

1 NEW YORK STATE SENATE
2 STANDING COMMITTEE ON JUDICIARY

3 -----
4 PUBLIC HEARING IN THE MATTER OF
5 AN EXAMINATION OF THE JUDICIAL DISCIPLINARY PROCESS
6 -----

7 Senate Hearing Room
8 250 Broadway
9 19th Floor
10 New York, N.Y.

11 September 24, 2009
12 Thursday
13 10 a.m.

14 BEFORE: Senator John Sampson
15 Chair
16 Judiciary Committee

17 Senator Bill Perkins
18 Chair
19 Corporations, Authorities & Commissions

20 Senator George D. Maziarz

21 Senator Eric Adams

22 Senator Ruben Diaz

23 OTHER STAFF MEMBERS:

24 Shelly Mayer
Majority Counsel

Lisa Lashley
Counsel

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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.

1 MS. HERSKOWITZ: It's hard to be
2 brief, you know, when you go through 20
3 years of torture.

4 It's hard to be brief when you go
5 through 20 years of torture in the court
6 system.

7 SENATOR SAMPSON: I'm quite sure you
8 can be brief, just get to the salient points
9 that we need to know.

10 MS. HERSKOWITZ: The point is that my
11 major thing here is I'm submitting 13
12 complaints that I made to the New York City
13 commission on judicial conduct with regard
14 to judges of the Supreme Court, New York
15 County.

16 I am attaching copies of each of these
17 complaints but without the supporting
18 documents.

19 The complaints are followed by the
20 letters acknowledging receipt of the
21 complaint and by letters of dismissal.

22 The dismissal letters simply stated is
23 my complaint was dismissed upon careful
24 consideration, the commission concluded that

1 there was insufficient indication of
2 judicial misconduct to justify additional
3 discipline.

4 When I requested more specific
5 information I then received a response that
6 pursuant to Section 45 of the judiciary law,
7 the commission records and proceedings are
8 confidential except as to matters in which
9 public discipline is rendered.

10 Since there never was any public
11 discipline it has never been revealed as the
12 right consideration my complaints were
13 accorded, if any, I was refused any
14 information as to anywhere the commission
15 met, and which members of the commission
16 attended the meeting.

17 The letters of the commission were
18 marked confidential and that the commission
19 could find no wrong and no proceedings have
20 been instituted by me as complainant, so I
21 don't believe that, you know, the
22 confidential notations really have any legal
23 significance.

24 The reason I filed so many complaints

1 is because the grievous acts that are
2 compounded by further apparent misconduct.

3 It was unbelievable that the commission
4 could ignore the court's disregard for the
5 fact, for the law and the violations of the
6 judicial canons.

7 I have extensively cited the judicial
8 canons in my complaints, supported with the
9 facts to no avail, that is why there is a
10 dire need for this hearing and for
11 affirmative action to be taken.

12 My most recent complaints attached as
13 Exhibit 1 to 21 were based upon the
14 activities of Justice Sherry Klein Heitler
15 of the Supreme Court of New York County.

16 Upon allegations that she persistently
17 has failed to perform her judicial duties
18 and by such the relation has placed her
19 court in complicity with a scheme to
20 misappropriate approximately \$700,000 of
21 corporate funds, of which I'm a majority
22 shareholder.

23 Upon insistence of Plaintiff's counsel
24 the funds were free and clear of all claims

1 of Pettigers when transfers transferred from
2 the jurisdiction of the New Jersey
3 Bankruptcy Court in August 2000 to the New
4 York court in a case that was terminated
5 long ago.

6 In other words, this whole -- there was
7 a bankruptcy court proceeding, all the
8 claims of creditors were adjudicated and
9 there really was no reason to transfer that
10 money to the New York court except for these
11 lawyers who were already appeared in the
12 bankruptcy court to take whatever money was
13 left, which really belonged to the
14 shareholders, I'm just trying to explain
15 that.

16 Then they put in somebody, we come back
17 to this fiduciary business, and they put in
18 this Paul Windels, he was just supposed to
19 be a neutral custodian to hold this money,
20 for determination how much money the
21 shareholders would get.

22 But I didn't know that it was all
23 prearranged, that all the Plaintiffs'
24 lawyers, who were numerous, they would be

1 getting the money, and they would clean out
2 this money to the last penny not leaving one
3 dime in the corporation, and nothing for me.

4 And they also made it up that they gave
5 the appearance that the surplus funds were
6 the results of liquidation by this Mr.
7 Windels in a New York court which wasn't
8 because of liquidation of the property, it
9 was in the bankruptcy court.

10 And she allowed, this judge simply just
11 allowed her judicial office to be misused to
12 give the distribution a color of legitimacy
13 through this phony receiver, Mr. Windels,
14 who acted upon fraudulent claims that he's
15 the receiver of the assets of north Jersey,
16 and it couldn't be because the assets were
17 in the bankruptcy court.

