

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

**DAVID McANDREWS,**

a Judge of the District Court,  
Nassau 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, Esq., Administrator and Counsel to the Commission, and  
Honorable David McAndrews ("respondent"), who is represented in this  
proceeding by Chris G. McDonough, Esq., 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 1993.  
He has been a Judge of the District Court, Nassau County, since 2010.  
Respondent's current term expires on December 31, 2016.

2. Respondent was served with a Formal Written Complaint dated  
November 27, 2012.

*CGM*

3. Respondent served an Answer to the Formal Written Complaint dated January 9, 2013, in which he admitted all the factual allegations.

**As to Charge I**

4. Pursuant to 22 NYCRR Section 40.2, judges are required to file annual financial disclosure statements with the Ethics Commission for the Unified Court System (“Ethics Commission”) by May 15th of the following year. In or about 2011, respondent failed to file his 2010 financial disclosure statement in a timely manner.

5. When respondent did not file his 2010 statement by the due date of May 15, 2011, the Ethics Commission sent and respondent shortly thereafter received a Notice to Cure dated June 6, 2011. A copy of the Notice to Cure is appended as Exhibit 1.

6. When respondent did not file his 2010 statement in response to the Notice to Cure, the Ethics Commission sent and respondent shortly thereafter received a Notice of Delinquency dated June 30, 2011. A copy of the Notice of Delinquency is appended as Exhibit 2.

7. Respondent did not file his financial disclosure statement until on or about April 9, 2012, nearly 11 months after it was due.

8. Respondent testified that he believes that he did file or attempt to file his 2010 financial disclosure statement electronically; however he was unable to

support this claim and he could not provide details such as when he filed or attempted to file the financial disclosure statement. Moreover, he acknowledges that he has no valid excuse for failing to file his 2010 financial disclosure statement in a timely manner, or for filing it 11 months after it was due, despite the receipt of notices from the Ethics Commission and letters from the Commission regarding his failure to timely file his 2010 financial disclosure statement. Throughout the time period in issue, respondent was otherwise fulfilling his judicial responsibilities in the ordinary course.

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 to act at all times 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 diligently discharge his administrative responsibilities, in violation of Section 100.3(C)(1) of the Rules.

**As to Charge II**

10. From in or about November 2011 through in or about April 2012, respondent failed to cooperate with the Commission during its investigation of the matters herein.

11. Judiciary Law Section 44(3) and 22 NYCRR Sections 7000.3(c) and (e) authorize the Commission to request a written response from a judge who is the subject of a complaint and to require such judge's testimony during the investigation.

12. Respondent received but failed to respond to three letters from the Commission dated November 9, 2011, January 20, 2012, and February 8, 2012, in which the Commission posed questions to him regarding his alleged failure to file his 2010 financial disclosure statement. Copies of the letters are appended hereto as Exhibits 3, 4 and 5, respectively.

13. Respondent received but failed to respond to two written requests from the Commission, dated February 29, 2012, and March 12, 2012, that he confirm his attendance at an appearance for testimony scheduled for March 16, 2012. Copies of the letters are appended hereto as Exhibits 6 and 7, respectively. Notwithstanding his failure to confirm, respondent appeared at the Commission on March 16, 2012, without counsel, and requested an adjournment so that he might retain and return with counsel at a later date. The request was granted and the

proceeding was adjourned to April 6, 2012, at which time respondent appeared with counsel and testified.

14. 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; and failed to avoid impropriety and the appearance of impropriety in that he failed to respect and comply with the law and to act at all times 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.

**Additional Information**

15. Respondent acknowledges that he should have timely filed his 2010 financial disclosure statement.

16. Respondent acknowledges that he should have promptly responded to the letters of inquiry and the notices to appear for testimony that he received from the Commission. Respondent also acknowledges that his failure to file his financial disclosure statement in a timely manner was compounded by his failure to cooperate promptly and fully with the Commission.

