

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

Press Release

October 23, 2012

TO: Media/Press

FROM: Judicial Conduct Board

SUBJECT: Thomas M. Nocella
Judge of the Court of Common Pleas
First Judicial District
Philadelphia County
7 JD 2012

Harrisburg. The Judicial Conduct Board today filed formal charges by Board Complaint in the Court of Judicial Discipline against Court of Common Pleas Judge Thomas M. Nocella.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Judge Nocella has an opportunity to respond to the charges, obtain and inspect the evidence which forms the basis of the allegations and the right to a public trial before the Court of Judicial Discipline.

Upon completion of the trial, if the Court determines that the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed upon the judge for violating the Pennsylvania Code of Judicial Conduct and the Pennsylvania Constitution. Possible sanctions include reprimand, suspension, or removal from office.

Counsel

Board: Elizabeth A. Flaherty, Esquire

Respondent: Samuel C. Stretton, Esquire

Contact

Robert A. Graci, Chief Counsel

Board Complaint is attached.

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

END

2012 OCT 23 P 3: 11
RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Thomas M. Nocella :
Judge of the Court of Common Pleas :
First Judicial District :
Philadelphia County : 7 JD 2012

IMPORTANT NOTICE

TO: THOMAS M. NOCELLA

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined there is probable cause to file formal charges against you for conduct proscribed by Article V, §§ 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and Canons 7B(1)(c) and 2A of the Code of Judicial Conduct. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline in accordance with C.J.D.R.P. No. 110.

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

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

COMPLAINT

AND NOW, this 23rd day of October, 2012, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against The Honorable Thomas M. Nocella, Judge of the Court of Common Pleas of the First Judicial District, Philadelphia County, Pennsylvania. The Board alleges that Respondent violated the Constitution of the Commonwealth of Pennsylvania, Article V, §§ 17(b) and 18(d)(1), and Canons 7B(1)(c) and 2A of the Code of Judicial Conduct by virtue of his conduct, delineated specifically as follows:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania, grants to the Board the authority to file formal charges against a judicial officer in the Court of Judicial Discipline and, thereafter, to prosecute the case in support of such charges before the Court.

2. Since January 2, 2012, Judge Thomas M. Nocella has served continuously to the present as a duly elected Court of Common Pleas Judge in the First Judicial District, Philadelphia County, Pennsylvania, with an office currently located at Family Court Division, 1801 Vine Street, Philadelphia, Pennsylvania 19103.

3. Prior to Judge Nocella's election to the Court of Common Pleas, he was appointed by former Governor Edward Rendell to the position of Judge of the Municipal Court of Philadelphia, Pennsylvania where he served from December 2, 2008 through January 3, 2010.

4. As Judge of the Court of Common Pleas Court and the Municipal Court, Judge Nocella is, and was at all times relevant hereto, subject to all the duties and

responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the Pennsylvania Code of Judicial Conduct.

PART A. MISREPRESENTATION OF MATERIAL FACTS

5. Judge Nocella was a judicial candidate in Philadelphia in the following three primary elections:

- a. 2001 Candidate for Judge of the Municipal Court;
- b. 2005 Candidate for Judge of the Court of Common Pleas;
and
- c. 2009 Candidate for Judge of the Municipal Court of Philadelphia.

6. Judge Nocella lost all three primary elections.

7. Judge Nocella was not a judicial candidate in the 2011 primary election.

8. In the fall of 2011, the Philadelphia Democratic ward leaders nominated Judge Nocella to be the party candidate in the general election for a vacated judicial seat with the Court of Common Pleas of Philadelphia.

9. When an attorney becomes a candidate for judicial office in Philadelphia, the Philadelphia Bar Association Commission on Judicial Selection and Retention (hereinafter "Commission") notifies the candidate of its confidential evaluation process and requests that the candidate participate.

10. During the 2001, 2005 and 2009 primary elections and the 2011 general election, Judge Nocella participated in the Commission's evaluation process for judicial candidates.

11. Every candidate who participates in the Commission's evaluation process is required to complete and submit a questionnaire. The information

contained in a submitted questionnaire is used as a basis for the Commission to rate the candidate as "recommended" or "not recommended."

