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In Re:

Dawn A. Segal  
Municipal Court Judge  
First Judicial District  
(Philadelphia County)

No.

Sanctions Hearing  
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Pages 1 through 23

Fifth Floor Courtroom  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
Harrisburg, Pennsylvania

Monday, November 21, 2016

Met, pursuant to notice, at 1:05 p.m.

BEFORE:

HONORABLE JACK A. PANELLA, President Judge  
HONORABLE DAVID J. BARTON, Judge  
HONORABLE JOHN J. SOROKO, Judge  
HONORABLE DAVID J. SHRAGER, Judge  
HONORABLE CARMELLA MULLEN, Judge

APPEARANCES:

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ALSO PRESENT:

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Dawn Segal

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EXHIBIT INDEXNUMBERFOR IDENTIFICATION IN EVIDENCE

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FORM 2

P R O C E E D I N G S

JUDGE PANELLA: Good afternoon everyone. Let the record reflect we're here for the sanctions hearing in re: Dawn Segal, No. 3 JD of 2015.

As I always like to do, let's first have everyone identified for the record. Here on behalf of the Judicial Conduct Board?

MS. FLAHERTY: Yes, good afternoon. My name is Elizabeth Ann Flaherty. I'm Deputy Counsel to the Judicial Conduct Board.

JUDGE PANELLA: And on behalf of Judge Segal?

MR. HALMOWITZ: Good afternoon, Your Honor. Stuart Halmowitz on behalf of Judge Segal. Judge Segal is sitting to my right.

JUDGE PANELLA: Thank you very much. Let the record reflect that Joseph Metz, Chief Counsel for the Court of Judicial Discipline, is also present.

Again, as I always like to do at hearings, let's go briefly through the procedural history of the case. A complaint was filed on March 11 of 2015. A Petition for Interim Suspension was filed the same day, March 11, 2015. A trial was held on January 28 of 2016. An Order was issued by this Court on February 2, 2016, which suspended the Respondent without pay.

An Opinion and Order was filed on July 21 of

2016, adjudicating the Respondent in violation of certain Canons and the Constitution as follows: at Count 1, it was agreed that the Board had proven by clear and convincing evidence that the Respondent had violated Canon 2B; at Count 2, that the Respondent had violated Canon 3A(4); at Count 3, that the Respondent had violated Canon 3B(3); at Count 4, that the Respondent had violated Canon 3C(1); at Count 5, that the Respondent had violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania; at Count 6, that the Respondent had violated the Administration of Justice Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania; and at Count 7, that the Board had proven by clear and convincing evidence that the Respondent had violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of Pennsylvania.

The Respondent filed objections to the Opinion and Order of July 21, 2016. I believe it was filed on August 1 of this year. The Respondent filed a Petition to Supplement the Record on September 14, 2016. The Judicial Conduct Board forwarded us a correspondence, I believe, stating that they had no objection to the Respondent's Petition to Supplement. I believe that no objection letter was sent on September 20 of 2016.

An Opinion was filed on the Post-Verdict Objections on September 23, 2016, which denied and dismissed

1 all of the objections.

2 First turning to the Judicial Conduct Board,  
3 they sent us a letter dated October 25 of this year that  
4 they do not intend to present any testimony at the sanctions  
5 hearing.

6 Attorney Flaherty, is that still your plan?

7 MS. FLAHERTY: Correct.

8 JUDGE PANELLA: Do you wish, before we turn to  
9 the Respondent, to make any opening statement to us?

10 MS. FLAHERTY: Yes, briefly.

11 Your Honors, this Court correctly decided the  
12 Findings of Fact and Conclusions of Law in this case, and  
13 the Board relies on this Court's July 21, 2016 Opinion. The  
14 Board does not recommend a specific sanction but instead  
15 leaves that decision to the discretion of this Court.

