

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

**MICHAEL A. TORREGIANO,**

A Justice of the Avon Town Court,  
Livingston County.

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**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 Michael A. Torregiano (“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 is not an attorney. He has been a Justice of the Avon Town Court, Livingston County, since January 1, 2004. Respondent’s current term expires on December 31, 2015.

2. Respondent was served with a Formal Written Complaint dated May 7, 2013, a copy of which is appended as Exhibit 1. He filed a written response dated May 11, 2013, a copy of which is appended as Exhibit 2.

**As to Charge I**

3. On December 30, 2010, during a meeting in executive session of the Avon Town Board, at which only town officials were present, Respondent reacted to the

Board's decision not to raise Respondent's pay for 2011 by making a statement implying that he had granted special consideration to the daughter of a Board member in a traffic case, and that as a consequence, the Board member should have voted in favor of his pay raise. Respondent also told the Board that they had "shoved it up [his] ass."

4. On January 3, 2007, Alicia D. Mairs was charged with speeding, a violation of §1180 (d) of the Vehicle and Traffic Law (VTL) in *People v. Alicia D. Mairs*. Ms. Mairs's father, Thomas Mairs, has been a member of the Avon Town Board since 2005.

5. On January 23, 2007, Ms. Mairs appeared before Respondent. Respondent reduced Ms. Mairs's speeding violation to a parking violation under §1201 (a) of the VTL, and imposed a \$25 fine.

6. Respondent states that the disposition in *Mairs* was neither the result of special consideration nor inconsistent with dispositions rendered in similar cases. Examination of court records, and interviews of pertinent assistant district attorneys, court staff, and Ms. Mairs, reveal nothing to the contrary.

7. On December 30, 2010, Respondent attended the Avon Town Board's executive session, which was closed to the public, to discuss the Board's decision not to raise Respondent's pay for 2011. Town Supervisor David LeFeber, Deputy Supervisor Kelly Cole, Town Attorney James Campbell, and Councilmen Thomas Mairs, James Blye, and Donald Cook were present.

8. Respondent was angry that he was not being given a pay raise. Respondent rebuked Mr. Mairs for not supporting Respondent's pay raise, stating, in words or substance, "I took care of a ticket for [your] daughter" and "this is the thanks that I get."

9. Respondent told the Town Board that, by refusing to give him a pay raise, the Board had “shoved it up [his] ass.”

10. 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 conveyed the impression that others were in a special position to influence the judge, in violation of Section 100.2(C) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that he failed to be patient, dignified and courteous to individuals with whom he dealt in an official capacity, in violation of Section 100.3(B)(3) of the Rules; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he cast reasonable doubt on his capacity to act impartially as a judge, in violation of Section 100.4(A)(1) of the Rules, and made statements that detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules.

**Additional Factors**

11. Respondent has no previous disciplinary record.

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

13. Respondent recognizes that it was improper for him to link his advocacy for a pay raise with his disposition of a particular case, even if the disposition of the case had been entirely on the merits.

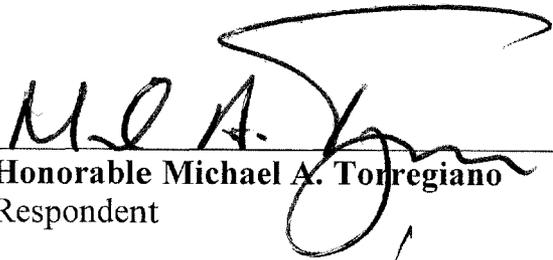
14. Respondent regrets his failure to abide by the applicable Rules in this instance and pledges to conduct himself in accordance with the Rules in the future.

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

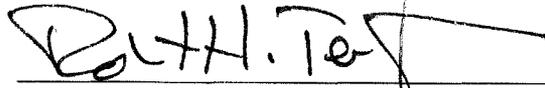
**IT IS FURTHER STIPULATED AND AGREED** that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the appropriate sanction is public Censure based upon the judicial misconduct set forth above.

**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: **JUNE 11, 2013**

  
\_\_\_\_\_  
**Honorable Michael A. Torregiano**  
Respondent

Dated: **JUNE 17, 2013**

  
\_\_\_\_\_  
**Robert H. Tembeckjian, Esq.**  
Administrator & Counsel to the Commission  
(**Kathleen Martin**, Of Counsel)

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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**EXHIBIT 1**

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

**MICHAEL A. TORREGIANO,**

a Justice of the Avon Town Court,  
Livingston County.

