

**COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE**

RECEIVED AND FILED  
COURT OF  
JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

2016 SEP 30 P 4: 20

IN RE:

Joseph J. O'Neill :  
Former Municipal Court Judge :  
First Judicial District :  
Philadelphia County : 4 JD 2016

**TO: Joseph J. O'Neill**

**You are hereby notified that the Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, §§ 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.**

**You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.**

**You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this Complaint in accordance with C.J.D.R.P. No. 411.**

**You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.**

## **BOARD COMPLAINT**

AND NOW, this 30<sup>th</sup> day of September, 2016, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board), by and through the undersigned counsel, and files this Board Complaint against the Honorable Joseph J. O'Neill, former Judge of the Municipal Court of Philadelphia. The Board alleges that Judge O'Neill violated the Constitution of the Commonwealth of Pennsylvania, Article V, §§ 17(b) and 18(d)(1), delineated more specifically as follows:

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 November 15, 2007 until February 2, 2016, Judge O'Neill served as Judge of the Municipal Court of Philadelphia, Pennsylvania.

3. On or about September 24, 2014, Municipal Court President Judge Marsha Neifield verbally informed Judge O'Neill that he was reassigned to limited judicial duties until further notice.

4. As a result of the reassignment, Judge O'Neill continued to perform limited judicial duties at the Municipal Court until February 2, 2016.

5. As a Municipal Court Judge, Judge O'Neill was at all times relevant hereto, subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the Code of Judicial Conduct.

6. On February 2, 2016, this Court entered an Order at 4 JD 2015, granting the Board's Petition for Relief and suspending Judge O'Neill without pay.

**A. CRIMINAL CONDUCT**

7. On March 2, 2016, the federal government filed a Grand Jury Indictment, charging Judge O'Neill with two counts of making false statements to federal agents in violation of Title 18, United States Code, Section 1001, which occurred during the FBI's investigation of *ex parte* communications between Judge O'Neill and former Municipal Court Judge Joseph C. Waters about a Municipal Court case, *Houdini Lock and Safe Co. v. Donegal Investment Property Management Services*, SC-11-08-09-4192. A true and correct copy of the Grand Jury Indictment is attached hereto, incorporated by reference and marked as Board Exhibit 1.

8. On May 26, 2016, Judge O'Neill appeared at a hearing before U.S. District Court Judge Juan R. Sanchez of the Eastern District of Pennsylvania and entered a guilty plea to two counts of making false statements to federal agents in violation of 18 U.S.C. § 1001. A true and correct copy of the Guilty Plea Agreement, executed by the parties, is attached hereto, incorporated by reference and marked as Board Exhibit 2.

9. A violation of 18 U.S.C. § 1001 is a felony.

10. By letter dated May 31, 2016, Judge O'Neill submitted his resignation from his position as Municipal Court Judge to Governor Thomas Wolf, effective May 26, 2016.

11. On September 7, 2016, U.S. District Judge Sanchez imposed sentence upon Judge O'Neill as follows: four-years of probation for each of the two counts of making false statements to federal agents, to run concurrently, with the first six months to be served as unmonitored house arrest; 200 hours of community service,

and a \$5,000 fine. A true and correct copy of the Judgment and Sentencing Order is attached hereto, incorporated by reference and marked as Board Exhibit 3.

**B. CHARGES**

**Count 1**

12. By virtue of some, or all of the facts set forth in Part A, Judge O’Neill violated the Felony Conviction Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and is subject to discipline.

13. Article V, § 18(d)(1) provides in pertinent part:

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for conviction of a felony; . . . .

14. On May 26, 2016, Judge O’Neill entered a Guilty Plea Agreement with federal authorities to two counts of making false statements to federal agents.

15. On September 7, 2016, U.S. District Judge Sanchez imposed sentence upon Judge O’Neill to an aggregate of four-years of probation, 200 hours of community service and a \$5,000 fine.

16. As a result of the sentencing, Judge O’Neill was convicted of two felonies.

17. By all of his conduct as set forth above, Judge O’Neill violated the Felony Conviction Clause of Article V, § 18(d)(1).

**Count 2**

18. By virtue of some or all of the facts set forth in Part A, Judge O’Neill violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

19. Article V, § 17(b) provides in part:

Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court.

