



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

Press Release

June 29, 2009

TO: Media/Press

FROM: Judicial Conduct Board

**SUBJECT: Susan E. McEwen,
Magisterial District Judge;
Magisterial District 07-1-06;
Bucks County
3 JD 2009**

Harrisburg. The Judicial Conduct Board has announced today that it has instituted formal proceedings against Bucks County Magisterial District Judge Susan E. McEwen. A Board Complaint has been filed with the Court of Judicial Discipline in Harrisburg.

The Board Complaint alleges that Magisterial District Judge McEwen has brought disrepute to the Pennsylvania Judiciary by altering official court records in a matter involving a family member; and by her indecorous language and behavior toward a police officer with whom she dealt in her official capacity.

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

Upon completion of the trial, if the Court determines that the charges have been proven by clear and convincing evidence, it will schedule a Sanctions Hearing to determine what sanctions should be imposed upon the magisterial district judge for violating the Rules Governing Standards of Conduct of Magisterial District Judges and the Pennsylvania Constitution. Possible sanctions include reprimand and restriction of future judicial employment.

Counsel

Board: Joseph A. Massa, Jr., -- Chief Counsel

Respondent: William I. Arbuckle, III, Esquire

Contact: Joseph A. Massa, Jr., Chief Counsel

Board Complaint is 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

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2009 JUN 29 A 11: 58

In re:

Susan E. McEwen, :
Magisterial District Judge; :
Magisterial District 07-1-06; : 3 JD 2009
Bucks County :

NOTICE OF FORMAL CHARGES

TO: SUSAN E. MCEWEN, MAGISTERIAL DISTRICT JUDGE:

The Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, §§ 17 and 18 of the Constitution of the Commonwealth of Pennsylvania. 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. 302(B).

You are hereby notified, pursuant to C.J.D.R.P. No. 302(E), 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.

FORMAL COMPLAINT

AND NOW, this 29th day of June, 2009 comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board") and files this Board Complaint against Magisterial District Judge Susan E. McEwen, (hereinafter "Respondent"), a Magisterial District Judge in Bucks County, Pennsylvania, alleging that the Respondent has violated the Rules Governing Standards of Conduct of Magisterial District Judges, and Article V, §§ 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

1. This action is taken pursuant to the authority of the Board under Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania and Judicial Conduct Board Rule of Procedure 31(A)(3), promulgated by the Pennsylvania Supreme Court on March 20, 1995 (amended 1996), the Board is granted authority by which to determine whether there is probable cause to file formal charges, and, when it concludes that probable cause exists, to file formal charges, against a justice, judge, or magisterial district judge, for proscribed conduct and to present the case in support of such charges before the Court of Judicial Discipline.

2. Since on or about January 2, 1987, and at all times relevant hereto, the Respondent has served continuously to the present as Magisterial District Judge of Magisterial District 07-1-06, Bucks County, Pennsylvania, encompassing the Township of Lower Southampton with an office located at 1500 Desire Avenue, Feasterville, Pennsylvania 19053. As a Magisterial District Judge, she is, and all times relevant hereto, was subject to all the duties and responsibilities imposed on her by the Rules Governing Standards of Conduct of Magisterial

District Judges and the Constitution of Pennsylvania. The Respondent is charged with violating her judicial duties as set forth in the following paragraphs.

FORMAL CHARGES

I. RESPONDENT'S IMPROPER CONDUCT IN PROCEEDINGS INVOLVING HER GRANDSON, MATTHEW KELLER

3. On the evening of November 20, 2007, officers of the Lower Southampton Police Department responded to an anonymous telephone complaint of an underage drinking party at the Respondent's residence located at 667 Walnut Avenue, Feasterville, Pennsylvania. The Respondent's grandson, Matthew Keller, responded to the door, and the police officers requested that he get the Respondent.

4. The Respondent came to the front door and appeared to have just awakened. The Respondent claimed that she was not aware of the underage drinking party taking place at her residence because she had been asleep.

5. The Respondent gave the Lower Southampton Police Department officers permission to enter her home. Ten (10) individuals, including her grandson, Matthew Keller, were cited for underage drinking after being administered breathalyzer tests. A true and correct copy of Citation No. P4376294-6, Docket No. NT-445-07 is attached hereto, incorporated by reference and marked as Board Exhibit "1".

6. On December 12, 2007, by Order of President Judge David W. Heckler, the cases of the ten individuals were assigned to Magisterial District Judge Donald Nasshorn, Magisterial District Court 07-2-07. A true and correct copy this Order is attached hereto, incorporated by reference and marked as Board Exhibit "2".

