

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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

**MOTION TO DISMISS  
FORMAL WRITTEN COMPLAINT**

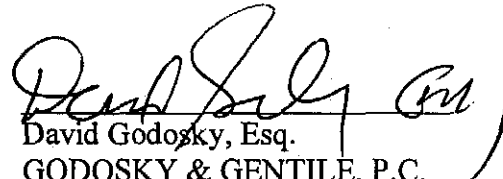
**LEE L. HOLZMAN,**

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

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**PLEASE TAKE NOTICE** that, upon the annexed Affirmation of David Godosky, Esq., dated February **2**, 2011, and upon all the pleadings herein, plaintiff will move the Commission on Judicial Conduct, at 61 Broadway, New York, New York, on the **4<sup>th</sup> day of March, 2011**, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order Dismissing the Formal Written Complaint without prejudice to re-file or, in the alternative, requesting a stay of the proceedings against Respondent, and for such other, further and different relief as The Commission deems just and proper.

Dated: New York, New York  
February 2, 2011

  
David Godosky, Esq.  
GODOSKY & GENTILE, P.C.  
Attorneys for Respondent  
61 Broadway  
New York, New York 10006  
(212) 742-9700

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

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COMMISSION ON JUDICIAL CONDUCT

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**LEE L. HOLZMAN,**

a Judge of the Surrogate's Court,  
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**DAVID GODOSKY, ESQ.**, an attorney duly admitted to practice law in the State of New York, does hereby affirm the truth of the following under penalty of perjury:

1. I am a member of the law firm of Godosky & Gentile, P.C., attorneys for the Honorable Lee L. Holzman ("Respondent").
2. This Affirmation is submitted to the Commission on Judicial Conduct ("Commission") in support of a Motion to Dismiss the Formal Written Complaint without prejudice to re-file or, in the alternative, requesting a stay of the proceedings against Respondent.
3. As set forth more fully below, the charges contained in the Formal Written Complaint dated January 4, 2011, relate almost exclusively to misconduct – indeed, criminal misconduct – committed by Michael Lippman, former Counsel to the Public Administrator in Bronx County. The investigation and prosecution of this criminal actor is pending. Mr. Lippman is being prosecuted in Supreme Court, Bronx County, under Indictment #02280-2010. At this time, the facts, testimony, records, witnesses, and indeed, the only person charged with the criminal acts perpetrated for his own benefit – Michael Lippman – are largely unavailable to Respondent. Forcing Respondent to defend

himself against these charges while the criminal prosecution of Lippman is still pending, speaks of fundamental unfairness, violates all notions of due process, and elevates prosecutorial expediency over a just and proper disciplinary procedure.

**The Formal Written Complaint and Charges**

4. Respondent was admitted to practice as an attorney in New York in 1966. He was elected Judge of the Surrogate's Court, Bronx County in 1988.
5. Pursuant to the Commission's authorization, Respondent was served with a Formal Written Complaint ("Complaint"), dated January 4, 2011, Exhibit "A". The Complaint contains four charges. The First Charge alleges that from 1995 to 2009, the Counsel to the Bronx Public Administrator's Office, Michael Lippman, requested fees that failed to comply with the Surrogate's Court Procedure Act ("SCPA"), and that Respondent approved those requests. Annexed to the Complaint is "Schedule A," purportedly listing the case names and case numbers in which the fee requests allegedly violated the SCPA. The Second Charge alleges that in 2005 and 2006 Mr. Lippman took unearned advanced legal fees without the approval of the court and that Respondent failed to report him. The Third Charge alleges that from 1997 to 2005 Respondent failed to adequately supervise the work of Public Administrator Esther Rodriguez. Annexed to the Complaint in Schedule B, is purportedly a list of the case names where Mr. Lippman allegedly took advanced legal fees paid by Ms. Rodriguez. Schedule C purportedly lists the case names where Mr. Lippman did not return money that was allegedly overcharged to estates. Schedule D purportedly lists the case names and numbers where Mr. Lippman refunded money to the allegedly overcharged estates. Schedule E purportedly lists the cases that Respondent allegedly failed to properly supervise. The Fourth Charge alleges that Mr.

