

Judicial Conduct Board
Commonwealth of Pennsylvania
Joseph A. Massa, Jr., Chief Counsel
717-234-7911

Press Release

December 23, 2008

TO: Media/Press

FROM: Judicial Conduct Board

SUBJECT: Board Files Response to Omnibus Motion of Ann H. Lokuta

Harrisburg. On December 23, 2008, the Board filed its Response to the Motion for Reconsideration filed by Ann H. Lokuta, former judge of the Luzerne County Court of Common Pleas, on December 18, 2008.

Counsel: Board: Francis J. Puskas II, Deputy Chief Counsel

Respondent: Ann H. Lokuta, Pro Se

**Contact: Joseph A. Massa, Jr., Esquire
Chief Counsel, Judicial Conduct Board**

Note: Judicial Conduct Board Response to Respondent's Motion for Reconsideration is attached.

END

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2008 DEC 23 P 1:17

In re:

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

**JUDICIAL CONDUCT BOARD RESPONSE TO RESPONDENT'S
MOTION FOR RECONSIDERATION**

AND NOW, this 23rd day of December, 2008, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board"), by and through Francis J. Puskas II, Deputy Chief Counsel, and files the Judicial Conduct Board's Response to Respondent's Motion For Reconsideration and avers the following:

1. **Denied as stated.** By Order dated December 9, 2008, the Court of Judicial Discipline removed Judge Lokuta from office as a Judge of the 11th Judicial District, Court of Common Pleas of Luzerne County, Pennsylvania, and prohibited her from holding any judicial office in the Commonwealth.
2. **Denied.** By way of further answer, the Court's sanction was appropriate considering the Court's Findings of Fact and Conclusions of Law, the seriousness of the violations found, which included violations of the Pennsylvania Constitution by bringing disrepute upon the judiciary and prejudicing the proper administration of justice, the fact that Respondent's misconduct was continual, repeated, and unpredictable, and that it included the following:

- Habitually and egregiously late for court and frequently not in the courthouse at work when she should have been.
- Vigorously resisting accepting assignments and facilitating the business of court, failing to assist with the backlog of criminal cases, and failing to assist with caseloads of two judges who were ill, in contrast to all other judges who obliged.
- Unduly insubordinate, uncooperative, and disruptive of the authority and direction of the president judges.
- Improper demeanor and abusive conduct – ill-treatment that was volatile and unpredictable – directed at men and women, some employed by Respondent, some employed at various other jobs in the courthouse (District Attorney’s Office, Sheriff’s Department, Prothonotary, Court Administration, Public Defender’s Office, Court Reporters), and some employed elsewhere, which impaired and had a serious negative effect on the ability of such persons to properly perform the everyday duties of their jobs.
- Case fixing: deciding a motion on the basis of personal antipathy for one of the lawyers in one matter and deciding a case in favor of a party on another matter because that party was a family who had supported her politically.
- Routinely making derogatory, contemptuous, disparaging statements to captive court audiences about the president judges and other

court offices that were designed to bring the entire Luzerne County Court of Common Pleas into disrepute.

- Misusing a law clerk for hundreds of hours, while the clerk was being paid by Luzerne County, as a personal servant to provide companionship for Respondent's ill and elderly mother, grocery shop, yard work, home maintenance and cleaning, organizing, wrapping, and packaging Respondent's antiques and collectibles.
- Deliberately filing a false report against a Deputy Court Administrator and demanding that he be disciplined based on Respondent's false allegations.

3. **Denied as stated.** By way of further answer, the Board already presented at trial testimony from thirty-one (31) witnesses who contradicted the "good reputation" evidence presented by Respondent at her sanction hearing, testimony that was unnecessary to repeat.
4. **Denied.** The Court's Opinion of October 30, 2008, provides a basis for removal based upon continual, repeated, and unpredictable misconduct covering a broad range of conduct as indicated in Paragraph 2 above.
5. **Denied as stated.** The Board had discretion to choose what witnesses it would call in its case-in-chief and the appearance or non-appearance of certain categories of witnesses does not negate their existence.
6. **Denied as stated.** By way of further explanation, while Respondent was never charged criminally or convicted for criminal conduct, her conduct in diverting

law clerk Judith Flaherty from her court duties to serve as a personal household servant, all the while Luzerne County paid Flaherty to provide full time law clerk assistance to Respondent, arguably may constitute Theft of Services, 18 Pa. Cons. Stat. Ann. §3926(b). See *Commonwealth v. Matty*, 422 Pa.Super. 595, 619 A.2d 1383 (1993) (County prison warden found to have committed Theft of Services by diverting prison inmate's services to installing a ceiling fan in the home of warden's secretary's mother while inmate was compensated by the county).

