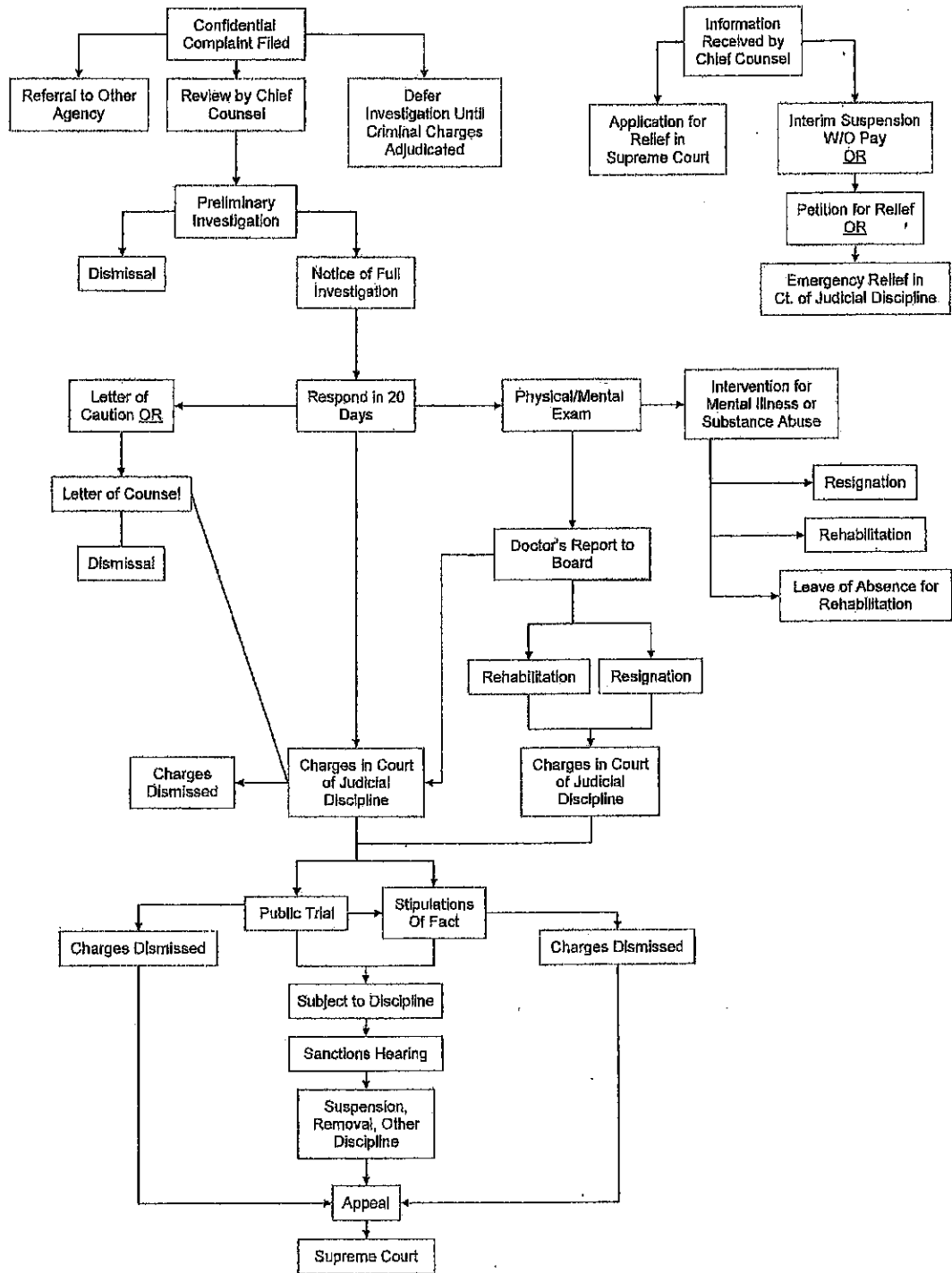


Massa Exhibit No. 1

From testimony given to the ICJJ
November 9, 2009
Wilkes-Barre Best Western East Mountain Inn

Item marked Massa Exhibit No. 1 was the Judicial Conduct Board binder prepared for the Interbranch Commission on Juvenile Justice, submitted on October 13, 2009.

JUDICIAL CONDUCT BOARD COMPLAINT PROCESS



COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED
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JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2009 SEP 10 A 11:40

In re:

Ann H. Lokuta, :
Judge of the Court of Common Pleas; :
Eleventh Judicial District : 3 JD 06
Luzerne County :

JUDICIAL CONDUCT BOARD BRIEF
PURSUANT TO THE ORDER OF COURT DATED MAY 13, 2009

BY: FRANCIS J. PUSKAS II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

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

DATE: September 10, 2009

SUMMARY OF ARGUMENT

The Respondent's latest proffered evidence, consisting of statements submitted from Patricia E. Benzi, Joseph S. Novak, Carolee Medico Olinginski, and Sandra M. Brulo, does not constitute "after-discovered evidence" under established law and does not merit the granting of an evidentiary hearing to further review such evidence or its affect on the Court's determination to remove the Respondent from judicial office.

The proffered statements are neither exculpatory, nor would they compel a different result if Respondent were granted a new trial. Further, for some of the proffered evidence, it is manifest the Respondent would be unable to demonstrate that it could not have been obtained at, or prior to, the conclusion of her trial by the exercise of reasonable diligence. At most, this latest proffered evidence is cumulative, or would be used solely for impeachment of credibility, both improper foundations for overturning a court decision, granting a new trial, or justifying the holding of an evidentiary hearing.

ARGUMENT

I. THE RESPONDENT HAS FAILED TO PRESENT "AFTER-DISCOVERED EVIDENCE" MERITING THE GRANTING OF AN EVIDENTIARY HEARING.

Preliminarily, the Board incorporates its originally filed Brief dated April 27, 2009, in response to the Order of Court dated March 27, 2009, and all argument set forth therein addressing Respondent's "after-discovered evidence," as part of this Brief.

In order to obtain relief in the form of a new trial based on "after-discovered evidence," Pennsylvania common law requires a petitioner to establish that such evidence

- 1) has been discovered after the trial and could not have been obtained at or prior to the conclusion of the trial by the exercise of reasonable diligence;
- 2) is not merely corroborative or cumulative;
- 3) will not be used solely for impeaching credibility of a witness; and
- 4) is of such a nature and character that a different verdict will likely result if a new trial is granted.

Commonwealth v. Valderrama, 479 Pa. 500, 388 A.2d 1042 (1978) (hereinafter “Valderrama”); Commonwealth v. Washington, 592 Pa. 698, 927 A.2d 586 (2007); Commonwealth v. D’Amato, 579 Pa. 490, 519, 856 A.2d 806, 823 (2004); Commonwealth v. Pagan, 597 Pa. 69, 106, 950 A.2d 270, 292 (2008); Commonwealth v. Bormack, ___ Pa.Super. ___, ___, 827 A.2d 503, 506 (2003); Commonwealth v. Rivera, ___ Pa.Super. ___, ___, 939 A.2d 355, 359 (2007) ; Commonwealth v. Cobbs, ___ Pa.Super. ___, ___, 759 A.2d 932, 934 (2000); Commonwealth v. Bonaccorso, 425 Pa.Super. 479, 484, 625 A.2d 1197, 1199 (1993); Commonwealth v. Galloway, 433 Pa.Super. 222, 227, 640 A.2d 454, 456 (1994). As Pennsylvania law makes clear, the legal standard does not involve the Court weighing a nebulous notion of “taint” on proceedings, but rather specific consideration of certain factors.

Further, statutory authority for obtaining collateral relief in the form of a new trial based on “after-discovered evidence” is found in the Post Conviction Relief Act (“PCRA”), 42 Pa. Cons. Stat. Ann. §9541 et seq., which requires a petitioner demonstrate by a preponderance of the evidence that his or her conviction or sentence resulted from

[t]he unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced.

42 Pa. Cons. Stat. Ann. §9543(b)(vi). The key components of this provision require that “after-discovered evidence” be (1) exculpatory, and (2) such that it would have changed the outcome of trial had it been introduced.

Pennsylvania law defines exculpatory evidence as “evidence which extrinsically tends to establish defendant’s innocence of the crimes charged, as differentiated from that which, although favorable, is merely collateral or impeaching.” Commonwealth v. Gee, 467 Pa. 123, 131, 354 A.2d 875, 878 (1976) (quoting People v. Bottom, 76 Ms. 2d 525, 351 N.Y.S.2d 328,

334-335 (1974)), *overruled on other grounds*, 510 Pa. 123, 507 A.2d 66 (1986); Commonwealth v. Hicks, 270 Pa.Super. 546, 550, 411 A.2d 1220, 1222 (1979); Commonwealth v. Hudgens, 400 Pa.Super. 79, 97, 582 A.2d 1352, 1361 (1990); Commonwealth v. Watson, 355 Pa.Super. 160, 512 A.2d 1261 (1986) ; Commonwealth v. Lambert, ___ Pa.Super. ___, ___, 765 A.2d 306, 325 n.15 (2000).

Following the conclusion of the 90-day period granted the Respondent to investigate and produce "after-discovered evidence" connecting the scandal in Luzerne County to her trial, in support of her request for an evidentiary hearing the Respondent filed of record four (4) witness statements. As will be discussed below *seriatim*, none of the proffered statements provide evidence qualifying as "after-discovered evidence."

A. Patricia E. Benzi

Benzi is a security guard at the Luzerne County Courthouse.

