

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

MICHELLE A. VANWOEART,

a Justice of the Princetown Town Court,
Schenectady 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 Michelle A. VanWoeart ("Respondent"), who is represented in this proceeding by John R. Seebold, 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 initially served as a Justice of the Princetown Town Court, Schenectady County, from January 1, 1997, to December 31, 2013. After being out of office for several years, Respondent was elected to a new term as a Justice of the Princetown Town Court, beginning on January 1, 2019, and expiring on December 31, 2022. Respondent is not an attorney.

2. Respondent was served with a Formal Written Complaint dated October 10, 2019. She filed an Answer dated November 7, 2019.

As to Charge I

3. During her 2018 campaign for election to the Princetown Town Court, Respondent failed to maintain the dignity appropriate to judicial office and failed to act in a manner consistent with the impartiality, integrity and independence of the judiciary in that:

- A. Respondent and/or her campaign committee, operating under her supervision, produced, distributed and/or paid to have published campaign literature that conveyed an impression that an important function of the court is to generate revenue for the Town of Princetown, *inter alia* creating an appearance that, if elected, Respondent would consider revenue implications when disposing of cases; and
- B. on her campaign's public Facebook page, Respondent "liked" or replied to crude posts and comments by her campaign supporters about her election opponent.

As to the Specifications to Charge I

4. In 2018, Respondent ran for election to the Princetown Town Court. Her election opponent in both the primary and general elections was the incumbent Princetown Town Justice, Norm Miller.

5. On September 13, 2018, the date of the primary election, *The Daily Gazette* published a political advertisement that was produced and paid for by

Respondent and/or her campaign committee, operating under her supervision. A copy of the advertisement is appended as Exhibit 1.

6. The advertisement of September 13, 2018, included a pie chart comparing the amount of revenue from court proceedings generated for the Town of Princetown by Respondent versus then-Judge Miller, during an unidentified four-year term. Surrounding the pie chart were the statements: "PRINCETOWN does not have a TOWN TAX. It does get revenue from the court. Compare Miller/VanWoeart revenue (4-year term). PRINCETOWN CAN'T AFFORD ANOTHER 4 YEARS OF NORM MILLER!"

7. During Respondent's 2018 campaign, Respondent and/or her campaign committee, operating under her supervision, produced and distributed a tri-fold campaign brochure that included a pie chart and a bar graph making comparisons between the amount of revenue generated for the Town of Princetown by Respondent versus then-Judge Miller during an unidentified four-year term. Below the chart and graph, the brochure included the statement: "Revenues are down 65% since Norm has been Judge!" A copy of the campaign brochure is appended as Exhibit 2.

8. During Respondent's 2018 general election campaign, Respondent and/or her campaign committee, operating under her supervision, produced and distributed campaign leaflets with slots allowing it to be hung on doors, that included the statements: "Norm Miller's projected revenues from traffic tickets for 2017 was \$50,000. He failed to reach that by over \$13,500 and he overspent his court budget by

over \$10,000. Can Princetown afford to keep Norm Miller as Judge?” A copy of the leaflet is appended as Exhibit 3.

9. Respondent’s campaign brochure and leaflet requested supporters to visit the Facebook group page named “Friends To Elect Michelle VanWoeart.”

10. Facebook is an internet social networking website that *inter alia* allows users to post and share content on their own Facebook accounts as well as on the Facebook accounts of other users and on Facebook groups.

11. A Facebook account holder can use his or her personal account to create a “Facebook group,” which other Facebook account holders can join. The creator of a Facebook group is typically a group “admin.” An admin manages the group account and *inter alia* has the authority to update the group name and cover photo, select the group’s privacy settings, approve or deny membership requests, remove posts and comments to posts by other members, and remove and block people from the group. At the option of an admin, the content of a Facebook group may be set to “Public,” so that anyone with access to the internet may see what members post, comment and share on the group page, as well as endorse by clicking “Like” to posts on the group page. Any member of the group may post to the group and comment on posts to the group.

12. In September 2018 through November 2018, Respondent maintained a Facebook account under the name “Michelle VanWoeart.”

13. In September 2018 through November 2018, Respondent was the admin of a Facebook group that she created and named “Friends to Elect Michelle

VanWoeart Judge for the Town of Princetown.” As admin, Respondent set the group’s privacy settings to “Public.”

14. On September 13, 2018, Respondent clicked the “Like” button on a post to the Friends to Elect Michelle VanWoeart group page by another member, stating, “Michelle VanWoeart you won??? YESSSSSSSS congratulations!!!!!! Time to take out the trash!! #amen #outwiththetrash #sorrynotsorry,” which was a reference to then-Judge Miller. Copies of screenshots of this post are appended as Exhibit 4.

