1	NEW YORK ST STANDING CO	ATE SENATE MMITTEE ON JUD	CIARY	
2	P	UBLIC HEARING		
3	AN EVAMINAT	TON OF THE THE	T C T T T	DISCIPLINARY PROCESS
4	AN EXAMINAT			
5				Senate Hearing Room
6				250 Broadway 19th Floor
7				New York, N.Y.
8				September 24, 2009 Thursday 10 a.m.
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10	BEFORE:	Senator John Chair	Sampson	n ·
11		Judiciary Com	mittee	
12		Senator Bill Chair	Perkins	5
13			Author	rities & Commissions
14		Senator George	e D. Ma	aziarz
15		Senator Eric 2	Adams	
16		Senator Ruben	Diaz	
17	OTHER STAFF	MEMBERS	•	
18		Shelly Mayer		
19		Majority Couns	sel	
20		Lisa Lashley Counsel		
21		counser		
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security deposit. 1 SENATOR DIAZ: Me, too. 2 MR. KUSE: We would like to invoke 3 the Whistle Blower's Law because we know 4 there is a good chance that hundreds of 5 millions of dollars, if not billions of 6 7 dollars --SENATOR SAMPSON: Who is that you are 8 pointing to? 9 MR. KUSE: That's Ms. Catherine 10 Wilson. 11 SENATOR SAMPSON: Why don't you have 12 that seat. I just want to ask you some 13 questions about this returnable security 14 deposit. 15 This woman is brilliant. 16 MR. KUSE: SENATOR SAMPSON: We are very 17 interested in that. 18 MS. WILSON: Senators, thank you for 19 your time. My background is several things, 20 I used to be an auditor, I did not work for 21 the Rockefeller's, I actually was a global 22 auditor for Reader's Digest conducting 23 operational audits and reported directly to 24

their Board of Directors, which included
Lynn Chaney and David Rockefeller.

I was also, as I refer to it now,
married to the mob for 20 something years,
my ex-husband is a law secretary with the
New York State Supreme Court, and when he
divorced me I then became a victim of the
power plays within the system and
essentially got, well, shagged, for want of
a much better word.

But in terms of the returnable security deposits there is actually much more at stake here, and if I may, I would like to take a moment to explain it.

I actually had an entire presentation and was hoping I could be allotted ten minutes, but I will give you the Reader's Digest condensed version here.

SENATOR SAMPSON: You have five minutes.

MS. WILSON: Both in divorce situations and particularly in Surrogates Court we have essentially a license to steal, and it happens for two reasons.

One, because Surrogates Court is the
most political of all the political
appointments in the system, I know this from

being behind the scenes for 20 years.

And as you know from Lopez Torres

versus the State of New York, where the

United States District Court referred to the

New York State judicial appointment system

as the most corrupt in the nation, the most

corrupt of the corrupt are the Surrogates

Courts because they get to make the

appointments to the attorneys, the

accountants and the guardians who will be

overseeing the trusts and the estates.

Now this is critical for two reasons, the trusts are for vulnerable people, we are talking about the disabled, the mentally ill, people who have no one else to advocate for them, and for the estates to make perfect victims; they are dead.

What happens in Surrogates Court, so many times the money disappears long before the estate action takes place.

So in the new law that the Senate

passed, and I thank you for this, the Power of Attorney Law takes some steps to address the issue, but the real issue is on the people who have control over the money while the individual is still alive.

> And that includes the agents with the Power of Attorney and the Trustees.

There is supposed to be an accounting that goes on to the courts for the Trustees, but no one enforces that law.

The Surrogates Court in Westchester County in particular is a joke. They do not have full accountings.

Also the accountings that were proposed by the Administrative Judge, Jonathan Lipman, are not what any decent accountant would ever refer to as an accounting, they are essentially laundry lists of numbers.

You start with the numbers of where you begin with the finances at hand and you account for what you have spent in and out and then you give the ending total.

There is no documentation, no backs and fronts of checks, nothing that would support

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1 | why this money was spent.

Plus there is nothing to say that the numbers you are starting with in the individual's estate or trusts are the numbers that should have been there.

It is improper accounting to start at the point in time the money is handed over and comes to court and say this is what we are starting with.

