

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ANDREW P. FLEMING,

A Justice of the Hamburg Village Court,
Erie County.

**AGREED
STATEMENT OF FACTS**

Subject to the approval of the Commission on Judicial Conduct

(“Commission”):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Honorable Andrew P. Fleming (“Respondent”), who is represented in this proceeding by Daniel M. Killelea, that further proceedings are waived and that the Commission shall make its determination upon the following facts, which shall constitute the entire record in lieu of a hearing.

1. Respondent was admitted to the practice of law in New York in 1986. He has been a Justice of the Hamburg Village Court, Erie County, since 2006. Respondent’s current term expires on April 2, 2018.

2. Respondent was served with a Formal Written Complaint dated September 25, 2014, a copy of which is appended as Exhibit 1. He filed an Answer dated October 18, 2014, a copy of which is appended as Exhibit 2.

As to Charge I

3. From May 2006 through December 2013, Respondent directly and/or indirectly engaged in prohibited political activity when (A) through his law firm Chiacchia & Fleming, LLP, he made 71 prohibited ticket purchases to politically sponsored dinners or other functions totaling \$11,960.55, (B) through his law firm, Chiacchia & Fleming, LLP, he made 27 prohibited contributions to political organizations and candidates for elective office, totaling \$12,533.48, and (C) through his spouse, Mary Pat Fleming, he made two prohibited ticket purchases to politically sponsored dinners or other functions totaling \$400.

As to the Specifications to Charge I

4. Respondent is a partner in Chiacchia & Fleming, LLP, a law firm with offices in Hamburg, New York. Respondent has been a law partner with Daniel J. Chiacchia since 1990, and formed Chiacchia & Fleming, LLP, in August of 1998.

5. From January 2007 through April 2013, as set forth in the attached Schedule A, Respondent was responsible for 71 prohibited ticket purchases made through Chiacchia & Fleming, LLP, to politically sponsored dinners or other functions, totaling \$11,960.55. None of these contributions were made during Respondent's "window period" of permissible political activity on behalf of his own candidacy for elected judicial office, as defined in Section 100.0(Q) of the Rules.

6. From January 2007 through March 2013, as set forth in the attached Schedule B, Respondent was responsible for 17 prohibited contributions made through Chiacchia & Fleming, LLP, to political organizations and candidates for elective office, totaling

\$6,450. None of these contributions were made during Respondent's "window period" of permissible political activity on behalf of his own candidacy for elected judicial office, as defined in Section 100.0(Q) of the Rules.

7. From May 2006 through December 2013, as set forth in the attached Schedule C, Respondent was responsible for 10 prohibited contributions made through Chiacchia & Fleming, LLP, to political organizations and candidates for elective office, totaling \$6,083.48. Although each of these contributions was made during Respondent's "window period," none were made to purchase tickets to politically sponsored dinners or other functions, as permitted by Section 100.5(A)(2)(v) of the Rules, or for any other purpose authorized in the Rules.

8. From February 2011 through April 2011, as set forth in the attached Schedule D, Respondent was responsible for two contributions in the form of prohibited ticket purchases made by his wife, Mary Pat Fleming, using a bank account held jointly by her and Respondent, to politically sponsored dinners or other functions, totaling \$400. None of these contributions were made during Respondent's "window period" of permissible political activity on behalf of his own candidacy for elected judicial office, as defined in Section 100.0(Q) of the Rules.

9. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section

100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and engaged in prohibited political activity, in that he was responsible for contributions to political organizations or candidates while serving as a judge, in violation of 100.5(A)(1)(h) of the Rules, and for purchasing tickets to politically sponsored dinners or other functions, outside of his permissible window period of political activity, while serving as a judge, in violation of 100.5(A)(1)(i) of the Rules.

Additional Factors

10. Respondent has been contrite and cooperative with the Commission throughout its inquiry.

11. Notwithstanding that many of the prohibited contributions and ticket purchases made through Respondent's law firm were on checks signed by his law partner, Respondent recognizes that it is his obligation as a part-time judge to insure that his law firm acts in a manner consistent with the Rules, which prohibit such contributions and purchases as are at issue here.

