

1 BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON JUDICIARY

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

8 Hearing Room 6
9 Empire State Plaza
10 Albany, NY

10 June 8, 2009
11 10:35 a.m.

12 PRESIDING:

13 Senator John Sampson
14 Chair
15 Senate Standing Committee on Judiciary

15 PRESENT:

16 Senator John A. DeFrancisco (R)
17 Senator Bill Perkins
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1 CHAIRMAN SAMPSON: Thank you very
2 much, gentlemen.

3 MR. FRIEDBERG: Thank you for your
4 time.

5 CHAIRMAN SAMPSON: The next witness
6 is Christine C. Anderson, who used to be a
7 former employee with the First Department
8 Disciplinary Committee.

9 (Applause.)

10 CHAIRMAN SAMPSON: I think we should
11 try to keep our -- no need for applause,
12 ladies and gentlemen. We're just trying to
13 keep an orderly process and just keep it
14 moving.

15 Ms. Anderson, thank you very much.
16 We're going to try to keep it under five
17 minutes. We allowed them to go over just to
18 explain the process, to lay the groundwork.
19 Okay?

20 MS. ANDERSON: So you can just do
21 five?

22 CHAIRMAN SAMPSON: No problem,
23 Ms. Anderson. Thank you very much. We just
24 want to get to the -- we have your

1 statement, we've read it, we just want to
2 get to the heart. So we're going to be
3 jumping in and asking you questions.

4 MS. ANDERSON: Okay. I should also
5 start by saying that this statement is drawn
6 solely from allegations set forth in my
7 federal court complaint. It is therefore
8 comprised solely of publicly available
9 information, and it is fully in compliance
10 with the stipulation and order of
11 confidentiality entered on February 20,
12 2008, in my case and based on Judiciary Law
13 90.10.

14 CHAIRMAN SAMPSON: So basically we
15 want to make sure, presently you have a
16 case?

17 MS. ANDERSON: Yes, sir. Yes,
18 Senator.

19 I would be happy to take questions when
20 I have counsel present.

21 CHAIRMAN SAMPSON: No problem. But
22 just go ahead.

23 MS. ANDERSON: Okay. It has been
24 said that men can write perfect ethical

1 systems, but nevertheless they cannot stand
2 being watched when they go out at night.

3 And I think that to a large extent
4 that's the situation with the DDC. The DDC
5 is the Departmental Disciplinary Committee,
6 for which I used to work. I was a former
7 principal attorney there for six and a half
8 years.

9 I alleged that upon learning of the
10 DDC's pattern and practice of whitewashing
11 and routinely dismissing complaints leveled
12 against certain select attorneys -- to the
13 detriment of the public that the DDC is
14 duty-bound to serve -- I reported this
15 wrongdoing pursuant to my rights under the
16 First Amendment to the United States
17 Constitution and, importantly, my own
18 ethical obligations under the New York State
19 Code of Professional Responsibility.

20 In response, however, rather than
21 attempting to address and rectify the
22 problem, my supervisors embarked upon a
23 campaign of abuse and harassment of myself,
24 including a physical assault on myself by

1 the first deputy, Sherry Cohen.

2 CHAIRMAN SAMPSON: Ms. Anderson, we
3 understand that; I can read from your
4 factual statement. But I want to get down
5 to the factual background and issues with
6 respect to --

7 MS. ANDERSON: Well, I can give you
8 one example; sir.

9 CHAIRMAN SAMPSON: That's what I want
10 to get to, some examples.

11 MS. ANDERSON: Yes. I conducted an
12 intensive investigation of a case. My
13 caseload supervisor, Judith Stein, approved
14 it, and so did Thomas Cahill, who was then
15 the chief counsel. It was recommended for
16 charges, and then suddenly it was dismissed.

17 The complainant called me -- he
18 happened to be an attorney -- and asked me
19 how could something like this happen. I
20 requisitioned the file and found that it had
21 been completely gutted. What had been a
22 file which was almost 3 inches thick was
23 suddenly an inch, perhaps. All of my work
24 product was taken out, Verizon phone records

1 that I had subpoenaed were not there --

2 CHAIRMAN SAMPSON: This was an actual
3 case you worked on?

4 MS. ANDERSON: Yes, sir. Yes,
5 Senator.

6 CHAIRMAN SAMPSON: And the documents
7 were missing?

8 MS. ANDERSON: Yes, the documents
9 were missing.

10 Another such case which I refer to as
11 whitewashing was a case which was
12 intensively, again, investigated --

13 CHAIRMAN SAMPSON: When you say
14 "intensively investigated," what do you mean
15 by that?

16 MS. ANDERSON: Okay, I will bring in
17 the complainant -- maybe once, twice -- I'll
18 bring in witnesses, I will have a
19 deposition, I will subpoena documents. I
20 left no stone unturned. I had a reputation
21 as being thorough and conscientious.