Lippman allegedly raised money for Respondent's 2001 campaign for Surrogate and that Respondent failed to disqualify himself from Mr. Lippman's cases in 2001 through 2003.

6. The Complaint charges violations of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct ("Rules"). Specifically, as to Charge I, the Complaint charges violations of Sections 100.1, 100.2(A), 100.2(B), 100.2(C), 100.3(B)(1), and 100.3(C)(3). As to Charge II, the Complaint charges violations of Sections 100.1, 100.2(A), 100.2(B), 100.3(B)(1), and 100.3(D)(2). As to Charge III, the Complaint charges violations of Sections 100.1, 100.2(A), 100.2(B), 100.3(B)(1), 100.3(C)(1), and 100.3(C)(2). As to Charge IV, the Complaint charges violations of Sections 100.1, 100.2(B), 100.3(C)(3), and 100.3(E)(1).
7. Respondent served an Answer with Affirmative Defenses dated January 21, 2011, which is annexed hereto as Exhibit "B".

**Considerations of Fairness and Due Process Require a Stay of these Proceedings due to the Unavailability of Critical and Material Evidence for Respondent's Defense.**

8. Michael Lippman served as a Counsel to the Public Administrator of Bronx County for more than 30 years before he was relieved of his duties by Respondent in April of 2009. The Complaint alleges various acts of alleged misconduct by Michael Lippman ("Lippman") between the years of 1995 and April 2009.
9. For certain years in the above-referenced period, the Public Administrator was Esther Rodriguez. It is alleged in the Complaint that Ms. Rodriguez advanced certain monies and legal fees to Lippman in violation of certain fee and Surrogate's Court guidelines ("Guidelines").
10. At some point, Lippman (and, perhaps, Ms. Rodriguez) came under the investigation of the Bronx District Attorney's Office and the Department of Investigation. A multi-year

investigation culminated in the indictment of Michael Lippman. A copy of the Indictment in *People of the State of New York v. Michael Lippman*, Ind. No. 02280-2010 is annexed hereto as Exhibit "C".

11. In a press release, the Bronx District Attorney's Office noted that Lippman took certain actions, including filing fraudulent documents, in order to conceal criminal acts from the Surrogate's Court. The statement also notes that Lippman undertook other fraudulent actions in an effort to conceal or hide any excessive fees he derived from the estates. A copy of the February 5, 2010 Bronx District Attorney's Press Release is annexed hereto as Exhibit "D".<sup>1</sup>

12. The Indictment (Exhibit "C") alleges that Lippman committed the following criminal actions:

- Between February 5, 2002 and March 31, 2009, Lippman engaged "in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person and so obtained property...that being, a sum of United States Currency from the Bronx Public Administrator" as the Administrator of various estates.
- On June 10, 2004 and March 1, 2005, Lippman filed accountings and affidavits of legal services that were knowingly false, contained false statements and/or entries, and were done for the purpose of defrauding the State.
- Between the dates of March 5, 2002 and July 7, 2010, Lippman stole amounts of money ranging from in excess of \$3,000 to in excess of \$50,000 held by the Public Administrator for a certain estates.

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<sup>1</sup> A New York Law Journal article on the Lippman Indictment and Press Release noted "There is no suggestion in the indictment that Surrogate Holzman was aware that Mr. Lippman had charged excessive fees. In fact, in a statement distributed by the Bronx District Attorney's Office, prosecutors said that "in some instances" Mr. Lippman underreported his fees "in reports filed with the court to hide the excessive fees." (N.Y.L.J., July 9, 2010).

- Lippman is also charged with multiple acts of scheming to defraud, falsifying business records, filing false instruments, and committing larcenies.

13. The relief sought by this motion is necessitated by the simple fact that the public servant who was deceived by and a victim of Lippman's despicable acts is being forced to defend his own actions and knowledge **before** the criminal himself is tried and the acts and evidence attendant to Lippman's actions are fully known to Respondent and his attorneys. A "tail wagging the dog" approach to a disciplinary investigation and prosecution of a sitting Surrogate Judge is not only inappropriate, we respectfully submit, it is wholly unnecessary. The proper (and usual) course is to simply allow the criminal matter to run its course and then, if warranted, institute or resume the disciplinary proceeding against the relevant judges or attorneys.

