STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding Pursuant to Section 44, subdivision 4, of the Judiciary Law in Relation to

JOSEPH F. KASPER,

Respondent,

a Judge of the New York City Civil Court, Queens County.

MEMORANDUM OF LAW IN SUPPORT OF HON. JOSEPH F. KASPER

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New York, New York 10020
[redacted]

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PRELIMINARY STATEMENT

After his hotly contested election to a civil court judgeship in 2021, which was certified only one month before he assumed office, Respondent worked diligently to wind down his law practice. Having failed to conclude several ongoing client matters by the time he took the bench in January 2022, Respondent improperly engaged in the limited practice of law by allowing a paralegal to use his name and NYSCEF credentials under the mistaken belief that this conduct was permissible. In fact, he consistently informed courts and counsel that he is a judge. And in several cases, substitute counsel appeared.

Throughout the period at issue, and to this day, Respondent has received *no personal benefit* of any sort from his former clients or anyone else. And his conduct on the bench has never been questioned.

Driven by a moral and personal commitment to his former clients, most of whom could not afford to retain new counsel and were immigrants with language barriers, Respondent's misconduct does not rise to a level warranting removal under Commission and New York Court of Appeals precedent.

Moreover, Respondent has expressed regret and has frankly admitted misconduct. Nonetheless, Staff has persistently sought professional capital punishment of Respondent notwithstanding no colorable legal or precedential support for such a result, as well as Respondent's consistent offer to agree to a lesser sanction including censure.

The Staff attempts to paint Respondent as having engaged in a calculated disregard of Commission rules, manipulation of the judicial system, and patent disregard of the Commission's investigation. This piling on is a breathtaking overreach. It is unsupported by a fair reading of the Agreed Statement of Facts. Respondent's actions and reputation, on and off the bench is and always has been spotless, free of any discipline or prior complaints. He has always served the public with the utmost integrity and commitment and continues to serve to this day. Regrettably for the judiciary and for Queens, his term will end later this year, during which he turned 70.

Faced with the Commission complaint, Respondent has openly acknowledged his misconduct and has, to the best of his ability—despite his ongoing serious health issues—cooperated with the Commission's investigation. Respondent's off-the-bench conduct certainly amounts to poor judgment. But it does not evince the callous deliberate disregard of judicial ethics that warrants removal.

Respondent's behavior considered fairly, as the Commission must, warrants private admonition. To avoid the expense and dislocation of this proceeding, Respondent has offered to agree to public discipline. His good faith recognition of his misconduct and his offers to resolve this proceeding have been rewarded by pursuit of his removal and the costly, emotional, and enervating process of this defense.

FACTS

Respondent has been a Judge of the New York City Civil Court, Queens County since 2022. Respondent's election was hotly contested, and media outlets expressed surprise when Respondent, a Republican candidate, won the election over the Democratic favorite. *See, e.g.*, Exhibits A-C. A long-time judge described Respondent's victory as "unexplainable." Ex. A. Journalists repeatedly referred to his election as a surprise, Ex. C, and posited that the election represented a reckoning for the Democratic party. Ex. B.

On January 14, 2025, the State Commission on Judicial Conduct (the "Commission") directed that a Formal Written Complaint be served, charging Respondent with (1) unauthorized practice of law, remaining attorney of record in matters over which he presided as judge, and retention and control over client funds; (2) aiding and abetting his paralegal to practice law; and

(3) failing to file mandatory disclosure statements with the Ethics Commission for the Unified Court System.

On April 25, 2025, Respondent answered the Complaint, admitting virtually all of the Commission's allegations.

On September 3, 2025, the Administrator directed a Second Formal Written Complaint be served upon Respondent, bringing a new charge alleging that Respondent failed to cooperate with the Commission's investigation of the Complaint against him and failed to disclose or produce information the Commission required of him.

On March 26, 2026, the parties filed an Agreed Statement of Facts, primarily drafted by the Administrator. The Commission accepted the Agreed Statement of Facts and scheduled briefing and oral argument.

To save time, space, and his own private funds, Respondent relies on the Agreed Statement of Facts as the factual background for the matter, subject to the comments below.

ARGUMENT

I. RESPONDENT'S CONDUCT AMOUNTS TO POOR JUDGMENT WARRANTING DISCIPLINE LESS THAN REMOVAL

A. Respondent's Practice of Law was a Misguided Attempt to Wind Down His Law Practice

Respondent's "practice of law" was not a deceitful attempt to improperly manipulate the judicial system, but rather a misguided effort to wind down his law practice, driven by a moral, personal, and ethical commitment to former clients who could not afford to retain new counsel. Respondent engaged in unremunerated legal work while a judge in four categories: (1) seeking adjournments; (2) closing cases that were essentially settled and near-complete; (3) appearing at conferences and notifying the Court about his election; and (4) facilitating transfer of cases to new attorneys. *See* Agreed Statement of Facts ("ASOF") ¶¶ 28-38, 41- 57, 60-62, 68-73.

