

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

LEE L. HOLZMAN,

a Judge of the Surrogate's Court,
Bronx County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to respondent, Lee L. Holzman, a Judge of the Surrogate's Court, Bronx County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon respondent the annexed Formal Written Complaint; and that, in accordance with said statute, respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its New York City office, 61 Broadway, Suite 1200, New York, New York 10006, with his verified Answer to the specific paragraphs of the Complaint.

Dated: January 4, 2011
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006
(646) 386-4800

To: David Godosky, Esq.
Godosky & Gentile, P.C.
61 Broadway, Suite 2010
New York, New York 10006

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

LEE L. HOLZMAN,

a Judge of the Surrogate's Court,
Bronx County.

**FORMAL
WRITTEN COMPLAINT**

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct ("Commission"), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.

2. The Commission has directed that a Formal Written Complaint be drawn and served upon Lee L. Holzman ("respondent"), a Judge of the Surrogate's Court, Bronx County.

3. The factual allegations set forth in Charges I through IV state acts of judicial misconduct by respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct ("Rules").

4. Respondent was admitted to the practice of law in New York in 1966. He has been a Judge of the Surrogate's Court, Bronx County, since 1988. Respondent's current term expires on December 31, 2011.

CHARGE I

5. From in or about 1995 to in or about April 2009, respondent approved legal fees payable to Michael Lippman, Counsel to the Bronx Public Administrator's Office in numerous cases, including but not limited to those set forth in Schedule A, that were: (1) based on "boilerplate" affidavits of legal services that did not contain case-specific, detailed information as to the actual services rendered to the estate, the time spent, and the method or basis by which requested compensation was determined as required by Surrogate's Court Procedure Act ("SCPA") § 1108(2)(c) and (2) awarded without consideration of the statutory factors set forth in SCPA § 1108(2)(c).

Specifications to Charge I

6. SCPA § 1108(2)(c) requires that an award of legal fees to the Counsel to the Public Administrator must be supported by an affidavit setting forth in detail the services rendered, the time spent, and the method or basis by which requested compensation was determined.

7. SCPA § 1108(2)(c) requires the Surrogate, when fixing legal fees for Counsel to the Public Administrator, to consider: (1) the time and labor required, (2) the difficulty of the questions involved, (3) the skill required to handle the problems presented, (4) the lawyer's experience, ability and reputation, (5) the amount involved and benefit resulting to the estate from the services, (6) the customary fee charged by the bar for similar services, (7) the contingency or certainty of compensation, (8) the results obtained and (9) the responsibility involved.

8. In October 2002, the Administrative Board for the Offices of the Public Administrators of New York State issued guidelines for the compensation of counsel pursuant to SCPA § 1128 (“Administrative Board Guidelines”). The guidelines require public administrators to ensure that requests for compensation of counsel are supported by an affidavit of legal services containing the information set forth in SCPA § 1108(2)(c).

9. The Administrative Board Guidelines recognize that it is the responsibility of the Surrogate to fix the reasonable compensation of counsel after consideration of the factors set forth in SCPA § 1108(2)(c). The guidelines set a sliding scale of maximum recommended legal fees based on six percent of the estate’s value for the first \$750,000, with decreasing percentages charged for estates in inverse proportion to the estate’s size beyond the initial \$750,000.

10. From in or about 1995 to in or about April 2009, in numerous cases including but not limited to those set forth in Schedule A, respondent repeatedly approved legal fees for Mr. Lippman based upon affirmations of legal services that did not comply with SCPA § 1108(2)(c).

11. From in or about 1995 to in or about April 2009, in numerous cases including but not limited to those set forth in Schedule A, Mr. Lippman requested the maximum legal fee recommended in the Administrative Board Guidelines, regardless of the size or complexity of the estate.

12. From in or about 1995 to in or about April 2009, in numerous cases including but not limited to those set forth in Schedule A, respondent repeatedly

approved legal fees for Mr. Lippman without considering the statutory factors set out in SCPA § 1108(2)(c).

