



STATE OF FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION

1110 THOMASVILLE ROAD
TALLAHASSEE, FLORIDA 32303-6224
(850) 488-1581

September 13, 2011

Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481

Re: Docket No. 11375, Judge Cook

Dear Mr. Gillespie:

The Commission has completed its review of your complaint in the above matter and has determined, at its meeting held on Friday, September 9, 2011, that the concerns you have expressed are not allegations involving a breach of the Code of Judicial Conduct warranting action by the Commission.

The purpose of the Commission is to determine the existence of judicial misconduct and disability as defined by the Constitution and the laws of the State of Florida. If such misconduct or disability is found, the Commission can recommend disciplinary action to the Florida Supreme Court. The Commission has found no basis for further action on your complaint that therefore has been dismissed.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael L. Schneider".

Michael L. Schneider
General Counsel

MLS/bsk

VIA USPS Certified Mail, RRR
Article No. 7010 1670 0001 9008 0567

August 17, 2011

Judicial Qualifications Commission
1110 Thomasville Road
Tallahassee, Florida 32303

RE: Complaint Against Circuit Judge Martha J. Cook

Please find enclosed a signed JQC complaint form along with this letter and exhibits.

Circuit Judge Martha J. Cook is in the headlines again for an ethics lapse. Judge Cook's unethical behavior is a violation of the Code of Judicial Conduct, and a violation of the public trust, reflects discredit on the judicial system, and suggests partiality in the consideration of matters before the court.

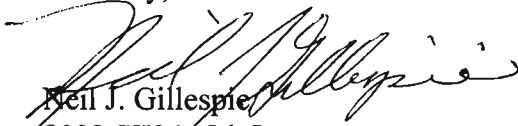
The Tampa Tribune published July 21, 2011 a news story by reporter Shannon Behnken, "Critics: Judge with interest in bank shouldn't hear foreclosures", a copy of which is enclosed (Exhibit 1), and published online at <http://duke1.tbo.com/content/2011/jul/21/211756/critics-judge-with-interest-in-bank-shouldnt-hear-/news-breaking/>

Judge Cook has an ownership interest in Community Bank, where her husband, William H. Sedgeman Jr., serves as chairman and chief executive. Like most banks, Community Bank often finds itself as a plaintiff against homeowners in foreclosure cases. Attorney Mark Stopa is quoted in the story: "It's reasonable that a homeowner would fear they aren't going to get a fair hearing before her," said Mark Stopa, a foreclosure defense attorney. "There's no way I could go into court before her without thinking about this."

Henry P. Trawick Jr., a Sarasota lawyer and author of Florida's Practice and Procedure, a textbook used by lawyers, is quoted and said it's good that Cook disqualifies herself from hearing cases that involved her husband's bank. But he said she should go a step further. "I think she shouldn't hear foreclosure cases," Trawick said. "That's what I would do if I had that close of a connection, but perhaps my ethical standards are higher." The problem, Trawick said, is whether or not Cook shows favor to the banks; those representing homeowners may feel like she might.

Enclosed is Mark Stopa's letter of July 20, 2011 to Judge Cook requesting recusal from foreclosure cases. (Exhibit 2). Judge Cook has refused to recuse from foreclosure cases.

Sincerely,


Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Enclosures

FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

1110 Thomasville Road
Tallahassee, FL 32303-6224
(850) 488-1581

COMPLAINT FORM

This form is designed to provide the Commission with information required to make an initial evaluation of your complaint.

PLEASE NOTE: COMPLAINT FORM MUST BE TYPED OR LEGIBLY HAND PRINTED, DATED AND SIGNED BEFORE IT WILL BE CONSIDERED.

I. Person Making Complaint

Name Gillespie Neil J
Mr. (Last) (First) (Middle)
Ms.
Mrs.

Address 8092 SW 115th Loop
Ocala, FL 34481

Telephone Number(s): (Day) 352-854-7807 (Evening) _____

.....