12. Respondent regrets his failure to abide by the Rules with respect to political activity and pledges to conduct himself in accordance with the Rules for the remainder of his service as a judge.

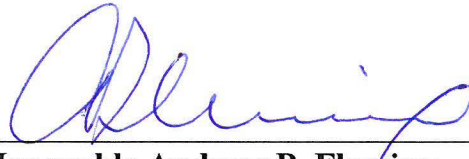
13. Respondent's public Admonition in 2013 – for acting as an attorney for a crime victim and the victim's family notwithstanding that he had presided over prior proceedings in the underlying criminal case – was unrelated to the instant matter.

IT IS FURTHER STIPULATED AND AGREED that Respondent withdraws from his Answer any denials or defenses inconsistent with this Agreed Statement of Facts.

IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the appropriate sanction is public Admonition based upon the judicial misconduct set forth above.

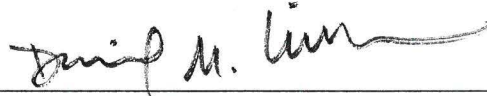
IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Admonition without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, the Respondent or the Administrator and Counsel to the Commission.

Dated: May 4, 2015



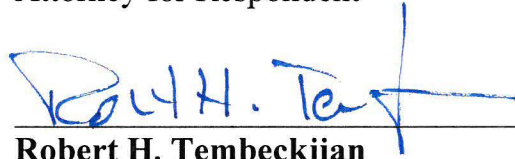
Honorable Andrew P. Fleming
Respondent

Dated: 5-4-2015



Daniel M. Killelea, Esq.
Attorney for Respondent

Dated: 5-8-2015



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(David M. Duguay, Of Counsel)

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ANDREW P. FLEMING,

a Justice of the Hamburg Village Court,
Erie County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Andrew P. Fleming, a Justice of the Hamburg Village Court, Erie County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon Respondent the annexed Formal Written Complaint; and that, in accordance with said statute, Respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its Rochester office, 400 Andrews Street, Suite 700, Rochester, New York 14604, with his verified Answer to the specific paragraphs of the Complaint.

Dated: September 25, 2014
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

To: Daniel M. Killelea, Esq.
Attorney for Respondent
121 Prospect Street, Suite 1
Attica, New York 14011-1100

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ANDREW P. FLEMING,

a Justice of the Hamburg Village Court,
Erie County.

**FORMAL
WRITTEN COMPLAINT**

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Formal Written Complaint be drawn and served upon Andrew P. Fleming (“Respondent”), a Justice of the Hamburg Village Court, Erie County.
3. The factual allegations set forth in Charge I state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).
4. Respondent was admitted to the practice of law in New York in 1986. He has been a Justice of the Hamburg Village Court, Erie County, since 2006. Respondent’s current term expires on April 2, 2018.

CHARGE I

5. From in or about May 2006 through in or about December 2013, Respondent directly and/or indirectly engaged in prohibited political activity when (A) through his law firm, Chiacchia & Fleming, LLP, he made approximately 27 prohibited contributions to political organizations and candidates for elective office, totaling approximately \$12,533, and (B) through his law firm, Chiacchia & Fleming, LLP, and his spouse, Mary Pat Fleming, he made approximately 73 prohibited ticket purchases to politically sponsored dinners or other functions, totaling approximately \$12,360.

Specifications to Charge I

6. Respondent is a partner in Chiacchia & Fleming, LLP, a law firm with offices in Hamburg, New York. Respondent has been a law partner with Daniel J. Chiacchia since 1990, and formed Chiacchia & Fleming, LLP, in August of 1998.

