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COURT OF JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: :  
 :  
 Judge Scott DiClaudio :  
 Court of Common Pleas : No. 3 JD 19  
 First Judicial District :  
 Philadelphia County :

BEFORE: Honorable Jazelle M. Jones, P.J., Honorable John H. Foradora, J., Honorable James C. Schwartzman, J., Honorable James J. Eisenhower, J., Honorable Ronald S. Marsico, J., Honorable Daniel D. McCaffery, J., Honorable Daniel E. Baranoski, J.

OPINION BY JUDGE EISENHOWER

FILED: December 1, 2020

**OPINION AND ORDER**

Judge Scott DiClaudio of the Court of Common Pleas of Philadelphia County is before the Court of Judicial Discipline charged with five counts of ethical misconduct arising out of (1) his failure to acknowledge large debts he owed on his Annual Statement of Financial Interest and (2) his failure to obey court orders relating to litigation concerning debts he owed.

The parties have agreed to Joint Stipulations of Fact which follow as our Findings of Fact.

**I. Findings of Fact**

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.

2. From January 2016, until the present time, Judge DiClaudio has served as a Judge of the Court of Common Pleas of Philadelphia County.
3. As a judicial officer, Judge DiClaudio was subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the Code of Judicial Conduct adopted by the Supreme Court of Pennsylvania.
4. Based on a Confidential Request for Investigation at JCB File No. 2019-096, the Board investigated the instant matter.
5. As a result of its investigation, and pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there was probable cause to file formal charges against Judge DiClaudio in this Court.
6. All of the above listed exhibits, which have been provided to Judge DiClaudio pursuant to C.J.D.R.P. No. 401(D)(1) and (E) are admissible and authentic.
7. On March 7, 2019, the Board issued a Letter of Counsel to Judge DiClaudio in JCB File No. 2017-693.
8. On March 25, 2019, Judge DiClaudio signed a Statement of Consent agreeing that the above referenced Letter of Counsel and any supporting facts for the Letter of Counsel could be used against him during any future proceedings in the Court of Judicial Discipline.

9. On August 20, 2015, when Judge DiClaudio was a judicial candidate, the Cynwyd Club (the Club), a private fitness and social club, filed a civil complaint against him in magisterial district court 38-2-04.
10. The civil complaint, filed to MJ-38204-CV-117-2015, alleged that then-judicial candidate DiClaudio owed the Club several thousand dollars in unpaid membership dues, purchases and services.
11. A hearing on the civil complaint was scheduled for September 18, 2015, in magisterial district court 38-2-04.
12. Then-judicial candidate DiClaudio failed to appear on September 18, 2015, at the hearing on the civil complaint.
13. On September 21, 2015, then-judicial candidate DiClaudio contacted magisterial district court office 38-2-04 to notify it of his intent to defend against the civil complaint.
14. A hearing on the civil complaint was re-scheduled for October 15, 2015.
15. On October 15, 2015, when then-judicial candidate DiClaudio failed to appear in magisterial district court office 38-2-04, judgment was entered in favor of the Club and against then-candidate DiClaudio in the amount of \$2,659.38.
16. On November 13, 2015, then-judicial candidate DiClaudio filed a Notice of Appeal in the Court of Common Pleas of Montgomery County from the October 15, 2015 judgment.

17. On his Notice of Appeal, then-judicial candidate DiClaudio indicated that his address was 1500 J.F.K. Blvd, Suite 900, Philadelphia, PA, 19102.
18. On December 3, 2015, the Club filed a civil complaint, Cynwd Club v. Scott DiClaudio, Civil Action No. 2015-29887, in the Montgomery County Court of Common Pleas alleging the same facts as those alleged in the magisterial district court.
19. On December 4, 2015, a copy of the civil complaint was sent via United States mail to then-judicial candidate DiClaudio at 1500 John F. Kennedy Boulevard, Philadelphia, PA, 19102 by counsel for the Club.
20. On April 4, 2016, after Judge DiClaudio failed to file an answer to the civil complaint, a default judgment was entered against Judge DiClaudio and in favor of the Club in the amount of \$3,767.67.
21. On April 4, 2016, a copy of the default judgment was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1203, Philadelphia, PA, 19107 by counsel for the Club.
22. On January 31, 2018, a formal discovery request was sent by the Club to Judge DiClaudio seeking production of documents and answers to interrogatories to aid in collection of the judgment.