16 Thank you.

17 JUDGE PANELLA: Thank you very much.

18 Let's turn to Judge Segal's side. We did  
19 receive a letter I believe dated November 8 of this year  
20 that said you were requesting that we incorporate all of the  
21 character testimony that was previously presented, and we  
22 have the transcripts of that. We'll hear your opening  
23 statement and then anything else on behalf of the  
24 Respondent.

25 MR. HALMOWITZ: Just two things, if I may,

1 Your Honor. First, I would ask the Court to note that the  
2 Court did grant our request to supplement the record.

3 JUDGE PANELLA: Yes, we did.

4 MR. HALMOWITZ: I would just like that to be  
5 noted. Also, we did file a pre-trial brief on Friday, and  
6 I've been told by Mr. Metz that the Court has received it  
7 and the Court is aware of it.

8 JUDGE PANELLA: We have.

9 MR. HALMOWITZ: Other than that, I will make no  
10 further opening statement. I would like to present the  
11 testimony of Judge Segal, if that's permissible.

12 JUDGE PANELLA: Just give us one moment.

13 (Pause.)

14 JUDGE PANELLA: Very much so. You may proceed.

15 MR. HALMOWITZ: I call Judge Segal.

16 Whereupon,

17 DAWN A. SEGAL,

18 having been duly sworn, testified as follows:

19 MR. HALMOWITZ: May I?

20 JUDGE PANELLA: Yes, you may.

21 DIRECT EXAMINATION

22 BY MR. HALMOWITZ:

23 Q. Judge Segal, I know you've been thinking for a long  
24 time about what you wanted to say to this Court on the issue  
25 of sanctions. I know you brought some notes with you. I



1 ask you please to address the Court initially about what you  
2 wish to say about sanctions.

3 A. Thank you.

4 Good afternoon again. I do apologize; I planned on  
5 speaking to you, but I've been thinking so much about this  
6 matter that I just took notes.

7 I do appreciate the chance to address this Court  
8 again. Although I have agreed with Ms. Flaherty that I was  
9 wrong way back when to not stop former Judge Waters in his  
10 call right there, to recuse myself from the case before me  
11 and immediately report his conduct, I stand before you to go  
12 one step further.

13 I have read the Opinions of this Court and I have  
14 reflected yet further about my conduct in these cases, and I  
15 realize that it's not just about making what I thought were  
16 the right decisions in these cases, it was my failure to  
17 protect the process itself that I wasn't understanding, and  
18 I was pointing out to this Court, well, I made the  
19 decisions, I made the right decisions, look at the  
20 statistics, but we shouldn't have even gotten there. I  
21 should have stopped it right there; I should have stopped  
22 his call and said, "Stop calling" and reported him, and I  
23 didn't do it. I should have done that immediately.

24 I understand this Court's Opinion in saying  
25 "Stop right here. We don't care about the ultimate outcome.

1 You didn't protect the process." I now understand in a way  
2 that I hadn't fully before that it's a judge's job to  
3 protect the process itself, not just to make the right  
4 decisions, but that's so no one could come back and say,  
5 "Why did you decide what you did?" And I didn't do that.  
6 That's a failure of mine, and I apologize to this Court, and  
7 I understand I was wrong in not doing that. Had I done that  
8 the very first time that Waters called me and said, "Stop,"  
9 and reported him, we wouldn't have gone any further. There  
10 wouldn't have been these three cases. I understand that in  
11 my -- in whatever we filed, I understand that's not a  
12 defense to that.

13 So I wanted to stand before the Court before we  
14 go any further and say I was wrong, I should have protected  
15 the process. I know that I reflected poorly on my court and  
16 other judges by not protecting the process. Regardless of  
17 whether I thought I was doing the right thing or not, I  
18 didn't do that.