13. From in or about 1995 to in or about April 2009, in numerous cases including but not limited to those set forth in Schedule A, respondent awarded Mr. Lippman the maximum fee recommended in the Administrative Board Guidelines, calculated as a percentage of the value of the assets of each estate, regardless of the size or complexity of the estate.

14. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, allowed a social, political or other relationship to influence his judicial conduct or judgment, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance his own private interest or the interest of others, and conveyed or permitted others to convey the impression that they were in a special position to influence him, in violation of Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence

in it, in violation of Section 100.3(B)(1) of the Rules, and failed to avoid favoritism and approved compensation of appointees beyond the fair value of services rendered, in violation of Section 100.3(C)(3) of the Rules.

CHARGE II

15. In or about 2005 and 2006, despite his knowledge that in numerous cases Michael Lippman, Counsel to the Public Administrator, had taken unearned advance legal fees without the approval of the court and/or fees that exceeded the amount prescribed by the Administrative Board Guidelines, respondent: (1) failed to report Mr. Lippman to law enforcement authorities or to the Departmental Disciplinary Committee of the Appellate Division, First Department, and (2) continued to award Mr. Lippman the maximum legal fee recommended in the Administrative Board Guidelines in subsequent cases and/or to award Lippman fees without consideration of the statutory factors set forth in Surrogate's Court Procedure Act § 1108(2)(c).

Specifications to Charge II

16. In or about late 2005, respondent learned that in numerous cases, Mr. Lippman had taken advance legal fees equal to 100% of maximum legal fee recommended in the Administrative Board Guidelines without the approval of the court.

17. In or about late 2005 or early 2006, respondent learned that in numerous cases, Mr. Lippman had been paid in excess of the maximum legal fees recommended in the Administrative Board Guidelines.

18. Notwithstanding this knowledge, respondent did not report Mr. Lippman to either law enforcement authorities or the Departmental Disciplinary Committee.

19. In or about 2006, respondent implemented a system by which Mr. Lippman would repay the advance and/or excess legal fees that he had previously collected.

20. At respondent's direction, Mr. Lippman was kept on staff to "work off" the excess and advance legal fees. Respondent appointed his court attorney, Mark Levy, as Counsel to the Public Administrator and asked him to oversee the repayment system. Respondent also appointed another court attorney, John Raniolo, as the Public Administrator and asked him to assist in overseeing the system.

21. From in or about 2006 to in or about 2009, Mr. Lippman turned over all legal fees he earned in more recent Public Administrator cases to repay the unearned advance and/or excess legal fees he had collected on prior pending matters.

22. In awarding fees to Mr. Lippman that were used for the repayment, respondent failed to apply the individual consideration to each estate as required by SCPA § 1108(2)(c).

23. Mr. Lippman continued to work as one of the counsels to the Public Administrator until 2009, when John Reddy, the new Counsel to the Public Administrator, terminated his services.

24. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section

44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, and allowed a social, political or other relationship to influence his judicial conduct or judgment, in violation of Section 100.2(B) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, and failed to take appropriate action upon receiving information indicating a substantial likelihood that a lawyer had committed a substantial violation of the Code of Professional Responsibility, in violation of Section 100.3(D)(2) of the Rules.

CHARGE III

25. From in or about 1997 to in or about 2005, respondent failed to adequately supervise and/or oversee the work of court staff and appointees, including but not limited to Public Administrator Esther Rodriguez, resulting in: (1) Michael Lippman, Counsel to the Public Administrator, taking advance legal fees without filing an affirmation of legal services and/or taking advance legal fees that exceeded the maximum amount recommended in the Administrative Board Guidelines, without the court's approval, (2) numerous delays in the administration of estates that were lengthy and

without valid excuse, (3) numerous individual estates with negative balances, (4) estate funds being placed in imprudent and/or unauthorized investments and (5) the Public Administrator's employment of a close acquaintance who billed estates for services that were not rendered and/or overbilled estates.

