



Judicial Conduct Board
Commonwealth of Pennsylvania
Robert A. Graci, Chief Counsel
717-234-7911

Press Release

March 11, 2015

TO: Media/Press

FROM: Judicial Conduct Board

SUBJECT: Dawn A. Segal
Philadelphia Municipal Court Judge
3 JD 2015

Joseph J. O'Neill
Philadelphia Municipal Court Judge
4 JD 2015

Joseph C. Waters
Former Philadelphia Municipal Court Judge
5 JD 2015

Harrisburg. The Judicial Conduct Board today filed formal charges by Board Complaint in the Court of Judicial Discipline against Philadelphia Municipal Court Judges Dawn A. Segal and Joseph J. O'Neill and former Philadelphia Municipal Court Judge Joseph C. Waters, Jr. The Board Complaints allege violations of the Pennsylvania Code of Judicial Conduct and the Pennsylvania Constitution. The Board also filed Petitions for Relief seeking interim suspension of Judges Segal and O'Neill, with or without pay, based on the allegations of judicial misconduct set forth in the Board Complaints. Because former Judge Waters previously resigned from office, no suspension petition was filed against him.

Under the Pennsylvania Constitution, Judges Segal and O'Neill and former Judge Waters, as the subject of the charges, are presumed innocent in all proceedings before the Court of Judicial Discipline. The Judicial Conduct Board has the burden of proving the charges filed in the Court of Judicial Discipline by clear and convincing evidence. The Court of Judicial Discipline may address the petitions seeking interim suspension of Judges Segal and O'Neill prior to a hearing.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Judges Segal and O'Neill and former Judge Waters have the opportunity to respond to the charges, obtain and inspect the evidence which forms the basis of the allegations, and the right to a public trial before the Court of Judicial Discipline.

Upon completion of the trials, if the Court determines that the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed. Possible sanctions include reprimand, suspension, or removal from office.

Counsel

Board: Elizabeth A. Flaherty, Esquire

Respondent Segal: Stuart L. Haimowitz, Esquire

Respondent O'Neill: Samuel C. Stretton, Esquire

Respondent Waters: Michael J. Engle, Esquire

Contact: Robert A. Graci, Chief Counsel, Judicial Conduct Board

The Board Complaints and the Petitions for Relief (without Board Complaint) are attached.

For more information about the Judicial Conduct Board, please visit our website at www.jcbpa.org.

END

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Dawn A. Segal :
Municipal Court Judge :
First Judicial District :
Philadelphia County : 3 JD 2015

2015 MAR 11 P 3:10
RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

TO: DAWN A. SEGAL

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined there is probable cause to file formal charges against you for conduct proscribed by Article V, §§ 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and Canons 2B, 3A(4), 3B(3), and 3C(1) of the Old Code of Judicial Conduct. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this Complaint in accordance with C.J.D.R.P. No. 411.

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

COMPLAINT

AND NOW, this 11th day of March, 2015, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against the Honorable Dawn A. Segal, Judge of the Municipal Court of Philadelphia. The Board alleges that Judge Segal violated the Constitution of the Commonwealth of Pennsylvania, Article V, §§ 17(b) and 18(d)(1), and the Code of Judicial Conduct delineated more specifically as follows:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.

2. From January 4, 2010 to the present time, Judge Segal has served as Judge of the Municipal Court of Philadelphia, Pennsylvania.

3. On or about September 24, 2014, Municipal Court President Judge Marsha Neifield verbally informed Judge Segal that she was reassigned to limited judicial duties until further notice.

4. As a Municipal Court Judge, Judge Segal is, and was at all times relevant hereto, subject to all the duties and responsibilities imposed on her by the Constitution of the Commonwealth of Pennsylvania and Code of Judicial Conduct.

5. Based on a Confidential Request for Investigation at JCB File No. 2014-580, the Board investigated the instant matter.

6. As a result of its investigation, and pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there is probable cause to file formal charges against Judge Segal in this Court.

A. EX PARTE COMMUNICATIONS

7. In 2009, Judge Segal and former Judge Joseph C. Waters, Jr. were judicial candidates and became acquainted at various campaign events.

8. Based on her experiences during the 2009 judicial campaign cycle, in 2011, Judge Segal believed that former Judge Waters was politically well-connected.

9. In 2011 and 2012, Judge Segal and former Judge Waters, served as judges of the Municipal Court of Philadelphia.

10. As a result of an investigation, the United States Attorneys' Office for the Eastern District of Pennsylvania filed a two count Information against former Judge Waters.