Respondent is not charged with using his judicial office to benefit himself, his former clients or anyone else, and no facts support any such characterization of his actions. Moreover, under the rules of ethics, Respondent was permitted to rent his former office to store his legal files under his personal name.[1] Throughout the events described below and in the ASOF, Respondent sought to have attorney Michael Mossa, with whom he had shared an office, take over the pending matters where counsel's appearance was required. Where it was not, he relied on his former paralegal to close the cases.

NYCTL 2019-A Trust et al. v. Columbus Club of South Ozone Park et al.

Respondent's representation of Columbus Club of South Ozone Park ("Columbus Club") after he became a judge was limited to seeking adjournments and closing a case that was already near its end. He was not only counsel for the club, but also a member. In his first call to opposing counsel, Respondent informed counsel about his judicial election. ASOF ¶ 28. At the first virtual settlement conference, Respondent transparently explained that he could no longer represent Columbus Club because he had been elected as a judge and sought an adjournment while he helped his client find new counsel. ASOF ¶ 31. While Respondent erroneously identified himself as counsel, he believed that seeking adjournments to resolve the matter were properly within the scope of winding down his practice. He was also a member of this club and believed mistakenly that he could act *pro se*. In a conversation with Judge Unger's court attorney to request an adjournment, Respondent stated in substance "Judge Unger knows me," by which he sought to convey that he was familiar with Judge Unger's procedures regarding adjournment and had appeared in front of him before. ASOF ¶ 34. Respondent appeared at the second conference to inform the court about two volunteer attorneys (one of whom appeared) who would assist the

[1] N.Y. Advisory Comm. on Judicial Ethics, Op. 23-149, (2023), https://www.nycourts.gov/ipjudicialethicsopinions/23-149.htm.

Columbus Club. ASOF ¶ 35. As a member of the organization and out of a sense of responsibility, Respondent sought to swiftly resolve the matter and appeared at the third conference to present settlement terms alongside William Shanahan, whom he clearly identified as the new incoming attorney. ASOF ¶ 37.

While Respondent acknowledges that his actions constituted prohibited legal practice, he never *concealed* his election from either the Court or to opposing counsel and his work was limited to seeking adjournments and finalizing a case on the precipice of settlement.

Victor Lopez v. Sharan K. Puri et al.

Respondent's representation of Mr. Puri was similarly driven by an ill-advised sense of duty towards a client who was not able to afford new legal counsel in a matter that had been all but resolved. Respondent believed that his activities with respect to the *Puri* case were in the scope of winding down his law practice because the case had settled before his election as a judge and simply needed to be reduced to boilerplate paper. ASOF ¶ 41. Respondent immediately informed Mr. Puri that he would be unable to represent him because he had been elected as a judge but believed that his paralegal, Janice Bar, could complete the ministerial duties required to close the case. ASOF ¶ 41. Respondent conferred with Mr. Puri regarding the case and at the first opportunity before the Court, also informed Judge Henry that he had been elected as a judge. ASOF ¶ 47; Exhibit A45 at 4:16-5:10. Again, out of a sense of duty to his former client, Respondent conferred with opposing counsel, who was aware that Respondent had taken the bench, to add standard, boilerplate language and finalize the agreement. ASOF ¶¶ 54-55; 57-58. After the settlement was signed, Mr. Puri sent Respondent $1,000 past due pursuant to his original retainer for Respondent's work on the case completed *before he was elected as a judge*. Respondent received *no* payment for work completed after his election. Respondent acted out of a sense of loyalty to Mr. Puri and a mistaken understanding that his work reducing the settlement to paper was properly in the realm of winding down his law practice. Moreover, Respondent repeatedly informed the Court and opposing counsel of his election as a judge. Respondent did not *conceal* his election, manipulate the judicial system in his favor, or obtain any payment for his work after he took the bench. He acted merely out of a misguided sense of commitment to a former client.

J[redacted] A[redacted] v. K[redacted] S[redacted]

Respondent's representation of J[redacted] A[redacted] in an uncontested divorce was completed before his election as a judge. After his election, Respondent sought to close the case by allowing Ms. Bar to sign his name with her initials to a Notice of Settlement with a Proposed Judgement regarding a proposed deed drafted before Respondent was elected to the bench. ASOF ¶ 51. This was his *only* involvement in the case after Respondent's election. Respondent erroneously believed that his conduct was permissible in the context of closing a completed case and winding down his law practice. Here too, Respondent believed that Ms. Bar undertook certain limited paralegal actions that were ministerial.