7. From in or about January 2007 through in or about March 2013, as set forth in the attached Schedule A, Respondent was responsible for approximately 17 prohibited contributions made through Chiacchia & Fleming, LLP, to political organizations and candidates for elective office, totaling approximately \$6,450. None of these contributions were made during Respondent's "window period" of permissible political activity on behalf of his own candidacy for elected judicial office, as defined in Section 100.0(Q) of the Rules.

8. From in or about May 2006 through in or about December 2013, as set forth in the attached Schedule B, Respondent was responsible for approximately 10 prohibited contributions made through Chiacchia & Fleming, LLP, to political organizations and

candidates for elective office, totaling approximately \$6,083. Although each of these contributions was made during Respondent's "window period," none were made to purchase tickets to politically sponsored dinners or other functions, as permitted by Section 100.5(A)(2)(v) of the Rules, or for any other purpose authorized in the Rules.

9. From in or about January 2007 through in or about April 2013, as set forth in the attached Schedule C, Respondent was responsible for approximately 71 prohibited ticket purchases made through Chiacchia & Fleming, LLP, to politically sponsored dinners or other functions totaling approximately \$11,960. None of these contributions were made during Respondent's "window period" of permissible political activity on behalf of his own candidacy for elected judicial office, as defined in Section 100.0(Q) of the Rules.

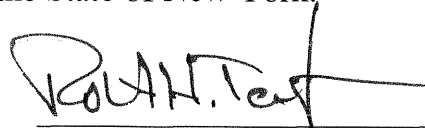
10. From in or about February 2011 through in or about April 2011, as set forth in the attached Schedule D, Respondent was responsible for approximately two contributions in the form of prohibited ticket purchases made by his wife, Mary Pat Fleming, using a bank account held jointly by her and Respondent, to politically sponsored dinners or other functions, totaling approximately \$400. None of these contributions were made during Respondent's "window period" of permissible political activity on behalf of his own candidacy for elected judicial office, as defined in Section 100.0(Q) of the Rules.

11. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and

independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and engaged in prohibited political activity, in that he was responsible for contributions to political organizations or candidates while serving as a judge, in violation of 100.5(A)(1)(h) of the Rules, and for purchasing tickets to politically sponsored dinners or other functions, outside of his permissible window period of political activity, while serving as a judge, in violation of 100.5(A)(1)(i) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: September 25, 2014
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

VERIFICATION

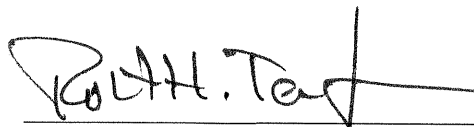
ANDREW P. FLEMING,

a Justice of the Hamburg Village Court,
Erie County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

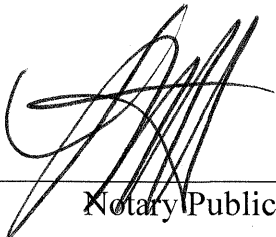
ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
25th day of September 2014



Notary Public

LAURA ARCHILLA SOTO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01AR6236502
Qualified in Bronx County
My Commission Expires February 28, 2015

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule A

Chiacchia and Fleming, LLP Prohibited Contributions Outside "Window Period"

	Political Entity	Date of Contribution	Amount of Contribution
1	LawPAC of New York ¹	01/08/07	\$75.00
2	American Association for Justice PAC	05/25/07	\$1,000.00
3	LawPAC of New York	09/24/07	\$250.00
4	LawPAC of New York	01/25/08	\$75.00
5	American Association for Justice PAC	05/23/08	\$1,000.00
6	LawPAC of New York	09/16/08	\$250.00
7	LawPAC of New York	02/10/09	\$75.00
8	LawPAC of New York	03/02/11	\$75.00
9	Kathy Hochul for Congress	04/19/11	\$250.00
10	American Association for Justice PAC	05/27/11	\$1,000.00
11	LawPAC of New York	08/24/11	\$250.00
12	LawPAC of New York	02/06/12	\$75.00
13	American Association for Justice PAC	05/22/12	\$1,000.00
14	LawPAC of New York	08/02/12	\$250.00
15	Cartwright for Congress	10/11/12	\$250.00
16	LawPAC of New York	01/16/13	\$75.00
17	Cartwright for Congress	03/13/13	\$500.00
	TOTAL OF CONTRIBUTIONS		\$6,450.00

¹Respondent's contributions to LawPAC of New York do not include any monies paid as membership fees to the New York State Trial Lawyers Association.