12. Each questionnaire contains a Certification Statement with the following language:

I certify that all of the statements made in this questionnaire are true, complete and correct to the best of my knowledge and belief and are made in good faith. I am aware that any changes or additions to the foregoing information must be submitted promptly to the Commission on Judicial Selection and Retention.

13. As part of the evaluation process, Judge Nocella completed and submitted the following questionnaires:

- a. 2001 Personal Data Questionnaire (for the 2001 primary election);
- b. 2004 Update Evaluation Questionnaire (for the 2005 primary election);
- c. 2009 Personal Data Questionnaire (for the 2009 primary election; and
- d. 2011 Update Evaluation Questionnaire (for the 2011 general election).

Judge Nocella signed the Certification Statement on the 2001, 2004, 2009 and 2011 questionnaires.

14. The Commission's evaluation process also includes the appointment of a five-member Investigative Team to interview the candidate and others with information concerning the candidate's background and qualifications.

15. The Investigative Team reports its findings on the day of the judicial candidate's scheduled appearance before the full Commission, at which time the Commission Chair questions the candidate.

16. If the Commission concludes that the candidate merits a "recommended" rating after his or her first appearance, then no further appearance is required. If the Commission decides upon a "not recommended" rating, then the candidate may choose to participate in a second appearance before the Commission in order to answer additional questions and present a statement to persuade the Commission to issue a "recommended" rating.

17. Following evaluations by its Investigative Teams, the Commission issued the following ratings to Judge Nocella during his judicial candidacies:

- a. 2001 First Appearance: Recommended;
- b. 2005 First Appearance: Preliminarily Not Recommended
Second Appearance: Recommended;
- c. 2009 First Appearance: Preliminarily Not Recommended
Second Appearance: Recommended; and
- d. 2011 First Appearance: Recommended.

18. Following his initial appearances in 2005 and 2009, the Commission notified Judge Nocella by letter of his preliminary "not recommended" rating and identified the following criteria as problematic:

- a. Financial responsibility (2005 and 2009);
- b. Demonstrated sound judgment in one's professional life (2005 and 2009);
- c. A record and reputation for excellent character and integrity (2009); and
- d. Demonstrated Administrative Ability (2009).

19. In 2005 and 2009, Judge Nocella participated in a second appearance before the Commission and persuaded the Commission to issue a "recommended" rating.

20. Following his second appearances in 2005 and 2009, the Commission notified Judge Nocella in writing of his "recommended" status. The letters contained the following directive to disclose any material facts that altered or added to the information he submitted in his questionnaires, including the time period after the Commission issued a "recommended" rating:

The Commission's Guidelines require you to notify the Commission promptly of any material facts that would require changes to any of the answers previously supplied by you in the candidate's questionnaire.

2009 Judicial Candidacy

21. On February 5, 2009, Judge Nocella completed a full length Personal Data Questionnaire and submitted it to the Commission. At that time he was both an appointed judge of the Municipal Court of Philadelphia and a candidate for the same position.

22. Judge Nocella signed the Certification Statement at the bottom of the 2009 Personal Data Questionnaire, certifying that his statements were true, complete and correct and acknowledging his duty to submit promptly to the Commission any changes or additions to the information contained in his questionnaire.

23. Question No. 21 in the 2009 Personal Data Questionnaire required Judge Nocella to list cases in which he was sued by a client. Judge Nocella responded, "No change since prior filing," referring to three (3) cases listed in his 2001 questionnaire and one (1) case listed in his 2004 questionnaire for a total of four (4) cases.

24. Question No. 22 in the 2009 Personal Data Questionnaire asked Judge Nocella to list all cases in which he was "ever a party or otherwise involved in or

had a pecuniary interest in any civil or criminal proceedings.” Judge Nocella responded that in addition to cases named in prior question questionnaires, “I was named as a defendant in a civil matter.” In 2001, Judge Nocella named one (1) case in which he was a defendant. In 2004, he did not provide additional case names. Therefore, his 2009 response included a total of two (2) cases.

25. The 2009 Investigative Team performed a docket search and discovered approximately thirty (30) cases in which Judge Nocella was either a defendant or a respondent.

26. In response to Questions No. 21 and 22 in his 2009 Personal Data Questionnaire, Judge Nocella listed a total of six (6) cases in which he was either a defendant or respondent and failed to disclose twenty-four (24) other cases.