15. On September 14, 2018, Respondent published a post on the Friends to Elect Michelle VanWoeart group page about her campaign plans following her victory in the primary election. Respondent replied “Thank you” to a comment to her post by another member stating, “Great job, Princetown!! BUT, Dirt Bag Norm will try to find some obscure line to keep going don’t let your guard down on this SH*T HE*D.” Copies of screenshots of this post are appended as Exhibit 5.

16. On November 2, 2018, Respondent published a post on the Friends to Elect Michelle VanWoeart group page stating, “Yup. Millers [*sic*] flyers sent out packed full of lies.” Respondent clicked the “Like” button on a comment to her post by another member stating, “I’d like to shove the flyers up Norm’s butt!” Copies of screenshots of this post are appended as Exhibit 6.

17. On November 6, 2018, the date of the general election, Respondent clicked the “Like” button on a post to the Friends to Elect Michelle VanWoeart group page by another member containing a “gif” image of man throwing a bag of trash down a driveway and into a trash-can, with the statement, “I knew you had this!

Congratulations!! The trash has been taken out!” A copy of a screenshot of this post is appended as Exhibit 7.

18. 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 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 refrain from inappropriate political activity, in that she failed to maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary, in violation of Section 100.5(A)(4)(a) of the Rules, and made pledges or promises that are inconsistent with the adjudicative duties of the office, in violation of Section 100.5(A)(4)(d)(i) of the Rules.

Additional Factors

19. Respondent has been cooperative and contrite with the Commission throughout this inquiry. Following her testimony at the Commission during its investigation of the matters herein, Respondent promptly removed the group page and, with it, all the inappropriate comments by other members.

20. Respondent has now studied the Court of Appeals censure decision in *Matter of Watson*, 100 NY2d 290 (2003), and the Commission's censure determination in *Matter of Kulkin*,¹ both of which involved campaign literature by the disciplined judges that unfairly characterized and/or besmirched the conduct of their incumbent opponents, and both of which imposed censure for violations of the same Rules charged against Respondent. As a result, Respondent appreciates that her campaign material created the clear and erroneous impression that if elected, rather than decide each case fairly and impartially on its own merits, (A) her role as a judge was to raise revenue for the town, (B) the court's role was to compensate for the absence of a town tax and (C) she was committed to finding more people guilty than her incumbent opponent had, and/or fining them in amounts higher than he had, inasmuch as those were the primary ways she could increase court-generated the revenues. Respondent further appreciates that such conduct and considerations are inimical to the role of a judge and the role of the court. *See Matter of Herrmann* and *Matter of Tauscher*.²

21. The Administrator notes that, had this matter proceeded to a hearing before a Referee, memoranda as to sanction and oral argument before the Commission, he would have cited Respondent's prior censure for consideration by the Commission when it decided the appropriate discipline here, pursuant to Commission Policy 3.8,³ noting that the Court of Appeals has held that a prior censure is "noteworthy regardless of

¹ Available at <http://cjc.ny.gov/Determinations/K/kulkin.htm>.

² Available at <http://cjc.ny.gov/Determinations/H/herrmann.htm> and <http://cjc.ny.gov/Determinations/T/tauscher.htm>.

³ Available at <http://cjc.ny.gov/Legal.Authorities/NYSCJC.PolicyManual.Dec2017.pdf>.

whether it was related to the instant misconduct.” *Matter of Doyle*, 23 NY3d 656, 662 (2014).

22. Respondent and the Administrator agree that it cannot be determined whether Respondent’s campaign literature and social media posts influenced enough voters to have affected the outcome of the primary and general elections. Following are the results of those elections:

- A. In the primaries, Respondent defeated Judge Miller by 98 votes to 93 on the Republican Party line, 80 votes to 70 on the Democratic Party line, 15 votes to 9 on the Conservative Party line and 15 votes to 10 on the Independence Party line.
- B. In the general election, Respondent aggregated 646 votes on the Republican, Democratic, Conservative and Independence lines, while Judge Miller received 366 votes on the Green Party line.