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule B

Chiacchia and Fleming, LLP Prohibited Contributions During "Window Period"

	Political Entity	Date of Contribution	Amount of Contribution
1	American Association for Justice PAC	05/23/06	\$1,000.00
2	American Association for Justice PAC	05/20/09	\$1,000.00
3	LawPAC of New York	09/24/09	\$250.00
4	LawPAC of New York	03/01/10	\$75.00
5	American Association for Justice PAC	05/28/10	\$1,000.00
6	LawPAC of New York	09/01/10	\$250.00
7	American Association for Justice PAC	05/21/13	\$1,000.00
8	Joan Calkins	06/08/13	\$504.24
9	Sheila Ruhland	06/08/13	\$504.24
10	Cartwright for Congress	12/26/13	\$500.00
	TOTAL OF CONTRIBUTIONS		\$6,083.48

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule C

Chiacchia and Fleming, LLP Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
1	John Edwards for President	01/18/07	\$2,100.00
2	Committee to Elect James H. Dillon	03/16/07	\$250.00
3	Committee to Elect James H. Dillon	09/23/07	\$75.00
4	Committee to Retain Justice Michalek	01/29/08	\$250.00
5	Friends of Hamburg Town Clerk Cathy Rybczynski	01/31/08	\$99.00
6	Committee to Elect Tom Best	02/19/08	\$35.00
7	Friends of Honorable Michael Pietruszka	02/22/08	\$250.00
8	Friends of Mayor Jewett	03/20/08	\$100.00
9	Committee to Retain Debbie Chimes	03/27/08	\$99.00
10	Committee to Elect Ken Case	04/04/08	\$50.00
11	Committee to Elect Ken Case	05/27/08	\$99.00
12	Friends of Kathy Hochul	05/27/08	\$100.00
13	Committee to Retain Justice Michalek	05/27/08	\$200.00
14	Feeley for Family Court	05/28/08	\$99.00
15	Hamburg Democratic Committee	06/20/08	\$75.00
16	Committee to Elect Ken Case	06/27/08	\$99.00
17	Friends of Diane M. LaVallee	06/27/08	\$75.00
18	Sedita for DA	06/27/08	\$250.00
19	Committee to Elect Lisa Rodwin	08/05/08	\$99.00
20	Friends of Judge Mike Powers	08/08/08	\$150.00
21	Friends of Joe Mordino	08/14/08	\$75.00
22	Friends of Judge Mike Powers	08/14/08	\$75.00
23	Sedita for DA	08/14/08	\$100.00
24	Friends of Joe Mordino	08/18/08	\$75.00
25	Friends of Jack Quinn	08/18/08	\$100.00
26	Friends of Zachary Boss	09/12/08	\$100.00
27	Higgins for Congress	10/07/08	\$250.00
28	Sedita for DA	10/14/08	\$250.00
29	Friends of Tom Best	10/15/08	\$100.00
30	Sedita for DA	10/15/08	\$198.00
31	Friends of Justice Christopher J. Burns	02/18/09	\$500.00
32	Friends of Mayor Jewett	03/09/09	\$60.00
33	Committee to Re-Elect Judge John F. O'Donnell	03/27/09	\$500.00
34	Committee to Re-Elect Mark Farrell	04/09/09	\$95.00