7. **Admitted.**
8. **Denied as stated.** The Court's Findings of Fact and Conclusions of Law for *In re Marraccini*, 2 JD 2005, speak for themselves.
9. **Denied.** Respondent's conclusion that "[n]one of the misconduct of Respondent toward courthouse employees rises to the level of the misconduct of Magistrate Marraccini" demonstrates an absolute misunderstanding of *In re Marraccini* and once again evidences Respondent's inability to recognize, understand, or acknowledge the seriousness and scope of her own wrongdoing. By way of further answer, Magisterial District Judge Marraccini, while serving as a visiting judge at another magisterial district judge's court, was found to have brought disrepute upon the judiciary based upon the manner in which he disposed of traffic cases outside the courtroom and his discourteous treatment of defendants in the waiting room. This was a single incident, in contrast to Respondent's continual, repeated, unpredictable conduct over the course of her

17 years on the bench. Further, Respondent's conduct, unlike Magisterial District Judge Marraccini, included more than improper demeanor, as delineated above in Paragraph 2. To proclaim that Magisterial District Judge Marraccini's conduct is worse than Respondent's is a claim with no basis in reality.

10. Respondent's characterization of Board witness testimony as "*their subjective impressions*" does not require a response.
11. **Denied as stated.** Deputy Chief Counsel referred to the Adonizio incident, not the Respondent, stating, "*The Adonizio incident, this is the poster child incident for dishonesty, and even more alarmingly vindictive behavior.*" Sanction Hearing, Tr. 108:14-16, December 9, 2008. Deputy Chief Counsel also pointed out that in the Adonizio incident "*the Court found that Judge Lokuta filed a false report with her President Judge against Deputy Court Administrator Peter Adonizio.*" Id. at 108: 25, 109:1-2.

The Court's Findings of Fact and Conclusions of Law for case *In re Shaffer*, 3 JD 05, speak for themselves. For Respondent to suggest that Judge Shaffer's indication on six filed 703 Reports that he had no ninety day old cases pending on his docket as having any relevance to the Court's evaluation of Respondent's deliberate filing of a false report about Deputy Court Administrator Adonizio with her president judge is outrageous. It demonstrates that Respondent still fails to recognize the serious nature of her misconduct.

12. **Denied as stated.** By way of further answer, the matter sub judice marks the first time the Court has forthwith from its bench, rather than by written order subsequently issued, removed a sitting judge when that judge has not first been convicted of a criminal offense or violated probation.
13. **Denied as stated.** By way of further answer, the Court's Order of December 9, 2008, removed Respondent from her position as a judge of the 11th Judicial District, Court of Common Pleas of Luzerne County, Pennsylvania, and prohibited her from holding any judicial office in the Commonwealth for violating the Pennsylvania Constitution and the Code of Judicial Conduct.
14. Respondent's characterization of Board evidence as failing to establish that she brought disrepute upon the judiciary because such evidence came from "*people involved in the Court system, not from the general citizenry of Luzerne County*" not only wrongly discounts that persons working in the court system are also members of the general citizenry, but misapprehends the legal standard by which disrepute is determined. Respondent cites no legal authority supporting that a particular group of people must provide testimony in order for the Court to find disrepute. As this Court has repeatedly made clear over the years in its cases, such determination is made on a case by case basis as the particular conduct in each case is weighed and scrutinized. It is not dependent on whether a particular group of individuals provides evidence or even the level of media coverage attracted by particular conduct. See *In re Hamilton*,

932 A.2d 1030 (2007).

15. **Denied.** By way of further answer, the Board is not required to present “evidence” that a lesser sanction would diminish the seriousness of Respondent’s conduct in order to support its sanction recommendation or for the Court to impose a recommended sanction. The Board **denies** that Respondent demonstrated she had been “chastened” by her prosecution. To the contrary, Respondent stood before the Court showing no recognition of wrongdoing and never denying or disavowing her position that Board witnesses were liars and conspirators. As the Honorable William Lamb noted after listening to Respondent and her counsel address the Court, there was no contrition or expression by Respondent that she realized her conduct was inappropriate:

I haven't heard any of that from you, and I haven't heard any of that from Judge Lokuta. She didn't stand up here and say, you know, having read the transcript, having sat through all of that, I can now see how people would accuse me of being – to use Judge Sprague's word – a judicial bully.

I can now see how I mistreated people in the courtroom. And, you know, my view of Judges – and I am old enough that I can tell if they are not doing the right thing. My viewpoint with Judges is you treat everybody with dignity. You treat everybody with respect in the courtroom.