19 I feel awful about the negative light that I've  
20 portrayed my colleagues, who are trying to give justice and  
21 do the right thing, by not protecting the process. I feel  
22 awful about that. I stand before you to say that. My  
23 finding myself in a situation that I never expected to be in  
24 is not an excuse for not protecting the process, and I did  
25 not do that. I stand before you to assure you, I know it's

1 late, but I would never ever again engage in any ex parte  
2 conversations, I would report anyone immediately who  
3 approached me, and I would recuse myself in any cases. I  
4 did not do that in these cases. I will do that going  
5 forward, and I will do it immediately.

6 Excuse me; I'm sorry, I'm just nervous.

7 Finally, I understand that a sanction is  
8 appropriate, but I ask that you allow me to return to the  
9 bench since I believe that I am so much more than what these  
10 three cases reflect.

11 If I may, specifically, over the five years that  
12 I was a judge, other than these cases -- and I know it's a  
13 huge "other" -- I volunteered to preside and I did preside  
14 in diversionary court in municipal court. Those courts  
15 provided treatment for addicts and people who needed mental  
16 health treatment and weren't getting it, and that was the  
17 root of their crime.

18 I volunteered to sit there so I could encourage  
19 those people to deal with their addictions and get the  
20 treatment that they needed and root for them, and if the  
21 people were able to successfully complete their treatment, I  
22 think I was their first cheerleader, which was wonderful; I  
23 believe in second chances and I was able to offer that to  
24 people. Alternatively, if they didn't get the treatment  
25 they needed, I would kick them out of the court and they

1 would go face justice in our Criminal Justice Center.

2 I volunteered to preside and did preside in  
3 domestic violence cases, which were very unpopular  
4 assignments in my court due to the subject matter. I felt  
5 that it was very important that the complainants and the  
6 defendants have a woman judge presiding in those matters.

7 I closely supervised those defendants whom I had  
8 convicted on my list. If they reoffended, I brought them  
9 back before me soon. If they were an addict, I ordered them  
10 to get treatment, if they needed education, I tried to get  
11 to the root of what was going on, and if not, I resentenced  
12 them, but I followed them closely.

13 Every week I had high school students in  
14 Philadelphia who I mentored who were interested in the  
15 criminal justice system. I served on the Education  
16 Committee of municipal court, coming up with topics to  
17 educate my colleagues on, matters of legal concerns and  
18 societal concerns relating to the defendants who appeared  
19 before me and before our court.

20 I participated in the Pro Bono Committee for  
21 municipal court, encouraging young lawyers to perform acts  
22 of pro bono, to talk about how important it was and to  
23 recognize those attorneys who did pro bono work in municipal  
24 court.

25 I participated in the First Judicial District's

1 Criminal Inn of Courts. We had law students, judges and  
2 lawyers all participating in educating other people on the  
3 aspects of criminal law, and I actually lead a group.

4 Finally, I volunteered and was chosen by Judge  
5 Ross to help review the thousands of petitions that were  
6 filed in our civil court, which was one of the matters  
7 before this Court.

8 During the two years in which I have not sat as  
9 a judge, prior to my suspension I researched and I prepared  
10 a lengthy summary and update of criminal law issues and  
11 concerns for my colleagues. Once I was suspended, I started  
12 providing college guidance for Philadelphia public school  
13 students, working one-on-one with them. I volunteered for  
14 Habit for Humanity. I worked for a non-partisan group  
15 assisting new immigrants in this country, and I cared for my  
16 best friend, who is dying, and I took care of her family.

17 Before I went on the bench, I was involved with  
18 Woman Organized Against Rape, ultimately being chair of  
19 their board for five years. I volunteered at Women Against  
20 Abuse. I was a member of my synagogue for five to seven  
21 years, and I volunteered for my kids' schools. And I was a  
22 Judge Pro Tempore for the Court of Common Pleas.

23 I say all of this not to paint myself in this  
24 amazing light or just to praise myself but to give this  
25 Court a more complete picture of the person that I am and

1 the values that I hold and the judge that I have tried to  
2 be.

