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BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON JUDICIARY

Public Hearing on the
Appellate Division First Department
Departmental Disciplinary Committee,
the Grievance Committees of the
Various Judicial Districts, and the
New York State Commission on Judicial Conduct

Hearing Room 6
Empire State Plaza
Albany, NY

June 8, 2009
10:35 a.m.

PRESIDING:

Senator John Sampson
Chair
Senate Standing Committee on Judiciary

PRESENT:

Senator John A. DeFrancisco (R)
Senator Bill Perkins

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1 phrase: Your complaint doesn't fall in our
2 jurisdiction, et cetera, et cetera.

3 But based on -- following those
4 complaints is fact, sir, that you can
5 verify. And there is corruption, and it's
6 happening now. And you can catch these
7 people.

8 CHAIRMAN SAMPSON: Thank you very
9 much, Mr. Kelly. I'll make sure we
10 definitely follow it up. Thank you.

11 The next witness is Kathryn Grace
12 Jordan, of New York.

13 MS. JORDAN: Good afternoon, Your
14 Honor. I'm here to talk about the
15 Commission on Judicial Conduct.

16 By way of background, though, I do want
17 to identify myself as the president of END,
18 End Discrimination Now, an organization that
19 I started in 2008 after it became apparent
20 to me that our nation's and state's
21 antidiscrimination laws are not being
22 enforced by the judiciary and that many
23 activist judges are actually rewriting the
24 laws on a regular basis.

1 I myself endured a 13-year litigation
2 on a disability discrimination case. Ten
3 years of that litigation resulted in a jury
4 verdict in my favor which was reversed by
5 the First Department under Jonathan Lippman.

6 I believe I have stepped back --
7 because my training is as a management
8 consultant and Fortune 100 executive, and I
9 have done a thorough analysis of all the
10 information that's available, including Mr.
11 Tembeckjian's 2009 annual report and all the
12 data that's in it.

13 CHAIRMAN SAMPSON: What's your
14 analysis?

15 MS. JORDAN: Well, I will tell you
16 this. I don't think there's anything to be
17 proud of.

18 First of all, judicial misconduct is
19 up. And he talks about managing -- just one
20 second here, one second. I've got to flip
21 the page. He talks about you know that
22 things are very bad when you have to refer
23 to 30 years worth of work and 69,000
24 complaints over 30 years. What he didn't

1 focus on was the 1,923 new complaints that
2 are up 12 percent from last year, which is
3 part of the evidence that shows that the
4 rules of judicial conduct are not being
5 enforced, either in district court or at the
6 appellate level, despite the increase in
7 complaints, because judges, as I just said,
8 are not enforcing the laws. And the
9 judicial misconduct commission is not doing
10 their job in terms of reviewing the conduct
11 of these judges.

12 And they talked about the fact that
13 they have 22 commission attorneys and 12
14 commission members and the fact that you
15 gave them extra money -- I don't know what
16 they've been doing with it, but obviously
17 they haven't been doing it to thoroughly
18 review complaints and to make sure that
19 these judges are held accountable.

20 One of the most astounding statistics
21 is that there were 40 complaints against
22 appellate judges, and zero were
23 investigated.

24 If you take Mr. Tembeckjian at his

1 word, at its face value, they're doing a
2 bang-up job and we have a bunch of
3 delusional litigants who are just populating
4 the system with meritless complaints. I
5 don't believe that's the case. I think
6 what's going on is that we have a crisis of
7 leadership in the judiciary and a culture of
8 corruption and cover-ups. And I believe
9 that the Commission on Judicial Conduct is
10 part of that.

11 Mr. Tembeckjian, I wanted to ask a
12 couple of questions to him when he was in
13 the room before, one of which is does he
14 still have his cable television show where
15 he interviews judges and lawyers -- because
16 that's kind of a conflict of interest with
17 your current position -- and how he goes
18 about conducting investigations. Because I
19 myself have filed several complaints with
20 the judicial conduct commission, very, very
21 meritorious complaints where judges
22 expressly violated, either through ex parte
23 conduct, acting -- making -- attacking --

24 CHAIRMAN SAMPSON: Those complaints

1 were dismissed and never followed up with?

2 MS. JORDAN: They were dismissed
3 almost like within a month, a couple of
4 months, no explanation.

5 The process is not transparent. It's
6 all secretive. And as far as appeals, the
7 appeals, as he's just admitted, are for the
8 benefit of the judges. It is -- in my
9 opinion, the judicial commission on
10 misconduct has numerous problems. I'm going
11 to list them very quickly. Lack of
12 transparency, conflicts of interest, the
13 composition of the actual commission itself.

14 The investigators, who actually, on
15 paper, many of which have -- seem to have
16 good qualifications, which kind of creates
17 an interesting question, which is why can't
18 they resolve these investigations positively
19 and in a timely manner.

20 There's actually no interaction with
21 the complainant, so you have no idea what's
22 going on.

23 The priorities seem to be on routing
24 the town and village errant judges while

1 letting the big fish swim away.

2 I don't know how they handle evidence;
3 I know there's a huge issue about evidence
4 handling that has been spoken about by a
5 number of people in this room, and it's very
6 serious. If you go to 60 Centre Street, you
7 will know the lack of integrity that exists
8 in terms of files. Anybody could walk in,
9 take a file out, and there's nothing that
10 can be done about it. I mean, there's no
11 proof, nothing. What has to happen is the
12 files need to be digitized.

13 CHAIRMAN SAMPSON: So basically
14 summing it up, Ms. Jordan, I just want to --

15 MS. JORDAN: Yes. I've talked faster
16 than anybody up here.

17 CHAIRMAN SAMPSON: That's correct.
18 And that's why -- because you seem to be
19 very specific in what you want.

20 MS. JORDAN: Right.

21 CHAIRMAN SAMPSON: That's what I'm
22 looking for, the recommendations, the
23 changes that you --

24 MS. JORDAN: Yes. I think that a

1 task force should be formed to review
2 whether or not the Commission on Judicial
3 Conduct is an effective body and --

4 CHAIRMAN SAMPSON: When you say task
5 force, who do you think should be comprised
6 of this task force?

7 MS. JORDAN: I am not going to make
8 specific recommendations here, Your Honor,
9 because I don't have enough time to do that.
10 But I will get back to you with that.

11 I do believe, though, that we need a
12 multi-stakeholder task force to investigate
13 whether or not the Commission on Judicial
14 Conduct is doing its job. And, if it's not,
15 what kind of entity might replace it.
16 Because we definitely need to monitor the
17 judges and make sure that they are enforcing
18 the laws, because it appears that they're
19 not doing it at the moment.

20 CHAIRMAN SAMPSON: Ms. Jordan, thank
21 you very much.

22 MS. JORDAN: Thank you.

23 CHAIRMAN SAMPSON: The next witness
24 is James -- how do you pronounce your last