

State of New York  
Commission on Judicial Conduct

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In the Matter of the Proceeding Pursuant to Section 44,  
subdivision 4, of the Judiciary Law in Relation to

**Determination**

LESTER C. HAMEL,

a Justice of the Champlain Town Court,  
Clinton County.

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THE COMMISSION:

Henry T. Berger, Esq., Chair  
Honorable Myriam J. Altman  
Helaine M. Barnett, Esq.  
Herbert L. Bellamy, Sr.  
Honorable Carmen Beauchamp Ciparick  
E. Garrett Cleary, Esq.  
Dolores Del Bello  
Lawrence S. Goldman, Esq.  
Honorable Eugene W. Salisbury  
John J. Sheehy, Esq.  
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the  
Commission

Honorable Lester C. Hamel, pro se

The respondent, Lester C. Hamel, a justice of the Champlain Town Court, Clinton County, was served with a Formal Written Complaint dated March 6, 1991, alleging certain financial depositing and remitting irregularities. Respondent answered the Formal Written Complaint by letter dated April 19, 1991.

By motion dated May 30, 1991, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct be deemed established. Respondent did not file papers in response thereto. By determination and order dated June 28, 1991, the Commission granted the administrator's motion.

The administrator filed a memorandum as to sanction. Respondent did not file any papers and waived oral argument.

On September 19, 1991, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent has been a justice of the Champlain Town Court during the relevant time herein. Respondent was a justice of the Champlain Village Court and an acting justice of the Rouses Point Village Court during the relevant time herein until his resignation on April 30, 1990.

2. On March 30, 1990, respondent was censured by the Commission for failing to deposit and remit court funds in a timely manner between January 1981 and May 1989.

3. From August 1989 to March 1990, as set forth in Schedule A appended hereto, respondent failed to remit Champlain Village Court funds to the state comptroller within ten days of the month following collection, as required by UJCA 2020 and 2021(1), Vehicle and Traffic Law §1803 and Village Law §4-410(1)(b). Respondent's reports to the comptroller were between 40 and 153 days late during the period.

4. From August 1989 to March 1990, as set forth in Schedule B appended hereto, respondent failed to remit Rouses Point Village Court funds to the comptroller as required by law. Respondent's reports to the comptroller were between 18 and 170 days late during the period.

5. From August 1989 to October 1990, as set forth in Schedule C appended hereto, respondent failed to remit Champlain Town Court funds to the comptroller as required by UJCA 2020 and 2021(1), Vehicle and Traffic Law §1803 and Town Law §27(1). Respondent's reports to the comptroller were between six and 40 days late during the period.

6. Between August 21, 1989, and June 1, 1990, as set forth in Schedule D appended hereto, respondent failed to deposit Champlain Village Court funds in his official account within 72 hours of receipt, as required by the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.9(a). During this time, respondent held court funds in his personal possession for as long as 397 days.

7. Between August 6, 1989, and September 19, 1990, as set forth in Schedule E appended hereto, respondent failed to deposit Champlain Town Court funds in his official account as required by law. Respondent held town court funds in his personal possession for as long as 409 days.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(a), 100.3 and 100.3(b)(1), and Canons 1, 2A, 3 and 3B(1) of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

In 1990, respondent was censured by this Commission for his failure to deposit and remit court funds promptly between 1981 and 1989. (Matter of Hamel, 1991 Ann Report of NY Commn on Jud Conduct, at 61).

This record indicates that his misconduct continued while the previous matter was pending before the Commission and for seven months after the March 30, 1990, censure. The failure to heed a Commission censure is an aggravating factor that has been held to warrant removal. (Matter of Rater v. State Commission on Judicial Conduct, 69 NY2d 208, 209).

After his censure, respondent held checks that should have been deposited within three days for as long as 133 days (see, Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.9[a]). The money, however, was kept in a locked safe. Respondent's delays in turning over money to the state after his censure were for relatively brief periods, from six to 40 days.

Therefore, we conclude that removal is not warranted at this time. Future audits will determine whether respondent will comply with the law.

By reason of the foregoing, the Commission determines that the appropriate sanction is censure.

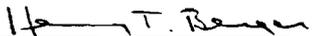
Mr. Berger, Judge Altman, Ms. Barnett, Mr. Bellamy, Judge Ciparick, Mr. Cleary, Mrs. Del Bello, Judge Salisbury and Judge Thompson concur.

