(No. 17-CC-1 Respondent reprimanded.)

In re APPELLATE JUDGE ROBERT J. STEIGMANN,
of the Appellate Court, Fourth District, Respondent

Order entered August 13, 2018

SYLLABUS

On August 7, 2017, the Judicial Inquiry Board (Board) filed a complaint with the Illinois Courts Commission (Commission), charging Respondent with conduct that was prejudicial to the administration of justice and that brought the judicial office into disrepute in violation of the Code of Judicial Conduct, Illinois Supreme Court Rules 61, 62, and 65. In summary, the complaint alleged that, beginning in February 2015, Respondent used judicial branch resources to solicit paid speaking opportunities from law enforcement organizations, medical societies, and hospitals. The complaint alleged that, in doing so, Respondent used the prestige of his judicial office for private gain and engaged in business dealings with persons likely to come before the court on which he sits. Further, the complaint alleged that Respondent's conduct could create the appearance that he was biased in favor of physicians and law enforcement (the groups that he solicited), as he did not solicit speaking engagements before organizations representing the interests of criminal defendants or medical malpractice plaintiffs.

Held: Respondent reprimanded.

Sidley Austin LLP, of Chicago, for Judicial Inquiry Board.
Meyer Capel, of Champaign, for Respondent.

Before the COURTS COMMISSION: BURKE, Chair, AUSTRIACO, REDDICK, SCHOSTOK, and WOLFF, commissioners, CONCURRING; McBRIDE and WEBER, commissioners, DISSENTING IN PART.

ORDER

In a complaint filed August 7, 2017, the Board charged Respondent, ROBERT J. STEIGMANN, a judge of the Fourth District of the Illinois Appellate Court, with "conduct that was prejudicial to the administration of justice and that brought the judicial office into disrepute" in violation of the Code of Judicial Conduct (Code), Illinois Supreme Court Rule 61, Canon 1; Rule 62, Canon 2; and Rule 65, Canon 5; which state in pertinent part:

> Rule 61:
> "An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective."

Rule 62:
"(A) A judge should *** conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) A judge should not allow the judge's family, social, or other relationships to influence the judge's judicial conduct or judgment."

Rule 65:
"(C)(1) A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judge's judicial duties, exploit the judge's judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge sits.

(C)(2) *** [A] judge should not assume an active role in the management or serve as an officer, director, or employee of any business."

The Board must prove any violation of the Code by clear and convincing evidence.

In support of the charges, the complaint alleged that Respondent wrote to law enforcement organizations connected to the training of police officers, offering to deliver his presentation "Legal Tips for Police Officers" for a fee of $1,250 plus travel expenses including meals, lodging, and mileage reimbursement. Respondent used his judicial letterhead stationery and his judicial secretary's assistance to send these letters. Respondent delivered the advertised presentation to law enforcement organizations at least 15 times between February 2015 and November 2016. Respondent did not similarly solicit, or make any similar presentations to, organizations or attorneys representing the interests of criminal defendants during this period.

The complaint likewise alleged that Respondent also sent 96 letters to various hospitals and emailed 30 medical societies, similarly soliciting paid speaking opportunities. Respondent advertised his availability to deliver a presentation on "The Real Story about Medical Malpractice Litigation and the Special Protections the Law Provides for Doctors and Other Health-Care Providers." The letters and emails were sent using court resources, *i.e.*, judicial stationery, judicial computers and email addresses, and some amount of the judicial secretary's time. The emails identified Respondent as a judge with decades of judicial experience but did not suggest that he would be speaking as a representative of the court. During one year, Respondent gave at least nine presentations regarding medical malpractice law, usually in return for speaking fees of $800 per presentation plus travel expenses. Respondent did not similarly solicit, or make any similar presentations to, organizations or attorneys representing the interests of medical malpractice plaintiffs during this period.

Respondent filed an answer in which he admitted all of the factual allegations of the complaint but denied that his conduct was for the purpose of private gain, created the appearance of impropriety, suggested that he was not impartial in his decisions, was prejudicial to the administration of justice, or brought the judicial office into disrepute. The matter proceeded to an evidentiary hearing before the Commission.

The evidence presented at the hearing was as follows. In August 2016 the Board received a letter from an attorney with a Galesburg law firm. The attorney said that one of his clients, a physician on the medical staff of Galesburg Hospital, had received a letter from the Respondent, written on the Respondent's judicial letterhead stationery, advertising his availability to deliver a presentation on medical malpractice law in return for an "honorarium" of $800 plus travel expenses. In the letter, the Respondent stated that his presentations in the past had been praised by physicians, and he identified officers of the Illinois State Medical Society and the Champaign County Medical Society who could provide testimonials to the value of Respondent's presentation. The Galesburg physician had asked the attorney whether this solicitation was appropriate and ethical. The attorney passed that same question on to the Board. The Board investigated and then filed the complaint in this case.

Some of the materials obtained by the Board through its investigation were submitted into evidence during the hearing. The exhibits included samples of the letters and emails sent by Respondent (including follow-up communications pressing recipients to engage Respondent on the basis that his presentations were of high quality and the cost was likely to rise in the future); materials created by those who engaged Respondent, advertising his presentations to potential attendees; course evaluations completed by some attendees at law enforcement presentations, all of which were positive and some of which included comments that the attendee viewed Respondent as "pro-police"; and financial records showing the amount of income Respondent received from such presentations (approximately $32,000-34,000 over a two-year period).

The exhibits also included correspondence between Respondent and the Director of the Administrative Office of the Illinois Courts, in which Respondent sought exemptions from section 50-13 of the Procurement Code (30 ILCS 500/50-13), which prohibits certain State officials (including Respondent) from entering into any contract that will be paid from funds appropriated by the General Assembly (such as funds for law enforcement training). Respondent advised the Director that he would be paid for the presentations he planned to give to law enforcement and physicians' groups, although he did not mention that he was actively soliciting such paid speaking engagements. The Director granted exemptions for Respondent's presentations, finding that the education of the public regarding the law was in the public interest. However, the Director left the decision whether to proceed with the presentations to the discretion of Respondent and his presiding judge, and encouraged Respondent to review the Code and its canons to ensure that his conduct complied with the Code.

Respondent testified that he had been writing and speaking on legal topics for decades as a way to share his love of the law and educate the public. He taught law school classes as an adjunct professor and wrote a book on evidence. Most of these activities were uncompensated, although he was paid for his teaching and for the book. He first began soliciting paid speaking opportunities after an organizer of continuing legal education (CLE) seminars for prosecutors offered to pay him $1,250 for delivering a two-day presentation.

Respondent defended his solicitations, saying that he did not believe they violated the Code. Regarding his use of judicial letterhead stationery to send the solicitations, the Respondent testified that he simply viewed the letterhead as confirming his identity as a judge of

the appellate court. However, he agreed that he wanted to distinguish his solicitation letters from "junk mail" and increase the response rate. He used judicial letterhead for most of his solicitations to law enforcement groups. He initially sent solicitations to medical societies and hospitals via his work email, but switched to using judicial letterhead because the response to the email solicitations was "tepid." If he did not receive a response with either method of solicitation, he sometimes followed up by telephone to press recipients to retain his services. He handled these telephone calls himself. He had his secretary assist him with the letters and email solicitations by dictating them for transcription, just as he would with any other correspondence. He paid all the postage for the letters himself. Respondent further stated that, although he initially had not seen any problem in using judicial letterhead for his solicitations (and still did not believe it violated the Code), in retrospect, he could see that reasonable people could deem it "unseemly" and he regretted his decision to use letterhead.

Respondent agreed that appeals in criminal cases and medical malpractice cases came before him frequently. Respondent (and several colleagues) denied that Respondent was biased in any way or that the decisions he authored showed any actual partiality toward any group. As for the evaluations from law enforcement presentations that described him as "pro-police," Respondent explained that his audience meant that Respondent understood the stresses that police officers were under and the demands of their job, not that Respondent would favor them in court. Respondent did not believe that either his presentations or his solicitations of only one "side" to hire him for such presentations would create a perception of bias.

Justice Knecht, who was the presiding judge of the Fourth District Appellate Court during the relevant time, testified that he knew of Respondent's presentations to law enforcement and to medical audiences. When Respondent asked him to approve such presentations pursuant to Illinois Supreme Court Rule 64(A), he said fine. He had not known that Respondent was soliciting paid speaking opportunities or that Respondent was using his letterhead to do so. He first became aware of these aspects of Respondent's presentations during the Board investigation and he found them somewhat troubling, although not necessarily violative of the Code. He also praised Respondent's prompt and fair resolution of cases, noting that Respondent was one of the most productive members of the Fourth District and was held in high regard by the legal community.

Respondent also presented witnesses, primarily other judges, in mitigation to address any sanction that might be imposed. These witnesses testified to Respondent's long history of giving of himself to teach about the law and their deep respect for his integrity and impartiality. In closing, Respondent contended that nothing in the Code directly prohibited his actions and he stressed that he never intended to violate the Code in any way. He stated that, regardless of the Commission's decision, he would never make similar solicitations in the future.

ANALYSIS

The Commission finds that, as a general matter, the Board introduced clear and convincing evidence that Respondent violated the Code of Judicial Conduct and engaged in conduct that was prejudicial to the administration of justice and brought the judicial office into

disrepute. The specific provisions of the Code, and whether the Board proved a violation of each provision, are discussed below.

Count III – Rule 65(C)

We begin our consideration with count III, which charged Respondent with violating Rule 65(C). Subsection (1) of Rule 65(C) states that a judge should "refrain from financial and business dealings that [a] tend to reflect adversely on the judge's impartiality, [b] interfere with the proper performance of the judge's judicial duties, [c] exploit the judge's judicial position, or [d] involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge sits." Subsection (2) of Rule 65(C) states that a judge should not play an active role in the management of a business, or serve as an officer, directory, or employee of a business. This subsection derives from article VI, § 13(b) of the Illinois Constitution, which mandates that judges "shall devote full time to judicial duties" and cannot "hold a position of profit." The reasons for these restrictions are obvious: to preserve public confidence in the impartiality and independence of the judiciary by guarding against conflicts of interest posed by a judge's involvement in money-making activities. We consider each aspect of these provisions in turn.

Rule 65(C)(1)

We find that the Board has not proved by clear and convincing evidence that Respondent's business dealings tended to reflect adversely on his impartiality (Rule 65(C)(1)[a]). The Board presented no evidence of the actual content of Respondent's presentations, and thus we cannot determine whether they reflected any actual bias or partiality toward the audience for the presentation. Further, Respondent provided a logical explanation for the occasional comments by attendees at law enforcement presentations that they viewed him as pro-police. And although Respondent's habit of directing his solicitations only to law enforcement and medical malpractice defense groups could possibly suggest some partiality, there are other reasonable explanations for the one-sided nature of the solicitations given that it was a prosecution CLE organizer who first suggested paying Respondent for his presentations, and Respondent's paid speaking "business" was relatively young. On balance, we are not persuaded that the one-sided nature of Respondent's solicitation targets during the two years at issue here, standing alone, would cause an objective observer to question Respondent's impartiality when deciding cases.

As for whether Respondent's pursuit of speaking opportunities interfered in any way with the performance of his judicial duties (Rule 65(C)(1)[b]), the complaint did not specifically allege this and we find no such interference.

However, we find that the Board proved violations of the remaining provisions in Rule 65(C)(1). Respondent's conduct in soliciting paid speaking engagements, and his use of judicial resources including judicial letterhead stationery to do so, impermissibly exploited his judicial

position and involved him in frequent transactions with persons whose business was likely to come before the court on which he sits.[1]

> "[T]he greatest damage to public confidence in the judiciary occurs when a judge directly and personally solicits funds—especially where the target of the judge's request has, or is likely to have, business before the court." Raymond J. McKoski, Judges in Street Clothes: Acting Ethically Off the Bench 162 (2017).

Anti-solicitation rules address a dual danger: that the recipients of solicitations from a judge either may be intimidated into patronizing the judge's business when they would rather not, or that those recipients may expect future favors from the judge in return for their patronage. See *id*. at 49 & n. 53 (citing Steven Lubet, Beyond Reproach: Ethical Restrictions on the Extrajudicial Activities of State and Federal Judges 29 (Am. Judicature Soc'y 1984)).

The comments above explain the Code's prohibitions against judges soliciting donations for law-related, civic, and charitable organizations. See Rules 64(C) ("Under no circumstances *** shall a judge engage in direct, personal solicitation of funds on [an] organization's behalf") and 65(B)(2) ("A judge should not solicit or permit his or her name to be used in any manner to solicit funds or other assistance for any [charitable or civic] organization"). But the same principles apply with even greater force when the "cause" for which the judge is soliciting is a business or commercial activity that serves the judge's own financial benefit. The same concerns undergird the prohibition in the constitution and Rule 65(C)(2) of the Code against a judge participating in the management of any business.

Further, Respondent's use of judicial letterhead stationery and other judicial resources to advance his burgeoning speaking business was an exploitation of his judicial office, a phrase that also encompasses the solicitations themselves.

> "Exploitation of the judicial office may take a number of forms. Judges might exploit the physical office by appropriating telephones, supplies, employees, or even their actual chambers for the conduct of private business; they may coerce or otherwise persuade lawyers or litigants to patronize their enterprises or to fulfill perceived business obligations; they may become (intentionally or unintentionally) the beneficiaries of economic favoritism." Jeffrey M. Shaman, Steven Lubet & James J. Alfini, Judicial Conduct and Ethics § 7.16 at 229-30 (3d ed. 2000).

Respondent pursued the opportunity to give paid presentations on the law with energy, using judicial letterhead stationery to increase the likelihood of a positive response to his solicitations and making follow-up calls to recipients who had not responded. It is clear that Respondent's zeal in this pursuit arose primarily from his genuine belief that he was providing a public benefit by explaining legal concepts to non-lawyers. Nevertheless, while his motives may have been pure, the fact that the "public service" he was providing also enriched him financially created the danger that recipients of his solicitation might feel coerced to hire him, or might think

[1] Although the fact that Respondent is an appellate court judge means that persons rarely "come before" the court in the sense of being physically present in the courtroom during proceedings, it is clear that the rule is intended to encompass a broader reference to persons who have an interest in litigation that "comes before" the court.

that hiring him to give a presentation would cause him to favor their interests in cases that came before him. We therefore find that the Board proved, by clear and convincing evidence, that Respondent engaged in financial and business dealings with persons likely to come before his court and that he exploited his judicial position in seeking paid speaking engagements.

Rule 65(C)(2)

Commissioner McBride's partial dissent suggests that Respondent's pursuit of paid speaking opportunities did not amount to assuming an active role in the management of a business within the meaning of Rule 65(C)(2). The dissent's rationale is that, because the Code permits judges to speak and teach and also permits them to be compensated for doing so, the act of receiving payment for speaking and teaching cannot be the type of "management of a business" prohibited by Rule 65(C)(2). We agree that merely being paid to speak or teach may not, in itself, equate to actively managing a business. Here, however, Respondent went beyond that permitted conduct by directly soliciting paid speaking engagements, and indeed following up to urge reluctant recipients of his solicitations to hire him. In so doing, he went beyond simply earning a fee for permitted activity, and instead actively sought to increase his extrajudicial sources of revenue. In our view, those actions brought him within the scope of the "active role in the management of a business" that is prohibited under Rule 65(C)(2).

Our conclusion that Respondent's direct solicitation of paid speaking engagements violated Canon 5(C)(1) and (2) is supported by an opinion from the South Carolina Advisory Committee on Standards of Judicial Conduct (Op. 8-1990), which considered whether a judge could organize paid seminars for attorneys. The Advisory Committee noted that the seminars would be permissible under Canon 4, which permits judges to speak and teach, and to receive reasonable compensation for doing so as long as the activity does not create an appearance of possible influence or impropriety. However, the direct marketing of the seminars would violate Canon 5(C)(1), as the recipients of the judge's solicitations could later come before his court, leading to the possibility that some would attempt to curry favor with the judge by paying the fee for his seminar and that others would feel pressure to pay the fee. This situation would arise despite the fact that the judge at issue was of impeccable character and simply believed there was a need for that type of seminar. The seminars would also involve the judge in the management of a business, which is flatly prohibited by Canon 5(C)(2). The Advisory Committee cited the official reporter's comments to the Model Code of Judicial Conduct (on which both the Illinois and the South Carolina Codes are based): although the drafters of the Code realized that the provisions of Canon 5(C) would "severely limit the financial and business potential of a judge," those limitations were necessary "to prevent the appearance to litigants, lawyers, and the public that patronizing the business in which the judge is actively involved will work to the advantage of the litigant, or that failure to patronize the business will work to his disadvantage." E. Thode, Reporter's Notes to Code of Judicial Conduct 80-83 (1973).

We also note that the use of a judge's letterhead to promote the personal business of the judge has been widely disapproved. This is true even where it was not the vehicle for soliciting business. See R. McKoski, "Ethical Considerations in the Use of Judicial Stationery for Private Purposes," 112 Penn. St. L. Rev. 471, 485 (Fall 2007) (stating that "There is a consensus among *** jurisdictions that court letterhead may not be used for personal financial matters [and]

private business dealings"; collecting cases). In *Inquiry Concerning a Judge*, 822 P.2d 1333 (Alaska 1991), a supreme court justice had, among other things, used letterhead to communicate with opposing counsel in a proceeding involving the justice's business interests. Noting that the test for the appearance of impropriety was an objective one, the court held that the use of letterhead failed this test: use of the letterhead could be seen by reasonable observers as an attempt to influence the recipients, and such observers would be likely "to believe that [the justice] was unable to distinguish his judicial activities from his personal ones," which "could lead a reasonable person to believe that [his] judicial decision-making similarly might be flawed." *Id*. at 1341. See also *In re Mosley*, 102 P.3d 555, 560 (Nevada 2004) (judge's use of letterhead to communicate with the principal of his child's school was an attempt to gain personal advantage, violating Canon 2B—"A judge shall not lend the prestige of judicial office to advance *** private interests").

Respondent's conduct involved him in business dealings with persons likely to come before his court, violating Rule 65(C)(1) , and in the management of a business in violation of Rule 65(C)(2). Further, we find that his use of court letterhead and other judicial resources for his solicitations exploited his judicial position in violation of Rule 65(C)(1). The Board has proved the charge in count III—that Respondent violated Rule 65(C)—by clear and convincing evidence.

Counts I and II – Rules 61 and 62

We find that the Board has also proved counts I and II, which alleged that Respondent violated Rules 61 and 62. As noted above, Rule 61 requires judges to observe "high standards of conduct so that the integrity and independence of the judiciary may be preserved." Rule 62, which is titled "A Judge Should Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities," requires a judge to "conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary" and prohibits a judge from: allowing his or her relationships to influence his or her judicial conduct, lending the prestige of private office to advance private interests, or permitting the impression that particular persons "are in a special position to influence the judge." We recognize that Respondent's reputation for impartiality and honesty is widespread, and we do not find that he intentionally sought to act against these principles. Nevertheless, his direct solicitations for his paid lecturing business and his exploitation of his judicial position to promote that business could cause a reasonable observer to question the integrity and independence of the judiciary, creating the appearance of impropriety and partiality.

This order is not intended to criticize or inhibit the practice by judges of educating the public regarding the law. As Rule 64 makes clear, judges are free to write, speak, and teach on the law, the legal system, and the administration of justice so long as those activities do not detract from their ability to perform their judicial duties or call into question their impartiality in deciding the cases that come before them. These activities unquestionably provide a valuable public benefit, and this is true even when judges receive compensation as permitted by Rule 66. Our order today is directed only to the solicitation of paid business opportunities from persons likely to come before the court on which a judge sits, and the exploitation of judicial office in the course of such solicitation.

SANCTION

In determining an appropriate sanction, we consider the nature and circumstances of Respondent's misconduct as well as the need to maintain public confidence in the judiciary. We take note of Respondent's many contributions to greater understanding of the law, the majority of which he provided without compensation. Respondent's pursuit of paid speaking opportunities no doubt provided a valuable education on the law to many. However, it also provided him with private financial gain. Given the fact that his presentations served, at least in part, his own financial interests, his use of judicial resources in his solicitations was improper, in addition to trading on the respect due his judicial office.

The dissent argues that no sanction should be imposed in this case, citing *In re Perrin*, 10-CC-2 (Sept. 9, 2011), and cases cited therein. Some of the cited cases (*In re Murphy*, 1 Ill. Cts. Comm. 3 (1970) and *In re Pistilli*, 1 Ill. Cts. Com. 111 (1977)) are inapposite as the Commission in those cases concluded that no violation of the Code had been proven, whereas here all commissioners agree that Respondent's actions did violate the Code. *Perrin* is factually distinct, as it involved a single instance of an offhand *ex parte* communication with the judge hearing the traffic case of the respondent's daughter. No one in the general public was even aware of the violation, and thus it did not immediately bring the judiciary into disrepute. Further, the respondent in *Perrin* promptly admitted that his conduct was a violation of the Code. By contrast, here Respondent engaged in a longer-term, intentional course of conduct that involved over 120 solicitations and two dozen paid presentations. Members of the public were aware of his conduct and it caused them to question whether that conduct was proper, as shown by the Galesburg doctor whose query led to this proceeding. Further, although Respondent expressed remorse for his actions, he has never admitted that they violated the Code.

It is axiomatic that every case that comes before the Commission is unique, and thus precedents are of limited value in assessing the sanction appropriate here. We do not find *Perrin* or the cases cited therein especially helpful because of their dissimilar facts. Perhaps a closer comparison would be *In re Morgan*, 2 Ill. Cts. Com. 75 (1985), in which the respondent received compensation for solemnizing marriages. Like Respondent here, Judge Morgan testified that he believed that his actions were permitted under the Code because he was performing a public service and his officiating included "lectures" (*i.e.*, homilies) on marriage. In that case, the Commission issued a reprimand to the respondent judge.

Instead of relying on distinguishable precedents, we look to the mitigating and aggravating factors present in this case. In *In re Spurlock*, 4 Ill. Cts. Com. 74 (2001), the Commission cited with approval several factors that can be used in determining an appropriate sanction for judicial misconduct: (1) whether the misconduct is an isolated instance or a pattern of conduct; (2) the nature, extent and frequency of occurrence of the acts or misconduct; (3) whether the misconduct occurred in or out of the courtroom; (4) whether the misconduct occurred in the judge's official capacity or in his private life; (5) whether the judge has acknowledged or recognized that the acts occurred; (6) whether the judge has evidenced an effort to change or modify his conduct; (7) the length of service on the bench; (8) whether there have been prior complaints about this judge; (9) the effect the misconduct has upon the integrity of

and respect for the judiciary; and (10) the extent to which the judge exploited his position to satisfy his personal desires. *Id*.; see also *In re Polito*, 12-CC-1 (Feb. 1, 2013) (citing *In re Deming*, 736 P.2d 639, 659 (1987)). In our view, the existence of several of these factors (*e.g.*, a pattern of repeated improper solicitations, the use of judicial resources, and the public nature of Respondent's solicitations) support the imposition of a sanction, despite the presence of mitigating factors such as Respondent's lengthy and well-regarded career on the bench.

Respondent emphasizes that his violations of the Code were not willful. We accept this representation, and we acknowledge that the Code does not spell out every action that might violate its provisions or create an appearance of impropriety. We are frankly puzzled, however, that Respondent never sought guidance from sources that are available, including the prior decisions of this Commission (some of which relate to the conduct of business by judges) and the excellent advisory opinions produced by the Illinois Judges Association's committee on judicial ethics (known as the Illinois Judicial Ethics Committee, or IJEC). There are several IJEC opinions that Respondent might have found relevant, on topics such as the dangers posed by accepting compensation for speaking engagements obtained through the advertisement of judges' availability for such presentations (IJEC Op. 1994-17). Our puzzlement at Respondent's admitted failure to seek such guidance is all the greater given that Respondent has sat on the board of the Illinois Judges Association and should be well aware of IJEC's resources.

In mitigation, we note that Respondent never attempted to conceal or misrepresent his actions, and he fully cooperated with the investigation by the Board. Further, there was no evidence of any effect on his performance of his judicial duties or any bias in his decisions. Finally, Respondent has stated that he now realizes that his solicitations were "unseemly" and resulted from an error of judgment on his part, and he has agreed never again to seek paid speaking engagements from persons whose business is likely to come before the court on which he sits. Weighing all of these factors together, we determine that the most appropriate sanction in this case is a reprimand.

Respondent reprimanded.

McBRIDE, concurring in part and dissenting in part:

Although I agree with the majority that Respondent's solicitation of speaking engagements for compensation and his use of judicial stationery and staff amounted to a violation of the Code, I do not agree that the Board proved Count III of the complaint—that he assumed an active role in the management of a business. Even more importantly, however, I disagree that the imposition of a formal sanction is warranted in this matter, based on the overwhelming mitigation evidence presented and because Respondent has been effectively sanctioned throughout these proceedings.

First, I disagree with the majority that the Board proved Count III of the complaint, specifically that Respondent violated Rule 65(C)(2) by "assum[ing] an active role in the management *** of any business." As the majority points out above, Canon 4 of the Code of Judicial Conduct specifically allows a judge to speak, write, lecture, teach and participate in other quasi-judicial activities concerning the law, the legal system, and the administration of

justice, subject to the requirements of the Code. Ill. Sup. Ct. R. 64 (eff. Dec. 9, 2014). In addition, the Commentary to Rule 64 instructs that, "[a]s a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice" and "[t]o the extent that the judge's time permits, he or she is encouraged to do so through appropriate channels."

With this in mind, I would conclude that the only evidence presented by the Board regarding Respondent "assum[ing] an active role in the management *** of any business" involved conduct that would otherwise be permitted under the Code. The Commission presented evidence that Respondent filed a profit and loss schedule as part of his 2016 tax return including expenses from his presentations. However, filing such a schedule does not, in my opinion, establish that he managed a business, since any other judge who receives reasonable compensation for teaching in accordance with the Code would also likely attach such a schedule to his or her tax return.

Nonetheless, even if such a violation had been proven by clear and convincing evidence, I would still conclude that a formal sanction is not warranted for the violations in this matter.

The Illinois Constitution, Supreme Court Rules, and decisions of this Commission establish that it is the Commission that has the authority to determine whether a judge has violated the rules in a particular case, and if so, whether the violations justify the imposition of discipline. See Ill. Const. art. VI, § 15 (instilling the Commission with the authority to "remove from office, suspend without pay, censure or reprimand a Judge or Associate Judge for willful misconduct in office, persistent failure to perform his or her duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute"); Ill. S. Ct. R. 71 (eff. Jan. 1, 1987) ("A judge who violates Rules 61 through 68 *may* be subject to discipline by the Illinois Courts Commission." (Emphasis added)); *In re Vecchio*, 4 Ill. Cts. Com. 92, 97 (1998); *In re Alfano*, 2 Ill. Cts. Com. 11, 24-25 (1992). These sources also indicate that the finding of a violation does not mandate the imposition of a sanction. "[E]ach case must be evaluated on its own facts" and "not all errors in judgment should result in disciplinary charges." *In re Perrin*, 10-CC-2 (Sept. 9, 2011). The Preamble to the Code of Judicial Conduct also explains that discipline is not required for every infraction, stating:

> "The Canons are not standards of discipline in themselves, but express the policy considerations underlying the rules contained within the canons. The test of the rules is intended to govern the conduct of judges and to be binding on them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the test of the rules and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system." Preamble to Code of Judicial Conduct; see also *Perrin*, 10-CC-2 (Sept. 9, 2011).

Based on my review of prior Commission decisions, in particular the decision in *In re Perrin*, I agree that the Board proved certain rule violations, but I would conclude that the

circumstances of those rule violations do not warrant the issuance of a formal sanction. Like here, *Perrin* involved a complaint which alleged that a judge's conduct was prejudicial to the administration of justice and brought the judicial office into disrepute. *Perrin*, 10-CC-2 (Sept. 9, 2011). Specifically, the respondent judge was charged with violating the Rules in several ways, including that he "initiate[d], permit[ted], or consider[ed] *ex parte* communications *** outside the presence of the parties concerning a pending *** proceeding." The respondent judge and the Board had stipulated to the fact that the respondent judge told another judge that his daughter's traffic citation was one of the matters that would be before the other judge the following Monday, and that she would be out of town on a service trip for their church. The other judge informed the respondent judge that his daughter should go on the trip and that he would take care of continuing the matter. The respondent judge did not ask the other judge to dismiss the citation, but subsequent to their conversation, the other judge dismissed the respondent judge's daughter's traffic citation *sua sponte*. Thereafter, the other judge resigned, and a special prosecutor was appointed to investigate the citation's dismissal, which resulted in the other judge admitting to falsifying court documents.

The respondent judge admitted that his actions violated the Code of Judicial Conduct, and after considering all the evidence presented, the Commission agreed. However, the Commission noted that " 'discipline is not imposed automatically upon a finding that a rule has been violated' " (*Perrin*, 10-CC-2 (Sept. 9, 2011), quoting *Vecchio*, 4 Ill. Cts. Com. at 97) and that "in some cases, the informal resolution [of a private admonition by the Board] can be used effectively as a private sanction less harsh than a public reprimand" (*Perrin*, 10-CC-2 (Sept. 9, 2011)).

The Commission observed that there was "no compelling evidence that respondent made his remarks with the intent that [the other judge] take any action in his daughter's case," and that respondent "did not ask [the other judge] to dismiss the case in the manner in which he ultimately did." *Perrin*, 10-CC-2 (Sept. 9, 2011). The Commission thus concluded that "a private admonition [from the Board] would have been appropriate in this matter, rather than the more harsh sanction of a reprimand." The Commission explained that:

> "[a]n admonition would have served to make clear that respondent's conduct was unacceptable. Although this form of discipline is less public than that sought by the Board, it is by no means an empty gesture. In having to answer for his conduct, respondent has already paid a very public price. Respondent has presumably incurred substantial attorney fees as a result of his improper conduct. More significantly, he has suffered a very substantial private and public embarrassment, not just to himself, but to his family as well. Respondent's reputation has been called into question as a result of these proceedings. These consequences constitute a heavy penalty in and of themselves." *Perrin*, 10-CC-2 (Sept. 9, 2011).

The Commission concluded that a reprimand was not warranted and dismissed the complaint, "[c]onsidering the nature and circumstances of the improper conduct, taken in the context with the respondent's distinguished legal career," as well as many "letters of good character" sent to the Commission. *Perrin*, 10-CC-2 (Sept. 9, 2011); see also *Alfano*, 2 Ill. Cts. Com. at 25 (finding the respondent judge to have committed a violation of the rules where he

shouted threats at a deputy who was issuing a traffic citation to the respondent judge's son, but the violation "d[id] not call for the imposition of discipline"); *In re Buckley*, 3 Ill. Cts. Com. 1 (1991) (the imposition of a reprimand was not warranted despite the Commission's finding that the respondent violated the judicial canons by circulating campaign advertising while running for a seat on the Illinois Supreme Court that portrayed him as being tough on crime, particularly rape, which cast doubt on his ability to impartially decide cases that might come before him); *In re Murphy*, 1 Ill Cts. Com. 3 (1970) (where the complaint against the respondent judge alleged, among other things, that the judge set bonds during evening hours and in various locations outside the courthouse, the Commission found that, although the conduct was neither politic, prudent, nor discreet, it did not establish sufficient grounds for imposition of a sanction by the Commission); *In re Pistilli*, 1 Ill. Cts. Com. 111, (1977) (no sanction imposed despite the respondent judge's violation of the rules by making discourteous, rude and ridiculing comments to a young attorney).

Although the rule violations that were proven in *Perrin* and the other cases cited above were not factually similar to the violations in instant matter—indeed, no other Illinois Court's Commission matter has addressed conduct arising out of a judge's teaching activities—these cases clearly demonstrate that this Commission has the authority to, and indeed should, evaluate "each case *** on its own facts" and dismiss a complaint if the circumstances warrant such a result. *Perrin*, 10-CC-2 (Sept. 9, 2011). Like the many other decisions of this Commission in which we have found no formal sanction to be warranted, I am of the opinion that this matter does not warrant a reprimand. Instead, it could have been resolved by a private admonition, as was requested by Respondent's counsel prior to the complaint's filing.

As stated previously, the Preamble to the Code of Judicial Conduct instructs that "[w]hether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the test of the rules and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system." Preamble to the Code of Judicial Conduct; see also *Perrin*, 10-CC-2 (Sept. 9, 2011).

In evaluating the above factors, I believe that it is important to consider the substance and content of the presentations given by Respondent. The Board has not specifically alleged that the content of Respondent's programs was biased or improper. To the contrary, the outlines of those presentations, which were included as part of the Board's evidence, demonstrate that the programs were essentially educational discussions of case law concerning Illinois criminal law and medical malpractice litigation, and the anecdotal evidence of the actual presentations overwhelmingly showed that they were well received, educational and likely improved all of the participants' understanding of the law in Illinois. Many of the witnesses who testified or wrote letters in mitigation also highlighted this fact, noting that "there should be more, not fewer, programs such as [Respondent]'s for police officers" and that "[t]he dissemination of [Respondent's] knowledge benefits the advancement of the study of the law."

Although there was a period of several months at issue during which Respondent sent solicitations for his educational presentations, there was no indication that Respondent understood his conduct to violate the rules, or that he had any improper intent during this time.

The evidence presented before this Commission has shown that Respondent's motives in presenting educational programs have been based more upon a desire to improve the administration of justice and to teach and educate members of the community about the law and established legal precepts, and less a motive to enjoy a profit. In one letter to the Board, Respondent wrote that he perceived his mostly non-compensated teaching activities spanning over 35 years to be a public service, and he believed that all of his presentations had been in full compliance with the Illinois Supreme Court rules governing judicial behavior. Although Respondent received compensation for the later educational programs, there has been no suggestion that the compensation was unreasonable, or that a profit motive of any real kind was behind the presentations. Nonetheless, I would find that the time period at issue was not substantial when considered against Respondent's almost 50 years of extraordinary judicial and legal service.

Finally, in considering "the effect of the improper activity on others or on the judicial system," I believe that there has been very little effect on others or the judicial system arising from Respondent's solicitations of speaking engagements. The record shows that the investigation began based on a single letter from a physician and his attorney, who questioned the appropriateness of Respondent's solicitations. The other evidence presented to the Commission did not show any other individuals who questioned Respondent's actions or believed that they were improper. Various physicians and representatives of medical groups who attended Respondent's presentations were interviewed by the Board's investigator, and had only positive remarks about the educational nature of the presentations. They also commented that they did not believe that Respondent's presentations amounted to judicial misconduct, and that they did not hear any negative comments by other attendees of the presentations. There was also testimony from the attendees that they did not believe that Respondent was "soliciting," and that the presentations were not biased "for or against" any particular group.

I would also note that there has never been any evidence presented that Respondent's impartiality, integrity, or independence in his judicial duties were affected by the presentations. In fact, there was extensive evidence to the contrary.

The mitigation evidence presented to the Commission in this matter was extraordinary, and unlike any prior Commission matter. This evidence undeniably shows that Respondent has had an extraordinary professional career, during which he has enjoyed a reputation that would be envied by most professionals in the legal field, and I believe that this evidence should weigh significantly in our decision as to whether to impose any discipline in this matter.

Specifically, the witnesses who testified in mitigation noted that Respondent has "contributed more than any other judge *** as far as teaching, writing, educating judges, [and] the public," and that he is "one of the finest Appellate Court judges that sat in this state in the last 50 years." The witnesses also stated that they did not "know anyone who loves the law more than [Respondent], who wants to share what he knows with others" and that he "continues to teach these courses because of his dedication to the law and he does it for a pittance, if anything."

Numerous letters were also submitted on Respondent's behalf, which came not only from friends, but from objective professionals and colleagues—members of the bench, retired members of the bench, legal practitioners, professors of law, and other attorneys. The letters and other testimony presented in mitigation illustrate Respondent's impeccable character, integrity, and impartiality, and his long time devotion to the fair, expeditious, and impartial administration of justice to the State of Illinois. The writers describe Respondent as an "icon and role model for judicial excellence," and a "man of utmost integrity" who has spent his "whole life *** improving the judiciary in Illinois."

Respondent has also apologized and taken responsibility for his actions. Although he clearly did not set out to violate the Code, he stated in mitigation that:

> "Upon reflection, I have come to understand how reasonable people could look at my conduct and disapprove, particularly in my soliciting presentations for compensation and using judicial stationery to do so. This will never happen again. *** That any of my actions may have undermined respect for the law or the judiciary is very painful to me. I apologize to the Judicial Inquiry Board and the Court's Commission for requiring them to spend their time on this matter. The situation I find myself in is very embarrassing and unpleasant. I am very sorry to have created this situation."

Although I would find that the rule violations in this case represent lapses in judgment by Respondent, I would conclude that the circumstances of those violations do not warrant the imposition of a sanction, in light of the substantial mitigation presented in this matter described above, and the fact that Respondent has already been effectively sanctioned for his conduct. There can be no doubt that Respondent has already suffered the consequences of his own conduct. There is great public humiliation and shame that naturally occurs as a consequence of this type of proceeding. Indeed, as we recognized in *Perrin*, the embarrassment is shared, not only by a respondent judge, but also by his or her family. In having a complaint filed by the Board, participating in these proceedings, and having his name forever inscribed in the Commission reports, Respondent has already paid a very public price. In addition to tarnishing an otherwise unblemished and exemplary judicial career, Respondent has also likely incurred substantial monetary costs in defending against the Board's complaint. These costs are a heavy price to pay for what amounted to a lapse in judgment in soliciting educational legal presentations. See *Perrin*, 10-CC-2 (Sept. 9, 2011).

Because Respondent has already been sanctioned in a very real sense through his participation in these proceedings, I would recommend that we enter no discipline and that the complaint be dismissed.

For the reasons stated, I concur in part and dissent in part.

WEBER, concurring in part and dissenting in part:

I concur with the majority that the Board introduced clear and convincing evidence to prove Counts I and II of the Complaint. I do not concur with the majority that the Board proved the entirety of Count III of the Complaint.

Rule 65(C)(1) requires a judge to refrain from financial dealings that, among other matters, exploit the judge's judicial position. In summary, had Justice Steigmann not utilized his official letterhead and had he not utilized other taxpayer funded resources in soliciting speaking engagements for a fee, I believe there would have been no violation. However, he did do so, and these actions were not an isolated incident.

I disagree with the majority that Justice Steigmann was conducting a business in violation of Rule 65(C)(2) and concur with the findings of Commissioner McBride in this regard.

I also concur with Commissioner McBride that Justice Steigmann has had an exemplary legal career. The evidence in mitigation was overwhelming. However, despite the evidence in mitigation, I do believe a sanction is warranted and do concur with the majority that a reprimand is appropriate.