3 You heard 11 people come in and testify about  
4 the kind of judge I was and how I try to treat people with  
5 respect and with fairness. Essentially, I believe that my  
6 job is to try to make a difference in people's lives for the  
7 better, and I've tried to do that.

8 I ask this Court to allow me to continue on this  
9 path, understanding that I have been incredibly humbled by  
10 and I'm so remorseful about this experience, but ask if I  
11 can go forward and do better.

12 Thank you very much -- oh, I'm so sorry; you  
13 want to ask me questions.

14 MR. HALMOWITZ: I do have a few follow-up  
15 questions.

16 JUDGE PANELLA: Judge Segal, take a deep breath.

17 THE WITNESS: Sorry. I went too fast.

18 JUDGE PANELLA: That's okay. You're allowed to  
19 be nervous today.

20 THE WITNESS: I am nervous.

21 JUDGE PANELLA: I want to tell you something  
22 maybe just to try to relax you a little more. This is my  
23 seventh year on this Court. I think I've served longer than  
24 any other judge. That's the first time I ever heard a judge  
25 say that they feel badly about the negative light they put

1 their colleagues in, so my credit goes to you for saying  
2 that. That's the very first time I've ever heard that.

3 THE WITNESS: Wow.

4 JUDGE PANELLA: Okay, please.

5 BY MR. HALMOWITZ:

6 Q. I just want to go into some of the facts of the case  
7 and some of the positions that we took with respect to the  
8 case and ask you a few questions, if I may.

9 Judge, I want to ask you first, you mentioned  
10 repeatedly about accepting responsibility for your conduct,  
11 yet our position that we took following the Court's initial  
12 Opinion was to deny certain aspects of the Court's Opinion,  
13 specifically that your conduct was prejudicial to the  
14 administration of justice and that you did not violate the  
15 other clauses that we indicated. How do you reconcile that  
16 position with your expression of remorse?

17 A. I think that's a good question. I hope that I'm very  
18 clear, because I am utterly clear that what I did was wrong,  
19 that I should have stopped Waters' calls immediately and  
20 reported it, and if I had done that, no one could question  
21 what I did, and my mistake and all that, none of it would be  
22 up for question. I was so wrong.

23 The reason that we took the position that we did in  
24 the filings that we did was based upon the advice of my  
25 attorney and looking at the precedent that talked about what

1 interfering with the administration of justice is. That was  
2 a legal argument that we took, that I took on the advice of  
3 my attorney, but I'm not for one minute saying that what I  
4 did was right.

5 Q. We all heard your voice on those tapes. How would  
6 you respond when I might say that to the listener of those  
7 tapes, it sure sounded like you were wanting to do former  
8 Judge Waters' bidding? How would you respond to that?

9 A. I was asked that exact question when I went before  
10 the Grand Jury when I met with the federal prosecutors. I  
11 agree, if you just listen to the tapes, it sounds like I'm  
12 so eager to do everything that he wanted. I did not at all  
13 want to do it. I felt scared out of my mind. I never  
14 thought that I would be presented with a situation that a  
15 colleague would be calling me, and I didn't know what to do.

16 I was very clear in my mind that I was not going to  
17 make the decision that I thought was wrong legally. I  
18 foolishly thought I'll just make the decision I would have  
19 made as I would have in any other person's case where  
20 someone didn't call me, but I didn't think about protecting  
21 the process and saying "Stop calling me." When I called him  
22 back, I just was trying to think, "Oh, my God, I have to  
23 deal with this situation and I don't know what to do," and I  
24 made the wrong decision and I froze.

25 The first time I called him back, I was scared out of



1 my mind. As I had said at my trial, I had been threatened  
2 repeatedly when I ran for judge. The first day he called  
3 me, there was an article in the newspaper. The man who had  
4 threatened me was threatening judges again. I didn't know  
5 what to do and I was scared.

