

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

Inquiry Concerning Judge John P. Shook No. 148)))))))	DECISION AND ORDER IMPOSING PUBLIC ADMONISHMENT
---	---------------------------------	--

This is a disciplinary matter concerning Judge John P. Shook of the Los Angeles County Superior Court. Formal proceedings having been instituted, this matter is now before the Commission on Judicial Performance pursuant to Rule 127 of the Rules of the Commission on Judicial Performance (discipline by consent).

APPEARANCES

Trial counsel for the Commission on Judicial Performance is William Smith. Counsel for Judge Shook is Jeffrey Gray.

PROCEDURAL HISTORY

Formal proceedings were instituted in this matter by a Notice of Formal Proceedings dated June 25, 1998. The Notice set forth four counts of misconduct pursuant to article VI, section 18 of the California Constitution.

After the Notice of Formal Proceedings had been executed, but before Judge Shook formally appeared in this matter, counsel for the parties proposed a resolution of this matter whereby discipline no more severe than a public admonishment would be imposed.

CONSENT AGREEMENT

In an affidavit submitted in conjunction with the stipulation proposing resolution of this matter, Judge Shook admits to the truth of the charges set forth in the Notice, freely and voluntarily consents to the sanction of public admonishment and waives review by the Supreme Court. The parties' stipulation provides:

COUNT ONE

From approximately January 1989 through February 1996, when Judge Shook was assigned to the Torrance courthouse in the Southwest District of the Los Angeles Superior Court, Judge Shook appointed attorney Ben Sadler to

represent criminal defendants in approximately 50 cases. During that time, Judge Shook had a financial relationship with Mr. Sadler. Mr. Sadler was renting office space in a building owned by Judge Shook and Judge Shook's wife.

From 1989 through May 1993, Judge Shook appointed Mr. Sadler to approximately 28 cases that were paid through a countywide system called PACE (Professional Appointee Court Expenditure). When Mr. Sadler appeared before Judge Shook on cases, Judge Shook did not disclose the landlord-tenant relationship or disqualify himself because of that relationship. Judge Shook approved Mr. Sadler's attorney fees on PACE cases.

In mid-1993, Judge Shook recommended Mr. Sadler's membership in an attorney appointment panel called SWIDP (Southwest Indigent Defense Panel) to SWIDP administrators. From approximately November 1993 through September 1995, Judge Shook appointed Mr. Sadler to approximately 22 cases in which attorney fees were paid through SWIDP. Approximately 15 of the SWIDP appointments Judge Shook made to Mr. Sadler were appointments that were not made according to the SWIDP attorney rotation list (called "collars"). Mr. Sadler received more "collar" appointments from all judges combined than did any other SWIDP attorney; and all but one of Mr. Sadler's "collar" appointments were made by Judge Shook. Judge Shook made more "collar" appointments to Mr. Sadler than Judge Shook did to any other attorney.

Judge Shook's conduct violated the former Code of Judicial Conduct (effective until October 5, 1992), canons 1, 2A, 2B, 3B(4), and 5C(1), and the former Code of Judicial Conduct (effective beginning October 5, 1992), canons 1, 2A, 2B, 3C(4), and 4D(1).

Canon 1 provides that a judge should uphold the independence and integrity of the judiciary.

Canon 2 provides that a judge should avoid impropriety and the appearance of impropriety in all of the judge's activities. Canon 2A provides that a judge should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Canon 2B provides that a judge should not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment, and should not lend the prestige of judicial office to advance the private or personal interests of the judge or others, and should not convey or permit others to convey the impression that they are in a special position to influence the judge.

Canon 3B(4) (before October 5, 1992), and canon 3C(4) (after October 5, 1992) require a judge to use the power of appointment impartially and on the basis of merit, avoiding favoritism.

Canons 5C(1) (before October 5, 1992), and canon 4 D(1) (after October 5, 1992) provide that a judge should not engage in financial and business dealings that might be reasonably perceived to exploit the judge's judicial position, or involve the judge in frequent transactions or continuing business relationships with lawyers likely to appear before the court on which the judge serves.