20. By virtue of his conviction for two felony offenses of making false statements to federal agents in violation of 18 U.S.C. § 1001 as set forth above, Judge O'Neill engaged in activity prohibited by law.

**21.** By all of the conduct set forth above, Judge O'Neill violated Article V, § 17(b).

**22. Count 3**

23. By virtue of some or all of the facts set forth in Part A, Judge O'Neill violated the Disrepute Clause of Article V, § 18(d)(1).

24. Article V, § 18(d)(1) provides in pertinent part:

A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which . . . brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity.

25. By his conduct of making false statements to federal agents for which he was convicted of two felony offenses, Judge O'Neill engaged in conduct so extreme as to bring disrepute upon the judicial office itself.

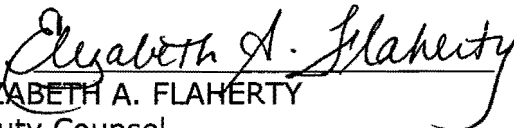
26. By all of the conduct set forth above, Judge O'Neill violated the Disrepute Clause of Article V, § 18(d)(1).

WHEREFORE, Joseph J. O'Neill, former Municipal Court Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI  
Chief Counsel

DATE: September 30, 2015

By:   
ELIZABETH A. FLAHERTY  
Deputy Counsel  
Pa. Supreme Court ID No. 205575

Judicial Conduct Board  
601 Commonwealth Avenue, Suite 3500  
Harrisburg, PA 17106  
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA**  
**COURT OF JUDICIAL DISCIPLINE**

IN RE:

Joseph J. O'Neill                   :  
Municipal Court Judge           :  
First Judicial District           :  
Philadelphia County             :       4 JD 2016

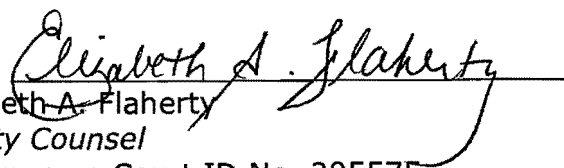
**VERIFICATION**

I, Elizabeth A. Flaherty, Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

ROBERT A. GRACI  
*Chief Counsel*

September 30, 2016

BY:   
Elizabeth A. Flaherty  
*Deputy Counsel*  
Pa. Supreme Court ID No. 205575

Judicial Conduct Board  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 3500  
P.O. Box 62525  
Harrisburg, PA 17106  
(717) 234-7911





**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO. 16-</b>
<b>v.</b>	:	<b>DATE FILED:</b>
<b>JOSEPH O'NEILL</b>	:	<b>VIOLATIONS:</b>
	:	<b>18 U.S.C. § 1001 (false statements - 2</b>
	:	<b>counts)</b>

**INDICTMENT**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

At all times relevant to this indictment:

**Relevant Persons and Entities**

1. The Philadelphia Municipal Court (Municipal Court) is one of the two courts that comprise the First Judicial District of Pennsylvania, the judicial body that administers the court system in Philadelphia, Pennsylvania. The Municipal Court has two divisions, the Criminal Division and the Civil Division. Under Pennsylvania law, the jurisdiction of the Municipal Court is limited. The Criminal Division conducts preliminary hearings for most adult felony offenses charged in Philadelphia and conducts trials of criminal offenses carrying maximum sentences of incarceration of five years or less. The Civil Division adjudicates civil disputes where the amount in controversy is \$12,000 or less for small claims cases, all landlord and tenant cases, and \$15,000 in real estate and school tax cases. There are judges who handle both criminal and civil cases before the Municipal Court.

2. Pennsylvania's Code of Judicial Conduct sets forth standards of conduct for judges in Pennsylvania. Philadelphia Municipal Court Judges were required to follow the Code of Judicial Conduct, including Rule 2.9 which provided: "A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter[.]"

3. Defendant JOSEPH O'NEILL was a Municipal Court Judge.

4. Joseph C. Waters, Jr. ("Waters"), charged elsewhere, was a Municipal Court Judge. He was initially appointed in July 2009 to fill a vacancy on the Court. To retain his position on the Court, Waters ran successfully in the November 2009 election for a seat on the Court.

