

Area Business News

Stewart's Holiday Match

For the 18th year, Stewart's Shops will match individual donations in all its shops — from Thanksgiving Day through Christmas Day — to Stewart's Holiday Match.

Since 1986, Stewart's and its customers have raised over \$6.2 million for local organizations, benefiting children year round. There are no administrative costs; all funds go to charity.

New Scotland Stewart's gives to community

NEW SCOTLAND — The grand opening of the Stewart's Shop at 1936 New Scotland Road, Route 85, in the town of New Scotland included a contribution of \$1,541 to the Clarksville Elementary playground and \$1,541 to the Voorheesville Community and School Foundation. Stewart's donated the proceeds from all "Buy 1 Get 1 Free" Stewart's special sales for the day.

The grand-opening donation is part of the company's commitment to supporting the communities where they have shops.

Becker honored

GUILDERLAND — Dr. Edward Becker, a Guilderland veterinarian, was honored by the New York State Department of Environmental Conservation for providing "25 years of exceptional service to the environment, endangered species, and the natural resources of New York State."

Becker has volunteered his expertise to get injured birds like bald eagles and peregrine falcons out in the wild again. He has been a valuable source of information, advice, and experience to other veterinarians statewide, assisting them in the proper care and treatment of injured birds throughout New State.

Williams joins Weichert Realtors

GUILDERLAND — Steve Williams has joined the sales staff of Weichert, Realtors - Northeast Group's Guilderland office to specialize in residential real estate throughout the Capital District.

The Gloversville resident is a newly licensed agent and member of the Greater Capital Association of Realtors. Prior to selling real estate, he was an educator in the technology field.

Dedication



The Enterprise — Nicole Fay Barr

First cyclist: Albany County Executive Michael Breslin, county legislators, Guilderland town board members, Pathways Committee members, and project engineers gathered last Thursday to dedicate the completion of renovations to the French's Mill Road Bridge. Constructed in 1933 and closed to traffic since 1987, the bridge was rehabilitated in the last couple of months to accommodate pedestrian and bicycle traffic. The large group broke into a round of applause as Bob Stricos of the Pathways Committee, above, rode his bike across the bridge for the first time.

... U.S. Court says, go back to state

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"This decision frees the commission," he said.

Tembeckjian said he was especially pleased with the court's support for the state's system. "There is nothing to suggest that the Court of Appeals could not address the claims," he said referring to New York's highest court.

This is the most recent in a series of rulings that reinforce the state's embattled judicial commission.

It follows two rulings in June by the state's Court of Appeals. The court, with all seven judges in agreement, upheld the decision of the state's Judicial Commission to impose sanctions on two judges for engaging in political activities.

New York's code of judicial conduct prohibits judges from participating in election campaigns and from speaking publicly on political and legal issues.

Spargo had argued that the judicial code deprived him of his constitutional rights.

Hurd's ruling

The federal court ruling in February struck down several sections of the code, freeing Thomas Spargo from the repercussions he could have faced under the provisions. The charges were based partly on activities from 1999 to 2001, during which time Spargo ran for and served as town judge in Berne, an Albany County Hilltown with 3,000 residents.

In the February ruling, United States District Judge David Hurd found the rule requiring a judge to uphold the integrity and independence of the judiciary too vague to be understood.

Hurd wrote in his decision that the commission has complete discretion in determining what conduct is a violation of the statute. "Certainly one could identify conduct that would plainly denigrate the integrity and independence of the judiciary, for example, murder and

mayhem, or bribery," Hurd wrote.

"However, when faced with conduct short of the extreme, such as handing out donuts, it is a purely subjective determination by the commission," Hurd's reference was to allegations that Spargo offered items of value to Berne residents to induce voters to elect him judge.

Hurd said that, because the sections of the code are vague, it leads "judges and judicial candidates to more severely limit their conduct in order to avoid a violation."

Spargo argued that the issue of his First Amendment rights would not have been addressed by the state's commission and the state's court system.

In his Feb. 20 ruling, Hurd said that the state's highest court, the Court of Appeals, "has never undertaken a constitutional challenge to the Rules on a review of the Commission determination."

Hurd said that "it is fallacious to argue that abstention is appropriate because plaintiffs necessarily have an opportunity to be heard in state proceedings, when in the history of state court proceedings no such claim has ever been heard."

Spargo's arguments before the Appellate Court paralleled Hurd's decision.

