



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

Press Release

March 11, 2015

TO: Media/Press

FROM: Judicial Conduct Board

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

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

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

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

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

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

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

Counsel

Board: Elizabeth A. Flaherty, Esquire

Respondent Segal: Stuart L. Haimowitz, Esquire

Respondent O'Neill: Samuel C. Stretton, Esquire

Respondent Waters: Michael J. Engle, Esquire

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

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

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

END

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Joseph C. Waters, Jr. :
Municipal Court Judge :
First Judicial District :
Philadelphia County : 5 JD 2015

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2015 MAR 11 P 3:14

TO: JOSEPH C. WATERS, JR.

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 2A, 2B, 3A(4), 7B(1)(c) and 7B(2) of the Old Code of Judicial Conduct. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

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

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

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

COMPLAINT

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

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

2. From July 7, 2009 through September 23, 2014, former Judge Waters served as Judge of the Municipal Court of Philadelphia, Pennsylvania.

3. As a Municipal Court Judge, former Judge Waters 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 Code of Judicial Conduct.

4. On September 23, 2014, former Judge Waters resigned from the bench of the Municipal Court.

5. On September 24, 2014, former Judge Waters entered a negotiated Guilty Plea Agreement before the Honorable Juan R. Sanchez in the United States District Court for the Eastern District of Pennsylvania. *United States v. Waters*, Criminal No. 14-478. **See Board Exhibit 1.**

6. On October 13, 2014, former Judge Waters submitted a Statement of Resignation from the Bar of the Commonwealth of Pennsylvania.

7. On November 25, 2013, the Pennsylvania Supreme Court entered an Order accepting former Judge Waters' resignation and disbaring him on consent from the Bar of the Commonwealth of Pennsylvania.

8. Based on a Confidential Request for Investigation at JCB File No. 2014-577, the Board investigated the instant matter.

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

A. Felony Convictions

10. As the result of an investigation, the United States Attorneys' Office for the Eastern District of Pennsylvania filed a two count Information against former Judge Waters which charged him with one count of mail fraud (18 U.S.C. §§ 1341 and 2) and one count of honest services wire fraud (18 U.S.C. §§ 1343, 1346 and 2).

11. The September 24, 2014 negotiated Guilty Plea Agreement of former Judge Waters incorporated the two count Information.

12. A violation of 18 U.S.C. § 1341 is a felony.

13. A violation of 18 U.S.C. § 1343 is a felony.

14. By his Guilty Plea Agreement, former Judge Waters did plead guilty to two felonies.

15. As a result of the January 22, 2015 sentence imposed by Judge Sanchez, former Judge Waters was convicted of two felonies.

B. Ex Parte Communications

16. In 2011 and 2012, former Judge Waters, Judge Dawn A. Segal and Judge Joseph J. O'Neill served as judges of the Municipal Court of Philadelphia.

17. Within the Information at Count One are statements of fact demonstrating that former Judge Waters initiated *ex parte* communication with Judges Segal (Judge #1) and O'Neill (Judge #2) pertaining to a civil matter, *Houdini Lock & Safe Company v. Donegal Investment Property Management Services*, Case No. SC-11-08-09-41920.

18. Within the Information at Count Two are statements of fact demonstrating that former Judge Waters initiated *ex parte* communication with Judge Segal regarding a criminal matter, *Commonwealth v. Khoury*, Docket No. MC-51-CR-0018634-2012.

19. Former Judge Waters also engaged in *ex parte* communication with Judge Segal regarding a civil case, *City of Philadelphia v. Rexach Ian C.*, Case No. CE-12-03-73-0123.

1. Houdini v. Donegal

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

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

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

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

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

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

a. *Houdini v. Donegal*: Hearing Before Judge Segal

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

27. On September 30, 2011, former Judge Waters engaged in a conversation with Kuttab about the *Houdini v. Donegal* matter.

28. During the conversation, Kuttab requested a favorable decision for his company, Donegal, during the September 30, 2011 *Houdini* hearing.

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

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

31. The two count Information includes the following quoted language from a September 30, 2011 recorded telephone conversation between former Judge Waters and Judge Segal, identified as Judge #1:

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

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

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

JUDGE #1: Okay.

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

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

WATERS: You know [Person #1]

JUDGE #1: And who do you need?

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

JUDGE #1: Oh, okay. Okay.

WATERS: Alright.

Guilty Plea Agreement, Appendix A, Information, Count 1, Paragraph No. 11.

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

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

34. The September 30, 2011 recorded telephone conversation, quoted at Paragraph No. 31 above, demonstrates that former Judge Waters initiated and engaged in in *ex parte* communication with Judge Segal about the *Houdini* hearing, a matter that was pending before her.

35. The September 30, 2011 recorded *ex parte* telephone conversation, quoted at Paragraph No. 31 above, demonstrates that former Judge Waters requested that Judge Segal provide favorable treatment to the litigant, Donegal, and to Kuttub, who is politically connected with or a friend of former Judge Waters.

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

37. The "secret advantage" was to prevent Houdini from receiving payment for security services rendered to Donegal.

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

39. By his September 30, 2011 telephone call to Judge Segal, former Judge Waters intended to and did use his position as judge to influence Judge Segal's decision at the *Houdini v. Donegal* hearing.

b. Houdini v. Donegal: Trial Before Judge O'Neill

40. The *Houdini v. Donegal* trial was scheduled before Judge O'Neill on November 16, 2011.

41. On November 16, 2011, former Judge Waters engaged in a conversation with Kuttab about the *Houdini v. Donegal* trial.

42. During the conversation, Kuttab requested a favorable decision for his company, Donegal, at the November 16, 2011 trial.

43. On November 16, 2011, former Judge Waters called Judge O'Neill on the telephone about the *Houdini* trial that was pending before him.

44. During the November 16, 2011 telephone conversation, former Judge Waters informed Judge O'Neill that "Donegal is Kuttab," identified Kuttab as "a friend of mine," and asked Judge O'Neill to "take a hard look at it," referring to the *Houdini v. Donegal* case.

45. The two count Information includes the following quoted language from a November 16, 2011 recorded telephone conversation between former Judge Waters and Judge O'Neill, identified as Judge #2:

WATERS: Uh, you got a case this afternoon, [Company B. v. Company A]. All right, uh - -

JUDGE #2: Yeah? You got me.

WATERS: Huh?

JUDGE #2: You got me. Do I?

WATERS: Yeah, [Company A] is [Person #1]. He's a friend of mine, so if you can take a hard look at it.

JUDGE #2: Who's your guy? The defendant?

WATERS: Yeah, the defendant.

Judge #2: Okay.

WATERS: All right?

Judge #2: No problem.

Guilty Plea Agreement, Appendix A, Information, Count 1, Paragraph No. 14.