23. On March 28, 2018, after Judge DiClaudio failed to respond to the Club's discovery request, the Club filed a Motion to Compel responses to its discovery request.
24. On March 29, 2018, a copy of the Motion to Compel was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
25. On April 19, 2018, a Rule to Show Cause was issued by the Court of Common Pleas of Montgomery County requiring Judge DiClaudio to show cause on or before May 21, 2018, why the Club's Motion to Compel should not be granted.
26. On May 9, 2018, a copy of the Rule to Show Cause was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
27. On May 22, 2018, after Judge DiClaudio failed to respond to the Rule to Show Cause, Senior Judge Arthur Tilson ordered Judge DiClaudio to respond to the Club's discovery request.
28. On June 4, 2018, a copy of the May 22, 2018 order of court was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.

29. Judge DiClaudio personally received a copy of the May 22, 2018 order of court.
30. Judge DiClaudio did not comply with the May 22, 2018 order of court.
31. On July 26, 2018, after Judge DiClaudio failed to obey the May 22, 2018 order of court, the Club filed a Motion for Sanctions.
32. On July 26, 2018, a copy of the Motion for Sanctions was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
33. Judge DiClaudio personally received a copy of the July 26, 2018 Motion for Sanctions.
34. A hearing on the Club's Motion for Sanctions was scheduled for September 27, 2018, in the Court of Common Pleas of Montgomery County.
35. On August 28, 2018, notice of the September 27, 2018 hearing was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
36. On September 27, 2018, Judge DiClaudio failed to appear in the Court of Common Pleas of Montgomery County.
37. On September 27, 2018, when Judge DiClaudio failed to appear in the Court of Common Pleas of Montgomery County, Senior Judge

Bernard Moore found Judge DiClaudio in contempt of the May 22, 2018 order, directed him to respond to the discovery request within ten days, and ordered him to pay the Club's attorney fees in the amount of \$1,000.

38. On October 15, 2018, a copy of the September 27, 2018 order of court was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
39. On October 15, 2018, counsel for the Club filed a Praecipe to Amend Address, requesting that the Prothonotary of Montgomery County change the address of the defendant, Judge DiClaudio, to 1301 Filbert Street, Criminal Justice Center, Room 1415, Philadelphia, PA, 19107.
40. On November 7, 2018, after Judge DiClaudio failed to obey the September 27, 2018 order of court, the Club filed a second Motion for Sanctions.
41. On November 8, 2018, a copy of the Club's second Motion for Sanctions was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
42. A hearing on the Club's second Motion for Sanctions was scheduled for February 7, 2019, in the Court of Common Pleas of Montgomery County.

43. On December 18, 2018, notice of the February 7, 2019 hearing was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by the Prothonotary of Montgomery County.
44. On December 18, 2018, notice of the February 7, 2019 hearing was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
45. On February 7, 2019, Judge DiClaudio failed to appear in the Court of Common Pleas of Montgomery County.
46. On February 7, 2019, when Judge DiClaudio failed to appear in the Court of Common Pleas of Montgomery County, Senior Judge Emanuel Bertin found Judge DiClaudio in contempt of the September 27, 2018 order, directed him to respond to the discovery request within ten days, pay the Club's attorney fees in the amount of \$1,000 per the September 27, 2018 order and \$2,500 for the February 7, 2019 matter.
47. On February 7, 2019, a copy of the February 7, 2019 order of court was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by the Prothonotary of Montgomery County.



48. On February 8, 2019, a copy of the February 7, 2019 order of court was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
49. Judge DiClaudio failed to obey the February 7, 2019 order of court.
50. On February 26, 2019, after Judge DiClaudio failed to obey the February 7, 2019 order of court, the Club filed a third Motion for Sanctions.
51. A hearing on the Club's third Motion for Sanctions was scheduled for April 11, 2019, in the Court of Common Pleas of Montgomery County.
52. On March 21, 2019, notice of the April 11, 2019 hearing was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by the Prothonotary of Montgomery County.
53. On March 29, 2019, notice of the April 11, 2019 hearing was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
54. On April 10, 2019, the hearing on the Club's third Motion for Sanctions was continued to a date to be determined.