First, the Board notes that if Benzi were called to testify at an evidentiary hearing, or a new trial, her statement indicates some of the information she would provide would constitute hearsay. Second, if the information provided is accepted as true, it establishes the following:

- Between 2003 and 2006, on 10-20 occasions, Benzi delivered to Judge Conahan plain sealed envelopes from reputed mobster Billy D'Elia, which Judge Conahan accepted.
- At an unknown date, Benzi delivered to Judge Lokuta's tipstaff, Maureen Gushanas, a sealed envelope for Judge Lokuta from Billy D'Elia. The envelope had Judge Lokuta name written on it. Later that same morning, Gushanas, seeming angry, returned to Benzi the envelope and stated, "*You tell him, my Judge isn't like the rest of these Judges!*" Benzi took the envelope back.
- At an unknown date, D'Elia associate Robert Kulick invited Judge Lokuta to a party to "*make peace*" (about what is not explained) with Judge Conahan and Judge Lokuta refused to attend.
- At an unknown date, Kulick told Benzi it would be in Judge Lokuta's interest to "*mend things*" (what needed "*mending*" is not explained) with Judge Conahan.

- At an unknown date, Kulick asked Benzi to find out why Judge Lokuta was meeting with the FBI.
- At unknown dates, Kulick repeatedly told Benzi that Judge Conahan indicated that if Judge Lokuta would apologize (for what is not indicated), he would make "everything go away" (to what "everything" referred is not explained).

First, the information provided by Benzi fails to meet the test for "after-discovered evidence" because the Respondent cannot establish that such information could not have been obtained at or prior to the conclusion of her trial by the exercise of reasonable diligence.

Prior to charges being filed against the Respondent, in her May 23, 2005, letter (admitted trial exhibit R-1134) responding to the Board's Notice of Full Investigation, Respondent referenced Benzi to the Board. Specifically, at the end of her letter the Respondent provided a list of one hundred and nine (109) individuals "who should be interviewed" as having information pertinent to the claims against her being investigated by the Board. At number seven (7) on her list, the Respondent referenced "Patty Benzi, security guard c/o Luzerne county Courthouse." Though the Board specifically requested in its Notice of Full Investigation that the Respondent provide a proffer as to what any such referred witness would tell the Board relevant to the claims it had investigated, the Respondent provided nothing.

In fact, the Respondent made no reference to Benzi delivering a sealed envelope to her from Billy D'Elia or her rejection of it through Gushanas. At no time did the Respondent ever make known to the Board, or the Court, that she had been presented with a sealed envelope from Billy D'Elia or that she was invited by Kulick to a party to "make peace" with Judge Conahan. The Respondent never testified that she acted as a courthouse whistleblower about this activity, or that she knew or suspected other judges of receiving such envelopes from Billy D'Elia, or about any activity involving a kickback scheme with the new juvenile detention facility and Judges Conahan and Clavarella.

While the Respondent now postures that Benzi is necessary to her case, she failed to import Benzi to her subsequent trial witness list and never called her as a trial witness. It is manifest, however, that Respondent knew of the existence of this witness prior to her 2007-2008 trial, and, as evidenced by Benzi's statement, was aware prior to her trial that D'Elia, through Benzi, had attempted to give her a sealed envelope, which she refused to accept. Her then tipstaff, Maureen Gushanas, on the Respondent's behalf, angrily returned to Benzi the envelope with a statement that the Respondent was not like "*the rest of these judges,*" possibly indicating the Respondent may even have been aware that other judges received envelopes from D'Elia. Nonetheless, the Respondent chose not to call Benzi as a trial witness. Had the Respondent been unaware, at or prior to the conclusion of her trial, of all information Benzi now relates in her statement, Respondent failed to exercise reasonable diligence to undercover it.

Second, had Benzi's information been introduced at trial, it is not exculpatory in any way and does not corroborate the Respondent's defense that Board witnesses conspired to fabricate evidence of judicial misconduct about her. Benzi's information is not of such nature or character that a different verdict would likely result from it if presented at a new trial. When juxtaposed to the mountain of evidence presented by all Board witnesses, at most, Benzi's information is merely cumulative evidence that the Respondent and Judge Conahan were not getting along, which both testified about at trial.

The hearsay statement that Judge Conahan indicated he would make "*everything go away*" also does nothing to corroborate Respondent's defense that Board witnesses conspired to fabricate evidence of judicial misconduct about her. If by "everything," a term which is neither defined or explained, Kulick was referring to the Board's investigation, something not established by Benzi's statement, such information, if true, would do no more than evidence a delusion on the part of Judge Conahan that he had any power to dictate how twelve (12)

members of the Judicial Conduct Board, half appointed by the Governor and half appointed by the Supreme Court, ultimately voted to resolve pending complaints being investigated against the Respondent.

B. Joseph S. Novak

As with Benzi, the Board notes that if Novak were called to testify at an evidentiary hearing, or a new trial, his statement indicates some of the information he would provide would constitute hearsay. Second, if the information provided is accepted as true, it establishes the following:

- In late 2003 or early 2004, Novak was at the Luzerne County Courthouse and overheard Judge Conahan and Judge Mark Ciavarella talking about the Respondent. Novak heard Judge Conahan say that they *"have to get rid of her, she is causing problems."* Novak provided no information to explain what *"problems"* Judge Conahan perceived the Respondent to be causing.
- At an unknown date, Chester Brozowski, a former Luzerne County Courthouse employee and former Pennsylvania State Police Trooper, told Novak that he was present at a meeting with Judge Conahan, Judge Ciavarella, and Court Administrator William Sharkey, when Judge Conahan told him they had to get the Respondent off the bench as she was causing problems by going to the authorities.
- At an unknown date, Respondent presided over a hearing on Novak's case Novak v. McDaniels, and ruled against Novak on a preliminary matter. Afterward, Novak was approached by a man he believed to be Court Administrator William Sharkey, who advised he could solve Novak's problem by having the case assigned to Judge Conahan. Afterward, Novak also complained to the local newspapers about Respondent. At an unknown date a few months later, Novak appeared before Judge Conahan, who called Novak to a sidebar where he gave Novak a "wink" and said he would be very fair in his case.

The information provided by Novak, as with Benzi, does not meet the test for "after-discovered evidence." Novak's information does not contradict Board witness testimony or establish that Board witness testimony was false. It also does not establish or corroborate the Respondent's defense that Board witnesses conspired to provide false testimony at the Respondents trial and/or that they fabricated incidents of judicial misconduct about the

Respondent as a result of being controlled by Judge Conahan. Further, it does not establish the Respondent's innocence of the Board charges or exonerate her from them. It is not exculpatory evidence.

Novak's statement, if true, that he overheard Judge Conahan telling Judge Ciavarella that they "*have to get rid of [Respondent], she is causing problems,*" is cumulative evidence that Judge Conahan did not get along with Respondent, perceived her as "*causing problems,*" and wanted her gone. In fact, at trial, it was no secret that Judge Conahan wanted the Respondent gone. He said as much when he testified, "*[I]t would have been better for me if she never showed up for work, and I could have assigned the work --,*" Trial Tr. 470:10-11, September 25, 2008. Novak's hearsay evidence based on Brozowski is also more cumulative evidence.

G glaringly, however, Novak's statement fails to establish that Judge Conahan actually controlled Board witnesses or coerced or pressured them to commit perjury by fabricating incidents of judicial misconduct about the Respondent as part of a conspiracy to assist him getting "rid" of her. In fact, if Judge Conahan wanted to "get rid" of the Respondent, the Respondent's own conduct and mistreatment of numerous people appearing before her in court, working for her, or working in her courtroom, already provided ample basis to achieve such a result. Most importantly, Novak's information is not exculpatory evidence that would have changed the outcome of the Respondent's trial.

C. Carolee Medico Olenginski

Olenginski is the former Prothonotary of Luzerne County.

Olenginski provides information which, if true, establishes the following:

- Olenginski was the former Prothonotary of Luzerne County serving immediately before Jill Moran.
- Olenginski reviewed Jill Moran's trial testimony of September 27, 2007. At trial, Moran, in part, testified that when she took office in 2002, Moran noticed the

clerks had a schedule for all judges and then a separate schedule they termed "special judge." Moran testified that generally, the Prothonotary clerks would agree among themselves which courtroom they would work in by order of seniority. The person with the most seniority would choose where they wanted to go. Because the most senior clerk would always opt not to be Respondent's clerk, they used the "special judge" schedule for Respondent's court, which was a rotation schedule requiring that someone would have to take a rotation with the Respondent for one week. Trial Tr. 1186:21 – 1189:1-2, September 27, 2007. Olenginski claims that when she was Prothonotary, she did not keep a "special judge" list and to the best of her knowledge, neither did her staff. Olenginski proffers this information in opposition to Jill Moran's testimony.

- Olenginski claims, again in opposition to Jill Moran's testimony, that when she was Prothonotary, Olenginski's staff respected Respondent as a meticulous jurist and several preferred to regularly serve as her clerk rather than appear in another Court. Olenginski identifies four (4) persons who were employed as clerks when Olenginski served as Prothonotary, namely Mary Nolan, Debra Wakevicz, Lana Bidwell, and Bonnie La Verdie Brown, as individuals that to the best of her knowledge regularly requested to serve in Respondent's court. None of these clerks testified at Respondent's trial. She also claims that to the best of her knowledge, the remaining clerks who served under her never complained or had difficulties with Respondent.
- Olenginski personally never had any problems with Respondent when she served as Prothonotary and found her to be a very hardworking, conscientious judge.

As with Benzi, the Respondent is unable to establish that the information from Olenginski could not have been obtained at or prior to the conclusion of her trial by the exercise of reasonable diligence. To the contrary, such information was easily at the fingertips of the Respondent and known to her.

Prior to charges being filed against the Respondent, in her May 23, 2005, letter (admitted trial exhibit R-1134) responding to the Board's Notice of Full Investigation, Respondent, as she did with Benzi, referenced Olenginski to the Board. Specifically, at the end of her letter the Respondent provided a list of one hundred and nine (109) individuals "who should be interviewed" as having information pertinent to the claims against her being investigated by the Board. At number three (3) on her list, the Respondent referenced "Carolee Medico, the former Prothonotary." Though the Board specifically requested in its Notice of Full Investigation that

the Respondent provide a proffer as to what any such referred witness would tell the Board relevant to the claims it had investigated, the Respondent provided nothing.