11. On September 24, 2014, former Judge Waters entered a negotiated guilty plea in the United States District Court for the Eastern District of Pennsylvania to one count of mail fraud (18 U.S.C. §§ 1341 and 2) and one count of honest services wire fraud (18 U.S.C. §§ 1343, 1346 and 2). *United States v. Waters*, Criminal No. 14-478.

12. Within the negotiated guilty plea agreement of former Judge Waters, which incorporates the two count Information, are statements of fact demonstrating that he initiated *ex parte* communications with Judge Segal (Judge #1) pertaining to a civil matter (*Houdini Lock & Safe Company v. Donegal Investment Property Management Services*, Case No. SC-11-08-09-4192) and a criminal matter (*Commonwealth v. Khoury*, Docket No. MC-51-CR-0018634-2012).

13. On September 29, 2014, Judge Segal self-reported to the Board that former Judge Waters also initiated *ex parte* communication with her regarding a third case, *City of Philadelphia v. Rexach Ian C.*, Case No. CE-12-03-73-0123.

1. Houdini v. Donegal

14. Person #1, Samuel Kuttab, a politically active businessman, is an owner and manager of Donegal Investment Property Management Services (Donegal), identified as Company A in the two count Information, a real estate management business.

15. Kuttab provided political support to former Judge Waters during his 2009 quest for appointment to the bench.

16. Kuttab provided political and financial support to former Judge Waters during his 2009 judicial campaign for the Municipal Court and during his 2011 exploration of a possible run for the Court of Common Pleas of Philadelphia.

17. Houdini Lock & Safe Company (Houdini), identified as Company B in the two count Information, a Pennsylvania corporation, entered into a services contract with Donegal to provide monitoring and testing of a fire alarm system at a Donegal property on North Broad Street, Philadelphia, PA.

18. In accord with the contract, Houdini provided the agreed upon services to the fire alarm system at the Donegal property.

19. On August 9, 2011, Plaintiff Houdini filed a Statement of Claims against Donegal, claiming that Donegal failed to pay Houdini for the services it provided to Donegal under the terms of the contract.

20. A hearing on the *Houdini v. Donegal* matter was scheduled before Judge Segal on September 30, 2011.

21. On or about September 30, 2011, former Judge Waters called Judge Segal on the telephone about the Houdini hearing that was pending before her.

22. During the September 30, 2011 telephone conversation, former Judge Waters informed Judge Segal that "Kuttab . . . will be there" and "we got the defendant, Donegal, the name is," referring to the *Houdini v. Donegal* matter which was scheduled before Judge Segal that same day.

23. The Guilty Plea Agreement of former Judge Waters included the following quoted language from a September 30, 2011 recorded telephone conversation between former Judge Waters and Judge Segal, identified as Judge #1:

WATERS: I got something in front of you at 1 o'clock today.

Judge #1: Okay, tell me, what is it?

WATERS: The, the name's [Company A [Donegal]], okay.

Judge #1: Okay.

WATERS: Ah, it's . . . has something to do with an alarm company. [Person # 1] . . . will be there.

Judge #1: Okay, and, uh, okay.

WATERS: You know [Person #1]

Judge #1: And who do you need?

WATERS: Uh, we, we, we got the, the, the defendant. . . we got the defendant, [Company A], the name is.

Judge #1: Oh, okay. Okay.

WATERS: Alright.

24. On or about September 30, 2011, counsel for Donegal and Kuttab entered a motion for a continuance, stating that he needed more time to prepare for the trial. Attorney for Plaintiff Houdini opposed the motion.

25. On September 30, 2011, Judge Segal presided over the *Houdini* hearing, granted the defense continuance as requested by counsel for Donegal and Kuttab, and ordered that the case proceed to trial without any further defense continuances.

26. Subsequently, the *Houdini* trial was scheduled for November 16, 2011 before Judge O'Neill.

27. The September 30, 2011 recorded telephone conversation, quoted at Paragraph No. 24 above, demonstrates that Judge Segal participated in *ex parte* communication with former Judge Waters about the *Houdini* hearing, a matter that was pending before her.

28. The September 30, 2011 recorded telephone conversation, quoted at Paragraph No. 24 above, demonstrates that Judge Segal entertained an *ex parte* request to provide favorable treatment to the litigant, Donegal, and to Kuttab, who is politically connected with or a friend of former Judge Waters.

