

State of New York  
Commission on Judicial Conduct

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In the Matter of the Proceeding Pursuant to Section 44,  
subdivision 4, of the Judiciary Law in Relation to

**Determination**

KATHLEEN ARMBRUST,

a Justice of the Fremont Town Court,  
Sullivan County.

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THE COMMISSION:

Henry T. Berger, Esq., Chair  
Honorable Myriam J. Altman  
Helaine M. Barnett, Esq.  
Herbert L. Bellamy, Sr.  
Honorable Carmen Beauchamp Ciparick  
E. Garrett Cleary, Esq.  
Dolores Del Bello  
Lawrence S. Goldman, Esq.  
Honorable Eugene W. Salisbury  
John J. Sheehy, Esq.  
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the  
Commission

The respondent, Kathleen Armbrust, a justice of the Fremont Town Court, Sullivan County, was served with a Formal Written Complaint dated April 12, 1993, alleging that she failed to deposit and remit court funds promptly and that she failed to cooperate with the Commission. Respondent did not answer the Formal Written Complaint.

On August 11, 1993, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct be deemed established. Respondent did not oppose the motion or file any papers in response thereto. By determination and order dated September 14, 1993, the Commission granted the administrator's motion.

The administrator filed a memorandum as to sanction. Respondent did not file a memorandum or request oral argument.

On October 21, 1993, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Fremont Town Court during the time herein noted.

2. Between August 1990 and February 1993, as denominated in Schedule A appended hereto, respondent failed to remit court funds and report cases to the state comptroller by the tenth day of the month following collection, as required by UJCA 2020 and 2021(1), Town Law §27(1) and Vehicle and Traffic Law §1803. As of March 15, 1993, respondent had remitted no money at all since the previous September. Prior to that date, she was as many as 238 days late in making her monthly remittals to the state.

As to Charge II of the Formal Written Complaint:

3. Between February 1990 and April 1992, as denominated in Schedule B appended hereto, respondent failed to deposit court funds in her official account within 72 hours of receipt, as required by the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.9(a); failed to maintain adequate records of the receipt of court funds, as required by Town Law §31(1)(a) and the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.11(a)(3), and failed to remit to the state comptroller \$550 that she collected.

As to Charge III of the Formal Written Complaint:

4. In connection with a duly-authorized investigation, respondent failed to respond to three written inquiries sent certified mail by staff counsel, dated February 21, April 2 and April 27, 1992.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(a) and 100.3(b)(1), and Canons 1, 2A and 3B(1) of the Code of Judicial Conduct. Charges I, II and III of the Formal Written Complaint are sustained insofar as they are consistent with the findings herein, and respondent's misconduct is established.

Respondent has handled public money carelessly, failed to comply with the law, grossly neglected her administrative responsibilities and failed to cooperate with the Commission.

Her failure to deposit money promptly raises questions about its interim use. (See, Matter of More, 1990 Ann Report of NY Commn on Jud Conduct, at 140, 141). The failure to remit money in a timely fashion to the state comptroller, standing alone, constitutes judicial misconduct. (Matter of Ranke, 1992 Ann Report of NY Commn on Jud Conduct, at 64). Respondent has offered no excuse or mitigating factor which would moderate the otherwise severe penalty to be imposed for such ethical breaches. (See, Matter of Rater v State Commission on Judicial Conduct, 69 NY2d 208, 209).

Moreover, her failure to cooperate with the Commission compounds this misconduct. (See, Matter of Cooley v State Commission on Judicial Conduct, 53 NY2d 64, 66). She demonstrated a total lack of concern about the allegations of misconduct. In the face of charges of misconduct, her failure to cooperate exhibits flagrant indifference to the obligations of judicial office.

By reason of the foregoing, the Commission determines that the appropriate sanction is removal.

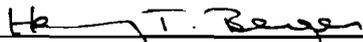
Mr. Berger, Judge Altman, Ms. Barnett, Mr. Bellamy, Judge Ciparick, Mr. Cleary, Mrs. Del Bello, Mr. Goldman, Mr. Sheehy and Judge Thompson concur.