14. Annexed hereto is an affidavit by Lippman's criminal defense attorney, Murray Richman, Esq., as Exhibit "E". Mr. Richman attests to the pendency of the criminal action and that while such action is pending, should his client be compelled by subpoena to appear at a hearing in this matter, he would advise his client to refuse to answer questions or give testimony pursuant to his rights under the Fifth Amendment of the United States Constitution. Accordingly, it is clear that should this matter proceed prior to the conclusion of the criminal prosecution of Lippman, Respondent would be forced to defend his actions, indeed his very career, without being able to examine and present the one person that the Department of Investigation and the District Attorney's Office have

concluded is responsible and criminally liable for the fraudulent scheme that was perpetrated.<sup>2</sup>

15. It is patently unfair for Respondent to be forced to mount a defense when the key witness – who is uniquely aware of the facts underlying the charges against Respondent – will refuse to answer any questions if called to testify prior to resolution of his criminal case. More importantly, upon information and belief, a multitude of witnesses have provided statements and/or testimony to the District Attorney’s Office and the Grand Jury, with the identity of such persons as well as the substance of their statements largely undiscoverable to Respondent.
16. Indisputably, the vast trove of investigative materials in the criminal prosecutor’s possession (that will, at some point, be provided to the criminal defendant) is beyond the reach of Respondent while the criminal prosecution remains active.
17. Although the pendency of a criminal proceeding does not give rise to an absolute right under the United States or New York State Constitutions to a stay of a related civil proceeding, “[t]here is no question that the court may exercise its discretion to stay proceedings in a civil action until a related criminal dispute is resolved.” DeSiervi v. Liverzani, 136 A.D.2d 527 (2nd Dept. 1988) (citing United States v. Kordel, 397 U.S. 1 (1969); Klitzman, Klitzman & Gallagher v. Krut, 591 F.Supp. 258, 269-270, n. 7, affd. 744 F.2d 955 (3rd Cir. 1984)). Courts will often exercise their discretion to grant a stay in order to avoid the risk of inconsistent adjudications, application of proof, and potential waste of judicial resources. Zonghetti v. Jeromack, 150 A.D.2d 561, 562 (2nd Dept. 1989). Another instance when a stay will be deemed necessary, which is relevant to the

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<sup>2</sup> The prejudice to Respondent is compounded should it be determined that Lippman provided testimony to the Commission during the investigative phase, allowing inquiry by Staff Counsel and investigators but depriving Respondent of any similar opportunity.

present proceedings, is when relevant and necessary evidence is within the control of the criminal investigation/trial. See J.P. Morgan Chase Bank v. Pelosi, N.Y.L.J., Dec. 26, 2003, at 19, col. 3[Supreme Court, Suffolk County, Jones, J].

18. In addition, courts are apt to exercise this discretion when issues of fairness predominate. In particular, courts have consistently held that when a party faces prejudice that would result from the assertion of the privilege against self-incrimination by a non-party witness who is a defendant in a related criminal matter, a stay is appropriate so as to protect the party's right to mount a competent defense. See Access Capital, Inc. v. DeCicco, 302 A.D.2d 48, 52 (1st Dept. 2002) ("a discretionary stay is appropriate to avoid prejudice to another party that would result from the assertion of the privilege against self-incrimination by a witness"); Walden Marine, Inc. v. Walden, 266 A.D.2d 933, 933-34 (4th Dept. 1999) (finding that a stay is appropriate to protect the rights of a party to assert a competent defense when an essential non-party witness intended to invoke the privilege); Graffagnino v. Lower Manhattan Dev. Corp., 910 N.Y.S.2d 762 (N.Y. Sup. Ct. 2010) ("[Defendant] has not shown that absent that person's testimony, it will be unable to defend itself properly."); Allen v. Rosenblatt, 5 Misc. 3d 1014(A), 798 N.Y.S.2d 707 (N.Y. Civ. Ct. 2004). See also, *infra*, Britt v. Int'l Bus Services, Inc., 255 A.D.2d 143, 143-44 (1st Dept. 1998); Stolowski v. 234 E. 178th St. LLC, 819 N.Y.S.2d 213 (N.Y. Sup. Ct. Bronx 2006).<sup>3</sup>
19. Similarly, in Britt, the Appellate Division granted the defendant's motion for a stay of a civil action pending the resolution of a criminal action involving a co-defendant. The defendant contended that because of the unresolved criminal proceedings, the co-