46. On or about November 16, 2011, Judge O'Neill presided over the *Houdini v. Donegal* trial.

47. During the November 16, 2011 *Houdini v. Donegal* trial, Kuttab testified on behalf of his company, Donegal.

48. At the conclusion of the trial, Judge O'Neill entered judgment in favor of Donegal and against Houdini, dismissing Houdini's claim that Donegal failed to pay Houdini for services rendered and its claim for damages in the amount of \$2,738.44.

49. Houdini's attorney provided notice to Kuttab and Donegal that it planned to file an appeal from Judge O'Neill's decision in *Houdini v. Donegal* in the Court of Common Pleas of Philadelphia.

50. Former Judge Waters advised Kuttab and Donegal to enter into a settlement agreement with Houdini, rather than be subject to the appeal process.

51. As a result of the settlement negotiations, the parties entered into a settlement agreement whereby Kuttab, on behalf of Donegal, agreed to pay \$600 to Houdini instead of \$2,738.44, the full amount of Houdini's damages claim.

52. The November 16, 2011 recorded telephone conversation, quoted at Paragraph No. 45 above, demonstrates that former Judge Waters initiated and participated in *ex parte* communication with Judge O'Neill about the *Houdini* trial, a matter that was pending before him.

53. The November 16, 2011 recorded *ex parte* telephone conversation, quoted at Paragraph No. 45 above, demonstrates that former Judge Waters requested that Judge O'Neill provide favorable treatment to the litigant, Donegal, and to Kuttab, who is politically connected with or a friend of former Judge Waters.

54. The purpose of the November 16, 2011 telephone call from former Judge Waters to Judge O'Neill was to provide a "secret advantage" to Kuttab and Donegal.

55. The "secret advantage" was to prevent Houdini from receiving payment for security services rendered to Donegal.

56. Judge O'Neill's decision in *Houdini* favored Kuttab and Donegal, the litigant for whom former Judge Waters requested special consideration during the *ex parte* telephone conversation.

57. By his November 16, 2011 telephone call to Judge O'Neill, former Judge Waters intended to and did use his position as judge to influence Judge O'Neill's decision at the *Houdini v. Donegal* trial.

2. City of Philadelphia v. Rexach

58. On June 29, 2012, a petition for consideration was pending before Judge Segal in *City of Philadelphia v. Rexach*, a case which was not part of the two count Information against former Judge Waters.

59. By Order dated May 15, 2012, President Judge Neifield entered a default judgment for the City of Philadelphia and against Rexach in the amount of \$5,000 plus costs for failure to pay a 2009 Business Privilege Tax.

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

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

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

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

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

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

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

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

68. During his June 29, 2012 telephone and in person *ex parte* communications, former Judge Waters requested that Judge Segal provide favorable treatment to the litigant, Rexach, who is politically connected with or a friend of former Judge Waters.

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

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

3. Commonwealth v. Khoury

71. Between January 2010 and May 7, 2012, a confidential witness, CW #1, introduced former Judge Waters to his alleged business associate, UC #1, who was an undercover agent.

72. On May 7, 2012, CW #1 and UC #1 notified former Judge Waters that UC #1's "cousin," Khoury, was arrested on firearms charges and requested assistance with his criminal case, *Commonwealth v. Khoury*, a matter filed in the Municipal Court that same day.

73. Former Judge Waters agreed to assist UC #1's cousin, Khoury.

74. By his May 7, 2012 conversation with CW #1 and UC #1, former Judge Waters entertained a request for special consideration and agreed to arrange for preferential treatment for Khoury, the defendant in the *Commonwealth v. Khoury* matter.

75. On July 23, 2012, former Judge Waters contacted Judge Segal by telephone regarding the *Khoury* Preliminary Hearing, a matter pending before her.

76. During the July 23, 2012 telephone communication, former Judge Waters informed Judge Segal "that a 'friend' of his was appearing before [her] for a preliminary hearing on a felony firearms possession case." See Guilty Plea Agreement, Appendix A, Information, Count 2, Paragraph No. 8.

77. During that telephone conversation, former Judge Waters requested that Judge Segal "help him" and identified his "friend" by name. *Id.*

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

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

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

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

82. By his July 23, 2012 telephone conversation with Judge Segal, former Judge Waters initiated and engaged in *ex parte* communication about the *Khoury* case.

83. During his July 23, 2014 *ex parte* telephone conversation about the *Khoury* matter, former Judge Waters requested that Judge Segal provide favorable treatment to the litigant, Khoury, who is politically connected with or a friend of former Judge Waters.

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

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

C. Campaign Related Conduct and *Quid Pro Quo* Special Consideration

86. In 2009, then candidate Waters ran for the position of Municipal Court Judge.

87. Candidate Waters prevailed in the 2009 primary election.

88. The Governor appointed candidate Waters to the Municipal Court bench and, after conformation by the Pennsylvania Senate, he began his service as an appointed judge on July 7, 2009.

89. While serving his appointed term, former Judge Waters continued his campaign for election to the Municipal Court bench.

90. On November 3, 2009, former Judge Waters won his election bid for the position of Municipal Court Judge.

91. On January 4, 2010, former Judge Waters was sworn in as an elected judge of the Municipal Court.

92. In Count Two of the Information, the statement of facts demonstrate that on December 30, 2009, Kuttub sent a text message to CW #1, a confidential witness referenced above in the *Khoury* matter, and to others to solicit campaign contributions on behalf of former Judge Waters.

93. The text message consisted of the following statement by Kuttub which demonstrates that former Judge Waters asked Kuttub to raise money to pay off his campaign debt:

Judge Waters has asked us to help bur[r]y his campaign debt. We have only two days to help he will sit on the bench for the next five years. If u wish to help pl.

Guilty Plea Agreement, Appendix A, Information, Count 2, Paragraph No. 3.

94. Kuttab arranged for former Judge Waters to meet with CW #1 on January 5, 2010.

95. On January 5, 2010, former Judge Waters met with CW #1 and accepted a \$1,000 cash contribution to his judicial campaign fund from CW # 1 for the purpose of paying off his 2009 campaign debt.

96. Former Judge Waters failed to disclose the \$1,000 cash contribution to his 2009 judicial campaign fund that he received from CW #1 on his Campaign Finance Reports.

97. Count Two of the Information demonstrates that upon acceptance of the \$1,000 cash contribution, former Judge Waters made the following pledge to CW #1:

Municipal Court handles all the, uh, code enforcement complaints . . . you run into a problem with any of your people, you get a hold of me . . . anything you need, anything I can do to help you or anybody that you, you're interested in, all you do is pick up the phone and call me . . . any time.

Guilty Plea Agreement, Appendix A, Information, Count 2, Paragraph No. 4.

98. Between January 2010 and May 7, 2012, CW #1 introduced former Judge Waters to his alleged business associate, UC #1, an undercover agent referenced in the *Commonwealth v. Khoury* matter above.

99. On May 7, 2012, CW #1 and UC #1 requested, and former Judge Waters agreed to provide assistance, *quid pro quo*, to UC #1's cousin, Khoury, in the *Commonwealth v. Khoury* case.