55. On April 10, 2019, notice that the April 11, 2019 hearing on the Club's third Motion for Sanctions had been continued to a date to be determined was sent to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by the Prothonotary of Montgomery County.
56. On April 26, 2019, notice that the April 11, 2019 hearing on the Club's third Motion for Sanctions was rescheduled for May 30, 2019, was sent to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by the Prothonotary of Montgomery County.
57. On April 26, 2019, notice that the April 11, 2019 hearing on the Club's third Motion for Sanctions was rescheduled for May 30, 2019, was sent to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
58. On May 30, 2019, Judge DiClaudio failed to appear for the hearing on the Club's third Motion for Sanctions.
59. On May 30, 2019, when Judge DiClaudio failed to appear in the Court of Common Pleas of Montgomery County, Senior Judge Emanuel Bertin found Judge DiClaudio in contempt of the September 27, 2018 and February 7, 2019 orders, directed him to respond to the discovery request within ten days, pay the Club's

attorney fees in the amount of \$1,000 per the September 27, 2018 order, \$2,500 per the February 7, 2019 order and \$1,780 for the May 30, 2019 matter.

60. On May 31, 2019, a copy of the May 30, 2019 order of court was sent via the United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by the Prothonotary of Montgomery County.
61. On June 3, 2019, a copy of the May 30, 2019 order of court was sent via United States mail to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room 1415, Philadelphia, PA, 19107 by counsel for the Club.
62. Judge DiClaudio personally received the May 30, 2019 order of court.
63. On August 20, 2019, after Judge DiClaudio failed to obey the May 30, 2019 order of court, the Club filed a fourth Motion for Sanctions.
64. A hearing on the Club's fourth Motion for Sanctions was scheduled for October 24, 2019, in the Court of Common Pleas of Montgomery County.
65. On September 13, 2019, notice of the October 24, 2019 hearing on the Club's fourth Motion for Sanctions was sent to Judge DiClaudio's judicial office, Criminal Justice Center, 1301 Filbert Street, Room

1415, Philadelphia, PA, 19107 by the Prothonotary of Montgomery County.

66. Judge DiClaudio personally received notice of the October 24, 2019 hearing.
67. On October 24, 2019, Judge DiClaudio and counsel for the Club appeared in the Court of Common Pleas of Montgomery County before Senior Judge Emanuel Bertin.
68. During the October 24, 2019 hearing, Judge DiClaudio agreed to pay the sum of \$9,500 to the Club in two payments.
69. Pursuant to the agreement of the parties, on October 24, 2019, Judge Bertin issued an order that the case against Judge DiClaudio be discontinued upon payment of the sum of \$9,500 by Judge DiClaudio, on or before December 5, 2019.
70. On March 4, 2011, the Pennsylvania Department of Revenue filed a lien against Scott DiClaudio in the amount of \$7,536.10 and the lien remains unsatisfied.
71. On June 12, 2014, the Pennsylvania Department of Revenue filed a lien against Scott DiClaudio in the amount of \$10,174.97 and the lien remains unsatisfied.
72. On March 11, 2017, the Pennsylvania Department of Revenue filed a lien against Judge DiClaudio in the amount of \$16,317.24 and the lien remains unsatisfied.

73. On July 28, 2017, the Internal Revenue Service filed a lien against Judge DiClaudio in the amount of \$287,500.11 and the lien remains unsatisfied.
74. By order of the Supreme Court of Pennsylvania dated February 6, 2015, all Pennsylvania judicial officers are required to file an annual Statement of Financial Interest (SOFI) no later than May 1 of each year.
75. Question eight on the SOFI form requires judicial officers to provide a list of all creditors.
76. The instructions which accompany the SOFI form pertaining to question eight direct judicial officers to "list the creditor, address and interest rate of those debts which at any time during the prior year were over \$6,500."
77. On April 29, 2016, Judge DiClaudio submitted his annual SOFI pertaining to his 2015 financial interests.
78. Judge DiClaudio's April 29, 2016 SOFI did not list the Pennsylvania Department of Revenue as a creditor.
79. On April 26, 2017, Judge DiClaudio submitted his annual SOFI pertaining to his 2016 financial interest.
80. Judge DiClaudio's April 26, 2017 SOFI did not list the Pennsylvania Department of Revenue as a creditor.
81. On May 1, 2018, Judge DiClaudio submitted his annual SOFI pertaining to his 2017 financial interests.