Subsequently, however, the Respondent included Olenginski in her trial witness list. In her Pretrial Memorandum, the Respondent listed Olenginski as trial witness number fifty-two (52) and averred she was calling Olenginski for the following reason:

Respondent believes that Ms. Olenginski, former Luzerne County Prothonotary, may testify concerning Respondent's conduct of her courtroom and chambers, supervision of and/or interaction with court personnel, personal staff, legal interns and/or the general public and Respondent's demeanor and course of dealings with those who come into contact with her.

In Respondent's Revised Witness List, Olenginski was relisted as trial witness number fifty-seven (57). Respondent then averred she was calling Olenginski for the following reason:

If called, Ms. Olenginski, former Luzerne County Prothonotary, will testify concerning Respondent's conduct of her courtroom and chambers, supervision of and/or interaction with court personnel, personal staff, legal interns and/or the general public and Respondent's demeanor and course of dealings with those who come into contact with her. In particular, if called, Ms. Olenginski will provide testimony relevant to paragraphs 4, 5, 9, and 11 of the Board's Complaint.

It is manifest the Respondent considered Olenginski a potential witness on her behalf long before the Board filed a Board Complaint in the Court of Judicial Discipline, and even longer before her trial commenced. Further, as the Respondent had been on the Luzerne County bench since 1992, she would have been well aware that Olenginski had served as the Prothonotary prior to the election of Jill Moran.

In substance, Olenginski's statement, based on her review of Jill Moran's trial testimony, is focused exclusively on countering Moran by positing that since Olenginski never personally had problems with Respondent, or had no knowledge of a "special judge" schedule, or had staff during her tenure that purportedly preferred serving in Respondent's courtroom, Moran's testimony about what she and her staff experienced during Moran's tenure is somehow suspect.

Olenginski's information would have been irrelevant to the Respondent's trial as it is not directed toward any specific incident involving the Respondent. Further, it cannot even qualify as impeachment evidence, which by itself again would not constitute after-discovered evidence, because Olenginski's statement shows that she had no personal knowledge of what occurred during her successor's tenure as Prothonotary and could not refute what Moran observed when Moran was serving as Prothonotary. Olenginski could only testify about what she knew or observed during her own tenure, which could not be used to impeach Moran.

Though Respondent now holds up Olenginski as important to her case, at trial she never called her to the witness stand. Further, had the Respondent been unaware of the information Olenginski now relates in her statement, the Respondent had months to bring Moran's testimony to Olenginski's attention for review in order to obtain it. Moran gave her trial testimony on September 27, 2007. The Respondent did not begin to present her defense until December 10, 2007, and the trial record did not close until January 16, 2008. Nonetheless, though she had ample time to uncover this information, the Respondent failed to act with reasonable diligence.

Most importantly, Olenginski's evidence is not exculpatory and would not have exonerated the Respondent from any misconduct testified about by Board witnesses. It would not change the outcome of the Respondent's trial if a new trial was granted and it fails to meet the legal standard for after-discovered evidence.

D. Sandra M. Brulo

Brulo is the former Luzerne County Deputy Director of Forensic Programs who was charged on February 20, 2009, with felony Obstruction of Justice for corruptly altering a juvenile court file with the intent to impair the file's integrity for use in federal proceedings. On March 17, 2009, Brulo agreed to plead guilty and cooperate in an on-going federal investigation. On

March 26, 2009, Brulo pled guilty to felony Obstruction of Justice before U.S. District Court Judge Edwin M. Kosik. Brulo's sentencing is scheduled for October 5, 2009.

Brulo provides information which, if true, establishes the following:

- From December 1996 through October 2005, Brulo served as the Luzerne County Chief Juvenile Probation Officer.
- As Chief Juvenile Probation Officer, Brulo routinely questioned what she considered inappropriate practices of court offices or departments and her questions were *"not well received by the power structure of the Luzerne County Courthouse."* Brulo does not explain what she considered *"inappropriate practices of court offices or departments."*
- President Judge Conahan completely took over hiring and firing of courthouse employees and department heads were no longer permitted involvement in job interviews of prospective employees. Brulo was never asked if she needed more staff, but instead notified new staff were being hired and to *"find something for them to do."*
- Brulo claims President Judge Conahan conferred with Judge Mark Ciavarella about hiring the following employees: Nina Mantione-Altavilla; Patrick Roman; Jamie Matlowski-MacLunny; Lee Greenberg; Kelly Cesari; Marle Bottley-Temussen; Patrick Sharkey; Angela DiMetro-Zera; Katie Gaughan; Ashlee Gavenus; Josh Oravic; Colleen Flaherty; Lisa Griglock; and Tom Marino. Brulo explains how these new employees were connected to Judge Ciavarella or Court Administrator William Sharkey as relatives, acquaintances, friends, or friends of former employees. None of these new employees testified at Respondent's trial.
- Brulo claims mostly everyone in the Adult Probation Division was related to Judge Conahan or Court Administrator William Sharkey, who are cousins. At an unknown date, Brulo claims that Paul McGarry, former Director of Probation Services, who Brulo states was demoted to Human Resources Director by Judge Ciavarella, told Brulo that *"in the Hazleton Office, you did not have to go far for a kidney if you needed a kidney transplant."*
- At an unknown date, Brulo claims she was in an elevator with a man (not identified by Brulo) seeking direction to the Juvenile Probation Office for an appointment. Brulo asked with whom he had the appointment and the man said *"the Chief."* Brulo introduced herself as Chief Juvenile Probation Officer and asked the nature of the man's business. He advised he was the new probation officer. Brulo claims she immediately contacted Judge Ciavarella, who told her Judge Conahan hired the man for the Hazleton office and she should *"just train him and find something for him to do,"* though Brulo indicated the Hazleton office was overstaffed.

- In October 2005, Paul McGarry advised Brulo that President Judge Conahan was transferring her to a new position called Deputy Director of Forensic Programs. Brulo claims the new position had *"no job description and virtually no duties."*
- At an unknown date, Brulo questioned Judge Ciavarella about the transfer. Judge Ciavarella told her *"the boss,"* referring to President Judge Conahan, wanted to *"shit can"* her.
- Judge Ciavarella routinely referred to President Judge Conahan as *"the boss."*
- At an unknown date, Judge Ciavarella called Brulo to his chambers, told her *"the boss"* wanted to speak with her, and handed her the telephone. Brulo claims Judge Conahan screamed at her and accused her of being responsible for limiting new admissions to the new Juvenile Detention Center. Judge Conahan said Robert Powell had bills to pay and the limits were limiting admissions. Brulo denied she was responsible for the limits.
- In January 2006, after Brulo applied for a position with Children and Youth Services and copied her letter to Judge Conahan, Judge Conahan called her and told her to *"go away for a month."* Brulo then called Judge Ciavarella about what was going on and he told her she was suspended for a month with pay. At an unknown date two weeks later, Brulo was called to a meeting with Judge Conahan, Judge Ciavarella, and Court Administrator William Sharkey. Judge Conahan told her she could return to work. At some unknown date 3-4 days later, Sharkey stopped by Brulo's office and told her she better watch herself, that she was asking too many questions, and he hoped she learned her lesson.
- At unknown dates, Brulo claims Sharkey would stop by her office occasionally and tell her to be careful about making too many waves. Brulo was also told to stop attending meetings of the Chief Juvenile Probation Officers in State College, Pennsylvania.
- At unknown dates, Brulo claims Judge Ciavarella told her Judge Conahan would never want anything in writing.
- Brulo claims Luzerne County President Judges exercised complete control and authority over courthouse employees.
- Brulo opines that President Judge Conahan had the ultimate power of running the Luzerne County Courthouse and employees seemed to fear losing their jobs or suffering Judge Conahan's wrath and had to keep in line with his wishes.
- Brulo opines Judge Conahan, Judge Ciavarella, and Court Administrator Sharkey operated a "good old boys network" repressive to women.
- At an unknown date, Brulo claims Judge Ciavarella told her she was not *"one of the boys."*

- At unknown dates, Brulo claims Judge Ciavarella continuously asked her to "*dumb down to the boys*" so she would not appear too smart.
- Brulo claims Judge Ciavarella made racing bets with Probation Officer Tom Lavan and sometimes collected on them in the courtroom with people present, including private and public attorneys, and district attorney and court administration staff. Brulo claims Judge Ciavarella would sometimes wear a racing hat (she does not identify if this occurred while on the bench) and Brulo tried to talk to him about the dignity of the court and Judge Ciavarella told her to "*lighten up.*"

As with Benzi, Novak, and Olinginski, Brulo's statement, too, fails to meet the legal standard of after-discovered evidence. It is not exculpatory and does not exonerate the Respondent. It neither contradicts Board witness testimony, nor does it corroborate the Respondent's trial defense that Board witnesses conspired to fabricate incidents of judicial misconduct about the Respondent because they were controlled by Judge Conahan. In fact, at trial, the Board demonstrated that many of its witnesses, including Respondent's former employees, Judge Patrick J. Toole, Jr. and witnesses from the Prothonotary, the Luzerne County District Attorney's Office, the Sheriff's Department, and the Public Defender's Office, did not serve at the pleasure of the president judge and the president judge had no authority to hire or fire them.

Brulo, as an employee over which the president judge did have authority to hire or terminate employment, provides no evidence in her statement that any similarly situated employee outside of juvenile probation who testified against the Respondent had been treated as Brulo by Judge Conahan, feared losing their job if they did not do as Judge Conahan wished, or participated in a conspiracy to commit perjury at Respondent's trial to assist Judge Conahan. In fact, to the contrary, at trial, some Board witnesses called on rebuttal were confronted with Respondent's defense posture that they were conspiring to fabricate incidents of judicial

misconduct about her and under the control of Judge Conahan. They were specifically asked whether they were part of any conspiracy to provide false information about the Respondent, whether they had been pressured or coerced by any Luzerne County judges to do so, or offered inducements in the form of county employment or a better position, or salary increase. These rebuttal witnesses denied such claim and included Lisa Tratthen (court reporter), Selyne Youngclaus (former law clerk to Respondent), and Theodore Krohn (former law clerk to Respondent).