Citibank v. Christine Waszczenko

Respondent signed a Consent to Change Attorney to transfer the *Citibank* case to Mr. Mossa in October 2023. ASOF ¶ 64. However, Respondent erroneously and unknowingly remained attorney of record on the case. ASOF ¶¶ 63, 65. While the matter came before Respondent in Civil Court, Queens County, as part of the Court's random assignment system twice, the matter was adjourned both times and Respondent took *no* action on the case. ASOF ¶¶ 63, 65.

Respondent erroneously remained attorney of record on six other cases, neglecting to formally withdraw from representation. ASOF ¶¶ 66. However, every case was disclosed to the Commission on Judicial Conduct and every case was inactive. Every former client was informed of Respondent's election to the bench and informed to retain other counsel. Respondent took no judicial action in any of these six cases.

A[redacted] A[redacted] v. V[redacted] S[redacted]

Respondent accepted the remaining $1,000 balance that Ms. A[redacted] owed him as part of her initial past due 2017 retainer to cover legal work that he completed for her uncontested divorce matter *before his election to the bench.* ASOF ¶¶ 68-70. After accepting the remaining balance, Respondent told Ms. A[redacted] that Mr. Mossa's office would complete her divorce matter. ASOF ¶ 70. Ms. A[redacted] then sent unsolicited text messages to Respondent inquiring about her representation at a conference. ASOF ¶ 71. Respondent sought to calm Ms. A[redacted] and assured her that Mossa would be present at the conference with assistance from Respondent's former paralegal, Janice Bar. ASOF ¶¶ 71-72. Mossa attended the conference and Respondent reasonably expected that he would supervise Ms. Bar. ASOF ¶ 89. Ms. A[redacted] continued to send unsolicited text messages to Respondent, who responded to assuage her nerves while she continued to work with Mossa. ASOF ¶ 73.

B. Respondent's Improper Practice of Law Does Not Warrant Removal

There is no Commission or New York Court of Appeals precedent for removing a full-time judge solely for practicing law, absent other truly aggravating circumstances. Respondent's behavior must be considered "in the aggregate." *Matter of Miller*, 35 N.Y. 3d 484, 490 (2020) (citation omitted). "[R]emoval, the ultimate sanction, should not be imposed for misconduct that amounts simply to poor judgment or even extremely poor judgment, but should be reserved for truly egregious circumstances." *Matter of Mazzei*, 81 N.Y. 2d 568, 572 (1993) (citations omitted).

For example, removal was appropriate where a judge practiced law, collected fees for work performed after he took the bench, actively concealed these facts from both clients and the Commission, and heard 21 matters brought by an attorney with whom he had a close personal and professional relationship. *See Matter of William H. Intemann, Jr.*, 1989 NYSCJC Annual Report 89, *accepted*, 73 N.Y. 2d 580 (1989). There, the Commission found an extensive pattern of deception, including paying himself a $15,000 fee from an estate without the executrix's knowledge, making false representations to clients, and giving testimony to the Commission that was lacking in candor. *Id.* at 12-13. Accordingly, the Commission unanimously determined that the pervasive pattern of deception was fundamentally incompatible with the role of a judge and recommended removal.

Respondent's situation is a far cry from cases warranting removal where judges have actively presided over and taken judicial action in cases in which they had strong personal and professional ties. *See Matter of Intemann*, 1989 NYSCJC Annual Report 89. Instead, Respondent's case is similar to, though less egregious than, cases where the Commission has imposed a censure. For example, in *Matter of Ramich*, the Commission imposed a censure on a judge who represented his son, his wife, his friend's in-laws, and three clients of his former law practice. *Matter of Ramich*, 2003 NYSCJC Annual Report 154, 158 (citations omitted). There, the Commission imposed a censure even though the judge's misconduct was exacerbated by his use of court personnel and court facilities in connection with his representation and where the judge presided over two cases after having engaged in improper *ex parte* communications with the defendants' relative. Despite these aggravating factors, the Commission issued a censure, not removal. Similarly, in *Matter of Edwards*, a full-time judge was censured for representing his daughter during three appearances in Family Court over the course of five months and invoking his judicial office during those representations. 2020 NYSCJC Annual Report 102-109. The Commission noted "[w]hile we believe that respondent's misconduct comes close to warranting removal, in accepting the jointly recommended sanction of censure, we have taken into consideration that respondent has admitted that his conduct warrants public discipline. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules of Governing Judicial Conduct." *Id.* at 109.

