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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

	<u>LIST OF PARTICIPANTS</u>		<u>STATEMENT</u>
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3	Martin R. Gold		
4	Alan W. Friedberg		
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5	Christine C. Anderson, Esq.		34-48
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7	Hon. Thomas A. Klonick		
8	Robert H. Tembeckjian		
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1 MS. CARVEL: But I think it's a
2 significant effort at preserving our
3 aspiring democracy, because what's going on
4 Surrogate's Court, which is where my
5 connection to the Office of Court
6 Administration and the DDC and the other
7 disciplinary committees comes from, is
8 nothing less than a criminal enterprise.

9 You don't have to take my word for it,
10 because one of the lawyers that I hired
11 actually wrote an article in the New York
12 Law Journal, and I've attached that for you.
13 Eve Markewich, who I hired to help me
14 recover money stolen by the controlling
15 shareholders of Hudson Valley Bank, wrote an
16 article in the *New York Law Journal*
17 detailing all of the gross violations of
18 ethics that went into railroading my aunt so
19 that in her whole lifetime she received
20 nothing of benefit after my uncle died.

21 In 1990 my uncle, the week before he
22 died, said there was \$250 million in the
23 family. He called me and asked me to come
24 back from China, where I was acting as a

1 fraud investigator, to be able to help him
2 discover where \$100 million had gone
3 missing.

4 On the Saturday before his death, he
5 had told people that he was going fire the
6 two employees, a lawyer and his secretary,
7 that he felt were responsible. He was found
8 dead on Sunday. And on Monday morning the
9 culprits, who were agents of Hudson Valley
10 Bank that held the money and that has been
11 the recipient of all of the money since
12 1990, they were in control of everything.

13 Just recently I've discovered that my
14 uncle's death certificate was forged, that
15 the information on it was falsified to avoid
16 an autopsy. And I will be trying to exhume
17 his body to see if he was murdered in order
18 to set in motion this criminal enterprise
19 that is a pattern in Surrogate's Court.

20 No efforts to bring these things before
21 the Office of Court Administration have
22 worked in any of the cases that I've
23 investigated other than our own.

24 Hudson Valley Bank paid Surrogate

1 Scarpino \$100,000 during his election. Just
2 prior to the trials in my uncle's estate,
3 they paid Surrogate Scarpino \$200,000 as an
4 alleged loan. And just prior to the trials
5 in my aunt's estate, they paid Surrogate
6 Scarpino another \$100,000.

7 CHAIRMAN SAMPSON: These issues, did
8 you raise them with the --

9 MS. CARVEL: Raised them with the
10 Office of Court Administration --

11 CHAIRMAN SAMPSON: When you say the
12 Office of Court Administration, you mean the
13 Commission --

14 MS. CARVEL: I'm sorry, the
15 Commission on Judicial Conduct.

16 CHAIRMAN SAMPSON: When did you do
17 this? When was this?

18 MS. CARVEL: It was probably -- I
19 discovered it in 2007, so it was probably
20 2007, 2008.

21 CHAIRMAN SAMPSON: So what has
22 happened since then?

23 MS. CARVEL: They said they didn't
24 find a problem with Scarpino not only

1 receiving money from Hudson Valley Bank but
2 allowing Hudson Valley Bank's controlling
3 shareholder to receive all of the assets
4 from my uncle's estate, and to allow him to
5 appear before Scarpino as a witness without
6 ever disclosing that there were financial
7 arrangements between Hudson Valley Bank and
8 Judge Scarpino.

9 CHAIRMAN SAMPSON: And you raised
10 this to the Commission on Judicial Conduct?

11 MS. CARVEL: Raised it to the
12 Commission on Judicial Conduct. They asked
13 for documentation. I gave them full
14 documentation. They found absolutely
15 nothing wrong with that.

16 CHAIRMAN SAMPSON: Since
17 Mr. Tembeckjian is here, before this is
18 over, we'll -- I will raise that issue.

19 MS. CARVEL: All right. I also, in
20 the course of investigating, found out that
21 the controlling shareholder of Hudson Valley
22 Bank, William Griffin, was given control of
23 all of my aunt's real estate, which
24 consisted -- part of it was 19 acres in

1 Ardsley, New York, which is a very expensive
2 area.

3 Griffin was allowed to flip that
4 property to himself through Hudson Valley
5 Bank, through one of his former law
6 partners' brothers. In other words, Griffin
7 signed the property over and then the
8 property came back to Griffin as Hudson
9 Valley Bank. And the whole proceeding took
10 place for \$2 million on paper that never
11 changed hands, and the property is worth
12 \$10 million or more.

13 I brought that to the attention of
14 Surrogate Scarpino, and Surrogate Scarpino
15 again found there was no problem because of
16 the dealing being done by William Griffin,
17 who was responsible for paying Surrogate
18 Scarpino at least \$400,000.

19 Part of the problem with the whole
20 system of -- by the way, I also filed a
21 complaint against Eve Markewich for knowing
22 about all of these violations. Eve
23 Markewich, who I hired on behalf of my
24 aunt's estate, betrayed any representation

1 for us on the promise that William Griffin
2 would pay her \$4 million, allow her to be
3 paid \$4 million in legal fees -- which she
4 has been paid, I understand. And when I
5 filed the complaint with the Commission on
6 Judicial Conduct on her lack of
7 representation, her betrayal of the purposes
8 for which she was hired, and also her
9 complete knowledge of ethical violations by
10 other attorneys, that she refused -- not
11 only did she refuse to tell me about them,
12 but she refused to take any action herself,
13 which was her duty as a lawyer.

