

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

Press Release

April 13, 2011

TO: Media/Press

FROM: Judicial Conduct Board

**SUBJECT: Michael T. Toole
Former Judge
Court of Common Pleas, Luzerne County
5 JD 11**

Harrisburg. The Judicial Conduct Board announced today that it has instituted formal proceedings against former Judge Michael T. Toole of Luzerne County, Pennsylvania. A Board Complaint has been filed with the Court of Judicial Discipline.

In accordance with the rules which govern proceedings before the Court of Judicial Discipline, Mr. Toole 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 Mr. Toole for violating the Code of Judicial Conduct and the Pennsylvania Constitution.

Counsel

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

Respondent: Frank W. Nocito, 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

2011 APR 13 P 12:11

In re:

Michael T. Toole; :
Former Judge; :
Court of Common Pleas; :
Luzerne County : 5 JD 2011
 :
 :

IMPORTANT NOTICE

TO: MICHAEL T. TOOLE:

You are hereby notified that 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(b) and §18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and the Code of Judicial Conduct. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

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

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

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of

all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

FORMAL CHARGES

AND NOW, this 13th day of April, 2011, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board") and files this Complaint against Former Court of Common Pleas Judge Michael T. Toole (hereinafter "Respondent"), of the Eleventh Judicial District, Luzerne County, Pennsylvania, pursuant to Court of Judicial Discipline Rule of Procedure 303, alleging that Respondent has violated the Constitution of the Commonwealth of Pennsylvania, Article V, § § 17(b) and 18(d)(1), as more specifically delineated herein.

1. Pursuant to Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania, the Board is granted the authority 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, to present the case in support of such charges before the Court of Judicial Discipline.

2. Respondent commenced service as a judge of the Court of Common Pleas of Luzerne County on or about January 5, 2004. On or about December 3, 2009, by Order of the Supreme Court of Pennsylvania, which had received notice that Respondent had been indicted on criminal charges in the United States District Court for the Middle District of Pennsylvania on December 2, 2009, Respondent was 'relieved of any and all' judicial and administrative responsibilities as a judge of the Court of Common Pleas of Luzerne County, Pennsylvania, and

ordered not to take any further administrative or judicial action whatsoever in any case or proceeding now or hereafter pending until further Order of the Supreme Court of Pennsylvania. On or about December 30, 2009, upon entry of a plea of guilty on December 29, 2009, in the United States District Court for the Middle District of Pennsylvania by Respondent, the Order of the Supreme Court of Pennsylvania dated December 3, 2009, was amended and the salary and benefits of Respondent were terminated.

3. At a Board meeting on April 4, 2011, the Judicial Conduct Board found there was probable cause to believe that Respondent's conduct was of a nature requiring the filing of formal charges.

SUPPORTING FACTS AND CHARGES

4. On or about December 2, 2009, Respondent was indicted by a federal grand jury in the United States District Court for the Middle District of Pennsylvania. By Indictment, Respondent was charged with the following crimes:

COUNT 1: Use of interstate wire communications to defraud the citizens of the Commonwealth of Pennsylvania to the honest services of a public official; in violation of Title 18 United States Code (U.S.C.), Sections 1343 and 1346, classified as a felony; and,

COUNT 2: Subscribing and filing a materially false tax return; in violation of Title 26, U.S.C. § 7206(1), classified as a felony.

5. On or about October 7, 2010, the United States Attorney's Office for the Middle District of Pennsylvania filed a Superseding Information in the case of United States of America v. Michael T. Toole, Criminal No. 3:CR-09-385, which charged the Respondent with:

COUNT 1: Corrupt Receipt of Reward for Official Action Concerning Programs Receiving Federal Funds in violation of Title 18, United States Code (U.S.C.) § 666, classified as a felony.

6. On or about November 5, 2010, Respondent pled guilty to the charges filed at Information No. 3:CR-09-385.

7. On or about April 8, 2011, the Honorable Richard P. Conaboy, United States Senior District Court Judge, sentenced Respondent to thirty (30) months in prison.

8. The Respondent is a sentenced felon.

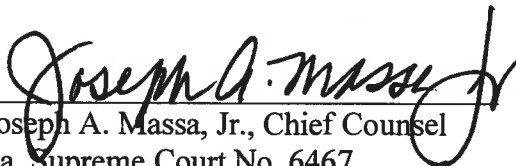
9. Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania provides, *inter alia*:

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for convictions of a felony. (Emphasis added).

WHEREFORE, Michael T. Toole, a former judge named in these charges, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

Date: April 13, 2011


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

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

COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

In re:

Michael T. Toole; :
Former Judge; :
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Luzerne County : 5 JD 2011
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VERIFICATION

I am 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 this Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S Section 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

Date: April 13, 2011



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

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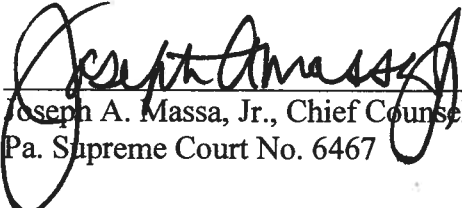
PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on April 13, 2011, a copy of this *BOARD COMPLAINT* was sent by Certified Mail to counsel for the Respondent, who agreed to accept service of this Board Complaint on behalf of his client:

Frank W. Nocito, Esquire
Nocito Law Offices
63 Pierce Street
Kingston, PA 18704-4632

Certified Mail No. 7161 7145 5370 3333 6344
Return Receipt Requested

Respectfully submitted,



Joseph A. Massa, Jr., Chief Counsel
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Judicial Conduct Board
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