

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

MICHAEL H. PLASS,

DETERMINATION

a Justice of the Hyde Park Town Court,
Dutchess County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Robin Chappelle Golston
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Honorable Peter H. Moulton
Marvin Ray Raskin, Esq.

APPEARANCES:

Robert H. Tembeckjian (Mark Levine, Eric Arnone and David Stromes
Of Counsel) for the Commission

Leventhal, Mullaney & Blinkoff, LLP (by Steven G. Leventhal) for
respondent

Respondent, Michael H. Plass, a Justice of the Hyde Park Town Court, Dutchess County, was served with a Formal Written Complaint (“Complaint”) dated July 15, 2024, containing one charge. The Complaint alleged that during respondent’s 2023 campaign for judicial office, he designed and distributed a campaign mailer that, *inter alia*, “‘pledge[d]’ to (A) ‘Keep drug dealers off our streets and out of our hotels,’ (B) ‘Incarcerate offenders and protect victims of domestic violence,’ and (C) ‘Assure repeat offenders are sentenced to the full extent of the law.’ In doing so, Respondent conveyed at least the appearance that he would be biased in favor of law enforcement rather than decide each matter on its own merits.” Respondent filed an Answer dated July 29, 2024.

By Order dated January 10, 2025, the Commission designated Steven E. North, Esq. as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on March 24 and 25, 2025 at the Commission’s New York City office. The referee filed a report dated July 30, 2025 which sustained the charge in the Complaint.

The parties submitted briefs to the Commission with respect to the referee’s report and the issue of sanction. Commission counsel and respondent each argued that the referee’s findings and conclusions be confirmed in part and disaffirmed in part. Commission counsel recommended the sanction of removal. Respondent acknowledged that he engaged in misconduct and argued that admonition was the

appropriate sanction. The Commission heard oral argument on September 18, 2025 and thereafter considered the record of the proceedings and made the following findings of fact.

1. Respondent has been a Justice of the Hyde Park Town Court, Dutchess County, since January 1, 2024. His term expires on December 31, 2027. He is not an attorney.

2. During the relevant time period, the Town of Hyde Park had two elected part-time Town Justices who served four-year terms. The Town Court has jurisdiction over such matters as preliminary hearings in felony matters, misdemeanor cases, Vehicle and Traffic Law (“VTL”) violations, small claims matters, summary eviction proceedings and zoning and ordinance violations.

3. One Hyde Park Town Justice must be on-call and within a two-hour distance from the courthouse on a 24-hour, seven days a week basis to handle, *inter alia*, arraignments, requests for orders of protection and search warrant applications.

4. Respondent is a native of Hyde Park, New York and graduated from the local high school in 1985. He has no further formal education. For approximately 35 years, respondent has been employed at his family’s limousine business.

5. Respondent became a part-time police officer in 2004. He resigned from the Hyde Park Police Department in approximately 2022.

6. In 2023, respondent began an election campaign for Town Justice in Hyde Park. He had never previously run for election to any public office.

7. In October 2023, respondent used a web-based program on his laptop computer to design a mailer in support of his campaign. Respondent's mailer contained, *inter alia*, the following statements:

As a Hyde Park Police Officer, I have seen first hand the problems Hyde Park Faces.

As your Town Justice, I pledge to:

- * Keep drug dealers off our streets and out of our hotels.
- * Incarcerate offenders and protect victims of domestic violence
- * Assure repeat offenders are sentenced to the full extent of the law

The mailer also contained the statement, "Together we can make a change in the safety of our community."

8. According to respondent, he created his mailer by looking at other election campaign mailers for non-judicial office. Respondent testified that at the time he distributed the mailer, he was unaware that there were specific rules that governed elections for judicial office, he made no effort to determine if such rules existed and he was unaware that the language in his mailer violated judicial ethics rules. He also acknowledged that his lack of such knowledge was no defense to his misconduct.

9. Respondent arranged for 3,000 copies of the mailer to be distributed to the Hyde Park community in furtherance of his election campaign.

10. In October 2023, shortly after the distribution of the mailer, respondent learned of an article on the front page of the local newspaper, the *Mid Hudson News*, which indicated that respondent had breached judicial campaign ethics.

11. After reading the article, respondent contacted the Commission and inquired whether a complaint had been filed against him. He was informed that there was no pending complaint. Based upon that information, at that time, respondent believed that the article was a ploy by a political adversary.

12. After learning of the *Mid Hudson News* article, respondent also produced and distributed a new mailer that did not contain any pledges. Respondent testified that he spent \$7,000 to send the new mailer without pledges to the same individuals who had been sent the original mailer.