D. CHARGES

COUNT 1

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

101. Canon 2 A provides:

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.

102. As a result of his September 24, 2014 guilty plea and the January 22, 2015 sentence imposed by Judge Sanchez, former Judge Waters now stands convicted of two federal felonies, mail fraud and honest services fraud.

103. By virtue of his convictions for mail fraud and honest services fraud, former Judge Waters failed to respect and comply with the law.

104. By virtue of his convictions for mail fraud and honest services fraud, former Judge Waters failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

105. By all of his *ex parte* communications set forth in Parts B, former Judge Waters failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

106. All of former Judge Waters' *ex parte* communications set forth in Part B involved conduct which implicated the judicial decision making process.

107. By his January 5, 2012 offer to CW #1 to accept requests for special consideration and to provide preferential treatment to CW #1, and others who had issues or problems in Municipal Court, former Judge Waters failed to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

108. Former Judge Waters offer to accept requests for special consideration and to provide preferential treatment to CW #1 and others did implicate the judicial decision making process.

109. By his May 7, 2012 conversation with CW # 1 and UC #1, in which he entertained a request for provide special consideration and agreed to arrange for preferential treatment for Khoury in *Commonwealth v. Khoury*, former Judge Waters failed to conduct himself at all times in a manner that promotes public confidence.

110. Former Judge Waters' conduct of entertaining a request for special consideration and agreement to arrange for preferential treatment for Khoury did implicate the judicial decision making process.

111. As a result of all of the conduct set forth above, former Judge Waters violated Canon 2A of the Old Code of Judicial Conduct.

COUNT 2

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

113. Canon 2B provides in part:

Judges should not allow their family, social or other relationships to influence their judicial conduct or judgment. They should not lend the prestige of their office to advance the private interests of others; nor should they convey or knowingly permit others to convey the impression that they are in a special position to influence the judge.

114. On September 30, 2011, former Judge Waters engaged in a conversation with Kuttub, who requested special consideration for Donegal at the *Houdini* hearing, scheduled before Judge Segal that same day.

115. On September 30, 2011, former Judge Waters initiated and engaged in *ex parte* communication with Judge Segal about the *Houdini* matter that was pending before her.

116. During his September 30, 2011 *ex parte* communication with Judge Segal, former Judge Waters requested special consideration for Donegal and Kuttub, with whom he shared a social, political or other relationship.

117. By his September 30, 2011 *ex parte* request for special consideration for Donegal and Kuttub, former Judge Waters allowed his family, social, political or other relationships to influence his judicial conduct or judgment.

118. By his September 30, 2011 *ex parte* request for special consideration, for Donegal and Kuttub, former Judge Waters did lend the prestige of his office to advance the private interests of others, Donegal and Kuttub.

119. On November 16, 2011, former Judge Waters engaged in a conversation with Kuttub, who requested special consideration for Donegal at the *Houdini* trial scheduled before Judge O'Neill that same day.

120. On November 16, 2011, former Judge Waters initiated and engaged in *ex parte* communication with Judge O'Neill about the Houdini matter that was pending before him.

121. During his November 16, 2011 *ex parte* communication with Judge O'Neill, former Judge Waters requested special consideration for Donegal and Kuttab, an individual with whom he shared a friendship or political relationship.

122. By his November 16, 2011 *ex parte* request for special consideration for Donegal and Kuttab, former Judge Waters allowed his family, social, political or other relationships to influence his judicial conduct or judgment.

123. By his November 16, 2011 *ex parte* request for special consideration for Donegal and Kuttab, former Judge Waters did lend the prestige of his office to advance the private interests of others, Donegal and Kuttab.

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

125. During the June 29, 2012 *ex parte* communication with Judge Segal, former Judge Waters requested special consideration for Rexach with whom he had a family, social, political or other relationship.

126. By his June 29, 2012 *ex parte* request for special consideration for Rexach, former Judge Waters allowed his family, social, political or other relationships to influence his judicial conduct or judgment.

127. By his June 29, 2012 *ex parte* request for special consideration for Rexach, former Judge Waters did lend the prestige of his office to advance the private interests of another, Rexach.

128. On January 5, 2012, former Judge Waters conveyed to CW #1 that he was in a special position to influence the outcome of cases in the Municipal Court.

129. On January 5, 2012, former Judge Waters pledged to help CW # 1, and others known to CW #1, with future legal matters in the Municipal Court.

130. On May 7, 2012, former Judge Waters engaged in a conversation with CW #1 and UC #1, who requested special consideration for Khoury, and agreed to arrange for preferential treatment in the *Khoury* criminal case.

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

132. During the July 23, 2012 *ex parte* communication with Judge Segal, former Judge Waters requested special consideration for Khoury, based on his social, political or other relationship with CW #1 and UC #1.

133. By his July 23, 2012 *ex parte* request for special consideration for Khoury, former Judge Waters allowed his social, political or other relationship with CW #1 and UC #1 to influence his judicial conduct or judgment.

134. By his July 23, 2012 *ex parte* request for special consideration for Khoury, former Judge Waters did lend the prestige of his office to advance the private interests of others, including Khoury, CW #1 and UC #1.

135. On September 30, 2011, Judge Segal ruled in favor of Donegal and Kuttub, for whom former Judge Waters requested special consideration.

136. On November 16, 2011, Judge O'Neill ruled in favor of Donegal and Kuttub, for whom Judge Waters requested special consideration.

137. On June 29, 2012, Judge Segal ruled in favor of Rexach, the litigant for whom former Judge Waters requested special consideration.

138. On July 24, 2012, Judge Segal ruled in favor of Khoury, the litigant for whom former Judge Waters requested special consideration.

139. As a result of the favorable rulings by Judges Segal and O'Neill, former Judge Waters conveyed the impression to others, including the litigants for whom he requested special consideration in the *Houdini*, *Rexach* and *Khoury* matters, and CW #1 and UC #1 in the *Khoury* case, that he was in a special position to influence the judicial decision making of Judges Segal and O'Neill.

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

COUNT 3

141. By virtue of some or all of the facts set forth in Parts B, former Judge Waters violated Canon 3A(4) of the Old Code of Judicial Conduct, effective through June 30, 2014, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

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

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

143. On September 30, 2011, former Judge Waters initiated and engaged in *ex parte* communication with Judge Segal about the *Houdini* hearing, a proceeding pending before Judge Segal that same day.

144. On November 16, 2011, former Judge Waters initiated and engaged in *ex parte* communication with Judge O'Neill about the *Houdini* trial, a proceeding pending before Judge O'Neill that same day.

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

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

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

148. Former Judge Waters was not authorized by law to engage in *ex parte* communications with Judge O'Neill regarding the *Houdini* matter.

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

COUNT 4

150. By virtue of some or all of the facts set forth in Part C, former Judge Waters violated Canon 7B(1)(c) of the Old Code of Judicial Conduct, effective through June 30, 2014, and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

151. Canon 7B(1)(c) provides in pertinent part:

(1) Candidates, including an incumbent judge, for a judicial office . . .

