

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

REBECCA MC GOWAN,

a Justice of the Jewett Town Court,
Greene County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to respondent, a Justice of the Jewett Town Court, Greene 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 her to serve the Commission at its Albany office, The Hampton Plaza, 38-40 State Street, Albany, New York 12207, with her verified Answer to the specific paragraphs of the Complaint.

Dated: October 15, 2007
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
(212) 809-0566

To: Hon. Rebecca McGowan
Jewett Town Justice
P.O. Box 132
Jewett, New York 12444

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

REBECCA McGOWAN,

a Justice of the Jewett Town Court,
Greene 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 Rebecca McGowan ("respondent"), a Justice of the Jewett Town Court, Greene County.
3. The factual allegations set forth in Charges I through III 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 Jewett Town Court, Greene County, since January 2005. She is not an attorney. She is a social studies teacher and a hostess at a restaurant.

CHARGE I

5. On or about January 24, 2005, respondent granted special consideration to her brother-in-law, Charles Tatar, who is also the son of her co-justice, Stanley Tatar, by dismissing two charges against Charles Tatar, on Judge Tatar's request.

Specifications to Charge I

6. Charles Tatar is respondent's brother-in-law, by virtue of his marriage to respondent's sister. Charles Tatar is also the son of respondent's co-justice, Stanley Tatar.

7. On or about July 23, 2004, Charles Tatar was issued an Appearance Ticket charging him with a violation of section 6A of the Jewett Dog Control Law, which required him to appear in Jewett Town Court on August 5, 2004. A copy of the appearance ticket is attached hereto as Exhibit 1. Charles Tatar did not appear in court on August 5, 2004, or at any time thereafter.

8. On or about September 14, 2004, Charles Tatar was issued another Appearance Ticket charging him with another violation of section 6A of the Jewett Dog Control Law, which required him to appear in Jewett Town Court on October 7, 2004. A copy of the appearance ticket is attached hereto as Exhibit 2. Charles Tatar did not appear in court on October 7, 2004, or at any time thereafter.

9. In 2004, Stanley Tatar was the only justice of the Jewett Town Court. Judge Tatar did not disqualify himself or otherwise act to transfer the charges issued to his son to another court. Neither Judge Tatar nor anyone else notified the District

Attorney about the charges against Charles Tatar, which were not adjudicated or otherwise acted upon until January 2005, when respondent took judicial office.

10. On or about January 24, 2005, which was respondent's first day on the bench, Judge Tatar presented respondent with the two Appearance Tickets issued to Charles Tatar and, without notice to the District Attorney, requested that respondent dismiss both charges. Charles Tatar did not appear.

11. Notwithstanding that Charles Tatar is married to her sister and is the son of her co-justice, respondent did not disqualify herself. Instead, she dismissed both charges against Charles Tatar, marking the appearance tickets "Dismissed" and signing them. The District Attorney was not aware of the charges or the fact that respondent had dismissed them until after she had done so.

12. 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 she failed to respect and comply with the law and failed 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, allowed a family relationship to influence the judge's judicial conduct, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance the private interest of her relative, in violation of

Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently in that she failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, considered an improper *ex parte* communication, in violation of Section 100.3(B)(6) of the Rules, and failed to disqualify herself in proceedings in which her impartiality might reasonably be questioned, in violation of Section 100.3(E)(1)(d)(i) of the Rules.

CHARGE II

13. In 2005 and 2006, respondent failed to disqualify herself and presided over five matters in which the defendants were either her relatives or a family friend, and granted special consideration to the defendants.

Specifications to Charge II

14. On or about January 24, 2005, respondent presided over and dismissed two violations of the local dog control ordinance filed against her brother-in-law, Charles Tatar, at the request of the defendant's father, respondent's co-justice Stanley F. Tatar, without notice to the prosecution and without requiring any appearance by the defendant in court. Respondent made no disclosure of her relationship with the defendant.