II. Judge Against Whom Complaint is Made

Name Cook Martha J
(Last) (First) (Middle)

Address 800 E. Twiggs Street
Tampa, Florida 33601

Supreme Court _____

District Court
of Appeal _____

Circuit Court 13th Judicial Circuit

County Court _____

IV. Additional Information (if available)

a. If your complaint arises out of a court case, please answer the following questions:

1. What is the name and number of the case?

Case name: _____ Case No. _____

2. What kind of case is it?

- civil criminal domestic relations probate
 small claims traffic other (specify)

3. What is your relationship to the case?

- plaintiff/petitioner defendant/respondent
 attorney for _____: _____
 witness for _____: _____
 other (specify)

b. If you were represented by an attorney in this matter at the time of the judge's conduct, please identify the attorney:

Name _____

Address _____

Phone _____

c. List and attach copies of any relevant documents which you believe support your claim that the judge has engaged in judicial misconduct or has a disability. (Note: Retain a copy for your records as these documents shall become the property of the Commission and may not be returned.)

d. Identify, if you can, any other witnesses to the conduct about which you complain:

Name(s): _____

Addresses: _____

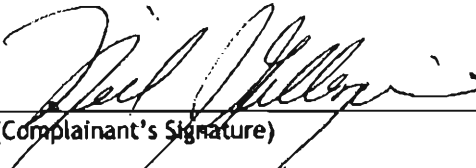
Phone Numbers: _____

IN FILING THIS COMPLAINT, I UNDERSTAND THE COMMISSION'S RULES PROVIDE THAT ALL PROCEEDINGS OF THE COMMISSION, INCLUDING COMPLAINTS FILED WITH THE COMMISSION, SHALL BE KEPT CONFIDENTIAL PRIOR TO THE FILING OF FORMAL CHARGES. I FURTHER UNDERSTAND THAT THIS RULE OF CONFIDENTIALITY ATTACHES AND BECOMES EFFECTIVE UPON THE FILING OF THIS COMPLAINT AND THAT ANY VIOLATION COULD RESULT IN A CITATION FOR CONTEMPT BY THE COMMISSION.

- V. Under penalty of perjury, I declare that I have examined and understand this complaint form and to the best of my knowledge and belief, the above information is true, correct and complete and submitted of my own free will.

August 17, 2011

(Date)



(Complainant's Signature)

(Note: Only signed complaints will be considered.)

Please note that the Commission only has authority to investigate allegations of judicial misconduct or permanent disability by persons holding state judicial positions. The Commission has no jurisdiction over and does not consider complaints against Federal Judges, magistrates, lawyers, police, court personnel, or State Attorneys. The Commission does not act as an appellate court and cannot review, reverse or modify a legal decision made by a judge in the course of a court proceeding. For example, the Commission does not investigate claims that a judge wrongfully excluded evidence; imposed an improper sentence, awarded custody to the wrong party; incorrectly awarded alimony or child support; incorrectly resolved a legal issue or believed perjured testimony.

Please return this form and direct all future communications to:

Florida Judicial Qualifications Commission
1110 Thomasville Road
Tallahassee, FL 32303-6224

<http://www2.tbo.com/news/real-estate-news/2011/jul/21/2/critics-judge-with-interest-in-bank-shouldnt-hear--ar-245497/>



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Critics: Judge with interest in bank shouldn't hear foreclosures

By Shannon Behnken





A Hillsborough County judge seeking to tame a backlog of thousands of foreclosure lawsuits is raising questions from critics who wonder whether she should be hearing foreclosure cases at all.

Judge Martha J. Cook has an ownership interest in Community Bank, where her husband, William H. Sedgeman Jr., serves as chairman and chief executive, public documents show.

The bank, known formally as Community Bank of Manatee, has 17 locations throughout the Tampa Bay area. The bank has been hard-hit by the foreclosure crisis and has struggled to shed troubled assets.

Like most banks, Community Bank often finds itself as a plaintiff against homeowners in foreclosure cases.

"It's reasonable that a homeowner would fear they aren't going to get a fair hearing before her," said Mark Stopa, a foreclosure defense attorney. "There's no way I could go into court before her without thinking about this."