82. Judge DiClaudio's May 1, 2018 SOFI did not list the Pennsylvania Department of Revenue or the Internal Revenue Service as a creditor.
83. On April 29, 2019, Judge DiClaudio submitted his annual SOFI pertaining to his 2018 financial interests.
84. Judge DiClaudio's April 29, 2019 SOFI did not list the Pennsylvania Department of Revenue or the Internal Revenue Service as a creditor.
85. Judge DiClaudio was aware of the existence of the Pennsylvania Department of Revenue liens filed on March 4, 2011, June 12, 2014, and March 11, 2017, when he submitted his annual SOFIs on April 29, 2016, April 26, 2017, May 1, 2018, and April 29, 2019.
86. Judge DiClaudio was aware of the existence of the Internal Revenue Service lien filed on June 28, 2017, when he submitted his annual SOFI on April 29, 2019.
87. Judge DiClaudio was under the impression (wrongly so) that the Pennsylvania Department of Revenue liens and the Internal Revenue Service lien did not have to be reported, and he has corrected that situation.
88. Retired Judge Benjamin Lerner would state he has known Judge DiClaudio for many years both as a friend, a lawyer who appeared before him, and as a judge. He knows people in the community who know Judge DiClaudio. Among those people, his reputation as

a truthful and honest person, as a peaceful and law-abiding person and as a knowledgeable, fair and hard-working judge is excellent. He would also testify Judge DiClaudio, as a judge, works extremely hard and has handled a massive case load since his election to the bench in a fair and just manner without any back logs.

89. Retired Judge Chris Wogan would state he has known Judge DiClaudio for many years both as a friend, a lawyer who appeared before him, and as a judge. He knows people in the community who know Judge DiClaudio. Among those people, his reputation as a truthful and honest person, as a peaceful and law-abiding person and as a knowledgeable, fair and hard-working judge is excellent. He would also testify Judge DiClaudio, as a judge, works extremely hard and has handled a massive load since his election to the bench in a fair and just manner without any back logs.

90. Attorney Brian McMonagle of the Philadelphia law firm of McMonagle, Perri, McHugh and Mischak would state he has known Judge DiClaudio for many years both as a lawyer and a judge. He would testify as to Judge DiClaudio's fairness and strong work ethic as a judge. He would note Judge DiClaudio's excellent knowledge in the law and his courtesy to litigants and attorneys. He would testify he knows people in the community who know Judge DiClaudio's and that among those people, Judge DiClaudio has an excellent reputation as a truthful and honest person, as a peaceful

and law-abiding person, and as a knowledgeable, fair and hardworking judge.

91. The custodian of records for the First Judicial District would present Exhibit 57, which is the Disposition Tracking Record for Judge Scott DiClaudio showing dispositions of 5,675 Common Pleas criminal cases from January 1, 2016 to August 24, 2020.
92. The parties stipulate to the authenticity and admissibility of all trial exhibits, attached to these Joint Stipulations of Fact in Lieu of Trial, as set forth below:

Trial Exhibits:

1. March 7, 2019 Letter of Counsel in JCB File No. 2017-693.
2. March 25, 2017 Statement of Consent in JCB File No. 2017-693.
3. Civil Complaint in the matter of Cynwyd Club v. Scott DiClaudio, filed to MJ-38204-CV-117-2015.
4. Civil Action Hearing Notice in the matter of Cynwyd Club v. Scott DiClaudio, filed to MJ-38204-CV-117-2015.
5. Civil: Intent to Defend notes of telephone call in the matter of Cynwyd Club v. Scott DiClaudio, filed to MJ-38204-CV-117-2015.
6. Rescheduling Notice in the matter of Cynwyd Club v. Scott DiClaudio, filed to MJ-38204-CV-117-2015.
7. Notice of Judgment/Transcript Civil in the matter of Cynwyd Club v. Scott DiClaudio, filed to MJ-38204-CV-117-2015.
8. Notice of Appeal and Civil Cover Sheet in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.