29. Judge Segal's grant of the defense continuance at the September 30, 2011 *Houdini* hearing favored Donegal and Kuttab, for whom former Judge Waters requested special consideration during the *ex parte* telephone conversation.

30. The purpose of the September 30, 2011 telephone call from former Judge Waters to Judge Segal was to provide a "secret advantage" to Kuttab and Donegal.

31. The “secret advantage” was to prevent Houdini from receiving payment for security services rendered to Donegal.

32. By his September 30, 2011 *ex parte* communication, Judge Waters intended to and did use his position as judge to influence Judge Segal’s decision at the *Houdini v. Donegal* hearing.

33. On or about September 30, 2011, Judge Segal believed that it was in her best interest to engage in *ex parte* communications with former Judge Waters regarding the *Houdini* case so that he would consider assisting her in her 2015 bid for retention as a Municipal Court Judge.

34. On September 30, 2011, Judge Segal did not tell former Judge Waters to stop the *ex parte* request for special consideration or inform him that she would not provide preferential treatment to Donegal and Kuttub.

35. At the September 30, 2011 *Houdini* hearing, Judge Segal did not disclose to the litigants and their attorneys that she engaged in *ex parte* communication with former Judge Waters prior to the proceeding.

36. On September 30, 2011, Judge Segal did not recuse herself from the *Houdini* hearing, despite her *ex parte* telephone communication with former Judge Waters prior to the proceeding.

37. Judge Segal did not timely report her September 30, 2011 *ex parte* telephone communication with former Judge Waters regarding the *Houdini* matter to the Judicial Conduct Board.

2. City of Philadelphia v. Rexach

38. By means of a September 29, 2014 letter from her counsel, Judge Segal self-reported to the Board that former Judge Waters contacted her by telephone and in-person about *City of Philadelphia v. Rexach*, a case pending before her which was not part of the Guilty Plea Agreement of former Judge Waters.

39. The procedural history in *Rexach* included an Order dated May 15, 2012 in which President Judge Neifield entered a default judgment for the City of Philadelphia and against Rexach in the amount of \$5,000 plus costs for failure to pay a 2009 Business Privilege Tax.

40. On June 12, 2012, Rexach filed a Petition to Open Judgment.

41. On June 12, 2012, Judge Segal denied Rexach's Petition to Open for lack of a meritorious defense.

42. On June 29, 2012, Rexach filed a petition to reconsider the previously denied Petition to Open.

43. On June 29, 2012, former Judge Waters contacted Judge Segal by telephone to discuss the *Rexach* case that was pending before her.

44. During the June 29, 2012 telephone conversation, former Judge Waters informed Judge Segal that his friend, Rexach, filed a petition to reconsider her June 12, 2012 ruling on the Petition to Open.

45. That same day, former Judge Waters also went to Judge Segal's robing room and initiated an in-person conversation with her about the *Rexach* matter that was pending before her.

46. After former Judge Waters spoke with her about the *Rexach* petition for reconsideration, Judge Segal reviewed the matter and granted the petition.

47. By her June 29, 2012 telephone and in person conversations with former Judge Waters, Judge Segal engaged in two prohibited *ex parte* communications about the *Rexach* petition for reconsideration, a matter that was pending before her.

48. By her June 29, 2012 *ex parte* communications with former Judge Waters regarding the *Rexach* matter, Judge Segal entertained requests to provide favorable treatment to the litigant, Rexach, who is politically connected with or a friend of former Judge Waters.

49. Judge Segal's ruling favored the petitioner in *Rexach* for whom former Judge Waters requested special consideration during the June 29, 2012 telephone and in person *ex parte* communications.

50. The purpose of Judge Waters' June 29, 2012 telephone and in person conversations with Judge Segal was to request special consideration for his friend, Rexach, a litigant in the *Rexach* matter.

51. Judge Waters intended to and did use his position as judge to influence Judge Segal's decision regarding the petition for reconsideration in the *Rexach* case.

52. On June 29, 2012, Judge Segal did not tell former Judge Waters to stop the *ex parte* requests for special consideration or inform him that she would not provide preferential treatment to his friend, Rexach.

53. On June 29, 2012, Judge Segal did not disclose to the litigants and attorneys who represented the parties in the *Rexach* matter that she engaged in *ex*

parte telephone and in person communications with former Judge Waters prior to her review and decision regarding the petition for reconsideration.

