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Judge Patrick Couwenberg

FILED
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Commission on
Judicial Performance

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE PATRICK COUWENBERG, NO. 158	**ANSWER OF JUDGE PATRICK COUWENBERG TO THE FIRST AMENDED NOTICE OF FORMAL PROCEEDINGS**

COMES NOW, Respondent, Judge Patrick Couwenberg, and answering the Notice of Formal Proceedings in the above-entitled inquiry, admits, denies and alleges as follows:

COUNT ONE

Respondent specifically denies providing intentionally false information about his "Education" on his 1993 Personal Data Questionnaire (PDQ). As to each of the specific numbered allegations made:

1. Respondent admits he attended Chaffey Junior College. He attended Chaffey Junior College between 1963 and 1966. Respondent did not include this information on the PDQ. Respondent understood his junior college attendance was unimportant to his qualifications as a Superior Court judge.

2. Respondent admits that the PDQ states that he attended "Cal. St. Polytechnic University" from 9/64 to 6/68. That is incorrect. Respondent attended California State Polytechnic University, Pomona, from 1966 to 1968.

3. Respondent admits that the PDQ states that he attended "Cal. St. University L.A." from 9/70 to 6/72 and received an "M.S." Respondent did not officially attend California State University, Los Angeles, although he did sit in on classes at Cal. State University, Los Angeles, during that time. Respondent did not receive a master's degree.

4. Respondent admits that he attended Western State University College of Law from 1969 to 1970. This information was not included on the PDQ.

5. Respondent admits that the PDQ states that he attended "Loyola Law School" from "9/72" to "6/73." Although Respondent was accepted to attend Loyola Law School, Respondent did not enroll at Loyola. Respondent was accepted at La Verne College Law Center and chose to attend because of the proximity to his residence in Claremont.

6. Respondent admits that the PDQ states that he attended "University La Verne Law School" from "9/73" to "6/76." That is inaccurate as Respondent attended La Verne College Law Center from 1970 to 1973. Respondent received his J.D. from La Verne College Law Center in 1973. Respondent was admitted to practice law in California in 1976.

Respondent admits that his biography is included in *Who's Who in American Law*, 4th ed., 1985-1986. Any statement in "Who's Who in American Law" that Respondent officially attended California State University, Los Angeles, would be

incorrect. Although respondent did informally audit some classes, he did not receive a master's degree.

Respondent specifically denies that his alleged conduct relating to any error or omission in preparing his "Educational History" intentionally violated the Code of Judicial Ethics, canon 5B, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT TWO

Respondent specifically denies providing intentionally false information about his "Educational History" on his 1996 Personal Data Questionnaire (PDQ). As to each of the specific numbered allegations made:

1. Respondent admits he attended Chaffey Junior College. He attended Chaffey Junior College between 1963 and 1966. Respondent did not include this information on the PDQ. Respondent understood his junior college attendance was unimportant to his qualifications as a Superior Court judge.

2. Respondent admits that the PDQ states that he attended "Cal. St. Polytechnic University" from 9/64 to 6/68. That is incorrect. Respondent attended California State Polytechnic University, Pomona, from 1966 to 1968.

3. Respondent admits that the PDQ states that he attended "Cal. St. University L.A." from 9/70 to 6/72 and received an "M.S." Respondent did not officially attend California State University, Los Angeles, although he did sit in on classes at Cal. State University, Los Angeles, during that time. Respondent did not receive a master's degree.

4. Respondent admits that he attended Western State University College of Law from 1969 to 1970. This information was not included on the PDQ.

5. Respondent admits that the PDQ states that he attended "Loyola Law School" from "9/72" to "6/73." Although Respondent was accepted to attend Loyola Law School, Respondent did not enroll at Loyola. Respondent was accepted at La Verne College Law Center and chose to attend because of the proximity to his residence in Claremont.

6. Respondent admits that the PDQ states that he attended "University La Verne Law School" from "9/73" to "6/76." That is inaccurate as Respondent attended La Verne College Law Center from 1970 to 1973. Respondent received his J.D. from La Verne College Law Center in 1973. Respondent was admitted to practice law in California in 1976.

Respondent admits that his biography is included in *Who's Who in American Law*, 4th ed., 1985-1986. Any statement in "Who's Who in American Law" that Respondent officially attended California State University, Los Angeles, would be incorrect. Although respondent did informally audit some classes, he did not receive a master's degree.

Respondent specifically denies that his alleged conduct relating to any error or omission in preparing his "Educational History" intentionally violated the Code of Judicial Ethics, canon 5B, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT THREE

Respondent specifically denies providing intentionally false information about his Vietnam backround. As to each of the specific allegations made:

Respondent admits that he did speak to Judge Michael Cowell about wanting to be a judge. Respondent also admits that he had lunch with Judge Joseph DiLoretto.

Respondent has no recollection of discussing his having been to Vietnam with Judge DiLoretto.

Respondent admits that he understood Judge Cowell was submitting a letter to the Governor's office on his behalf for consideration of respondent's judicial appointment. Respondent does not recall seeing the letter, obtaining a copy of it, nor approving its contents. As such, Respondent can neither admit nor deny allegations about the content of the letter.

Respondent specifically denies that his alleged conduct, relating to any statement or letter, intentionally violated the Code of Judicial Ethics, canon 5B, and would not constitute willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT FOUR

Respondent specifically denies providing intentionally false information about his "Education" on his Judges' Data Questionnaire (JDQ). As to each of the specific numbered allegations made:

1. Respondent admits he attended Chaffey Junior College. Respondent attended Chaffey Junior College between 1963 and 1966. Respondent did not include this information on the JDQ as he understood his junior college attendance was unimportant to his qualifications as a Superior Court judge.

2. Respondent admits that the JDQ states under colleges attended "CAL ST POLYTECH. UNIV. Pomona" from 9/64 to 6/66. That is incorrect. Respondent attended California State Polytechnic University, Pomona, from 1966 to 1968. The line for degree is also blank. Respondent did not leave the degree line blank in an effort to mislead or misrepresent his degree status.

3. Respondent admits the JDQ states under colleges attended "Cal Inst of Techn. Pasadena" and received a "BS degree." Respondent has never attended California Institute of Technology and holds no degrees from that institution.

4. Respondent admits that he attended Western State University College of Law from 1969 to 1970. This information was not included on the JDQ.

5. Respondent admits that the PDQ states that he attended "Loyola Law School" from "9/72" to "6/73." Although Respondent was accepted to attend Loyola Law School, Respondent did not enroll at Loyola. Respondent was accepted at La Verne College Law Center and chose to attend because of the proximity to his residence in Claremont.

6. Respondent admits that the JDQ states that he attended "La Verne Univ. School of Law" from "9/74" to "6/76." That is inaccurate as Respondent attended La Verne College Law Center from 1970 to 1973. Respondent received his J.D. from La Verne College Law Center in 1973. Respondent was admitted to practice law in California in 1976.

Relating to "Private Practice Experience," Respondent admits that the JDQ states "1976 Gibson, Dunn." Respondent has never been employed by the law firm of Gibson, Dunn & Crutcher.

Relating to "Fraternity, Club, or other Affiliations," Respondent admits the box next to "Veterans of Foreign Wars" is marked on the JDQ. Respondent is not a member of the "Veterans of Foreign Wars."

Relating to "Armed Services Record," Respondent admits the JDQ states "US Navy." Respondent was a member of the United States Navy Reserves. Respondent was honorably discharged from the United States Navy.

Respondent specifically denies that the alleged conduct relating to any errors or omissions in preparing the Judges' Data Questionnaire (JDQ), intentionally violated the Code of Judicial Ethics, canons 1 and 2A, was willful misconduct in office, was

conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT FIVE

Respondent admits that he was briefly interviewed by Judge Charles Frisco prior to his enrobing ceremony. Everything Respondent discussed with Judge Charles Frisco was with his belief that Judge Frisco's comments at the public enrobing ceremony on August 25, 1997, were intended to be humorous and in the nature of a "roast." Respondent specifically denies providing intentionally false information to Judge Frisco. As to each of the specific numbered allegations made:

1. Respondent specifically denies the allegation, "You were recruited from the Navy to the Army." Respondent does not recall providing this information to Judge Frisco, nor affirming it to be true. Respondent was in the United States Navy Reserves, and Respondent never served in the United States Army.

2. Respondent specifically denies the allegation, "You attained the rank of corporal in the Army." Respondent does not recall providing this information to Judge Frisco, nor affirming it to be true. Respondent was never in the Army.

3. Respondent specifically denies the allegation, "You served in the Army for two years and were in Vietnam for sixteen months." Respondent does not recall providing this information to Judge Frisco, nor affirming it to be true. Respondent was never in the Army

4. Respondent specifically denies the allegation, "You received a Purple Heart." Respondent does not recall providing this information to Judge Frisco, nor affirming it to be true. Respondent did not correct Judge Frisco's statement when he brought up this subject at the enrobing ceremony. Respondent did correct a media source who reported on this issue. Respondent never received a Purple Heart.

Respondent specifically denies that his alleged conduct relating to his conversations with Judge Frisco concerning the "enrobing ceremony," intentionally violated the Code of Judicial Ethics, canons 1 and 2A, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT SIX

Respondent specifically denies providing intentionally false information to any group of attorneys appearing before Respondent, including Catherine Pratt. Respondent was a judge in Children's Court, and while in his judicial chambers, attorneys and Respondent often spoke very informally about a variety of life experiences, often in jest. Respondent is sure he discussed his life as a young child, in a concentration camp in the Far East. Respondent also discussed returning to the Far East. Vietnam, as a topic, came up for discussion. As to each of the specific numbered allegations made:

1. Respondent specifically denies the allegation, "You went to Vietnam, implying the war in Vietnam, immediately upon turning 18." Respondent did not make this statement. Respondent was in Southeast Asia during the Vietnam war era. Respondent was not 18 years old at the time.

2. Respondent specifically denies the allegation, "Upon returning from Vietnam, you went to college on the G.I. Bill." Respondent did not make this statement. Respondent does recall conversations about the G.I. Bill, however, Respondent has always understood that he was not eligible for its benefits. Respondent did attend college, but not on the G.I. Bill.

3. Respondent specifically denies the allegation, "You received an undergraduate degree in physics from 'Cal Tech.'" Respondent does not recall making

this statement. Respondent does not have an undergraduate degree in physics from Cal Tech.

4. Respondent specifically denies the allegation, "You had a master's degree in psychology." Respondent does not recall making this statement. Respondent does not have a master's degree in psychology.

Respondent admits that in approximately 1997, he had a medical appointment because there was blood in his urine. From his x-rays, a doctor told Respondent it looked to him like Respondent had shrapnel in his body. Respondent may have commented on this in relation to a medical appointment, to attorneys in his courtroom, to explain why Respondent would be late to court.

Respondent specifically denies that his alleged conduct relating to any very informal or humorous conversations in Respondent's chambers with other attorneys present, intentionally violated the Code of Judicial Ethics, canons 1 and 2A, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT SEVEN

Respondent admits that he was interviewed by *Daily Journal* reporter, Cheryl Romo. However, Respondent specifically denies that he told Ms. Romo anything that was intentionally false, including that Respondent was in Vietnam, from 1968 to 1969, where he held the rank of Corporal.

Respondent specifically denies that his alleged conduct relating to his interview, intentionally violated the Code of Judicial Ethics, canons 1 and 2A, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, nor was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT EIGHT

Respondent specifically denies that Respondent intentionally testified falsely. As to Respondent's attendance at California State University Los Angeles, Respondent sat in on some psychology classes. Respondent admits that he was never formally enrolled at CSU, Los Angeles, nor did Respondent receive a master's degree. Respondent failed to focus on the question asked by the Commission on January 21, 2000, and did not timely consider his responses to the Commission's question at page 16. Respondent never intentionally intended to mislead or deceive anyone concerning his attendance at Cal State.

As to Respondent's service in Southeast Asia, Respondent stands by his sworn testimony cited by the Commission on January 21, 2000, page 35, line 5 through page 36, line 23, and from page 63, line 5, through page 110, line 24. As Respondent stated in his sworn testimony at pages 72-73, and at page 88, Respondent cannot be sure what government organization sent him to the Far East. It was at best an assumption, and remains a guess, that the agency that recruited Respondent was the CIA.

Respondent specifically denies that his alleged conduct relating to allegations involving a covert operation in Southeast Asia, intentionally violated the Code of Judicial Ethics, canons 1 and 2A, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

COUNT NINE

Respondent specifically denies that he intentionally falsely implied anything to the Commission. Respondent stands by the information supplied to the Commission in letters to the Commission dated October 29, 1998, and August 3, 1999. Once again,

Respondent cannot be sure of what government organization sent Respondent to the Far East.

Respondent's former counsel did send a letter to the commission, dated October 29, 1998, wherein he stated that Respondent received his "J.D. from University of La Verne Law School in 1976." Respondent did not see or approve this letter prior to it being mailed. Such communication problems resulted in Respondent retaining new counsel. Respondent attended La Verne College Law Center from 1970 to 1973. Respondent received his J.D. from La Verne College Law Center in 1973. Respondent was admitted to practice law in California in 1976.

Respondent specifically denies that his alleged conduct relating to his being sent to the Far East by a governmental agency, intentionally violated the Code of Judicial Ethics, canons 1 and 2A, was willful misconduct in office, was conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or was improper conduct within the meaning of the California Constitution, Article VI, section 18(d).

Respectfully submitted,
EDWARD P. GEORGE, JR.
TIMOTHY L. O'REILLY
EDWARD P. GEORGE, JR., INC.

THOMAS M. GOETHALS
POHLSON, MOORHEAD & GOETHALS

By _____
EDWARD P. GEORGE, JR.
Attorneys for Respondent,
Judge Patrick Couwenberg

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I, PATRICK COUWENBERG, declare that:

I am the respondent judge in the above-entitled proceeding. I have read the foregoing ANSWER OF JUDGE PATRICK COUWENBERG TO THE FIRST AMENDED NOTICE OF FORMAL PROCEEDINGS, and all facts alleged in the above document, not otherwise supported by citations to the record, exhibits, or other documents, are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 3, 2000, at Norwalk, California.

PATRICK COUWENBERG
Judge No. 158