

**State of Vermont
Judicial Conduct Board**

FILED
JUN 12, 2023
STATE OF VERMONT
JUDICIAL CONDUCT BOARD

In Re:
Hon. Patricia Duff

JCB Docket No. 22.042

FORMAL COMPLAINT

The Vermont Judicial Conduct Board ("Board"), in accordance with Rule 7(4) of the Rules of the Supreme Court for Disciplinary Control of Judges, asserts this Formal Complaint against the Honorable Patricia Duff ("Respondent").

Board Authority

1. The Board has jurisdiction over this matter pursuant to Rule 3(1) of the Rules for Disciplinary Control of Judges because all Judicial Code violations set forth in this Formal Complaint occurred while Respondent served as Assistant Judge in Windham County, Vermont.
2. The Board has jurisdiction over conduct which violates any portion of Vermont Code of Judicial Conduct 2019, Respondent was a "Judge" and held judicial office as defined by the Code and is subject to jurisdiction under this Rule.

Facts Supporting Misconduct Charge

3. Respondent was elected to the role of Assistant Judge of Windham County in 2006.
4. Pursuant to 32 V.S.A. § 1141 (b), and the Windham County budget, Respondent received statutory hourly compensation for days she "attend[ed] court or was otherwise "engaged in the performance of official duties." 32 V.S.A. § 1141 (b).

5. These statutory judicial duties include sitting in Superior and Family Court proceedings (4 V.S.A. §§ 112(b), 457(b)); hearing and deciding small claims matters (12 V.S.A. § 5540a); judicial bureau matters (4 V.S.A. §1108); parentage and child support actions in family court (4 V.S.A. §§ 461a, 461b); and in probate matters (4 V.S.A. § 355).
6. Pursuant to 32 V.S.A. § 1141 (a), and the Windham County budget, Respondent was entitled to receive a daily rate of compensation “for time spent in the performance of official duties” in her role as judicial officer. 32 V.S.A. § 1141 (a).
7. In 2022, Respondent was paid \$24.20 per hour of work for duties of her judicial office.
8. In 2022, Respondent was also paid \$1,712.16, a month for her county-based duties. *See generally* 24 V.S.A. § 131.
9. In February 2022, Respondent requested compensation and was paid for 88 hours of work at her hourly rate of \$24.20.
10. The Court system employs an electronic filing and management system called “Odyssey”. This Court system tracked Respondent’s presence at two Court hearing days in February 2022.
11. In March 2022, Respondent requested compensation and was paid for 76 hours of work at her hourly rate, plus 80 hours of vacation time.
12. The Odyssey system tracked Respondent’s presence at two Court hearing days in March 2022.

13. In April 2022, Respondent requested compensation and was paid for 76 hours of work at her hourly rate, plus 24 hours of sick time.
14. The Odyssey system did not track attendance at any Court hearing days by Respondent in April 2022.
15. In May 2022, Respondent requested compensation and was paid for 76 hours of work at her hourly rate.
16. The Odyssey system tracked Respondent's presence at two Court hearing days in May, 2022.
17. From February 2022 to June 2022, Respondent, in her capacity as Assistant Judge for Windham County, requested and was paid compensation for the time she did not perform any judicial or county duties, which constituted an economic benefit to Respondent.
18. During the spring of 2022, the Treasurer for the County of Windham gave Respondent a check for \$5,500. for the specific purpose of traveling to and attending a National Judges Association Conference in South Carolina.
19. Respondent did not attend the Judges Association Conference in South Carolina.
20. Respondent returned only approximately \$700.00 of the \$5,500. paid to her for the conference.
21. Respondent's receipt of money designated for Judicial training and not used for that purpose constitutes pecuniary gain and personal economic benefit to Respondent.
22. Respondent resigned from her position in an email dated Friday, June 17, 2022,

directed to Chief Superior Judge Hon. Thomas A. Zonay.

23. In May 2022, Chief Justice Paul Reiber of the Vermont Supreme Court, received an anonymous letter outlining concerns about a possible “lack of judicial and bench service” by Respondent. Said letter was forwarded to the Judicial Conduct Board in June 2022.
24. On June 16, 2022, Chief Superior Court Judge Honorable Thomas A. Zonay, sent correspondence directed to Barbara Blackman, Esq., as the Chair of the Judicial Conduct Board summarizing a telephone call with Assistant Judge Lamont Barnett, in which Judge Barnett reported misconduct by Respondent.
25. Assistant Judge Lamont Barnett advised he had information that revealed Respondent submitted false time sheets and was paid for hours she did not work in her Judicial Office.
26. Respondent entered into a Plea Agreement in connection with the criminal matter (State of Vermont v. Patricia Duff, 23-CR-01422) on or about April 15, 2023, affirming she took money, with the intent to permanently deprive the Court of the money in a stated amount of \$8,518.40, amounting to grand larceny.

Canons Violated

27. The preamble to the Vermont Code of Judicial Conduct 2019 states:

[1] An independent, fair, and impartial judiciary is indispensable to our system of justice. The Vermont legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of persons of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principle of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must

respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

28. The Vermont Code of Judicial Conduct is intended to “provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary agencies.”
29. Canon 1, Rule 1.1 Compliance with the Law states:

A judge shall comply with the law, including the Code of Judicial Conduct.
30. Canon 1, Rule 1.2 Promoting Confidence in the Judiciary states:

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
31. In the Comments to Rule 1.2 it is further stated:

Actual improprieties include violations of law, court rules, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.
32. Canon 1, Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office states:

“A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so.”
33. Respondent’s actions in claiming hours worked in a fraudulent manner, and receiving payment for those hours, and failing to return money designated for travel and expenses in connection with her duties, amount to violations of applicable statutory law.
34. Respondent, by and through her actions, has not complied with the laws of the

State of Vermont, nor the Code of Judicial Conduct.

35. Respondent, by and through her actions, has failed to act in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.
36. Respondent, by and through her actions, has failed to act in a manner that avoids impropriety and the appearance of impropriety.
37. Respondent, by and through her actions, has abused her office to advance her personal and economic interests.
38. These actions and their impact constitute a violation of Canon 1, whether intentional or merely negligent in nature by Respondent.

WHEREFORE, Respondent's conduct as set forth in this Complaint in receiving compensation not due and owing, and money without proper reimbursement, constitutes a violation of Canon 1, Rule 1.1. Rule 1.2 and Rule 1.3, of the Vermont Code of Judicial Conduct, and is therefore subject to the Formal Complaint process as set forth in the Rules for the Disciplinary Control of Judges.

Respondent has a right to file a written Answer within twenty-one days of service, to be represented by counsel, to cross-examine witnesses, and to produce evidence on her own behalf. Pursuant to Rule 9(1) failure to answer or to deny misconduct or disability shall be deemed an admission of the charges.

DATED at Woodstock, Vermont this 23rd day of May 2023.

/s/ Bonnie J. Badgewick, Esq.
Bonnie J. Badgewick, Esq.
Special Counsel to Judicial Conduct Board
43 Lincoln Corners Way, Ste 103
Woodstock, VT 05091
(P) 802-457-2123
bbadgewick@woodstockvtlaw.com