Mr. Goldman and Mr. Sheehy were not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: November 7, 1991

  
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Henry T. Berger, Esq., Chair  
New York State  
Commission on Judicial Conduct

Schedule A

<u>Date of Report</u>	<u>Date Filed</u>	<u>Days Late</u>
8/89	1/18/90	130
9/89	1/18/90	100
10/89	1/18/90	69
11/89	1/19/90	40
12/89	6/12/90	153
1/90	6/11/90	121
2/90	6/11/90	93
3/90	6/11/90	62

Schedule B

<u>Date of Report</u>	<u>Date Filed</u>	<u>Days Late</u>
8/89	2/27/90	170
9/89	2/28/90	141
10/89	2/28/90	110
11/89	2/28/90	80
12/89	2/28/90	49
1/90	2/28/90	18
2/90	6/26/90	108
3/90	6/26/90	77

Schedule C

<u>Date of Report</u>	<u>Date Filed</u>	<u>Days Late</u>
8/89	10/05/89	25
9/89	11/15/89	36
10/89	12/20/89	40
11/89	12/20/89	10
12/89	No Date Available	---
1/90	2/27/90	17
2/90	4/17/90	38
3/90	4/17/90	7
4/90	6/01/90	22
5/90	7/20/90	40
6/90	7/25/90	15
7/90	8/20/90	10
8/90	10/17/90	37
9/90	10/17/90	7
10/90	11/16/90	6

Schedule D

<u>Defendant</u>	<u>Date Received</u>	<u>Amount Received</u>	<u>Date Deposited</u>	<u>Days From Receipt to Deposit</u>
William Eddy	8/21/89	\$47	10/30/89	70
Eric Monty	8/28/89	42	9/29/90	397
Ricky Duprey	8/28/89	27	9/29/90	397
Charles Cayea	9/08/89	207	10/30/89	52
William Cayea	9/08/89	67	10/30/89	52
John Banker	10/02/89	10	9/29/90	362
Scott Rowe	10/27/89	25	10/30/89	3
Susan Leavitt	10/27/89	37	10/30/89	3
Stephen Buskey	10/27/89	10	10/30/89	3
William Major	11/13/89	37	1/16/90	64
George McChesney	12/04/89	40	1/16/90	43
George McChesney	1/01/90	27	1/16/90	15
Tammy Boutin	1/08/90	42	1/16/90	8
Gaetane Paquin	1/08/90	42	6/1/90	144
Patrick Pacilli	1/13/90	162	1/16/90	3
Laurie Duprey	1/29/90	42	6/01/90	123
Florence Duprey	1/29/90	42	6/01/90	123

<u>Defendant</u>	<u>Date Received</u>	<u>Amount Received</u>	<u>Date Deposited</u>	<u>Days From Receipt to Deposit</u>
Steven Gooley	2/05/90	27	6/01/90	116
Carla Belrose	3/05/90	77	6/01/90	88
Samuel Little	3/12/90	50	---	--
Donald Castine	3/12/90	77	---	--
Brian Willette	5/22/90	77	6/01/90	10
Paula Dwyer	3/19/90	102	6/01/90	74
Gary Bourgeois	3/19/90	500	6/01/90	74
Robert LeBeuf	3/19/90	37	6/01/90	74

Schedule E

<u>Received From</u>	<u>Date Received</u>	<u>Amount Received</u>	<u>Date Deposited</u>	<u>Days From Receipt to Deposit</u>
Jeannine Bechard	8/06/89	\$ 27	9/19/90	409
Clinton County Sheriff	2/06/90	717	3/12/90	34
Venne Normand	2/16/90	77	8/13/90	178
Clinton County Sheriff	2/26/90	327	3/23/90	25
Clinton County Sheriff	3/13/90	1,588	5/22/90	70
Steve Francis	3/20/90	67	8/13/90	146
Clinton County Sheriff	3/22/90	1,600	4/11/90	20
Terry L. Pelkey	3/26/90	42	8/13/90	140
Steven C. Day	4/02/90	77	8/13/90	133
Clinton County Sheriff	4/02/90	5,600	4/23/90	21
Marie Corrigan	4/19/90	167	8/13/90	116
Steven C. Day	4/19/90	67.50	8/13/90	116
Clinton County Sheriff	6/29/90	325	8/13/90	45
Sius St. Louis	7/16/90	300	8/13/90	28
State Comptroller	7/17/90	217	8/13/90	27
Clinton County Sheriff	7/20/90	1,275	8/13/90	24
Clinton County Sheriff	7/23/90	1,000	8/13/90	21
Ronald Mesec	8/13/90	50	9/19/90	37
Larry Begor	8/20/90	100	9/19/90	30