REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

Special Session
June 17, 2008

The Judicial Conference of the United States convened in special session by telephone conference call on June 17, 2008, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference participated:

First Circuit:

Chief Judge Sandra L. Lynch
Judge Ernest C. Torres,
District of Rhode Island

Second Circuit:

Chief Judge Dennis Jacobs
Chief Judge William K. Sessions III,
District of Vermont

Third Circuit:

Chief Judge Anthony J. Scirica
Chief Judge Garrett E. Brown, Jr.,
District of New Jersey

Fourth Circuit:

Chief Judge Karen J. Williams
Chief Judge James P. Jones,
Western District of Virginia

Fifth Circuit:

Chief Judge Edith Hollan Jones
Judge Sim Lake,
Southern District of Texas

Sixth Circuit:

Chief Judge Danny J. Boggs
Judge Thomas M. Rose,
Southern District of Ohio

Seventh Circuit:

Chief Judge Frank H. Easterbrook
Judge Wayne R. Andersen,
Northern District of Illinois

Eighth Circuit:

Chief Judge James B. Loken
Judge Lawrence L. Piersol,
District of South Dakota

Ninth Circuit:

Judge Charles R. Breyer,
Northern District of California

Tenth Circuit:

Chief Judge Robert H. Henry
Judge Alan B. Johnson,
District of Wyoming

Eleventh Circuit:

Chief Judge J. L. Edmondson

District of Columbia Circuit:

Chief Judge David Bryan Sentelle
Chief Judge Royce C. Lamberth,
District of Columbia

Federal Circuit:

Chief Judge Paul R. Michel

Court of International Trade:

Chief Judge Jane A. Restani

Also present for this session of the Conference were Judge Ralph K. Winter, Jr., Chair of the Committee on Judicial Conduct and Disability, and from the Administrative Office of the United States Courts (AO), James C. Duff, Director; William R. Burchill, Jr., Associate Director and General Counsel; Bret G. Saxe, Assistant General Counsel; Laura C. Minor, Assistant Director, and Wendy Jennis, Deputy Assistant Director, Judicial Conference Executive Secretariat; and David A. Sellers, Assistant Director, Office of Public Affairs. Jeffrey P. Minear, Administrative Assistant to the Chief Justice, attended as well.

PROCEEDINGS UNDER THE JUDICIAL CONDUCT AND DISABILITY ACT

The Chief Justice called this special teleconference session of the Judicial Conference to consider a certificate issued on December 20, 2007, by the Judicial Council of the Fifth Circuit pursuant to 28 U.S.C. § 354(b)(2)(A), conveying a determination that Judge G. Thomas Porteous, Jr., of the United States District Court for the Eastern District of Louisiana had engaged in conduct that might constitute one or more grounds for impeachment under Article II of the United States Constitution. On February 13, 2008, this matter, *In re*: *Complaint of Judicial Misconduct against United States District Judge G. Thomas Porteous, Jr. under the Judicial Conduct and Disability Act of 1980*, was referred to the Committee on Judicial Conduct and Disability, which in June 2008 issued a report with recommendations to the Judicial

Conference, as required by the rules adopted by the Judicial Conference for processing such complaints.

In advance of the teleconference, the members of the Judicial Conference were given copies of the Judicial Conduct and Disability Committee's report and recommendations, as well as documents from the record of the proceedings before the Fifth Circuit Judicial Council. The report and recommendations included a proposed certification to the House of Representatives that consideration of impeachment may be warranted.

At the teleconference, the Chief Justice afforded each member of the Conference the opportunity to comment upon the proposed certification. After discussion and on recommendation of the Committee, the Conference agreed to certify to the House of Representatives, pursuant to 28 U.S.C. § 355(b)(1), the Conference's determination that consideration of impeachment may be warranted, to transmit to the House of Representatives records of the proceedings, and to adopt and include the following certificate:

> Pursuant to 28 U.S.C. § 355(b)(1), the Judicial Conference of the United States certifies to the House of Representatives its determination that consideration of impeachment of United States District Judge G. Thomas Porteous (E.D. La.) may be warranted. This determination is based on evidence provided in the Report by the Special Investigatory Committee to the Judicial Council of the United States Court of Appeals for the Fifth Circuit and the Report and Recommendations of the Committee on Judicial Conduct and Disability. Said certification is transmitted with the entire record of the proceeding in the Judicial Council of the Fifth Circuit and in the Judicial Conference of the United States.
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> The determination is based on substantial evidence that:
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> a. Judge Porteous repeatedly committed perjury by signing false financial disclosure forms under oath in violation of 18 U.S.C. § 1621. This perjury concealed the cash and things of value that he solicited and received from lawyers appearing in litigation before him. Parts F(1)(a), (2)(a), and G of Report of the Committee are incorporated by reference.

b. Judge Porteous repeatedly committed perjury by signing false statements under oath in a personal bankruptcy proceeding in violation of 18 U.S.C. §§ 152(1)-(3), 1621, as well as Canons 1 and 2A of the Code of Conduct for United States Judges. This perjury allowed him to obtain a discharge of his debts while continuing his lifestyle at the expense of his creditors. His systematic disregard of the bankruptcy court's orders also implicates 11 U.S.C. § 521(a)(3) and 18 U.S.C. § 401(1). Parts F(1)(c), (2)(c), and G of the Report of the Committee are incorporated by reference.

c. Judge Porteous wilfully and systematically concealed from litigants and the public financial transactions, including but not limited to those designated in (d), by filing false financial disclosure forms in violation of 18 U.S.C. § 1001, 5 U.S.C. App. 4 § 104, and Canon 5C(6) of the Code of Conduct for United States Judges, which require the disclosure of income, gifts, loans, and liabilities. This conduct made it impossible for litigants to seek recusal or to challenge his failure to recuse himself in cases in which lawyers who appeared before him had given him cash and other things of value and for the Fifth Circuit Judicial Council and the Judicial Conference to determine the full extent of his solicitation and receipt of such cash and things of value. Parts F(1)(a), (b), (2)(a), (b), and G of the Report of the Committee are incorporated by reference.

d. Judge Porteous violated several criminal statutes and ethical canons by presiding over *In re: Liljeberg Enters. Inc. v. Lifemark Hosps. Inc.*, No. 2:93-cv-01784, rev'd in part by 304 F.3d 410 (5th Cir. 2002). In that matter, which was tried without a jury, he denied a motion to recuse based on his relationship with lawyers in the case, in violation of 28 U.S.C. § 455 and Canons 3C(1) and 3D of the Code of Conduct for United States Judges. In denying the motion, he failed to disclose that the lawyers in question had often provided him with cash. Thereafter, while a bench verdict was pending, he solicited and received from the lawyers appearing before him illegal gratuities in the form of cash and

other things of value in violation of 18 U.S.C. § 201(c)(1)(B). This conduct, undertaken in a concealed manner, deprived the public of its right to his honest services in violation of 18 U.S.C. §§ 1341, 1343, and 1346, and constituted an abuse of his judicial office in violation of Canons 5C(1) and 5C(4) of the Code of Conduct for United States Judges. Parts F(1)(b), (2)(b), and G of the Report of the Committee are incorporated by reference.

e. Judge Porteous made false representations to gain the extension of a bank loan with the intent to defraud the bank and causing the bank to incur losses in violation of 18 U.S.C. §§ 1014 and 1344. Parts F(1)(d), (2)(d), and G of the Report of the Committee are incorporated by reference.

f. The conduct described in (a) through (e) has individually and collectively brought disrepute to the federal judiciary.

Executed this 17th day of June, 2008.

Since a certificate under 28 U.S.C. § 354(b)(2)(A) does not automatically conclude or suspend an ongoing misconduct proceeding before a judicial council, on recommendation of the Committee, the Conference also agreed to authorize the Committee to invite the Judicial Council of the Fifth Circuit to make an express decision on whether (a) to continue at this time or suspend proceedings pursuant to 28 U.S.C. § 354 regarding sanctions for misconduct by Judge Porteous under the Judicial Conduct and Disability Act; and (b) to direct that, under section 354(a)(2)(A)(i), no further cases be assigned to Judge Porteous for two years or until final action regarding impeachment and removal from office by the Congress, if earlier than two years.

Chief Justice of the United States
Presiding