(c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit the candidate with respect to cases, controversies or issues that are likely to come before the court;

152. On January 5, 2010, former Judge Waters was a newly elected incumbent judge.

153. On January 5, 2010, after accepting a \$1,000 cash donation from CW #1 for the purpose of paying off his 2009 campaign debt, former Judge Waters offered to assist CW #1 or "any of your people" with problems with code enforcement complaints or "anything you need" in the Municipal Court.

154. By his statement set forth above, former Judge Waters made a pledge or promise to accept requests for special consideration and to provide preferential treatment to CW #1 and "any of your people" in Municipal Court proceedings during his term as a judge.

155. By his statement set forth above, former Judge Waters made a statement of commitment regarding cases or issues that were likely to come before the Municipal Court.

156. Former Judge Waters' pledge or promise to provide favorable treatment to CW #1 and her/his people demonstrated a bias and prejudice in favor of those individuals.

157. By all of his conduct set forth above, former Judge Waters violated Canon 7B(c)(1) of the Old Code of Judicial Conduct.

COUNT 5

158. By virtue of some or all of the facts set forth in Part C, former Judge Waters violated Canon 7B(2) of the Old Code of Judicial Conduct, effective through June 30, 2014 and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

159. Canon 7 B(2) provides in pertinent part:

(2) Candidates, including an incumbent judge, for a judicial office that is filled by public election between competing candidates should not themselves solicit or accept campaign funds

160. On January 5, 2010, former Judge Waters was a newly elected incumbent judge of the Municipal Court of Philadelphia.

161. On January 5, 2010, former Judge Waters accepted a \$1,000 cash donation from CW # 1 for the purpose of paying off his 2009 campaign debt.

162. By his conduct of personally accepting the \$1,000 cash contribution to pay off his 2009 judicial campaign debt, former Judge Waters violated Canon 7B(2).

163. Canon 7B(2) also provides in part:

Campaign committees may solicit funds for their campaigns . . . and all fundraising activities in connection with such judicial campaign shall terminate no later than the last calendar day of the year in which the judicial election is held.

164. The campaign committee to elect candidate Waters was permitted to accept contributions to his 2009 judicial campaign for the purpose of paying off campaign debt through December 31, 2009.

165. After December 31, 2009, the committee to elect candidate Waters was prohibited from all fundraising activities in connection with candidate Waters' 2009 judicial campaign.

166. On January 5, 2010, five days after the final day for his campaign committee to accept funds for his 2009 judicial campaign, former Judge Waters personally accepted a \$1,000 cash donation from CW #1 to pay off his 2009 campaign debt.

167. By his conduct of accepting the \$1,000 cash donation on January 5, 2010, former Judge Waters violated Canon 7B(2).

168. By all of his conduct set forth above, former Judge Waters violated Canon 7B(2) of the Old Code of Judicial Conduct.

COUNT 6

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

170. The first clause of Article V, § 17(b) provides:

Justices and judges shall not engage in any activity prohibited by law

171. By virtue of his conviction for two felony offenses as set forth above, former Judge Waters engaged in activity prohibited by law.

172. Under the Pennsylvania Election Code, cash campaign donations from an individual contributor may not exceed \$100. 25 P.S. § 3254(c).

173. On January 5, 2010, former Judge Waters personally accepted a \$1,000 cash campaign donation from CW #1, an individual contributor, to pay off his 2009 campaign debt.

174. The \$1,000 cash campaign donation was an amount worth 10 times the \$100 limit for a cash donation from an individual cash contributor.

175. By his acceptance of the \$1,000 cash campaign donation from CW #1, former Judge Waters violated the Pennsylvania Election Code.

176. By virtue of his violation of the Pennsylvania Election Code, former Judge Waters engaged in activity prohibited by law.

177. Under the Pennsylvania Campaign Finance Law, each judicial candidate and judicial campaign committee is required to submit Campaign Finance Reports and disclose the receipt of contributions to the judicial campaign. 25 P.S. §4246.

178. Former Judge Waters failed to disclose the \$1,000 cash contribution to his judicial campaign fund that he received from CW #1 on his Campaign Finance Reports.

179. By his failure to disclose the \$1,000 cash contribution on his Campaign Finance Reports, former Judge Waters violated the Pennsylvania Campaign Finance Law.

180. By virtue of his violation of the Pennsylvania Campaign Finance Law, former Judge Waters engaged in activity prohibited by law.

181. The second clause of Article V, § 17(b) provides:

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

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

183. Former Judge Waters violated Canon 2A, 2B, 3A(4), 7B(1)(c) and 7B(2) of the Old Code of Judicial Conduct, as prescribed by the Pennsylvania Supreme Court, and thereby violated Article V, s 17(b).

184. By all of the conduct set forth above, former Judge Waters violated Article V, § 17(b).

COUNT 7

185. By virtue of some or all of the facts set forth in Parts A, former Judge Waters violated the Felony Conviction Clause of Article V, §18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and is therefore subject to discipline.

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

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for conviction of a felony;

187. On September 24, 2014, former Judge Waters entered a guilty plea to two federal felonies, mail fraud and honest services wire fraud.

188. On January 22, 2015, Judge Sanchez sentenced former Judge Waters to 24 months in federal prison, three years of Federal Supervised Release and a \$5,500 fine.

189. As a result of the sentencing, former Judge Waters was convicted of two felonies.

190. By all of his conduct as set forth above, former Judge Waters violated the Felony Conviction Clause of Article V, § 18(d)(1).

COUNT 8

191. By virtue of some or all of the facts set forth in Parts B & C, former Judge Waters violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and is therefore subject to discipline.

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

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

193. Former Judge Waters engaged in conduct which prejudiced the proper administration of justice when he entertained requests for special consideration from Kuttab regarding the *Houdini* and *Khoury* matters, and from CW #1 and UC #1 regarding the *Khoury* matter, and agreed to arrange for preferential treatment for the litigants per those requests.

194. Former Judge Waters engaged in conduct which prejudiced the proper administration of justice when he initiated and participated in *ex parte* communication with Judges Segal and O'Neill in the *Houdini* matter, and with Judge Segal in the *Rexach* and *Khoury* cases.

195. Former Judge Waters engaged in conduct which prejudiced the proper administration of justice when he requested special consideration for the litigants who appeared before Judges Segal and O'Neill in the *Houdini* matter, and before Judge Segal in the *Rexach* and *Khoury* cases.

196. On January 5, 2012, former Judge Waters engaged in conduct which prejudiced the proper administration when he offered to assist CW #1, and other individuals known to CW #1, with problems or issues in the Municipal Court.

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

198. By all of his conduct as set forth above, former Judge Waters violated the Administration of Justice Clause of Article V, § 18(d)(1).

COUNT 9

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

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

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

201. By his convictions for two felony offenses as set forth above, former Judge Waters engaged in conduct which brought the judicial office into disrepute.

