

BEFORE THE JUDICIAL STANDARDS COMMISSION
STATE OF NORTH CAROLINA

IN RE:
INQUIRY CONCERNING A JUDGE,
NO. 09-013, 09-018, 09-029
WILLIAM I. BELK, Respondent

FILED

OCT 21 2009

**JUDICIAL STANDARDS
COMMISSION**

This proceeding came on to be heard and was heard before the Judicial Standards Commission (Commission) beginning at 9:30 a.m. on 10 September 2009 in the boardroom of the North Carolina Judicial Center in Raleigh, North Carolina. The proceeding was recessed at the close of the business day on 10 September 2009 and was reconvened at 9:30 a.m. on 30 September 2009 at the same location. The hearing was concluded at approximately 3:30 p.m. on 30 September 2009.

The Commission is a body duly organized under the laws of North Carolina and is authorized to recommend to the North Carolina Supreme Court the discipline of judges of the General Court of Justice pursuant to the Constitution of North Carolina, Article IV, Section 17, and the procedures prescribed by the North Carolina General Assembly in the North Carolina General Statutes, Chapter 7A, Article 30.

Complaints were filed with the Commission on 23 January 2009 and 11 February 2009 alleging misconduct on the part of Judge William I. Belk, hereinafter referred to as respondent. The

Commission ordered a formal investigation of the allegations contained in the complaints and notified respondent of such investigation by letter dated 13 February 2009 . The investigation was conducted by Commission Investigator Glenn Joyner. Based upon information developed by the formal investigation, the Commission ordered that disciplinary proceedings should be commenced.

On 7 April 2009, a verified STATEMENT OF CHARGES was filed with the Commission by Commission Counsel Nancy A. Vecchia and was personally served upon the respondent on 13 April 2009. The respondent filed a document entitled "ANSWERS, RESPONSE AND DEFENSES" on 1 May 2009.

The respondent was notified by a NOTICE OF HEARING on 11 August 2009 that the Commission would convene a hearing on Thursday, 10 September 2009 at 9:30 a.m. to consider the charges alleged in the STATEMENT OF CHARGES.

Members present and participating at the hearing were Judge John C. Martin, Commission Chairman, Judge Tanya T. Wallace, Judge Alexander Lyerly, Mr. Dudley Humphrey, Mrs. Linda Brown Douglas, and Mr. R. Wayne Troutman. Mr. W. Hugh Jones, Jr. was absent. Mrs. Vecchia appeared as Counsel to the Commission; A. Marshall Basinger II, Esquire appeared as counsel for respondent, who was present in person at the hearing. Mr. Basinger was permitted, without objection by respondent or Mrs. Vecchia, to withdraw as counsel for respondent at the commencement of the reconvened

proceedings on 30 September 2009 and respondent proceeded *in propria persona* for the remainder of the hearing.

Evidence was presented at the hearing by Commission Counsel and by the respondent. After considering the evidence presented at the hearing and the stipulations entered into by the parties, observing the demeanor and determining the credibility of the witnesses, and hearing and considering the oral arguments of Commission Counsel and the respondent, the Commission finds the following facts by clear and convincing evidence.

FINDINGS OF FACT

1. William I. Belk was at all times referred to herein and is now a Judge of the General Court of Justice, District Court Division, Judicial District Twenty-six, and as such is subject to the Canons of the North Carolina Code of Judicial Conduct, the laws of the State of North Carolina, and the provisions of the oath of office for a district court judge set forth in the North Carolina General Statutes, Chapter 11.

2. Respondent was elected a district court judge in the 4 November 2008 general election. On or about Friday, 5 December 2008, respondent attended a judicial education program for newly elected district court judges at the University of North Carolina School of Government in Chapel Hill, N.C. As a part of the educational program, Commission Executive Director Paul R. Ross and District Court Judge Rebecca Knight presented a two-hour session

concerning ethical considerations for judges generally, and more specifically, the provisions of the North Carolina Code of Judicial Conduct, including the provisions of Canon 5 C.(2). During the program, respondent raised questions and concerns as to whether he could continue to serve as a member of various corporate boards of directors. Mr. Ross advised respondent that Canon 5 C.(2) prohibited a judge from serving as an officer, manager, or director of any business. Following the program, Mr. Ross and respondent had lunch together, at which time they continued their discussion with respect to respondent's ability to continue his service on corporate boards of directors. Respondent expressed his disagreement with the advice rendered by Mr. Ross.