13. In November 2023, respondent was elected as one of the two part-time Hyde Park Town Justices for a four-year term commencing January 1, 2024. Jean McArthur, who had served as a Hyde Park Town Justice since 2016, was re-elected for another four-year term. Incumbent Justice Joseph Petito was not re-elected.

14. Shortly after being elected, respondent attended a “Taking the Bench” course presented by the Office of Court Administration. Respondent testified that during an ethics presentation, the issue of improper pledges and promises came up.

According to respondent, he approached the lecturer during a break and told her, “I think I did this and what should I do?” Respondent was advised to send a copy of his mailer to the Advisory Committee on Judicial Ethics (“ACJE”).

15. In December 2023, while still at the “Taking the Bench” program, respondent sent his mailer to the ACJE seeking an opinion regarding the content of the mailer.

16. The ACJE reviewed the mailer and issued Advisory Opinion 23-158 dated December 14, 2023. By letter dated January 8, 2024, the advisory opinion was sent to respondent.

17. In its opinion and based on the evidence presented to it by respondent, the Advisory Committee noted that “[t]he present inquiry appears to be a matter of first impression for us” and “. . . conclude[d] that the inquirer's impartiality ‘might reasonably be questioned’ in all criminal cases and in all Vehicle and Traffic Law matters based on the apparent promises he/she made about incarceration and maximum sentencing.” The Advisory Committee opined, “We conclude the inquiring judge is disqualified during his/her entire judicial term from: (1) all criminal cases; (2) cases in any court involving allegations of domestic violence; (3) all Vehicle and Traffic Law matters; and (4) cases in any court involving purported drug dealers. Disqualification on this ground is not subject to remittal.”

18. After receiving Advisory Opinion 23-158, by letter dated January 15, 2024, respondent asked that the Advisory Committee reconsider its recommendation regarding disqualifications during his entire judicial term. The advisory opinion was not modified.

19. Since taking the bench, respondent has followed the guidance in Advisory Opinion 23-158 and has refrained from handling criminal cases, cases involving allegations of domestic violence, cases involving alleged drug dealers and VTL matters, with one exception described below.

20. For eight years prior to respondent's election, Justice McArthur and respondent's predecessor, Justice Petito, were the two Hyde Park Town Justices. During that period, the two Justices divided the caseload and shared the on-call coverage equally between them.

21. In 2024, Justice McArthur handled approximately 2,091 cases, and respondent handled approximately 171 cases.

22. Since respondent took the bench, Justice McArthur has been handling criminal cases, VTL cases, domestic violence and drug matters. She has also handled all the on-call responsibilities.¹

¹ Justice McArthur is significantly and adversely impacted by having to be on-call and physically available 24 hours, seven days a week, 365 days a year without being able to divide that responsibility with respondent.

23. Respondent has presided over civil matters including zoning issues, landlord-tenant matters and small claims. Respondent has also handled the administrative duties of the court, including the payroll and the court budget.

24. The referee found the hearing evidence reflected that, other than Justice McArthur's on-call responsibilities, the workload between respondent and Justice McArthur was "not excessively unbalanced."

25. According to respondent, there was a backlog of 180 VTL mailed-in tickets that had accumulated for five months from April to August 2024. In these matters, the individuals had pled guilty by mail to a plea offered by the town special prosecutor and were awaiting the imposition of a fine. The unresolved tickets resulted in complaints from individuals who needed final dispositions to, *inter alia*, complete job applications or join the military.

26. In order to address the complaints, respondent spent approximately three hours at home one day determining the sentences for these 180 VTL tickets by assessing the fines on the tickets using *Magill's Vehicle & Traffic Law Manual for Local Courts* as a guide and signing the tickets with the adjudication information. The individuals had already pled guilty by mail and respondent had no personal dealings with them. None appeared before him in court.

27. Respondent acknowledged that the language in his mailer was inappropriate and has apologized and expressed regret for his conduct.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.5(A)(4)(a), 100.5(A)(4)(d)(i) and 100.5(A)(4)(d)(ii) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause pursuant to Article VI, Section 22, subdivision (a) of the Constitution and Section 44, subdivision 1 of the Judiciary Law. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent’s misconduct is established.

