

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

NEW YORK STATE SENATE
STANDING COMMITTEE ON JUDICIARY

PUBLIC HEARING IN THE MATTER OF
AN EXAMINATION OF THE JUDICIAL DISCIPLINARY PROCESS

Senate Hearing Room
250 Broadway
19th Floor
New York, N.Y.

September 24, 2009
Thursday
10 a.m.

BEFORE: Senator John Sampson
 Chair
 Judiciary Committee

 Senator Bill Perkins
 Chair
 Corporations, Authorities & Commissions

 Senator George D. Maziarz

 Senator Eric Adams

 Senator Ruben Diaz

OTHER STAFF MEMBERS:

 Shelly Mayer
 Majority Counsel

 Lisa Lashley
 Counsel

	INDEX OF SPEAKERS	
1		
2	RICHARD KUSE	7
3	CATHERINE WILSON	21
4	VICTOR KOVNER	90
5	DOUGLAS HIGBEE	147
6	JUDITH HERSKOWITZ	52
7	ANDREA WILKINSON	67
8	MARIA GKANIOS	98
9	REGINA FELTON	126
10	KATHRYN MALARKEY	155
11	NORA RENZULI	158
12	STEPHANIE KLEIN	165
13	IKE ARUTI	180
14	TERRENCE FINNAN	194
15	GICELLA WEISSHAUS	198
16	ELIOT BERNSTEIN	206
17	SUSAN McCORMICK	234
18	PATRICK HANDLEY	237
19		
20		
21		
22		
23		
24		

1 terms?

2 I have never heard of it. And the
3 attorney Mark Dwyer, the one who went to
4 Canada and forged all those papers, he got
5 less press than I did.

6 SENATOR SAMPSON: Thank you very
7 much, Ms. Felton, thank you. Mr. Higbee.

8 MR. HIGBEE: Yes.

9 SENATOR SAMPSON: Mr. Higbee, ten
10 minutes.

11 MR. HIGBEE: Senator Sampson, thank
12 you for holding these hearings. My name is
13 Douglas Higbee, I have been embroiled in a
14 matrimonial and then some since 1944.

15 I am going to fast forward up to where
16 my wife's sister, an attorney here
17 practicing in New York and Connecticut using
18 her power beyond that was employed by the
19 Office of Attorney General right up the
20 street.

21 And at which time thought that she
22 didn't -- and being part of a fraud sexual
23 abuse allegation of me in January 1997,
24 subsequently leading to my arrest, March 20

1 of 1997, because I was broke yet again,
2 having had 8 matrimonial attorneys
3 throughout the entire matter, and I just --
4 nothing of this took place, nothing ever
5 happened, I was told you have to have
6 counsel, I said assign me counsel.

7 Court assigns Joe Abananto, Joe comes
8 to court meets my sister-in-law in the City;
9 this is in Mamaroneck in the Village Court
10 and confronts him, he drops me.

11 There is nothing in the record from the
12 Village Court of ever being on there,
13 subsequently Legal Aid gets assigned, and we
14 just sit on it until it's dismissed in May
15 of 1998.

16 In the meantime, I also learn that
17 trying to find out my sister-in-law was also
18 -- she was dismissed from the Attorney's
19 General Office for having sex with an inmate
20 in jail; it's documented.

21 SENATOR SAMPSON: Sister-in-law?

22 MR. HIGBEE: Joan Marshal Cressup
23 practicing law in the State of New York of
24 here and in Connecticut was dismissed from

1 the Attorney General's Office in July 18, I
2 believe, 1997 for having "sex with an inmate
3 in jail."

4 This I know only because after this was
5 dismissed my life got a little bit of a
6 break, I don't know if she was suspended or
7 not, but is still practicing law, and when I
8 finally came back to New York and started
9 this matter again, I got a copy of my file
10 from the attorney, Lynette Spalding, Legal
11 Aid Society in Westchester to find out what
12 went on there, to me it was dismissed.

13 I've got 16 boxes of files, that make
14 up the majority of the five by five storage
15 facility I own that houses everything I own
16 left in the world.

17 Nevertheless her notes indicated, and
18 it was her notes, that said I know a little
19 bit about JC and having sex with an inmate
20 in jail. When I found this out and yet this
21 in the notes the Attorney General's Office
22 was up in Westchester November of '97 --
23 2007, and I only got the file in '06 or '07,
24 I met with an investigator with the Attorney

1 General's Office, came to New York and he
2 gave me the head up that was the fact, that
3 was the case I FOIA'd her file, denied, I
4 appealed the denial, denied, I'm supposed to
5 be able to sue and get this.

6 So she's gone for a few years
7 practicing I don't know doing what, and then
8 comes back into law and gets me between the
9 eyes by making a one and a half million suit
10 against my employer, Morgan Stanley.

11 I used to be a broker with Morgan
12 Stanley in Greenwich, Connecticut, I didn't
13 come from any money, I'm a guy, I wasn't
14 expected to go to college, I went to a state
15 school, came out, got a job at IBM fixing
16 typewriters, got kicked over to marketing,
17 did 7 years, they dropped the training
18 program on me at age 30, I went into
19 finance, the money was there, I got picked
20 up by what's known by Morgan Stanley in
21 Greenwich.