3. Approximately one week later, Mr. Ross received a letter from respondent in which respondent continued to question the provisions of Canon 5 C.(2) and advance his argument that his service on the board of directors of a corporation which he identified as "Sonic Auto" would create no conflict with his responsibilities as a district court judge. Respondent sent a copy of the letter to Commission chairman Judge John C. Martin.

4. On or about 16 December 2008, Judge Martin responded to respondent reiterating the advice that Canon 5 C.(2) prohibited a judge from service as an officer, director, or manager of any business, and informing respondent that the Commission had no authority to waive any provision of the Code of Judicial Conduct as

it is promulgated by the North Carolina Supreme Court.

5. On or about 19 December 2008, respondent wrote a letter to North Carolina Supreme Court Chief Justice Sarah E. Parker requesting that the Court amend the provisions of Canon 5 C.(2).

6. Respondent took the oath of office as a judge of the District Court Division of the General Court of Justice on 1 January 2009.

7. On or about 15 January 2009, respondent was notified by letter from Christie Speir Cameron, Clerk of the Supreme Court of North Carolina, that the Court had denied his request to amend Canon 5 C.(2) of the North Carolina Code of Judicial Conduct.

8. Sonic Automotive, Inc. is a publicly traded corporation incorporated under the laws of the State of Delaware. Sonic Automotive, Inc. owns automobile dealerships in approximately fifteen states, including North Carolina, and has its headquarters in Charlotte, North Carolina. Respondent has been a member of the Board of Directors of Sonic Automotive, Inc. since 1998, and has been "Lead Independent Director" since 2004, and serves on the audit committee and the compensation committee. According to the 8 April 2009 Annual Statement for the corporation, respondent's annual compensation for his services as a member of the Board of Directors of Sonic Automotive, Inc. for the year 2008 was approximately \$143,500.

9. At all times from 1 January 2009 until the date of the

hearing of the charges involved in this proceeding, respondent has continued to serve as a director of Sonic Automotive, Inc.

10. Prior to January 1, 2009, respondent was a member of the board of directors of Monroe Hardware Company. From 1 January 2009 until the present, respondent has continued to serve as "Director Emeritus" of Monroe Hardware Company and receives retirement compensation and medical insurance coverage from that corporation. The Commission does not find that there is clear and convincing evidence that respondent's position as "Director Emeritus" involves any responsibilities as an officer, director, or manager or is anything more than an honorary position.

11. Upon being advised by Mr. Ross on 13 February 2009 of the initiation of the formal investigation of the complaints giving rise to these proceedings, respondent stated to Mr. Ross that he was continuing to serve as a director of Sonic Automotive, Inc. because he had a pre-existing medical condition and was provided with medical insurance by Sonic Automotive, Inc.

12. On 20 February 2009, respondent was interviewed by Commission Investigator Glenn Joyner. In the course of the interview, respondent told Mr. Joyner that Sonic Automotive, Inc. was the "source of [his] health insurance and [his] retirement."

13. Stephen K. Coss, General Counsel for Sonic Automotive, Inc., was interviewed by Mr. Joyner on 24 February 2009. Mr. Coss stated to Mr. Joyner that Sonic Automotive did not provide health

insurance to respondent. After concluding the interview with Mr. Joyner, Mr. Coss called respondent and related to him the subjects about which Mr. Joyner had inquired.

14. On 25 February 2009, respondent called Mr. Joyner and told him that he received health insurance from Monroe Hardware Company, rather than Sonic Automotive, Inc., but that he had discussed with the Sonic directors the possibility of offering health insurance to its board members, who seemed receptive to the idea.

15. Sonic Automotive, Inc. did not in February 2009, and does not now, provide any medical insurance coverage for respondent.

16. The Commission finds that respondent's initial statements to Mr. Ross and Mr. Joyner with respect to Sonic Automotive, Inc.'s provision of health insurance were untrue and were intentionally made for the purpose of misleading the Commission in the investigation of this matter. The Commission further finds not credible respondent's explanation that he intended his statements to relate to his desire for Sonic Automotive, Inc. to provide him with health insurance at the conclusion of his judicial service.