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule C

Chiacchia and Fleming, LLP Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
35	Pace for Justice Committee	04/09/09	\$200.00
36	Friends of Dan Cavarello	09/28/10	\$99.00
37	Citizens for B. Rybczynski	10/05/10	\$99.00
38	Committee to Elect Ken Case	10/07/10	\$200.00
39	Committee to Re-Elect Kevin M. Dillon	10/13/10	\$300.00
40	Committee to Re-Elect Justice Eugene Fahey	10/13/10	\$250.00
41	Committee to Elect Debbie Chimes	10/27/10	\$250.00
42	Friends of Kathy Hochul	10/27/10	\$100.00
43	Friends of Judge Henry Nowak	10/27/10	\$250.00
44	NeMoyer for Justice	01/14/11	\$277.72
45	Friends of Janice Carier	01/28/11	\$250.00
46	Committee to Re-Elect Joseph A. Fiorella	02/17/11	\$100.00
47	Committee to Re-Elect Judge Klein	02/17/11	\$85.00
48	Committee to Re-Elect Judge Manz	02/17/11	\$150.00
49	Committee to Re-Elect Judge Russell	02/17/11	\$100.00
50	Friends of Cathy Rybczynski	02/25/11	\$30.00
51	Friends of Lynn Keane	04/20/11	\$99.00
52	Committee for Paul Piotrowski	05/04/11	\$75.00
53	Friends of Cathy Rybczynski	05/04/11	\$40.00
54	Committee to Re-Elect Judge Manz	06/07/11	\$50.00
55	Committee to Elect Judge Susan M. Eagan	07/06/11	\$75.00
56	Committee to Re-Elect Judge Russell	08/10/11	\$100.00
57	Friends of Lynn Keane	10/14/11	\$25.00
58	Committee to Re-Elect Judge Sakowski	10/14/11	\$75.00
59	Friends of Bill Coughlin	10/25/11	\$250.00
60	Friends of Paul S. Piotrowski, Esq.	10/25/11	\$125.00
61	Sharon M. LoVallo	10/26/11	\$100.00
62	Friends of Tom Best	03/13/12	\$75.00
63	Committee to Retain Judge Amy Martoche	06/01/12	\$45.00
64	Committee to Elect Kathy Hochul	08/29/12	\$200.00
65	Committee to Re-Elect Judge Howe Surrogate	11/07/12	\$54.83
66	Friends of Paul Crapsi	01/11/13	\$250.00
67	Committee to Re-Elect Judge Kevin Keene	01/11/13	\$150.00
68	Friends of Barb Nucheren	01/11/13	\$99.00

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule C

Chiacchia and Fleming, LLP Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
69	Friends of Dan Grasso	01/15/13	\$50.00
70	Committee to Re-Elect Judge Kevin Keene	04/19/13	\$100.00
71	Friends of Barb Nuchereno	04/19/13	\$150.00
	TOTAL OF TICKET PURCHASES		\$11,960.55

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule D

Mary Pat Fleming Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
1	Nemoyer for Justice	02/09/11	\$250.00
2	Nemoyer for Justice	04/27/11	\$150.00
	TOTAL OF TICKET PURCHASES		\$400.00

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

VERIFIED ANSWER

ANDREW P. FLEMING

a Justice of the Hamburg Village Court,
Erie County.

Respondent ANDREW P. FLEMING, a Justice of the Hamburg Village Court, Erie County, by and through his attorney, DANIEL M. KILLELEA, ESQ., as and for his Verified Answer to the Formal Written Complaint herein, sets forth and alleges as follows:

1. As to paragraphs 1, 4, and 6, Respondent admits the allegations contained therein.
2. As to paragraph 5, Respondent admits, based upon what he has learned from Advisory Opinions 88-56, 96-29, and 96-24 concerning the use of a joint account bearing his name, that as a partner in Chiacchia & Fleming, LLP and as the spouse of Mary Pat Fleming he is responsible for the political contributions of Chiacchia & Fleming, LLP and of his law partner, Daniel J. Chiacchia, Esq., as well as those made by his wife using their joint account; but Respondent denies that he knowingly violated the Rules of Judicial Conduct or had any role in making or causing to be made ninety-six (96) of the one hundred (100) contributions referenced in Schedules A, B, C, or D.

3. Respondent admits, however, the remainder of the factual allegations contained within paragraph 5.

4. As to paragraphs 7, and 8 Respondent admits that as a partner in Chiacchia & Fleming, LLP he is responsible for the political contributions of Chiacchia & Fleming, LLP and of his law partner, Daniel J. Chiacchia, Esq., but denies that he had any role in the political contributions made by his law partner, or that he made, or caused to be made, any of the political contributions referenced in Schedule A or B.

5. Furthermore, as to paragraphs 7 and 8, Respondent denies that the political contributions made to “LawPAC of New York” or “American Association for Justice PAC” were prohibited by the Rules Governing Judicial Conduct in that these contributions constituted political activity “on behalf of measures to improve the law, the legal system or the administration of justice” (*see, Rules Governing Judicial Conduct, Section 100.5[A][1][iii]*).

6. Respondent admits, however, to the remainder of the factual allegations contained within paragraphs 7, and 8.

7. As to paragraph 9, Respondent admits that as a partner in Chiacchia & Fleming, LLP he is responsible for the political contributions of Chiacchia & Fleming, LLP and of his law partner, Daniel J. Chiacchia, Esq., but denies that he had any role in the political contributions made by his law partner, or that he made, or caused to be made, the political contributions referenced in Schedule C other than the four (4) contributions referenced by numbers 8, 10, 70, and 71.

8. As to those four (4) political contributions in Schedule C numbered 8, 10, 70, and 71, Respondent denies that he knowingly made, or knowingly caused to be made, any of them.

9. Respondent admits, however, to the remainder of the factual allegations contained within paragraph 8.

10. As to paragraph 10, Respondent admits that as a joint account holder with his wife, Mary Pat Fleming, he is responsible for the political contributions she made using that account and referenced in Schedule D, but he denies that he had any role in those political contributions or that he made, or caused to be made, either of them.

11. Respondent admits, however, to the remainder of the factual allegations contained within paragraph 10.

12. As to paragraph 2, Respondent denies sufficient information so as to form a belief as to the allegations contained therein.

13. As to paragraphs 3 and 11, Respondent denies the allegations contained therein.

DATED: Attica, New York
October 18, 2014

Respectfully submitted,



DANIEL M. KILLELEA, ESQ.

Attorney for Respondent,
ANDREW P. FLEMING
Office and Post Office Address
121 Prospect Street, Suite 1
Attica, New York 14011-1100
(585) 937-8987

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

VERIFICATION

ANDREW P. FLEMING

a Justice of the Hamburg Village Court,
Erie County.

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
TOWN OF HAMBURG)

ANDREW P. FLEMING, being duly sworn, deposes and says:

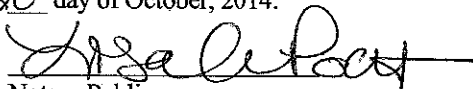
1. I am the Respondent in the above-captioned matter and as such am fully familiar with the allegations contained in the within Formal Written Complaint of the New York State Commission on Judicial Conduct.

2. I have read the foregoing Answer and know the contents thereof, and the same is true to the best of my knowledge, except as to any matters stated upon information and belief, and as to those matters, I believe them to be true.



ANDREW P. FLEMING

Subscribed and sworn to before me this
20th day of October, 2014.



