

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

DETERMINATION

JUNE P. CHAPMAN,

a Justice of the Ellicottville Town Court,
Cattaraugus County.

THE COMMISSION:

Lawrence S. Goldman, Esq., Chair
Honorable Frances A. Ciardullo, Vice Chair
Stephen R. Coffey, Esq.
Colleen C. DiPirro
Richard D. Emery, Esq.
Raoul Lionel Felder, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

Robert H. Tembeckjian (John J. Postel, Of Counsel) for the
Commission

Honorable June P. Chapman, *pro se*

The respondent, June P. Chapman, a justice of the Ellicottville Town Court,
Cattaraugus County, was served with a Formal Written Complaint dated May 25, 2004,

containing three charges. Respondent filed an answer dated June 21, 2004.

On August 31, 2004, the administrator of the Commission and respondent entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On September 23, 2004, the Commission approved the agreed statement and made the following determination.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Ellicottville Town Court, Cattaraugus County since 1993. Respondent is not an attorney.
2. On or about January 1, 2001, Brian Stasiak and Hugh Jenkins were each charged with Criminal Mischief, 2nd Degree, and Criminal Possession Of Stolen Property, 5th Degree, in connection with damages caused to certain vehicles in the parking lot of a ski resort. Respondent arraigned the defendants and set \$1,500 bail for each defendant. Respondent committed the defendants to the custody of the Cattaraugus County Sheriff's Department in lieu of bail.
3. On or about January 4, 2001, the Sheriff's Department forwarded to respondent two checks, each in the amount of \$1,500, representing bail that had been posted on behalf of each defendant. Respondent received both bail checks.
4. On February 8, 2001, each defendant pleaded guilty to Criminal Mischief, 4th Degree, in satisfaction of all charges and was sentenced to community

service and restitution. At the conclusion of proceedings on February 8, 2001, each defendant requested the return of bail. Respondent did not return bail at that time, indicating that she was not then in possession of her court account checkbook.

5. On February 12, 2001, respondent deposited into her court account the bail check received from the Sheriff's Department concerning Mr. Stasiak.

6. In March 2001 and June 2001, Bryan Milks, the attorney for Mr. Stasiak, contacted respondent to request that she return the bail. He did not speak with respondent but left messages on her answering machine.

7. On June 22, 2001, Thomas Trace, the Cattaraugus County Assistant District Attorney assigned to respondent's court, sent a letter to respondent requesting that she return the bail for each defendant and advising respondent that only Mr. Stasiak's check had been deposited.

8. On September 20, 2001, Susan Stasiak, Mr. Stasiak's mother, called respondent's home and left a message on her answering machine requesting that respondent return the bail.

9. On October 2, 2001, Mr. Milks sent respondent a letter requesting the return of Mr. Stasiak's bail.

10. On October 23, 2001, respondent contacted the Sheriff's Department and indicated that she had not received bail for Mr. Stasiak or Mr. Jenkins and requested that such monies be forwarded to her.

11. On October 26, 2001, the Sheriff's Department again sent respondent two checks, each in the amount of \$1,500, for the defendants.

12. Respondent thereafter "voided" the check from the Sheriff's Department dated October 26, 2001, concerning Mr. Stasiak and returned it to the Sheriff's Department indicating that she had received the original check. On October 30, 2001, respondent deposited into her court account the check from the Sheriff's Department, dated October 26, 2001, concerning Mr. Jenkins.

13. On October 30, 2001, respondent returned \$1,500 bail to each defendant.

14. On November 24, 2003, respondent deposited into her court account the original check issued by the Sheriff's Department for Mr. Jenkins on January 4, 2001.

As to Charges II and III of the Formal Written Complaint:

15. From on or about January 8, 2001, to June 23, 2004, as set forth in Schedule A, respondent failed to deposit into her court account within 72 hours of receipt, \$6,750 in bail monies received from the Cattaraugus County Sheriff's Department for twelve defendants, notwithstanding her obligation to do so pursuant to Section 214.9(a) of the Uniform Civil Rules for the Justice Courts.