17. Respondent has expressed contrition for his misconduct.

18. Respondent timely filed his 2011 financial disclosure statement and pledges to file all of his future financial disclosure statements in a timely manner.

19. Respondent pledges to cooperate fully with any future Commission inquiries.

**IT IS FURTHER STIPULATED AND AGREED** that respondent withdraws from his Answer any denials 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 censure 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 censure 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.

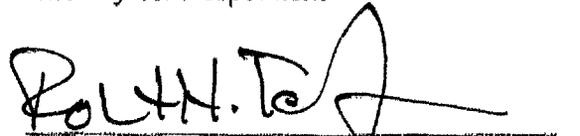
Dated: 6/4/13

  
Honorable David McAndrews  
Respondent

Dated: 6/4/13

  
Chris G. McDonough, Esq.  
Attorney for Respondent

Dated: 6/4/2013

  
Robert H. Tembeckjian, Esq.  
Administrator & Counsel to the Commission  
(Mark Levine, Of Counsel)

**Exhibit 1**



NEW YORK STATE  
**ETHICS COMMISSION  
FOR THE  
UNIFIED COURT SYSTEM**

25 BEAVER STREET, Room 875  
NEW YORK, NEW YORK 10004  
(212) 428-2899  
FAX (212) 428-2898  
Internet: [www.nycourts.gov/ip/ethics](http://www.nycourts.gov/ip/ethics)  
Intranet: UCS home page: Topics A-Z  
Email: [ethicscomm@courts.state.ny.us](mailto:ethicscomm@courts.state.ny.us)

HON DAVID MCANDREWS  
530 WINDSOR ST  
WESTBURY NY 11590

RETIREMENT#: 91014190

JUNE 6, 2011

**NOTICE TO CURE**  
**Pursuant to 22 NYCRR 40.1(k)**

Our records indicate that you are required to file a financial disclosure statement for calendar year 2010 pursuant to the Rules of the Chief Judge, 22 NYCRR Part 40.

The Commission has not received your financial disclosure statement, which was due on May 15, 2011, nor have we received any explanation why your statement has not been filed.

If you did mail your financial disclosure statement to the Commission, or if you filed it electronically, or if there is an explanation for your failure to file, please call this office immediately. If you have a copy of the statement you mailed to us and want to file it, you must **RE-SIGN AND RE-DATE** the last page.

If you have **NOT** filed your financial disclosure statement, please be advised that you have fifteen days from the date of this letter to do so.

If you fail to make such filing within that time period, then, pursuant to 22 NYCRR 40.1(k), the Commission will be required to send you a **Notice of Delinquency**, with a copy to the State Commission on Judicial Conduct.

**If we send a Notice of Delinquency to a filer, his or her name will be posted on our website.**

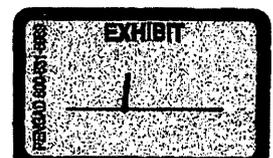
HON. WILLIAM F. MASTRO  
CHAIR

HON. ERIN M. PERADOTTO  
VINCENT J. SYRACUSE, Esq.

ROBERTO VELEZ, Esq.

PROP. STEVEN WECHSLER

JANICE HOWARD, Esq.  
EXECUTIVE DIRECTOR



**Exhibit 2**



NEW YORK STATE  
**ETHICS COMMISSION  
FOR THE  
UNIFIED COURT SYSTEM**

25 BEAVER STREET, Room 875  
NEW YORK, NEW YORK 10004  
(212) 428-2899  
FAX (212) 428-2898  
Internet: [www.nycourts.gov/ethics](http://www.nycourts.gov/ethics)  
Intranet: LICS home page: Topics A-Z  
Email: [ethicscomm@courts.state.ny.us](mailto:ethicscomm@courts.state.ny.us)

HON. DAVID MCANDREWS  
530 WINDSOR ST  
WESTBURY NY 11580

RETIREMENT# 91014190

JUNE 30, 2011

HON. WILLIAM F. MASTRO  
CHAIR

HON. ERIN M. PERADOTTO  
VINCENT J. SYRACUSE, Esq.  
ROBERTO VELEZ, Esq.  
PROF. STEVEN WECHSLER

JAMES HOWARD, Esq.  
EXECUTIVE DIRECTOR

**NOTICE OF DELINQUENCY**  
**Pursuant to 22 NYCRR 40.1(k)**

Our records indicate that you are required to file a financial disclosure statement for calendar year 2010 pursuant to the Rules of the Chief Judge, 22 NYCRR Part 40.