9. Civil Complaint in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
10. Affidavit of Service of Civil Complainant in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
11. Default Judgment in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
12. Affidavit of Service of Default Judgment in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
13. Motion to Compel in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
14. Certification of Service of Motion to Compel in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
15. Rule to Show Cause in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
16. Certification of Service of Rule to Show Cause in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
17. May 22, 2018 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
18. Certification of Service of May 22, 2018 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
19. Motion for Sanctions dated July 26, 2018 in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.

20. Certification of Service of Motion for Sanctions in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
21. Notice of September 27, 2018 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
22. Certification of Service of Notice of September 27, 2018 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
23. Transcript of the September 27, 2018 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
24. September 27, 2018 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
25. Certification of Service of September 27, 2018 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
26. Praecipe to Amend Address in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
27. Second Motion for Sanctions in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
28. Certification of Service of Second Motion for Sanctions in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
29. Notice of February 7, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
30. Certification of Service of Notice of February 7, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.

31. Transcript of the February 7, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
32. February 7, 2019 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
33. Certification of Service of February 7, 2019 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
34. Third Motion for Sanctions in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
35. Notice of April 11, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
36. Certification of Service of Notice of April 11, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
37. Notice of Continuance of April 11, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
38. Notice of May 30, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
39. Certification of Service of Notice of May 30, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
40. Transcript of the May 30, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
41. May 30, 2019 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.

42. Certification of Service of May 30, 2019 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
43. Fourth Motion for Sanctions in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
44. Notice of October 24, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
45. Transcript of the October 24, 2019 hearing in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
46. October 24, 2019 order of court in the matter of Cynwyd Club v. Scott DiClaudio, filed to Montgomery County Docket Number 2015-29887.
47. March 4, 2011 Pennsylvania Department of Revenue Lien against Scott DiClaudio.
48. June 12, 2014 Pennsylvania Department of Revenue Lien against Scott DiClaudio.
49. March 11, 2017 Pennsylvania Department of Revenue Lien against Scott DiClaudio.
50. July 28, 2017 Internal Revenue Service Lien against Scott DiClaudio.
51. February 6, 2015 order of Supreme Court of Pennsylvania.
52. Statement of Financial Interest form.
53. April 29, 2016 SOFI of Judge Scott DiClaudio.
54. April 26, 2017 SOFI of Judge Scott DiClaudio.
55. May 1, 2018 SOFI of Judge Scott DiClaudio.
56. April 29, 2019 SOFI of Judge Scott DiClaudio.

57. The Disposition Tracking Record for Judge Scott DiClaudio from January 1, 2016 to August 24, 2020 showing disposition of 5,675 Common Pleas cases.
58. The August 13, 2019, Notice of Full Investigation in Judicial Conduct Board File No. 2019-096.

## **II. Discussion**

### Cynwyd Club v. DiClaudio

On August 20, 2015, the Cynwyd Club (the Club) filed a civil complaint in Montgomery County against Judge DiClaudio alleging that he owed the Club several thousand dollars in membership dues. Although Judge DiClaudio notified the magisterial district court that he intended to defend the suit, he failed to appear for the trial, resulting in a judgment being entered against him in the amount of \$2,659.38. Respondent filed a Notice of Appeal in the Montgomery County Court of Common Pleas and the Club responded by filing its civil complaint in the Montgomery County Court of Common Pleas. Judge DiClaudio failed to file an Answer to the Complaint, resulting in a default judgment being entered against him in the amount of \$3,767.67.

Judge DiClaudio repeatedly failed to comply with discovery requests and orders to appear or respond. Specifically he:

- Failed to comply with a Rule to Show Cause why he should not be compelled to respond to the Club's discovery request;

- Failed to comply with the Montgomery County Court of Common Pleas May 22, 2018 order that he respond to the Club's discovery request;
- Failed to appear at a sanctions hearing on September 27, 2018, in the Montgomery County Court of Common Pleas resulting in a finding of contempt against him and an order to respond to the discovery request and pay the Club's attorney fees;
- Failed to comply with the Montgomery County Court of Common Pleas September 27, 2018 order;
- Failed to appear at a second sanctions hearing on February 7, 2019, in the Montgomery County Court of Common Pleas resulting in a second finding of contempt against him and an order to respond to the discovery request and pay the Club's attorney fees;
- Failed to comply with the Montgomery County Court of Common Pleas February 7, 2019 order;
- Failed to appear at a third sanctions hearing on May 30, 2019, in the Montgomery County Court of Common Pleas resulting in a third finding of contempt against him and an order to respond to the discovery request and pay the Club's attorney fees; and
- Failed to comply with the Montgomery County Court of Common Pleas May 30, 2019 order.

