

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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

DETERMINATION

GLENN T. FIORE,

a Justice of the North Hudson Town  
Court, Essex County.

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THE COMMISSION:

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

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and Kathryn J. Blake,  
Of Counsel) for the Commission

John T. Wilkins for Respondent

The respondent, Glenn T. Fiore, a justice of the North Hudson Town Court,  
Essex County, was served with a Formal Written Complaint dated April 25, 2005,

containing four charges. A verified amended answer was filed dated June 14, 2005.

By motion dated May 24, 2005, the administrator of the Commission moved for summary determination as to Charge I of the Formal Written Complaint, pursuant to Section 7000.6(c) of the Commission's operating procedures and rules (22 NYCRR §7000.6[c]). Respondent opposed the motion by affirmations dated June 14, 2005, and the administrator filed a reply memorandum dated June 16, 2005. By Decision and Order dated June 24, 2005, the Commission granted the administrator's motion and determined that Charge I was sustained and that respondent's misconduct was established; Charges II through IV were held in abeyance. The Commission scheduled oral argument on the issue of sanctions for August 11, 2005.

By letter dated July 13, 2005, respondent's attorney advised the Commission that he did not know whether he would appear for oral argument but it was his understanding that respondent intended to appear. By letter dated July 14, 2005, Commission counsel advised the Commission that she intended to appear for oral argument but would waive argument if neither respondent nor his counsel appeared. Commission counsel filed a brief recommending the sanction of removal; respondent filed an affidavit dated July 18, 2005, asking the Commission to impose "a letter of caution or censure"; Commission counsel filed an affirmation in reply dated July 26, 2005. By letter dated August 9, 2005, Commission counsel advised the Commission that respondent had filed a letter of resignation with the Town Board dated August 8, 2005.

On August 11, 2005, neither respondent nor his counsel appeared for oral

argument, which was deemed waived. The Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent was a justice of the North Hudson Town Court, Essex County from 1996 until his resignation by letter dated August 8, 2005, effective August 11, 2005. He was the only justice of that court.

2. On March 10, 2005, respondent signed an employment contract with Kellogg, Root & Brown, a subsidiary of Halliburton Corporation (hereinafter “Kellogg”), declaring his intention to be employed in Iraq for one year.

3. On March 22, 2005, respondent departed the United States for Iraq to engage in private employment. Prior to his departure, respondent did not give the Town any notice that he would be leaving the United States for employment in Iraq.

4. Since his departure for Iraq in March 2005, respondent failed to hold court and otherwise perform his judicial duties.

5. Respondent returned from Iraq on July 14, 2005. By affidavit dated July 18, 2005, respondent stated that he was in Essex County, that he had resigned his employment with Kellogg and had “no plan or expectation” of returning to Kellogg’s employment, and that he was “ready, willing and able” to resume his judicial duties. Respondent also stated in the affidavit that during his absence his salary checks as town justice had been held by his wife and had not been cashed, and that he would reimburse the town for any monies paid to him while he was in Iraq.

6. By affidavit dated July 26, 2005, Robert Dobie, Supervisor of the Town of North Hudson, stated that, as of that date, respondent has not been present in court and has not resumed his judicial duties.

7. Because of respondent's unavailability and failure to perform his duties as a judge, the Town of North Hudson arranged for Schroon Town Justice Jean R. Strothenke to hear matters pending in the North Hudson Town Court. During respondent's absence, the Town of North Hudson paid for the services of both Judge Strothenke and her court clerk, in addition to paying respondent's salary.

8. By letter to the Town Board dated August 8, 2005, respondent stated that he was resigning as town justice, effective August 11, 2005, and planned to return to Iraq.

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) and 100.4(A)(3) of the Rules Governing Judicial Conduct and should be disciplined for cause, pursuant to Article 6, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established. Charges II through IV are held in abeyance.

The Commission has a constitutional mandate to discipline a judge for "cause," including "persistent failure to perform his duties" (NY Const. Art. 6 §22a). The

ethical rules further require that the judicial duties of a judge take precedence over all the judge's other activities (Section 100.3[A] of the Rules Governing Judicial Conduct).

Having left the United States in March pursuant to an employment contract while declaring his intention to be employed in Iraq for a year, respondent effectively abandoned his judicial position. The contract signed by respondent established that he would be residing overseas for a majority of the year. As such, having committed himself to full-time employment in a foreign country, respondent was clearly in no position to perform the duties of his office and was in violation of the ethical rules. Indeed, because of respondent's continued absence, his town, where he served as the sole judge, was constrained to secure the services of a judge from a neighboring town, at additional expense, while continuing to pay respondent's judicial salary.

Respondent's flagrant, voluntary abandonment of his judicial position in order to pursue other employment requires the sanction of removal. Respondent's return from Iraq after an absence of four months -- a return that appears to be only temporary -- does not vitiate our determination that he should be removed. His sworn statements on July 18 that he was "ready, willing and able" to resume his judicial duties and had "no plan or expectation" of returning to employment in Iraq stand in stark contrast to his resignation three weeks later and announcement that he intends to return to Iraq.

Respondent's apparent plan was to fulfill his judicial duties by having his clerk (his son) cover for him and to render judicial decisions when he returned for vacations. It would appear that his motive was to draw two salaries, one as a judge and

the other as a corporate employee in Iraq. In explaining his conduct, respondent has not indicated that he consulted with court administration, received permission to be absent for so long, or sought an advisory opinion as to his proposed absence. His conduct is inexcusable, and in no way justified by his professed patriotism or support for the war effort.

The sanction of removal bars a judge from holding judicial office in the future (NY Const Art 6 §22[h]). This determination is rendered pursuant to Judiciary Law Section 47 in view of respondent's resignation from the bench.

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

Mr. Goldman, Mr. Coffey, Ms. DiPirro, Mr. Emery, Mr. Felder, Ms. Hernandez, Judge Klonick, Judge Peters, Mr. Pope and Judge Ruderman concur.

Judge Luciano was not present.

#### CERTIFICATION

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

Dated: August 17, 2005

A handwritten signature in black ink, appearing to read 'Lawrence S. Goldman', written over a horizontal line.

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