202. By his violation of the Pennsylvania Election Code and the Pennsylvania Campaign Finance Law, former Judge Waters brought the judicial office into disrepute.

203. Former Judge Waters engaged in conduct which brought the judicial office into disrepute when he entertained requests for special consideration from Kuttub regarding the *Houdini* and *Khoury* matters, and form CW #1 and UC #1 regarding the *Khoury* matter, and agreed to arrange for preferential treatment for the litigants per those requests.

204. Former Judge Waters engaged in conduct which brought the judicial office into disrepute when he initiated and participated in *ex parte* communication with Judges Segal and O'Neill regarding the *Houdini* case, and with Judge Segal regarding the *Rexach* and *Khoury* cases.

205. Former Judge Waters engaged in conduct which brought the judiciary into disrepute when he requested special consideration for litigants who appeared before Judges Segal and O'Neill in the *Houdini* matter, and Judge Segal in the *Rexach* and *Khoury* cases.

206. Former Judge Waters engaged in conduct which brought the judicial office into disrepute when he offered, *quid pro quo*, to assist CW #1, and other individuals known to CW #1, with problems or issues in the Municipal Court after he personally accepted a \$1,000 cash campaign donation from CW #1.

207.

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

209. By all of the conduct set forth above, former Judge Waters violated the Disrepute Clause of Article V, § 18(d)(1).

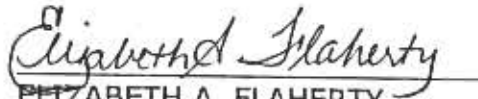
WHEREFORE, Joseph C. Waters, Jr., former Municipal Court Judge, is subject to disciplinary action pursuant to the Constitution of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: March 11, 2015

By:



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

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

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Joseph C. Waters, Jr.	:	
Municipal Court Judge	:	
First Judicial District	:	
Philadelphia County	:	5 JD 2015

VERIFICATION

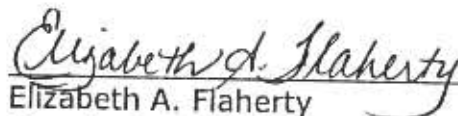
I, Elizabeth A. Flaherty, Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904,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

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

March 11, 2015

BY:


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

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

EXHIBIT "1"

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
v.	:	CRIMINAL NO.
JOSEPH C. WATERS, JR.	:	

GUILTY PLEA AGREEMENT

Under Rule 11 of the Federal Rules of Criminal Procedure, the government, the defendant, and the defendant's counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania.

1. The defendant agrees to plead guilty to the two-count information, waiving prosecution by indictment, charging him with mail fraud, in violation of 18 U.S.C. § 1341, and honest services wire fraud, in violation of 18 U.S.C. §§ 1343 and 1346, arising from the defendant's abuse of his position of trust as a Philadelphia Municipal Court Judge to improperly affect the outcome of court cases. The defendant further acknowledges his waiver of rights, as set forth in the attachment to this agreement.

2. At the time of sentencing, the government will:
- a. Make a sentencing recommendation as to imprisonment consistent with paragraph 4 of this agreement.
 - b. Make a sentencing recommendation as to fines, forfeiture, restitution, and other matters which the government deems appropriate that is consistent with paragraph 4 of this agreement.

- c. Comment on the evidence and circumstances of the case; bring to the Court's attention all facts relevant to sentencing including evidence relating to dismissed counts, if any, and to the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond factually to questions raised by the Court; correct factual inaccuracies in the presentence report or sentencing record; and rebut any statement of facts made by or on behalf of the defendant at sentencing.
- d. Nothing in this agreement shall limit the government in its comments in, and responses to, any post-sentencing matters.

3. The defendant understands, agrees, and has had explained to him by counsel that the Court may impose the following statutory maximum sentence: as to each of Counts One (mail fraud) and Two (honest services wire fraud), 20 years imprisonment, 3 years supervised release, a \$250,000 fine, and a \$100 special assessment. The total statutory maximum sentence is 40 years imprisonment, 3 years of supervised release, a \$500,000 fine, and a \$200 special assessment.

The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to two years per count of conviction. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

The defendant understands and agrees that the status of any professional license or certification held by the defendant is not protected by this agreement and is a matter solely within the discretion of the appropriate licensing, regulatory, and disciplinary authorities.

4. The parties agree that this plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) and that the following is an appropriate disposition of this case: 24 months imprisonment, 3 years of supervised release, a \$5,500 fine and a \$200 special assessment. If the Court rejects this negotiated plea agreement, it is further agreed that the defendant will not elect to proceed to trial, therefore this agreement will automatically convert to a plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), and this specific sentence shall be jointly recommended to the Court by the parties based on the Sentencing Guideline stipulations set-forth in paragraph 9 herein.

5. In order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the defendant agrees fully to disclose all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third party. Accordingly:

a. The defendant will promptly submit a completed financial statement to the U.S. Attorney's Office, in a form it provides and as it directs. The defendant promises that his financial statement and disclosures will be complete, accurate, and truthful.

b. The defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report on him in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. The defendant agrees to pay a fine as directed by the Court. The defendant further agrees that forfeiture, restitution, fine, assessment, tax, interest, or other payments in this

case do not constitute extraordinary acceptance of responsibility or provide any basis to seek a downward departure from the applicable Sentencing Guideline range.

7. The defendant agrees to pay the special victims/witness assessment in the amount of \$200 before the time of sentencing and shall provide a receipt from the Clerk to the government before sentencing as proof of this payment.

8. The defendant may not withdraw his plea because the Court declines to follow any recommendation, motion, or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

9. Pursuant to USSG § 6B1.4, the parties enter into the following stipulations under the Sentencing Guidelines Manual. It is understood and agreed that: (1) these stipulations are not binding upon either the Probation Office or the Court; and (2) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed:

- a. The parties agree and stipulate that under U.S.S.G. § 2C1.1(a)(1) the defendant was a public official and the defendant's base offense level is 14.
- b. The parties agree and stipulate that under U.S.S.G. § 2C1.1(b)(2) and U.S.S.G. § 2B1.1(b)(1)(B), the offense level should be increased by 2 levels because the value of the payment or benefit received was greater than \$5,000 but less than \$10,000.
- c. The parties agree and stipulate that under U.S.S.G. § 2C1.1(b)(3) the offenses involved an elected official in a high-level decision-making and sensitive position, increasing the offense by 4 levels.

- d. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for his offense, making the defendant eligible for a 2-level downward adjustment under USSG § 3E1.1(a).
- e. The parties agree and stipulate that, as of the date of this agreement, the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying the government of his intent to plead guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently, resulting in a 1-level downward adjustment under USSG § 3E1.1(b).
- f. The parties agree and stipulate that the base offense level and adjustments set forth above result in an offense level of 17. With a USSG Criminal History Category of I, the defendant faces a sentencing range of 24 months to 30 months imprisonment.