27. On February 5, 2009, Judge Nocella was deposed by counsel for the Philadelphia Board of Ethics in the case ***Philadelphia Board of Ethics v. The Appreciation Fund*** (April Term 2007, Case No. 003419).

28. On March 11, 2009, the Philadelphia Board of Ethics filed a Petition for Contempt against The Appreciation Fund and named Judge Nocella and Ernest DeNofo as additional defendants in the case ***Philadelphia Board of Ethics v. The Appreciation Fund, Ernest DeNofa, Thomas Nocella*** (April Term 2007 Case No. 070403419).

29. The February 5, 2009 deposition and the March 11, 2009 Petition for Contempt, naming Judge Nocella as an additional defendant in the Philadelphia Board of Ethics matter, were changes or additions to the information contained in Judge Nocella’s 2009 Personal Data Questionnaire and, therefore, material to the Commission’s evaluation of his candidacy for the position of judge.

30. On April 17, 2009, the Commission's Investigative Team interviewed Judge Nocella.

31. Prior to his April 17, 2009 interview with the Commission's Investigative Team, Judge Nocella failed to disclose to the Commission information about his involvement in the case ***Philadelphia Board of Ethics v. The Appreciation Fund, Ernest DeNofa, Thomas Nocella***, specifically that he was deposed, that he was named as a defendant and that he was the subject of a Petition for Contempt.

32. The Investigative Team independently discovered the Petition for Contempt and questioned Judge Nocella about it and the Philadelphia Board of Ethics matter at the April 17, 2009 interview.

33. In his 2009 Personal Data Questionnaire, Judge Nocella disclosed that he was a named party in ***Straughter-Carter Post No. 6627, Veterans of Foreign Wars of the United States et al. v. Monastery Hill Partners, L.P. et al.***, Philadelphia County Court of Common Pleas, January Term 2007, Case No. 070103406 (VFW), and provided a brief description of the matter.

34. In his 2009 Personal Data Questionnaire, Judge Nocella failed to disclose material facts in his description of the VFW matter, including the facts that he misrepresented his authority to execute documents and collected a \$60,000 fee at the property closing.¹

¹ The VFW case was an ongoing matter in 2009 while Judge Nocella served as appointed Municipal Court Judge of Philadelphia, in 2011 while he was a judicial candidate and in 2012 when he assumed the bench as Judge of the Court of Common Pleas of Philadelphia. On April 12, 2012, the parties reached a settlement agreement in which Judge Nocella agreed to pay \$80,000 to the VFW at the rate of \$2,000 per month. On July 15, 2012, the United States Bankruptcy Court for the Eastern District of Pennsylvania issued an Order for Stipulation Settling Adversarial Procedure which declared that the debt owed by Judge Nocella was non-dischargeable. ***Straughter-Carter Post No. 6627, Veterans of Foreign***

2011 Judicial Candidacy

35. In the 2011 general election, Judge Nocella was a judicial candidate for the Court of Common Pleas of Philadelphia and participated in the Commission's evaluative process.

36. A "recommended" rating is a three year presumptive rating. However, if a judicial candidate runs again within a three year period after the "recommended" rating is issued, the Commission has discretion to either waive or require a short form Update Evaluation Questionnaire, an additional investigation and an appearance before the Commission.

37. In 2011, despite the 2009 "recommended" rating, the Commission requested that Judge Nocella submit an Update Evaluation Questionnaire, assigned an Investigative Team to interview him and others about his qualifications and required him to appear before the Commission.

38. On September, 29, 2011, Judge Nocella submitted a one page short form Update Evaluation Questionnaire to the Commission.

39. In his 2011 Update Evaluation Questionnaire, Judge Nocella checked "No" in response to the sole question,

"Have any material facts occurred since you completed the last questionnaire which would require a change in any of the answers given by you?"

Therefore, he represented to the Commission that no material facts occurred since his February 5, 2009 Personal Data Questionnaire.

40. Judge Nocella signed the Certification Statement at the bottom of the 2011 Update Evaluation Questionnaire certifying that his statements were true, complete and correct, and acknowledged his duty to submit promptly to the Commission any changes or additions to the information.

41. Since Judge Nocella did not submit new information in his 2011 Update Evaluation Questionnaire, the Certification Statement related back to the information contained in the February 5, 2009 Personal Data Questionnaire.