22 In that case, it was recommended for an
23 admonition because we could not really prove
24 conversion. In fact, this was a case that

1 many of my colleagues, at least four of my
2 colleagues and I agreed that there probably
3 had been conversion but we couldn't prove
4 it. And so we had to just settle for an
5 admonition.

6 Instead, Sherry Cohen came into my
7 office holding the admonition in my hand and
8 saying, "This is too harsh. I can't let it
9 go to the Policy Committee because they may
10 send it back for charges, and I can't tie up
11 an attorney on a trial for six months."

12 And I replied, "That happens all the
13 time." And she said: "No, I am going to
14 rewrite this." And I said, "You cannot
15 ethically and legally rewrite something to
16 achieve a desired outcome. You cannot skew
17 something to achieve that outcome."

18 Nevertheless, she said six months --

19 CHAIRMAN SAMPSON: Was this just in
20 this one incident, or you discovered a
21 pattern?

22 MS. ANDERSON: I discovered a
23 pattern, and this is the second example I'm
24 giving you.

1 CHAIRMAN SAMPSON: Okay.

2 MS. ANDERSON: Okay?

3 In any event, she took nine months to
4 rewrite it, and it went by under the radar.
5 And that is what I mean when I say cases are
6 whitewashed.

7 For example, another case that I had,
8 it was agreed by my caseload supervisor and
9 by Cahill that there were three elements.
10 And one of the elements was
11 misrepresentation to us, which is very
12 serious. Sherry Cohen looked at me very
13 earnestly and said: "Christine, you know
14 what happens if they lie to us. They can go
15 for charges. I don't see misrepresentation
16 here, I only see failure to pay a lien."

17 So she took the case from me and took
18 out the misrepresentation, and he got an
19 admonition purely for failing to pay a
20 medical lien. That is another example.

21 In any event, I think that you have a
22 good idea of how they -- from the prior
23 gentlemen. However, I have a recommendation
24 and --

1 SENATOR DeFRANCISCO: Excuse me one
2 moment, before you give the recommendation.
3 You've given us several instances in your
4 written remarks; you mention two here.

5 Over the six years that you were with
6 the organization, how many files did you
7 investigate?

8 MS. ANDERSON: That would be
9 difficult to tell you.

10 SENATOR DeFRANCISCO: Hundreds?
11 Tens?

12 MS. ANDERSON: Certainly hundreds,
13 yeah.

14 SENATOR DeFRANCISCO: And these
15 instances that you state in your written
16 remarks and here, are those the only
17 instances where you and your supervisor
18 differed?

19 MS. ANDERSON: No, there were others.
20 But those were some -- you wanted me to be
21 quick, so I just chose those. But there
22 were others, for example --

23 SENATOR DeFRANCISCO: What I'm trying
24 to determine here is obviously I think

1 anybody disagrees with their supervisor from
2 time to time. There's a substantial
3 difference between disagreement over a very
4 small percentage of the cases and
5 whitewashing and activities that are
6 improper that would justify recovery on a
7 lawsuit. And that's what I'm trying to
8 determine.

9 MS. ANDERSON: Well, I think you make
10 a very good point that you're not always
11 going to be in agreement on a case or how it
12 should be handled. I think you're perfectly
13 right about that.

14 And on certain occasions, rare
15 occasions, I would say yes, you know, that
16 part of it is not maybe strong enough. For
17 example, there was one where lack of
18 competence -- there is a disciplinary rule
19 about that. And I said, okay, then, let's
20 let that go. So that was -- in other words,
21 I understand being a professional and I
22 understand your question.

23 My one recommendation that I would like
24 to make, however, is on the last page, which

1 is I think that the Policy Committee should
2 be disbanded, for the simple reason that it
3 is rife with conflict.

4 As the gentleman before said, he is
5 with a large law firm and that they serve
6 without pay. It is not coincidental that on
7 one occasion at least, when one of their
8 partners' brother got into trouble, that it
9 was handled -- it was taken away from me and
10 handled very quickly and expedited to their
11 satisfaction.

12 I think that the Policy Committee is
13 actually in violation of Judiciary Law 90.10
14 because they are not --

15 (Scattered applause.)

16 CHAIRMAN SAMPSON: Ladies and
17 gentlemen, we can't -- please. Please hold
18 the applause.

19 SENATOR PERKINS: Can I ask a
20 question? Just so I'm clear, because (a)
21 you're saying that there's preferential
22 treatment in this decision-making, in this
23 process, that there are those who, because
24 of their stature or their connections, are

1 not prosecuted or investigated or whatever
2 the appropriate terminology is?