Again, here, Respondent has not taken any judicial action with respect to cases where he was listed as an attorney record. Nor has he invoked his judicial office during any representations. Far from concealing his status as a judge, Respondent has, on numerous occasions, candidly informed the court and clients of his election. *See* ASOF ¶¶ 22, 31, 41, 170, 180. And Respondent actively transferred many of his cases to other counsel who replaced Respondent as the attorney of record in those matters. ASOF ¶¶ 10, 37, 64, 70, 121, 130. Respondent's conduct does not evince a "pervasive pattern of deception" warranting removal, *Matter of Intemann*, 1989 Annual Report at 89, but rather poor judgment that his activities constituted permissible "winding down" of his law practice.

C. Respondent's Good Faith Effort to Account for Client Funds While Winding Down His Practice is not Judicial Misconduct and Therefore Cannot Warrant Removal

Respondent has successfully disbursed all but $7,540 of client funds in his 30-year-old attorney escrow account after diligently poring over bank statements regarding cases of several hundred clients. ASOF ¶ 78. Respondent was unable to account for the remaining funds due to an unexplained accounting error, which is common (although regrettable) when attorneys wind down long-standing firms.

Indeed, the Rules of Professional Conduct specifically address this kind of situation and in accordance with these rules, if the owner of the remaining funds cannot be found, a lawyer must distribute the funds to the Lawyer's Fund for Client Protection for safeguarding and disbursement. 22 NYCRR Part 1200, Rule 1.15(f). To date, no client has complained about the failure to receive their funds or, to Respondent's knowledge, has been prejudiced by the retention of these remaining funds to determine whether they would be claimed. At this point the funds will be distributed as the Rule requires.

In any event, this discrepancy in Respondent's escrow account does not constitute **judicial** misconduct.

II. RESPONDENT'S CONDUCT VIS A VIS HIS PARALEGAL DOES NOT WARRANT REMOVAL

Respondent mistakenly believed that his paralegal, Janice Bar, was winding down his law practice through activities that fell within a paralegal's duties and was acting under Mr. Mossa or Mr. Shanahan's supervision.

A. Respondent Did Not Authorize or Have Direct Knowledge of Ms. Bar's Misconduct.

When Attorney Mossa took over the multiple cases following Respondent's election to the bench, Respondent expected Mossa to supervise Ms. Bar's activities. When asked about Ms. Bar's paralegal activities on his behalf, Mossa invoked his Fifth Amendment right and refused to answer.[2] ASOF ¶ 10. Upon information and belief, when asked about her legal activities, Ms. Bar similarly invoked her Fifth Amendment right and refused to answer. Respondent never authorized Ms. Bar to appear or present herself as an attorney.

[2] In civil cases, invocation of the Fifth Amendment may be grounds for drawing an adverse inference. *See, e.g.*, *People v. Richmond Capital Group LLC*, 246 A.D. 3d 585, 587 (1st Dep't. 2026); *Terra v. Dep't of Health*, 199 A.D. 2d 577, 579 (3d Dep't. 1993) (*same*). Here, that inference should be that Mossa is to blame for Bar's conduct. Similarly, Bar's invocation of her Fifth Amendment rights gives rise to an inference that she took it upon herself to act as counsel.

[redacted] [redacted] v. [redacted] [redacted]

While Respondent encouraged Ms. Bar's attendance at court appearances because of her knowledge of the firm's case, he *never* directed Ms. Bar to identify herself as an attorney. Mossa was present during Ms. Bar's appearance in the *[redacted]* case and Respondent reasonably believed that Mossa would appear as counsel and supervise her activities. ASOF ¶ 87. When Respondent learned that Ms. Bar had participated in a hearing and examination, he believed that she had done so in her capacity as a paralegal, under Mossa's supervision. ASOF ¶ 89.

Victor Lopez v. Saran K. Puri, *et al.*

Respondent mistakenly believed that Ms. Bar's activities to close the *Puri* case—which had been settled and only needed to be reduced to boilerplate paperwork—fell within the scope of her paralegal responsibilities. ASOF ¶ 41. Respondent never directed Ms. Bar to represent herself as an attorney to clients, opposing counsel, or the court. Nor was he aware that Ms. Bar was engaging in impermissible legal activities.

To the extent that Respondent knew of Ms. Bar's communications with clients or opposing counsel, he (and even clients) believed that she did so on his behalf to wind down his practice, not as an attorney herself. ASOF ¶¶ 92, 94, 99, 101, 102; Exhibit A63 (signing an email with "Joe"); Exhibit A64 (email sent by Mr. Puri addressed to "Mr. Kasper"); Exhibit A68 (same). Even opposing counsel believed that Ms. Bar was communicating on behalf of Respondent. ASOF ¶ 108 (representing to the court that "All exchanges were with Mr. Kasper."). However, at other times, Ms. Bar acted alone, discussing legal details with clients without including Respondent at all. ASOF ¶ 98 ("At no point did Mr. Puri discuss these issues with Respondent.").