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<sup>3</sup> While the above cases deal with the right to mount a defense pending the outcome of a criminal trial, this is not dissimilar to the Sixth Amendment right of confrontation, which is applicable to administrative proceedings. See Gordon v. Brown, 84 N.Y.2d 574, 578 (1994).

defendant intended to assert his Fifth Amendment privilege against self-incrimination in the civil action, and that his testimony was both necessary and critical to a competent defense of the civil action. The co-defendant's counsel had indicated that his client clearly intended to invoke his right against self-incrimination. The court found that without the co-defendant's critical and necessary testimony in the civil action, the petitioner would be unable to assert a competent defense. Further, any prejudice to plaintiff by the delay, was not as severe as the prejudice defendant would suffer without a stay. Britt, 255 A.D.2d at 143-44.

20. Similarly, in Stolowski, the defendant argued that due to the anticipated assertion of the Fifth Amendment by all of the witnesses during the pendency of the related criminal proceedings, the defendant would be unable to assert a competent defense in the civil action. The court acknowledged that cases dealing with stays in civil cases, pending the outcome of a related criminal proceeding, are not entirely uniform or consistent. Despite that inconsistency, "trial courts have nevertheless rather consistently found the privilege against self-incrimination to be a compelling factor and therefore found it appropriate to stay related civil cases during the pendency of criminal prosecutions." Id. Furthermore, when there are non-party witnesses who are expected to exercise their Fifth Amendment rights and will refuse to give testimony, it hampers the defendant from preparing a competent defense. The court explained that "the exercise of discretion in granting a stay appears to be more liberal when the witnesses invoking the 5th Amendment privilege are unrelated non-party witnesses. **Thus, the fact that discovery from these unrelated persons will be unavailable in this action provides an independent basis for, and augers in favor of, a limited stay.**" Id. (Emphasis added).

21. This is precisely the scenario at hand in this case. If a stay is not granted in this proceeding, key non-party witnesses will assuredly refuse to testify, greatly prejudicing Respondent's right to mount a competent defense. Because Mr. Lippman will be available to testify upon completion of his criminal trial, as the issue of self-incrimination will no longer apply, there is no rational explanation for denying Respondent's request for a stay.
22. Even if the Commission were to argue that Respondent could proceed without this highly relevant, probative, and presently unavailable testimony and proof and mount a defense, it is inarguable that Respondent would be unfairly penalized in the presentation of a defense as to sanction. The indictment itself makes no suggestion of any proof that Respondent was aware during the relevant period that Lippman was engaging in fraudulent and criminal conduct. By its very nature, the acts perpetrated by Lippman were undertaken with the express goal of hiding his misconduct from Respondent. The measures taken by Lippman in this regard, and the extent to which such subterfuge was successful, is clearly a critical component of any sanction that would be considered against Respondent were any charges of misconduct sustained. Again, to deprive Respondent of such evidence in defending his life's work and reputation were he to face sanctions in this matter is unacceptable. To prosecute Respondent now and only later learn the full extent of the actions of an accused criminal and rogue actor – proof which may well serve to mitigate Respondent's responsibility or knowledge of such acts – leaves the realm of the reasonable and enters a “shoot ‘em first, ask questions later” style of prosecution. “The rules governing judicial conduct are rules of reason.” (The Rules

Governing Judicial Conduct, Preamble). The manner in which they are applied must be governed by reason as well, not simply dictated by the age of the Respondent.

