

#### NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN ADMINISTRATOR & COUNSEL

61 BROADWAY, SUITE 1200 NEW YORK, NEW YORK 10006

646-386-4800 646-458-0037 TELEPHONE FACSIMILE www.cjc.ny.gov MARISA E. HARRISON RECORDS ACCESS OFFICER

# **NEWS RELEASE**

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Contacts:

**Robert H. Tembeckjian**, Administrator (917) 887-3207 **Marisa E. Harrison**, Records Access Officer (518) 339-9465

## New York County Surrogate Should Be Censured for Campaign Finance Improprieties

The New York State Commission on Judicial Conduct has determined that Nora S. Anderson, a Judge of the Surrogate's Court, New York County, should be censured for accepting \$250,000 in "disguised contributions" to her 2008 campaign for judicial office and failing to report the contributions as required.

In August 2008, during the judge's campaign, Seth Rubenstein, the judge's employer and close friend, gave her a \$100,000 gift and a \$150,000 loan, which the judge promptly funneled into her campaign. By law, the maximum contribution for the Surrogate's race from a non-family member was \$33,122.50, but there was no limit on how much the candidate herself could contribute. It was stipulated that the purpose of the monies Mr. Rubenstein gave the candidate was to benefit her campaign and that Mr. Rubenstein told her that such "personal" loans or gifts would not violate the law.

The Commission stated: "The issue before us is not whether these transactions were contrary to law, but whether they were inconsistent with the ethical standards

for judicial candidates." The Commission found that the transactions "effectively concealed the source of the funds from public disclosure," and that "the deception inherent in [Judge Anderson's] financial transactions with Rubenstein was inconsistent with the ethical standards required of judicial candidates."

The Commission found that the judge "compounded the appearance of impropriety" by failing to disclose the Rubenstein loan on her mandatory financial disclosure statements with the Ethics Commission of the Unified Court System, which she was obliged to do. The loan was undocumented, and to date Judge Anderson has repaid only \$14,000 of the \$150,000 loan.

Underscoring the seriousness of the judge's conduct, the Commission stated:

"A judge's election is tarnished and the integrity of the judiciary is adversely affected by misconduct that circumvents the ethical standards imposed on judicial candidates...In such cases, we must consider whether allowing the respondent to retain his or her judgeship would reward misconduct and encourage other judicial candidates to ignore the rules..."

In mitigation, the Commission noted that Judge Anderson was an inexperienced judicial candidate who relied on a trusted advisor and that the judge accepted responsibility for not ensuring "that her campaign's finances were conducted in scrupulous compliance with the relevant law and ethical rules."

The Commission dismissed a second charge related to a post-primary fundraiser held by the judge's campaign.

Judge Anderson's term in office expires on December 31, 2022.

# **Judge Anderson's Indictment and Acquittal on Criminal Charges**

In December 2008, shortly before she took office, Judge Anderson and Mr. Rubenstein were indicted by a New York County Grand Jury on ten criminal charges arising from the monetary transactions Mr. Rubenstein made to the Judge during the campaign. Eight of the ten charges were dismissed prior to trial on jurisdictional grounds. On April 1, 2010 Judge Anderson and Mr. Rubenstein were acquitted on the remaining two counts.

#### **The Commission Proceedings**

Judge Anderson was served with a Formal Written Complaint dated July 29, 2011 containing two charges, and filed an answer dated September 21, 2011.

On June 26, 2012, the Administrator of the Commission, Judge Anderson and Judge Anderson's attorney entered into an Agreed Statement of Facts, stipulating as to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on September 19, 2012.

#### **The Commission Determination**

The Commission filed a determination dated October 1, 2012. Judge Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joseph W. Belluck, Esq., Richard D. Emery, Esq., Paul B. Harding, Esq., Nina M. Moore, Judge Karen K. Peters and Richard A. Stoloff, Esq., concurred.

Joel Cohen, Esq., did not participate. There is one vacancy on the 11-member Commission.

#### **Statement by Commission Administrator**

Commission Administrator Robert H. Tembeckjian made the following statement.

"All judicial candidates, including non-incumbents running for the first time, must abide by New York's judicial campaign rules. This decision sends a message to all would-be judges that they risk public discipline for violating those rules."

#### **Press Availability**

Mr. Tembeckjian will be in Albany County on October 10, 2012, and is available throughout the day by cell phone: (917) 887-3207.

#### **Court of Appeals Review**

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7. The Commission was notified by the Court of Appeals on the afternoon of October 9, 2012, that service was complete. Consequently, the matter is now public.

A judge may either accept the Commission's determination or, within 30 days from receipt, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Anderson does not request review by the Court of Appeals, the Commission will censure her in accordance with the determination.

If a Commission determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

#### **Statistics Relating to Prior Determinations**

Since 1978, the Commission has issued 302 determinations of censure against judges in New York State. The Commission has issued 166 determinations of removal and 245 determinations of admonition.

The Court of Appeals has reviewed 92 Commission determinations. The Court accepted the Commission's sanctions in 76 cases (67 of which were removals, six were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: nine removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings. One request for review is pending.

#### Counsel

In the proceedings before the Commission, Judge Anderson was represented by David Godosky of Godosky & Gentile, P.C., 61 Broadway, Suite 2010, New York, New York 10006, (646) 233-2725.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Senior Attorney Brenda Correa. Investigator Ethan Beckett assisted in the investigation.

#### **Members of the Commission**

The Commission members serve four-year terms. A list of members is appended.

#### **The Public File**

The determination is attached. The record of the proceedings upon which the determination is based is available for inspection by appointment during regular business hours at the Commission's three offices:

61 Broadway Suite 1200 New York, New York 10006

Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223 400 Andrews Street Suite 700 Rochester, New York 14604

### MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2013
Hon. Terry Jane Ruderman, Vice Chair	Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2014
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Assembly Speaker Sheldon Silver	March 31, 2014
Richard D. Emery, Esq.	Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2013
Nina M. Moore	Former Governor David A. Paterson	March 31, 2013
Hon. Karen K. Peters	Former Governor David A. Paterson	March 31, 2014
Richard A. Stoloff, Esq.	Senate President Pro Tem Dean Skelos	March 31, 2015
Vacant	Governor	March 31, 2015