54. On June 29, 2012, Judge Segal did not recuse herself from reviewing and deciding the petition for reconsideration in the *Rexach* matter, despite her *ex parte* telephone and in person communications with former Judge Waters.

55. Judge Segal did not timely report her June 29, 2012 *ex parte* telephone and in person communications with former Judge Waters about the *Rexach* matter to the Judicial Conduct Board.

3. Commonwealth v. Khoury

56. On July 23, 2012, former Judge Waters again contacted Judge Segal by telephone regarding *Commonwealth v. Khoury*, a case pending before her.

57. During the July 23, 2012 telephone conversation, former Judge Waters informed Judge Segal that she was scheduled to preside over a Preliminary Hearing involving felony firearms possession charges and that his "friend" was the defendant in the case.

58. During the July 23, 2012 telephone conversation, former Judge Waters requested that Judge Segal "help him" and identified his "friend," Khoury, by name.

59. In *Khoury*, the Commonwealth charged Khoury with Firearms Not to Be Carried Without a License, 18 Pa.C.S.A. § 6106(a)(1), and Carry Firearms in Public in Philadelphia, 18 Pa.C.S.A. § 6108.

60. On July 24, 2012, the day after her *ex parte* telephone communication with former Judge Waters, Judge Segal presided over the Preliminary Hearing in *Khoury*.

61. During the *Khoury* Preliminary Hearing, Judge Segal heard extensive argument about the elements and grading of the crime, Firearms Not to Be Carried Without a License.

62. Following argument in the *Khoury* matter, Judge Segal determined that the crime should be graded as a misdemeanor, not a felony as initially charged, and remanded the case for trial.

63. By her July 23, 2012 telephone conversation with former Judge Waters, Judge Segal engaged in *ex parte* communication about the *Khoury* case, a matter pending before her.

64. By her July 23, 2012 telephone conversation with former Judge Waters, Judge Segal entertained an *ex parte* request to provide favorable treatment to a litigant, Khoury, who is politically connected with or a friend of former Judge Waters.

65. Judge Segal's ruling in *Khoury* favored the defendant, Khoury, for whom former Judge Waters requested special consideration during the July 23, 2012 *ex parte* telephone communication.

66. The purpose of the July 23, 2012 *ex parte* telephone call from former Judge Waters to Judge Segal was to request favorable treatment for Khoury in the firearms possession case.

67. By the July 23, 2012 *ex parte* communication, Judge Waters intended to and did use his position as judge to influence Judge Segal's decision at the Preliminary Hearing in the *Khoury* matter.

68. On July 23, 2012, Judge Segal did not tell former Judge Waters to stop the *ex parte* request for special consideration or inform him that she would not provide preferential treatment to Khoury.

69. At the July 24, 2012 Preliminary Hearing in *Khoury*, Judge Segal did not disclose to the litigants and their attorneys that she engaged in *ex parte* communication with former Judge Waters prior to the proceeding.

70. On July 24, 2012, Judge Segal did not recuse herself from the Preliminary Hearing in *Khoury*, despite her *ex parte* telephone communication with former Judge Waters prior to the proceeding.

71. Judge Segal did not timely report her July 23, 2012 *ex parte* telephone communication with former Judge Waters regarding the *Khoury* matter to the Judicial Conduct Board.

B. CHARGES

COUNT 1

72. By virtue of some or all of the facts set forth in Part A, Judge Segal violated Canon 2B of the Old Code of Judicial Conduct, effective through June 30, 2014, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

73. Canon 2B provides in part:

Judges should not . . . convey or knowingly permit others to convey the impression that they are in a special position to influence the judge.

74. On September 30, 2011, Judge Segal engaged in *ex parte* communication with former Judge Waters about the *Houdini* hearing, a matter pending before her.

75. On September 30, 2011, Judge Segal failed to tell former Judge Waters to stop communicating with her about the *Houdini* matter that was pending before her.

76. On or after September 30, 2011, Judge Segal failed to advise former Judge Waters that she would not consider his *ex parte* telephone communication when deciding the *Houdini* matter.

77. By her failure to put a stop to the September 30, 2011 *ex parte* communication with former Judge Waters, Judge Segal conveyed the impression to Judge Waters and others, including Kuttub and Donegal, that she was receptive to requests for special consideration.

78. By her failure to put a stop to the September 30, 2011 *ex parte* communication with former Judge Waters, Judge Segal conveyed the impression to Judge Waters and to others, including Kuttub and Donegal, that Judge Waters was in a special position to influence her.