18 Just legally it could not be. And then
19 he filed papers retroactively to make
20 believe that he's the receiver.

21 He never filed any papers, receivership
22 papers in the office of the court
23 administration which is a requirement, and
24 it was all artificially created proceeding

1 under Article 12, this whole receivership,
2 to give it a color of legitimacy for them to
3 take the money.

4 I mean they played this game for years
5 and there never was any such proceeding, it
6 just came out of nowhere.

7 They retroactively named these
8 attorneys as creditors and then they had
9 retroactive publications going back six
10 years, I just can't -- it was absolutely
11 phony publication because the receiver has
12 to do publications.

13 And then the judge refused to recognize
14 that they did this with a \$4 million
15 judgment which was fully satisfied, the
16 judge refused to recognize the law of joint
17 and several liability that was the law.

18 And I was denied standing to object and
19 to be heard on my objections, and my papers,
20 whatever papers I filed in opposition, they
21 were stricken, I was denied a hearing on
22 evidence and testimony, so by the stroke of
23 the pen they just took this \$700,000, which
24 is all described, I submitted all these

1 complaints that I made to the judicial
2 commission that was never, ever,
3 entertained.

4 Now, the Exhibits 22 to 29, the prior
5 are from a prior judge, a Justice Comptons
6 and what they have done here is, you know,
7 we live in Florida, my father was in Florida
8 and they created a phony derivative,
9 stockholders derivative suit.

10 Now, they did the stockholders
11 derivative suit so a lawyer can get fees and
12 he just kept on litigating and litigating
13 and what was involved here was a 54 unit
14 apartment building on Riverside Drive that
15 my father and my parents purchased in 1958,
16 and they used this derivative suit of
17 something that should have been a Florida
18 probate case to reach the property and
19 appoint receivers and to take it over and to
20 appropriate it.

21 My father managed the building, I never
22 had anything to do with this building, but
23 they wanted to get all the shareholders to
24 strip everybody of their corporate -- of

1 their shares.

2 All I had was a remainder interest, I
3 never managed the building, I never did a
4 thing in New York and they couldn't really
5 reach me in Florida, and what the judge did
6 then, he said, and we filed motions, and
7 it's unfortunate, if it was today I would
8 have never appeared in a New York court, I
9 would have stayed away, and that was a
10 mistake, you know, you read the books and
11 they file a motion to dismiss, no
12 jurisdiction, you know I'm a Florida
13 resident, and it doesn't matter.

14 So when the judge couldn't find
15 jurisdiction over me, then he said that we
16 withdrew the objection, and even Plaintiff's
17 lawyer in sworn testimony admitted that that
18 wasn't the case, but I couldn't bring it up,
19 the judge sanctioned me and imposed all
20 kinds of fines on me and literally banished
21 me so I couldn't even appear in the New York
22 court because I was like a criminal.

23 It's turned into somebody that I was a
24 wrongdoer.

1 And my father died, you know, in 1992,
2 then they entered this judgment by default
3 because I couldn't appear in the court, so
4 they enter a \$4 million judgment.

5 SENATOR SAMPSON: Can you wrap it up
6 in two minutes?

7 MS. HERSKOWITZ: On all kind of phony
8 claims, now the building was sold in the
9 bankruptcy court and that's where the money,
10 that \$700,000 came from.

11 Now, the other thing is that when I
12 went to the Appellate Court, then on both of
13 these cases I'm going to summarize what I
14 have here, that what happened is that they
15 said it's a re-argument.

16 Something that was never heard and I
17 never had -- I couldn't make an appeal, I
18 never had an appeal, I was never heard.

19 SENATOR SAMPSON: You had an attorney
20 representing you all the time on this?

21 MS. HERSKOWITZ: At times we had an
22 attorney. I have a law degree, my son is a
23 lawyer in Florida, my daughter-in-law is a
24 lawyer.

1 It doesn't matter, it doesn't matter if
2 you are a lawyer or not a lawyer, the
3 judges, the judge absolutely was not
4 interested in any of the facts, any of the
5 law.

6 SENATOR SAMPSON: So your complaint
7 with respect to negative complaint to the of
8 judicial misconduct was what?

9 What was the judge or the judge's doing
10 that warranted the complaint?

11 MS. HERSKOWITZ: All these misdeeds
12 the judge did, never gave us a hearing, I
13 come all the way from Florida for a hearing
14 and the judge tells me I'm sorry to say you
15 have ten minutes.

16 I said I came from Florida for this, I
17 said I have an evidentiary -- present the
18 evidence and testimony and whatnot, and all
19 they give you in these courts is -- that's
20 another thing, all they give you is an oral
21 argument, they don't give -- there is no,
22 it's a lawyer and the lawyers can say
23 whatever they want, they can make up
24 whatever they want and you can't disprove

1 it, it's oral arguments, there is no such
2 thing as a trial or to present evidence.

3 I said judge, I have the evidence here,
4 I want to present it, I want you to mark it
5 in.

6 I have the satisfaction of the
7 judgment, there is no more \$4 million
8 judgment.

9 No, she wouldn't allow me.

10 SENATOR SAMPSON: I'm going to tell
11 you what I'm going to do, since we have Mr.
12 Tabeckian back there, who is the counsel for
13 commission on judicial misconduct, I will
14 make sure -- Mr. Tabeckian, why don't you
15 say hello to everybody.