**The Factual Allegations in the Complaint Lack Specificity and Are Unconstitutionally Vague**

23. The Complaint against Respondent is vague and its factual deficiencies render it nearly impossible to defend against. The Complaint provides gaping time periods in which other individuals allegedly engaged in certain alleged activities that the Respondent allegedly endorsed or failed to properly supervise, prevent from occurring, or failed to turn over to the authorities. The Complaint fails to actually delineate with any specificity the methods by which the actions of Lippman were carried out, what cases were actually delayed, and how and why any of this amounts to a violation by Respondent. This lack of specificity is patently insufficient and wholly violative of Respondent's constitutional right to due process, and as such, should be dismissed.
24. Disciplinary proceedings are considered to be quasi-criminal in nature. Accordingly, individuals subject to such proceedings are entitled to the elements of procedural due process, including the entitlement of having notice of the charges against him. Javits v. Stevens, 382 F. Supp. 131, 138-39 (S.D.N.Y. 1974). Because "valuable rights of the accused official are at stake, as well as his good name, the same safeguards that are used to protect good name, fame, property, or person, in courts of justice, should in substance be observed in these proceedings." People ex rel. Miller v. Elmendorf, 42 A.D. 306, 309 (3rd Dept. 1899). It is necessary that the person accused is sufficiently apprised of the charges against him so that he is able to prepare his defense. The charge needs to be definite, and "where it consists in an act done or omitted to be done, the time and place of

such act or omission to act should be stated with sufficient certainty to enable the party charged to be prepared to meet it.” *Id.* at 309. The Complaint against Respondent fails to meet these requirements of due process.

25. Wolfe v. Kelly evaluates the level of specificity constitutionally required. The petitioner in that case, a police officer, challenged an employment termination proceeding based on charges that he stopped unidentified individuals in unspecified locations and confiscated unspecified amounts of narcotics and cash on four occasions that occurred on unspecified dates at some time during a 24-month period. The petitioner asserted that the vagueness of the charges denied him due process because he was prevented from preparing a defense. The Appellate Division agreed. The court found that chief among the principles of Due Process is notice of the charges. In the context of an administrative hearing, the charges need to be “reasonably specific, in light of all the relevant circumstances, to apprise the party whose rights are being determined of the charges against him...and to allow for the preparation of an adequate defense.” Furthermore, stating general time frames in the complaint is not reasonably specific so as to satisfy due process requirements. Wolfe v. Kelly, 911 N.Y.S.2d 362, 363 (1st Dept. 2010).
26. The Complaint against Respondent fails to specify the particular facts underlying the charged violations. The First Charge alleges “[f]rom in or about 1995 to in or about April 2009,” Mr. Lippman submitted affirmations of legal services that did not comply with the SPCA and requested the maximum fees allowable under the SCPA, and that Respondent, “in numerous cases including but not limited to those set forth in Schedule A,” awarded Mr. Lippman’s requests. That the first charge provides a *fourteen year time span* in which Lippman had on certain occasions violated the SCPA, without further

factual support other than an annexed list of cases naming when one or more of these violations allegedly occurred, is constitutionally deficient. It is impossible for Respondent to defend himself against allegations – spanning over a fourteen-year time period – that are so completely devoid of factual support.

27. The Second Charge alleges that “in or about late 2005,” Respondent learned in “numerous cases,” that Mr. Lippman had taken advance legal fees equal to the maximum legal fee recommended in the Guidelines without the approval of the court and that “in numerous cases,” had taken fees in excess of the Guidelines. The Complaint does not specify on how many occasions Mr. Lippman violated the Guidelines nor does it specify on which occasion these violations occurred. The Complaint further alleges that Respondent “did not report Mr. Lippman” and that “[i]n 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.”
28. The Third Charge provides even less specificity than the previous charge, alleging that “in or about 1997 to in or about 2005” the Public Administrator Rodriguez paid Mr. Lippman, or that Mr. Lippman took, advance legal fees without obtaining the court’s approval or requiring affirmations of legal services. The Complaint does not set forth on which occasions these actions occurred, nor does it direct on how many occasions this occurred or the manner in which it occurred throughout the *eight year time period*.
29. Rather, the Complaint states that “[i]n numerous cases including but not limited to those set forth in Schedule C, Mr. Lippman failed to refund money to the overcharged estates” and that “[i]n numerous cases including but not limited to those set forth in Schedule D, Mr. Lippman refunded money to the overcharged estates.” Both of the Schedules

provide up to thirty five case names without any other qualifying information. In addition, the Complaint states that “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.” The Complaint then directs to Schedule E for a list of twenty six cases where the Respondent’s alleged failure to supervise may or may not have “resulted in estates remaining open for periods between five and ten years before issuance of a final decree.”