Respondent did not realize that as part of her correspondence in *Puri* and other cases that Ms. Bar edited the template signature line that read "Attorneys at Law" (referring to the law practice) to "Attorney at Law," thus misrepresenting herself as an attorney, without Respondent's knowledge or authorization. *Compare* Exhibits A1-A37 *with* Exhibit A-49 at 2; Exhibit A-48 at 4. Ms. Bar often alternated between using "Attorneys at Law" and "Attorney at Law" in her signature line—sometimes in the same email chain. *See* Exhibits A48, A49. Respondent understandably missed this edit, not having examined every email for what should have been a template signature line.

Moreover, Respondent never directed Ms. Bar to represent herself as an attorney to the court but rather believed that she would appear as a paralegal to complete the ministerial duties required to close the case. Ms. Bar's arguable misrepresentations at the court conference in *Puri* were conducted without Respondent's knowledge or authorization. ASOF ¶¶ 104-108.

NYCTL 2019-A Trust et al. v. Columbus Club of South Ozone Park et al.

To the extent that Ms. Bar sent emails from Respondent's law office email account to opposing counsel and the court requesting adjournments, Respondent believed that she had done so as part of her ministerial duties as a paralegal until Attorney William Shanahan took over the case. ASOF ¶¶ 114, 120, 121, 122. And indeed, Shanahan took over representation of the *Columbus Club* matter and supervision of Ms. Bar. *See* Exhibit A83 (signing "Very truly yours, William Shanahan substituting for Joseph F Kasper"); Exhibit A84 (attaching a stipulation signed by "William D. Shanahan for Joseph F Kasper").

[redacted] [redacted] v. [redacted] [redacted]

Respondent did not know that Ms. Bar continued to use Respondent's NYSCEF User ID when filing materials in the [redacted] case, as well as other cases (even where the materials were signed by other attorneys). ASOF ¶¶ 39, 124, 131, 145, 172, 174, 183. Respondent regrets his error and now understands that Ms. Bar effectively engaged in the practice of law using Respondent's legal credentials.

To be clear, Respondent has never administered his own NYSCEF account during his time as an attorney or judge and did not understand that Ms. Bar was using *his* unique NYSCEF User ID to file documents with the Court after he became a judge. Respondent mistakenly believed that Ms. Bar was able to file documents with the Court as a paralegal, without needing a specific User ID at all.

P[redacted]. R[redacted] v. M[redacted] R[redacted]

When Respondent was approached by Mr. R[redacted] to represent him in a divorce proceeding, Respondent immediately declined, noting that he had become a judge. ASOF ¶ 138. However, Respondent referred him to Ms. Bar who he believed would connect him with Mossa while assisting as their paralegal. *Id.* Respondent *never* instructed Ms. Bar to represent Mr. R[redacted] herself. Nor did he authorize Ms. Bar's use of Respondent's NYSCEF account or credit card to file materials *pro se* on Mr. R[redacted]'s behalf. ASOF ¶¶ 139, 140. Respondent did not control Mr. R[redacted]'s case and had no knowledge of Mr. R[redacted]'s payments to Ms. Bar for her legal representation. ASOF ¶ 143.

1900 Capital Trust III v. Joann Manck et al.

As the Staff acknowledge, Attorney Mossa assumed representation of the *Manck* case, and Ms. Bar appeared in court and signed documents on Mossa's behalf. ASOF ¶¶ 145, 147, 150. Once Mossa assumed representation of the *Manck* case, Respondent reasonably believed that Mossa would supervise Ms. Bar. Respondent did not monitor or otherwise have knowledge of Ms. Bar's misconduct by appearing as an attorney in Court. ASOF ¶¶ 147-148, 150. Nor did he have any knowledge of Ms. Bar filing materials for Mossa using Respondent's NYSCEF User ID.

HSBC Bank v. Andres Gallo et al.

To the extent Ms. Bar filed documents in the *HSBC Bank* case after Respondent's election to the bench, these materials were signed by Attorney Mossa. *See* Exhibit A107. Respondent did not know that Ms. Bar frequently used Respondent's NYSCEF User ID when filing on behalf of Mossa. ASOF ¶ 152. Ms. Bar alternated between using her own credit card and Respondent's credit card to file these documents, without Respondent's knowledge or approval. ASOF ¶¶ 153, 155.