I'm involved in a trust at the moment in an estate where the numbers we are looking at are less than \$100,000, but the numbers that were there three years prior when the thief got his hands on the Power of Attorney was \$1.7 million.

Now, how the state is suffering in all of this is in the question of the returnable security deposits, these are monies that should be going back to the individuals.

If the security deposit was not fully spent in expenses in the nursing home, then the balance is due back to the family and to the estate, I'm sure you would agree.

So those are personal victims, but how

the state is being affected is in the issues
of the transfers of assets.

For example, say, Senator Adams, I appoint you Power of Attorney for my funds because I am now suffering from dementia, which as you can understand is a growing concern in the state, as the population ages.

I have \$1 million that I have accumulated through hard work over the years.

Senator Adams, you get your hands on my Power of Attorney, you now go to my accounts and you see I have \$1 million.

You suddenly realize that I have only one or two family members equally elderly, who will never -- don't know what's happening, my family have no idea I have accumulated this money so you, with Power of Attorney, start writing checks to yourself.

By the time I die and go and my estate is now probated and my elderly siblings stand to inherit, there is only \$10,000 left in the estate.

How we can catch these individuals is 1 they all make one mistake, accountants like to say that all criminals have one thing in 3 common, they cheat in their taxes. 4 5 If you look in the estate tax returns and the individual annual returns filed by 6 7 the Powers of Attorney for the individual whose finances they are in care of, whatever 8 withdrawals they made from those funds in 9 excess of \$10,000 a year should be declared 10 as taxable gifts. 11 They are not. And that's how I can 12 nail them every time. Those are taxes that 13 are due to New York State and the Internal 14 Revenue Service. 15 So we are talking about State tax fraud 16 and federal fraud. 17 SENATOR SAMPSON: Run that by me 18 19 again. MS. WILSON: I figured you would be 20 interested in this. 21 This is a nice way to get tax revenues 22 where nobody will mind because we are 23

catching the criminals.

You have Power of Attorney over my
estate, \$1 million, I've got dementia, it
takes me a few years to die, but that's
okay.

You start writing yourself \$25,000 checks out of my bank account during those three years, so by the time I die there is nothing left in my estate for Senator Adams and Senator Diaz to inherit.

But when you file the estate, my relatives show up, Rick, there is only \$10,000, he tries to do a discovery, he goes there is no full accounting, so there is even no way at present within the court system to find out how much has been stolen, because if you go to the court and try to do a discovery the court will only allow you to discover the documents that are on hand at the time of the estate.

So that if you were smart enough with the Power of Attorney to transfer it to new accounts, I will never know.

And if you ask in the discovery process for any and all documents that may have been

out there, it is referred to in the court system as a fishing expedition and it is denied.

Accountants refer to that as due diligence and would never be denied.

What we need to do is change some of the legislation. We need to put in place in the discovery process that we can pull credit reports of the individual, either the person for whom the trust is being established and the Trustee, the person, the deceased, et cetera, at the time either the trust was established or the Power of Attorney was issued.

So therefore we can tell at that point in time any and all bank accounts owned by that individual, all assets owned by that individual at that time.

That then becomes the basis for the discovery.

If we then find that during the period of time between the exercise of the Power of Attorney and the death of the deceased that millions of dollars, or even \$10,000, has

disappeared from the -- well, actually it would have to be greater than \$10,000, I stand corrected, but say even as minimum as \$20,000 has been depleted and the returns, tax returns in the discovery process do not show that the person who was the Trustee or the Power of Attorney agent declared those withdrawals as taxable gift income, and they cannot prove the withdrawals were for the use of the Trustee or the individual, now we have tax fraud.

I have a case where \$1.7 million was withdrawn over the course of two years for an individual who was covered under a veterans V.A. Hospital insurance, plus his own private medical insurance and he was withdrawing an average of \$33,000 a month for a father who was being housed in a VA facility.