5. Samuel Kuttab ("Kuttab"), charged elsewhere, was a politically active businessman who owned and managed various businesses in Philadelphia, including Donegal Investment Property Management Services ("Donegal"). Kuttab supported Waters in several efforts to obtain judicial positions within the First Judicial District. Kuttab used his political and business connections to support Waters' efforts to secure a July 2009 appointment to the Municipal Court. Kuttab later supported Waters' election to the Municipal Court by contributing money and actively recruiting other persons to give money or in-kind campaign contributions to Waters' campaign.

6. In return for the support he provided to Waters, Kuttab asked Waters to use his influence as a Municipal Court Judge in a civil small claims case pending in the Municipal Court.

7. Judge #1, known to the Grand Jury, was a Municipal Court Judge.

8. Houdini Lock and Safe Company ("Houdini") was a Pennsylvania corporation that provided security services, including burglar and fire alarm system set up and monitoring, throughout the Delaware Valley. Houdini provided alarm system monitoring to Donegal pursuant to a signed contract between the companies.

**Houdini Lock and Safe Co. v. Donegal Investment Property Management Services**  
**Small Claims Litigation**

9. On or about August 9, 2011, Houdini filed a small claims lawsuit against Donegal in Municipal Court. Houdini alleged in the lawsuit (hereafter referred to as "Houdini v. Donegal") that Donegal failed to pay for services it had received from Houdini under the terms of their contract. Houdini sought \$2,738.44 in damages, costs, and fees from Donegal.

10. The Municipal Court scheduled a hearing in the small claims case for September 30, 2011. Judge #1 was the Municipal Court judge scheduled to hear the trial.

**FBI Investigation of Houdini v. Donegal Small Claims Litigation**

11. The Federal Bureau of Investigation ("FBI") was conducting an investigation related to Waters' use of his judicial position to benefit Kuttab. As part of the investigation, the FBI obtained court orders permitting the FBI to monitor and record conversations occurring over telephones used by Waters and Kuttab. During the court-authorized monitoring of telephones used by Waters and Kuttab, FBI agents intercepted conversations related to the small claims case of Houdini v. Donegal.

12. On or about September 30, 2011, Waters contacted Judge #1 by telephone and requested favorable treatment for Kuttab and Donegal, as follows:

WATERS: I got something in front of you at 1 o'clock today.  
Judge #1: Okay, tell me, what is it?  
WATERS: The, the name's Donegan, okay.  
Judge #1: Okay.  
WATERS: Ah, it's ...has something to do with an alarm company. Sam

Kuttab ... will be there.  
Judge #1: Okay, and, uh, okay.  
WATERS: You know Sam Kuttab?  
Judge #1: And who do you need?  
WATERS: Uh, we, we, we got the, the, the defendant ... we got the defendant,  
Donegan, the name is.  
Judge #1: Oh, okay. Okay.  
WATERS: Alright.

13. On or about September 30, 2011, in the scheduled hearing in the Municipal Court before Judge #1, the attorney representing Donegal requested a continuance of the trial because he was not prepared for the hearing. Houdini opposed the request for a continuance and argued that the trial should proceed as scheduled. Judge #1 granted Donegal's request for a continuance of the hearing. The Municipal Court rescheduled the trial for November 16, 2011.

14. On September 30, 2011, Judge #1 notified Waters in a telephone conversation that he/she had continued the small claims case at the request of Donegal's attorney:

Judge #1: Good. I just wanted to let you know, um, I continued that matter.  
WATERS: Okay.  
Judge #1: But, um, cause the, the twelve year old who came for your client wasn't ready, they opposed it, but I marked it "must be tried" cause they were really ...  
WATERS: Okay.  
Judge #1: ... jumping up and down, but I did continue it and I gave them a long date so hopefully that's enough for them.  
WATERS: Okay, cool.  
Judge #1: Alright, I did what I could.  
WATERS: Alright. I, I know you do, uh, believe me and I appreciate it.

15. On or about November 16, 2011, Kuttab reminded Waters in a telephone conversation that the small claims trial against his company, Donegal, was scheduled for that afternoon.