15. On or about July 25, 2005, respondent arraigned the defendant in *People v. Shane Andrus* on charges of Criminal Possession of Marijuana and Unlawful Growing of Cannabis, notwithstanding that the defendant is her second cousin. The District Attorney was not present. Respondent released the defendant on recognizance

and thereafter granted three adjournments of the case until in or about December 2005, before transferring the matter to her co-justice.

16. In or about February 2006, respondent failed to disqualify herself from *People v. Shane Andrus*, in which the defendant was charged with speeding, notwithstanding that the defendant is her second cousin. Respondent made no disclosure of her relationship with the defendant. When the defendant failed to appear, respondent failed to suspend his license, as required by law.

17. In or about July 2005, in *People v. Jason Whitcomb*, in which the defendant was charged with burglary and was remanded to jail in lieu of \$2,500 bail set by respondent's co-justice Stanley F. Tatar, respondent issued an order releasing the defendant from jail, at the *ex parte* request of Gerald Whitcomb, the defendant's grandfather who was a friend of respondent's family. Respondent did so notwithstanding that the case was assigned to Justice Tatar, and notwithstanding warnings from the court clerk that she not take action in the case because it was not assigned to her.

18. On or about August 14, 2006, respondent failed to disqualify herself from *People v. Joshua Holdridge*, notwithstanding that the defendant is her second cousin. The defendant was charged with speeding and several other violations of the Vehicle and Traffic Law, including three charges of operating an unregistered or improperly registered vehicle. Respondent made no disclosure of her relationship with the defendant. Respondent negotiated a plea on behalf of the defendant with one of the troopers who had issued the pending tickets. Although it was agreed that the defendant would plead guilty to the speeding charge, and that all but the three remaining

registration charges would be dismissed, respondent reduced the speeding charge to Disobeying a Traffic Control Device, and dismissed all the other charges against the defendant, including the three registration charges.

19. 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 she failed to respect and comply with the law and failed 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, allowed family and social relationships to influence the judge's judicial conduct, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance the private interests of the defendants, in violation of Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently in that she failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, engaged in unauthorized *ex parte* communications and failed to accord the prosecution the right to be heard according to law, in violation of Section 100.3(B)(6) of the Rules, and failed to disqualify herself in proceedings in which her impartiality might reasonably be questioned, in violation of Section 100.3(E)(1)(d)(i) of the Rules.

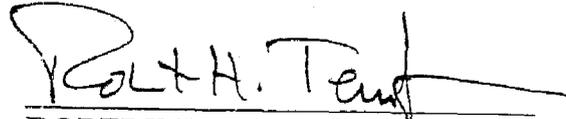
CHARGE III

20. As set forth on the annexed Schedule A, from in or about August 2005 through at least October 24, 2006, respondent failed to make timely deposits of court funds from eight cases within 72 hours of receipt, as required by Section 214.9(a) of the Uniform Rules for the Trial Courts (22 NYCRR Section 214.9[a]).

21. 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 respect and comply with the law and failed to act at all times in a manner that promotes public confidence in the integrity 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 she 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 her administrative responsibilities, 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: October 15, 2007
New York, New York



ROBERT H. TEMBECKJAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
(212) 809-0566

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

VERIFICATION

REBECCA McGOWAN,

a Justice of the Jewett Town Court,
Greene County.
-----X

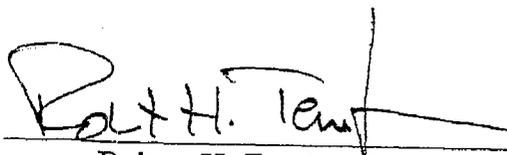
STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

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

1. I am the Administrator of the State Commission on Judicial
Conduct.

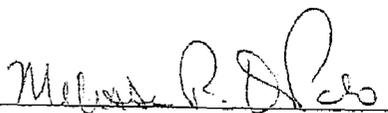
2. I have read the foregoing Formal Written Complaint and, upon
information and belief, all matters stated therein are true.