Supplemental Findings:

16. There is no indication that respondent used the funds at issue in Charges I through III for personal or otherwise inappropriate purposes. The failure to properly safeguard and deposit checks appears to have resulted from poor administration and record-keeping. With respect to the bail checks received from the Cattaraugus

County Sheriff's Department that respondent did not deposit in a timely manner, respondent had misplaced the checks among her court files.

17. As a result of the Commission's investigation, respondent has taken action to improve her record-keeping and depositing practices, with the result that she has now deposited all bail checks received from the Cattaraugus County Sheriff's Department and recognizes that any and all bail checks received must be deposited into her court account as required by Section 214.9(a) of the Uniform Civil Rules for the Justice Courts.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(A), 100.3(B)(1) and 100.3(C)(1) of the Rules Governing Judicial Conduct and should be disciplined for cause, pursuant to Article 6, Section 22 of the New York State Constitution and Section 44(1) of the Judiciary Law. Charges I through III of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Town and village justices are required to deposit all monies received in their judicial capacity "as soon as practicable," and no later than 72 hours after receipt (22 NYCRR §214.9[a]).

Respondent's delays in depositing bail checks clearly violated that requirement and resulted in significant delays in returning the monies to their rightful owners. Numerous checks were not deposited until months or even years after they were received. Respondent's poor record-keeping and mishandling of two \$1,500 checks required the issuance of duplicate checks (notwithstanding that one of the checks had

already been deposited), and respondent deposited both the duplicate check and the original check (35 months after receiving it) in the same matter. Although these problems appear to have resulted from inadequate record-keeping and there is no indication that the funds were used for inappropriate purposes, the mishandling of public funds by a judge is misconduct, even when not done for personal profit and even when all the funds are eventually accounted for. *Bartlett v. Flynn*, 50 AD2d 401, 404 (4th Dept 1976).

Depositing official monies promptly is essential to ensure public confidence in the integrity of the judiciary. The failure to deposit funds in a timely manner constitutes neglect of a judge's administrative duties and warrants public discipline (*see, e.g., Matter of Hamel*, 1991 Annual Report 61 [Commn on Jud Conduct]; *Matter of Jurhs*, 1984 Annual Report 109 [Commn on Jud Conduct]; Section 100.3[C][1] of the Rules Governing Judicial Conduct). Judicial responsibilities must take precedence over all the judge's other activities (Section 100.3[B][1] of the Rules).

Respondent's problems appear limited to the handling of bail funds, and all the mishandled monies were checks, not cash, and have now been deposited. We note further, in mitigation, that respondent has taken action to improve her record-keeping and depositing practices.

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

Mr. Goldman, Judge Ciardullo, Mr. Coffey, Ms. DiPirro, Mr. Emery, Mr. Felder, Judge Luciano, Judge Peters and Judge Ruderman concur.

Ms. Hernandez and Mr. Pope were not present.

CERTIFICATION

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

Dated: October 6, 2004



Lawrence S. Goldman, Esq., Chair
New York State
Commission on Judicial Conduct

SCHEDULE A

<u>Defendant</u>	<u>Date Bail Remitted To Court</u>	<u>Amount</u>	<u>Sheriff Department Check Number</u>	<u>Date of Deposit</u>
Jason Davenport	01/04/01	\$ 750	4315	11/24/03
Daniel Grice	01/04/01	750	4314	11/24/03
James Schwartz	01/04/01	750	4312	11/24/03
Linda Panoutsopoulos	07/05/01	1,000	4526	06/23/04
Mellisa Cass	05/16/02	50	4959	05/19/04
Michael Hebdon	06/07/02	750	4985	05/19/04
Commie Noah	08/29/02	550	5088	05/09/03
William Burton	10/20/02	500	5180	05/19/03
Paul Luczak	11/25/02	350	5227	05/19/03
John Evanston	01/03/03	700	5267	05/19/03
Paul Paulucci	03/03/03	400	5359	05/19/03
Michael Neri	06/02/03	200	5523	11/24/03