Somehow I don't think that \$33,000 a month was going to the dad's care, so that's \$300,000 average annually per year that was being depleted from these funds that far exceeds the \$12,000 allowed annually by the

IRS for gift tax for untaxable gifts. 1 Therefore that should have been declared as a taxable gift on the tax 3 filings; that's how we can catch these 4 5 criminals. Thank you. I do have other issues and I would appreciate some time 6 later, if possible. 7 SENATOR DIAZ: I am interested to get 8 your phone number, my lawyer will be 9 contacting you. 10 I think -- let me ask you another 11 question. Roughly how much money do you 12 think that the State will save if we solve 13 this problem? 14 Right now if you did the MS. WILSON: 15 backlog I would off the top of my head, and 16 the top of my head with my financial 1.7 experience is usually pretty good, I would 18 imagine it runs in the hundreds of millions 19 of dollars. 20 In a year? SENATOR DIAZ: 21 Easily, because the MS. WILSON: 22 estate I looked at was \$1.7 million that was 23

depleted and only \$10,000 a year is allowed,

1	so if we are looking at almost \$1.7 million
2	in state taxable rates, 5 percent, that's a
3	lot of money; just one estate.
4	SENATOR DIAZ: The gentleman just
5	said before that he had written to the
6	Attorney General and the Attorney General
7	asked him not to bother him no more.
8	That's what you said, right?
9	MR. KUSE: That's true, yes.
10	SENATOR DIAZ: No, no, was that
11	what you said?
12	MR. KUSE: Yes, I got a letter from
13	one of his people who told me to stop
14	writing him.
15	SENATOR DIAZ: Stop writing him.
16	MR. KUSE: This is an explosive
17	issue.
18	SENATOR DIAZ: This is a public
19	hearing, and you are practically accusing
20	the Attorney General of the State of New
21	York of
22	MR. KUSE: I was told to stop writing
23	them letters about this topic.
24	SENATOR DIAZ: So you are saying the

1	Attorney General knows about this?
2	MR. KUSE: I don't know him
3	specifically, but his underlings told me to
4	stop writing the letters.
5	SENATOR DIAZ: Can I get a copy of
6	that letter?
7	MR. KUSE: At this time I don't know
8	if I can produce it, we are talking about a
9	history of 10 years.
10	SENATOR DIAZ: You are in a public
11	hearing now.
12	MR. KUSE: I understand that.
13	SENATOR DIAZ: You are testifying
14	that someone at the Attorney General's
15	Office wrote to you.
16	MR. KUSE: Look at it. I would love
17	if he stepped in immediately.
18	SENATOR SAMPSON: I think reverend
19	I'm sorry, reverend.
20	SENATOR DIAZ: My concern, this is a
21	public hearing, you just said you
22	testified that someone in the Attorney
23	General's Office wrote to you.
24	MR. KUSE: No, they told me.

1	SENATOR DIAZ: Now they told you?
2	MR. KUSE: Yes, it's either in
3	writing or they told me to stop sending them
4	letters.
5	SENATOR DIAZ: So there is no proof
6	of that?
7	MR. KUSE: There may or may not be.
8	At this point you are asking me to dig up a
9	piece of history that I don't know if I can
10	put my fingers on.
11	To the best of my recollection at this
12	time, to the best of my memory at this time.
13	SENATOR DIAZ: All right.
14	MS. WILSON: On this issue of I've
15	only recently contacted the State Attorney's
16	General Office.
17	SENATOR DIAZ: We just want to be
18	fair to everyone, because this is a public
19	hearing, and when you make a statement, the
20	kind of statement you made, people are
21	listening and people get
22	MR. KUSE: I'm not going to back
23	down.
24	SENATOR DIAZ: I got I am pleased,

1	and I said what, now I'm clear there is no
2	proof of that.
3	MR. KUSE: I would also like to
4	indicate that a lot of this is abuse against
5	elders.
6	SENATOR DIAZ: I assure you that my
7	lawyer will contact the lady here and that
8	the Attorney General will know.
9	MR. KUSE: Thank you very much.
10	MS. WILSON: That's wonderful.
11	SENATOR SAMPSON: Let's make sure we
12	get your information.
13	MR. KUSE: I would like to make one
14	more.
15	SENATOR SAMPSON: Hold on, Senator
16	Adams, we are being joined by Senator Bill
17	Perkins from Harlem.
18	Senator Perkins.
19	SENATOR ADAMS: Your name again,
20	please?
21	MS. WILSON: Catherine Wilson.
22	SENATOR ADAMS: Can you give me your
23	background?
24	MS. WILSON: Certainly, I could give

1 you what I was going to present.