J[redacted] A[redacted] v. K[redacted] S[redacted]

As explained, *supra* Section I(A), Respondent's representation of J[redacted] A[redacted] in an uncontested divorce was completed before his election as a judge and Respondent sought to close the case by signing a Notice of Settlement with a Proposed Judgement. ASOF ¶¶ 158-60. Ms. Bar filed these documents under Respondent's belief that such actions were permissible in the scope of winding down his practice. *Id.*

Natalia Boiko v. Patrick Khan and Jaikarran Ramdeo

Respondent believed that Ms. Bar's actions with respect to the *Khan* case were ministerial tasks properly intended to wind down his law practice. Ms. Bar's conduct included sending emails (which Respondent did not authorize or approve) concerning a compliance conference and filing of a Notice of Entry and affidavits of service. ASOF ¶¶ 162-165. Attorney Shanahan assumed representation thereafter.

Jose Lema and Lisette Celleri v. Guazhco et al.

Respondent did not take any action in the *Lema* case after he was elected as a judge. Ms. Bar explained to the court that "Judge Kasper is no longer allowed to practice law," ASOF ¶ 171, but requested an adjournment, which Respondent believed was within her ministerial responsibilities to wind down his law practice. When Attorney Shanahan took over the case, Ms. Bar—without Respondent's knowledge or authorization—used Respondent's NYSCEF User ID and credit card to file documents signed by Shanahan. ASOF ¶¶ 172, 174. As the new attorney on the case, Shanahan should have supervised Ms. Bar's actions with respect to the *Lema* case.

B[redacted] U[redacted] v. D[redacted] U[redacted]

Respondent believed that Ms. Bar's filing of the stipulation of settlement in *U[redacted]* (which was completed and signed in 2019 before Respondent was elected to the bench) was properly within the scope of winding down Respondent's law practice. ASOF ¶ 177; Exhibit A125 (Respondent's signature dated March 2019). This belated filing of a stipulation executed in 2019 was the *only* action taken by Ms. Bar in the *U[redacted]* case.

Nationstar Mortgage v. D[redacted] U[redacted], et al.

While Respondent failed to update his office letterhead identifying himself as an "attorney at law," Respondent repeatedly instructed Ms. Bar to inform clients and opposing counsel of his election to the bench. Ms. Bar did so, explaining that she was "supervising the close or transfer of [Respondent's] files." ASOF ¶ 180. Indeed, this was all Respondent instructed Ms. Bar to do.

When Attorney Mossa took over the *Nationstar Mortgage* case, Ms. Bar continued to use Respondent's NYSCEF ID to file documents signed by and under the supervision of Mossa and without Respondent's knowledge or authorization. Respondent also did not know of or authorize

Ms. Bar's communications on Respondent's letterhead to misrepresent herself as an attorney to represent Mr. U[redacted]. ASOF ¶¶ 180-181. Notwithstanding that Mossa had replaced Respondent as counsel on the case, Ms. Bar continued to use Respondent's email address (without his knowledge or authorization) to send emails signed by Mossa. *Id.* ¶ 184.

T[redacted] S[redacted] v. R[redacted] S[redacted]

Even after clearly identifying Mossa as the new attorney in the S. v. S. case, Ms. Bar continued to use Respondent's law office email address to send and receive emails from opposing counsel, even signing on behalf of Respondent without his knowledge or authorization. ASOF ¶¶ 186, 187.

B. Respondent's Failure to Supervise Ms. Bar Does Not Warrant Removal

Respondent acknowledges his lack of supervision of his former paralegal, Ms. Bar, while winding down his law practice. Of course, he could not supervise her after taking the bench. But this does not warrant removal under Commission precedent. No client was prejudiced. No cases were compromised. The essence of the Staff's allegations concerning Ms. Bar is that she continued to use Respondent's NYSCEF credentials and credit card.

Again, removal is "the ultimate sanction" and should not be imposed for "poor judgment or even extremely poor judgment." *Matter of Mazzei*, 81 N.Y. 2d 568, 572 (1993). While Respondent does not deny responsibility for Ms. Bar's actions and his absence of supervision, Respondent lacked knowledge that Ms. Bar used his NYSCEF User ID to conduct her activities. *See In re Luis A. Gonzalez*, 2012 WL 1138660 (N.Y. Com. Jud. Cond., 2012) (dismissing charges involving staff conduct because there was no evidence the judge had personally authorized or had direct knowledge of the misconduct).

It must be emphasized that Respondent never *instructed* Ms. Bar to pose as an attorney or to represent to the Court, to any client, or to opposing counsel that she was an attorney. To the contrary, to the extent that Respondent knew of Ms. Bar's communications with clients or opposing counsel, he believed that she only did so on his behalf to permissibly wind down his law practice.