79. By her failure to advise former Judge Waters that she would not consider the September 30, 2011 *ex parte* communications, Judge Segal permitted former Judge Waters to convey the impression to others, including Kuttub and Donegal, that he was in a special position to influence her.

80. By her decision in favor of Donegal at the *Houdini* hearing, which was in accord with Judge Waters' September 30, 2011 *ex parte* request for special consideration, Judge Segal conveyed the impression to Judge Waters and others,

including Kuttab and Donegal, that former Judge Waters was in a special position to influence her judicial decisions.

81. By her decision in favor of Donegal at the *Houdini* hearing, Judge Segal conveyed the impression to Judge Waters and others, including Kuttab and Donegal, that she provided preferential treatment to the litigant in accord with Judge Waters' September 30, 2011 *ex parte* request for special consideration.

82. On June 29, 2012, Judge Segal engaged in *ex parte* communication with former Judge Waters by telephone and in person regarding the *Rexach* petition for reconsideration, a matter pending before her.

83. On June 29, 2012, Judge Segal failed to tell former Judge Waters to stop communicating with her about the *Rexach* petition for reconsideration that was pending before her.

84. On or after June 29, 2012, Judge Segal failed to advise former Judge Waters that she would not consider his two *ex parte* communications when deciding the *Rexach* petition for reconsideration.

85. By her failure to put a stop to the June 29, 2012 telephone and in person *ex parte* communications with former Judge Waters, Judge Segal conveyed the impression to Judge Waters and others, including the petitioner in *Rexach*, that she was receptive to requests for special consideration.

86. By her failure to put a stop to the June 29, 2012 telephone and in person *ex parte* communications with former Judge Waters, Judge Segal conveyed the impression to Judge Waters and to others, including the petitioner in *Rexach*, that Judge Waters was in a special position to influence her.

87. By her failure to advise former Judge Waters that she would not consider the June 29, 2012 telephone and in person *ex parte* communications, Judge Segal permitted former Judge Waters to convey the impression to others, including the petitioner in *Rexach*, that he was in a special position to influence her.

88. By her decision in favor of the petitioner in the *Rexach* matter, which was in accord with Judge Waters' June 29, 2011 *ex parte* request for special consideration, Judge Segal conveyed the impression to Judge Waters and others, including the petitioner in *Rexach*, that former Judge Waters was in a special position to influence her judicial decisions.

89. By her decision in favor of the petitioner in the *Rexach* matter, Judge Segal conveyed the impression to Judge Waters and others, including *Rexach*, that she provided preferential treatment to the litigant in accord with Judge Waters' September 30, 2011 *ex parte* request for special consideration.

90. On July 23, 2012, Judge Segal engaged in *ex parte* communication with former Judge Waters regarding the *Khoury* Preliminary Hearing, a matter pending before her.

91. On July 23, 2012, Judge Segal failed to tell former Judge Waters to stop communicating with her about the *Khoury* matter that was pending before her.

92. On or after July 23, 2012, Judge Segal failed to advise former Judge Waters that she would not consider his *ex parte* telephone communication when deciding the *Khoury* matter.

93. By her failure to put a stop to the July 23, 2012 *ex parte* communication with former Judge Waters, Judge Segal conveyed the impression to

Judge Waters and others, including Khoury, that she was receptive to requests for special consideration.

94. By her failure to put a stop to the July 23, 2012 *ex parte* communication with former Judge Waters, Judge Segal conveyed the impression to Judge Waters and to others, including Khoury, that Judge Waters was in a special position to influence her.

95. By her failure to advise former Judge Waters that she would not consider the July 23, 2012 *ex parte* communication, Judge Segal permitted former Judge Waters to convey the impression to others, including Khoury, that he was in a special position to influence her.

96. By her decision in favor of the defendant at the *Khoury* Preliminary Hearing, which was in accord with Judge Waters' July 23, 2012 *ex parte* request for special consideration, Judge Segal conveyed the impression to Judge Waters and others, including Khoury, that former Judge Waters was in a special position to influence her judicial decisions.

97. By her decision in favor of the defendant at the *Khoury* Preliminary Hearing, Judge Segal conveyed the impression to Judge Waters and others, including Khoury, that she provided preferential treatment to the litigant in accord with Judge Waters' July 23, 2012 *ex parte* request for special consideration.