SENATOR ADAMS: A brief background on your accounting background.

MS. WILSON: I used to be an international auditor for Fortune 100 companies, then went into private consulting and worked for various small companies and even a couple of local government agencies.

And I now work for small companies I also do some writing for a local newspaper, and I actually left you ten copies of my articles that are pertinent to these issues at hand.

I also for 20 years was married to a member of the New York State Supreme Court, so was privy to all the back room hearings and goings on and at the time was appalled by it, but only knew a little of it, and then when that individual decided he no longer wanted to be married to somebody as wonderful as me, I became a victim to the power and the corruption in the court.

And ever since then I have been reporting, this is only one of the issues I

have come across, I have reported these 1 issues to Jonathan Lipman, I have reported 2 them to Judge Hay, I have reported them 3 auditor to auditor, to the New York State 4 auditors, Dennis Donahue, I believe, for the 5 OCA auditors, who unfortunately seem to 6 think that they take the direction from OCA. 7 They do not seem to understand that 8 they are independent. 9 I have reported it to Cheryl Spats, and 10 I have reported it to New York State 11 Attorney General, I reported it to Frank 12 Nicoli, I know all the players, I know them 13 on a first name, they have done nothing. 14 SENATOR ADAMS: And your educational 15 background? 16 My educational MS. WILSON: 17 background, I am a certified accountant, I 18 have a Bachelor's of Science in accounting 19 and I have a double masters in marketing and 20 finance. 21 SENATOR ADAMS: I am going to make a 22 recommendation to the chair to put in place, 23 because this is extensive, and some of the

information that you are sharing with us in one hearing we are not going to be able to bring it out, and I'm pretty sure there is going to be some duplications in the testimony.

MS. WILSON: I agree.

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SENATOR ADAMS: What we will need because I think that the best way to resolve inefficiencies and corruption in government is through -- is to allow the people who are personally touched by the matter to empower us with information, so I'm going to ask the chair if he will put in place a task force that will be comprised of individuals like yourself and those who are victims to assist us in navigating how this problem is being hidden from public view.

But what's important, what's important, and the reason I asked for your background, both professional and education, is not that that is important to me, but when we attempt to go up against exposing corruption in the judicial system, there are those who are going to question who's bringing the

complaints and information, that's why it's imperative what Senator Diaz was saying to you, sir.

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Any accusations we make must be well documented.

If you made calls and inquiries to the state auditors, to the Attorney General, anyone else, if you wrote letters that goes for you or anyone else in the audience, if you have those documents to show the paper trail that there has been a refusal to look at this very important issue and I think a task force with someone like yourself and your extensive background, and particularly some of the intimate relations you may have had that know firsthand of some of the problems, I think it would help us push this issue years forward, because we are committed to finding a resolution on this issue.

We are committed to doing that, but we need your help in doing so, and I just want to ask you two things, Mr. Chair, if I am permitted.

1 If you could just give me some brief 2 answers, you know, I know and I think that some of the statements, we are going to let 3 everyone know, I know this is an emotional 4 5 issue, but we want to give the respect for 6 the entire list of people who want to 7 testify, and we want to try to be not as wordy as need be. 8 So that we can be, so we can put the 9 10 information together. 11 How widespread do you see this problem 12 as being? 13 MS. WILSON: Well, from the 14 Surrogates Court perspective I see it as 15 extremely widespread. Based on my knowledge of the 16 17 politicalness of the appointments of the 18 Surrogates Court and how it's actually 19 viewed as a candy jar kind of appointment, 20 where whoever gets that position gets to dole out lucrative appointments to the 21 22 attorneys, the players, the party players. 23 In divorce court it's somewhat

prevalent the issues, some of it is actually

due to the lack of training and I am sad to say in certain cases ignorance on the part of the judges.

That was part of my presentation. I'm trying to and I hear what you're saying,

Senator, address this not just as the insider and the victim but also my auditing brain as to what we can do in terms of resolving it.

So there are, indeed, many individuals within the system, in fact there are some present here today.

One of my many accreditations is CPR training.

One of the problems is we do have individuals within the court system who know the problems and are trying to fight it from within, but whenever they speak up a little too loudly they either find themselves ostracized, find their credentials and their career on the line, or they are demoted to the hinter lands.