The Club filed repeated Motions for Sanctions and a hearing was scheduled for October 24, 2019. Judge DiClaudio appeared at the hearing and agreed to pay the sum of \$9,500 to the Club.

By repeatedly failing to obey court orders, Judge DiClaudio violated the law within the meaning of Canon 1, Rule 1.1 of the Code of Judicial Conduct which provides, "A judge shall comply with the law, including the Code of Judicial Conduct." In spite of the clear language of the rule, Judge DiClaudio violated the law by ignoring five court orders, resulting in findings of contempt on three occasions.

By repeatedly failing to obey court orders and consequently being held in contempt as described above, Judge DiClaudio violated Canon 1, Rule 1.2 of the Code of Judicial Conduct which requires judges to "avoid impropriety" where impropriety is defined as an act that "includes conduct that violates the law, court rules, or provisions of [the Code of Judicial Conduct]." Judge DiClaudio's repeated failure to appear in court and obey court orders as well as his violation of Rule 1.1 of the Code of Judicial Conduct constitutes multiple violations of Rule 1.2 of the Code of Judicial Conduct. Additionally, Rule 1.2 of the Code of Judicial Conduct requires judges to avoid the "appearance of impropriety." The meaning of "appearance of impropriety" is addressed in Comment 5 to Rule 1.2 which states, in relevant part:

The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects

adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

Judge DiClaudio's conduct of failing to comply with court orders, being held in contempt, and failing to appear in court, squarely meets the above definition of the appearance of impropriety and constitutes multiple violations of Rule 1.2.<sup>1</sup>

A finding of a violation of the Code of Judicial Conduct constitutes an "automatic, derivative, violation" of [Article V], Section 17(b) of our Constitution." *In re Jennings*, 192 A.3d 372, 379 (Pa.Ct.Jud.Disc. 2018). By violating Rule 1.1 and 1.2 of the Code of Judicial Conduct as described above, Judge DiClaudio has violated Article V, §17(b) of the Constitution of the Commonwealth of Pennsylvania.

Most importantly, by his conduct in the matter of *Cynwyd Club v. DiClaudio*, as described above, Judge DiClaudio violated the Disrepute Clause found in Article V, §18(d)(1) of the Constitution of the Commonwealth of Pennsylvania which states that a judge may be disciplined for conduct which "brings the judicial office into disrepute." Our Constitution notes that such conduct brings disrepute "whether or not the conduct occurred while acting in a judicial capacity or is prohibited

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<sup>1</sup> We note a similar pattern in the instant case. The complaint against Judge DiClaudio was filed on December 19, 2019. The judge failed to respond and did not return numerous phone calls, letters and emails from this Court advising him of his duty to respond. The filing of the Complaint and many of the entreaties to the Judge were before the advent of the Covid crisis. Judge DiClaudio finally responded to this Court on June 5, 2020, nearly six months after the filing of the Complaint.



by law; or conduct in violation of a canon or rule prescribed by the Supreme Court.”

This Court has stated that the judge’s conduct must be found to be “extreme” in order to find that the conduct brings the judicial office into disrepute. *In re Smith*, 687 A.2d 1229, 1238 (Pa.Ct.Jud.Disc. 1996). Additionally, conduct that is outside the reasonable expectation of the public has been determined to violate the Disrepute Clause. *In re Harrington*, 877 A.2d 570 (Pa.Ct.Jud.Disc. 2005). Furthermore, determinations of whether particular conduct violates the Disrepute Clause are to be made as if ‘the public’ knows about it.” *In re Berry*, 979 A.2d 991, 999-1000.