10. If the Court accepts the recommendation of the parties and imposes the sentence stated in paragraph 4 of this agreement, the parties agree that neither will file any appeal of the conviction and sentence in this case. Further, the defendant agrees that if the Court imposes the recommended sentence he voluntarily and expressly waives all rights to collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution. However, the defendant retains the right to file a petition for collateral relief under 28 U.S.C. § 2255 asserting only a claim that the attorney who represented the defendant at the time of the execution of this

agreement and the entry of the defendant's guilty plea provided constitutionally ineffective assistance during any part of the representation.

11. If the Court does not accept the recommendation of the parties to impose the sentence stated in paragraph 4 of this agreement, then the defendant voluntarily and expressly waives all rights to appeal or collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law.

a. Notwithstanding the waiver provision in this paragraph, if the government appeals from the sentence, then the defendant may file a direct appeal of his sentence.

b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal but may raise only a claim:

(1) that the defendant's sentence on any count of conviction exceeds the statutory maximum for that count as set forth in paragraph 3 above;

(2) challenging a decision by the sentencing judge to impose an "upward departure" pursuant to the Sentencing Guidelines;

(3) challenging a decision by the sentencing judge to impose an "upward variance" above the final Sentencing Guideline range determined by the Court;

If the defendant does appeal pursuant to this subparagraph, no issue may be presented by the defendant on direct appeal other than those described in this subparagraph.

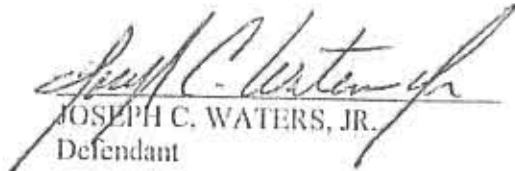
c. Notwithstanding the waiver provision set forth in this paragraph, the defendant may file a petition for collateral relief under 28 U.S.C. § 2255, but may only raise a claim that the attorney who represented the defendant at the time of the execution of this agreement and the entry of the defendant's guilty plea provided constitutionally ineffective assistance during any part of the representation.

12. The defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A (Statutory Note), for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

13. The defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

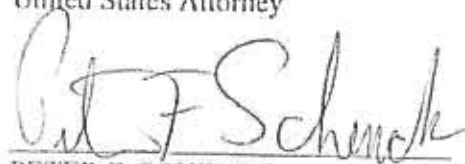
14. The defendant is satisfied with the legal representation provided by the defendant's lawyer; the defendant and this lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that he is guilty.

15. It is agreed that the parties' guilty plea agreement contains no additional promises, agreements, or understandings other than those set forth in this written guilty plea agreement, and that no additional promises, agreements, or understandings will be entered into unless in writing and signed by all parties.


JOSEPH C. WATERS, JR.
Defendant


MICHAEL J. ENGLE, ESQ.
Counsel for Defendant

ZANE DAVID MEMEGER
United States Attorney


PETER F. SCHENCK
Chief, Criminal Division
Assistant United States Attorney


RICHARD P. BARRETT
Chief, Public Corruption Section
Assistant United States Attorney


MICHELLE L. MORGAN
Assistant United States Attorney

Date: 8/7/14

Attachment

IN THE UNITED STATES DISTRICT COURT

UNITED STATES OF AMERICA :
v. : CRIMINAL NO. 14
JOSEPH C. WATERS, JR. :

ACKNOWLEDGMENT OF RIGHTS

I hereby acknowledge that I have certain rights that I will be giving up by pleading guilty.

1. I understand that I do not have to plead guilty.
2. I may plead not guilty and insist upon a trial.
3. At that trial, I understand
 - a. that I would have the right to be tried by a jury that would be selected from the Eastern District of Pennsylvania and that along with my attorney, I would have the right to participate in the selection of that jury;
 - b. that the jury could only convict me if all 12 jurors agreed that they were convinced of my guilt beyond a reasonable doubt;
 - c. that the government would have the burden of proving my guilt beyond a reasonable doubt and that I would not have to prove anything;
 - d. that I would be presumed innocent unless and until such time as the jury was convinced beyond a reasonable doubt that the government had proven that I was guilty;
 - e. that I would have the right to be represented by a lawyer at this trial and at any appeal following the trial, and that if I could not afford to hire a lawyer, the court would appoint one for me free of charge;
 - f. that through my lawyer I would have the right to confront and cross-examine the witnesses against me;

g. that I could testify in my own defense if I wanted to and I could subpoena witnesses to testify in my defense if I wanted to; and

h. that I would not have to testify or otherwise present any defense if I did not want to and that if I did not present any evidence, the jury could not hold that against me.

4. I understand that if I plead guilty, there will be no trial and I would be giving up all of the rights listed above.

5. I understand that if I decide to enter a plea of guilty, the judge will ask me questions under oath and that if I lie in answering those questions, I could be prosecuted for the crime of perjury, that is, for lying under oath.

6. I understand that if I plead guilty, I have given up my right to appeal, except as set forth in the appellate waiver provisions of my plea agreement.

7. Understanding that I have all these rights and that by pleading guilty I am giving them up, I still wish to plead guilty.

8. I acknowledge that no one has promised me what sentence the Court will impose. I am aware and have discussed with my attorney that, at sentencing, the Court will calculate the Sentencing Guidelines range (including whether any departures apply), and then, in determining my sentence, will consider the Guideline range and all relevant policy statements in the Sentencing Guidelines, along with other sentencing factors set forth in 18 U.S.C. § 3553(a), including

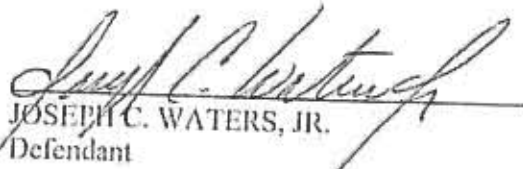
(1) the nature and circumstances of the offense and my personal history and characteristics;

(2) the need for the sentence imposed-- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(5) the need to provide restitution to any victims of the offense.


JOSEPH C. WATERS, JR.
Defendant


MICHAEL J. ENGLE
Counsel for the Defendant

Dated: 8/7/14

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL NO. 14-

v. : DATE FILED:

JOSEPH C. WATERS, JR. :

Violations:

18 U.S.C. § 1341 (mail fraud - 1 count)
18 U.S.C. §§ 1343, 1346 (honest services
wire fraud - 1 count)
18 U.S.C. § 2 (aiding and abetting)

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times relevant to this information:

Relevant Persons and Entities

1. The Philadelphia Municipal Court (Municipal Court) is one of the two courts that comprise the First Judicial District of Pennsylvania, the judicial body that administers the court system in Philadelphia, Pennsylvania. The Municipal Court has two divisions, the Criminal Division and the Civil Division. Under Pennsylvania law, the jurisdiction of the Municipal Court is limited. The Criminal Division conducts preliminary hearings for most adult felony offenses charged in Philadelphia and conducts trials of criminal offenses carrying maximum sentences of incarceration of five years or less. The Civil Division adjudicates civil disputes where the amount in controversy is \$12,000 or less for small claims cases, all landlord and tenant cases, and \$15,000 in real estate and school tax cases. There are judges who handle both criminal and civil cases before the Municipal Court.