And I don't hear Judge Lokuta saying, you know, darn, I guess I made a mistake, and I want this Court to understand that that will never, ever, ever happen again.

Sanction Hearing Tr. 103:1-16, December 9, 2008.

16. *In re Melograne*, 1 JD 99, speaks for itself.
17. **Denied as stated.** By way of further answer, Respondent asked the Court to continue as a judge “*under any caveat, under any restriction, any requirement that you would ask me to participate in.*” Sanction Hearing Tr. 92:1-4, December 9, 2008. Respondent’s counsel stated, “*I think she would literally punch a time clock, address judicial conferences to the AOCP [sic], send in weekly conference reports to the Court, as well as to counsel for the JCB.*” *Id.* at 97:18-21.
18. **Denied as stated.** By way of further answer, the Court by vote of 6 to 1 voted to remove Respondent and prohibit her from serving as a judge in the Commonwealth. The Court was not compelled or required to accept “*the plea of the Respondent and the impassioned testimony of her nineteen witnesses,*” but could independently determine that a more severe sanction was warranted.
19. **Denied.** By way of further answer, the Honorable Richard Sprague and the Court gave Respondent every courtesy and permitted her to present any witnesses she desired, hearing nineteen witnesses on the subjects for which they were proffered concerning Respondent’s reputation for civility, discharging her duties, honesty and integrity.
20. **Denied.** Respondent, through her counsel, filed a 75-page Objection to the Court’s October 30, 2008, Opinion, which contained an objection in Paragraph 215, her final paragraph, to Judge Sprague presiding over hearing the case

based upon a claim that he was past mandatory retirement for judges under Rule 701 of the Rules of Judicial Administration. Judge Lamb commented on this objection to Respondent's counsel: "*There is a difference, sir, there is a difference between zealously representing your client and making what I consider to be a cheap and unwarranted shot against Judge Sprague. I resent it. I am sure the rest of the members of our Court resent it, and I think you owe Judge Sprague an apology.*" Sanction Hearing Tr. 5:10-16, December 9, 2008.

As Respondent never raised the issue of Judge Sprague's age during any pretrial or trial proceedings, her late, post-trial, post-decision objection was disingenuous. Because the Court of Judicial Discipline is a special tribunal created by constitutional amendment and composed of laypersons, judges, and attorneys, Rule 701 could logically have no bearing on the Court's members who do not also serve as judges in either the magisterial, common pleas, commonwealth, superior, or supreme courts of Pennsylvania.

21. **See Response at Paragraph 20 above.**
22. **Denied.** By way of further answer, the Honorable John Musmanno, not Judge Lamb, drew attention to Paragraph 215 of Respondent's Objections when it was noted it also objected to his and the Honorable William Bucci's participation in the Court's Opinion of October 30, 2008, by averring both judges were former members of the Board who voted in favor of filing charges against Respondent.
23. **Admitted in part and denied in part. Admitted** that Respondent's Objection

erroneously stated that Judge Musmanno and Judge Bucci voted in favor of filing charges against Respondent. **Denied** that Respondent's amendment provides correct information that Judges Musmanno and Judge Bucci "*voted in favor of the processing of the Weber Complaint filed against Respondent, which ultimately lead to this instant action.*" To the contrary, neither Judge Musmanno nor Judge Bucci served on the Board at any time Respondent's case was presented for review by the Board for official action by the Board. Neither Judge Musmanno nor Judge Bucci had any role in reviewing or making any decisions regarding Respondent's case.

24. **See Paragraph 23 above.**

25. **See Paragraph 23 above.**

26. **See Paragraph 23 above.**

27. **Denied.** By way of further answer, Respondent's characterization of the effect of Judge Lamb's remark as serving to "*unduly inflame the full Court*" is speculative and unsubstantiated, as the Court was not unanimous in its decision. Further, Judge Lamb prefaced his statement by making it clear "*what I am about to say will in no way reflect upon my decision with respect to your client. I want that very clear.*" Sanction Hearing Tr. 4:23-25, December 9, 2008.

28. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any**

hearing.