Notary Public

LISA A. POCH
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 4/13/2017

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule A

Chiacchia and Fleming, LLP Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
1	John Edwards for President	01/18/07	\$2,100.00
2	Committee to Elect James H. Dillon	03/16/07	\$250.00
3	Committee to Elect James H. Dillon	09/23/07	\$75.00
4	Committee to Retain Justice Michalek	01/29/08	\$250.00
5	Friends of Hamburg Town Clerk Cathy Rybczynski	01/31/08	\$99.00
6	Committee to Elect Tom Best	02/19/08	\$35.00
7	Friends of Honorable Michael Pietruszka	02/22/08	\$250.00
8	Friends of Mayor Jewett	03/20/08	\$100.00
9	Committee to Retain Debbie Chimes	03/27/08	\$99.00
10	Committee to Elect Ken Case	04/04/08	\$50.00
11	Committee to Elect Ken Case	05/27/08	\$99.00
12	Friends of Kathy Hochul	05/27/08	\$100.00
13	Committee to Retain Justice Michalek	05/27/08	\$200.00
14	Feeley for Family Court	05/28/08	\$99.00
15	Hamburg Democratic Committee	06/20/08	\$75.00
16	Committee to Elect Ken Case	06/27/08	\$99.00
17	Friends of Diane M. LaVallee	06/27/08	\$75.00
18	Sedita for DA	06/27/08	\$250.00
19	Committee to Elect Lisa Rodwin	08/05/08	\$99.00
20	Friends of Judge Mike Powers	08/08/08	\$150.00
21	Friends of Joe Mordino	08/14/08	\$75.00
22	Friends of Judge Mike Powers	08/14/08	\$75.00
23	Sedita for DA	08/14/08	\$100.00
24	Friends of Joe Mordino	08/18/08	\$75.00
25	Friends of Jack Quinn	08/18/08	\$100.00
26	Friends of Zachary Boss	09/12/08	\$100.00
27	Higgins for Congress	10/07/08	\$250.00
28	Sedita for DA	10/14/08	\$250.00
29	Friends of Tom Best	10/15/08	\$100.00
30	Sedita for DA	10/15/08	\$198.00
31	Friends of Justice Christopher J. Burns	02/18/09	\$500.00
32	Friends of Mayor Jewett	03/09/09	\$60.00
33	Committee to Re-Elect Judge John F. O'Donnell	03/27/09	\$500.00
34	Committee to Re-Elect Mark Farrell	04/09/09	\$95.00

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule A

Chiacchia and Fleming, LLP Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
35	Pace for Justice Committee	04/09/09	\$200.00
36	Friends of Dan Cavarello	09/28/10	\$99.00
37	Citizens for B. Rybczynski	10/05/10	\$99.00
38	Committee to Elect Ken Case	10/07/10	\$200.00
39	Committee to Re-Elect Kevin M. Dillon	10/13/10	\$300.00
40	Committee to Re-Elect Justice Eugene Fahey	10/13/10	\$250.00
41	Committee to Elect Debbie Chimes	10/27/10	\$250.00
42	Friends of Kathy Hochul	10/27/10	\$100.00
43	Friends of Judge Henry Nowak	10/27/10	\$250.00
44	NeMoyer for Justice	01/14/11	\$277.72
45	Friends of Janice Carier	01/28/11	\$250.00
46	Committee to Re-Elect Joseph A. Fiorella	02/17/11	\$100.00
47	Committee to Re-Elect Judge Klein	02/17/11	\$85.00
48	Committee to Re-Elect Judge Manz	02/17/11	\$150.00
49	Committee to Re-Elect Judge Russell	02/17/11	\$100.00
50	Friends of Cathy Rybczynski	02/25/11	\$30.00
51	Friends of Lynn Keane	04/20/11	\$99.00
52	Committee for Paul Piotrowski	05/04/11	\$75.00
53	Friends of Cathy Rybczynski	05/04/11	\$40.00
54	Committee to Re-Elect Judge Manz	06/07/11	\$50.00
55	Committee to Elect Judge Susan M. Eagan	07/06/11	\$75.00
56	Committee to Re-Elect Judge Russell	08/10/11	\$100.00
57	Friends of Lynn Keane	10/14/11	\$25.00
58	Committee to Re-Elect Judge Sakowski	10/14/11	\$75.00
59	Friends of Bill Coughlin	10/25/11	\$250.00
60	Friends of Paul S. Piotrowski, Esq.	10/25/11	\$125.00
61	Sharon M. LoVallo	10/26/11	\$100.00
62	Friends of Tom Best	03/13/12	\$75.00
63	Committee to Retain Judge Amy Martoche	06/01/12	\$45.00
64	Committee to Elect Kathy Hochul	08/29/12	\$200.00
65	Committee to Re-Elect Judge Howe Surrogate	11/07/12	\$54.83
66	Friends of Paul Crapsi	01/11/13	\$250.00
67	Committee to Re-Elect Judge Kevin Keene	01/11/13	\$150.00
68	Friends of Barb Nuchereno	01/11/13	\$99.00