7. On January 9, 2008, the ten (10) underage drinking cases were heard by Judge Nasshorn. All of the defendants appeared with their parents except the Respondent's grandson, Matthew Keller, who failed to appear. All defendants, including Matthew Keller, were found guilty. Judge Nasshorn found the Respondent's grandson, Matthew Keller, guilty in absentia and assessed him a three hundred dollar (\$300.00) fine and court costs of \$121.41, for a total of \$421.41. True and correct copies of the Order Imposing Sentence and Disposition Sheet are attached hereto, incorporated by reference and marked collectively as Board Exhibit "3".

8. After the cases were adjudicated, Judge Nasshorn returned the original files and paperwork regarding the ten (10) cases to the Respondent's court. A notation was placed in Matthew Keller's file by Judge Nasshorn's staff, indicating that a payment determination hearing was required.

9. On January 28, 2008, a notice of a payment determination hearing was mailed to the Respondent's address where her grandson, Matthew Keller, resided. An Order imposing sentence had previously been mailed to the Respondent on January 11, 2008, and another was sent on January 28, 2008, along with the payment determination notice. A true and correct copy of the Notice of Payment Determination Hearing is attached hereto, incorporated by reference and marked as Board Exhibit "4".

10. The payment determination hearing was scheduled for February 26, 2008.

11. On February 26, 2008, the Respondent brought her grandson, Matthew Keller, to her court offices. The Respondent approached her Acting Court Clerk Administrator and asked for her grandson's file indicating that she was going to reduce his fine. The Acting Court Clerk Administrator responded that the matter "*was Magisterial District Judge Nasshorn's case.*" The

Respondent stated: *“This is a case in my Court.”* A true and correct copy of Respondent’s Case Notes Entry page is attached hereto, incorporated by reference and marked as Exhibit “5”.

12. The Respondent altered the official court records in the matter of her grandson, Matthew Keller, by changing the amount of the fine in the “Sentence” section on the back of the original citation by writing \$150 over the \$300 figure that had been originally entered. A true and correct copy of the Certification of Disposition is attached hereto, incorporated by reference and marked as Board Exhibit “6”.

13. Matthew Keller paid \$100 cash on that day, February 26, 2008, as the first payment on the altered and reduced fine, and a payment schedule was set for additional installment payments.

14. Matthew Keller failed to make the first \$25 payment which was due on March 26, 2008.

15. On April, 2008, a Notice of Impending Arrest for Matthew Keller was mailed to Respondent at her residence. A true and correct copy of this Notice is attached hereto, incorporated by reference and marked as Board Exhibit “7”.

16. On April 16, 2008, the Respondent presented a personal check to her Acting Court Clerk Administrator for the balance of the amount owed relating to the altered and reduced fine and court costs. The Acting Court Clerk Administrator entered the payment in computerized court records and noted the case as “Paid in Full” on the original citation in the court file. A true and correct copy of the Receipt of Payment is attached hereto, incorporated by reference and marked as Board Exhibit “8”.

17. By virtue of some, or all of the facts alleged in paragraphs three (3) through sixteen (16) of the Board Complaint, the Respondent is subject to discipline pursuant to Article V, §18(d)(1) of the Pennsylvania Constitution for the following reasons:

COUNT 1: The Respondent has violated Article V, §18(d)(1), of the Constitution of the Commonwealth of Pennsylvania by engaging in conduct which prejudices the proper administration of justice.

COUNT 2: The Respondent has violated Article V, §18(d)(1) of the Pennsylvania Constitution by engaging in activity which brings the judicial office into disrepute.

COUNT 3: The Respondent has violated Rule 2A of the Rules Governing Standards of Conduct of Magisterial District Judges which provides:

Magisterial district judges shall respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Magisterial district judges shall not allow their family, social or other relationships to influence their judicial conduct or judgment. They shall not lend the prestige of their office to advance the private interest of others, nor shall they convey or permit others to convey the impression that they are in a special position to influence the judge.

COUNT 4: The Respondent has violated Rule 8A of the Rules Governing Standards of Conduct of Magisterial District Judges which provides:

Magisterial district judges shall disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

(1) they have a personal bias or prejudice concerning a party, or personal

knowledge of disputed evidentiary facts concerning the proceeding;

(3) they know that they, individually or as a fiduciary, or their spouse or a minor child residing in their household has a financial interest in the subject matter in controversy or is a party to the proceeding or any other interest that could be substantially affected by the outcome of the proceeding.

II. RESPONDENT'S INDECOROUS LANGUAGE AND BEHAVIOR UNBECOMING A JUDICIAL OFFICER – WHILE ENGAGED IN HER OFFICIAL CAPACITY.

18. One of the responsibilities of Bucks County Magisterial District Judges is to be available, when assigned to “on-call” duty, as needed, every four (4) hours during non-court hours.