SENATOR ADAMS: So what we need, what we need is that from you and whoever else is

present, and I'm sure the chair is going to give you a website, but there are three things we need, number one, as I stated we need some form of a task force, number two, we need some very clear specific recommendations in a bullet format because we get a ton of information, if you send us a dissertation it's not going to be read as often as need be, if you give us some -- if you give us the category, problem, solution.

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That's where we are at right now, problem, solution. That would be extremely helpful.

How much of this do you feel is based on incompetence or corruption?

MS. WILSON: In the Surrogates Court sad to say I would say it's mainly based on corruption, political corruption.

In the other courts, a lot of it is based on incompetence. One of the particular issues is people with disabilities or cognitive, emotional issues, or whatever, which are a lot of people in the court system, the courts are just

ill-equipped to deal with this, and the amount of abuse from the attorneys, from opposing counsel, from the judges themselves, there was an issue just this week where a woman with traumatic brain injury was before the Appellate Court, got through explaining to the Appellate Court what her problems were, and right in front of her the lawyer kept badgering her that she kept repeating herself. 

Well, first of all that is a symptom of traumatic brain injury, but no one on the appellate bench stepped in to stop the attorney from badgering her in such a fashion.

She should have been protected, and as you know, our returning vets are suffering from TBI, so this should be understood by the court system, so there is a lack of knowledge.

SENATOR ADAMS: Lastly, how effective do you believe the systems are in place to respond and report to those allegations of corruption?

MS. WILSON: Actually very 1 ineffective. The systems that are in place 2 now, as I said the internal auditors within 3 OCA seem to feel that they report to OCA, 4 5 they are not independent. The investigators such as Cheryl Spats, 6 and even the Attorney General are limited by 7 law as to what they can respond to. 8 I think what the system really needs, 9 in fact state-wide, are independent 10 auditors, an audit committee that does not 11 report to anyone in the court system and 12 that can step in at any time and do an 13 audit. 14 The problem with investigations by the 15 lawyers is you're now governed by legal 16 statutes. 17 Attorneys have to obey whatever the 18 Senate says. Auditors report to federal 19 standards, so we have more discretion. 20 If I was an attorney investigating I 21 would have to get a subpoena, I would have 22 to go through a discovery process. 23 If I'm an auditor and I suspect you of 24

fraud, I show up. 1 I don't tell you I'm coming. I walk 2 right in. 3 So the problem right now is with the 4 way things are run by the time you go to . 5 catch the fox, they have already hid all the 6 chickens. 7 SENATOR ADAMS: Thank you. 8 SENATOR SAMPSON: We have been joined 9 by Senator Bill Perkins. 10 MS. WILSON: Thank you. 11 SENATOR PERKINS: I just want to ask 12 one guick guestion, particularly with 13 respect to the Surrogates Court. 14 I didn't get the benefit of her opening 15 remarks, I'm not sure if we are on the right 16 path, but you mentioned that the Surrogates 17 Court and the corruption and the political 18 corruption, did you mention that? 19 The way Surrogates Court MS. WILSON: 20 is set up largely handles trusts and 21 estates, so you have people who cannot speak 22 for themselves, they are either disabled or 23 they are dead. 24

So what happens is a lot of times guardians are appointed, Trustees are appointed, accountants are appointed, sadly members of my own profession who get these appointments by nature of the amount of political campaigns that they give to the judges who hold these positions.

Now, technically everybody is supposed to report their contributions to a judge, but for every rule there is a loophole.

My ex-husband used to go into his

Judge's Chambers and pull the contribution

lists off his desk when he wasn't looking

and bring them home and show me everybody's

mother-in-law, brother, ex-wife or whatever,

they made the contributions through third

parties.

And then what happens at the meet and greet is whoever the person who really made the contribution, they show up with the ticket so they can shake the judge's hand, nudge, nudge, wink, wink, you know I'm the one whose really paying for your black bathrobe.