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule A

Chiacchia and Fleming, LLP Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
69	Friends of Dan Grasso	01/15/13	\$50.00
70	Committee to Re-Elect Judge Kevin Keene	04/19/13	\$100.00
71	Friends of Barb Nuchereno	04/19/13	\$150.00
	TOTAL OF TICKET PURCHASES		\$11,960.55

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule B

Chiacchia and Fleming, LLP Prohibited Contributions Outside "Window Period"

	Political Entity	Date of Contribution	Amount of Contribution
1	LawPAC of New York ¹	01/08/07	\$75.00
2	American Association for Justice PAC ²	05/25/07	\$1,000.00
3	LawPAC of New York	09/24/07	\$250.00
4	LawPAC of New York	01/25/08	\$75.00
5	American Association for Justice PAC	05/23/08	\$1,000.00
6	LawPAC of New York	09/16/08	\$250.00
7	LawPAC of New York	02/10/09	\$75.00
8	LawPAC of New York	03/02/11	\$75.00
9	Kathy Hochul for Congress	04/19/11	\$250.00
10	American Association for Justice PAC	05/27/11	\$1,000.00
11	LawPAC of New York	08/24/11	\$250.00
12	LawPAC of New York	02/06/12	\$75.00
13	American Association for Justice PAC	05/22/12	\$1,000.00
14	LawPAC of New York	08/02/12	\$250.00
15	Cartwright for Congress	10/11/12	\$250.00
16	LawPAC of New York	01/16/13	\$75.00
17	Cartwright for Congress	03/13/13	\$500.00
	TOTAL OF CONTRIBUTIONS		\$6,450.00

¹Respondent's contributions to LawPAC of New York do not include any monies paid as membership fees to the New York State Trial Lawyers Association.

²Respondent's contributions to American Association for Justice PAC do not include any monies paid as membership fees to the American Association of Justice.

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule C

Chiacchia and Fleming, LLP Prohibited Contributions During "Window Period"

	Political Entity	Date of Contribution	Amount of Contribution
1	American Association for Justice PAC ¹	05/23/06	\$1,000.00
2	American Association for Justice PAC	05/20/09	\$1,000.00
3	LawPAC of New York ²	09/24/09	\$250.00
4	LawPAC of New York	03/01/10	\$75.00
5	American Association for Justice PAC	05/28/10	\$1,000.00
6	LawPAC of New York	09/01/10	\$250.00
7	American Association for Justice PAC	05/21/13	\$1,000.00
8	Joan Calkins	06/08/13	\$504.24
9	Sheila Ruhland	06/08/13	\$504.24
10	Cartwright for Congress	12/26/13	\$500.00
	TOTAL OF CONTRIBUTIONS		\$6,083.48

¹Respondent's contributions to American Association for Justice PAC do not include any monies paid as membership fees to the American Association of Justice.

²Respondent's contributions to LawPAC of New York do not include any monies paid as membership fees to the New York State Trial Lawyers Association.

**Hon. Andrew P. Fleming
Hamburg Village Court
Erie County**

Schedule D

Mary Pat Fleming Prohibited Ticket Purchases Outside "Window Period"

	Political Entity	Date of Ticket Purchase	Amount of Ticket Purchase
1	Nemoyer for Justice	02/09/11	\$250.00
2	Nemoyer for Justice	04/27/11	\$150.00
	TOTAL OF TICKET PURCHASES		\$400.00