2. Pennsylvania's Code of Judicial Conduct set forth standards of conduct for judges in Pennsylvania. Philadelphia Municipal Court Judges were required to follow the Code of Judicial Conduct, including Rule 2.9, which provided: "A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter[.]"

3. Defendant JOSEPH C. WATERS, JR. was a Municipal Court judge who was appointed in July 2009 to fill a vacancy on the court. To retain his position on the Municipal Court, defendant WATERS ran successfully in the November 2009 election for a seat on the court. In 2011, WATERS announced his candidacy for a position as a judge on the Philadelphia Court of Common Pleas and began to raise campaign funds. WATERS subsequently abandoned this effort and continued to serve as a Municipal Court judge.

4. Person #1, known to the United States Attorney, was a politically active businessman who owned various businesses in Philadelphia, including Company A, a real estate management company. Person #1 supported defendant JOSEPH C. WATERS, JR. in several efforts to obtain judicial positions within the First Judicial District. Person #1 used his political and business connections to support defendant WATERS' efforts to secure a July 2009 appointment to the Municipal Court. Person #1 later supported defendant WATERS' election to the Municipal Court by contributing money and actively recruiting other persons to give money or in-kind campaign contributions to defendant WATERS' campaign. When defendant WATERS announced a possible run for a 2011 position on the Court of Common Pleas, Person #1 again supported defendant WATERS' election effort by raising campaign contributions,

hosting a campaign fund raising event, and encouraging others to host campaign events for defendant WATERS.

5. Judge # 1, known to the United States Attorney, was a Municipal Court judge.

6. Judge # 2, known to the United States Attorney, was a Municipal Court judge.

7. Company B was a Pennsylvania corporation that provided security services, including burglar and fire alarm system set up and monitoring, throughout the Delaware Valley. Company B provided burglar and fire alarm system monitoring to Company A pursuant to a signed contract between the companies.

Company B v. Company A Small Claims Litigation

8. On or about August 9, 2011, Company B filed a small claims lawsuit against Company A in Municipal Court. Company B alleged in the lawsuit that Company A failed to pay for security services it had received from Company B under the terms of their contract. Company B sought \$2,738.44 in damages, costs, and fees from Company A.

9. The Municipal Court scheduled a hearing in the small claims case for September 30, 2011. Judge #1 was the Municipal Court judge scheduled to hear the trial.

10. On or about September 30, 2011, Person #1 contacted defendant JOSEPH C. WATERS, JR. and, in an ex parte conversation about the small claims case filed by Company B against his company, Company A, Person #1 requested defendant WATERS' assistance in obtaining a favorable ruling.

11. On or about September 30, 2011, defendant JOSEPH C. WATERS, JR. contacted Judge #1 by telephone and requested favorable treatment for Person #1 and Company A, as follows:

WATERS: I got something in front of you at 1 o'clock today.
Judge #1: Okay, tell me, what is it?
WATERS: The, the name's [Company A], okay.
Judge #1: Okay.
WATERS: Ah, it's ... has something to do with an alarm company. [Person #1] ... will be there.
Judge #1: Okay, and, uh, okay.
WATERS: You know [Person #1]
Judge #1: And who do you need?
WATERS: Uh, we, we, we got the, the, the defendant ... we got the defendant, [Company A], the name is.
Judge #1: Oh, okay. Okay.
WATERS: Alright.

12. On or about September 30, 2011, in the scheduled hearing in the Municipal Court before Judge #1, the attorney representing Company A requested a continuance of the trial, claiming that he was not prepared for the hearing. Company B opposed the request for a continuance and argued that the trial should proceed as scheduled. Judge #1 granted Company A's request for a continuance of the hearing. The Municipal Court rescheduled the trial for November 16, 2011.

13. On or about November 16, 2011, Person #1 reminded defendant JOSEPH C. WATERS, JR. that the small claims trial against his company, Company A, was scheduled for that afternoon.

14. On or about November 16, 2011, defendant JOSEPH C. WATERS, JR., contacted Judge #2 by telephone and requested favorable treatment for Person #1 and Company A, advising Judge #2:

WATERS: Uh, you got a case this afternoon, [Company B] v. [Company A].
All right uh--
Judge #2: Yeah? You got me.
WATERS: Huh?
Judge #2: You got me? Do I?
WATERS: Yeah, [Company A] is [Person #1]. He's a friend of mine, so if you
can take a hard look at it.
Judge #2: Who's your guy? The defendant?
WATERS: Yeah, the defendant.
Judge #2: Okay.
WATERS: All right?
Judge #2: No problem.

15. On or about November 16, 2011, the trial of Company B v. Company A commenced in the Municipal Court before Judge #2. Person #1, the owner of Company A, appeared and testified in Company A's defense. At the conclusion of the evidence, as requested by defendant JOSEPH WATERS, Judge #2 ruled in favor of Company A and dismissed Company B's claim for \$2,738.44 in damages. Based on this ruling, Company B could not collect from Company A its fees for services rendered to Company A.

16. A short time later, an attorney for Company B notified Person #1 and Company A that Company B intended to appeal to the Court of Common Pleas Judge #2's decision in favor of Company A.

17. In early December 2011, defendant JOSEPH C. WATERS, JR. suggested that Person #1 reach a settlement agreement with Company B rather than risk an appeal to a higher court where Company B would get a new trial and could prevail.

18. To avoid an appeal by Company B, Person #1 agreed to settle the lawsuit by paying Company B \$600 instead of the \$2,738.44 that Company B originally sought in its lawsuit.

THE SCHEME

19. From on or about September 30, 2011 through on or about January 16, 2012, in the Eastern District of Pennsylvania, defendant

JOSEPH C. WATERS, JR.

and Person #1 devised and intended to devise a scheme and artifice to defraud Company B and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

It was part of the scheme to defraud that:

20. Defendant JOSEPH C. WATERS, JR. and Person #1 deprived and attempted to deprive Company B of money and property by giving Person #1 and Company A a secret advantage in the litigation through a series of secret ex parte communications between defendant WATERS and the other Municipal Court judges scheduled to hear the small claims case against Company A. In providing this secret advantage to Person #1 and Company A, defendant WATERS deprived and attempted to deprive Company B of funds to which it was entitled for services provided to Company A.

21. At the request of Person #1 to influence the outcome of the case in favor of Company A, defendant JOSEPH C. WATERS, JR. agreed to contact Judge #1 and Judge #2.

22. In contacting Judge #1 and Judge #2, defendant JOSEPH C. WATERS, JR. used and intended to use his position as a Municipal Court Judge to cause Judge #1 and Judge #2 to issue rulings that were favorable to Person #1 and Company A.