Specifications as to Charge III

Advance and Excess Legal Fees

26. From in or about 1997 to in or about 2005, in numerous cases including but not limited to those set forth in Schedule B, Public Administrator Rodriguez routinely paid to Mr. Lippman, and/or Mr. Lippman took, advance legal fees without obtaining the court's approval or requiring affirmations of legal services setting forth the work performed on the estate.

27. From in or about 1997 to in or about 2005, Ms. Rodriguez routinely paid to Mr. Lippman, and/or Mr. Lippman took, advance legal fees that exceeded the maximum legal fees recommended in the Administrative Board Guidelines, without obtaining the court's approval:

- a. In numerous cases including but not limited to those set forth in Schedule C, Mr. Lippman failed to refund money to the overcharged estates.
- b. In numerous cases including but not limited to those set forth in Schedule D, Mr. Lippman refunded money to the overcharged estates.

Delays in Estate Administration

28. From in or about 1997 to in or about 2005, in numerous cases including but not limited to those set forth in Schedule E, respondent failed to properly supervise and/or oversee his appointees with the result that cases were not timely processed and final decrees were not timely filed. In 26 cases set forth in Schedule E, respondent's failure to supervise resulted in estates remaining open for periods between five and ten years before issuance of a final decree.

Negative Balances in Numerous Estates

29. From in or about 1997 to in or about 2005, respondent failed to ensure that the Public Administrator filed adequate monthly statements of accounts that were closed or finally settled, as required by SCPA § 1109.

30. From in or about 1997 to in or about 2005, respondent failed to ensure that the Public Administrator filed adequate bi-annual reports of every estate that had not been fully distributed within two years from the date of issuance of letters of administration or letters testamentary, as required by SCPA § 1109, in that the reports did not include every estate or *inter alia* "the approximate amount of gross estates, approximate amount that has been distributed to beneficiaries, approximate amount remaining in fiduciary's hands, reason that the estate has not yet been fully distributed."

31. As a result of his failure to ensure that the Public Administrator filed adequate reports, respondent failed to recognize that numerous individual estates had negative balances.

32. From in or about 1997 to in or about 2005, respondent received quarterly reports from the accountant, Paul Rubin, which failed to contain any information on individual estates holdings and instead contained the aggregate monies held by the Public Administrator's Office in a the commingled account.

Imprudent or Unauthorized Investments

33. From in or about 1997 to in or about 2005, respondent failed to properly supervise and/or oversee his appointees with the result that the Public Administrator's Office invested approximately \$20 million of estate monies in auction rate securities, an investment that was risky and imprudent, not authorized by the SCPA § 1107 and/or contrary to the Administrative Board Guidelines.

34. In or about February 2008, the auction rate securities markets froze, with the result that the Public Administrator's Office could not sell the securities and pay out distributions to estates whose assets had been invested in the securities.

35. In or about October 2008, upon an agreement entered into the by Attorney General of the State of New York and Bank of America and Royal Bank of Canada, the banks agreed to redeem the illiquid auction rate securities, including those held by the Public Administrator's Office.

Improper Billing

36. Respondent failed to properly supervise and/or oversee his appointees with the result that, at various times while she was Public Administrator, Esther Rodriguez used her position to hire her boyfriend, John Rivera, as an independent

contractor and permitted him to overbill estates and/or to bill estates for services that were not rendered.

37. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules, and failed to require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge, in violation of Section 100.3(C)(2) of the Rules.

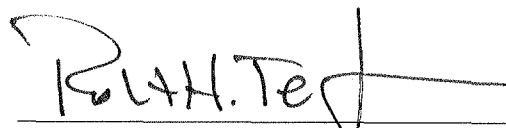
CHARGE IV

38. In or about 2001 to in or about 2003, respondent failed to disqualify himself from cases in which Michael Lippman appeared, notwithstanding that Mr. Lippman raised more than \$125,000 in campaign funds for respondent's 2001 campaign for Surrogate, Bronx County.

39. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he permitted social and political relationships to influence his conduct and judgment, in violation of Section 100.2(B) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to exercise the power of appointment impartially and on the basis of merit, in violation of Section 100.3(C)(3) of the Rules, and failed to disqualify himself in proceedings in which his impartiality might reasonably be questioned, in violation of Section 100.3(E)(1) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: January 4, 2011
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

VERIFICATION

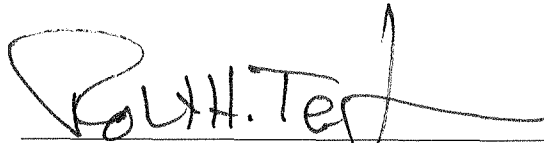
LEE L. HOLZMAN,

a Judge of the Surrogate's Court,
Bronx County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

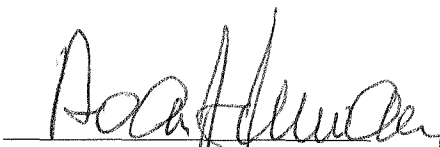
ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
4th day of January 2011



Notary Public

ROGER J. SCHWARZ
Notary Public-State of New York
No. 01SC4524866
Qualified in New York County
My Commission Expires Jan. 31, 2011

SCHEDULE A

Case Name	Case Number
Bell, Esther	658A2005
Bielfeld, Peter	151A2002
Celnick, Harold	375A2000
Cerbone, Ermelina	382A2005
Coakley, Loretta	282A2003
Conde, Jacqueline	542A2001
Danziger, John	238A2001
Demick, Evelyn	268A2004
Diop, Modou	172A2006
Echevarria, Victor	389A2002
Einstein, Florence	276A2002
Eng Bee, Edward	48A2005A
Falodun, Ayorinde	916A2002
Feingenbaum, Julius	124A2002
Gaskiewicz, Jan	639A1994
Glasco, Diane	318A2004
Harris, Jeanette	256A1999
Kissler, Norman	597A2001
Kreisher, Josephine	347A2000
Laporte, Louis	225A1998
Lifshitz, Ida	387A2001
Marks, Helen	303A202
Packin, Morris	461A2003
Patane, Joseph	25A2000
Reinstein, Sylvia	152A2004
Santiago, Edwin	100A1995
Sinclair, Delores	712A2005
Tacoronte, Carmelo	198A2005
Tarrago, John	8A2002
Vasquez, Angel	264A2001
Waks, Lawrence	409A2004

SCHEDULE B

Case Name	Case Number
Acaba, Carmen	112A2004
Acosta, Armando	344A2000
Alston, Lorenzo	48A2002B
Artis, Michael	2007-348
Blanchard, Hardy	1016P2004A
Briel, Graciela De Cordova	593A2000
Brown, Lillian	492P2003
Camara, Mohmammad	491A2000
Carter, Cornelia	714A2004
Chenault, James	192A1995
Chesterfield, David	789A2000
Dewart, Violet	217A2005
Douglas, James	626A1990
Fleischer, Isidore	766A2003
Frankolino, Gerald	25A1999
Gainer, William	78A1997
Gordon, Edith	49A2005
Hambright, Natasha	137A2000
Hollington, Floyd	641A2003/442A2002
Johnson, Owens	738A90
Kelson, James	210A2004
Laster, Sarah	384A2004
Martinez, Aristedes	143A2000
Martinez, Consuelo	140A2000
Miles, George	608M2006
Mohamed, Abullah	564A1994
Montiel, Isabel	51A1997
Raven, Julius	749A2004
Ress, Lynn	491A2005
Rosbach, Mollie	134A2006
Scott, Jacqueline	955A1996
Simpson, Ray	80A2001