29. **Denied and denied as stated.** Denied that Deputy Chief Counsel requested the Court “*to ‘send a message’ through imposing the most severe sanction upon the Respondent.*” Deputy Chief Counsel did, however, recommend removal and prohibition from future judicial service as the appropriate sanction for Respondent’s continual, repeated, and unpredictable misconduct. **Denied in part** that Deputy Chief Counsel called Respondent a “*cancer to the Luzerne County Court.*” More accurately, Deputy Chief Counsel stated, “*Judge Lokuta has sadly been a cancer to the Luzerne County Court System and to the reputation, honor, and dignity of the Pennsylvania Judicial System since she came to the Bench 17 years ago.*” Sanction Hearing Tr. 115:17-20, December 9, 2008.
30. **This paragraph contains a legal conclusion to which no response is required; to the extent this paragraph is construed to set forth factual allegations, they are denied, and strict proof thereof is requested at any hearing.**
31. **Denied.** Deputy Chief Counsel was not required to become a veritable automaton in presenting the Board’s sanction recommendation and shun any attempt to persuade the Court of the wisdom of the Board’s recommendation. In fact, Deputy Chief Counsel properly presented the Board’s sanction recommendation in a professional, forceful, cogent manner, which certainly evidenced reflection and even acknowledged there were times when

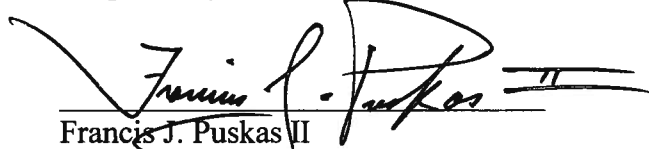
Respondent was good. See Sanctions Hearing Tr. 115:12-15, December 9, 2008.

32. **Denied.**
33. **Denied as stated.** Deputy Chief Counsel's sanction recommendation was just that, a recommendation for the Court to consider and which, like all recommendations, had no binding power on the Court, which could take or leave it. Like recommendations made in many sentencing proceedings across the Commonwealth, Deputy Chief Counsel's recommendation was meant to persuade the Court – persuade the Court that what was being recommended was appropriate.
34. **Admitted in part and denied in part.** Admitted that Respondent filed a plethora of motions of every type and variety during the course of her case. It is **denied** that because the Court found many such filings on their face to be without merit and held no hearing on them that they were "*summarily dismissed*" without any meaningful consideration. The Court was not required to grant Respondent a hearing on every motion generated and filed by Respondent.
35. The Board **objects** to any grant of a new trial based on the assertions in her Motion for Reconsideration and prior incorporated Motions.
36. The Board **objects** to any grant of relief on the listed bases. Respondent had her day in court in what became the longest trial presided over by the Court of Judicial Discipline, and afterward, a lengthy sanction hearing where she

presented 19 witnesses and spoke on her own behalf. Respondent was accorded fairness, courtesy, and ample opportunity to present her defense, and at the sanction hearing, to show her remorse and contrition. Respondent presents no justifiable reason for the Court to permit Respondent to relitigate her case or her sanction hearing, or for the Court to reconsider the sanction imposed. To the contrary, Respondent's Motion for Reconsideration conclusively establishes that Respondent still shows no recognition or understanding of the seriousness of her misconduct, as she incredibly avers it is less serious than that found in *In re Marraccini* or *In re Shaffer*, and she still expresses no meaningful remorse for it.

WHEREFORE, the Board, by and through Francis J. Puskas II, Deputy Chief Counsel, respectfully requests that the Respondent's Motion For Reconsideration be DENIED.

Respectfully submitted,



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

DATE: December 23, 2008

Judicial Conduct Board
301 Chestnut Street, Suite 403
Harrisburg, PA 17101
(717) 234-7911

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

In re:

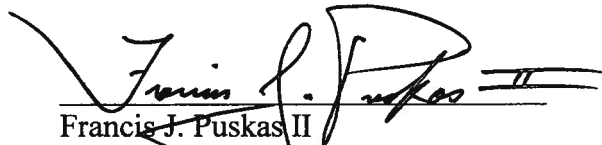
Ann H. Lokuta,	:	
Judge of the Court of Common Pleas;	:	
Eleventh Judicial District	:	3 JD 06
Luzerne County	:	
	:	

PROOF OF SERVICE

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on or about December 23, 2008, a copy of the Judicial Conduct Board Response To Respondent's Motion For Reconsideration was sent by First Class Mail to:

Ann H. Lokuta
335 Main Street
Dupont, PA 18641

Respectfully submitted,



DATE: December 23, 2008

Francis J. Puskas II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540
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COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

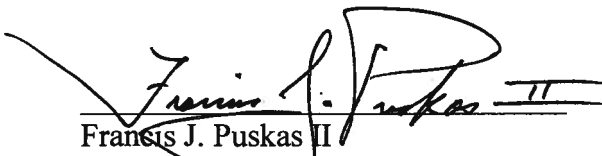
In re:

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

VERIFICATION

I, Francis J. Puskas II, Deputy Chief Counsel to the Judicial Conduct Board, verify that the facts and averments contained in the Judicial Conduct Board Response to Respondent's Motion for Reconsideration are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. §4904, relating to unsworn falsification to authorities.

Respectfully submitted,


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

DATE: December 23, 2008

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