22 They destroyed my life, I haven't seen
23 my children in two years because this
24 fraudulent sexual abuse allegation which I

1 never saw even the allegation by Detective
2 Bart DeNardo until I got the file from the
3 attorney alleging that I let my -- I'm not
4 even going to say it, it never took place,
5 not only that, it's dismissed, so I still
6 can't say, I still do not understand what's
7 going on.

8 To draw this back to not get off track,
9 I have written the DDC repeatedly for them
10 to investigate Ms. Joan Cressup's behavior
11 practicing law and they proceeded to get in
12 this because I put a complaint in '97 that
13 it took them damn near a year to pull the
14 files from storage, and the paper trail
15 exists, I gave you a handout that I talked
16 to Tim Spotts today, it's 53 pages it's on
17 the CD that I originally copied, if you read
18 it, great, if you haven't, please do.

19 I still think that my life is cloaked
20 in this, I'm a sex abuse offender of my
21 daughter --

22 SENATOR SAMPSON: But it's been
23 dismissed against you.

24 MR. HIGBEE: Yes, supposedly it's

1 been dismissed, however with that -- it's
2 only because I brought this back, I moved
3 back to New York in '06, because I found
4 out, it gets really deep, I'm in small
5 claims trying to get a security deposit back
6 from a landlord in Connecticut who -- and my
7 sister-in-law was you walking down the hall
8 in Danbury, Connecticut and has me served
9 with my divorce that I find out took place
10 in July '03 and I'm learning about it in
11 '06, took nine years to get to that point,
12 surprise.

13 Also this judgment of divorce has a
14 warrant for my arrest. Why? Because I
15 didn't show up, nor was I served notice to
16 be at my judgment of divorce, so I
17 voluntarily show up for this bench warrant
18 before Fred Shapiro, he's no longer the
19 judge, Donovan is, I'm incarcerated, thrown
20 in jail for two months before they even get
21 around to the hearing to find out I'm here,
22 I spend another two months there, I get out,
23 June 29, 2006 and within three weeks Joan
24 Marshal Cressup, who now because of the

1 divorce, don't think she wasn't writing the
2 papers before, Marilyn Faust wasn't, it was
3 my money, in the past despite my complaints
4 has never been able to provide a retainer
5 agreement.

6 So she, Joan Cressup gets on July I
7 think it's dated on the docket July 21 of
8 '06 a judgment that Donovan signs off on of
9 \$378,000 that I owe, so they just stole
10 \$60,000 out of my pension last month and
11 that I have a real quandary because Marilyn
12 Faust knows Joan has been writing all the
13 papers and doing everything, once Marilyn
14 Faust found out she's got a judgment against
15 me for \$378,000 it's going to be a payday,
16 Faust wants to get paid, Faust takes my wife
17 to court for \$135,000 in which case my wife
18 beats her and her counsel in federal court
19 on jurisdictional grounds and it's
20 dismissed.

21 What's the latest of it? I don't know,
22 but it's a comedy of freaking errors and if
23 you don't think this attorney has done it --
24 but back to the CDC, the Commission for

1 Judicial Conduct, if I wasn't homeless I
2 could probably heat my home on the paperwork
3 alone going to the CDC and Gary Casello,
4 what a joke, I've been through it, it
5 doesn't work.

6 Why is Gary Casello the Westchester Bar
7 Association drinking alcohol with all his
8 cronies and playing golf, and I'm a witness
9 to it firsthand if you want to subpoena me.

10 The paperwork, I can keep you inundated
11 with paperwork, we need a different channel,
12 a different forum.

13 I'm not here to complain about my
14 personal situation, we wouldn't be here if
15 there isn't something there.

16 Take the new law students coming out of
17 law school that don't have jobs to go to,
18 give them \$50,000 and form some new
19 commission where you plant these people in
20 the committees and the CDC and the DDC on a
21 six month internship to oversee what's going
22 on and report back at a minimal expense to
23 the State, have them report back to you
24 people who have the authority based on them,

1 if they don't get it straight, it's their
2 ass or career up front.

3 That idea was put on your website on
4 the issues and legislators that everybody
5 can go to if you've got an idea.

6 I'm going to close and concede what
7 remaining time I have to Dr. Kim Laurie.

8 Questions?

9 SENATOR SAMPSON: Are you done?

10 MR. HIGBEE: I am done, yes, sir.
11 Thank you.

12 SENATOR SAMPSON: The next witness is
13 Kathryn Malarkey. Ms. Malarkey.

14 MS. MALARKEY: Yes, I wasn't advised
15 I was going to be testifying so I'm not
16 really prepared, but I have a short
17 statement I want to read to the committee,
18 and thank you very much for hearing us.

19 I was involved in the employment case
20 in which an injunction against further
21 retaliation had been issued.

22 My attorneys lied to me and lied to a
23 federal Magistrate. Their lies are recorded
24 in an official court audio tape of the