Judges and judicial candidates are obligated to “respect and comply with the law” and to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” and must observe high standards of conduct “so that the integrity and independence of the judiciary will be preserved.” (Rules, §§100.1 and 100.2(A))² Sections 100.5(A)(4)(d)(i) and (ii) of the Rules provide: “A judge or a non-judge who is a candidate for public election to judicial office: . . shall not: (i) make pledges or promises of conduct in office that are

² Contrary to respondent’s argument, Sections 100.1 and 100.2(A) of the Rules apply to conduct by candidates for judicial office such as respondent. *See, Matter of Watson*, 2003 Ann Rep of NY Commn on Jud Conduct at 190, 195 (“As a candidate for judicial office, respondent had as much of an obligation as a sitting judge to know the applicable rules pertaining to elections and to ensure that his campaign statements were consistent with the standards articulated in the rules and in numerous Commission determinations.”) *aff’d in relevant part*, 100 NY2d 290 (2003); *Matter of Chan*, 2010 Ann Rep of NY Commn on Jud Conduct at 124, 127 (“Judicial candidates are held to higher standards of conduct than candidates for non-judicial office, and the campaign activities of judicial candidates are significantly circumscribed in order to maintain public confidence in the integrity and impartiality of the judicial system.”)

inconsistent with the impartial performance of the adjudicative duties of the office; (ii) with respect to cases, controversies or issues that are likely to come before the court, make commitments that are inconsistent with the impartial performance of the adjudicative duties of the office” Respondent acknowledged that he violated the Rules by creating and distributing a campaign mailer in which he made improper pledges regarding certain matters.

It is well-settled that judicial candidates are prohibited from making pledges or promises as to their actions if elected. “Campaign statements that single out a particular class of litigants for special treatment are inconsistent with judicial impartiality and the appearance of impartiality, which are essential to the role of a judge.” *Matter of McGrath*, 2011 Ann Rep of NY Commn on Jud Conduct at 120, 123. In *Matter of Watson*, 100 NY2d 290 (2003), the judge made repeated campaign statements that he would “work with the police”, that “the city must establish a reputation for zero tolerance” and “deter criminals before they come into the city.” *Id.* at 296-297. The Court held, “Petitioner's statements were not isolated or spontaneous remarks but were repeated throughout his campaign, both in campaign materials he generated and in his written statements to the media. When viewed as a whole, petitioner's campaign effectively promised that, if elected, he would aid law enforcement rather than apply the law neutrally and impartially in criminal cases.” *Id.* at 299. Here, respondent created and

distributed a mailer which, as he acknowledged, gave the impression that he would be biased in favor of law enforcement.

In determining the appropriate sanction, we note that this matter involved a single incident of campaign misconduct involving one mailer. Furthermore, respondent took immediate remedial action when he created and distributed a new mailer, which did not contain any pledges, to the individuals who had received the improper mailer.

After being elected and prior to taking the bench, respondent self-reported his conduct to a lecturer on judicial ethics and followed her recommendation to seek an advisory opinion from the Advisory Committee on Judicial Ethics. After receiving the advisory opinion, respondent decided to follow the broad disqualification recommendations contained in that opinion.³

In deciding the sanction in *Watson*, the Court of Appeals noted that the judge was an inexperienced judicial candidate. *Id.* at 303. Respondent was also an inexperienced judicial candidate. Furthermore, from the outset of the matter before the Commission, respondent acknowledged that he violated his ethical obligations.⁴ In his appearance before us, respondent expressed sincere remorse

³ Judiciary Law §212(2)(1)(iv) provides: “Actions of any judge or justice of the uniform court system taken in accordance with findings or recommendations contained in an advisory opinion issued by the panel shall be presumed proper for the purposes of any subsequent investigation by the state commission on judicial conduct.”

⁴ We do not find respondent’s handling of the 180 VTL matters to be an aggravating factor as

for his misconduct. 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 Governing Judicial Conduct.

By reason of the foregoing, the Commission determines that the appropriate disposition is admonition.

The Commission recognizes the Advisory Committee's advisory opinion on this matter. The Commission acknowledges respondent's diligent adherence to the recommendations in the opinion and his efforts to as equitably as possible manage the work of the Hyde Park Town Court's legal and administrative matters with his co-judge.

Our consideration of this matter is based upon a review of the full record which included a two-day evidentiary hearing at which respondent testified and was cross-examined, as well as oral argument before the Commission during which respondent made a statement and was questioned by Commission members. The record shows that the current situation is unworkable, particularly given the significant on-call responsibilities of respondent's co-judge. During his testimony, respondent committed to being fair and impartial.

Based on a review of the full matter, the Commission determines that

Commission Counsel argued. Respondent had no improper motive in handling the mailed-in VTL matters and no personal connection or interaction with the individuals who pled guilty by mail. When he acted regarding these VTL matters, respondent appears to have been trying to address complaints from community members about the backlog.

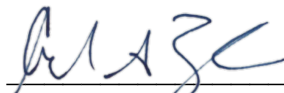
respondent may now preside over the full range of cases before the Hyde Park Town Court. Respondent, consistent with the rules on recusals, shall recuse on those cases where, in his discretion, it is appropriate.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Ms. Golston, Judge Miller, Ms. Moore, Judge Moulton and Mr. Raskin concur.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: December 11, 2025

A handwritten signature in blue ink, appearing to read 'C. Zahner', is written over a horizontal line.

Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct