Honorable Donald C. Hudson
Chair
Attorney Cary J. Collins
Vice Chair
Ocie Booker
Attorney Bruce R. Meckler
Clem Mejia
Attorney David P. Sterba
Honorable Edward Washington, II

STATE OF ILLINOIS
JUDICIAL INQUIRY BOARD

Attorney Kathy D. Twine
Executive Director
General Counsel
100 West Randolph Street
Suite 14-500
Chicago, IL 60601-3233
PHONE (312)814-5554
(800)227-9429
TDD (312)814-1881
FAX (312)814-5719

NEWS RELEASE

FOR IMMEDIATE RELEASE
February 6, 2015

Contact: John N. Gallo, Esq.
Sidley Austin LLP
(312) 853-7494

JUDICIAL INQUIRY BOARD FILES COMPLAINT AGAINST BEATRIZ SANTIAGO, CIRCUIT JUDGE, CIRCUIT COURT, COOK COUNTY

On February 6, 2015, the Illinois Judicial Inquiry Board filed a Complaint with the Illinois Courts Commission against Beatriz Santiago, Circuit Judge, Circuit Court, Cook County, for conduct that brought the judicial office into disrepute.

The Complaint alleges that beginning no later June 2013, and continuing through March 2014, Judge Santiago, in connection with the refinancing of her mortgage on a property located on North Spaulding Avenue in Chicago, Illinois (the "Spaulding property"), attempted to and did deceive her mortgage lender by making several misrepresentations in her mortgage application documents that caused her lender to believe she occupied the Spaulding property as her primary residence and that she intended to occupy the Spaulding property as her primary residence within 60 days of executing a mortgage agreement, when in fact she resided at another property and had no intention of establishing residency at the Spaulding property.

The Board's trial counsel, Attorney John N. Gallo and Attorney Karim Basaria, of Sidley Austin LLP, will prosecute the Complaint.

-ATTACHED IS A COPY OF THE COMPLAINT-

######

COURTS COMMISSION OF THE
STATE OF ILLINOIS

In re BEATRIZ SANTIAGO,	)	
Circuit Judge of the Circuit Court	)	No. _____
of Cook County, Illinois	)	

COMPLAINT

Pursuant to Section 15(c) of Article VI of the Constitution of the State of Illinois, the Illinois Judicial Inquiry Board ("Board") complains against Judge Beatriz Santiago ("Respondent"), Circuit Judge of the Circuit Court of Cook County, Illinois, and charges Judge Santiago with conduct that brought the judicial office into disrepute.

SUMMARY OF ALLEGATIONS

1. Beginning no later than June 2013, and continuing through March 2014, Respondent, in connection with the refinancing of her mortgage on a property located on North Spaulding Avenue in Chicago, Illinois (the "Spaulding property"), attempted to and did deceive her mortgage lender by making several misrepresentations in her mortgage application documents that caused her lender to believe she occupied the Spaulding property as her primary residence and that she intended to occupy the Spaulding property as her primary residence within 60 days of executing a mortgage agreement, when in fact she resided at another property and had no intention of establishing residency at the Spaulding property.

STATEMENT OF FACTS

I. Background

2. Respondent is a Circuit Judge of the Circuit Court of Cook County for the Sixth Judicial Subcircuit. She is currently assigned to the Municipal Department, Traffic Section, of the First Municipal District.

3. Prior to becoming a judge, Respondent served as an Assistant Public Defender in Cook County for approximately fourteen years. Upon graduating from law school and before joining the Office of the Cook County Public Defender, Respondent worked in private practice in the areas of personal injury, collections, and insurance defense. Respondent was elected to the Office of Judge on November 6, 2012, to a term that expires in December 2018.

II. Challenge to Respondent's Candidacy for the Office of Judge

4. In her Statement of Candidacy for the Office of Judge of the Circuit Court of Cook County, Sixth Judicial Subcircuit, which Respondent filed on November 22, 2011, Respondent stated, under oath, that she resided at a property located on West Potomac Avenue, Chicago, Illinois (the "Potomac property"). The Potomac property is located within the Sixth Judicial Subcircuit.

5. The Potomac property is owned by Respondent's parents, and is the same home in which Respondent resided prior to attending college and during most of her career as an Assistant Public Defender. Respondent has no ownership interest in the Potomac property.

6. Prior to the Democratic primary election for her current seat, an objector challenged Respondent's eligibility to be a candidate based, in part, on allegations that Respondent did not reside within the Sixth Judicial Subcircuit.

7. The objector alleged, in pertinent part, that contrary to Respondent's representation in her Statement of Candidacy that Respondent resided at the Potomac property, Respondent actually resided at the Spaulding property, a property Respondent had purchased in August 2005.

8. The Spaulding property is located in the Seventh Judicial Subcircuit. Respondent would not have been eligible for the Office of Judge for the Sixth Judicial Subcircuit if she, at

the time of her candidacy, resided at the Spaulding property.

9. The objector's petition challenging Respondent's residency and eligibility to become a judge for the Sixth Judicial Subcircuit was adjudicated before an election hearing officer in a three-day hearing that commenced on January 26, 2012.

10. Respondent testified at that hearing that she had purchased the Spaulding property in August 2005 and moved into the home in February 2007. Respondent testified that she had moved out of the Spaulding property and returned to the Potomac property in either late August or early September of 2011, prior to completing her Statement of Candidacy, in order to help her family care for her ailing father, who had recently been diagnosed with Parkinson's disease.

11. Respondent testified at the hearing that she did not reside at the Spaulding property and that she had not resided at the Spaulding property since moving out in 2011.

12. During the hearing before the election officer, Respondent was cross-examined regarding a representation she had made in a August 23, 2005 mortgage agreement with Chicago Bancorp relating to her purchase of the Spaulding property (the "2005 Mortgage Agreement").

13. Specifically, Respondent was confronted with Paragraph 6 of the 2005 Mortgage Agreement, titled "Occupancy Clause," which provides, in pertinent part:

> Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as the Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing....

14. Respondent at the hearing admitted that she had not complied with the Occupancy Clause of the 2005 Mortgage Agreement, and that she did not move into the Spaulding property until February 2007, eighteen months after representing that she would move into the Spaulding property within 60 days.

15. Respondent was also confronted with the Occupancy Clause of her January 26, 2007 mortgage refinancing agreement with Chicago Bancorp relating to the Spaulding property (the "2007 Mortgage Agreement"), which is substantially identical to the Occupancy Clause contained in the 2005 Mortgage Agreement.

16. On January 30, 2012, the election hearing officer issued a written Report and Recommended Decision denying the objector's challenge to Respondent's candidacy for the Office of Judge. While the hearing officer determined that there were "a number of facts regarding the Candidate's residency that are not entirely plausible," she ultimately concluded that the "inconsistencies and improbabilities created by the Candidate's testimony . . . [were] not sufficient to conclusively establish that the Candidate [did] not reside at [the Potomac property]."

17. The County Officers Electoral Board adopted the Hearing Officer's Report and Recommended Decision on February 1, 2012.

18. Respondent won the Democratic primary for the Office of Judge in March 2012, and was elected to the Office of Judge of the Circuit Court of Cook County for the Sixth Judicial Subcircuit on November 6, 2012. Respondent was sworn in as judge and began serving her current term in December 2012.

III. Respondent's 2013 Mortgage Refinancing Application and Mortgage Agreement

19. On June 24, 2013, nearly two years after establishing residency at the Potomac address, Respondent submitted an application to American Equity Mortgage ("AEM") to refinance her 2007 mortgage on the Spaulding property (the "2013 Mortgage Application").

20. The final page of the 2013 Mortgage Application, immediately above the "Borrower's Signature" line, provides:

> I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of

the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

21. Respondent knowingly made numerous false statements in the 2013 Mortgage Application and accompanying documents. Specifically, Respondent represented in her application that she currently resided at the Spaulding property and that she intended to occupy the Spaulding property as her principal residence within 60 days of executing the mortgage instrument.

22. In Section II of the 2013 Mortgage Application, titled "Property Information and Purpose of Loan," Respondent indicated, "Property will be: Primary Residence."

23. In Section III of the 2013 Mortgage Application, titled "Borrower's Information," Respondent provided the Spaulding property address as her "Present Address."

24. In Section VI of the 2013 Mortgage Application, titled "Assets and Liabilities," Respondent represented in her "Schedule of Real Estate Owned" that she owned the Spaulding property as her primary residence.

25. Section VIII of the 2013 Mortgage Application, titled "Declarations," contains the following inquiry: "Do you intend to occupy the property as your primary residence?" Respondent marked the box under the column titled "Yes" in response to this question.

26. Also on June 24, 2013, Respondent electronically signed a United States Department of Housing and Urban Development form titled "Important Notice to Homebuyers" (the "HUD Notice").

27. The first page of the HUD Notice that Respondent signed contains a section titled "Don't Commit Loan Fraud," which states, in pertinent part: "Do not falsely certify that a property will be used for your primary residence when you are actually going to use it as rental property."

28. The HUD Notice that Respondent signed warns of the potential consequences of providing false information in loan documents:

> **Penalties for Loan Fraud:** Federal Laws provide severe penalties for fraud, misrepresentation, or conspiracy to influence wrongly the issuance of mortgage instruments by HUD. You can be subject to a possible prison term and fine of up to $10,000 for providing false information.

29. On June 24, 2013, Respondent also electronically signed a one-page form titled "Consequences to Borrower for Providing Inaccurate Information".

30. That form provides that "[t]he effect of misrepresentation is costly to all parties involved," and lists "[c]riminal prosecution" among the "potential consequences that may be incurred by the borrower and other participants."

31. The same form also lists specific examples of misrepresentations, including participation in or any knowledge of: "(1) Knowingly submitting inaccurate information, including false statements on loan application(s) with the intent to alter or mislead the lending decision"; and "(6) Incorrect statements regarding current occupancy or intent to maintain minimum continuing occupancy as stated in the security instrument."

32. Certain of Respondent's representations to AEM on June 24, 2013 were false. At the time Respondent completed and electronically signed the 2013 Mortgage Application, HUD Notice, and form titled "Consequences to Borrower for Providing Inaccurate Information," she did not occupy the Spaulding property as her primary residence and had no intention of returning to the Spaulding property and occupying it as her primary residence. Indeed, pursuant to the Illinois Circuit Courts Act, 705 ILCS 35/2f, Respondent could not establish residency at the Spaulding property while maintaining her eligibility to sit as a judge from the Sixth Subcircuit.[1]

---

[1] The Illinois Circuit Courts Act provides, in pertinent part: "A resident judge elected from a subcircuit shall continue to reside in that subcircuit as long as he or she holds that office." 705 ILCS 35/2f.

33. In July 2013, during the underwriting process for Respondent's loan, representatives of AEM took notice that most of the documents accompanying Respondent's 2013 Mortgage Application, including pay stubs and proofs of employment, reflected that Respondent maintained her primary residence at the Potomac property rather than the Spaulding property. In addition, after running a background check on Respondent, AEM determined that the home address provided in Respondent's application documents—the Spaulding address—was not the most active address reported by Respondent's credit grantors in the past 90 days.

34. On July 18, 2013, a mortgage broker for AEM sent Respondent an email asking her to explain why most of the documents submitted with her 2013 Mortgage Application reflected that the Potomac property was her primary residence.

35. In response to AEM's inquiry, and in reference to the Potomac property, Respondent stated, "[T]hat's my mother's address which is the address I use for all work related issues." Respondent did not disclose to AEM that the Potomac property was also her address and primary residence, thereby attempting to mislead AEM to believe that the Spaulding property was her primary residence.

36. Also on July 18, 2013, Respondent signed and submitted to AEM two separate Letters of Explanation in which she intentionally provided false and misleading information regarding her residency and her connection to the Potomac property.

37. In the first Letter of Explanation, Respondent stated, "The address at (redacted) W Potomac Ave Chicago Il 60651 is my mothers (sic) address. I have all my work related bills go to her home. I have no ownership interest in the property."

38. Respondent did not disclose in the First Letter of Explanation that the address at West Potomac was also her address, thereby attempting to mislead AEM to believe she did not reside at the Potomac property.

39. In the second Letter of Explanation, Respondent stated, "The property at (redacted) N Greenview ave aprt 3, (redacted) W North Av and (redacted) potomac ave fl 2nd are former addresses of mine. I have no ownership interest in the properties."

40. Respondent's representation in her Second Letter of Explanation that the Potomac property was her "former address" was false. Respondent did in fact reside at the Potomac property and occupied it as her primary residence.

41. On August 9, 2013, following AEM's inquiries regarding her residency status, Respondent signed the mortgage application documents she had completed on June 24, 2013, including the 2013 Mortgage Application, HUD Notice, and form titled "Consequences to Borrower for Providing Inaccurate Information."

42. Also on August 9, 2013, Respondent completed and signed an Occupancy Certification provided by AEM. The Occupancy Certification, providing three options, requires the borrower to certify his or her intended use of the property subject to the mortgage:

I/We the undersigned certify that:

> Primary Residence – I/We will occupy the Property as my/our principal residence within 60 days after the date of closing as stated in the Mortgage or Deed of Trust I/we executed. I/We will continue to occupy the Property as my/our principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing.
>
> Secondary Home – I/We will occupy the Property as a second home (vacation, etc) while maintaining a principal residence elsewhere.
>
> Investment Property – I/We will not occupy the Property as a principal residence or a second home. The property is an investment to be held or rented.

43. The Occupancy Certification reminds that "it is illegal to provide false information in an application for a mortgage loan. Mortgage fraud is punishable by up to 30 years in federal prison or a fine up to $1,000,000, or both, under the provisions of Title 18, United States Code, Sec. 1001, et seq."

44. Respondent placed an "X" next to the paragraph titled "Primary Residence."

45. Respondent also completed a Mortgagor's Affidavit on August 9, 2013, in which she certified as follows: "I presently occupy, or intend to occupy, the subject property as my principal residence, and am not now considering any proposal to sell the subject property to third persons."

46. Also on August 9, 2013, Respondent executed a mortgage instrument between herself and AEM (the "2013 Mortgage Agreement") containing an Occupancy Clause substantially identical to the two Occupancy Clauses with which she had been confronted at the January 2012 hearing before the election hearing officer. The Occupancy Clause in the 2013 Mortgage Agreement provides:

> Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld or unless extenuating circumstances exist which are beyond Borrower's control.

47. Respondent's representations to AEM on August 9, 2013 were false and misleading. At the time Respondent executed the 2013 Mortgage Agreement, and signed the 2013 Mortgage Application, HUD Notice, Mortgagor's Affidavit, Occupancy Certification, and form titled "Consequences to Borrower for Providing Inaccurate Information," Respondent had no intention of occupying the Spaulding property as her primary residence. Indeed, Respondent

was aware that she could not establish residency at the Spaulding property while maintaining her eligibility to hold the Office of Judge of the Circuit Court of Cook County from the Sixth Judicial Subcircuit.

48. Through Respondent's misrepresentations in the 2013 Mortgage Application and accompanying documents in June and August 2013, and misleading responses to inquiries from AEM regarding her residency in July 2013, Respondent attempted to induce AEM to execute a primary-residence mortgage—with an interest rate commensurate with that type of mortgage—on a property that Respondent did not intend to use as her primary residence.

49. Following the execution of the 2013 Mortgage Agreement, Respondent continued to live and maintain her primary residence at the Potomac property.

50. On December 4, 2013, the television news program *WGN Investigates*, as part of a joint investigation with Medill Watchdog, aired a three-part news series titled "Who is Judging the Judges," which criticized Respondent for representing in the 2013 Mortgage Agreement that she intended to occupy the Spaulding property as her primary residence.

51. In March 2013, Respondent contacted AEM to discuss her residency and the representations she had made in the 2013 Mortgage Application. Respondent then for the first time informed AEM that the Spaulding property was at that time—that is, in March 2013—not being used as her primary residence.

52. Respondent did not, however, disclose to AEM that she had never occupied the Spaulding property as her primary residence at any point after the execution of the 2013 Mortgage Agreement, nor did she disclose that she had not intended to occupy the Spaulding property as her primary residence at the time she applied for the mortgage in June 2013 nor when she consummated the transaction in August 2013.

VIOLATIONS

53. Through the above-described conduct, Judge Santiago failed to personally maintain high standards of conduct so that the integrity and independence of the judiciary may be preserved. In so doing, Judge Santiago violated the Code of Judicial Conduct, Illinois Supreme Court Rule 61, which provides:

> 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.

54. Through the above-described conduct, Judge Santiago failed to respect and comply with the law and conduct herself in a manner that promotes public confidence in the integrity of the judiciary. In so doing, Judge Santiago violated the Code of Judicial Conduct, Illinois Supreme Court Rule 62, Canon 2, which provides in pertinent part:

> (A) A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

PRAYER FOR RELIEF

WHEREFORE, the Judicial Inquiry Board, charging that the above-described conduct of Judge Santiago constitutes conduct that brought the judicial office into disrepute, prays that the Illinois Courts Commission, after notice of public hearing, make such order in accordance with Section 15 of Article VI of the Illinois Constitution as the Commission may deem appropriate.

Dated: February 5, 2015

Respectfully submitted,

JUDICIAL INQUIRY BOARD
OF THE STATE OF ILLINOIS

By: _____
One of its attorneys

John N. Gallo
Karim Basaria
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000 (phone)
(312) 853-7036 (fax)