30. The Complaint does not provide any other information nor offer any information as to any individual case or claim. That each case on the Schedules may have been open for a certain period of time (and the exact period claimed is unknown and indiscernible from the Complaint) is woefully insufficient to inform Respondent as what claim is being made as to the specific cause of delay in each case so listed. Either the Commission did not determine the time line for each case (including objections, kinship hearings, etc.) in assessing the “delay” or did not care to do so. In either event, Respondent is entitled to know the claimed breach, misconduct and specific date of same with respect to each case or estate. Respondent should not be forced to initiate an investigation to attempt to determine what period of time the Commission claims constituted “delay” attributable to “misconduct”.

31. The Third Charge also alleges, “[f]rom in or about 1997 to in or about 2005, the respondent failed to ensure that the Public Administrator filed adequate monthly statements of accounts that were closed or finally settled and adequately reported of every estate that had not been fully distributed within two years from the date of issuance

of letters of administration or letters testamentary.” The Third Charge also alleges that “in or about 1997 to in or about 2005,” Respondent received quarterly reports from the accountant that failed to contain information on individual estates holdings and instead contained the aggregate monies held by the Public Administrator’s Office in a commingled account. The Complaint fails to mention how many reports were deficient, how they were deficient, and on how many occasions these reports were deficient throughout the eight year time period cited.

32. In addition, the Complaint alleges that “[f]rom in or about 1997 to in or about 2005, respondent failed to properly supervise and/or oversee” the Public Administrator’s Office’s investment of approximately \$20 million of estate monies in risky and imprudent investments. Again, during this vast, eight year time period, Respondent allegedly failed to oversee a nondescript number of investments that were risky and imprudent by the standards of this Complaint.

33. Although the Complaint provides certain information related to the general behavior and activities of individuals working for Respondent, it has failed to provide particular facts pertaining to the acts, occurrences, or transactions allegedly done by those individuals. In fact, the Complaint fails to indicate approximately when any one act, occurrence, or transaction supposedly occurred outside of providing a general time frame of up to fourteen years. And most importantly, the Complaint is utterly devoid of any of these facts related to any acts, occurrences, or transactions done by the Respondent, and thus fails to give Respondent reasonable notice of the charges against him.

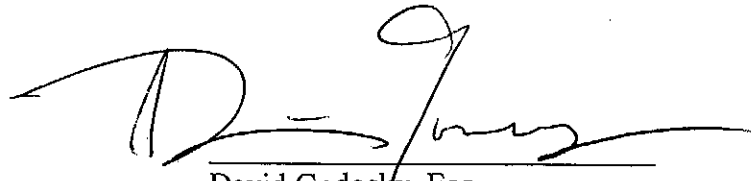
34. Furthermore, providing time periods as vast as fourteen years in which supposed violations by Respondent occurred is completely unreasonable. People v. Vogt, 172

A.D.2d 864, 865 (2nd Dept. 1991) (finding ten-month time period for alleged activity unreasonable); People v. Evangelista, 771 N.Y.S.2d 791, 795 (N.Y. Crim. Ct. Bronx 2003) (finding the time interval of six months and eleven days *per se* unreasonable”).