17. Lisa C. Bell is the Chief Judge of the District Court Division, Judicial District Twenty-six, having been appointed as Chief Judge by the Chief Justice of the North Carolina Supreme Court effective 1 January 2009.

18. On 4 February 2009, respondent submitted a request to

Chief Judge Bell to be relieved of his court assignment on 11 February 2009 in order to attend a meeting of the Board of Directors of Sonic Automotive, Inc. On 6 February, Chief Judge Bell notified that she had denied his request on the grounds that she had been told that the Commission had advised respondent that his "continued service on the Sonic board was not compliant with the Code of Judicial Conduct."

19. At approximately 4:10 p.m., respondent went to Chief Judge Bell's office to discuss her denial of his request. During the discussion, respondent became agitated and raised his voice, telling Chief Judge Bell that the issue of his service on the Sonic board was "none of her business," that the Commission had "leaked" the information to the press, and "this is all your fault." Chief Judge Bell asked respondent to leave her office and as he was doing so, he shouted at her that she was "a media hound" and a "political hack", that she had been "bought and paid for" by two named attorneys whom respondent said had orchestrated her appointment by the Chief Justice as chief district court judge so she could "screw him over," and that she should be ashamed. Respondent was standing very close to Chief Judge Bell in an intimidating manner, causing her to feel threatened and afraid, and shouted at her "you leave me the hell alone." Respondent's conduct occurred during business hours under such circumstances as to have been likely to have been heard by other court personnel and was, in fact, observed by

Patricia Hines, a judicial assistant.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, each of which are made upon clear and convincing evidence, the Commission concludes:

1. Respondent's membership on the Board of Directors of Sonic Automotive, Inc. from and after 1 January 2009 to the date of the hearing in this matter was, and continues to be, in violation of the provisions of Canon 5 C.(2) of the North Carolina Code of Judicial Conduct.

2. Respondent's continuing membership on the Board of Directors of Sonic Automotive, Inc. after having been repeatedly advised that such conduct was not permitted by the Code of Judicial Conduct is in violation of Canon 1 and Canon 2 A. of the North Carolina Code of Judicial Conduct, is wilful misconduct while in office, and is conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

3. Respondent's intentional misrepresentations made to Mr. Ross and Mr. Joyner during the investigation of the allegations at issue in this proceeding, as found in Findings of Fact 11 through 16, are a violation of Canon 1 and Canon 2 A. of the North Carolina Code of Judicial Conduct and constitute wilful misconduct while in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

4. Respondent's conduct toward Chief Judge Bell, as found in

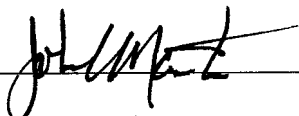
Finding of Fact 19, constitutes a violation of Canon 1, Canon 2 A., and Canon 3 A.(3) of the North Carolina Code of Judicial Conduct and is wilful misconduct while in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute.

RECOMMENDATION

Based on the foregoing findings of fact and conclusions of law, and after carefully considering the gravity of the violations as weighed against the evidence of good character produced by respondent, the Commission recommends to the Supreme Court of North Carolina that the respondent, William I. Belk, be removed from judicial office.

All members of the Commission present for the hearing of this matter concur in the foregoing recommendation. See N.C.G.S. 7A-377(a5).

By order of the Commission this the 21st day of October, 2009.



John C. Martin
Chairman
North Carolina Judicial
Standards Commission

CERTIFICATE OF SERVICE

The undersigned certifies that a sealed envelope was served on Judge William I. Belk on the 28th day of October, 2009. Contained in the envelope:

(6) DVD recordings

- (1) Titled Judicial Standards Commission / September 10, 2009
- (2) Titled Judicial Standards Commission / September 10, 2009 News 14 Footage
- (3) Titled Judicial Standards Commission / September 30, 2009 Discs # 1, 2, 3

(1) Letter addressed to Judge William I. Belk from JSC Executive Director; Mr. Paul Ross.

(1) Findings from the Judicial Standards Commission dated October 21, 2009.

(1) Two page file containing/describing Rules #23, 24, 25 and 26.

(1) Transcript of Videotaped hearing dated September 10, 2009 and September 30, 2009 Transcribed by Capital Reporting. (Volumes 1 and 2).

This is the 28th day of October, 2009.

By: R. Glenn Joyner

R. Glenn Joyner, Investigator
North Carolina Judicial Standards Commission