3. The basis for said information and belief is the files and records of
the State Commission on Judicial Conduct.



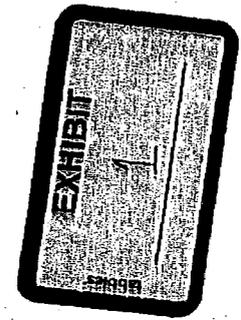
Robert H. Tembeckjian

Sworn to before me this
15th day of October 2007



Notary Public

Melissa R. DiPalo
Notary Public, State of New York
No. 02DI6065643
Qualified in Kings County
Commission Expires 10/1/09



GEN. 7 (REV. 6/85)

APPEARANCE TICKET
New York State Police

Issued to: CHARLES TATAR *Dis 11:41 PM 09/15/70* *04080005*
NAME OF DEFENDANT

12 PINE FRANKS JEWETT NY 12444
STREET AND NUMBER CITY OR TOWN STATE ZIP CODE

You are hereby directed to appear in the court described below on
08/05/04 at 7:00 PM in connection with your alleged
commission of the offense of REUNION AT LARGE contrary to the
provisions of section GA of the JEWETT BIG GAME LAW law.

Name of court T. JEWETT
Location of court PO BOX 132 JEWETT NY 12444

Issued and subscribed by:
[Signature] 4873
SIGNATURE OF MEMBER SHIELD

F 3 42
TROOP ZONE STATION

07/23/04
DATE ISSUED

NOTE - If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

WHITE - Respondent BLUE - [] YELLOW - Division

APPEARANCE TICKET
New York State Police

Dismissed 1-24-1
RMB
19 3430 0287 m

Issued To: CHARLES S. TATAR
NAME OF DEFENDANT
22 Pine Terrace Jewett NY 09/15/70
STREET AND NUMBER CITY OR TOWN STATE DATE OF BIRTH
10444
ZIP CODE

You are hereby directed to appear in the court described below on
October 7, 2004 at 7:00 P in connection with your alleged
commission of the offense of DOG RUNNING AT LARGE contrary to the
provisions of section 6A of the JEWETT Dog Control law.

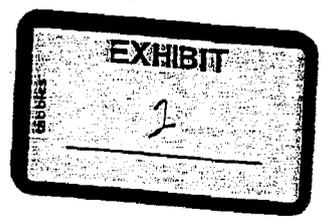
Name of court TJ JEWETT
Location of court CR-23C/296 JEWETT PO Box 132 Jewett NY 10444

* NOTE - If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

Issued and subscribed by:
[Signature]
SIGNATURE OF MEMBER
E 3
TROOP ZONE
09/14/04
DATE ISSUED
4582
SHIELD
42
STATION

WHITE - Respondent BLUE - Court YELLOW - Division



Schedule A to Formal Written Complaint

Late and Undeposited Funds

<u>Receipt Number</u>	<u>Name</u>	<u>Date of Receipt</u>	<u>Amount Received</u>	<u>Amount Deposited</u>	<u>Date of Deposit</u>	<u>Deposited Late By</u>
2468	R. Foster	8/8/05	\$140.00	\$140.00	8/23/05	12 days
2469	M. Kalmanas	8/8/05	155.00	155.00	8/23/05	12 days
2482	A. Kellerhouse	3/5/06	20.00	20.00	3/21/06	13 days
2485	A. Albanese	3/23/06	145.00	145.00	4/18/06	23 days
2491	A. Marek	3/20/06	100.00	100.00	5/17/06	55 days
2406	J. Vitelli	9/25/06	15.00	Undeposited*		
2408	J. Vitelli	9/25/06	15.00	Undeposited*		

* These funds have not been deposited through bank statement ending 9/30/06, which was the last available bank statement at the time of analysis. Respondent's cashbook through October 2006 indicates that the last deposit date was 10/24/06. The Kaminski two Vitelli receipts do not appear to have been deposited through that date.