While Brulo's information may evidence there was nepotism and cronyism in hiring individuals in the Luzerne County Court system, a male prejudice among Judge Conahan, Judge Ciavarella, and Sharkey toward women (i.e. "the good old boys network"), that Brulo, as Chief Juvenile Probation Officer, was perceived as problematic in terms of facilitating the kickback/"cash-for kids" scheme involving the new juvenile detention center, and that Judge Conahan transferred Brulo to another position as a punishment for being viewed as a liability in carrying out the kickback/"cash-for-kids" scheme, it does not become the equivalent that Judge Conahan controlled Board witnesses and masterminded a conspiracy wherein they agreed to perjure themselves when testifying about the Respondent's conduct. No evidence has ever been presented to support such contention and Brulo's information does nothing to change that.

The fact is that Board trial witnesses have uniformly stood by their testimony about the Respondent's abominable behavior and conduct toward them and others. Beyond those already formally charged by federal authorities, Brulo's information connects no Board witness to her experience with Judge Conahan or to the kickback scheme/"cash-for kids" scandal in Luzerne County, and, most importantly, to the conduct at issue in the Respondent's case. If true, it illustrates Judge Conahan's behavior toward a juvenile probation officer perceived as causing

problems with the facilitation of the kickback scheme/"cash-for kids" scandal, a scheme the Respondent knew nothing about and provided no information about.

CONCLUSION

The Respondent's "new" evidence does not constitute after-discovered evidence which would justify holding additional evidentiary hearings, overturning the Court's Findings of Fact and Conclusions of Law, or the Court's imposed sanction of removal and prohibition on future judicial service.

While the Respondent continues to peddle the notion that she was a "courthouse whistleblower" responsible for uncovering the Luzerne County corruption involving Judge Conahan and Judge Ciavarella being prosecuted by federal authorities, by her own trial testimony she refutes this self-proclaimed title. Respondent testified she contacted the federal authorities "[n]ot about Judge Conahan specifically. About docketing." Trial Tr. 3256:5-6, January 15, 2008. Not only was the Respondent not giving information specifically about Judge Conahan, she never testified she ever provided any information about Judge Ciavarella or the kickback scheme involving the new juvenile detention facility. Further, at trial, the Respondent disclaimed she had any problems with Judge Ciavarella.

Nonetheless, since trial, the Respondent's conspiracy defense has continued to evolve as she seemingly abandoned the incredible explanations for the conspiracy she provided at trial and later embraced the theme that it was retaliation for her reaching out to federal authorities and now included Judge Ciavarella. The Respondent, no doubt, overlooked that federal authorities did not commence their investigation into the new juvenile detention center and the role played in it by Judges Conahan and Ciavarella until the summer of 2006, more than two (2) years after the Board received a complaint filed against the Respondent by her former executive secretary,

Susan Weber, and approximately seven (7) months after the Board finished interviewing and/or deposing all Board witnesses and obtained the information used as the basis for its prosecution.

As the Board has said before, it obtained the information about the Respondent's misconduct before the federal investigation ever began. To continually claim that Board witnesses provided such information in retaliation for events that did not yet occur, detailed information about the Respondent's misconduct in all its various manifestations which was then documented in Reports of Interview and/or depositions before the summer of 2006, and before the Respondent's trial in 2007 and 2008, is not only misleading, it is absurd.

It must further be noted that no testimony given at Petitioner's trial by Judge Conahan, Judge Ciavarella (rebuttal witness only), William Sharkey, or Jill Moran, about the Respondent, has been proven false. In fact, some of Moran's testimony was corroborated by a court transcript of a specific hearing in which she participated before Petitioner. Judge Ciavarella's very limited rebuttal testimony, in part, simply dealt with the physical structure and condition of the Penn Place court facility at the time Petitioner was assigned to it and his experience handling the same court assignment Petitioner opined was so onerous.

Additionally, while the Respondent continues to devalue evidence provided by numerous Board witnesses not possessing lofty title or position in the Luzerne County Court system, giving the false impression that Judge Conahan, Judge Ciavarella, William Sharkey, and Jill Moran were somehow more important, "key," or "principle" to the Board's prosecution, or that the Board "*built their case around these very then (sic) powerful, affluent, well respected people*" (Tr. 51:9-10, May 13, 2009), she cannot negate the overwhelming mountain of evidence actually provided by the twenty-seven (27) other witnesses who gave much more detailed testimony about the Respondent's conduct, such witnesses including the Respondent's former personal staff.

Arguendo, even if the evidence Respondent proffers from Benzi, Novak, Olenginski, and

Brulo, was considered after-discovered evidence, it would not, does not, and cannot obscure that mountain of credible and corroborated evidence from these twenty-seven (27) witnesses, exculpate the Respondent, or change the outcome of her trial. The criminal conduct of Judge Conahan, Judge Ciavarella, and William Sharkey is a world independent of the Respondent's personal behavior and conduct, the heart of the Board's charges against her, which included having a young law clerk/tipstaff, Judith Flaherty, scrubbing the Respondent's kitchen floor on hands and knees and becoming a virtual household servant while the Luzerne County taxpayers paid the tab. Finally, the Board notes the Respondent's reference at the May 13, 2009, hearing, through her counsel, to an anonymous complaint filed with the Board against Judge Conahan (See Tr. 68-70, May 13, 2009). Respondent further raises this issue in her Brief (Page 26), speculating about what the Board may have done with such complaint.

First, as the Respondent is well aware, all matters before the Board are made confidential by constitutional mandate, Pa.Const. art. V, §18(a)(8). Just as the Board could not parade before the public any complaints filed against the Respondent that did not become court cases unless she waived confidentiality, the Board can discuss nothing about matters possibly filed against other judges, including Judge Conahan. Nevertheless, with complete disregard for this confidentiality, the Respondent places such a matter before the public.

In a blatant maneuver to "muddy the water" and manipulate public opinion to believe the Respondent is somehow a victim and not the perpetrator of misconduct in her own right, the Respondent injects such information to change the subject from Respondent's case and her conduct and the Court's task of determining whether she has presented what legally constitutes after-discovered evidence, to the subject of what the Board constitutionally would be prohibited from discussing and which, as the Respondent claims she did not file any complaint, would have no relation to the Respondent or her personal conduct toward those appearing before her in court,

working in her courtroom, or serving on her personal staff.

In light of Respondent's speculation that the Board did nothing with the referenced complaint against Judge Conahan, the Board has secured a waiver of confidentiality from former Judge Conahan. The Board avers the following regarding that complaint (**Board Exhibit A -- Second Anonymous Complaint Received September 28, 2006**):

- 1) An anonymous complaint was initially received by the Judicial Conduct Board, regarding (then Judge) Michael Conahan, toward the end of the Board's investigation against Ann H. Lokuta. The allegations in this anonymous complaint focused on nepotism in the Luzerne County Courthouse.
- 2) The Judicial Conduct Board initiated an investigation of the aforesaid complaint.
- 3) A second anonymous complaint was received by the Judicial Conduct Board, regarding former Judge Michael Conahan, which included, *inter alia*, allegations of case-fixing.
- 4) This complaint was received at the completion of the Board's investigation of the Respondent and immediately prior to the filing of the Board Complaint at *In re Ann H. Lokuta*, 3 JD 2006.
- 5) In accordance with the well-established procedures and practices of the Judicial Conduct Board, the second anonymous complaint referred to in paragraph 3 was forwarded to the United States Attorney's Office, Middle District of Pennsylvania, after preliminary investigation.
- 6) The United States Attorney's Office undertook and continued its investigation of Conahan, et al. Joseph A. Massa, Jr., Chief Counsel of the Judicial Conduct Board, testified before the federal investigative grand jury, on behalf of the United States Attorney's Office.

The above practice was in accord with the Board's policy and practice when it receives allegations of criminal conduct of a judicial officer. The matter regarding former Judge Conahan remains deferred pending completion of the ongoing criminal prosecution of former Judges Conahan and Ciavarella, who were indicted by a federal grand jury on September 9, 2009.

Assistant United States Attorney Gordon Zubrod, according to news reports published by the Associated Press and others, acknowledged that the Board had forwarded the complaint to federal prosecutors. "*We got that early on in the case,*" Zubrod told the Associated Press on

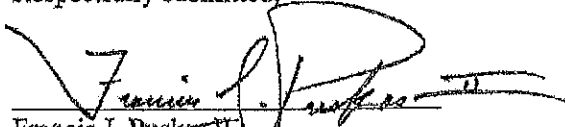
September 9, 2009. *"They were very cooperative with us. There was no hiding the ball."*

(Board Exhibit B -- The Associated Press, *Report: Pa. board told about judicial corruption, September 9, 2009*); (Board Exhibit C -- Dave Janoski, *Complaint says chief counsel for Judicial Conduct Board knew of judge's ties in '06, September 10, 2009*).

The only relevance of the anonymous complaint filed against former Judge Conahan to Respondent's matter is in the context of the substance (the allegations) as any of them have born out in the federal prosecutions, namely the kickback scheme/"cash-for-kids" scandal, and how the Respondent can qualify anything from that scandal as after-discovered evidence as per the Supreme Court's remand order. Thus far, the Board maintains the Respondent has failed to make any connection that would satisfy this legal standard.

Therefore, for all the above stated reasons, this Honorable Court should find the Respondent's evidence does not qualify as after-discovered evidence, does not merit the granting of further evidentiary hearings, and does not affect the existing determination that the Respondent committed judicial misconduct and was appropriately removed from office.

Respectfully submitted,


Francis J. Puskas II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

DATE: September 10, 2009

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

COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

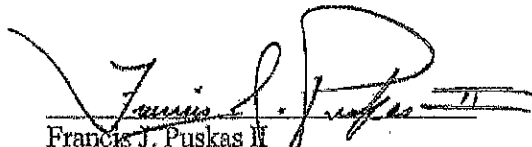
Ann H. Lokuta, :
Judge of the Court of Common Pleas; :
Eleventh Judicial District : 3 JD 06
Luzerne County :
:

VERIFICATION

I, Francis J. Puskas II, Deputy Chief Counsel to the Commonwealth of Pennsylvania Judicial Conduct Board, verify that I am authorized to make this verification on behalf of the Board and that the statements made in the foregoing Judicial Conduct Board's Brief are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities.

