

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

THOMAS C. KRESSLY,

A Justice of the Urbana Town Court,
Steuben 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 Thomas C. Kressly ("Respondent"), 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 has been a Justice of the Urbana Town Court, Steuben County, since 1996. Respondent's current term expires December 31, 2015. He is not an attorney.

2. Respondent was served with a Formal Written Complaint dated January 6, 2015, a copy of which is appended as Exhibit 1. He filed an Answer dated January 25, 2015, a copy of which is appended as Exhibit 2.

As to Charge I

3. On or about August 8, 2011, in connection with his arraignment of the defendant in *People v [John Doe]*, Respondent:
- A. accepted \$500 cash bail which he failed to deposit into his court account within 72 hours, as required by Section 214.9(a) of the Uniform Civil Rules for the Justice Courts;
 - B. failed to mechanically record the proceeding, as required by Section 30.1 of the Rules of the Chief Judge, and Administrative Order 245/08 of the Chief Administrative Judge of the Courts; and
 - C. failed to maintain copies of any and all papers, files, orders, minutes or notes made by the court, and documents relating to the proceeding, as required by Section 214.11(a)(1) of the Uniform Civil Rules for the Justice Courts.

As to the Specifications to Charge I

4. Early in the morning on August 8, 2011, Respondent presided over an after-hours arraignment in *People v [John Doe]* for the Town of Wayne Court. Mr. [Doe] was charged with unlawful imprisonment in the second degree, a violation of Section 135.05 of the Penal Law.

5. Respondent did not record the proceeding in *People v [John Doe]*, as required by Section 30.1 of the Rules of the Chief Judge, and Administrative Order 245/08 of the Chief Administrative Judge of the Courts, dated May 21, 2008.

6. Respondent set bail at \$500 cash or \$1,000 bond.

7. During the proceeding, [James Doe] , the defendant’s father, gave Respondent \$500 cash for the defendant’s bail. Respondent issued receipt #5162 to [James Doe] , but did not maintain an exact duplicate record of that receipt.

8. After the arraignment, Respondent took the \$500 cash bail and placed it in a business-size envelope, which he then placed in a manila envelope.

9. Respondent also placed the [Doe] court records in the manila envelope, and made notations about the case on the outside of the manila envelope, including, “BAIL \$500.00 CASH.” Respondent took the manila envelope, containing the cash bail and court records, home with him.

10. On August 8, 2011, Respondent drove to the Town of Wayne municipal building and gave the manila envelope and its contents, including the business-size envelope containing the \$500 cash bail, to an unidentified man who indicated that he would forward it to the Wayne Town Court.

11. Respondent failed to deposit the \$500 cash bail posted by the defendant into his justice court account within 72 hours of receipt, as required by Section 214.9(a) of the Uniform Civil Rules for the Justice Courts.

12. Respondent failed to maintain any notes, records, files, or a copy of the receipt related to the arraignment in *People v [John Doe]* , as required by Section 214.11(a)(1) of the Uniform Civil Rules for the Justice Courts.

13. There is no record of the [Doe] matter and no exact record of the \$500 cash bail in the records of the Urbana Town Court. The [Doe] matter was disposed of in the Wayne Town Court, which resulted in the defendant being granted an Adjournment

in Contemplation of Dismissal (ACD) on October 27, 2011, and approximately \$500 from the court's consolidated bail account was paid to the defendant's father. As of April 27, 2012, the adjourn date, the charge was deemed dismissed.

14. The report of an audit of the Wayne Town Court by the New York State Comptroller, for the period covering January 1, 2010, through August 31, 2012, indicated that the \$500 cash bail had not been deposited or properly accounted for in the court's financial records. In response to the Comptroller's report, a Justice of the Wayne Town Court who has since left office reported depositing the \$500 bail and reconciling that court's bail account on or about April 30, 2013.

15. 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; failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules; and failed to diligently discharge his administrative responsibilities and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules.

Additional Factors

16. Respondent has been cooperative and contrite throughout the Commission inquiry.

17. Respondent acknowledges that on December 17, 2004, he was admonished by the Commission for failing to follow required procedures in a code violation case and depriving the town attorney or code enforcement officer the opportunity to present evidence.