IT IS FURTHER STIPULATED AND AGREED that Respondent withdraws from her 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: January 9, 2020



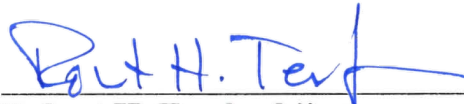
Honorable Michelle A. VanWoeart
Respondent

Dated: January 9, 2020



John R. Seebold, Esq.
Attorney for Respondent

Dated: January 14, 2020



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(**Cathleen S. Cenci and S. Peter Pedrotty, Of Counsel**)

EXHIBIT 1

VOTE FIRST NEW YORK FOR THE BEST CREDIT UNION

- It's in our name.
- It's who we are.
- It's what we do.
- At First New York we put our members FIRST.

www.dailygazette.com/bestof



First New York
RAI CREDIT UNION
www.firstnewyork.org



**KATHLEEN M.
TOOMBS**

- ESTATE PLANNING • WILLS
- TRUSTS • ADVANCE DIRECTIVES



- PROBATE & TRUST ADMINISTRATION
- REAL ESTATE TRANSACTIONS
- MEDICAID
- ELDER LAW



VOTE FOR US

518-688-2846
157 BARRETT ST.
SCHENECTADY

ATTORNEY ADVERTISING

POLITICAL ADVERTISEMENT

PRIMARY DAY THURSDAY SEPTEMBER 13th NOON-9 PM

VOTE MICHELLE VANWOEART FOR TOWN JUSTICE

PRINCETOWN does not have a TOWN TAX
It does get revenue from the court
Compare Miller / VanWoeart revenue (4-year term)



PRINCETOWN CAN'T AFFORD ANOTHER 4 YEARS OF NORM MILLER!
Please Make it a high priority to VOTE

Read the true facts: michellevanwoeartforjudge.squarespace.com



Paid for by the Friends to Elect Michelle VanWoeart



Vote *Schenectady* arc
BEST place to work!



EXHIBIT 2

Let's Help Clarify Norm's
"Honesty and Integrity".
Know the Real Facts:

- Town of Princetown had to replace Norm Miller's inadequate security system after only two years, costing the town almost \$5,000 for a full replacement.
- Norm did NOT reduce costs of maintaining the court office, as stated. In fact, the Town Board reduced both hours and salary of the court clerk, to account for lost court revenues
- Norm attempted to have legal fees paid by the Town of Princetown due to a complaint made to the Commission on Judicial Conduct by a defendant because of his actions in court.

VOTE: PRIMARY - SEPTEMBER 13TH
GENERAL - NOVEMBER 6TH

ELECT
**Michelle
Van Woeart**

Former

TOWN JUSTICE



25 YEARS OF COURTROOM EXPERIENCE

First Court Clerk for the Town of Princetown
1985

Appointed Town Justice 1997

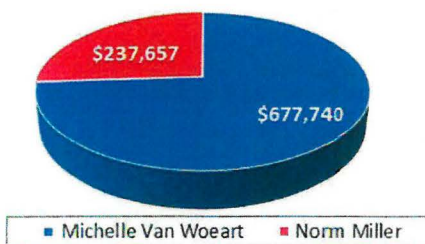
Served for 16 years as the Elected Judge

Certified Court Transcriptionist

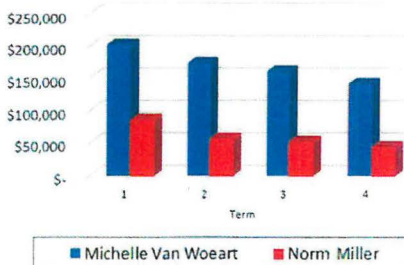


HOW DID NORM MEASURE UP TO FORMER JUDGE VANWOEART?

Four Year Term Revenue



Term Revenue Comparisons



SOURCE: NEW YORK STATE OFFICE OF THE COMPTROLLER

REVENUES ARE DOWN 65%
SINCE NORM HAS BEEN JUDGE!



MY QUALIFICATIONS TO BE YOUR JUDGE

- First ever court clerk for the Town of Princetown - 1985
- Served as Town Justice from 1997-2013
- Currently an Executive Secretary for the Scotia Glenville Middle School Guidance Department
- Certified by the New York State Unified Courts as a Transcriptionist that complies with all standard transcription specifications pursuant to the Rules of the Chief Administrative Judge.
- Trained in the administration of NARCAN/NALOXONE for Opioid overdose.
- Past and present memberships include NYS Magistrates Association, NYS Paralegal Association, Scotia Glenville Secretarial Association

VISIT FACEBOOK PAGE: FRIENDS TO ELECT MICHELLE VANWOEART
WEBSITE: MICHELLEVANWOEARTFORJUDGESQUARESPACE.COM
EMAIL: MICHELLEVFORJUDGE@GMAIL.COM