42. Based on his previous preliminary "not recommended" ratings, Judge Nocella was aware that the criteria of financial responsibility, judgment in his professional life, record of character and integrity, and administrative ability were identified by the Commission as problematic.

43. When Judge Nocella submitted his 2011 Update Evaluation Questionnaire, he failed to disclose multiple material facts that would change his answers to the questions posed on his 2009 Personal Data Questionnaire, particularly in regard to financial and legal matters. The material facts included the following:

- a. On September 9, 2009, Judge Gary DiVito of the Court of Common Pleas of Philadelphia found Judge Nocella and co-defendant Ernest DeNofa in contempt of two court orders regarding a Philadelphia Board of Ethics matter. ***Philadelphia Board of Ethics v. The Appreciation Fund, Ernest DeNofa, Thomas Nocella.***
- b. On November 17, 2009, Judge Nocella and Ernest DeNofa entered into a settlement agreement with the Philadelphia Board of Ethics in the amount of \$16,000. ***Philadelphia Board of Ethics v. The Appreciation Fund, Ernest DeNofa, Thomas Nocella.***
- c. On March 11, 2011, two IRS liens were filed against Judge Nocella in the amount of \$358,961 and \$110,748;

- d. On April 27, 2011, creditor Czarnecki Profit Sharing filed a judgment against Judge Nocella in the amount of \$923,152;
- e. On May 17, 2011, creditor Casmir Czarnecki filed a judgment against Judge Nocella in the amount \$306,174; and
- f. On June 15, 2011, Judge Nocella filed a Chapter 13 voluntary bankruptcy petition. ***In re: Thomas M. Nocella***, U.S. Bankruptcy Court, Eastern District of Pennsylvania, No. 11-14789-ELF.

44. After the submission of his September 29, 2011 Update Evaluation Questionnaire and prior to his October 17, 2011 interview by the Investigative Team, Judge Nocella failed to disclose to the Commission or its Investigative Team the material facts listed in Paragraph No. 43 which occurred subsequent to the submission of his 2009 Personal Data Questionnaire.

45. During his October 17, 2011 interview with the Investigative Team and his October 28, 2011 appearance before the Commission, Judge Nocella failed to disclose the material facts listed in Paragraph No. 43 which were additions or changes to the responses in his 2009 Personal Data Questionnaire.

46. Throughout his 2011 judicial candidacy, Judge Nocella failed to disclose to the Commission any of the material facts which occurred since he submitted his 2009 Personal Data Questionnaire. The omission of material facts resulted in a misrepresentation of his credentials.

47. On October 28, 2011, Commission Vice-Chair Gaeton J. Alfano contacted Judge Nocella by telephone and advised him that the Commission rated him as a "recommended" judicial candidate.

48. Between October 28, 2011 and the November 8, 2011 election, Judge Nocella failed to disclose to the Commission the material facts listed in Paragraph

No. 43 which occurred subsequent to the submission of his 2009 Personal Data Questionnaire.

49. On November 8, 2011, former Municipal Court Judge Nocella was elected to the position of Judge of the Court of Common Pleas of Philadelphia.

PART B. FAILURE TO RESPECT AND COMPLY WITH THE LAW

50. The Appreciation Fund is a Political Action Committee (PAC) located in Philadelphia, Pennsylvania.

51. Ernest DeNofa served as Treasurer of the Appreciation Fund at all times relevant to the following facts.

52. Beginning on or about April 27, 2007, and at all relevant times thereafter, Judge Nocella, serving in his capacity as an attorney, provided legal services to Ernest DeNofa and the Appreciation Fund on a pro bono basis.

53. The Philadelphia Board of Ethics is responsible for the enforcement of the campaign finance laws of the City of Philadelphia as set forth in Chapter 20-1000 of the Philadelphia Code.

54. In Philadelphia, the treasurer of a political action committee must file a report of receipts and expenditures with the Philadelphia Board of Ethics at the same time that he or she files such a report with the Pennsylvania Department of State, pursuant to Article XVI of the Pennsylvania Election Code (25 P.S. § 3241 et seq.). Chapter 20-1000 Philadelphia Code § 20-1006(1).

55. Effective January 17, 2007, the Philadelphia Board of Ethics instituted a new policy requiring political action committees to file campaign finance reports, pursuant to Chapter 20-1000 Philadelphia Code § 20-1006, in a specific electronic

format. Philadelphia Board of Ethics Regulation No. 1, Electronic Filing of Campaign Finance Reports (Jan. 17, 2007).