98. As a result of all of the conduct set forth above, Judge Segal violated Canon 2B of the Old Code of Judicial Conduct.

COUNT 2

99. By virtue of some or all of the facts set forth in Part A, Judge Segal violated Canon 3A(4) of the Old Code of Judicial Conduct, effective through June

30, 2014, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

100. Canon 3A(4) proscribes *ex parte* communication and provides in part:

Judges . . . except as authorized by law, must not consider *ex parte* communications concerning a pending proceeding.

101. On September 30, 2011, Judge Segal engaged in *ex parte* communication with former Judge Waters about the *Houdini* case, a proceeding pending before her that same day.

102. On June 29, 2012, Judge Segal engaged in *ex parte* communication, by telephone and in-person, with former Judge Waters about the *Rexach* case, a proceeding pending before her that same day.

103. On July 23, 2012, Judge Segal engaged in *ex parte* communication with former Judge Waters regarding the *Khoury* case, a proceeding pending before her the following day.

104. Judge Segal was not authorized by law to engage in *ex parte* communications with former Judge Waters regarding the *Houdini*, *Rexach* and *Khoury* matters.

105. As a result of all of the conduct set forth above, Judge Segal violated Canon 3A(4) of the Old Code of Judicial Conduct.

COUNT 3

106. By virtue of some or all of the facts set forth in Part A, Judge Segal violated Canon 3B(3) of the Old Code of Judicial Conduct, effective through June 30, 2014, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

107. Canon 3B(3) provides:

Judges should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

108. Judge Segal knew that the September 30, 2011 telephone conversation with former Judge Waters about the *Houdini* case was a prohibited *ex parte* communication about a pending proceeding and therefore unprofessional conduct.

109. Judge Segal had a duty to timely notify the Judicial Conduct Board that former Judge Waters initiated the September 30, 2011 *ex parte* communication about the *Houdini* hearing, a matter that was pending before her.

110. Judge Segal knew that she had a duty to timely notify the Judicial Conduct Board about the September 30, 2011 prohibited *ex parte* communication with former Judge Waters about the *Houdini* hearing, a matter that was pending before her

111. Judge Segal failed to timely notify the Judicial Conduct Board about the September 30, 2011 *ex parte* communications with former Judge Waters about the *Houdini* matter, in part because of her political concerns about her 2015 campaign for retention of her position as Municipal Court judge.

112. Judge Segal knew that the June 29, 2012 telephone and in-person conversations with former Judge Waters about the *Rexach* petition for reconsideration were both prohibited *ex parte* communications about a pending proceeding and therefore unprofessional conduct.

113. Judge Segal knew that the July 23, 2012 telephone conversation with Judge Waters about the *Khoury* Preliminary Hearing was a prohibited *ex parte* communication about a pending proceeding and therefore unprofessional conduct.

114. Judge Segal had a duty to timely notify the Judicial Conduct Board that former Judge Waters initiated *ex parte* communications with her regarding the *Rexach* and *Khoury* matters.

115. Judge Segal knew that she had a duty to timely notify the Judicial Conduct Board that former Judge Waters initiated *ex parte* communications with her regarding the *Rexach* and *Khoury* matters.

116. Judge Segal failed to notify the Judicial Conduct Board about the *ex parte* communications with former Judge Waters about the *Rexach* and *Khoury* matters, despite her knowledge of the duty to take appropriate disciplinary measures against former Judge Waters.

117. As a result of all of the conduct set forth above, Judge Segal violated Canon 3A(4) of the Old Code of Judicial Conduct.

COUNT 4

118. By virtue of some or all of the facts set forth in Part A, Judge Segal violated Canon 3C(1) of the Old Code of Judicial Conduct, effective through June 30, 2014, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

119. Canon 3C(1) provides in part:

Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

(a) they have a personal bias or prejudice concerning a party

120. On September 30, 2011, Judge Segal engaged in *ex parte* communication with former Judge Waters about the *Houdini* case, a proceeding pending before her that same day.

121. On September 30, 2011, Judge Segal had a duty to recuse herself from the *Houdini* proceedings because her impartiality might reasonably be questioned after Judge Waters requested preferential treatment for Kuttab and Donegal.

122. On September 30, 2011, Judge Segal failed to recuse herself from the *Houdini* proceedings, even though her impartiality as to Kuttab and Donegal could reasonably be questioned following the *ex parte* communication with former Judge Waters.