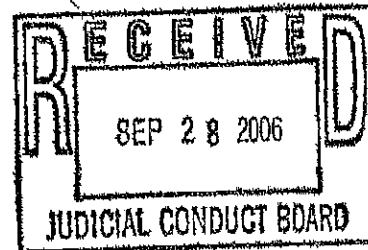
Respectfully submitted,

DATE: September 10, 2009


Francis J. Puskas II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

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

Pennsylvania Judicial Conduct Board
Pennsylvania Place
301 Chestnut Street
Suite 403
Harrisburg, Pa. 17101



Attention:
Joseph A. Massa, Jr., Esquire
Chief Counsel

A complaint against Judge Michael Conahan, President Judge of the Luzerne County Court of Common Pleas, is filed based upon the following:

1. Judge Conahan has used his judicial authority and power of appointment to benefit his family and friends and to contain and destroy his detractors.
Examples of this:
 - A. Within the past months, he appointed his nephew, James DeJoseph, son of his sister, Paula, to service as a probation officer in the Hazelton office. In order to make room for his nephew, he directed, through chief officer, Kris Correll, to re-assign a probation officer, named Joseph Farinella under the guise that Joseph Farinella had done something inappropriate. Kris Correll is the girlfriend of William Sharkey, Court Administrator of Luzerne County. William Sharkey is also a blood relative of Judge Conahan. Patrick Sharkey, son of William Sharkey, was appointed by Judge Michael Conahan to the probation department, as well as his daughter, Stacey Sharkey, to administrative aide in the probation department. Mary Beth Sharkey, also daughter to William Sharkey, has worked as an intern in the Courts. Judy Piscura, the sister of William Sharkey's wife, works in the Hazelton probation department. Debra Sharkey, wife of William Sharkey, sits on the board of Northeastern Pennsylvania Hospital and Higher Education Authority.
 - B. Appointed his brother-in-law, Donald Tedesko, husband of his sister, Theresa, and former high-level employee to Louis Pagnotti, III, to a position with Court Administration.
 - C. Judge Conahan regularly hears matters in support which have been decided by Master in support, Paula DeJoseph. Paula DeJoseph is his sister but, Judge Conahan never discloses this fact to the litigants in support who appear before him and are appealing his sister's decisions.
 - D. In furtherance of his employment scheme, he has devised a 2nd tier of Court-House employees who he terms "Tipstaffs", who are under his direct control and only answer to him. The funding of these positions comes from monies which are never made available to the public for review.
 - E. He appointed his friend, Magistrate Kanen's son, Jared Kane, to one such



"Tipstaff" position and allowed him to continue to be employed even though Kane was a frequent no show and often came to work intoxicated.

- F. Harold Refowich, a longstanding Hazelton friend of the Conahan Family, has also been placed in one such position, with undefined job functions.
 - G. He allows Deputy Court Administrator to maintain a full time position with the Courts even though he also maintains a full time undertaking business and is the sole licensed undertaker in that business. As a result of this, Deputy Court Administrator, P.J. Adonizio, is infrequently at work and is provided a pager and cell phone to allow for his appearing to be present even when he is officiating at burials. The Conahan Family also is engaged in the funeral home business. William Sharkey is aware of the business function of P.J. Adonizio and condones this practice. P.J. Adonizio is also officially designated as "Director of Personnel Services" for the Court.
2. Judge Conahan also falsely creates new titles for Courthouse employees in order to appear to comply with Supreme Court Directives, even though the Employee's functions remain the same. He also engages in political activities. Examples of this:
- A. Attorney Louis S. Sciandra, who practices civil and criminal law was previously named as a law clerk by Judge Conahan at the salary of \$36,000. When the law clerk changes were mandated by the Pennsylvania Supreme Court, to take effect in September 2005, Judge Conahan entered an order on August 25, 2005, re-titling Sciandra to Counsel to the Court Administrator. This scheme allowed Sciandra to continue to be paid by the Court budget as a law clerk and continue in his previous function. Both William Sharkey, and Peter Adonizio, as Director of Personnel Services for the Court agreed to and joined in on this employment scam.
 - B. A glaring example of how blatant is the misuse of Court employees was shown in criminal Nos. 2700 of 2006 and 2701 of 2006, Commonwealth v. Hugo M. Selenski and Paul R. Weakley, where Attorney Louis Sciandra who openly practices before the Criminal Division of Luzerne County filed a motion to quash the subpoena, which was issued to William T Sharkey, Court Administrator.
 - C. In the Selenski recusal matter, when the Court Reporters were served subpoenas by Luzerne County Detective Gary Capitano, they refused to comply with the subpoena and directed the District Attorney's Office that they were told not to do so by Judge Conahan. The reporter was Kris Ann Radginski. Previously, when court reporters and court staffers were given unauthorized pay raises by Judge Conahan, Judge Conahan provided his Chamber as the place for the personnel to meet to discuss suing Controller Steve Flood.
 - D. Judge Conahan encouraged his senior law clerk, Barbara Nause to run for District

Magistrate Barilla's seat and, while ostensibly he gave her a leave of absence from her position, she continued to receive benefits through the County. Upon her defeat, she was re-instated to her former salary without set off.

- E. Judge Conahan, who presides in Domestic, Civil and Criminal Court, routinely allows his law clerk, Sam Falcone to practice in Civil and Criminal Court in Luzerne County before Judge Conahan and other Judges. Judge Conahan also allows Attorney Falcone to serve as Criminal Conflict Counsel and appoints Attorney Falcone to serve as Master in master hearings in Luzerne County. Attorney Falcone has even appeared before Judge Conahan in Drug Court. Attorney Falcone also served on the Luzerne County Election Board.
- F. Attorney Nause is also allowed to practice in Criminal Court in Luzerne County in her capacity as Solicitor to the probation department. Judge Conahan placing Barbara Nause in the magisterial race is not an isolated example of his active involvement in politics. At a recent gathering of the Lower Luzerne County Bar Association, Judge Conahan openly stated, "If anyone is interested in running for Judge in Luzerne County, see me." This was witnessed by several other individuals other than lawyers.
- G. He uses his association with the Community Bank, where he serves as a director to his advantage with young attorney's by offering them financial help in the form of loans.
- H. He hires individuals to serve as full time Tipstuffs for visiting Senior Judges and allows Senior Judge Toole to maintain a full time Secretary and Tipstaff even though Judge Toole is not working full time in Luzerne County.
- I. Instead of utilizing some Judges of the 11th Judicial District, he routinely uses Senior Status Judges in domestic court matters, while the Judges of Luzerne County have the summer months off in what he schedules and terms "Individual Court Scheduling Weeks."
- 3. He routinely hears matters presented by Attorneys with whom he has close personal and longstanding business and friendships and refuses to recuse himself. In fact, it is his practice to direct William Sharkey to switch cases, which are assigned to other Judges when the litigants or the Attorneys are his friends. Examples of this:
 - A. Molly Sheridan is the PFA Coordinator of Luzerne County. She received this promotion by Judge Conahan. In 2003, Miss Sheridan was arrested for a "DUI" the case was heard by Magistrate Kane and thrown out. The Wilkes-Barre Police Department took issue with this appeal of Miss Sheridan's License Suspension for refusing to submit to a blood test was filed in Luzerne County. The case was assigned to Judge Lokuta. On the day before it was to be heard by Judge Lokuta, William Sharkey took it away from Judge Lokuta and it

was assigned to Judge Conahan. Judge Conahan, in a closed proceeding, where the courtroom doors were locked and the press was not even allowed in, granted Miss Sheridan's appeal and her license were not suspended. No. 2665-C-2003.

- B. Another case similarly disposed of by Judge Conahan was Wilkes Barre School Director, Brian Dunn's DUI case where Judge Conahan ruled without conducting a court hearing.
- C. Judge Conahan in his capacity as President Judge, appointed Mike Butera as a Mental Health Hearing Officer. As such he is responsible to conduct mental health commitment hearings and present commitment orders to Judge Conahan for his review and signature. In essence, he is a staffer to Judge Conahan. Yet, Attorney Butera routinely appears before Judge Conahan in Custody and Civil and Criminal matters and Judge Conahan never discloses his association with Attorney Butera to opposing Counsel or the litigants.
- D. Judge Conahan presided over a Trial, Butera vs. Paranich and Donahue-2165 of 2000 in which Attorney Mike Butera, as plaintiff, was awarded \$832,990 and \$98,462 in delay damages. This Trial was a Bench Trial without a Jury and it highlights how corrupt Judge Conahan is. Judge Conahan refused to recuse himself without a hearing in the recusal motion. He failed to disclose that he routinely meets ex-parte with Attorney Butera, early in the morning. As an insight to Attorney Butera's character in the 1980's when he was employed as an Assistant District Attorney to Judge Chester Muroski, he was fired because he wrote a letter of support on District Attorney Stationery, for Mob Boss, Russell Buffalino, who was under indictment in Federal Court.
- E. Attorney Butera and Judge Conahan have been "watched" meeting early in the morning in the company of William D'Elia, who is currently under Federal Indictment for Drug Money Laundering. This case also involves the Perjury Indictment of Louis Pagnotti, III.
- F. Judge Conahan's closest friends are Judge Mark Ciaverella and Robert Powell. These men have been seen frequently together in Pennsylvania and Florida. Yet, Judge Conahan continues to preside in cases where Attorney Powell and his associates are Plaintiff's Counsel and Judge Conahan never discloses the close personal association, which he shares with Attorney Powell.