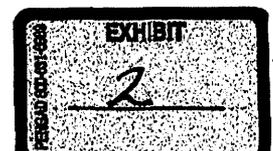
The Commission has not yet received your financial disclosure statement, which was due on May 15, 2011. A Notice to Cure was mailed to you on or about June 6, 2011.

The following is your late filing history since reporting year 2004:

- A Notice to Cure was sent to you because you did not timely file your 2009 statement.

Pursuant to 22 NYCRR 40.1(k), the Commission is required to send a copy of this Notice to the State Commission on Judicial Conduct.

Your name will appear on our website, on the "Delinquent Filers" page.



**Exhibit 3**



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

HON. THOMAS A. KLONICK, CHAIR  
HON. TERRY JANE RUDERMAN, VICE CHAIR  
HON. ROLANDO T. ACOSTA  
JOSEPH W. BELLUCK  
JOEL COHEN  
RICHARD D. EMERY  
PAUL B. HARDING  
NINA M. MOORE  
HON. KAREN K. PETERS  
RICHARD A. STOLOFF  
MEMBERS  
JEAN M. SAVANYU, CLERK

61 BROADWAY  
NEW YORK, NEW YORK 10006

646-386-4800 646-458-0038  
TELEPHONE FACSIMILE  
www.cjc.ny.gov

ROBERT H. TEMBECKJIAN  
ADMINISTRATOR & COUNSEL

MARK LEVINE  
DEPUTY ADMINISTRATOR

PAMELA TISHMAN  
PRINCIPAL ATTORNEY

ROGER J. SCHWARZ  
SENIOR ATTORNEY

BRENDA CORRÉA  
KELVIN S. DAVIS  
STAFF ATTORNEYS

ALAN W. FRIEDBERG  
SPECIAL COUNSEL

**CONFIDENTIAL**

November 9, 2011

Hon. David McAndrews  
District Court Judge  
Nassau County District Court  
99 Main Street  
Hempstead, NY 11550

**Re: File No. 2011/N-0585**

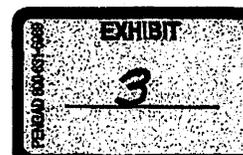
Dear Judge McAndrews:

Pursuant to Article 2-A of the Judiciary Law, the Commission on Judicial Conduct is investigating a complaint alleging that you failed to timely file your 2010 financial disclosure statement with the Ethics Commission for the Unified Court System.

The Commission requests that you respond in writing to the questions below on or before November 30, 2011. In your letter, please include answers to the questions below and number your responses to correspond to the questions. Please note that, pursuant to Commission Policy, if your written reply is submitted by counsel, you must co-sign or submit a separate statement indicating that you have read and adopted it.<sup>1</sup>

Enclosed are copies of the complaint and the Commission's Operating Procedures and Rules.

<sup>1</sup> Policy 2.6(D)(3), which is available on the Commission's website at the following address:  
<http://www.cjc.ny.gov/LegalAuthorities/NYSCJC.PolicyManual.March2011.pdf>



NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

Hon. David McAndrews

November 9, 2011

Page 2

1. Did you file your financial disclosure statement for calendar year 2010, pursuant to the Rules of the Chief Judge, 22 NYCRR Part 40? If so, on what date did you file it? If you submitted your 2010 financial disclosure statement to the Ethics Commission of the Unified Court System after May 15, 2011, please indicate the reason for the delay.