123. On June 29, 2012, Judge Segal engaged in *ex parte* communication, by telephone and in-person, with former Judge Waters about the *Rexach* case, a proceeding pending before her that same day.

124. On June 29, 2012, Judge Segal had a duty to recuse herself from the *Rexach* proceedings because her impartiality might reasonably be questioned after former Judge Waters requested preferential treatment for his "friend," Rexach, a litigant in that case.

125. On June 29, 2012, Judge Segal failed to recuse herself from the *Rexach* proceedings, even though her impartiality as to the litigant, Rexach, could reasonably be questioned following the *ex parte* communication with former Judge Waters.

126. On July 23, 2012, Judge Segal engaged in *ex parte* communication with former Judge Waters regarding the *Khoury* case, a proceeding pending before her the following day.

127. On July 24, 2012, Judge Segal had a duty to recuse herself from the *Khoury* proceedings because her impartiality might reasonably be questioned after former Judge Waters requested preferential treatment for Khoury.

128. On July 24, 2012, Judge Segal failed to recuse herself from the *Khoury* proceedings, even though her impartiality as to Khoury could reasonably be questioned following the *ex parte* communication with former Judge Waters.

129. As a result of all of the conduct set forth above, Judge Segal violated Canon 3C(1) of the Old Code of Judicial Conduct.

COUNT 5

130. By virtue of some or all of the facts set forth in Part A, Judge Segal violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

131. Article V, § 17(b) provides in part:

Justices and judges shall not . . . violate any canon of legal or judicial ethics prescribed by the Supreme Court.

132. A violation of the Code of Judicial Conduct is an automatic derivative violation of Article V, § 17(b).

133. Judge Segal violated Article V, § 17(b) as a direct result of her violations of Canons 2B, 3A(4), 3B(3) and 3C(1).

COUNT 6

134. By virtue of some or all of the facts set forth in Part A, Judge Segal violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and is therefore subject to discipline.

135. Article V, §18(d)(1) provides in pertinent part:

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which prejudices the proper administration of justice . . .

136. Judge Segal engaged in conduct which prejudiced the proper administration of justice when she participated in *ex parte* communication with former Judge Waters regarding the *Houdini*, *Rexach* and *Khoury* cases, all of which involved proceedings pending before her.

137. Judge Segal engaged in conduct which prejudiced the proper administration of justice when she failed to recuse herself from the September 30, 2011 *Houdini* hearing; the June 29, 2012 review of and decision in the *Rexach* petition for reconsideration; and the July 24, 2012 *Khoury* Preliminary Hearing, all of which were proceedings pending before her.

138. Judge Segal engaged in conduct which prejudiced the proper administration of justice because the litigants, for whom former Judge Waters requested special consideration in the *Houdini*, *Rexach* and *Khoury* matters, did in fact receive favorable outcomes; whereas, the opposing parties and their attorneys in each of those cases knew nothing about the prohibited *ex parte* communications between Judge Segal and former Judge Waters.

139. By all of her conduct as set forth above, Judge Segal violated the Administration of Justice Clause of Article V, § 18(d)(1).

COUNT 7

140. By virtue of some or all of the facts set forth in Part A, Judge Segal violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and is therefore subject to discipline.

141. Article V, § 18(d)(1) provides in pertinent part:

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which . . . brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity.

142. Judge Segal engaged in conduct which brought the judicial office into disrepute when she participated in *ex parte* communication with former Judge Waters regarding the *Houdini*, *Rexach* and *Khoury* cases, all of which involved proceedings pending before her.

143. Judge Segal engaged in conduct which brought the judicial office into disrepute when she failed to recuse herself from the September 30, 2011 *Houdini* hearing; the June 29, 2012 review of and decision in the *Rexach* petition for reconsideration; and the July 24, 2012 *Khoury* Preliminary Hearing, all of which were proceedings pending before her.

144. By all of the allegations of misconduct set forth above, Judge Segal engaged in conduct so extreme as to bring disrepute upon the judicial office itself in violation of the Disrepute Clause of Article V, § 18(d)(1).