But Cook said she is not prejudiced.

"I don't have bias," Cook said. "I listed my connection, as required by the law. Beyond that, my personal life is my personal life."

The state's Judicial Qualifications commission's code of conduct does not expressly prohibit judges from owning stock in companies they may see in the courtroom, but it does require disclosure.

The financial disclosures must be filed yearly with the Florida Commission on Ethics. On forms filed for 2007 and 2008, Cook checked a box indicating she had more than 5 percent interest in the bank. In 2009 and 2010, Cook indicated she still had an interest but that it was less than 5 percent.

Cook told the Tribune she disclosed this because of her husband's interest in the bank. She said she doesn't hear cases involving his bank and doesn't feel she has a conflict of interest by overseeing foreclosures by other banks.

The 13th Judicial Circuit, which includes Hillsborough County, has nearly 30,000 foreclosure cases at some stage in the court system. Cook is one of 10 judges assigned those cases. This time last year, the state implemented a program to shed the backlog. Retired senior judges were brought back to hear foreclosure cases.

But the program was controversial, and judges were accused of rubber-stamping foreclosures and not checking documents. This came to a boil late last year when some banks admitted that employees fabricated documents and forged signatures. The legislature discontinued Florida's foreclosure program, and starting this month, it's now up to elected judges, such as Cook, to hear cases.

Mike Bridenback, court administrator for Hillsborough County, said Cook was the first to add foreclosure cases to her July calendar. Working through the backlog is important to the circuit, he said, but judges still want to give homeowners who chose to fight their foreclosure a chance to be heard.

Bridenback said he wasn't aware of Cook's relationship with the local bank. He said each judge has to decide whether they have a conflict of interest and that he's not aware of any problems with her cases.

"Judges have lives beyond the bench," Bridenback said.

Henry P. Trawick Jr., a Sarasota lawyer and author of Florida's Practice and Procedure, a textbook used by lawyers, said it's good that Cook disqualifies herself from hearing cases that involved her husband's bank. But he said she should go a step further.

"I think she shouldn't hear foreclosure cases," Trawick said. "That's what I would do if I had that close of a connection, but perhaps my ethical standards are higher."

The problem, Trawick said, is whether or not Cook shows favor to the banks; those representing homeowners may feel like she might.

Hillsborough's other nine judges have not owned bank stock over at least the past four years, according to state disclosure documents.

Stopa, the foreclosure defense attorney, said Cook once told him in court that she thought the "only way to improve the economy is to push through foreclosures as soon as possible."

Cook said she was misquoted, but she declined to correct the statement.

Mike Wasylik, a foreclosure defense attorney, said he's had few cases before Cook but is uncomfortable with her connection to a local bank.

"A judge has the duty to avoid even the appearance of bias," Wasylik said. "She may have personal opinions about the need to push foreclosures through quickly."

Phyllis Kotey, a professor at FIU School of Law, said the connections show an "appearance of personal and financial interest."

"At the very least, parties before her should be put on notice and have the opportunity to object to her hearing their cases."

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July 20, 2011

Honorable Martha Cook
Circuit Court Judge
800 E. Twiggs St.
Room 511
Tampa, FL 33602

RE: Honorable Martha Cook presiding in foreclosure cases

Your Honor:

It is with the utmost respect for you and our system of justice that I write you this letter. I hope you realize it is a difficult letter for me to write but one that, under the circumstances, I feel I must.

Respectfully, I am concerned at your decision to continue presiding over mortgage foreclosure cases given your personal ties to the banking industry and that of your husband. While I do not profess to have personal knowledge of the veracity of the following facts, it seems as if these facts are true, particularly since I have seen documents bearing your signature containing this information:

1. Your husband is the Chairman and CEO of Community Bank of Manatee (and has been for quite some time);
2. You have/had more than a 5% ownership interest in that bank;
3. Your personal net worth decreased by nearly half in recent years, largely because of the near-failure of Community Bank.