ABOUT ME

I have lived in Princetown since 1979 and raised my three children here. I have an AAS in paralegal studies, I am a certified Court Transcriptionist and have transcribed over twenty five court proceedings from local Courts to Surrogates, Family and Supreme Courts for many Counties in New York State. I have twenty five years of Court experience with sixteen of those years serving Princetown residents as your Judge. As judge I modernized for the most up-to-date courtroom, initiated armed security Officers (for the protection of Court personnel as well as the public), applied for and received grant funding to update security at our Town Hall. While serving as your Judge I dealt with minor violations to major felonies. The first search warrant I signed as Judge was successful in the conviction of the first felony animal cruelty case in Schenectady County. As your Judge I will dispense justice fairly and will uphold the Constitutional rights of ALL citizens.

EXHIBIT 3

VOTE



Michelle
VANWOEART

Town Justice
Town of Princetown

November 6, 2018

OVER 25 Years of
Court Experience



WHAT VOTING FOR MICHELLE VAN WOEART MEANS

I PLEDGE to dispense justice fairly and will uphold the constitutional rights of ALL who appear before me.

Restore the distinction of where prosecutors, police, defense attorneys and everyday citizens will know that justice has been served in accordance with the highest standards of judicial professionalism.

I HAVE: The experience and knowledge to be YOUR Judge for the next four years.

Served as the Town Justice in Princetown for 16 years.


AAS in Paralegal Studies.

Certified Court Transcriptionist with over 25 transcribed Court proceedings.

Updated and modernized the courtroom through the initiative of the Unified Courts Security Assessment including armed sheriff's to protect the public.

I am the right choice for Town Justice for The Town of Princetown

Norm Miller's projected revenues from traffic tickets for 2017 was \$50,000. He failed to reach that by over \$13,500 and he overspent his court budget by over \$10,000. Can Princetown afford to keep Norm Miller as Judge?



**VOTE: Democrat, Republican, Conservative,
Working Families and Independence.
Michelle is on all five lines.**

Visit Facebook Page: Friends to Elect Michelle VanWoeart
<https://michellevanwoeartforjudge.squarespace.com>

EXHIBIT 4

Privacy Terms Advertising Ad Choices
Cookies More
Facebook © 2019

Friends to Elect Michelle VanWoeart Judge for the Town of Princetown

Public group

About

Discussion

Members

Events

Photos

Files

Search this group

+ Join Group

... More

Join this group to post and comment.



Elise Conto

September 13, 2018

Like

Paul Hasbrouck
Michelle VanWoeart
Ronni Edwards
Lisa Dufek

Did you won??? YESSSSSSSS congratulations!!!!!! Time to
#amen #outwiththetrash #sorrynotsorry 🙌🙌🙌🙌🙌🙌🙌🙌

4

Seen by 126

Like

Share



Lisa Karandy

September 13, 2018

Congratulations.

2

Seen by 127

Like

Share



Christine Bader

September 13, 2018

Good luck Michelle!

1

Seen by 125

Like

Share



Ann Pacelli

September 13, 2018



Adirondack Backcountry Hikers

19,338 members

+ Join



1970s by DoYouRemember?

468,788 members

+ Join



You're probably from Rotterdam if
you remember...

2,465 members

+ Join

English (US) · Español
Português (Brasil) · Français (France)
Deutsch

+

Privacy · Terms · Advertising · Ad Choices ·
Cookies · More ·
Facebook © 2019

EXHIBIT 5

Friends to Elect Michelle VanWoeart Judge for the Town of Princetown

Public group

About

Discussion

Members

Events

Photos

Files

Search this group

+ Join Group

... More

Join this group to post and comment.

Like · 28w



Michelle VanWoeart

September 14, 2018

I will continue to move forward in the election process. I will be visiting throughout the town to answer your questions and concerns I look forward to serving you for the next four years as your judge in the Town of Princetown. Thank you again for making your vote heard.

46

32 Comments · Seen by 136



Like



Share



Kristina Squillo Congratulations!!

Like · 28w

1



Michelle VanWoeart Thank you

Like · 28w



Dale May Congratulations. Well done yesterday

Like · 28w

1



Michelle VanWoeart Thank you

Like · 28w



Kelly Ogborn-Marx Congratulations !!!!!!!

Like · 28w

1



Michelle VanWoeart Thank you

Like · 28w



Claudia Torre Congratulations Michelle !!