145. By her conduct enumerated above, Judge Segal violated the Disrepute Clause of Article V, § 18(d)(1).

WHEREFORE, Dawn A. Segal, Municipal Court Judge, is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: March 11, 2015

By:



ELIZABETH A. FLAHERTY
Deputy Counsel
Pa. Supreme Court ID No. 205575

Judicial Conduct Board
601 Commonwealth Avenue, Suite 3500
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Dawn A. Segal	:	
Municipal Court Judge	:	
First Judicial District	:	
Philadelphia County	:	3 JD 2015

VERIFICATION

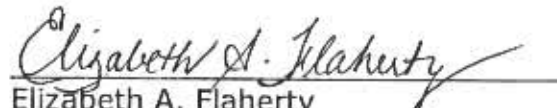
I, Elizabeth A. Flaherty, Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

March 11, 2015

BY:


Elizabeth A. Flaherty
Deputy Counsel
Pa. Supreme Court ID No. 205575

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Dawn A. Segal	:	
Municipal Court Judge	:	
First Judicial District	:	
Philadelphia County	:	3 JD 2015

PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about March 11, 2015, a copy of this *BOARD COMPLAINT* was sent by Certified Mail to Judge Segal's counsel, Stuart L. Haimowitz, Esquire, who agreed to accept service on behalf of his client, Judge Segal:


Stuart L. Haimowitz
1910 Land Title Building
100 South Broad Street
Philadelphia, PA 19110

Certified Mail No. 7161 7145 5373 0150 1900
Return Receipt Requested

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

March 11, 2015

BY:


Elizabeth A. Flaherty
Deputy Counsel

Pa. Supreme Court ID No. 205575
Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Dawn A. Segal :
Municipal Court Judge :
First Judicial District :
Philadelphia County :

3 JD 2015

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA
2015 MAR 11 P 3:11

PETITION FOR RELIEF FOR INTERIM SUSPENSION WITH OR WITHOUT PAY

AND NOW, this 11th day of March, 2015, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by and through Robert A. Graci, Chief Counsel, and Elizabeth A. Flaherty, Deputy Counsel, and files this Petition for Relief For Interim Suspension With or Without Pay pursuant to Article V, § 18(d)(2) of the Pennsylvania Constitution, Rule 701 of the Court of Judicial Discipline Rules of Procedure, and Rule 13(A) of the Judicial Conduct Board Rules of Procedure and in support thereof, avers the following:

1. The Pennsylvania Constitution at Article V, § 18(d)(2) provides this Court with the authority to impose interim suspension as follows:

Prior to a hearing, the court may issue an interim order directing suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.

Pa. Const. art. V, § 18(d)(2).

2. From approximately January 4, 2010 until the present time, Judge Segal has served as Judge of the Municipal Court of Philadelphia, Pennsylvania.

3. On or about September 24, 2014, Municipal Court President Judge Marsha Neifield verbally informed Judge Segal that she was reassigned to limited judicial duties until further notice.

4. The verbal directive reassigning Judge Segal to limited judicial duties remains in effect.

5. Contemporaneously with the filing of this Petition, Board Counsel is filing a Board Complaint against Judge Segal, alleging seven counts of judicial misconduct. A copy of the Board Complaint is attached hereto, made a part hereof and incorporated herein by reference as though set forth in full. **See** Attachment "A" (Board Complaint).

6. The allegations contained within the Board Complaint against Judge Segal undermine both public confidence in the judiciary and the reputation of the judiciary. If Judge Segal is permitted to continue to perform any judicial duties during the pendency of the Board Complaint, the public's confidence in the judiciary will continue to erode.

WHEREFORE, it is respectfully requested that this Honorable Court enter an interim order suspending Judge Segal, either with or without pay, pending disposition of the Board Complaint filed against her and to grant such other relief as may be deemed appropriate.

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

DATE: March 11, 2015

BY: 
ELIZABETH A. FLAHERTY
Deputy Counsel
Pa. Supreme Court ID No. 87637

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Dawn A. Segal	:	
Municipal Court Judge	:	
First Judicial District	:	
Philadelphia County	:	3 JD 2015

PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about March 11, 2015, a copy of this *Petition for Interim Suspension With or Without Pay* was sent by Certified Mail to Judge Segal's counsel, Stuart L. Haimowitz, Esquire, who agreed to accept service on behalf of his client, Judge Segal:

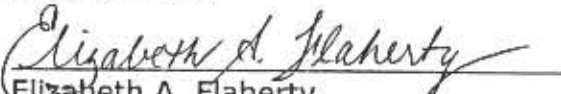
Stuart L. Haimowitz
1910 Land Title Building
100 South Broad Street
Philadelphia, PA 19110

Certified Mail No. 7161 7145 5373 0150 1900
Return Receipt Requested

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

March 11, 2015

BY:


Elizabeth A. Flaherty
Deputy Counsel

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