After he assumed the bench, Respondent expected Ms. Bar to primarily work under the supervision of Michael Mossa or William D. Shanahan, who had taken over many of Respondent's cases. ASOF ¶¶ 10, 37, 64, 70, 121, 130. In fact, when testifying at the Commission during its investigation of this matter, Mossa refused to answer invoking the Fifth Amendment when asked whether he permitted Ms. Bar to act as an attorney under his supervision. ASOF ¶ 10. Respondent should not be held responsible for the entirety of Ms. Bar's actions, especially those conducted without his knowledge or instruction and under the supervision of other attorneys.

III. RESPONDENT'S UNTIMELY FINANCIAL DISCLOSURE STATEMENTS DO NOT WARRANT REMOVAL

Respondent's untimely submission of financial disclosure statements does not warrant removal where his actions were due to inadvertent errors as a new judge and lack of computer skills. There was no active concealment, and Respondent made his best efforts to disclose all required information.

First, Respondent was unaware that he was required to file a disclosure statement in 2021 when he was a *candidat*e for judicial office and before he was elected. ASOF ¶ 191. When he was elected, he filed a financial disclosure statement that covered the 2021 calendar year. ASOF ¶ 193. He also filed an extension of time to file his tax return. ASOF ¶¶ 193. However, due to myriad health concerns and technological ineptitude, Respondent was not able to timely submit the supplemental materials by the extension deadline of October 22, 2022.

In fact, Respondent was on medical leave from August 2, 2022, to on or around January 2, 2023, due to [redacted] surgeries. Respondent's surgery was delayed from August to November 2022 due to infection making further extensions necessary. ASOF ¶ 194.

In November 2023, Respondent attempted to file a completed supplementary statement via email with the statement attached but, due to Respondent's lack of computer skills, the attachment containing the statement failed to be delivered with the email. ASOF ¶ 197.

Respondent never received a response to his email alerting him that the attachment was missing and he was unaware that the statement was not received. When Respondent was alerted to his error, he promptly corrected it with an email to the Ethics Commission in November 2024. ASOF ¶ 198. The Commission confirmed that it had received the statement. ASOF ¶ 199.

Respondent's untimely submissions were due to a misunderstanding of his obligations as a recently elected judge and unforeseen technological errors, not active concealment of his financial circumstances. And Respondent timely filed all subsequent financial disclosure statements. The Court of Appeals has reduced removal sanctions to admonitions where a judge's failure to submit a complete financial disclosure statement reflected "carelessness rather than deliberate concealment of material information" with "no evidence of intent to deceive." *In re Alessandro*, 13 N.Y. 3d 238, 249 (N.Y. 2009). Respondent's interactions with the Commission and prompt correction of his submission are far from an "intent to deceive" the Commission. *Alessandro*, 13 N.Y. 3d at 249.

IV. RESPONDENT HAS COOPERATED WITH THE COMMISSION IN GOOD FAITH

The Staff's allegations that Respondent has not cooperated with the Commission fail to appreciate his serious health concerns that have prevented his earnest attempts to provide the requisite responses to the Commission. More significantly, Staff charges him with breaches that are more fairly attributed to Staff misleading Respondent.

When the Commission initially inquired about funds remaining Respondent's attorney escrow accounts, Respondent sought extensions to respond, citing serious and upcoming medical procedures. ASOF ¶¶ 203-210. These included [redacted] surgeries, [redacted] and [redacted]. Respondent provided medical documentation to support his medical conditions as the basis for extensions. ASOF ¶¶ 204-208; Exhibits A147-148.

Then, when Respondent's attorney withdrew from representation, Respondent sought new counsel. ASOF ¶ 210.

While seeking new counsel, Respondent sought an additional extension from the Commission, explaining that he was scheduled for surgery [redacted] and a [redacted] procedure. At that time in late 2024, Respondent was still seeking new counsel. Exhibit A147. Respondent assured the Commission that he remained cooperative with the investigation, having already participated in four days of depositions, providing over twenty hours of testimony and hundreds of pages of voluntary disclosures. *Id*. The Staff denied that request. ASOF ¶ 213. Respondent had no counsel at that point and did not appeal Staff's denial to the Commission itself.

Shockingly, in its final correspondence to Respondent on January 9, 2025, the Staff stated that the Commission "**may** authorize a Formal Written Complaint" at its meeting on January 30, 2025. Exhibit A148 at 2. To Respondent, the clear reasonable implication of this statement was that charges would not be served before that date. Instead, on January 14, 2025, Staff "jumped the gun" and directed a Formal Written Complaint upon Respondent which was left at his residence while Respondent was awaiting [redacted] surgery followed by intensive care at a hospital. At that point, Respondent believed that any response to the Commission's October 7, 2024 letter was mooted by the Complaint, Respondent's Answer, and further proceedings in this matter.