56. In 2007, the failure to file the required report in an electronic format with the Philadelphia Board of Ethics was a violation of Chapter 20-600 (Standards of Conduct and Ethics) and the violator was subject to penalties under that Chapter. Chapter 20-1000 Philadelphia Code § 20-1006(4).

57. In 2007, the penalty set forth for violation of Chapter 20-600 was fifteen hundred dollars (\$1,500) for each violation that occurred in 2007. Chapter 20-600 Philadelphia Code § 20-612.

58. The Appreciation Fund filed a Cycle 7 annual report of its 2006 campaign contributions with the Pennsylvania Department of State and was required to file a report of the same information in an electronic format with the Philadelphia Board of Ethics by January 31, 2007.

59. In 2007, the Appreciation Fund failed to timely file a Cycle 7 annual report in an electronic format with the Philadelphia Board of Ethics either by the initial deadline of January 31, 2007 or by the extended deadline of April 4, 2007.

60. On April 27, 2007, the Philadelphia Board of Ethics filed a Petition with the Court of Common Pleas of Philadelphia seeking the imposition of the statutory penalty of fifteen hundred dollars (\$1,500) per day against the Appreciation Fund for each day that it failed to file its Cycle 7 annual report in an electronic format. ***Philadelphia Board of Ethics v. Appreciation Fund***, Case No. 070403149.

61. On April 30, 2007, the Appreciation Fund filed its annual report in an electronic format with the Philadelphia Board of Ethics.

62. By Court Order, on June 1, 2007, the Honorable Gary DiVito of the Court of Common Pleas of Philadelphia granted the Petition and directed the Appreciation Fund to electronically file the required Cycle 7 report, in accordance with Section 20-1006 of the Philadelphia Code within five (5) business of the date of the Order, to pay a civil penalty of fifteen hundred dollars (\$1,500) per day for each day after April 4, 2007 until the date that the report is filed and to pay reasonable attorney's fees and costs

63. The Appreciation Fund failed to timely comply with the June 1, 2007 Order to pay the accrued penalties.

64. On August 9, 2007, the Philadelphia Board of Ethics filed a Petition for Contempt and to Enter Judgment against the Appreciation Fund.

65. On August 28, 2007, the Appreciation Fund filed an Answer to Petition for Contempt and to Open Judgment and a Motion to Strike Judgment Entered by Default.

66. By Order dated September 21, 2007, Judge DiVito granted the Philadelphia Ethics Board Petition for Contempt and directed the Appreciation Fund to pay a civil penalty of \$39,000 to the Philadelphia Board of Ethics, in accordance with the June 1, 2007 Order, within five (5) business days of the date of the Order.

67. On October 4, 2007, Judge DeVito filed an Order and Opinion in which he denied the Appreciation Fund's Motion to Strike Judgment Entered by Default.

68. The Appreciation Fund failed to comply with the September 21, 2007 Order to pay the \$39,000 civil penalty within five (5) business days.

69. On December 1, 2007, the Appreciation Fund's account at PNC Bank contained \$16,919.

70. While the Appreciation Fund was subject to the June 1, 2007 and September 21, 2007 Court Orders, Judge Nocella and Ernesto DeNofa used the remaining funds in the PNC bank account to make the following payments:

- a. December 7, 2007: \$13,550 to Penns Landing Caterers for costs incurred at a May 15, 2007 Bob Brady mayoral campaign;
- b. January 26, 2008: \$390 to Creative Access for the services of a sign language interpreter at a January 27, 2007 Bob Brady campaign event; and
- c. March 17, 2008: \$2,500 to Judge Nocella for legal services which he had provided on a pro bono basis prior to such date.

71. On December 12, 2007, the Philadelphia Board of Ethics served the Appreciation Fund with discovery requests, specifically seeking information about the financial status of the Appreciation Fund.

72. Judge Nocella did not respond to the Philadelphia Board of Ethics' discovery requests until after the January 26, 2008 and March 17, 2008 checks were issued and the Appreciation Fund's available funds were depleted.

73. By March 31, 2008, the Appreciation Fund's account contained \$379.

74. On February 5, 2009, then Municipal Court Judge Nocella submitted to a deposition by the Philadelphia Board of Ethics.