16. On or about November 16, 2011, Waters contacted defendant JOSEPH O'NEILL by telephone and, in an ex parte conversation about the small claims case, requested favorable treatment for defendant Kuttab and Donegal (the defendant in the small claims civil action), advising defendant O'NEILL:

WATERS: Uh, you got a case this afternoon, Houdini v. Donegal Investments.  
All right uh--  
O'NEILL: Yeah? You got me.  
WATERS: Huh?  
O'NEILL: You got me? Do I?  
WATERS: Yeah, Donegal is Sam Kuttab. He's a friend of mine, so if you can take a hard look at it...  
O'NEILL: Who's your guy? The defendant?  
WATERS: Yeah, the defendant.  
O'NEILL: Okay.  
WATERS: All right?  
O'NEILL: No problem.  
.....  
O'NEILL: Diebold, right?  
WATERS: Na . . . Nnnn . . . My guy is Donegal. It's Sam Kuttab. He's a little Arab guy. He's Donegal Investment.  
O'NEILL: Okay. Good enough.  
WATERS: Okay. Thanks.

17. On or about November 16, 2011, the trial of Houdini v. Donegal commenced in the Municipal Court before defendant JOSEPH O'NEILL. Kuttab appeared and testified in Donegal's defense. At the conclusion of the evidence, as requested by Waters, defendant O'NEILL ruled in favor of Donegal and dismissed Houdini's claim for \$2,738.44 in damages. Based on this ruling, Houdini could not collect from Donegal its fees for services rendered to Donegal.

18. After the verdict, an attorney for Houdini notified Kuttab and Donegal that the owner of Houdini intended to exercise his right to appeal to the Philadelphia Court of Common Pleas defendant JOSEPH O'NEILL's decision in favor of Donegal. Houdini was

entitled under the rules governing appeals to a new trial before the Philadelphia Court of Common Pleas where he could achieve a verdict in his favor.

19. Knowing that Houdini could appeal, Waters facilitated settlement negotiations between Kuttab and an attorney for Houdini to avoid an appeal of defendant JOSEPH O'NEILL'S decision.

20. The parties then settled the litigation for \$600 without Houdini pursuing an appeal of defendant JOSEPH O'NEILL'S decision.

21. In brokering this settlement, Waters and Kuttab caused a check of \$400 (representing the \$600 settlement minus attorneys fees) to be mailed to Houdini. This settlement amount was substantially less money than Houdini could have collected through an appeal of defendant JOSEPH O'NEILL'S decision.

#### **FBI Interviews of Defendant JOSEPH O'NEILL**

22. On or about September 19, 2012, as part of the FBI's investigation into the circumstances surrounding the ex parte conversations involving Waters, Kuttab, and defendant JOSEPH O'NEILL, as well as other potential wrongdoing in the Philadelphia court system, the FBI conducted a series of interviews.

23. On or about September 19, 2012, the FBI interviewed defendant JOSEPH O'NEILL about his handling of the small claims case of Houdini v. Donegal. In response to the agents' inquiry whether anyone had contacted him in advance of the hearing and asked for a favor in Kuttab's case, defendant O'NEILL denied that any person had contacted him and asked for a favor, and added that he would have remembered if anyone had done so.

24. On or about September 19, 2012, immediately after the FBI agents' interview of defendant JOSEPH O'NEILL, FBI agents intercepted a telephone conversation of

Waters in which he learned the FBI had interviewed defendant O'NEILL. In a subsequent conversation, Waters, who had unsuccessfully tried to reach O'NEILL by telephone, indicated that he was going to speak with O'NEILL.

25. On or about September 19, 2012, defendant JOSEPH O'NEILL called one of the FBI agents who had interviewed him earlier in the day and left a voice message asking the agent to call him. On or about September 20, 2012, defendant O'NEILL left a second message for the FBI agent to call him.

26. On or about September 20, 2012, the FBI responded to defendant JOSEPH O'NEILL's request to speak and conducted a second interview of defendant O'NEILL. In response to the FBI's inquiry whether anyone contacted him in advance of the hearing to request him to dismiss the case against Donegal, O'NEILL responded that no one had asked him to "fix" the Donegal case, adding that if anyone had done so, he would want to punch him. In response to the FBI's inquiry if anyone had contacted him before he heard the case of Donegal and told him the defendant involved in the case was a friend, O'NEILL said that "did not happen."