14 It came back, the decision came back
15 that her problems would be sorted out in the
16 legal lawsuit. Well, there was no legal
17 lawsuit pending between me and Eve
18 Markewich, and there was no venue for that
19 to be handled at all. So whether they
20 investigated or not, I don't know. She put
21 in a response, and her response was this is
22 going to be handled in litigation. But
23 there was no litigation.

24 There is --

1 CHAIRMAN SAMPSON: That complaint
2 that you put, was that in the First
3 Department?

4 MS. CARVEL: That was the -- for
5 Manhattan. It was the First Department.

6 I put in a similar complaint with one
7 of Eve Markewich's fellow attorneys, Frank
8 Streng, who didn't tell me that he was
9 employed by the judge. He was also an
10 attorney of mine, was supposed to represent
11 me. He converted approximately a million
12 dollars that I paid him and then took
13 another million from the estate.

14 Complaints were filed against him, and
15 I was informed that he has a law partner --
16 one of his law partners is on the commission
17 in Westchester, and that nothing would be
18 done. And the same answer came back on that
19 thing, that it would be handled in
20 litigation. But again, there was no
21 litigation in which Frank Streng's ethics
22 were part of the litigation. There was
23 no -- actually, at that time there was no
24 litigation involving Frank Streng at all.

1 The whole system -- and I call it a
2 criminal enterprise, because the exact
3 tactics being used are in the New York State
4 Penal Code: coercion, larceny, conspiracy.
5 These are all being operated out of the
6 court, out of the Surrogate's Court, and in
7 particular Westchester. But I know it's
8 happening in Manhattan, it's happening in
9 Dutchess. And they're using a one-sided
10 system of favoritism.

11 My aunt and I, as fiduciaries, should
12 have had equal access to indemnification as
13 all the other fiduciaries. We were the only
14 two fiduciaries denied indemnification
15 because we were the only two working with
16 law enforcement. All the others were paid
17 completely.

18 As long as my aunt lived, she never
19 received a penny from my uncle's estate.
20 But Hudson Valley Bank controls \$150 million
21 of Carvel money that my aunt was the sole
22 beneficiary of.

23 CHAIRMAN SAMPSON: They still control
24 it?

1 MS. CARVEL: It's all been given to
2 them. Over the last 10 years, by Surrogate
3 Scarpino, all of the money in my uncle's
4 estate and in my aunt's estate has been
5 passed over to Hudson Valley Bank. Without
6 notice to the named beneficiaries, without
7 notice to the creditors. Without court
8 approval, assets have been disposed of that
9 were supposed to be in constructive trust.
10 None of these things have fazed the judicial
11 commission.

12 CHAIRMAN SAMPSON: I think, since we
13 still have Mr. Tembeckjian here, this is
14 something, I'll ask staff, maybe I may want
15 to look a little further into something like
16 this.

17 So if you have time maybe before the
18 end of today, maybe we can just -- my staff
19 just have a meeting with the members of the
20 commission to see what some of these issues
21 are.

22 MS. CARVEL: I'd be glad to.

23 I just wanted to point out one other
24 problem with the system. Most times when

1 you complain about a decision or a judge's
2 actions, they'll tell you: Well, you have
3 the avenue of appeal. In Surrogate's Court,
4 the judges either don't render decisions --
5 even though there's a 60-day rule, they may
6 not render decisions for two years or more.
7 They do not hold trials. If they do hold
8 trials -- Surrogate Emanuelli didn't hold a
9 trial for 10 years. My aunt's issues were
10 not litigated at trial until five years
11 after she was dead.

12 You're denied trial by jury or
13 decisions are rendered by transcript, which
14 cannot be appealed, or they're rendered in
15 such a way that it's too late -- the issue,
16 the money, everything has already been gone
17 by the time the decision has been rendered.

18 This is a pattern, and it's more than
19 one estate. And I congratulate you for
20 recognizing there's a problem. I think part
21 of the solution, if not the whole solution,
22 is complete transparency and complete
23 anonymity. No judge should be given one
24 case for 20 years. No one court should have

1 one case for 20 years.

2 If you have -- in our case, I'm dealing
3 with Surrogate's Court. If you have
4 numerous proceedings, let everything go into
5 Supreme Court; dispose of the Surrogate's
6 Court.

7 Let everything be assigned by a blind
8 rotating calendar of judges. Let the
9 proceedings be separated so that each
10 proceeding is going to get a different judge
11 and a different hearing.

12 And there has to be something to ensure
13 that money is not passed from one side to
14 the other or that one side alone is funded.
15 There has to be an enforcement of the
16 Constitution that all people have equal
17 rights before the law.

18 Thank you.

19 CHAIRMAN SAMPSON: Ms. Carvel, thank
20 you very much.

21 The next witness -- and I'm going to
22 adhere to the five-minute rule -- is Paul
23 Altman. Mr. Altman, are you here?

24 MR. ALTMAN: Yes, Senator.