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**NOTICE OF FORMAL  
WRITTEN COMPLAINT**

1. NOTICE is hereby given to respondent, Michael A. Torregiano, a Justice of the Avon Town Court, Livingston 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: May 7, 2013  
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: Hon. Michael A. Torregiano  
Justice of the Avon Town Court  
13 Carriage Lane  
Avon, New York 14414

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

**FORMAL  
WRITTEN COMPLAINT**

**MICHAEL A. TORREGIANO,**

a Justice of the Avon Town Court,  
Livingston County.

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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 Michael A. Torregiano (“Respondent”), a Justice of the Avon Town Court, Livingston 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 Avon Town Court, Livingston County, since January 1, 2004. His current term expires on December 31, 2015. Respondent is not an attorney.

## CHARGE I

5. On or about December 30, 2010, during a meeting of the Avon Town Board at which the Board's decision not to raise Respondent's pay for 2011 was discussed, Respondent made a statement indicating that because he had granted special consideration to the daughter of a Board member in a traffic case, the Board member should have voted in favor of Respondent's pay raise. Respondent also told the Town Board that by declining to give him the raise, they had "shoved it up [his] ass."

### Specifications to Charge I

6. On or about January 3, 2007, Alicia D. Mairs was charged with speeding, a violation of § 1180(d) of the Vehicle and Traffic Law (VTL) in *People v Alicia D. Mairs*. Ms. Mairs's father, Thomas Mairs, has been a member of the Avon Town Board since 2005.

7. On or about January 23, 2007, Ms. Mairs appeared before Respondent. Respondent reduced Ms. Mairs's speeding violation to a parking violation under § 1201(a) of the VTL, and imposed a \$25 fine. The disposition does not appear to have been the result of special consideration.

8. On or about December 30, 2010, Respondent attended a meeting of the Town Board to learn why its members had decided not to give him a pay raise. Town Supervisor David LeFeber, Deputy Supervisor Kelly Cole, Town Attorney James Campbell and Councilmen Thomas Mairs, James Blye and Donald Cook were present.

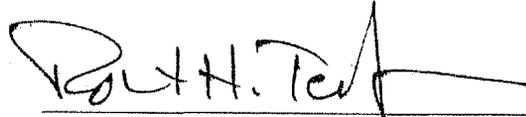
9. At the meeting, Respondent rebuked Mr. Mairs for his failure to support his pay raise, stating, in words or substance, "I took care of a ticket for [your] daughter" and "this is the thanks that I get."

10. Respondent told the entire Town Board that by refusing to give him a pay raise the board had "shoved it up [his] ass."

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 conveyed the impression that others were in a special position to influence the judge, in violation of Section 100.2(C) of the Rules; failed to perform the duties of judicial office impartially and diligently, in that he failed to be patient, dignified and courteous to individuals with whom he dealt in an official capacity, in violation of Section 100.3(B)(3) of the Rules; and failed to conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he cast reasonable doubt on his capacity to act impartially as a judge, in violation of Section 100.4(A)(1) of the Rules, and made statements that detract from the dignity of judicial office, in violation of Section 100.4(A)(2) 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: May 7, 2013  
New York, New York



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



**EXHIBIT 2**

RECEIVED  
MAY 13 2013  
NYS COMMISSION ON  
JUDICIAL CONDUCT - ROC

**To: The State Commission On Judicial Conduct**

**From: Michael A. Torregiano Town Justice Of Avon**

**Date: May 11, 2013**

**Fax Cover Sheet: Pages 3**

RECEIVED  
MAY 16 2013  
NYS COMMISSION ON  
JUDICIAL CONDUCT - ROC

**To The State Commission On Judicial Conduct:**

**From: Michael A. Torregiano Town Justice Of Avon**

**RE: Response to findings on Investigation dated 12/30/10**

**Date: May 11, 2013**

**I would like to start by apologizing to the Judicial board for my inappropriate conduct at the Avon Town board meeting on December 30, 2010. I would like to remind this board that the meeting was in closed session and no residents were there. This does not excuse my behavior, however there were many personal issues that had proceeded this meeting. I will not place blame or try and make excuses for the things that were said. I take full responsibility for my action and I ask this board that if any discipline is to be handed down that you would consider the least sanction possible. As you know this is my first complaint in the 10 yrs that I have been a Justice and it will be my last. I thank you for your time and consideration in this matter and it is my hope that this can be resolved as soon as possible,**

**Michael A. Torregiano**

**Avon Town Justice**