27. On or about September 20, 2012, shortly after the FBI's second interview of defendant JOSEPH O'NEILL, FBI agents intercepted a telephone conversation of Waters in which his secretary told him to call O'NEILL and speak to him about the just-completed second FBI interview.

28. On or about September 19, 2012, in the Eastern District of Pennsylvania, defendant

**JOSEPH O'NEILL,**

in a matter within the jurisdiction of the Federal Bureau of Investigation, an agency of the United States Department of Justice, within the executive branch of the United States, knowingly and



willfully made materially false, fictitious, and fraudulent statements and representations in that defendant ONEILL, when asked by FBI agents if anyone had contacted him before he heard the small claims case of Houdini v. Donegal and asked for a favor, O'NEILL denied that any person had contacted him and asked for a favor, adding that he would have remembered if someone had done so, when, as O'NEILL well knew, his statements were false, fictitious, and fraudulent, because Philadelphia Municipal Court Judge Joseph Waters had called O'NEILL before the hearing, and in an ex parte conversation, asked a favor, i.e., to "take a hard look" at the case, explaining, "Yeah, Donegal is Sam Kuttab. He's a friend of mine, so if you can take a hard look at it."

In violation of Title 18, United States Code, Section 1001.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 27 of Count One are realleged and incorporated here.
2. On or about September 20, 2012, in the Eastern District of Pennsylvania, defendant

JOSEPH O'NEILL,

in a matter within the jurisdiction of the Federal Bureau of Investigation, an agency of the United States Department of Justice, within the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations in that (after defendant ONEILL told agents that nobody had asked him to fix a case and if somebody had done so he would want to punch him), FBI agents asked O'NEILL, if before the hearing, anyone had told him that the defendant in the Houdini case was a "friend." Defendant O'NEILL responded, that "did not happen," when, as defendant O'NEILL well knew, his statement was false, fictitious, and fraudulent, because Philadelphia Municipal Court Judge Joseph Waters had called O'NEILL before the hearing, and in an ex parte conversation, told defendant O'NEILL, "Yeah, Donegal is Sam Kuttab. He's a friend of mine, so if you can take a hard look at it."

In violation of Title 18, United States Code, Section 1001.

A TRUE BILL:

\_\_\_\_\_  
FOREPERSON

  
ZANE DAVID MEMEGER  
United States Attorney



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**            :  
  :  
                  **v.**                                   :  
**JOSEPH O'NEILL**                                :

**CRIMINAL NO. 16-070**

**GUILTY PLEA AGREEMENT**

Under Rule 11 of the Federal Rules of Criminal Procedure, the government, the defendant, and the defendant’s counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania.

1. The defendant agrees to plead guilty to the indictment charging him with two counts of false statements to federal agents, in violation of 18 U.S.C. § 1001, arising from the FBI’s investigation of the litigation surrounding the small claims case of Houdini Lock and Safe Co. v. Donegal Investment Property Management Services in the Philadelphia Municipal Court. The defendant further acknowledges his waiver of rights, as set forth in the attachment to this agreement.

2. At the time of sentencing, the government will:
- a. Make whatever sentencing recommendation as to imprisonment, fines, forfeiture, restitution, and other matters which the government deems appropriate.
  - b. Comment on the evidence and circumstances of the case; bring to the

Court's attention all facts relevant to sentencing including evidence relating to dismissed counts, if any, and to the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond factually to questions raised by the Court; correct factual inaccuracies in the presentence report or sentencing record; and rebut any statement of facts made by or on behalf of the defendant at sentencing.

- c. Nothing in this agreement shall limit the government in its comments in, and responses to, any post-sentencing matters.

3. The defendant understands, agrees, and has had explained to him by counsel that the Court may impose the following statutory maximum sentence: as to each of Counts One and Two, 5 years imprisonment, 3 years supervised release, a \$250,000 fine, and a \$100 special assessment. The total statutory maximum sentence is 10 years imprisonment, 3 years of supervised release, a \$500,000 fine, and a \$200 special assessment.