Examples of this:
Hrniuk vs. Schnecken Gost 6569-2001
Simms vs. Querci 352-C-2001
Cove vs. Cooper Tire 6182-C-1996
Brennan vs. N.E. Counseling 4989-C-1995
Pauaukas vs. Poco-Wren 5227-C-1999

- G. Attorney Robert Powell is co-owner of the Luzerne County Juvenile Detention Center. When Judge Conahan became President Judge, he assigned Judge Ciavarella to Juvenile Court, while in the past, Juvenile Court responsibilities were shared among Judge Muroski and at times, Judge Lokuta. A stringent pattern of placement in the Powell owned facility can be readily revealed by reviewing Judge Ciavarella's placements. In the past, the other Judges placed in a variety of Facilities including Camp Adams.
- H. Frequently, Judge Conahan, whose closeness to Judge Ciavarella is so great that he purchased a house next to his, will designate Judge Ciavarella to act as President Judge, even though there is no provision for this practice in the Unified Court System of Pennsylvania.
- I. Judge Ciavarella's children have been given access to Attorney Powell's Florida Condo and Judge Conahan and Judge Ciavarella and William Sharkey and the Judges' Staffers have also been given access to Attorney Powell's Condo and to his yacht, "REEL JUSTICE."
- J. Attorney Powell's cases are frequently assigned through order of Judge Conahan to Judge Ciavarella. This task is usually seen to by the Court Administrator, William Sharkey.
Examples of this:

Holling vs. Lovrinic 1733-C-2000
Mancini vs. Rotary Lift 4078-C-2001
Wanser vs. Cannadozza 4771-C-2000
C.T.S.I. vs. MT Marketing 6770-C-2001
Koreyva vs. Eight Bees 2945-C-1999
Sando vs. Fritzengertown 1249-C-1999
Gliem vs. PPL 6184-C-1996
- K. Judge Ciavarella never discloses his close ties to Attorney Powell to either the Litigants or the opposing Counsel. At times, Judge Conahan will also direct cases of Attorney Butera's to Judge Ciavarella, especially when a high profile Plaintiff may be involved who could be linked to Judge Conahan.
Examples of this:

Carpinet vs. Janosky 2619-C-2004
CTSI vs. MT Marketing 6770-C-2001

- L. Judge Conahan has also directed that certain cases involving Judge Ciavarella's close golfing and traveling friend, John Terrana, be taken away, by Sharkey from one Judge and "Bench Tried" by Judge Ciavarella. Judge Ciavarella never discloses his close association with Attorney Terrana.
Examples of this:

Kamus vs. State Farm 6262-C-2000

- M. In the case of Louis J. Pagnotti, III, the coal company heir, who had been seen in the company of Judge Conahan socially, it was determined that William Sharkey would assign part of Pagnotti's case to Judge Ciavarella for disposition and, if a plea would result, it would be pled before Judge Conahan. At no time in the plea proceeding did Judge Conahan disclose that Pagnotti employed Judge Conahan's Brother-in-law, Don Tedesko, and that Pagnotti was in attendance at Judge Conahan's Annual get togethers.
- N. Once he assigned himself to Orphan's Court, Judge Conahan began making Masters Appointments based solely upon his political affiliations without regard to the appointee's knowledge of Domestic law or experience in Domestic Litigation. He has repeatedly appointing members of the Buffalino law firm to such positions. Attorney Mark and Attorney C.J. Buffalino receive the lion's share of Court Appointments. Attorney O'Donnell whose husband was his campaign aide, receives appointments as well. Judge Conahan has little regard for women lawyers unless they meet his criteria of physical attraction and demure personality traits.
Examples of this:

When he became President Judge, he immediately fired two seasoned women lawyers, Attorney Marsha Basco and Attorney Molly Hanlon. While both were experienced lawyers, they are heavy set and very outspoken. Judge Conahan who frequents the "Champagne Room" of the White Haven, Pa. Gentlemen's Club, the "Pleasure Dome", has openly carried his patronizing attitude toward women, to his Judicial function and had been heard openly commenting about certain women professionals in a sexist fashion, including the use of vulgarities when referring to another member of the bench. His comments have been overheard and remarked about throughout the Courthouse. The positions previously occupied by Attorney Hanlon and Attorney Basco were filled by Judge Conahan by appointing members of the Buffalino law firm to also serve as law clerks to the Senior Judges. The Senior Judges hear Civil and Custody Matters, and at times, Criminal Matters. Yet, the Buffalino brothers continue to practice in the Civil, Criminal and Domestic Courts of the 11th

Judicial District despite the fact, that they are law clerks. Judge Conahan recently had one such Civil matter re-assigned to him because C.J. Buffalino was the Plaintiff's Attorney; this case was:

Mokeefrey 629-2006

- O. Judge Conahan also engages in having cases assigned to him by William Sharkey when his Banking Friend's Sons are involved in cases. In the Byle case, Peter Moses, Son of Attorney John Moses, who sits on the Community Bank Board of Directors with Judge Conahan, was the Attorney of record. Peter Moses is also Solicitor to Prothonotary, Jill Moran, who is a Partner in Attorney Robert Powell's law firm.
- P. Another example of Conahan's practices involving both the Buffalino Family and sons of his Banking buddies is the case which was being litigated by Attorney Girard Mecadon :

Vanesko 8009-C-2000

- Q. In complete disregard of the ethical consideration and the Pennsylvania Supreme Court's prohibiting the allowance of law clerks to practice before the Court by whom they are employed serves, Judge Conahan Fosters, Condone and Authorizes this practice and even allows the clerks to practice before their own Judges.
Examples of this:

Judge Ciavarella hears Civil, Juvenile and Criminal matters. His law clerks are Attorney Don Rogers and Brian Buffalino who practice before other Civil and Criminal Court Judges in the 11th Judicial District. Judge Conahan's clerk is Attorney Phillips Gelso. Judge Conahan hears Civil, Criminal and Domestic cases. Attorney Gelso practices before other Judges in the 11th Judicial District in Civil and Criminal Court.

Judge Ciavarella also has a special law clerk, Attorney Sean McDonough, Attorney McDonough practices before the 11th Judicial District in Civil Court. In fact, he is currently presenting a case before his own Judge which was specially placed on Judge Ciavarella's Docket by William Sharkey. The case is:

Ingot 4756 of 2006

Attorney McDonough's law partners are Attorney James Wetter and Attorney Patrick Dougherty. Attorney Wetter is the law clerk to Judge Mundy who hears Civil Court. Attorney Wetter appears before other Judges in Luzerne County in Civil Cases.

I have submitted this information to you without identifying myself because I fear retaliation should my identity be revealed.

I hope that your Board acts upon these glaring violations of ethics which are occurring in the Luzerne County Courthouse.

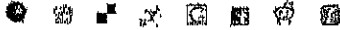
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Posted on Wed, Sep. 9, 2009

Report: Pa. board told about judicial corruption

SAVE AND SHARE



The Associated Press

PHILADELPHIA - A state ethics board received an anonymous complaint about a former Pennsylvania judge more than two years before the judge was charged in federal court with corruption, a newspaper reported.

The Legal Intelligencer of Philadelphia obtained a copy of the complaint made against former Luzerne County Judge Michael Conahan.

The complaint was filed with the Judicial Conduct Board in the fall of 2006. It includes numerous allegations of corruption, including the improper placement of youth offenders in a privately owned detention center, the newspaper reported Wednesday.

Conahan and another former Luzerne County judge, Mark Clavarella, were charged in January with taking \$2.6 million in payments from Robert Powell, the former co-owner of PA Child Care and Western PA Child care; and Robert Mericle, who built the facilities.

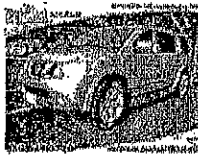

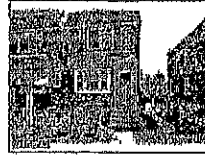
The judges initially agreed to plead guilty to fraud but withdrew their pleas last month after a federal judge rejected a plea deal.

The conduct board forwarded the 2006 complaint to federal prosecutors, according to Assistant U.S. Attorney Gordon Zubrod.

"We got that early on in the case," Zubrod told The Associated Press on Wednesday. "They were very cooperative with us. There was no hiding the ball."

It's not clear if the conduct board itself conducted an investigation. Joseph Massa, the board's chief counsel for the board, said confidentiality rules prevented him from commenting.

Complaints against Pennsylvania judges only become public if the conduct board files charges.

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Complaint says chief counsel for Judicial Conduct Board knew of judge's ties in '06

BY DAVE JANOSKI (STAFF WRITER)
Published: September 10, 2009

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The chief counsel of the state Judicial Conduct Board was aware in 2006 of former Luzerne County Judge Michael T. Conahan's ties to a reputed mobster and to the owner of two for-profit juvenile detention centers who recently pleaded guilty to paying kickbacks to the judge, according to a complaint obtained by Times-Shamrock Newspapers.

Mr. Conahan, 67, and another former judge, Mark A. Clavarella Jr., were charged in January with accepting \$2.6 million from the builder and former owner of the detention centers, which had contracts with the county.

Assistant U.S. Attorney Gordon Zubrod, who is prosecuting the two former judges, told The Associated Press on Wednesday the conduct board forwarded the anonymous complaint to the U.S. Department of Justice.

"We got that early on in the case," Mr. Zubrod said. "They were very cooperative with us. There was no hiding the ball."

It is unclear if the board, which investigates and prosecutes allegations of misconduct by judges, conducted its own investigation.

The board's chief counsel, Joseph A. Massa Jr., said he could neither confirm nor deny the board received the complaint. It is the board's policy to decline to comment on complaints or investigations unless they proceed to the point where charges are brought before the state Court of Judicial Discipline.

The eight-page complaint, filed anonymously in the fall of 2006, accuses Mr. Conahan, who was president judge from 2002 through 2008, of packing the court staff with relatives and political allies, hearing cases involving lawyers with whom he had personal or professional ties and manipulating the assignment of cases to his fellow judges.

The complaint also alleged Mr. Conahan had been seen meeting reputed mobster William J. D'Elia, who was facing money laundering charges at the time. Mr. Conahan's relationship with Mr. D'Elia, who is serving a nine-year federal prison term, became public only this year during a hearing on allegations the two men conspired to fix a non-jury trial in a defamation case against The Citizens' Voice newspaper, which is owned by the parent company of The Times-Tribune.