23. Defendant JOSEPH C. WATERS told Judge #1 and Judge #2 that Person #1 was his friend and that he wanted favorable treatment for Company A.

24. As a result of defendant JOSEPH C. WATERS, JR.'s secret ex parte communications with Judge #1 and Judge #2, Person #1 and Company A received a financial benefit in the litigation, that is, a ruling that Person #1 and Company A were not liable to pay Company B for security services provided to Company A.

25. Defendant JOSEPH C. WATERS, JR. and Person #1 further deprived and attempted to deprive Company B of money and property by failing to disclose the ex parte conversations with Judge #1 and Judge #2 to Company B, as Company B proceeded with the litigation, unaware that WATERS had used his official position to the advantage of Company A.

26. To further the scheme and conceal it from other judicial authorities, defendant JOSEPH C. WATERS, JR. helped broker a settlement agreement between Company A and Company B, thereby causing Company B to cease its appeal of Judge #2's decision in favor of Company A.

27. In brokering this settlement to prevent an appeal of Judge #2's decision, defendant JOSEPH C. WATERS, JR. and Person #1 caused a check of \$400 (representing the \$600 settlement minus attorneys' fees) to be mailed to Company B, an amount far less than the amount of money to which Company B was entitled.

28. On or about January 16, 2012, in Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

JOSEPH C. WATERS, JR.,

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by U.S. mail to the address of Company B, according to the directions thereon, a check for \$400, (representing the amount of the settlement minus attorneys' fees) between Company A and Company B.

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNT TWO

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. The allegations set forth in paragraphs 1 through 5 of Count One of this information are realleged here.
2. At all times relevant to this information, the City of Philadelphia, its citizens, the Philadelphia Municipal Court, the First Judicial District of Pennsylvania, and the litigants of the Municipal Court had an intangible right to the honest services of defendant JOSEPH C. WATERS, JR.
3. On or about December 30, 2009, Person #1, sent a text message to CW #1, a witness cooperating with the government, and others, urging the recipients of the text message to contribute money to defendant JOSEPH C. WATERS, JR. The message said: "Judge [W]aters has asked us to help bur[r]y his campaign debt. We have only two days to help he will sit on the bench for the next five years. If u wish to help pl." Person #1 arranged a meeting between defendant WATERS and CW #1.
4. On or about January 5, 2010, in response to the request for funds to help pay defendant JOSEPH C. WATERS, JR.'s campaign debt, CW #1 met defendant WATERS and gave him \$1,000 in cash to help pay his campaign debt. After accepting the \$1,000 in cash, defendant WATERS told CW #1 "'Municipal Court handles all the, uh, code enforcement complaints . . . you run into a problem with any of your people, you get a hold of me. . . . anything you need, anything I can do to help you or anybody that you, you're interested in, all you do is pick up the phone and call me . . . any time."

5. Defendant JOSEPH C. WATERS, JR. did not disclose on his campaign finance reporting form (a form each candidate for an elected judicial position in the Commonwealth of Pennsylvania is required by state law to complete), the receipt of the \$1,000 in cash from CW #1.

6. Between January 2010 and September 2012, CW #1 provided additional things of value, including gifts and cash contributions, to defendant JOSEPH C. WATERS, JR. Defendant WATERS did not disclose the additional cash contributions from CW #1 on his campaign finance reporting form. During this time, CW #1 introduced UC #1, an undercover agent, to defendant WATERS as a business associate of CW #1.

7. On or about May 7, 2012, CW #1 and UC #1 alerted defendant JOSEPH C. WATERS that UC #1's "cousin" had been arrested for felony possession of a firearm in Philadelphia. Defendant WATERS agreed to assist CW #1 and UC #1 as the criminal case made its way through the Municipal Court.

8. On or about July 23, 2012, defendant JOSEPH C. WATERS, JR., referring to the firearms case against UC #1's "cousin," notified Judge #1 by telephone that a "friend" of his was appearing before Judge #1 for a preliminary hearing on a felony firearms possession case. Defendant WATERS asked Judge #1 to "help him." Defendant Waters told Judge #1 the name of the "friend."

9. On or about July 24, 2012, at the conclusion of the preliminary hearing for UC #1's "cousin," Judge #1, without a proper legal basis, reduced the felony firearms charge to a misdemeanor and remanded the "cousin's" case for a trial on the remaining misdemeanor firearms charges.

THE SCHEME

10. From on or about January 5, 2010 through in or about September 2012, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

JOSEPH C. WATERS, JR.

and others known and unknown to the United States Attorney, devised and intended to devise a scheme and artifice to defraud and deprive through bribery the citizens of Philadelphia, the Philadelphia Municipal Court, the First Judicial District of Pennsylvania, and Municipal Court litigants of their intangible right to the honest services of defendant WATERS.

MANNER AND MEANS

It was part of the scheme to defraud that:

11. Defendant JOSEPH C. WATERS, JR. accepted gifts and other things of value, including cash, purportedly for campaign contributions, from CW #1.

12. Defendant JOSEPH C. WATERS, JR. used his official position as a Municipal Court judge to benefit CW #1, and CW #1's associates, when the need arose, to include asking Judge #1 for "help" on a firearms case against a "friend" who was scheduled to appear before Judge #1 at a preliminary hearing.

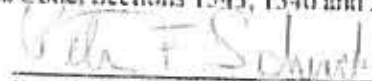
13. On or about July 23, 2012, in Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

JOSEPH C. WATERS, JR.,

for the purpose of executing the scheme and artifice to defraud, and attempting to do so, and aiding and abetting its execution, transmitted and caused to be transmitted by means of wire communication in interstate commerce, the following writings, signals and sounds: a phone call

from New York to Pennsylvania in which defendant WATERS asked Judge #1 for "help", that is, favorable treatment for the defendant in a firearms case scheduled before Judge #1.

In violation of Title 18, United States Code, Sections 1343, 1346 and 2.



ZANE DAVID MEMEGER
United States Attorney

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Joseph C. Waters, Jr. :
Municipal Court Judge :
First Judicial District :
Philadelphia County : 5 JD 2015

PROOF OF SERVICE

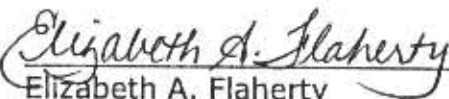
In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about March 11, 2015, a copy of this *BOARD COMPLAINT* was sent by Certified Mail to Judge Waters' counsel, Michael J. Engel, Esquire, who agreed to accept service on behalf of his client, Judge Waters:

Michael J. Engel, Esquire
Greenblatt, Pierce, Engle, Funt & Flores
123 S. Broad Street, Suite 2500
Philadelphia, PA 19109

Certified Mail No. 7161 7145 5373 0150 1924
Return Receipt Requested

Respectfully submitted,
ROBERT A. GRACI
Chief Counsel

March 11, 2015

BY: 
Elizabeth A. Flaherty
Deputy Counsel

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Judicial Conduct Board
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