35. The lack of specificity in each of the charges and the reliance on annexed case names and nothing more is a clear violation of Respondent’s due process right of fair notice and impedes his right to mount a competent defense. Moreover, any information relevant to these charges is not within his area of knowledge as the bulk of the charges are predicated on other individual’s conduct, and, for the most part, his alleged failure to supervise. Respondent is being deprived not only of specific facts and notice regarding the underlying claims and case, but will assuredly be denied the right to make inquiry of the person or persons who perpetrated these misdeeds and frauds. Such a situation is abhorrent to notions of fairness and due process and effectively eliminates Respondent’s ability to mount a defense.
36. The Complaint issued by the Commission fails to properly delineate the factual charges against Respondent, opting instead for annexed lists coupled with broad allegations and even broader time-periods that lack critical information. Further evidence demonstrating the Commission’s overriding concern – expediency – is the Commission’s recent letter, annexed hereto as Exhibit “F“, which pushes for the “prompt designation of a referee.” However, expediency should not be pursued at the expense of fairness. As the Court of Appeals stated in Kelly v. Greason, 23 N.Y.2d 368, 383 (1968), “Disciplinary proceedings are generally pursued at a cautious pace, because of the serious effects upon practitioners.” Clearly, obviating prejudice to Respondent outweighs the Commission’s desire for a hasty resolution in this matter.

37. For these reasons, it is respectfully requested that the Formal Written Complaint be dismissed in its entirety without prejudice to re-file with greater specificity at such time as the criminal proceeding against Michael Lippman has concluded or that the Commission stay the proceedings pending completion of Mr. Lippman's criminal trial.

Dated: February 2, 2011  
New York, New York

A handwritten signature in black ink, appearing to read "David Godosky", written over a horizontal line.

David Godosky, Esq.  
GODOSKY & GENTILE, P.C.



STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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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.

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**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  
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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.

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**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.

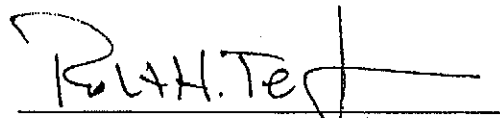
#### **CHARGE IV**

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

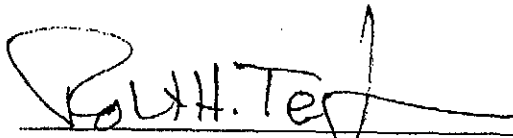
**LEE L. HOLZMAN,**

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  
4<sup>th</sup> 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, Mohammad	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

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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 Proceedings Pursuant  
to Section 44, subdivision 4, of the  
Judiciary Law in Relation to

**VERIFIED ANSWER TO  
FORMAL WRITTEN COMPLAINT**

**LEE L. HOLZMAN,**

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

LEE L. HOLZMAN, by his attorneys GODOSKY & GENTILE, PC., as and for his answer  
to the Formal Written Complaint, sets forth as follows:

1. Admits allegations in paragraph "1" of the Formal Written Complaint.
2. Denies knowledge or information sufficient to form a belief with respect to paragraph "2"  
of the Formal Written Complaint.
3. Denies each and every allegation contained in paragraph "3" of the Formal Written  
Complaint.
4. Admits allegations contained in paragraph "4" of the Formal Written Complaint, except  
Denies that the Respondent's current term expires on December 31, 2011.

**ANSWERING CHARGE I**

5. Denies each and every allegation contained in paragraph numbered and designated as "5".
6. Admits allegations in paragraphs numbered and designated as "6", "7", and "8".
7. Denies each and every allegation contained in paragraph numbered and designated as "9",  
except admits that 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).

8. Denies each and every allegation contained in paragraphs numbered and designated as "10", "12", "13" and "14".
9. Denies knowledge or information sufficient to form a belief with respect to paragraph numbered and designated as "11".

#### ANSWERING CHARGE II

10. Denies each and every allegation contained in paragraphs numbered and designated as "15", "17", "22" and "24".
11. Denies each and every allegation contained in paragraph numbered and designated as "16", except that Respondent admits he learned at some point in time that Michael Lippman had received advance legal fees.
12. Denies knowledge or information sufficient to form a belief with respect to paragraph numbered and designated as "18", except Admits that Respondent did not report Mr. Lippman to Law Enforcement Authority or the Departmental Disciplinary Committee, but there came a time when the Respondent was aware that Mr. Lippman was under investigation.
13. Denies knowledge or information sufficient to form a belief with respect to paragraph numbered and designated as "19", except to admit that in or about 2006 respondent implemented a system by which Mr. Lippman would repay advance legal fees he had collected.
14. Admits allegations in paragraphs numbered and designated as "20", except denies that at respondent's direction Mr. Lippman was kept on staff to "work off" excess legal fees.