The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to two years per count of conviction. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

The defendant understands and agrees that the status of any professional license or certification held by the defendant is not protected by this agreement and is a matter solely within the discretion of the appropriate licensing, regulatory, and disciplinary authorities.

4. In order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the defendant agrees fully to disclose all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third party. Accordingly:

a. The defendant will promptly submit a completed financial statement to the U.S. Attorney's Office, in a form it provides and as it directs. The defendant promises that his financial statement and disclosures will be complete, accurate, and truthful.

b. The defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report on him in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

5. The defendant agrees to pay a fine as directed by the Court. The defendant further agrees that forfeiture, restitution, fine, assessment, tax, interest, or other payments in this case do not constitute extraordinary acceptance of responsibility or provide any basis to seek a downward departure from the applicable Sentencing Guideline range.

6. The defendant agrees to pay the special victims/witness assessment in the amount of \$200 before the time of sentencing and shall provide a receipt from the Clerk to the government before sentencing as proof of this payment.

7. The defendant may not withdraw his plea because the Court declines to follow any recommendation, motion, or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

8. Pursuant to USSG § 6B1.4, the parties enter into the following stipulations under the Sentencing Guidelines Manual. It is understood and agreed that: (1) the parties are free to argue (except as stated below) the applicability of any other provision of the Sentencing

Guidelines, including offense conduct, offense characteristics, criminal history, and adjustments (2) these stipulations are not binding upon either the Probation Office or the Court; and (3) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed:

- a. The parties agree and stipulate that under U.S.S.G. § 2B1.1(a)(1) the defendant's base offense level is 6.
- b. The parties agree and stipulate that under U.S.S.G. § 3B1.3, the offense level should be increased by 2 levels because the defendant abused a position of trust.
- c. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for his offense, making the defendant eligible for a 2-level downward adjustment under USSG § 3E1.1(a).
- d. The parties agree and stipulate that they will not seek either an upward or downward departure under the Sentencing Guidelines.

9. In exchange for the promises made by the government in entering this plea agreement, the defendant voluntarily and expressly waives all rights to appeal or collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law.

a. Notwithstanding the waiver provision above, if the government appeals from the sentence, then the defendant may file a direct appeal of his sentence.

b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal but may raise only a claim:

- (1) that the defendant's sentence on any count of conviction exceeds the statutory maximum for that count as set forth in paragraph 3 above;
- (2) challenging a decision by the sentencing judge to impose an "upward departure" pursuant to the Sentencing Guidelines;
- (3) challenging a decision by the sentencing judge to impose an "upward variance" above the final Sentencing Guideline range determined by the Court;
- (4) challenging a decision by the sentencing judge to use a Sentencing Guideline section other than U.S.S.G. § 2B1.1(a)(1) to calculate the base offense level applicable to this defendant.

If the defendant does appeal pursuant to this subparagraph, no issue may be presented by the defendant on direct appeal other than those described in this subparagraph.

c. Notwithstanding the waiver provision set forth in this paragraph, the defendant may file a petition for collateral relief under 28 U.S.C. § 2255, but may only raise a claim that the attorney who represented the defendant at the time of the execution of this agreement and the entry of the defendant's guilty plea provided constitutionally ineffective assistance during any part of the representation.

10. The defendant acknowledges that filing an appeal or any collateral attack waived in the preceding paragraph may constitute a breach of this plea agreement. The government promises that it will not declare a breach of the plea agreement on this basis based on the mere filing of a notice of appeal, but may do so only after the defendant or his counsel thereafter



states, either orally or in writing, a determination to proceed with an appeal or collateral attack raising an issue the government deems barred by the waiver. The parties acknowledge that the filing and pursuit of an appeal constitutes a breach only if a court determines that the appeal does not present an issue that a judge may reasonably conclude is permitted by an exception to the waiver stated in the preceding paragraph or constitutes a "miscarriage of justice" as that term is defined in applicable law.