19. On September 23, 2009, the Respondent was the assigned “on-call” Magisterial District Judge.

20. During the early morning hours of September 23, 2008, several officers of the Warminster Township Police Department, including Officers Brian Outland, Jeremy Cole, Sergeant McKenna and Corporal David Erenius, were on the scene of a domestic violence incident involving Wuirman Hott (hereinafter “Hott”). The aforementioned police officers determined that an arrest warrant should be immediately obtained for Hott because of his lengthy prior criminal history, violent past, and unknown residence. Officer Outland was assigned to obtain an arrest warrant from the Respondent.

21. Officer Outland made appropriate arrangements with the Bucks County Magisterial District Judge “on-call” system, and arrived at the Respondent’s court at approximately 4:00 AM.

22. Officer Outland was greeted by one of the Respondent's court clerks and presented the clerk with the requisite information for the arrest warrant documents. The clerk had already completed the paperwork by the time the Respondent arrived approximately ten (10) minutes later.

23. Immediately upon arrival, the Respondent abruptly approached Officer Outland at the counter area of her office, pointed her index finger at his face, and began screaming and expressing her unhappiness at being called out at 4:00 AM for a warrant that the Respondent believed would not be served immediately.

24. Officer Outland began to proffer an explanation to the Respondent, but she continued to scream at him, calling him a "***Bastard***" and "***Stupid Asshole***".

25. The Respondent was presented with the paperwork prepared by her clerk; and while glaring at the paperwork the Respondent stated to Officer Outland:

"You Asshole, I can't believe you called me out for this. I am going to require you to swear to this."

26. The Respondent continued to scream and 'speak in circles' by repeatedly referring to Officer Outland as a "***Bastard***" and a "***Stupid Asshole***". The Respondent instructed her clerk, to have a copy of the warrant on her desk because the Respondent was going to file a complaint with the Honorable David J. Heckler, then President Judge of Bucks County, and the Respondent was going to check to see when the warrant was served.

27. As the Respondent left her court premises, she continued to point her finger and yell at Officer Outland, referring to the police as a bunch of "***Stupid Assholes***", and stating "***I know how you police work***", and "***the warrant still will be sitting until the following afternoon without being served.***"

28. The Respondent was present at her court for approximately five (5) minutes.

29. By virtue of some, or all of the facts alleged in paragraphs eighteen (18) through twenty-eight (28) of the Board Complaint, the Respondent is subject to discipline pursuant to Article V, §18(d)(1) of the Pennsylvania Constitution for the following reasons:

COUNT 5: The Respondent has violated Article V, §18(d)(1) of the Constitution of the Commonwealth of Pennsylvania by engaging in conduct which prejudices the proper administration of justice.

COUNT 6: The Respondent has violated Article V, §18(d)(1) of the Pennsylvania Constitution by engaging in activity which brings the judicial office into disrepute.

COUNT 7: The Respondent has violated Rule 3A of the Rules Governing Standards of Conduct of Magisterial District Judges which provides:

Magisterial district judges shall devote the time necessary for the prompt and proper disposition of the business of their office, which shall be given priority over any other occupation, business, profession, pursuit or activity.

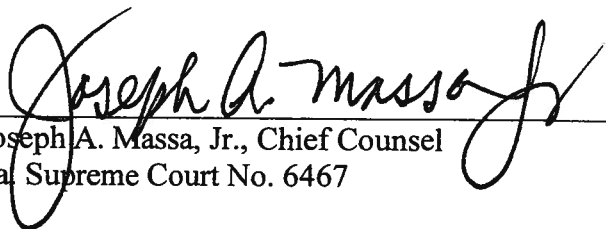
COUNT 8: The Respondent has violated Rule 4C of the Rules Governing Standards of Conduct of Magisterial District Judges which provides:

Magisterial district judges shall be patient, dignified and courteous to litigants, witnesses, lawyers, and others with whom they deal in their official capacity, and shall require similar conduct of lawyers, of their staff and others subject to their direction and control.

WHEREFORE, Susan E. McEwen, the Magisterial District Judge named in these charges, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, §§17(b) and 18(d)(1).

Respectfully submitted,

Date: June 29, 2009



Joseph A. Massa, Jr., Chief Counsel
Pa. Supreme Court No. 6467

Judicial Conduct Board
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COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

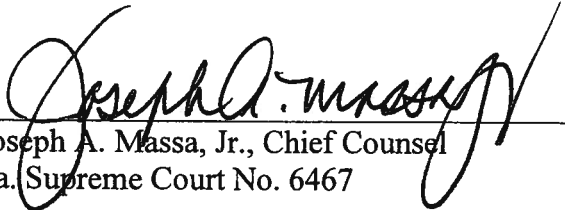
Susan E. McEwen, :
Magisterial District Judge; :
Magisterial District 07-1-06; : 3 JD 2009
Bucks County :

VERIFICATION

I am the Chief Counsel for the Judicial Conduct Board and I am authorized to make this verification and file the foregoing *BOARD COMPLAINT*. I 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. Section 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

Date: June 29, 2009



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Pa. Supreme Court No. 6467

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