2. Please indicate whether you received a Notice to Cure from the Ethics Commission of the Unified Court System regarding your 2010 financial disclosure statement. If so, please provide a copy of the notice and indicate:

- a. the date you received the notice;
- b. what action, if any, you took upon receiving the notice.

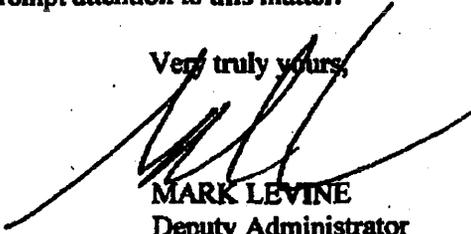
3. Please indicate whether you received a Notice of Delinquency from the Ethics Commission of the Unified Court System regarding your 2010 financial disclosure statement. If so, please provide a copy of the notice and indicate:

- a. the date you received the notice;
- b. what action, if any, you took upon receiving the notice.

Please include any other information that you deem relevant or material that you may wish the Commission to consider in connection with this inquiry.

Thank you for your prompt attention to this matter.

Very truly yours,

  
MARK LEVINE  
Deputy Administrator

Encl.

cc: Ethan C. Beckett  
Investigator

**Exhibit 4**



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

HON. THOMAS A. KLONICK, CHAIR  
HON. TERRY JANE RUDERMAN, VICE CHAIR  
HON. ROLANDO T. ACOSTA  
JOSEPH W. BELLUCK  
JOEL COHEN  
RICHARD D. EMERY  
PAUL B. HARDING  
NINA M. MOORE  
HON. KAREN K. PETERS  
RICHARD A. STOLOFF  
MEMBERS  
JEAN M. SAVANYU, CLERK

61 BROADWAY  
NEW YORK, NEW YORK 10006

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ADMINISTRATOR & COUNSEL

MARK LEVINE  
DEPUTY ADMINISTRATOR

PAMELA TISHMAN  
PRINCIPAL ATTORNEY

ROGER J. SCHWARZ  
SENIOR ATTORNEY

BRENDA CORREA  
KELVIN S. DAVIS  
STAFF ATTORNEYS

ALAN W. FRIEDBERG  
SPECIAL COUNSEL

**CONFIDENTIAL**

January 20, 2012

Honorable David McAndrews  
District Court Judge  
Nassau County District Court  
99 Main Street  
Hempstead, NY 11550

**Re: Case File No. 2011/N-0585**

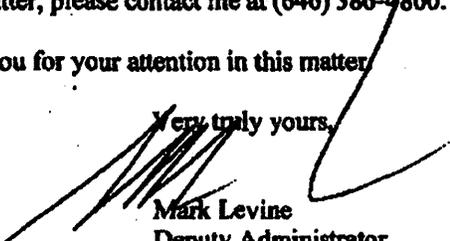
Dear Judge McAndrews:

The Commission on Judicial Conduct previously sent you a letter dated November 9, 2011, to which a response was requested by November 30, 2011. The Commission has not received a response. A copy of the Commission's November 9, 2011 letter is enclosed.

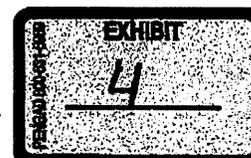
Please provide your response by February 3, 2012. If you have any questions about this matter, please contact me at (646) 386-4800.

Thank you for your attention in this matter.

Very truly yours,

  
Mark Levine  
Deputy Administrator

Enclosures  
Certified Mail/Return Receipt Requested  
# 7008 1140 0002 1409 2636



**Exhibit 5**



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

HON. THOMAS A. KLONICK, CHAIR  
HON. TERRY JANE RUDERMAN, VICE CHAIR  
HON. ROLANDO T. ACOSTA  
JOSEPH W. BELLUCK  
JOEL COHEN  
RICHARD D. EMERY  
PAUL B. HARDING  
NINA M. MOORE  
HON. KAREN K. PETERS  
RICHARD A. STOLOFF  
MEMBERS  
JEAN M. SAVANYU, CLERK