3 MS. ANDERSON: Or handled lightly.

4 SENATOR PERKINS: Or handled lightly.
5 I just want to be clear that that's what
6 you're saying.

7 MS. ANDERSON: Yes.

8 SENATOR PERKINS: Number two, if I
9 may, you also say that you were employed at
10 the DDC and you were subjected to various
11 acts of discrimination and harassment as a
12 result of your race.

13 So now are you saying that there's a
14 racial view in some of these cases as well,
15 or are you just saying that as it relates to
16 just your own particular relationship at the
17 agency?

18 MS. ANDERSON: My allegation is that
19 there was a pattern and remains a pattern of
20 discrimination against minorities at the
21 DDC.

22 (Scattered applause.)

23 CHAIRMAN SAMPSON: Ladies and
24 gentlemen, please. We don't need any

1 applause.

2 MS. ANDERSON: For many years, for
3 example, there was not one minority
4 supervisor, although several of them were
5 competent.

6 Let me just finish the point, however,
7 if you don't mind.

8 If you are not an employee of the
9 court, you have no right under 90.10 to know
10 confidential information, which was just
11 testified to. And these members of the
12 Policy Committee are not employees of the
13 court. They're not employed by the court,
14 they're outsiders. And they have no part to
15 play, because it's a direct violation of
16 90.10.

17 SENATOR PERKINS: So again, you're
18 just saying that they should be employees of
19 the court in order to be a part of that
20 Policy Committee? Or are you suggesting
21 there should be no committee? I'm just
22 trying to --

23 MS. ANDERSON: The latter. The
24 latter. We don't need a Policy Committee.

1 The DA's office doesn't have a policy
2 committee; it relies on its staff and the
3 DA. You look at the U.S. Attorney's office,
4 they don't have a policy committee.

5 We -- I am no longer "we" -- the DDC
6 has its staff and the court. There is no
7 need for Big Brother.

8 Thank you.

9 CHAIRMAN SAMPSON: Hold the applause.
10 Senator DeFrancisco has a question to
11 ask you.

12 SENATOR DeFRANCISCO: Who appoints
13 the members of the Policy Committee?

14 MS. ANDERSON: They're appointed by
15 the court.

16 SENATOR DeFRANCISCO: Thank you.

17 CHAIRMAN SAMPSON: The majority of --
18 when you say there's 12 members, I think
19 there's 12 members on the Policy
20 Committee --

21 MS. ANDERSON: Twelve, yes.

22 CHAIRMAN SAMPSON: And the majority
23 of these 12 members come from big firms,
24 small firms?

1 MS. ANDERSON: Mostly large law
2 firms.

3 CHAIRMAN SAMPSON: Large law firms.
4 What are they, partners in large law firms?
5 When you say large --

6 MS. ANDERSON: Large law firms.

7 CHAIRMAN SAMPSON: Senator Perkins.

8 SENATOR PERKINS: So why were you
9 terminated?

10 MS. ANDERSON: I was terminated for
11 internal whistleblowing and harassed. I was
12 physically assaulted. When I reported that
13 to the court, I then asked to be removed
14 from contact with Sherry Cohen, who was the
15 assailant. I was refused to be removed from
16 her. I asked for an ethical wall --

17 CHAIRMAN SAMPSON: But that is an
18 issue that's being taken in a separate
19 litigation; am I correct? You have your own
20 litigation going against --

21 MS. ANDERSON: Oh, yes. Yes.

22 CHAIRMAN SAMPSON: Senator Perkins.

23 SENATOR PERKINS: Just one final --
24 what is the racial makeup of the committee?

1 MS. ANDERSON: Of the committee?

2 SENATOR PERKINS: Yeah, of the Policy
3 Committee.

4 MS. ANDERSON: I really don't know.
5 And very frankly, I don't want to know.

6 CHAIRMAN SAMPSON: Okay. Thank you
7 very much, Ms. Anderson.

8 MS. ANDERSON: Thank you, sir. Thank
9 you, gentlemen.

10 CHAIRMAN SAMPSON: The next witness
11 is Kevin McKeown, on behalf of the Fred
12 Goetz Trust.

13 Mr. Goetz, five minutes, thank you very
14 much. Go right ahead.

15 MR. McKEOWN: First of all, Senator,
16 my name is --

17 CHAIRMAN SAMPSON: Mr. McKeown, I'm
18 sorry. Mr. McKeown.

19 MR. McKEOWN: -- Kevin McKeown, and
20 I'm not reading a statement on behalf of the
21 Fred Goetz Trust. That is going to be
22 submitted at the subsequent hearing when
23 those 13 people will fly in from around the
24 country to testify before your great