Applying the above principles for assessing whether judicial conduct violates the Disrepute Clause, in *In re Nocella*, 79 A.3d 766, (Pa.Ct.Jud.Disc. 2013), this Court held that the judge’s conduct was so extreme and outside the reasonable expectations of the public, that it violated the Disrepute Clause. *Id.* at 791. Nocella was charged with a violation of the Disrepute Clause based on conduct which led to Nocella being found in contempt of court for failure to obey two court orders and his failure to provide accurate responses to questions posed by the Philadelphia Bar Association regarding his judicial candidacy. The facts before this Court in *Nocella* related to his conduct while he was a judicial candidate. During that time, Nocella provided legal representation for a political action committee, The Appreciation Fund (the Fund). When the

Fund failed to file a campaign finance report, the Board of Ethics filed a civil suit against it. The Philadelphia Court of Common Pleas found against the Fund and ordered it to pay a penalty for failing to file the required report. Thereafter, the Fund, through the actions of its treasurer and on the advice of Nocella, did not comply with the court order to pay the penalty and file the report. Nocella failed to respond to discovery requests, and assisted the Fund in dissipating its assets in order to avoid paying the penalty. Eventually, Nocella, along with the Fund's treasurer were held in contempt for failing to abide by two orders of court which required the fund to pay a penalty for its failure to file a campaign finance report. In determining that Nocella's conduct, while a judicial candidate, had violated the Disrepute Clause, this Court stated:

In this case, both the truth and the authority of the [Philadelphia Court of Common Pleas] went unrecognized by [Nocella], so blatantly that he was held to be in contempt of the authority of that court.

We find that [Nocella's] conduct was so extreme that it brings the judicial office itself into disrepute, and also that the reasonable expectations of the public as to the behavior of judicial officers do not include the conduct of this Respondent described above.

In the case now before this Court, while a judicial candidate and sitting judge, Respondent ignored the authority of the Montgomery County Court of Common Pleas. Judge DiClaudio was repeatedly ordered to appear before the Montgomery County Court of Common Pleas, which he ignored. Judge DiClaudio was ordered to answer the Club's discovery

requests and pay its attorney fees, orders which he also ignored. Only after receiving a Notice of Full Investigation from the Board in August of 2019, which alerted Judge DiClaudio that the Board was reviewing his conduct in *Cynwyd Club v. DiClaudio*, did Judge DiClaudio actually appear before the Montgomery County Court of Common Pleas. Judge DiClaudio's disrespect for the Montgomery Court of Common Pleas was so extreme that, when he finally appeared in court on October 24, 2019, Judge Bertin took time to review the entire text of his February 7, 2019 order on the record and specifically explain his reason for paragraph number five of that order.<sup>2</sup>

Judge Bertin: Five. The Court anticipates there will be strict compliance with this order from defendant, because I'm hoping, as a fellow colleague and a member of the bench, that the defendant would give the Court, not me as an individual, the Court, the respect that it is entitled to, the same respect that I would assume defendant expects other litigants to give him.

(Exhibit 45, page 14-15)

Later in the hearing, Judge Bertin pointedly told Judge DiClaudio, "I want to know why you didn't give this Court the respect when you knew that hearings were here to appear or to file an answer to any of these things."

In *In re Harrington*, this Court determined that conduct was outside the reasonable expectations of the public and therefore violated the

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<sup>2</sup> Paragraph 5 of the February 7, 2019 order (Exhibit 32) stated, "The Court anticipates there will be strict compliance with the order from the defendant."

Disrepute Clause where the jurist failed to obey a parking ordinance and devised a scheme to avoid enforcement of the ordinance. This Court characterized Harrington's refusal to obey the parking ordinance as "exactly the type of conduct which causes an ordinary citizen to believe that judges-i.e., all judges-consider themselves to be 'above the law' – a privileged class." *Id.*, 877 A.2d at 577.

In the case now before this Court, Judge DiClaudio conducted himself in a manner that suggested he felt he was above the law. In fact he defied legally issued orders issued by a Court identical in power to his own. In this way his conduct struck at the very heart of the respect necessary for the rule of law. As the English legal theorist A.V.Dicey wrote, society conforms itself to the rule of law when "... (E)very man, whatever his rank or condition, is subject to the ordinary law ... and amendable to the jurisdiction of the ordinary courts." Dicey, A.V. *Introduction to the Study of The Law of The Constitution*, MacMillian and C. Ltd, (1885) (9<sup>th</sup> ed), (1945), at 188. Rather than conduct himself in the same way he would expect from litigants in his courtroom – obey court orders or suffer the consequences – Judge DiClaudio ignored the court orders with no apparent fear of consequences. Just as in the *Harrington* case, "[i]t is exactly this type of conduct which gives judges a 'bad name' and which brings the judicial office itself into disrepute." *Id.*

Judge DiClaudio's failure to obey court orders resulting in multiple findings of contempt was conduct which falls far below the reasonable

expectations of the public for judicial conduct and was so extreme that it brings the judicial office itself into disrepute and constitutes a violation of the Disrepute Clause of the Constitution of the Commonwealth of Pennsylvania.