COUNT TWO

From approximately 1989 through February 1996, Judge Shook appointed attorney Robert Welbourn to represent criminal defendants in over 30 cases. During that time, Judge Shook had a social relationship with Mr. Welbourn. They had gone on group cruises together, and the judge attended several small group dinners with Mr. Welbourn. Judge Shook also allowed Mr. Welbourn to pay for two lunches for Judge Shook and Judge Shook's court staff. When Mr. Welbourn appeared before Judge Shook, the judge did not disclose his social relationship with Mr. Welbourn or disqualify himself because of that relationship.

In some PACE cases, Judge Shook allowed Mr. Welbourn to bring his bills for attorney fees directly to Judge Shook in chambers for Judge Shook's approval, in disregard of the PACE policy that before approval by a judge, attorney fees were to be submitted to PACE for review and evaluation.

Judge Shook's conduct violated the former Code of Judicial Conduct (effective until October 5, 1992), canons 1, 2A, 2B, and 3B(4), and the former Code of Judicial Conduct (effective beginning October 5, 1992), canons 1, 2A, 2B, and 3C(4).

The judge's conduct also violated canon 3C (before October 5, 1992), and canon 3E (after October 5, 1992), which provide that a judge disqualify himself in a proceeding in which disqualification is required by law, or the judge's impartiality might reasonably be questioned.

COUNT THREE

In approximately mid-April, 1994, attorney Joel Oiknine was a prospective tenant in the office building owned by Judge Shook and Judge Shook's wife. Mr. Oiknine at that time had a telephone conversation with Judge Shook in which Mr. Oiknine expressed doubt that he could afford the rent. Judge Shook ascertained that Mr. Oiknine's application to become a member of SWIDP had been denied. Judge Shook told Mr. Oiknine that if he rented office space in the Shook building, Judge Shook would recommend Mr. Oiknine to SWIPD. Mr. Oiknine would then receive criminal appointments from Judge Shook, which would cover the rent.

Judge Shook's conduct violated the former Code of Judicial Conduct, canons 1, 2A, 2B, 3C(4), and 4D(1).

COUNT FOUR

From approximately mid-1985 through 1988, when Judge Shook was assigned to the Compton courthouse in the South Central District of the Los Angeles Superior Court, attorney Stanley Granville was appointed by Judge Shook to represent criminal defendants in cases before Judge Shook. On two occasions relevant to this time period, Judge Shook allowed Mr. Granville to pay for lunch for Judge Shook and Judge Shook's court staff. On one of those occasions, Mr. Granville used a limousine in which champagne was available to transport Judge Shook and Judge Shook's staff to lunch.

Judge Shook's conduct in count four violated the former Code of Judicial Conduct, canons 1, 2A, 2B, and 3B(4).

MITIGATION

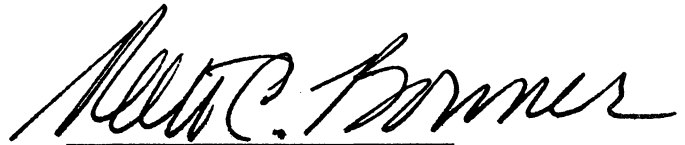
The stipulation notes in mitigation that Judge Shook recognizes the impropriety of his actions. Judge Shook also requests that the commission note his cooperation in the investigation.

DISCIPLINE

The commission adopts the findings of facts and conclusions of law set forth in the consent agreement. The commission agrees that despite the reprehensible nature of Judge Shook's conduct, in the circumstances of this case, the public interest is served by the issuance of a public admonishment. The commission's vote was 10 to 0. There is one vacancy.

This decision and order shall constitute the order of public admonishment.

Dated: October 26, 1998



Robert C. Bonner
Chairperson

Commission members Robert C. Bonner, Esq., Ms. Ophelia Basgal, Mr. Mike Farrell, Hon. Lois Haight, Hon. Daniel M. Hanlon, Patrick M. Kelly, Esq., Mr. Luke Leung, Ms. Ramona Ripston, Ms. Harriet Salarno, and Donald E. Vinson, Ph.D., voted for the public admonishment. There was one vacant position on the Commission.