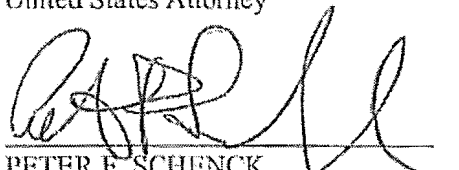
11. The defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A (Statutory Note), for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

12. The defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

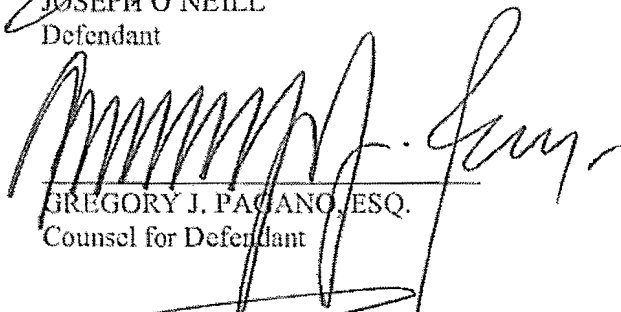
13. The defendant is satisfied with the legal representation provided by the defendant's lawyer; the defendant and this lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that he is guilty.

14. It is agreed that the parties' guilty plea agreement contains no additional promises, agreements, or understandings other than those set forth in this written guilty plea agreement, and that no additional promises, agreements, or understandings will be entered into unless in writing and signed by all parties.

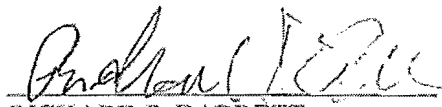
ZANE DAVID MEMEGER  
United States Attorney



PETER F. SCHENCK  
Chief, Criminal Division  
Assistant United States Attorney

  
JOSEPH O'NEILL  
Defendant

GREGORY J. PAGANO, ESQ.  
Counsel for Defendant



RICHARD P. BARRETT  
Chief, Public Corruption Section  
Assistant United States Attorney



AMATO SANITA, Esquire  
Counsel for Defendant



MICHELLE L. MORGAN  
Assistant United States Attorney

Date: 5/4/16

Attachment

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
v. : CRIMINAL NO. 16-070  
JOSEPH O'NEILL :

ACKNOWLEDGMENT OF RIGHTS

I hereby acknowledge that I have certain rights that I will be giving up by pleading guilty.

1. I understand that I do not have to plead guilty.
2. I may plead not guilty and insist upon a trial.
3. At that trial, I understand
  - a. that I would have the right to be tried by a jury that would be selected from the Eastern District of Pennsylvania and that along with my attorney, I would have the right to participate in the selection of that jury;
  - b. that the jury could only convict me if all 12 jurors agreed that they were convinced of my guilt beyond a reasonable doubt;
  - c. that the government would have the burden of proving my guilt beyond a reasonable doubt and that I would not have to prove anything;
  - d. that I would be presumed innocent unless and until such time as the jury was convinced beyond a reasonable doubt that the government had proven that I was guilty;
  - e. that I would have the right to be represented by a lawyer at this trial and at any appeal following the trial, and that if I could not afford to hire a lawyer, the court would appoint one for me free of charge;
  - f. that through my lawyer I would have the right to confront and cross-examine the witnesses against me;

g. that I could testify in my own defense if I wanted to and I could subpoena witnesses to testify in my defense if I wanted to; and

h. that I would not have to testify or otherwise present any defense if I did not want to and that if I did not present any evidence, the jury could not hold that against me.

4. I understand that if I plead guilty, there will be no trial and I would be giving up all of the rights listed above.

5. I understand that if I decide to enter a plea of guilty, the judge will ask me questions under oath and that if I lie in answering those questions, I could be prosecuted for the crime of perjury, that is, for lying under oath.

6. I understand that if I plead guilty, I have given up my right to appeal, except as set forth in the appellate waiver provisions of my plea agreement.

7. Understanding that I have all these rights and that by pleading guilty I am giving them up, I still wish to plead guilty.