SCHEDULE C

Case Name	Case Number
Biefield, Peter	151A2002
Brown, Lillian	492P2003
Carter, Cornelia	714A2004
Cokker, Naomi	164P1997
Cushman, Louis	711A2001
Eng Bee, Edward	48A2005
Falodun, Ayorinde	916A2002
Fleischer, Isidore	766A2003
Gordon, Edith	49A2005
Hollington, Floyd	641A2003/442A2002
Martinez, Aristedes	143A2000
McGoldrick, Frank	905A2002
Packin, Morris	461A2003
Rizzo, Josephine	19A2005
Simpson, Ray	80A2001

SCHEDULE D

Case Name	Case Number
Acaba, Carmen	112A2004
Acosta, Armando	344A2000
Babineau, Alice	801A1995
Bell, Esther	658A2005
Blanchard, Hardy	1016P2004
Brady, John	385A2004
Brown, Lillian	492P2003
Camara, Mohammed	491A2000
Chenault, James	192A1995
Clark, Albert	618A2005
Coakley, Loretta	282A2003
Covias, Antoinette	541A1999
Demick, Evelyn	268A2004
Dewart, Violet	217A2005
Diop, Modou	172A2006
Echevarria, Victor	389A2002
Einstein, Florence	276A2002
Frankolino, Gerald	25A1999
Glasco, Diane	318A2004
Graham, Viola	414A2004
Greenbaum, Renee	178A2004
Hambright, Natasha	137A2000
Hollywood, Peter	515A2003
Kissler, Norman	597A2001
Kreischer, Josephine	347A2000
Lashkoff, Galena	269A2005
Reinstein, Sylvia	152A2004
Ritz, Dorothy	140A2003
Rizzo, Josephine	19A2005
Santiago, Edwin	100A1995
Sinclair, Delores	712A2005A
Tacoronte, Carmelo	198A2005
Vandermark, Mary	2004A855
Vasquez, Angel	264A2001

SCHEDULE E

Case Name	Case Number
Alcantara, Samuel	730A2000
Babineau, Alice	801A1995
Blanch, Geraldine	716A2000 74A2001
Blanch, Geraldine	74A2001
Chenault, James	192A1995
Chesterfield, David	789A2000
Cushman, Louis	711A2001
Danziger, John	238A2001
Demick, Evelyn	268A2004
Echevarria, Victor	398A2002
Fleming, Elaine	819A1994
Frankolino, Gerald	25A1999
Hambright, Natasha	137A2000
Kreischer, Josephine	347A2000
Lederman, Stanley	122A1999
Martinez, Consuelo	140A2000
Montiel, Isabel	51A1997
Rodriquez, Christina	111A2000
Santiago, Edwin	100A1995
Scott, Jacqueline	955A1996
Sinclair, Delores	712A2005
Twist, Margaret	4A1995
Vandermark, Mary	2004A855
West, Margaret	45A1999
White, Warren	648A2001
Wilson, Jean	841A1995

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

LEE L. HOLZMAN,

a Judge of the Surrogate's Court,
Bronx County.

MANDATORY: Judge's Home Address

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon the judge in accordance with Judiciary Law §44, subd. 7, the Court of Appeals has asked the Commission to provide the judge's home address.

Judge's Home Address

OPTIONAL: Request and Authorization to Notify Judge's Attorney of Determination

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon me in accordance with Judiciary Law §44, subd. 7, the undersigned judge or justice:

(1) requests and authorizes the Chief Judge to cause a copy of my notification letter from him and a copy of the determination to be sent to my attorney(s) by mail:

Attorney's Name, Address, Telephone

(2) requests and authorizes the Clerk of the Commission to transmit this request to the Chief Judge together with the other required papers.

This request and authorization shall remain in force unless and until a revocation in writing by the undersigned judge or justice is received by the Commission.

Dated:

Signature of Justice

Acknowledgment:

Signature of Attorney for Justice

SEND TO: Clerk of the Commission
NYS Commission on Judicial Conduct
61 Broadway (Suite 1200)
New York, NY 10006