75. On March 11, 2009, the Philadelphia Board of Ethics filed another Petition for Contempt against the Appreciation Fund and named Judge Nocella and Ernest DeNofo as additional defendants.

76. In its Petition for Contempt, the Philadelphia Board of Ethics alleged the following: (1) Judge Nocella and Ernest DeNofa intentionally dissipated the funds remaining in the Appreciation Fund bank account despite Court orders to pay

the \$39,000 fine; (2) Judge Nocella misrepresented the facts surrounding the dissipation of funds during his deposition; and (3) the payment of funds, particularly the legal fee to Judge Nocella, was fraudulent.

77. By Court Order, on September 9, 2009, Judge DiVito granted the Philadelphia Board of Ethics Petition and held that Judge Nocella and Ernest DeNofa were in contempt of the Court Orders of June 1, 2007 and September 21, 2007. Judge DiVito directed Judge Nocella and Ernest DeNofa to pay, jointly and severally, a civil penalty of \$39,000 within 30 business days and reasonable attorney fees and enjoined them from disposing of any real or personal property subject to execution of the judgment.

78. On November 17, 2009, while Judge Nocella served as appointed Municipal Court Judge, Judge Nocella and Ernest DeNofa settled the case with the Philadelphia Board of Ethics and agreed to pay \$16,000.

COUNT 1

79. By virtue of some or all of the facts alleged above in Part A, Judge Nocella violated Canon 7B(1)(c) of the Pennsylvania Code of Judicial Conduct and is therefore subject to discipline pursuant to Article V, § 18(d)(1).

80. Canon 7B pertains to Campaign Conduct and states in pertinent part:

(1) Candidates, including an incumbent judge, for a judicial office that is filled either by public election between competing candidates or on the basis of a merit system election: (c) should not . . . misrepresent their identity, qualifications, present position, or other fact.

81. During his 2009 judicial candidacy, Judge Nocella submitted his 2009 Personal Data Questionnaire and certified that his statements were true, complete

and correct and made in good faith. He acknowledged his duty to submit promptly to the Commission any changes or additions to his statements.

82. Following his 2009 "recommended" rating, Judge Nocella had a continued duty to notify the Commission promptly of any material facts that would require changes to his answers on the 2009 Personal Data Questionnaire.

83. During his 2009 judicial candidacy, Judge Nocella failed to submit to or notify the Commission of material facts that were changes or additions to his initial statements in the Personal Data Questionnaire.

84. During his 2011 judicial candidacy, Judge Nocella submitted his Update Evaluation Questionnaire to the Commission. By checking "No" on the short form questionnaire, Judge Nocella denied that there were any material facts that would require a change in his answers to the 2009 Personal Data Questionnaire

85. In his 2011 Update Evaluation Questionnaire, Judge Nocella certified that his statements were true, complete and correct and made in good faith. He acknowledged his ongoing duty to submit promptly any changes or additions to his statements to the Commission.

86. During his 2011 judicial candidacy, Judge Nocella failed to submit to or notify the Commission of material facts which were additions and changes to his answers in the 2009 Personal Data Questionnaire.

87. During his 2009 and 2011 judicial candidacies, Judge Nocella failed to disclose material facts to the Commission which resulted in a misrepresentation of his credentials for judicial election.

88. During his 2009 and 2011 judicial candidacies, Judge Nocella omitted and/or misrepresented material facts to the Commission and thereby violated Canon 7B(1)(c).

WHEREFORE, Thomas M. Nocella, Judge of the Court of Common Pleas of Philadelphia, Pennsylvania is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

Count 2

89. By virtue of some or all of the facts alleged above in Part B, Judge Nocella violated Canon 2A of the Pennsylvania Code of Judicial Conduct and is therefore subject to discipline pursuant to Article V, § 18(d)(1).

90. Canon 2A pertains to impropriety and the appearance of impropriety and provides as follows:

Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

91. On September 9, 2009, Judge DiVito of the Court of Common Pleas of Philadelphia held then Municipal Court Judge Nocella in contempt of court for his failure to comply with the Court Orders of June 1, 2007 and September 21, 2007 in the Philadelphia Board of Ethics matter.

