

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

ERIK P. JACOBSEN,

a Justice of the Bedford Town Court,
Westchester County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Erik P. Jacobsen, a Justice of the Bedford Town Court, Westchester 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 New York office, 61 Broadway, Suite 1200, New York, New York 10006, with his verified Answer to the specific paragraphs of the Complaint.

Dated: June 22, 2021
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: Peter Gerstenzang, Esq.
Attorney for Respondent
Gerstenzang, Sills, Cohn & Gerstenzang
210 Great Oaks Boulevard
Albany, New York 12203

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In the Matter of the Proceeding
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ERIK P. JACOBSEN,

a Justice of the Bedford Town Court,
Westchester 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 Erik P. Jacobsen (“Respondent”), a Justice of the Bedford Town Court, Westchester 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 was admitted to the practice of law in New York in 1994. He has been a Justice of the Bedford Town Court, Westchester County, since 2010.

Respondent’s current term expires on December 31, 2021.

CHARGE I

5. On or about April 22, 2019, in the Village of Mount Kisco, New York, Respondent operated his motor vehicle while under the influence of alcohol and refused to cooperate with police officers from the Westchester County Department of Public Safety after they stopped his car and attempted to arrest him for Driving While Intoxicated.

Specifications to Charge I

6. In or about the late evening hours of April 21, 2019, into the early morning hours of April 22, 2019, Respondent drove his car from Yonkers, New York, to Mount Kisco, New York, after voluntarily consuming a number of alcoholic beverages.

7. At around the same time, the Westchester County Department of Public Safety received a 911 call which reported that a silver Mercedes-Benz belonging to Respondent was driving erratically on the Saw Mill River Parkway, near Mount Kisco.

8. Westchester County Police Officers Ahmid Bitawi and Mathieu Ricoszi drove to the area, where they observed Respondent's silver Mercedes-Benz exit the Parkway at Kisco Avenue and cross into the incoming lane of traffic before returning to the correct lane of travel. Respondent stopped underneath a red light, atop the crosswalk and in a left-hand-only turning lane, then proceeded straight when the light turned green. Officer Bitawi activated his vehicle's emergency lights and siren and pulled over Respondent's car in the vicinity of 90 South Bedford Road.

9. Upon approaching Respondent's car, Officer Bitawi observed Respondent, the sole occupant, behind the wheel. Officer Bitawi informed Respondent that he had

passed a red light, and he requested Respondent's driver's license and vehicle registration. Respondent handed the officer his license and pointed to a registration sticker on his windshield, stating that he did not have a registration card with him.

10. Upon speaking with Respondent, Officer Bitawi detected a strong odor of alcohol on his breath and observed that he had red glassy eyes and was slurring his speech. Officer Bitawi asked Respondent if he had been drinking that night, and Respondent said that he had not.

11. Officer Bitawi asked Respondent several times to get out of his car but Respondent refused, stating "no" and "no I will not." When Officer Bitawi informed Respondent he could remove him from the car, Respondent stated "you can if you want but I will not."

12. Officer Bitawi told Respondent that he smelled alcohol on his breath and Respondent stated, "you don't." Officer Bitawi asked Respondent how much he had to drink that night, and Respondent answered "nothing, thank you."

13. Officer Bitawi asked Respondent to get out of the vehicle again and Respondent stated, "No, I'm not stepping out of the vehicle. I've done nothing. I've given you my identification."

14. Officers Bitawi and Ricozzi both tried to pull Respondent from his vehicle but were unsuccessful. The officers informed Respondent that he was under arrest and repeatedly directed him to get out of the car, but Respondent held tightly to the steering wheel and stated, "this is unbelievable," "you're going to have to hurt me," "where's my phone," and "you're making a big mistake."

15. At that point, Officer Bitawi informed Respondent that he would be forced to discharge his taser unless Respondent complied. Respondent persisted in his refusal and said, “I’m doing nothing, you can’t tase me.”

16. The officers asked Respondent several more times to get out of the car. When Respondent continued to refuse, Officer Bitawi deployed his taser on Respondent. Thereafter, the officers pulled Respondent out of the car, placed him under arrest and took him to a hospital.

17. On or about April 22, 2019, hospital personnel drew three vials of blood from Respondent – one each at approximately 1:34 AM, 4:07 AM, and 7:56 AM. On or about April 26, 2019, a warrant to seize and search Respondent’s blood for analysis was issued. A toxicology specialist analyzed the three vials drawn at the hospital and found them to contain blood alcohol concentrations of .264%, .18% and .10%, respectively.

18. On or about June 4, 2019, Respondent appeared in Rye City Court¹ and was charged with a misdemeanor for Driving While Intoxicated, in violation of Vehicle and Traffic Law (VTL) Section 1192(3); a misdemeanor for Resisting Arrest, in violation of Penal Law Section 205.30; a traffic infraction for failing to stop while facing a red signal, in violation of VTL Section 1111(d)(1); and a traffic infraction for failure to use a designated lane, in violation of VTL Section 1128(c).

19. On or about October 31, 2019, a Superseding Information was filed charging Respondent with a misdemeanor for Obstructing Governmental Administration, in

¹ The criminal case against Respondent was transferred to Rye City Court after the Mt. Kisco justices recused themselves from the matter.

violation of Penal Law Section 195.05 and a misdemeanor for Resisting Arrest, in violation of Penal Law Section 205.30.

20. On or about August 25, 2019, Respondent appeared before Rye City Court Judge Joseph L. Latwin and pled guilty to Driving While Intoxicated, a misdemeanor, in violation of VTL Section 1192(3), in full satisfaction of all the charges.

21. On or about November 9, 2020, Judge Latwin sentenced Respondent to a one-year Conditional Discharge with a \$500 fine and a \$395 surcharge. Respondent was required to continue participating in private counseling and an attorney monitoring program and to attend the Victim Impact Panel, Impaired Driver's Program, and Alcoholics Anonymous. Respondent's driver's license was revoked for a period of six months and he was required to have an ignition interlock device installed on his car for one year.

22. 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 promoted public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) 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 failed to conduct all of his extra-

judicial activities so that they do not 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: June 22, 2021
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
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VERIFICATION

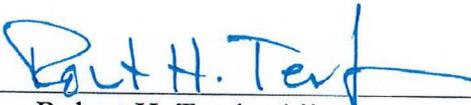
ERIK P. JACOBSEN,

a Justice of the Bedford Town Court,
Westchester County.

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
22nd day of June 2021



Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No.01JO6235579
Qualified in New York County
Commission Expires February 14, 2023