I realize that every judge has a personal life and a right to make personal investments and earn a living (and be married to someone who does). And I'm certainly not trying to say you or your husband has done anything wrong. However, from someone sitting on the homeowners/defense side of the foreclosure crisis, I find it eminently reasonable for my clients to fear their ability to get a fair hearing/trial before you, in foreclosure lawsuits, given your personal, financial ties to the banking industry.

My concern in this regard came to a head at a recent hearing before you. After the hearing was concluded, I engaged in a 20-30 minute discussion with you (and opposing counsel), in open court, about the mortgage foreclosure crisis. What really sticks in my mind was your

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Building 200, Suite 25
Jacksonville, FL 32256

FORT LAUDERDALE
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4th Floor
Sawgrass, FL 33323

Telephone: (727) 667-3413

EXHIBIT

2

repeated indications that the “only way” to improve the economy was to “push through” foreclosure cases as quickly as possible.

I understand your desire to improve the economy. Heck, everyone wants the economy to improve. However, with all due respect, your role as a judge is not to improve the economy (or to use the cases before you as a mechanism to improve the economy). More significantly, I cannot help but wonder how much of your stated objective to “push through” foreclosure cases is predicated not on helping the economy, but on the personal, financial interests shared by you and your husband and your clear ties to the banking industry. And if I’m wondering this, then undoubtedly others are/will as well.

Let me put it this way. I have been in the middle of the foreclosure crisis for quite some time. Bankers always take the position that pushing through foreclosures as quickly as possible is the correct approach. Hence, when I heard you say those things, it very much sounded to me like you were speaking not as a neutral and detached judge, but as a part-owner of a bank and as the spouse of a CEO of a bank.

Please do not misunderstand. I am not trying to criticize you or your ties to the banking industry. I’m sure it is very difficult to separate your “judge hat” from your “banker’s hat.” But that’s precisely the point. When you’re a sitting judge who owns a local bank and whose husband runs a local bank, it is fair for homeowners to question your ability to preside over foreclosure cases in a neutral and detached manner.

I suppose my clients and I could address this with you on a case by case basis. However, rather than start drafting motions to disqualify that could be deemed accusatory or inflammatory, I thought I’d try to write you a respectful letter expressing my concerns. Judge Cook, given your ties to the banking industry, I am respectfully requesting that you remove yourself as judge from all foreclosure cases.

I realize that may sound harsh to you. I also realize you may find my request to be totally misplaced and out of line. Respectfully, however, the public’s distrust in the judicial system is at an all-time high. The fact that I have learned the facts in this letter means that others will as well. I respectfully submit it would bode well for our system of justice and the appearance of propriety in our justice system if you did not preside on foreclosure cases going forward.

It is a miserable experience for homeowners to lose their homes. When they do, it is important that they know they lost their home because that was the correct legal result. It would not bode well for anyone if homeowners started wondering (correctly or not) if the results in their foreclosure cases were the lawful and just result or the result of a judge who has ties to the banking industry. Again, that is not meant to be accusatory. Rather, I’m sure you can see that it would be easy for anyone to question whether your rulings are the rulings of a neutral and detached judge, or the rulings of an owner of a local bank and the spouse of a CEO of that bank. Heck, I wondered that myself after our last hearing, and if I did, then undoubtedly others will as

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well.

There are many other, equally capable judges who can preside over foreclosure cases in Hillsborough County. As such, in my view, it only makes sense to avoid the appearance of impropriety and have those cases assigned to other judges.

In concluding, I reiterate that this was an awkward and difficult letter for me to write. I have many cases (foreclosure and otherwise) before you and other judges in Hillsborough County. The last thing I'm trying to do here is to come across as disrespectful or accusatory. That said, given the circumstances, I thought it incumbent upon me to apprise you that, from the perspective of someone on the defense side of these cases, it is eminently reasonable for homeowners to question your neutrality given your personal circumstances.

Thank you very much for your thoughtful attention to this matter.

Sincerely,
STOPA LAW FIRM

Mark P. Stopa

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