18. Respondent regrets his failure to abide by the applicable Rules in this instance and pledges henceforth to abide by them faithfully.

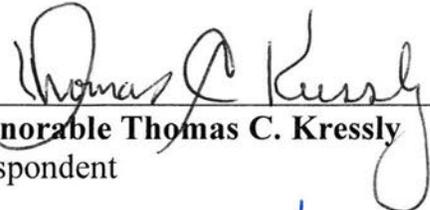
IT IS FURTHER STIPULATED AND AGREED that Respondent withdraws from his Answer any denials or defenses inconsistent with this Agreed Statement of Facts.

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

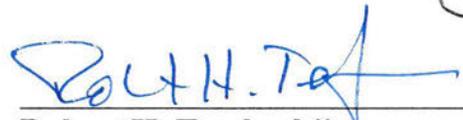
Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, the Respondent, or the Administrator and Counsel to the Commission.

Dated: 2-10-15



Honorable Thomas C. Kressly
Respondent

Dated: Feb. 17, 2015



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(John J. Postel and Kathleen Martin Of Counsel)

EXHIBIT 1

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

THOMAS C. KRESSLY,

a Justice of the Urbana Town Court,
Steuben County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Thomas C. Kressly, a Justice of the Urbana Town Court, Steuben 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: January 6, 2015
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: Honorable Thomas C. Kressly
Urbana Town Court
P.O. Box 186
Hammondsport, New York 14840

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

**FORMAL
WRITTEN COMPLAINT**

THOMAS C. KRESSLY

a Justice of the Urbana Town Court,
Steuben County.

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 Thomas C. Kressly (“Respondent”), a Justice of the Urbana Town Court, Steuben 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 has been a Justice of the Urbana Town Court, Steuben County, since 1996. His current term expires on December 31, 2015. Respondent is not an attorney.

CHARGE I

5. On or about August 8, 2011, in connection with his arraignment of the defendant in *People v [John Doe]*, Respondent:

- A. accepted \$500 cash bail which he failed to deposit into his court account within 72 hours, as required by Section 214.9(a) of the Uniform Civil Rules for the Justice Courts;
- B. failed to mechanically record the proceeding, as required by Section 30.1 of the Rules of the Chief Judge, and Administrative Order 245/08 of the Chief Administrative Judge of the Courts; and
- C. failed to maintain copies of any and all papers, files, orders, minutes or notes made by the court, and documents relating to the proceeding, as required by Section 214.11(a)(1) of the Uniform Civil Rules for the Justice Courts.

Specifications to Charge I

6. Early in the morning on or about August 8, 2011, Respondent presided over an after-hours arraignment in *People v [John Doe]* for the Town of Wayne Court. Mr. [Doe] was charged with unlawful imprisonment in the second degree, a violation of Section 135.05 of the Penal Law.

7. Respondent did not record the proceeding in *People v [John Doe]*, as required by Section 30.1 of the Rules of the Chief Judge, and Administrative Order 245/08 of the Chief Administrative Judge of the Courts, dated May 21, 2008, which is appended as Exhibit 1.

8. Respondent set bail at \$500 cash or \$1,000 bond.

9. During the proceeding, [James Doe] , the defendant's father, gave Respondent \$500 cash for the defendant's bail. Respondent issued receipt #5162 to [James Doe] , but did not maintain an exact duplicate record of that receipt. A copy of Mr. [Doe] 's bail receipt is appended as Exhibit 2.

10. After the arraignment, Respondent took the \$500 cash bail and placed it in a business-size envelope, which he then placed in a manila envelope.

11. Respondent also placed the [Doe] court records in the manila envelope, and made notations about the case on the outside of the manila envelope, including, "BAIL \$500.00 CASH." Respondent took the manila envelope, containing the cash bail and court records, home with him.

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15. There is no record of the [Doe] matter and no exact record of the \$500 cash bail in the records of the Urbana Town Court. The [Doe] matter was disposed of in the Wayne Town Court in or about October 2011, and approximately \$500 from the court's consolidated bail account was paid to the defendant's father.

16. The report of an audit of the Wayne Town Court by the New York State Comptroller, for the period covering January 1, 2010, through August 31, 2012, indicated that the \$500 cash bail had not been deposited or properly accounted for in the court's financial records. In response to the Comptroller's report, a Justice of the Wayne Town Court who has since left office reported depositing the \$500 bail and reconciling that court's bail account in or about April 30, 2013.

17. 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 failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, and failed to diligently discharge

his administrative responsibilities and maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) 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: January 6, 2015
New York, New York

A handwritten signature in black ink, appearing to read 'R. H. Tembeckjian', written over a horizontal line.

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

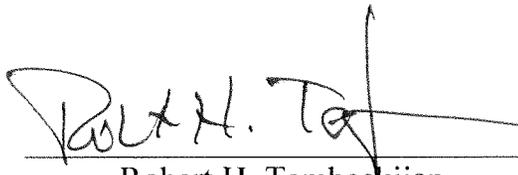
THOMAS C. KRESSLY,

a Justice of the Urbana Town Court,
Steuben 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
6th day of January 2015



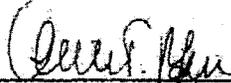
Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No. 01JO6235579
Qualified in New York County
Commission Expires Feb. 14, 2015

EXHIBIT 1

ADMINISTRATIVE ORDER OF THE CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me under section 30.1 of the Rules of the Chief Judge, I hereby require each town and village court of the Unified Court System to mechanically record all proceedings that come before that court. This order shall be effective beginning June 16, 2008.



Chief Administrative Judge of the Courts

Dated: *May 21, 2008*

AO1245 108

EXHIBIT 2

Receipt for Fine

5162

STATE OF NEW YORK
TOWN COURT
TOWN OF URBANA

FOR TOWN OF WAYNE

Date: AUG 8 20 11

Received from [James Doe]

\$ 500.00

Five hundred 00/100 DOLLARS

for ~~Fine Paid~~ BAIL \$ 500.00

Re: Violation of Section _____ of the
Vehicle & Traffic Laws of the State of New York.

~~Mandatory State Surcharge of~~ \$ _____

~~ST Fees~~ \$ _____

~~TOTAL~~ \$ _____

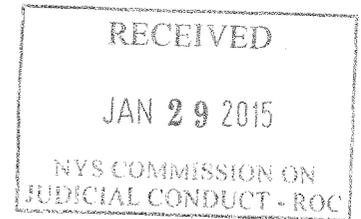
Ticket No. FOR [John Doe]

[Signature]
Town Justice • Town of Urbana

EXHIBIT 2

January 25, 2015

Thomas C. Kressly, Judge
Town of Urbana Court
8014 Pleasant Valley Road
P O Box 186
Hammondsport, NY 14840



Re: Notice of Formal Written Complaint

John J. Postel, Deputy Administrator
NYS Commission on Judicial Conduct
400 Andrews Street, Suite 700
Rochester, NY 14604

Dear Mr. Postel:

As per our phone conversation of January 22, 2015, I would like to respond to the Formal Written Complained issued by the Commission on Judicial Conduct on January 6, 2015. On page 2 of the complaint is the list of the three violations under charge #1 served on me.

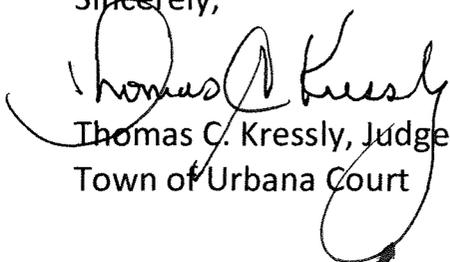
My response of "yes" is an indication that I did violate the rules that govern my actions as a Judge.

My response of "no" is an indication that I did not violate the rules that govern my actions as a judge.

RESPONSES:

- Charge 1 A – YES
- Charge 1 B – YES
- Charge 1 C – YES

Sincerely,


Thomas C. Kressly, Judge
Town of Urbana Court

MARY M. FARMER
Notary Public, State of New York
No. 01FA6304516
Qualified in Steuben County
Commission Expires May 27, 2018