A Lehigh County judge appointed by the state Supreme Court to review the case recently recommended the \$3.5 million verdict against The Citizens' Voice be vacated and a new trial be held.

The complaint also describes the personal relationship between Mr. Clavarella, Mr. Conahan and Robert J. Powell, an attorney who owned two for-profit juvenile detention centers that earned \$30 million from contracts with the county. Mr. Powell has admitted to paying the judges \$770,000 in kickbacks and has pleaded guilty to failing to report a felony and abetting a conspiracy.

The existence of the 2006 complaint against Mr. Conahan was first revealed in May during a hearing before the state Supreme Court in the matter of Ann H. Lokuta, a county judge who was removed from the bench in 2008 on misconduct charges. Ms. Lokuta alleges the Judicial Conduct Board investigation that led to her removal was instigated by Mr. Conahan and Mr. Clavarella to punish her for talking to federal agents investigating the pair.

The high court has ordered the Court of Judicial Discipline, which recommended her removal, to consider reviewing its recommendation.

The anonymous complaint against Mr. Conahan was filed as the Judicial Conduct Board was winding up its investigation of Ms. Lokuta and preparing a complaint against her before the Court of Judicial Discipline.

Contact the writer: djanoski@citizensvoice.com



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- Cash-strapped Dunmore facing a \$115,000 construction claim on community center (6:58AM)
- Jessup, DEP to clean illegal dump (6:47AM)
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COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

Ann H. Lokuta, :
Judge of the Court of Common Pleas; :
Eleventh Judicial District : 3 JD 06
Luzerne County :

PROOF OF SERVICE

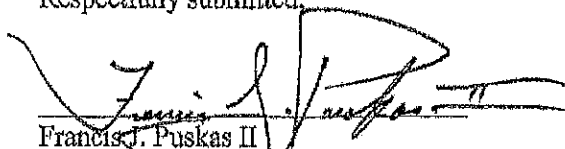
I hereby certify that I am this day serving the foregoing Judicial Conduct Board Brief upon the persons and in the manner indicated below which satisfies the requirements of Rule 122 of the Court of Judicial Discipline Rules of Procedure:

Service by first class mail addressed as follows:

Ronald V. Santora, Esq.
Bresset & Santora, LLC
1188 Wyoming Avenue
Forty Fort, PA 18704-4016

George A. Michak, Esq.
P.O. Box 62188
Harrisburg, PA 17106

Respectfully submitted,

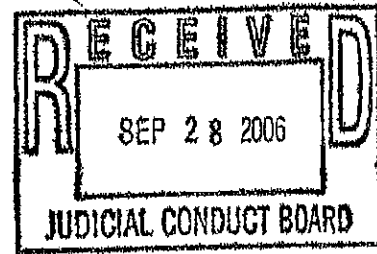


Francis J. Puskas II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

DATE: September 10, 2009

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

2006-428



Pennsylvania Judicial Conduct Board
Pennsylvania Place
301 Chestnut Street
Suite 403
Harrisburg, Pa. 17101

Attention:
Joseph A. Massa, Jr., Esquire
Chief Counsel

A complaint against Judge Michael Conahan, President Judge of the Luzerne County Court of Common Pleas, is filed based upon the following:

1. Judge Conahan has used his judicial authority and power of appointment to benefit his family and friends and to contain and destroy his detractors. Examples of this:
 - A. Within the past months, he appointed his nephew, James DeJoseph, son of his sister, Paula, to service as a probation officer in the Hazelton office. In order to make room for his nephew, he directed, through chief officer, Kris Correll, to re-assign a probation officer, named Joseph Farinella under the guide that Joseph Farinella had done something inappropriate. Kris Correll is the girlfriend of William Sharkey, Court Administrator of Luzerne County. William Sharkey is also a blood relative of Judge Conahan. Patrick Sharkey, son of William Sharkey, was appointed by Judge Michael Conahan to the probation department, as well as his daughter, Stacey Sharkey, to administrative aide in the probation department. Mary Beth Sharkey, also daughter to William Sharkey, has worked as an intern in the Courts. Judy Piscura, the sister of William Sharkey's wife, works in the Hazelton probation department. Debra Sharkey, wife of William Sharkey, sits on the board of Northeastern Pennsylvania Hospital and Higher Education Authority.
 - B. Appointed his brother-in-law, Donald Tedesko, husband of his sister, Theresa, and former high-level employee to Louis Pagnotti, III, to a position with Court Administration.
 - C. Judge Conahan regularly hears matters in support which have been decided by Master in support, Paula DeJoseph. Paula DeJoseph is his sister but, Judge Conahan never discloses this fact to the litigants in support who appear before him and are appealing his sister's decisions.
 - D. In furtherance of his employment scheme, he has devised a 2nd tier of Court-House employees who he terms "Tipstaffs", who are under his direct control and only answer to him. The funding of these positions comes from monies which are never made available to the public for review.
 - E. He appointed his friend, Magistrate Kaner's son, Jared Kane, to one such



Massa Exhibit 4.

"Tipstaff" position and allowed him to continue to be employed even though Kane was a frequent no show and often came to work intoxicated.

- F. Harold Refowich, a longstanding Hazelton friend of the Conahan Family, has also been placed in one such position, with undefined job functions.
 - G. He allows Deputy Court Administrator to maintain a full time position with the Courts even though he also maintains a full time undertaking business and is the sole licensed undertaker in that business. As a result of this, Deputy Court Administrator, P.J. Adonizio, is infrequently at work and is provided a pager and cell phone to allow for his appearing to be present even when he is officiating at burials. The Conahan Family also is engaged in the funeral home business. William Sharkey is aware of the business function of P.J. Adonizio and condones this practice. P.J. Adonizio is also officially designated as "Director of Personnel Services" for the Court.
2. Judge Conahan also falsely creates new titles for Courthouse employees in order to appear to comply with Supreme Court Directives, even though the Employee's functions remain the same. He also engages in political activities. Examples of this:
- A. Attorney Louis S. Sciandra, who practices civil and criminal law was previously named as a law clerk by Judge Conahan at the salary of \$36, 000 . When the law clerk changes were mandated by the Pennsylvania Supreme Court, to take effect in September 2005, Judge Conahan entered an order on August 25, 2005, re-titling Sciandra to Counsel to the Court Administrator. This scheme allowed Sciandra to continue to be paid by the Court budget as a law clerk and continue in his previous function. Both William Sharkey, and Peter Adonizio, as Director of Personnel Services for the Court agreed to and joined in on this employment scam.
 - B. A glaring example of how blatant is the misuse of Court employees was shown in criminal Nos. 2700 of 2006 and 2701 of 2006, Commonwealth v. Hugo M. Selenski and Paul R. Weakley, where Attorney Louis Sciandra who openly practices before the Criminal Division of Luzerne County filed a motion to quash the subpoena, which was issued to William T Sharkey, Court Administrator.
 - C. In the Selenski recusal matter, when the Court Reporters were served subpoenas by Luzerne County Detective Gary Capitano, they refused to comply with the subpoena and directed the District Attorney's Office that they were told not to do so by Judge Conahan. The reporter was Kris Ann Radginski. Previously, when court reporters and court staffers were given unauthorized pay raises by Judge Conahan, Judge Conahan provided his Chamber as the place for the personnel to meet to discuss suing Controller Steve Flood.
 - D. Judge Conahan encouraged his senior law clerk, Barbara Nause to run for District

Magistrate Barilla's seat and, while ostensibly he gave her a leave of absence from her position, she continued to receive benefits through the County. Upon her defeat, she was re-instated to her former salary without set off.

- E. Judge Conahan, who presides in Domestic, Civil and Criminal Court, routinely allows his law clerk, Sam Falcone to practice in Civil and Criminal Court in Luzerne County before Judge Conahan and other Judges. Judge Conahan also allows Attorney Falcone to serve as Criminal Conflict Counsel and appoints Attorney Falcone to serve as Master in master hearings in Luzerne County. Attorney Falcone has even appeared before Judge Conahan in Drug Court. Attorney Falcone also served on the Luzerne County Election Board.
- F. Attorney Nause is also allowed to practice in Criminal Court in Luzerne County in her capacity as Solicitor to the probation department. Judge Conahan placing Barbara Nause in the magisterial race is not an isolated example of his active involvement in politics. At a recent gathering of the Lower Luzerne County Bar Association, Judge Conahan openly stated, "If anyone is interested in running for Judge in Luzerne County, see me." This was witnessed by several other individuals other than lawyers.
- G. He uses his association with the Community Bank, where he serves as a director to his advantage with young attorney's by offering them financial help in the form of loans.
- H. He hires individuals to serve as full time Tipstuffs for visiting Senior Judges and allows Senior Judge Toole to maintain a full time Secretary and Tipstaff even though Judge Toole is not working full time in Luzerne County.
- I. Instead of utilizing some Judges of the 11th Judicial District, he routinely uses Senior Status Judges in domestic court matters, while the Judges of Luzerne County have the summer months off in what he schedules and terms "Individual Court Scheduling Weeks."
- 3. He routinely hears matters presented by Attorneys with whom he has close personal and longstanding business and friendships and refuses to recuse himself. In fact, it is his practice to direct William Sharkey to switch cases, which are assigned to other Judges when the litigants or the Attorneys are his friends. Examples of this:
 - A. Molly Sheridan is the PFA Coordinator of Luzerne County. She received this promotion by Judge Conahan. In 2003, Miss Sheridan was arrested for a "DUI" the case was heard by Magistrate Kane and thrown out. The Wilkes-Barre Police Department took issue with this appeal of Miss Sheridan's License Suspension for refusing to submit to a blood test was filed in Luzerne County. The case was assigned to Judge Lokuta. On the day before it was to be heard by Judge Lokuta, William Sharkey took it away from Judge Lokuta and it

was assigned to Judge Conahan. Judge Conahan, in a closed proceeding, where the courtroom doors were locked and the press was not even allowed in, granted Miss Sheridan's appeal and her license were not suspended. No. 2665-C-2003.