"On appeal, despite the intervening decisions by the New York Court of Appeals, plaintiffs still contend that the state law does not clearly grant the Commission jurisdiction to consider constitutional arguments or provide for mandatory review of the Commission's disciplinary decisions by the Court of Appeals," wrote the second circuit judges in their ruling on Tuesday.

The judges concluded that the state system is the forum where Spargo should address his concerns.

"We conclude that Spargo has an adequate opportunity to raise

his constitutional claims in the pending disciplinary proceeding and accordingly hold that the District Court should have abstained from exercising jurisdiction over Spargo's claims in deference to the state's proceeding," wrote the judges in their decision.

Small-town man, big-time lawyer

Spargo, 59, currently a state Supreme Court justice, was accused of judicial misconduct by the commission. The commission cited his involvement in political activities, including demonstrations for the recount of ballots in Florida after the 2000 presidential election, and various activities related to his elections as judge.

Spargo pre-empted a hearing on the charges and won a restraining order, delaying his possible censure or removal from the bench.

He challenged the judicial commission in federal court, arguing that the Code of Judicial Conduct infringes on his constitutional right to free speech, equal protection, and right of association.

Spargo has lived in Berne since 1977, when he purchased 300 acres where he raises hay, corn, and pigs. He stepped down as the Berne Republican Party chairman to run for town justice in 1999. He won the election and became the first Republican to hold town office in a decade. That post paid \$6,850 a year. He served two years of his four-year term.

Spargo became a Supreme Court justice on Jan. 1, 2001. That post pays \$136,700 annually and carries a 14-year term.

An election-law lawyer, Spargo has been involved in high-profile political campaigns.

He was also among those named in a report by the Commission on Open Government Integrity chaired by John Peer-

ick. The report documented a successful plan to influence a Poughkeepsie election so a mall could be built.

'Judicial misconduct'

Many of the commission's accusations centered around Spargo's campaign and tenure as Berne town justice.

In a complaint document dated Jan. 25, 2002, the Commission on Judicial Conduct details what it calls "acts of judicial misconduct."

The first charge refers to Spargo's actions during his 1999 campaign for Berne town justice. Five sections detail alleged incidents of offering "items of value to induce voters to vote for him." The commission says these items include pizza, rounds of drinks at a local bar, donuts, apple cider, and coupons for gasoline.

The second charge deals with Spargo's legal work for Paul Clyne, who ran for Albany County District Attorney in the 2000 election and won.

The commission charges that, beginning in the fall of 2000 and through August 28, 2001, Spargo presided over criminal cases prosecuted by the Albany County District Attorney's Office "without disclosing to the defense in each criminal case that he had rendered legal services to the Clyne campaign or that the Clyne campaign committee owed him \$10,000 for legal services rendered, and without remittal of a disqualification."

The commission said that Spargo "engaged in financial and business dealings that may reasonably be perceived to exploit the judge's judicial position and involve the judge in a continuing business relationship with an attorney likely to come before the court."

Other charges included speaking at a Conservative Party dinner, and representing Republican interests in the re-

count of the Florida ballots during the 2000 presidential election, activities banned by the state's Judicial Code.

The final charge involved payments made to members of the Democrat and Independence parties' nominating committees.

Spargo denied some of the accusations, and he cited First Amendment rights as a defense for the others.

"The vast majority of the allegations... had to do with the exercise of my First Amendment liberties, including my right to associate with those of my own choosing, and my right to free expression," said Spargo in an affidavit. "The distinguishing feature latched upon by the commission is the fact that I chose to exercise my constitutional rights while seeking to be elected as a town judge or Supreme Court judge."

Spargo said in his affidavit that he received different treatment than candidates for elected office in other branches of government. He gives an example: "Individuals running for New York State legislature and executive branch often interact with members of the public, giving items of token value as a means of letting the public know of their candidacy, and speaking before various groups to inform the electorate of their candidacy and are free as an attorney, to represent anyone they want." He said that these activities are common and those people do not face sanctions.

The federal court ruling leaves only one charge for Spargo to answer, the accusation that his legal work for Paul Clyne "may be perceived to exploit the judge's judicial position."

Spargo and his lawyer, David Kunz, could not be reached for comment. Tembeckjian has not been notified of any appeal of the ruling, he told *The Enterprise* Wednesday, but noted papers would not likely be filed this soon after a decision.

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