16 MR. TABECKIAN: Hello.

17 SENATOR SAMPSON: What I will do is I
18 am going to speak to him specifically about
19 your matter and see --

20 MS. HERSKOWITZ: I have gone to the
21 trouble of gathering up all these
22 complaints.

23 SENATOR SAMPSON: I see, extensively.

24 MS. HERSKOWITZ: You have to see

1 everything, dismissed, can't find anything
2 wrong and I just find this very, very
3 frustrating.

4 I would like to close it with one
5 thing.

6 SENATOR SAMPSON: Go ahead.

7 MS. HERSKOWITZ: We are Holocaust
8 survivors, everything that we had in Europe,
9 you know, you're in a Holocaust, taken, you
10 can't hold property, you are Jewish, you
11 can't hold properties, ghetto and all that.

12 Then comes the communist, what happened
13 is what the interesting part of where the
14 money came from really to buy that building,
15 my father during the war time took -- you
16 can see how valuable gold is now that money
17 is losing value.

18 He took some Krugerrands or Napoleans,
19 they had Napoleans in that day, which were
20 gold coins, dug it under the ground.

21 After the liberation he found it, it
22 was incredible, you know he didn't put the
23 money in the Swiss bank, he found it, he
24 started a factory, he was very innovative my

1 dad, very good businessman, started -- he
2 had a big weaving mill, factory, sold
3 fabrics all over, but he didn't trust the
4 communists so he was sending money to
5 America.

6 Then came the communists, they took
7 away the factory, but luckily we could come
8 into America.

9 Then he also bought a weaving mill in
10 Patterson, New Jersey, made money, bought
11 the building, now what happens is now
12 whatever we had here the American judges
13 took from us, and I find that very, very
14 hurtful.

15 That you can't keep money in America.
16 In Europe you knew that you were in danger,
17 so you kept on putting the money aside.

18 And I think that's what's going to
19 happen in America, too, you know people are
20 shuffling their money out of it, I do have
21 the story on judicialaccountability.org,
22 people are reading it.

23 You don't see people flocking here to
24 invest money, we have condominiums galore,

1 you know, being for sale, and I think it's
2 got to be taken into consideration that this
3 judiciary is ruining our business in
4 America.

5 It's not just the collapse of the
6 financial system, it's collapse of the
7 judicial system that's causing that, too.

8 SENATOR SAMPSON: Thank you very
9 much. Any questions.

10 Thank you very much, and I will speak
11 to Mr. Tabeckian with respect to your --

12 MS. HERSKOWITZ: Wait a second, I
13 'have something else, if I may, excuse me, I
14 already wrote to your office with regard to
15 this rearguement, I can give you this letter
16 again, that this thing that an appeal that
17 you don't have an appeal because or a
18 rearguement and you never were heard, I mean
19 that's an excuse, that whole law has to come
20 out because you don't have that in the
21 Federal Rules.

22 In the Federal Rules if you make -- I
23 have a couple of copies of this, in the
24 Federal Rules if you make -- in the Federal

1 Rules if you make a motion after a final
2 judgment that stays, that stays the
3 judgment, please take that, please, that law
4 has to be changed, because that's how twice
5 they denied me an appeal.

6 That stays the appeal until the motion
7 is decided, whether you win or lose you have
8 an appeal.

9 In this archaic judicial New York
10 system they take away the right to appeal
11 with this nonsense that it's a reargument.

12 SENATOR SAMPSON: I will definitely
13 follow-up.

14 Thank you very much.

15 MS. HERSKOWITZ: I spoke to Mr.
16 Spotts and he said he would follow it up.

17 SENATOR SAMPSON: Thank you very
18 much, and I will follow this up.

19 MS. HERSKOWITZ: Who is going to
20 contact me?

21 SENATOR SAMPSON: I will make sure
22 Mr. Spotts contacts you.

23 MS. HERSKOWITZ: You also said
24 somebody from the commission.

1 SENATOR SAMPSON: Mr. Tabeckian. Mr.
2 Tabeckian, we have a young lady from
3 Florida, maybe you can spend two minutes
4 with her. I would appreciate it.

5 Thank you very much. Mr. Tabeckian is
6 right back there.

7 The next witness is Peter Gonzales of
8 Troy, New York. Peter.

9 Peter didn't check in, we are going to
10 -- Peter is not here, we are going with
11 Andrea Wilkinson of Rensselaer, New York.

12 Andrea, are you around? Andrea are you
13 here?

14 Andrea, come on up. Good morning,
15 Andrea.

16 MS. WILKINSON: Good morning, Senator
17 Sampson and your staff and everyone. We met
18 again, I was in Albany before you left last
19 time.

20 SENATOR SAMPSON: I apologize.

21 MS. WILKINSON: You promised me you
22 would come back, but I know what happened in
23 the legislature.

24 So, all right, I am going to be quick