) that he had not worked on days that he had presided as a Town Justice, and, as a result, accepted unemployment insurance benefits to which he was not entitled. Respondent filed a verified answer dated September 13, 2021.

On January 14, 2022, the Administrator, respondent’s counsel, and respondent entered into an Agreed Statement of Facts 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 censured and waiving further submissions and oral argument.

On February 3, 2022, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the Riga Town Court, Monroe County, since January 2012. His current term expires December 31, 2023. Respondent is not an attorney.

2. On December 14, 2015, respondent applied online to receive unemployment insurance (“UI”) benefits from the DOL. In his application, respondent requested that a copy of the UI claimant handbook be mailed to him at an address that he provided. Notwithstanding his position as a Riga Town Justice, respondent was eligible as an elected official to receive UI benefits pursuant to New York State Labor Law §565(2)(a).

3. The DOL online site for UI benefits sets forth “**9 Things You Must Do When Filing For Unemployment Insurance**” (emphasis in original). The seventh item on the list read:

Read your Claimant Handbook. It tells you about your rights and responsibilities while collecting UI. It also lists additional benefits and services you may be able to get. You can find the handbook on our website (emphasis in original).

4. On the “CONFIRMATION PAGE” of his online application, respondent was advised “You must follow the instructions below.” The fourth step of the instructions read:

Read your Information Handbook (emphasis in original)

You will receive an Unemployment Insurance Information for Claimants handbook in the mail. You should read the handbook carefully and follow all instructions contained in it. This handbook is also available on-line at <http://www.labor.ny.gov/formsdocs/ui/TC318.3e.pdf>.

IT IS YOUR RESPONSIBILITY TO READ ALL OF THE INFORMATION PROVIDED IN THE HANDBOOK. YOU WILL BE HELD RESPONSIBLE FOR THE INFORMATION CONTAINED IN THIS BOOKLET (emphasis in original).

5. The December 2015 UI Claimant Handbook had a section in the table of contents entitled, “What if I am an elected official?” On the referenced page in the claimant handbook, it stated:

If you perform work, services or activities as an elected official, you are considered to be working the day you perform these duties. It does not matter what the work is, the amount of time you spent working each day, or whether or not you earned any money or any other payment. **All work, even an hour or less, performed in connection with your elected office must be declared as work when you claim**

weekly benefits (emphasis in original).

6. Respondent's application for UI benefits was approved in December 2015. Thereafter, he was required to provide weekly certifications to the DOL, reporting each day that he worked in a particular week.

7. Respondent presided over arraignments as a Town Court Justice on the following dates in 2016: January 14th, February 5th, May 12th, and June 19th. However, he did not certify to the DOL that he had worked as a Town Court Justice on those dates.

8. On each of these four days that respondent failed to certify that he had worked, the arraignments took place outside his regular court hours. Respondent received no additional compensation for any of these arraignments beyond his annual judicial salary of \$19,000.

9. As a result of his inaccurate certifications as to his days of work, respondent accepted \$318.75 in UI monies to which he was not entitled.

10. As a consequence of respondent's inaccurate certifications, he was required to reimburse monies he had received but to which he was not entitled, and to pay a civil fine. Respondent was also precluded from receiving UI benefits for a limited period.

11. In November 2019, respondent reimbursed the DOL \$318.75 and paid a \$100 civil fine.

Additional Factors

12. Respondent acknowledges that he failed to exercise appropriate diligence in obtaining unemployment benefits and violated his obligation to uphold the high

standards of conduct required of members of the judiciary.

13. Respondent avers that he did not review the UI handbook prior to or at the time of his inaccurate certifications. During his testimony in the course of the Commission investigation, after being shown a copy of his application, respondent acknowledged that, at the time he applied for benefits, he had requested a copy of the handbook to be mailed to him, he was aware of how to access the handbook online, and that it was his responsibility to read the handbook.

14. Respondent avers, and the Administrator has no evidence to the contrary, that he mistakenly believed that he was required to report all scheduled court dates, but that he was not required to report non-scheduled arraignments as full days of work.

15. Respondent properly reported his receipt of unemployment compensation in 2016 on his federal and state tax returns.

16. Respondent represents that he accepts full responsibility for his actions, and he has been cooperative and contrite with the Commission throughout its inquiry. He represents that he regrets his failure to abide by the Rules in this matter. He pledges to conduct himself in accordance with the Rules for the remainder of his tenure as a judge.

17. The Administrator notes that he would have recommended suspension from office were that sanction available to the Commission under the Constitution.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.4(A)(2) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause pursuant to Article VI, Section 22, subdivision (a) of the 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.

Each judge is obligated to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary" and must observe high standards of conduct "so that the integrity and independence of the judiciary will be preserved." (Rules, §§100.1 and 100.2(A)) Each judge is required to conduct their extra-judicial activities in a manner that does not "detract from the dignity of judicial office." (Rules §100.4(A)(2)) "Judges personify the justice system upon which the public relies to resolve all manner of controversy, civil and criminal. A society that empowers Judges to decide the fate of human beings and the disposition of property has the right to insist upon the highest level of judicial honesty and integrity." *In re Mazzei*, 81 N.Y.2d 568, 571-572 (1993).

Respondent failed to comply with these standards when he submitted inaccurate weekly certifications to the DOL which omitted four dates on which he presided over arraignments. These inaccurate certifications caused respondent to receive unemployment benefits to which he was not entitled. By this conduct, respondent violated his ethical obligations and brought reproach upon the judiciary.

In accepting the jointly recommended sanction of censure, we have taken into consideration that respondent has admitted that his conduct warrants public discipline and that he has pledged to carefully comply with the Rules. 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 censure.

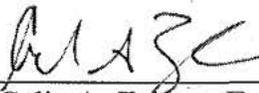
Mr. Belluck, Ms. Grays, Judge Camacho, Ms. Corngold, Judge Mazzairelli, Judge Miller, Mr. Raskin, Mr. Rosenberg, Mr. Seiter and Ms. Yeboah concur.

Judge Falk did not participate.

CERTIFICATION

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

Dated: February 17, 2022



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