- B. Another case similarly disposed of by Judge Conahan was Wilkes Barre School Director, Brian Dunn's DUI case where Judge Conahan ruled without conducting a court hearing.
- C. Judge Conahan in his capacity as President Judge, appointed Mike Butera as a Mental Health Hearing Officer. As such he is responsible to conduct mental health commitment hearings and present commitment orders to Judge Conahan for his review and signature. In essence, he is a staffer to Judge Conahan. Yet, Attorney Butera routinely appears before Judge Conahan in Custody and Civil and Criminal matters and Judge Conahan never discloses his association with Attorney Butera to opposing Counsel or the litigants.
- D. Judge Conahan presided over a Trial, Butera vs. Paranych and Donahue-2165 of 2000 in which Attorney Mike Butera, as plaintiff, was awarded \$832,990 and \$98,462 in delay damages. This Trial was a Bench Trial without a Jury and it highlights how corrupt Judge Conahan is. Judge Conahan refused to recuse himself without a hearing in the recusal motion. He failed to disclose that he routinely meets ex-parte with Attorney Butera, early in the morning. As an insight to Attorney Butera's character in the 1980's when he was employed as an Assistant District Attorney to Judge Chester Muroski, he was fired because he wrote a letter of support on District Attorney Stationery, for Mob Boss, Russell Buffalino, who was under indictment in Federal Court.
- E. Attorney Butera and Judge Conahan have been "watched" meeting early in the morning in the company of William D'Elia, who is currently under Federal Indictment for Drug Money Laundering. This case also involves the Perjury Indictment of Louis Pagnotti, III.
- F. Judge Conahan's closest friends are Judge Mark Ciaverella and Robert Powell. These men have been seen frequently together in Pennsylvania and Florida. Yet, Judge Conahan continues to preside in cases where Attorney Powell and his associates are Plaintiff's Counsel and Judge Conahan never discloses the close personal association, which he shares with Attorney Powell.
Examples of this:

Hruniuk vs. Schnecken Gost 6569-2001
Simms vs. Querci 352-C-2001
Cove vs. Cooper Tire 6182-C-1996
Brennan vs. N.E. Counseling 4989-C-1995
Pauaukas vs. Poco-Wren 5227-C-1999

- G. Attorney Robert Powell is co-owner of the Luzerne County Juvenile Detention Center. When Judge Conahan became President Judge, he assigned Judge Ciavarella to Juvenile Court, while in the past, Juvenile Court responsibilities were shared among Judge Muroski and at times, Judge Lokuta. A stringent pattern of placement in the Powell owned facility can be readily revealed by reviewing Judge Ciavarella's placements. In the past, the other Judges placed in a variety of Facilities including Camp Adams.
- H. Frequently, Judge Conahan, whose closeness to Judge Ciavarella is so great that he purchased a house next to his, will designate Judge Ciavarella to act as President Judge, even though there is no provision for this practice in the Unified Court System of Pennsylvania.
- I. Judge Ciavarella's children have been given access to Attorney Powell's Florida Condo and Judge Conahan and Judge Ciavarella and William Sharkey and the Judges' Staffers have also been given access to Attorney Powell's Condo and to his yacht, "REEL JUSTICE."
- J. Attorney Powell's cases are frequently assigned through order of Judge Conahan to Judge Ciavarella. This task is usually seen to by the Court Administrator, William Sharkey.
Examples of this:
- Holling vs. Lovrinic 1733-C-2000
Mancini vs. Rotary Lift 4078-C-2001
Wanser vs. Cannadozza 4771-C-2000
C.T.S.I. vs. MT Marketing 6770-C-2001
Koreyva vs. Eight Bees 2945-C-1999
Sando vs. Fritzenertown 1249-C-1999
Gliem vs. PPL 6184-C-1996
- K. Judge Ciavarella never discloses his close ties to Attorney Powell to either the Litigants or the opposing Counsel. At times, Judge Conahan will also direct cases of Attorney Butera's to Judge Ciavarella, especially when a high profile Plaintiff may be involved who could be linked to Judge Conahan.
Examples of this:
- Carpinet vs. Janosky 2619-C-2004
CTSI vs. MT Marketing 6770-C-2001

- L. Judge Conahan has also directed that certain cases involving Judge Ciavarella's close golfing and traveling friend, John Terrana, be taken away, by Sharkey from one Judge and "Bench Tried" by Judge Ciavarella. Judge Ciavarella never discloses his close association with Attorney Terrana.
Examples of this:

Kamus vs. State Farm 6262-C-2000

- M. In the case of Louis J. Pagnotti, III, the coal company heir, who had been seen in the company of Judge Conahan socially, it was determined that William Sharkey would assign part of Pagnotti's case to Judge Ciavarella for disposition and, if a plea would result, it would be pled before Judge Conahan. At no time in the plea proceeding did Judge Conahan disclose that Pagnotti employed Judge Conahan's Brother-in-law, Don Tedesko, and that Pagnotti was in attendance at Judge Conahan's Annual get togethers.
- N. Once he assigned himself to Orphan's Court, Judge Conahan began making Masters Appointments based solely upon his political affiliations without regard to the appointee's knowledge of Domestic law or experience in Domestic Litigation. He has repeatedly appointing members of the Buffalino law firm to such positions. Attorney Mark and Attorney C.J. Buffalino receive the lion's share of Court Appointments. Attorney O'Donnell whose husband was his campaign aide, receives appointments as well. Judge Conahan has little regard for women lawyers unless they meet his criteria of physical attraction and demure personality traits.
Examples of this:

When he became President Judge, he immediately fired two seasoned women lawyers, Attorney Marsha Basco and Attorney Molly Hanlon. While both were experienced lawyers, they are heavy set and very outspoken. Judge Conahan who frequents the "Champagne Room" of the White Haven, Pa. Gentlemen's Club, the "Pleasure Dome", has openly carried his patronizing attitude toward women, to his Judicial function and had been heard openly commenting about certain women professionals in a sexist fashion, including the use of vulgarities when referring to another member of the bench. His comments have been overheard and remarked about throughout the Courthouse. The positions previously occupied by Attorney Hanlon and Attorney Basco were filled by Judge Conahan by appointing members of the Buffalino law firm to also serve as law clerks to the Senior Judges. The Senior Judges hear Civil and Custody Matters, and at times, Criminal Matters. Yet, the Buffalino brothers continue to practice in the Civil, Criminal and Domestic Courts of the 11th

Judicial District despite the fact, that they are law clerks. Judge Conahan recently had one such Civil matter re-assigned to him because C.J. Buffalino was the Plaintiff's Attorney; this case was:

Mokeyfrey 629-2006

- O. Judge Conahan also engages in having cases assigned to him by William Sharkey when his Banking Friend's Sons are involved in cases. In the Byle case, Peter Moses, Son of Attorney John Moses, who sits on the Community Bank Board of Directors with Judge Conahan, was the Attorney of record. Peter Moses is also Solicitor to Prothonotary, Jill Moran, who is a Partner in Attorney Robert Powell's law firm.
- P. Another example of Conahan's practices involving both the Buffalino Family and sons of his Banking buddies is the case which was being litigated by Attorney Girard Mecadon :

Vanesko 8009-C-2000

- Q. In complete disregard of the ethical consideration and the Pennsylvania Supreme Court's prohibiting the allowance of law clerks to practice before the Court by whom they are employed serves, Judge Conahan Fosters, Condones and Authorizes this practice and even allows the clerks to practice before their own Judges.
Examples of this:

Judge Ciavarella hears Civil, Juvenile and Criminal matters. His law clerks are Attorney Don Rogers and Brian Buffalino who practice before other Civil and Criminal Court Judges in the 11th Judicial District. Judge Conahan's clerk is Attorney Phillips Gelso. Judge Conahans hears Civil, Criminal and Domestic cases. Attorney Gelso practices before other Judges in the 11th Judicial District in Civil and Criminal Court.

Judge Ciavarella also has a special law clerk, Attorney Sean McDonough, Attorney McDonough practices before the 11th Judicial District in Civil Court. In fact, he is currently presenting a case before his own Judge which was specially placed on Judge Ciavarella's Docket by William Sharkey. The case is:

Ingot 4756 of 2006

Attorney McDonough's law partners are Attorney James Wetter and Attorney Patrick Dougherty. Attorney Wetter is the law clerk to Judge Mundy who hears Civil Court. Attorney Wetter appears before other Judges in Luzerne County in Civil Cases.

I have submitted this information to you without identifying myself because I fear retaliation should my identity be revealed.

I hope that your Board acts upon these glaring violations of ethics which are occurring in the Luzerne County Courthouse.

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Posted on Wed, Sep 9, 2009

Report: Pa. board told about judicial corruption

SAVE AND SHARE

The Associated Press

PHILADELPHIA - A state ethics board received an anonymous complaint about a former Pennsylvania judge more than two years before the judge was charged in federal court with corruption, a newspaper reported.

The Legal Intelligencer of Philadelphia obtained a copy of the complaint made against former Luzerne County Judge Michael Conahan.

The complaint was filed with the Judicial Conduct Board in the fall of 2006. It includes numerous allegations of corruption, including the improper placement of youth offenders in a privately owned detention center, the newspaper reported Wednesday.

Conahan and another former Luzerne County Judge, Mark Clavarella, were charged in January with taking \$2.5 million in payments from Robert Powell, the former co-owner of PA Child Care and Western PA Child care; and Robert Mericle, who built the facilities.

The judges initially agreed to plead guilty to fraud but withdrew their pleas last month after a federal judge rejected a plea deal.

The conduct board forwarded the 2006 complaint to federal prosecutors, according to Assistant U.S. Attorney Gordon Zubrod.

"We got that early on in the case," Zubrod told The Associated Press on Wednesday. "They were very cooperative with us. There was no hiding the ball."

It's not clear if the conduct board itself conducted an investigation. Joseph Massa, the board's chief counsel for the board, said confidentiality rules prevented him from commenting.

Complaints against Pennsylvania judges only become public if the conduct board files charges.

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9/10/2009