Notwithstanding this sequence of events, Staff charged Respondent with noncooperation. ASOF ¶¶ 200-214.

In seeking extensions, Respondent has repeatedly been forthcoming with the Commission in explaining his serious medical restrictions, some of which had significant consequences threatening his life. Indeed, Respondent has worked diligently to explain the reasoning for the requested extensions, earnestly appealing to Staff and expressing his willingness to cooperate. ASOF ¶¶ 204-208; Exhibits A147-148.

His correspondence with the Commission and admissions of misconduct both in his Answer and in the Agreed Statement of Facts underscores his cooperation and desire to learn from his mistakes. *Matter of LaBelle*, 79 N.Y. 2d 350 (N.Y. 1992) (imposing a censure where, "[i]n the proceedings before the Commission, petitioner was forthright, cooperative and contrite, and he readily agreed to change those practices found to be improper"); *Matter of Allman*, 2006 NYSCJC Annual Report 83 (same). This is unlike the deceitful concealment, lack of candor, and non-cooperation that is the fulcrum of removal under Commission precedent. *See Matter of Perry*, 53 A.D. 2d 882 (2d Dep't 1976) (upholding removal from judicial office where a judge provided false testimony); *Matter of Mason*, 100 N.Y. 2d 56, 60 (2003) (warranting removal where the judge provided inconsistent and evasive explanations at different points during the Commission's proceedings).

V. MITIGATING FACTORS WEIGH IN FAVOR OF DISCIPLINE LESS EXTREME THAN REMOVAL

Respondent has a spotless reputation, did not profit from his misconduct, did not injure anyone, and has been cooperative with the Commission in the face of various health issues. Even accepting the Staff's allegations as true, there is *no* indication that Respondent has acted maliciously or with an intent to deceive or hide information from the Commission. To the contrary, Respondent has openly acknowledged his misconduct which was motivated primarily by compassion for his former clients and a desire to diligently close his law practice.

The New York Court of Appeals has often reduced removals to censures for far more corrosive misconduct. For example, in a case where the Commission removed a judge who abused the bail process and failed to set bail without legal justification, the Court of Appeals reversed the sanction of removal and imposed a censure, noting that "[n]othing in the record suggests that petitioner acted to advance his own interests over those of the defendants or that he was vindictive, biased, abusive or venal. To the extent that petitioner's actions were improper, they were motivated primarily by compassion for those whose problems do not belong in the criminal courts." *LaBelle*, 79 N.Y. 2d at 350; *see also Matter of Kelso*, 61 N.Y. 2d 82, 87-88 (1984) (reducing a removal sanction to a censure where the judge "did not profit by his misconduct and [] did not injure nor destroy anyone's rights or property.")

Similarly, in *Matter of Edwards*, the Court of Appeals reduced a removal to a censure where the judge had made improper *ex parte* contacts with another justice, identifying himself as a judge and inquiring about procedures to be followed in resolving his son's case. There, the Court held that the judge had honorably served as a justice, his conduct had not previously been called into question and that his judgment was clouded by his son's involvement. Moreover, the judge cooperated with the Commission and forthrightly admitted to the impropriety. The Court concluded that a single incident "fueled by extremely poor judgement, was an aberration, and that petitioner should be censured rather than removed from office." *Matter of Edwards*, 67 N.Y. 2d 153, 155 (N.Y. 1986).

Respondent's conduct is far from the misbehavior at issue in *LaBelle* and *Edwards.* Respondent has served on the bench for over four years and his reputation and commitment to serving the public has never been called into question.

Here, Respondent's judgment was clouded by his sense of loyalty to his former clients who were not able to afford additional legal assistance. He received no payment for assistance rendered on these cases after he assumed the bench. Respondent did not advance any of his own personal interests in performing legal work on behalf of former clients. And Respondent acknowledges his misconduct, agreeing to a 216- paragraph statement of facts primarily prepared by the Administrator.

This is not a case warranting removal, where a judge "conceal[ed] his improper activity," "intimidat[ed] a witness" and engaged in "deception [that] is antithetical to the role of a Judge who is sworn to uphold the law and seek the truth." *Matter of Myers*, 67 N.Y.2d 550, 554 (N.Y. 1986). Instead, Respondent has candidly admitted his mistakes and has committed to being more diligent going forward.

CONCLUSION

For the foregoing reasons, the Staff's sanction of removal should be denied. Respondent's misconduct warrants a private admonition or—at most—a public sanction less than removal.

Dated: May 22, 2026
New York, New York

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