Judge Salisbury was not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: December 16, 1993

  
Henry T. Berger, Esq., Chair  
New York State  
Commission on Judicial Conduct

Schedule A

<u>Month Received</u>	<u>Date Remitted</u>	<u>Days Late</u>
August 1990	12/3/90	84
September 1990	12/3/90	54
October 1990	11/30/90	20
November 1990	3/29/91	109
December 1990	3/29/91	78
January 1991	3/29/91	47
February 1991	9/10/91	184
March 1991	4/12/91	2
April 1991	9/10/91	123
May 1991	9/10/91	92
June 1991	9/10/91	62
July 1991	9/10/91	31
August 1991	5/5/92	238
September 1991	5/5/92	208
October 1991	5/5/92	177
November 1991	5/5/92	147
December 1991	5/5/92	116
January 1992	5/5/92	85
February 1992	5/5/92	56
March 1992	5/4/92	24
April 1992	5/4/92	0
May 1992	9/28/92	110
June 1992	9/28/92	80
July 1992	9/28/92	49
August 1992	9/28/92	18
September 1992	*	---
October 1992	*	---
November 1992	*	---
December 1992	*	---
January 1993	*	---
February 1993	*	---

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\*Not received as of March 15, 1993.

Schedule B

<u>Case</u>	<u>Date Received</u>	<u>Amount Received</u>	<u>Date Deposited</u>	<u>Receipt</u>	<u>Cashbook Entry</u>	<u>Remitted to Comptroller</u>
Scott Fortin	2/15/90	\$150	2/26/90	None	None	dna
<u>Peters v Kiefer</u>	2/6/90	10	4/9/90	None	None	None
Tracy Adams	3/20/90	77	4/9/90	None	Inaccurate	Yes
James Basile	3/28/90	37	4/9/90	None	Inaccurate	Yes
Grace Wecklein	4/17/90	125	---	Yes	None	None
Vincent Moore	6/6/90	250	6/18/90	None	None	dna
Beth Porter	4/18/90	47	7/16/90	None	Inaccurate	Yes
Kevin Brockner	7/9/90	500	7/16/90	None	Yes	dna
Jeffrey Portz	7/17/90	367	7/23/90	Yes	Yes	Yes
West	9/10/90	50	10/9/90	None	None	dna
Walter Kuntz	10/9/90	202.50	10/15/90	Yes	Yes	Yes
Vincent Moore	10/15/90	150	11/5/90	None	None	Yes
Vincent Moore	10/23/90	50	11/5/90	None	None	Yes
Jane Bozan	1/15/91	25	1/22/91	None	Incomplete	Yes
Ricky Layton	2/5/91	85	3/7/91	None	Incomplete	Yes
Jeff Rosenberger	2/8/91	85	3/7/91	None	Incomplete	None
Ricky Hadley	2/21/91	350	3/7/91	None	Incomplete	dna
Brian Szawiola	2/26/91	85	3/7/91	Yes	Incomplete	Yes
From Judge Luben	2/28/91	100	3/27/91	None	None	None
Joyce Davis	3/18/91	25	3/27/91	None	Incomplete	Yes
Jean Ellis	3/20/91	105	4/9/91	None	None	None
Gary Parsons	6/17/91	500	10/24/91	None	Inaccurate	dna
Tony Wayne	9/17/91	45	---	Yes	Inaccurate	Yes
Joseph Milk	9/17/91	25	---	Yes	None	None
Erik Hagaard	10/21/91	100	5/1/92	None	None	None
<u>Fowler v Bopp</u>	2/26/92	10	5/1/92	None	Incomplete	Yes
Vincent Moore	2/19/92	400	5/1/92	None	None	dna
Daniel Kaplan	4/14/92	200	5/1/92	None	Incomplete	Yes
Michael Mary	4/14/92	50	5/1/92	None	Incomplete	Yes