So in turn when the judges get their 1 appointments, they are now seen in Surrogates Court, they return the favor by appointing these individuals to Trustee's of these multimillion dollar trusts for the 5 disabled and/or to guardians or whatever of 6 the deceased. 7 And I say what the problem is, though, 8 the way, between the corruption of the 9 appointments which guarantees that no full 10 11

And I say what the problem is, though, the way, between the corruption of the appointments which guarantees that no full accountings are rarely done, despite the law saying they have to be, between that and the ability of the individuals in the system to understand what to look for, and the limitations of what is allowed in the discovery process, it's a perfect storm for anyone who wants to go in and deplete the assets of a disabled victim.

SENATOR PERKINS: So the Surrogates, you seem to be somewhat familiar with the process of this corruption.

MS. WILSON: 20 years married to the mob.

SENATOR PERKINS: 20 years married to

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1	who?
2	MS. WILSON: My ex is a New York
3	State Law secretary for the New York State
4	Supreme Court, and his judge is one of the
5	most powerful political judges in
6	Westchester County.
7	His golfing buddies are George Pataki
8	and Donald Trump.
9	SENATOR PERKINS: I'm just wondering
10	with that depth of knowledge and
11	appreciation of how the process of
12	corruption takes place.
13	Have you had an opportunity to share
14	that with the appropriate authorities?
15	MS. WILSON: I sadly just gave them
16	the laundry list, yes, for the last six
17	years I have reached out to everybody I
18	could think of.
19	SENATOR PERKINS: Sorry, you don't
20	have to continue.
21	MS. WILSON: That's fine.
22	SENATOR PERKINS: So then having done
23	that, now you are talking about the
24	Surrogates throughout the state, or at any

particular area, Westchester only? 1 Well, I initially MS. WILSON: started with my claims and accusations and 3 findings with the divorce courts and then expanded that, became known and was asked to 5 start doing some writings for a local 6 newspaper and now got into Surrogates. 7 I don't want to SENATOR PERKINS: 8 take too much time. 9 Now, again, your surrogate research is 10 state-wide, Westchester, New York City, give 11 me some sense of this. 12 MS. WILSON: It started out as 13 Westchester, it's now becoming state-wide, 14 but this is beyond your jurisdiction, it 15 seems to be national. 16 But it is definitely state-wide. 17 SENATOR PERKINS: Have you focused at 18 all on New York City? 19 MS. WILSON: I have gotten some New 20 York City cases, yes, I have had three so 21 far just in the last couple of months from 22 Queens, and Nassau County. 23 SENATOR PERKINS: And you have had an 24

1	opportunity to share your information with
2	the D.A.'s office, or anybody of that
3	caliber.
4	MS. WILSON: I only just recently
5	filed with the New York City Attorney
6	General's to inform them that I want to
7	pursue this with them.
8	MR. KUSE: The Whistle Blower's Law.
9	MS. WILSON: I filed under the IRS
10	Whistle Blower's Law for protection, I just
11	sent that into the IRS.
12	SENATOR PERKINS: Okay, thank you.
13	MS. WILSON: You are most welcome.
14	SENATOR SAMPSON: Thank you very
15	much, Senator Perkins, Ms. Wilson, thank you
16	very much.
17	I guess we wanted to have a further
18	conversation with you with respect to the
19	cases that you are working on, and maybe get
20	more in-depth involved, especially when we
21	create this task force, okay?
22	MS. WILSON: I am most willing to be
23	as most helpful as I can, and, Senator
24	Adams, if you manage to get that task force

1	together, I will gladly be a member of it.
2	SENATOR SAMPSON: Thank you very
3	much.
4	MR. KUSE: Senator Sampson, I would
5	just like to take another 30 seconds.
6	Senator Sampson, our elders, these are
7	beloved elders, they are not farm animals to
8	be harvested. There is a line in the Bible
9	that says as you do it unto the least of
10	these, you do it unto me.
11	Reverend Diaz you know it as well I as
12	I do, my background is the same as yours.
13	SENATOR SAMPSON: Next speaker is
14	Victor Kovner, we will wait.
15	Douglas Higbee of Mamaroneck, New York.
16	Douglas, are you here?
17	MR. HIGBEE: I asked to be put on the
18	back of the list, push me back.
19	SENATOR SAMPSON: Okay. Judith
20	Herskowitz of Miami Beach, Florida. I know
21	we went over the last one, but I think we
22	are going to stick to the ten minutes,
23	because we want to get the questions in. So
24	try to be as brief as possible.