



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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## NEWS RELEASE

*September 4, 2013*

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### **Livingston County Town Justice Should Be Censured for Conveying the Appearance of Favoritism**

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The New York State Commission on Judicial Conduct has determined that Michael A. Torregiano, a Justice of the Avon Town Court, Livingston County, should be censured for conveying the appearance that a disposition in a traffic case was based on favoritism.

In 2007, the daughter of an Avon Town Board member appeared before Judge Torregiano for a Speeding violation. The judge reduced the charge to a parking violation and imposed a \$25 fine. In December 2010, during a meeting in which the Town Board decided not to raise his pay, Judge Torregiano told the Board member, in words or substance, “I took care of a ticket for [your] daughter,” and “this is the thanks I get.”

The Commission noted that although there was no evidence that the judge’s disposition in the Speeding case was the result of special consideration, “the public should not have to wonder whether the disposition in a particular case was based on the merits or was motivated by any element of self-interest.” The

Commission concluded that the judge's "poorly chosen words justly deserve a strong public rebuke" and stated that "even if it cannot be proved that the lenient disposition of the Speeding charge was the result of favoritism, [Judge Torregiano's] pointed reference to the case in chastising the defendant's father strongly implied that it was based on favoritism." The Commission added that the judge's comments "conveyed not just that the disposition was based on favoritism, but that because of his handling of that case, he felt entitled to the member's support."

Judge Torregiano, who is not an attorney, has served as a Justice of the Avon Town Court since 2004. His current term expires on December 31, 2015.

### **The Commission Proceedings**

Judge Torregiano was served with a Formal Written Complaint dated May 7, 2013, and filed an answer dated May 11, 2013.

On June 17, 2013, the Administrator of the Commission and Judge Torregiano 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 August 1, 2013.

### **The Commission Determination**

The Commission filed a determination dated August 26, 2013, in which seven members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Joseph W. Belluck, Esq., Jodie Corngold, Paul B. Harding, Esq., Richard A. Stoloff, Esq., and Judge David A. Weinstein.

Two members, Joel Cohen, Esq., and Richard D. Emery, Esq., filed a dissenting opinion, voting to reject the Agreed Statement on the basis that the stipulated facts were insufficient for the Commission to make a determination.

One member, Judge Rolando T. Acosta, was not present.

### **Press Availability**

Mr. Tembeckjian will be in New York City on September 4, 2013 and is available throughout the day by telephone: (646) 386-4800.

### **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. Judge Torregiano received it on August 29, 2013, and the Commission was subsequently notified by the Court of Appeals 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 Torregiano does not request review by the Court of Appeals, the Commission will censure him 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 307 determinations of censure against judges in New York State. The Commission has issued 250 determinations of admonition and 167 determinations of removal.

The Court of Appeals has reviewed 93 Commission determinations. The Court accepted the Commission's sanctions in 77 cases (68 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 Torregiano represented himself.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Senior Attorney M. Kathleen Martin. Investigator Vanessa Mangan assisted in the investigation.

**Background Information on Judge Torregiano**

First took office:	2004
Current Term Expires:	December 31, 2015
Lawyer or Non-Lawyer Judge:	Non-Lawyer Judge
Judicial Salary:	\$12,018.50 (Source: Avon Town Clerk's Meeting Minutes of January 3, 2013)
Prior Judicial Office:	None

**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
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**MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT**

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2017
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
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2015
Richard D. Emery, Esq.	Former Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2017
Richard A. Stoloff, Esq.	Senate President Pro Tem Dean Skelos	March 31, 2015
Hon. David A. Weinstein	Governor Andrew M. Cuomo	March 31, 2014
Vacant	Governor	March 31, 2017