6 When I called him back, I foolishly said those things  
7 that are not true, and if you look at the transcript in the  
8 first case, in the Houdini case, where I say, "I did this.  
9 I did this. I gave it a long date. I blah, blah, blah,"  
10 it's not true. If you read the transcript, it's not true.  
11 I just didn't know what to do and I said I was wrong and I  
12 said the wrong things.

13 After that point, when I called him back -- and I  
14 called him back two other times. Why, I don't know. I  
15 didn't know what to do with this man calling me. Of course,  
16 legally, I should have reported him. I wasn't subjectively  
17 thinking, "I'm going to protect him," I just didn't know  
18 what to do. I kept hoping it would go away and stop, and it  
19 didn't, and finally I stopped the man. I don't know why I  
20 called him back, I just don't, but I certainly was not going  
21 to do what he was asking me to do.

22 Q. We clearly took a position, and you testified at your  
23 initial trial in this case, that what the FBI officer said  
24 about certain things that you said were not true. How do  
25 you reconcile your challenge of the FBI agent's testimony

1 with your manifestation of remorse?

2 A. I was wrong. I'm standing before this panel  
3 admitting that I was wrong to not do all these things, but  
4 if you're asking me was I looking for a way to favor Waters  
5 and his client, which is what the FBI agent said, that's  
6 absolutely untrue, and if you read the transcript in the  
7 Houdini matter, it shows that I wasn't looking to favor him,  
8 that I marked the case "must be tried," which was not  
9 favoring his client, it was making the case go forward. And  
10 when the agent said I was trying to favor -- that I said I  
11 was looking to favor his friend in the criminal case, in the  
12 Khoury case, I called the stenographer to get the transcript  
13 of the argument, because I know if that appellate case had  
14 been cited to me, I would have followed it, that it's not  
15 true. I don't know why it's in there but there was no way  
16 that I was looking to favor Waters. I do sound hard on the  
17 tape, but there is absolutely no way that I was doing that.

18 Q. Going back to those tapes just briefly. When we  
19 listen to those tapes, at one point you say to the former  
20 judge, "Tell her," and then say something further.

21 A. Right.

22 Q. How do you reconcile that with what you said from the  
23 beginning, that you did not know that this involved a  
24 judge's son or that a female judge had been involved in  
25 this? Can you explain to the Court a little bit about that?

1 A. I didn't know that it was Judge Roca's son that  
2 Waters was coming to talk to me about, but I really don't  
3 think it matters in terms of this Court's decision because I  
4 was wrong to have any conversation with him. I felt that I  
5 was making the correct legal decision, but again, I didn't  
6 protect the process. So I didn't know it was Roca's son,  
7 but for purposes of what this Court is doing or as a judge,  
8 I would say it doesn't matter; I was wrong to have not  
9 stopped it and said, "Stop talking to me. I shouldn't have  
10 this," and reported him, and I didn't do it. So whether  
11 it's Judge Roca's son or it's someone else, it shouldn't  
12 have gone any further and I was wrong to not do it.

13 As an aside, I didn't know it was her son, but I  
14 don't think it really matters in terms of me not protecting  
15 the process, I was wrong.

16 Q. Finally, Judge, could you please address the Court on  
17 the issue of how one would say your conduct has contributed  
18 greatly to this overall crisis and confidence that may be  
19 existing at least in the Philadelphia courts that has been  
20 reported on beyond the factual issue in this case?

21 JUDGE BARTON: Excuse me, Mr. Halmowitz. Could  
22 you repeat that question?

23 MR. HALMOWITZ: I apologize. I am asking the  
24 Judge if she can comment upon and argue that her conduct has  
25 contributed to the crisis in the courts that the public may

1 have been seeing on matters that are beyond the conduct that  
2 Judge Segal has committed in this case.