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ROBERT H. TEMBECKJIAN  
ADMINISTRATOR & COUNSEL

MARK LEVINE  
DEPUTY ADMINISTRATOR

PAMELA TISHMAN  
PRINCIPAL ATTORNEY

ROGER J. SCHWARZ  
SENIOR ATTORNEY

BRENDA CORREA  
KELVIN S. DAVIS  
STAFF ATTORNEYS

ALAN W. FRIEDBERG  
SPECIAL COUNSEL

**CONFIDENTIAL**

February 8, 2012

Honorable David McAndrews  
District Court Judge  
Nassau County District Court  
99 Main Street  
Hempstead, NY 11550

**Re: Case File No. 2011/N-0585**

Dear Judge McAndrews:

The Commission on Judicial Conduct previously sent you a letter dated November 9, 2011 and a second letter dated January 20, 2012, to which a response was requested by February 3, 2012. The Commission has not received a response. A copy of the Commission's November 9, 2011 and January 20, 2012 letters are enclosed.

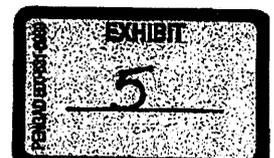
Please provide your response by February 22, 2012. Failure to respond may be found to be a failure to cooperate with a Commission investigation. *See Matter of Cooley*, 53 NY2d 64 (1981). If you have any questions about this matter, please contact me at (646) 386-4800.

Thank you for your attention to this matter.

Very truly yours,

Mark Levine  
Deputy Administrator

Enclosures  
Certified Mail/Return Receipt Requested  
# 7008 1140 0002 1409 2568



**Exhibit.6**



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

HON. THOMAS A. KLONICK, CHAIR  
HON. TERRY JANE RUDERMAN, VICE CHAIR  
HON. ROLANDO T. ACOSTA  
JOSEPH W. BELLUCK  
JOEL COHEN  
RICHARD D. EMERY  
PAUL B. HARDING  
NINA M. MOORE  
HON. KAREN K. PETERS  
RICHARD A. STOLOFF  
MEMBERS  
JEAN M. SAVANYU, CLERK

61 BROADWAY  
NEW YORK, NEW YORK 10006

646-386-4800 646-458-0038  
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www.cjc.ny.gov

**CONFIDENTIAL**

February 29, 2012

ROBERT H. TEMBECKJIAN  
ADMINISTRATOR & COUNSEL

MARK LEVINE  
DEPUTY ADMINISTRATOR

PAMELA TISHMAN  
PRINCIPAL ATTORNEY

ROGER J. SCHWARZ  
SENIOR ATTORNEY

BRENDA CORREA  
KELVIN S. DAVIS  
STAFF ATTORNEYS

ALAN W. FRIEDBERG  
SPECIAL COUNSEL

Honorable David McAndrews  
District Court Judge  
Nassau County District Court  
99 Main Street  
Hempstead, NY 11550

Re: Case File No. 2011/N-0585

Dear Judge McAndrews:

As you know, pursuant to Article 2-A of the Judiciary Law, the Commission on Judicial Conduct is investigating a complaint alleging that you failed to file your 2010 financial disclosure statement in a timely manner with the Ethics Commission for the Unified Court System.

In connection with this investigation, the Commission sent you letters of inquiry dated November 9, 2011, and January 20, 2012. You failed to respond to these letters. A third letter was sent to you by the Commission on February 8, 2012, to which a response was requested by February 22, 2012. On February 22, 2012, you telephoned me and requested an extension of time until February 24, 2012, to respond to the Commission's letter via facsimile. I granted your request and expected to receive your response via facsimile on February 24, 2012. No such letter arrived on February 24, 2012, via facsimile or by any other method. Indeed, as of the date of this letter, you have not submitted a response to the Commission's letters.