8. I acknowledge that no one has promised me what sentence the Court will impose. I am aware and have discussed with my attorney that, at sentencing, the Court will calculate the Sentencing Guidelines range (including whether any departures apply), and then, in determining my sentence, will consider the Guideline range and all relevant policy statements in the Sentencing Guidelines, along with other sentencing factors set forth in 18 U.S.C. § 3553(a), including

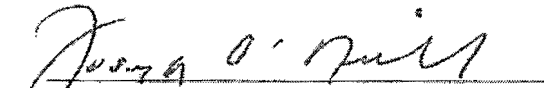
(1) the nature and circumstances of the offense and my personal history and characteristics;

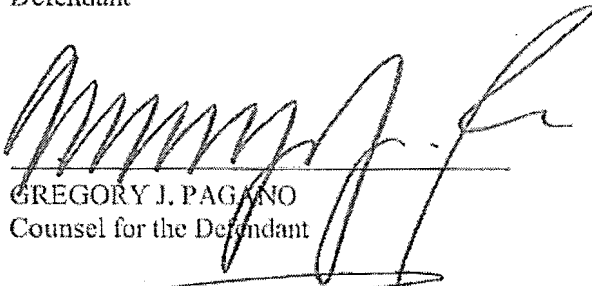
(2) the need for the sentence imposed-- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;


(3) the kinds of sentences available;

(4) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(5) the need to provide restitution to any victims of the offense.

  
JOSEPH O'NEILL  
Defendant

  
GREGORY J. PAGANO  
Counsel for the Defendant

  
AMATO SANITA  
Counsel for the Defendant

Dated: 5/4/10



UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

UNITED STATES OF AMERICA

v.

JOSEPH O'NEILL

JUDGMENT IN A CRIMINAL CASE

Case Number: DPAE2:16 CR00070-001

USM Number: 75137-066

Gregory J. Pagano, Esquire

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 1-2
- pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:1001	False statements	9/20/2012	1-2

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

CC: Rich Barrett, AUSA  
 Amato Santa, Esq.  
 Gregory Pagano, Esq.  
 mailboxes (2)  
 Probation (2)  
 Pretrial  
 Full  
 Fiscal

9/7/2016

Date of Imposition of Judgment

Signature of Judge

Juan R. Sanchez, US District Judge

Name and Title of Judge

9/26/16

Date

DEFENDANT: JOSEPH O'NEILL  
CASE NUMBER: DPAAE2:16 CR00070-001

## PROBATION

The defendant is hereby sentenced to probation for a term of :

Four years on each of Counts 1 and 2 to run concurrent to each other with the first six months on home confinement without location monitoring.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.



DEFENDANT: JOSEPH O'NEILL  
CASE NUMBER: DP AE2:16 CR00070-001

### **SPECIAL CONDITIONS OF SUPERVISION**

The first six months of the sentence shall be served on home confinement without location monitoring. The defendant is permitted to leave home for work, medical and legal purposes to be instructed by the Probation Office.

The defendant is to complete 200 hours of community service to be completed in the first year.

The defendant is excused from the mandatory drug testing provision; however, the defendant may be requested to submit to drug testing during the period of supervision if the probation office determines a risk of substance abuse.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall participate in a mental health program for evaluation and/or treatment and abide by the rules of any such program until satisfactorily discharged.

The defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

It is further ordered that the defendant shall pay to the United States a fine of \$5,000. The fine is due immediately and shall be paid in full within 30 days of sentencing.

The defendant shall pay to the United States a total special assessment of \$200, which shall be due immediately.

DEFENDANT: JOSEPH O'NEILL  
 CASE NUMBER: DPAE2:16 CR00070-001

**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$ 200.00 due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D,  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:  
 The fine is due immediately and shall be paid in full within 30 days of sentencing.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Joseph J. O'Neill  
Municipal Court Judge  
First Judicial District  
Philadelphia County

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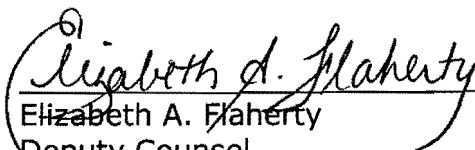
**PROOF OF SERVICE**

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on September 30 2016, a date and time-stamped copy of the *Board Complaint* was served by UPS Overnight Air to Judge O'Neill's counsel, Samuel C. Stretton, Esquire at the following address:

Samuel C. Stretton, Esquire  
301 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231

Respectfully submitted,

DATE: September 30, 2016

  
Elizabeth A. Flaherty  
Deputy Counsel  
Pa. Supreme Court ID No. 205575

Judicial Conduct Board  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 3500  
P.O. Box 62525  
Harrisburg, PA 17106  
(717) 234-7911