3 THE WITNESS: This goes back to what Judge  
4 Panella and I were talking about. I personally feel --

5 JUDGE PANELLA: In the courtroom. Not outside  
6 the courtroom.

7 THE WITNESS: Yes. Yes. Just now. Yes,  
8 absolutely, just right here, you and I, as part of this  
9 hearing, what we just discussed.

10 I have tremendous guilt that my conduct, what I  
11 did, could cause someone else to question the justice or  
12 treatment that they get in the court. In Philadelphia, if  
13 my conduct has contributed to that, and certainly it did not  
14 portray the judiciary in a favorable light, so I am  
15 responsible for that and I feel horrible about that, as I  
16 just said. But what I know you and I discussed earlier, I  
17 also stand before you knowing, confidently telling you that  
18 of the thousands of people who appeared before me, I think  
19 those people left my courtroom feeling more confident and  
20 optimistic about our legal system based upon the way that I  
21 treated them. I got there on time, I listened to their  
22 arguments, I tried to treat them respectfully. I didn't com  
23 with any bend; I wasn't prosecution or defense oriented or  
24 plaintiffs or defense. I tried to give people their day in  
25 court and to hear them fairly and treat them with dignity.

1 I think that the people who appeared before me actually felt  
2 better about the legal system.

3 So on a personal note, I think that I enhanced  
4 people's experience within the legal system, but on a larger  
5 level, for sure, the press and the awful stuff that was  
6 written as a result of my conduct and my misconduct was bad,  
7 and I very much regret that.

8 MR. HALMOWITZ: Unless the Court has any follow-  
9 up questions from my questions, I have nothing further.

10 JUDGE PANELLA: Judges anything on this side?

11 (No response.)

12 JUDGE PANELLA: No, we don't have any questions.

13 MR. HALMOWITZ: Thank you.

14 JUDGE PANELLA: Attorney Flaherty, any  
15 questions?

16 MS. FLAHERTY: No questions.

17 Thank you, Judge Segal.

18 JUDGE PANELLA: Thank you, Judge.

19 THE WITNESS: Thank you. I'm sorry if I said  
20 this too quickly. I was nervous.

21 JUDGE PANELLA: Any closing statement on behalf  
22 of Judge Segal?

23 MR. HALMOWITZ: I've made my argument in writing  
24 just three days ago. I just ask the Court to incorporate  
25 what Judge Segal said today into that. I'm not going to go

1 into extensive argument.

2 The Court is fully aware of the case law, that  
3 this is a case-by-case basis, that there are at least ten  
4 non-exclusive factors to consider. I've discussed them in  
5 my brief. I've discussed the case law in my brief. I  
6 discussed three seminal cases, I believe, on the issue of ex  
7 parte conduct in my brief, one very recently.

8 I would suggest that when we look at Judge  
9 Segal's conduct, when we look at the factors, when we look  
10 at the law, when we look at the precedent in this case, and  
11 we look at the fact that the Judicial Conduct Board is not  
12 asking for removal as well, I would strongly suggest to the  
13 Court this is not a removal cases. I would ask the Court to  
14 impose an appropriate sanction. I would ask the Court to  
15 make it -- again, the sanction I'm suggesting is a  
16 suspension, to make it retroactive to the date of temporary  
17 suspension, and to at some point allow a good judge who made  
18 a bad act the opportunity to prove to litigants, to the  
19 Court, to the public in general that she is a good judge and  
20 give her an opportunity to serve the community.

21 JUDGE PANELLA: Anything further from the Board?

22 MS. FLAHERTY: No. Thank you, Your Honor.

23 JUDGE PANELLA: If there's nothing else from  
24 anyone else, we're going to conclude these proceedings.  
25 We'll be in adjournment.

(Witness excused.)

(Whereupon, at 1:31 p.m. the hearing was  
adjourned.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that  
the foregoing proceedings were taken stenographically by me,  
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COMMONWEALTH REPORTING COMPANY, INC.

By: Judith A. Valencik

Judith A. Valencik

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