Like · 28w

1



Michelle VanWoeart Thank you

Like · 28w



Old School Italians
102,219 members

+ Join



Official Peloton Member Page
163,926 members

+ Join



Adirondack Backcountry Hikers
19,338 members

+ Join



1970s by DoYouRemember?
468,788 members

+ Join



Friends to Elect Michelle VanWoeart Judge for the Town of Princetown

Public group

About

Discussion

Members

Events

Photos

Files

Search this group



+ Join Group

... More

Join this group to post and comment.



Claudia Torre Congratulations Michelle !! 🎉

Like · 28w



Michelle VanWoeart Thank you

Like · 28w



Christine Bader Congratulations!!!!

Like · 28w



Michelle VanWoeart Thank you

Like · 28w



Cathy Hasbrouck YOU TROMPED HIM!!!! CONGRATULATIONS 🤗

Like · 28w · Edited



Donna Roth Congratulations!

Like · 28w



Michelle VanWoeart Thank you

Like · 28w



Paul Hasbrouck Great job Princetown!! BUT, Dirt Bag Norm will try to find some obscure line to keep going don't let your guard down on this SH*T HE'D

Like · 28w



Michelle VanWoeart Thank you

Like · 28w



Paul Hasbrouck how many absentee's do you have to see??

Like · 28w



Michelle VanWoeart Paul Hasbrouck 10

Like · 28w



Sharon Cole Colon Congrats!

163,926 members

+ Join



Adirondack Backcountry Hikers
19,338 members

+ Join



1970s by DoYouRemember?
468,786 members

+ Join



You're probably from Rotterdam if you remember...
2,465 members

+ Join

English (US) · Español
Português (Brasil) · Français (France) · Deutsch

+

Privacy · Terms · Advertising · Ad Choices · Cookies · More

EXHIBIT 6

Friends to Elect Michelle VanWoeart Judge for the Town of Princetown

Public group

About

Discussion

Members

Events

Photos

Files

Search this group



+ Join Group

... More

Join this group to post and comment.



Michelle VanWoeart

November 2, 2018

Yup. Millers flyers sent out packed full of lies.



19 Comments 1 Share Seen by 130



Nathan Pyne Got 2 here! 🤔

Like 21w



Ann Pacelli I'd like to shove the flyers up Norm's butt!

Like 21w



Ann Pacelli Is a public debate in order?

Like 21w



Diane Martin



Like 21w



Nora Ely Carnevale I got 2 here did he not see my 2 Michelle VanWoeart signs??? I need bigger ones please 😊

Like 21w



Michelle VanWoeart This is a Christian who is a Eucharistic minister and blatantly lied

Like 21w Edited



Dayton Skelly Didn't get any but if I did there's a big garbage pail awaiting them.

Like 21w



Carol McClaine One of the most immoral, vicious, lying person I have ever known



Adirondack Backcountry Hikers

19,338 members

+ Join



1970s by DoYouRemember?

468,788 members

+ Join



You're probably from Rotterdam if you remember...

2,465 members

+ Join

English (US) · Español
Português (Brasil) · Français (France)
Deutsch



Privacy · Terms · Advertising · Ad Choices ·
Cookies · More ·
Facebook © 2019

Friends to Elect Michelle VanWoeart Judge for the Town of Princetown

Public group

About

Discussion

Members

Events

Photos

Files

Search this group

+ Join Group

... More

Join this group to post and comment.



Michelle VanWoeart

November 2, 2018

Yup. Millers flyers sent out packed full of lies.

👍👎🗨️ 6

19 Comments 1 Share Seen by 130

👍 Like

➦ Share



Nathan Pyne Got 2 here! 🤔

Like · 21w

👍 2



Ann Pacelli I'd like to shove the flyers up

Like · 21w

👍 2



Ann Pacelli Is a public debate in order?

Like · 21w

👍 1



Diane Martin



Like · 21w



Nora Ely Carnevale I got 2 here did he not see my 2 Michelle VanWoeart signs??? I need bigger ones please 🤔

Like · 21w

👍 1



Michelle VanWoeart This is a Christian who is a Eucharistic minister and blatantly lied

Like · 21w · Edited



Dayton Skelly Didn't get any but if I did there's a big garbage pail awaiting them.

Like · 21w



Carol McClaine One of the most immoral, vicious, lying person I have ever known



Adirondack Backcountry Hikers

19,338 members

+ Join



1970s by DoYouRemember?

468,788 members

+ Join



You're probably from Rotterdam if you remember...

2,465 members

+ Join

English (US) · Español · Português (Brasil) · Français (France) · Deutsch

+

Privacy · Terms · Advertising · Ad Choices · Cookies · More

Facebook © 2019

EXHIBIT 7

Privacy Terms Advertising Ad Choices
Cookies More
Facebook © 2019