In connection with this investigation, the Commission now requests that you appear to give testimony on March 16, 2012 at 10:30 AM, at the



NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

*Hon. David McAndrews*

*February 29, 2012*

*Page 2*

Commission's office in Manhattan at 61 Broadway, 12<sup>th</sup> Floor, NY, NY 10006. Please note that failure to appear may be found to be a failure to cooperate with a Commission investigation. *See Matter of Cooley*, 53 NY2d 64 (1981).

At your appearance, you will be questioned about both the merits of the complaint and your failure to respond to the Commission's inquiry letters.

Enclosed are copies of the complaint and the Commission's Operating Procedures and Rules.

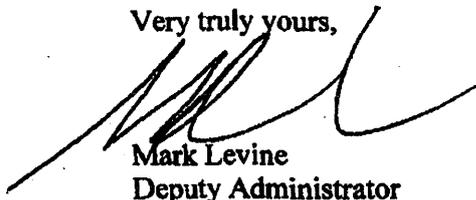
Your appearance is requested in accordance with Section 44, subdivision 3 of the Judiciary Law. This is not a hearing as provided by Section 44, subdivision 4, of the Judiciary Law. Your testimony will be sworn and tape-recorded, and a copy of the transcription thereof will be provided to you at no cost. You have the right to be represented by counsel and to present material relevant to the complaint.

At your appearance, you may make opening and/or closing statements. After being questioned by Commission counsel, you may be questioned by your own lawyer, subject to further questioning by Commission counsel.

Please provide confirmation of your scheduled appearance no later than March 9, 2012 either by letter or telephone at (646) 386-4800.

Thank you for your prompt attention to this matter.

Very truly yours,



Mark Levine  
Deputy Administrator

Enclosures  
Via Certified Mail  
10081140000214095224

**Exhibit 7**



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

HON. THOMAS A. KLONICK, CHAIR  
HON. TERRY JANE RUDERMAN, VICE CHAIR  
HON. ROLANDO T. ACOSTA  
JOSEPH W. BELLUCK  
JOEL COHEN  
RICHARD D. EMERY  
PAUL B. HARDING  
NINA M. MOORE  
HON. KAREN K. PETERS  
RICHARD A. STOLOFF  
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ROGER J. SCHWARZ  
BRENDA CORREA  
SENIOR ATTORNEYS

KELVIN S. DAVIS  
ERICA K. SPARKLER  
STAFF ATTORNEYS

ALAN W. FRIEDBERG  
SPECIAL COUNSEL

**CONFIDENTIAL**

March 12, 2012

Honorable David McAndrews  
District Court Judge  
Nassau County District Court  
99 Main Street  
Hempstead, NY 11550

Re: Case File No. 2011/N-0585

Dear Judge McAndrews:

As you know, the Commission on Judicial Conduct has been attempting to communicate with you in connection with a pending investigation since November 2011. You have not responded to the letters of inquiry that the Commission sent you on November 9, 2011, January 20, 2012 and February 8, 2012. Nor have you responded to the Commission's February 29, 2012 letter in which you were asked to confirm, by March 9, 2012, your availability to appear at the Commission's New York City office on March 16, 2012 to provide testimony in connection with this investigation. The Commission's February 29, 2012 letter to you is enclosed.

In connection with this investigation, the Commission again requests that you appear to give testimony on March 16, 2012 at 10:30 AM, at the Commission's office in Manhattan at 61 Broadway, 12<sup>th</sup> Floor, NY, NY 10006. Please note that failure to appear may be found to be a failure to cooperate with a Commission investigation. *See Matter of Cooley*, 53 NY2d 64 (1981).



NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

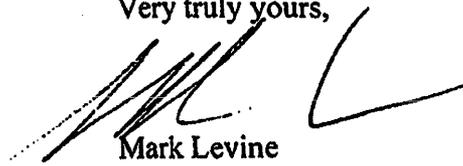
*Honorable David McAndrews*

*March 12, 2012*

*Page 2*

Thank you for your prompt attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be 'ML', written over a horizontal line.

Mark Levine  
Deputy Administrator

Enclosures  
Via Overnight Mail -UPS