92. Through his contempt of court in the Philadelphia Ethics Board matter, then Municipal Court Judge Nocella failed to comply with the law, disrespected the law and failed to act in a manner that promotes public confidence in the integrity or sound moral judgment of the judiciary.

WHEREFORE, Thomas M. Nocella, Judge of the Court of Common Pleas of Philadelphia, Pennsylvania is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

Count 3

93. By virtue of some or all of the facts alleged above in Parts A & B, Judge Nocella violated Article V, § 17(b) of the Pennsylvania Constitution.

94. In pertinent part, Article V, § 17(b) provides:

Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court.

95. On September 9, 2009, Judge DiVito of the Court of Common Pleas of Philadelphia held then Municipal Court Judge Nocella in contempt of court for his failure to comply with the Court Orders of June 1, 2007 and September 21, 2007 in the Philadelphia Board of Ethics matter.

96. In 2009, through his contempt of court in the Philadelphia Board of Ethics matter, then Municipal Court Judge Nocella engaged in an activity prohibited by law.

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

98. In 2009, then Municipal Court Judge Nocella violated Article V, § 17(b) as a direct result of his violation of Canons 7(B)(1)(c) and 2A.

99. In 2011, while he was a judicial candidate, Judge Nocella violated Article V, § 17(b) as a direct result of his violations of Canon 7(B)(1)(c).

WHEREFORE, Thomas M. Nocella, Judge of the Court of Common Pleas of Philadelphia, Pennsylvania is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

Count 4

100. By virtue of some or all of the facts alleged above in Parts A & B, Judge Nocella violated Article V, § 18(d)(1) of the Pennsylvania Constitution.

101. Article V, § 18(d)(1) prohibits a judge from engaging in conduct which brings disrepute upon the judicial office itself and provides:

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

102. While a candidate for judicial office in 2009 and 2011, Judge Nocella omitted or misrepresented material facts in his responses to the questionnaires and failed to subsequently inform the Commission of material facts that were additions or changes to the information contained in his answers.

103. On September 9, 2009, Judge DiVito of the Court of Common Pleas of Philadelphia held then Municipal Court Judge Nocella in contempt of court for his failure to obey the Court Orders of June 1, 2007 and September 21, 2007 in the Philadelphia Board of Ethics matter.

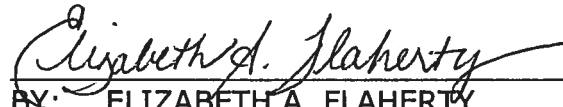
104. The aforementioned conduct is so extreme as to bring disrepute upon the judicial office itself and, therefore, is a violation of Article V, § 18(d)(1).

WHEREFORE, Thomas M. Nocella, Judge of the Court of Common Pleas of Philadelphia, Pennsylvania is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: October 23 , 2012



BY: ELIZABETH A. FLAHERTY
Assistant Counsel

Pa. Supreme Court ID No. 205575

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

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

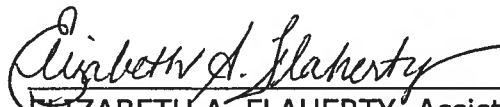
IN RE:

Thomas M. Nocella :
Judge of the Court of Common Pleas :
First Judicial District :
Philadelphia County : 7 JD 2012

VERIFICATION

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

Respectfully submitted,



ELIZABETH A. FLAHERTY, Assistant Counsel
Pa. Supreme Court ID No. 205575

DATE: October 23, 2012

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

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Thomas M. Nocella :
Judge of the Court of Common Pleas :
First Judicial District :
Philadelphia County : 7 JD 2012

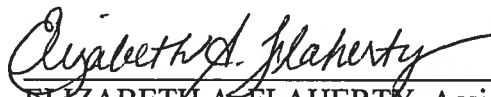
PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about October 23, 2012, a copy of this *BOARD COMPLAINT* was sent by Certified Mail and facsimile to the Respondent's counsel, Samuel C. Stretton, Esquire, who agreed to accept service of this *BOARD COMPLAINT* on behalf of his client, the Respondent:

The Honorable Thomas M. Nocella
c/o Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Certified Mail No. 7161-7145-5373-0450-0016
Return Receipt Requested

Respectfully submitted,



ELIZABETH A. FLAHERTY, Assistant Counsel
Pa. Supreme Court ID No. 205575

DATE: October 23, 2012

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