#### Statements of Financial Interest

By order of the Supreme Court of Pennsylvania judges are required to file an annual Statement of Financial Interest (SOFI). Judges are required to list all creditors to whom they owe more than \$6,500 on their SOFIs. On March 4, 2011, June 12, 2014, and March 11, 2017, the Pennsylvania Department of Revenue filed tax liens in excess of \$6,500 against Judge DiClaudio. On July 28, 2017, the Internal Revenue Service filed a tax lien in excess of \$6,500 against Respondent. Judge DiClaudio failed to list the Pennsylvania Department of Revenue as a creditor on any of his annual SOFIs and failed to list the Internal Revenue Service as a creditor on his SOFIs for the years following the filing of its lien. On October 22, 2019, Judge DiClaudio filed amended SOFIs in order to add the Pennsylvania Department of Revenue and the Internal Revenue Service as creditors.

Judge DiClaudio's failure to list these creditors on four consecutive SOFIs constitutes a violation of Canon 1, Rule 1.1 of the Code of Judicial Conduct which requires judges to comply with the law and defines "law" as including "Supreme Court Rules and directives."

This Court determined that under certain circumstances, failure to accurately complete a SOFI "could constitute a violation of a rule prescribed by the Supreme Court." *In re Horgos*, 682 A.2d 447, 453 (Pa.Ct.Jud.Disc. 1996). In *Horgos*, the judge filed two incomplete SOFIs by failing to report income he received as the executor of an estate and by failing to report a bequest he received from the estate. This Court determined that Horgos had not violated the Code of Judicial Conduct or the Constitution by providing inaccurate information on his SOFIs noting that the record in this case reveals no evidence that would suggest that Judge Horgos, by receiving the commission and bequest and not reporting them, has adversely impacted the public trust. In reaching its determination, this Court adopted the following principles applicable to evaluating the ramifications of inaccurate SOFI information:

(1) a judicial officer who does not provide a complete and accurate response to a question on the Statement of Financial Interest form may be afforded an opportunity to revise the response, and (2) the facts surrounding a specific unreported gift and the degree to which the lack of completeness impacts the public trust should be considered in determining whether the questioned response constitutes misconduct by the jurist.

Id.

Applying the principles set forth in *Horgos* to the case now before this Court, Judge DiClaudio was afforded the opportunity to revise his SOFIs, although it took him two months from the time he was notified of the Board's investigation to take advantage of that opportunity. As to the second principle announced in the *Horgos* opinion, the facts

surrounding the inaccuracy reflect, at best, a careless attitude toward complying with a Supreme Court order. Moreover, by failing to pay his taxes and then failing to report the filing of liens against him due to this failure, Judge DiClaudio again displayed a troubling pattern of “snubbing his nose” at the system and placing himself above the law.

The facts of this case point to a finding that by failing to accurately complete his SOFIs filed in 2016 through 2019, Judge DiClaudio did not comply with the law within the meaning to the Code of Judicial Conduct and therefore, violated Rule 1.1 of the Code.

Insofar as Judge DiClaudio’s filing of inaccurate SOFIs constituted a violation of Rule 1.1 of the Code of Judicial Conduct, the conduct constitutes an “automatic, derivative, violation” of [Article V], Section 17(b) of our Constitution.” *In re Jennings*, 192 A.3d 379. By violating Rule 1.1 of the Code of Judicial Conduct as described above, Respondent has violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

### **III. Conclusions of Law**

1. The conduct described herein violated Rule 1.1 of the Code of Judicial Conduct.

2. The conduct described herein violated Rule 1.2 of the Code of Judicial Conduct.

3. The conduct described herein violated Article V, § 17(b) of the Constitution of Pennsylvania.

4. The conduct described herein violated Article V, § 18(d)(1) of the Constitution of Pennsylvania.

The parties may file objections within ten days. A date for a Sanction Hearing will then be set.