Respondent implemented a system wherein fees earned by Mr. Lippman were first used to repay advance legal fees he had collected.

15. Denies knowledge or information sufficient to form a belief with respect to paragraph numbered and designated as "21".
16. Admits the allegation in paragraph numbered and designated as "23", except denies that John Reddy had the authority to terminate Mr. Lippman without the authorization of respondent and that respondent so authorized the termination.

### ANSWERING CHARGE III

17. Denies each and every allegation contained in paragraphs numbered and designated as "25", "28", "29", "30", "31", "33", "36" and "37".
18. Denies knowledge or information sufficient to form a belief with respect to paragraphs numbered and designated as "26" and "27", in that the factual allegation is nonsensical, vague and overly broad.
19. Admits allegations in paragraph numbered and designated as "32".
20. Denies knowledge or information sufficient to form a belief with respect to paragraphs numbered and designated as "34" and "35".

### ANSWERING CHARGE IV

21. Denies knowledge or information sufficient to form a belief with respect to paragraph numbered and designated as "38".
22. Denies each and every allegation contained in paragraph numbered and designated as "39".

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

The Complaint must be dismissed as it fails to state a claim, cause of action or violation of the Rules.

**AS AND FOR SECOND AFFIRMATIVE DEFENSE**

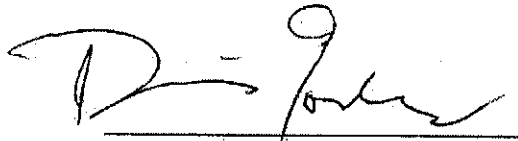
The Complaint must be dismissed as the factual allegations set forth therein are unconstitutionally vague, overly broad and fail to advise the Respondent of the specific cases or actions upon which the alleged violations are predicated.

**AS AND FOR THIRD AFFIRMATIVE DEFENSE**

The Complaint and the charges are violative of the Respondent's due process rights.

WHEREFORE, respondent, LEE L. HOLZMAN, respectfully requests that the complaint against him be dismissed in all respects.

Dated: New York, New York  
January 21, 2011



DAVID GODOSKY, ESQ.  
GODOSKY & GENTILE, P.C.  
Attorneys for Defendant  
61 Broadway  
New York, New York 10006  
(212) 742-9700

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

**INDIVIDUAL VERIFICATION**

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

LEE L. HOLZMAN, being duly sworn, deposes and says:

I am the respondent in the within action. I have read the annexed ANSWER, know the contents thereof, and the same is true to my knowledge, except those matters stated upon information and belief, and as to those matters I believe them to be true.

Lee L. Holzman  
LEE L. HOLZMAN

Sworn to before me on this  
20<sup>th</sup> day of January, 2011

Mark J. Levy  
Notary Public

**MARK J. LEVY**  
NOTARY PUBLIC, State of New York  
No. 02LE4625414, Bronx County  
Commission Expires March 30, 2014

Exhibit C

I N D I C T M E N T

S U P R E M E C O U R T O F T H E S T A T E O F N E W Y O R K  
C O U N T Y O F B R O N X

---

PEOPLE OF THE STATE OF NEW YORK  
AGAINST

(X) LIPPMAN, MICHAEL  
DEFENDANT: IBNA

---

INDICTMENT #:  
GRAND JURY #: 43276/2010

COUNTS

SCHEME TO DEFRAUD IN THE FIRST DEGREE (ONE COUNT)

OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE (FOUR COUNTS)

FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE (FOUR COUNTS)

GRAND LARCENY IN THE SECOND DEGREE (TWO COUNTS)

GRAND LARCENY IN THE THIRD DEGREE (THREE COUNTS)

CONFLICT OF INTEREST (ONE COUNT)

B Panel  
7th Term  
JULY 7, 2010

A TRUE BILL

---

FOREPERSON

ROBERT T. JOHNSON  
DISTRICT ATTORNEY

FIRST COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF SCHEME TO DEFRAUD IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 190.65(1)(B), COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN ON OR ABOUT AND BETWEEN FEBRUARY 5, 2002 AND MARCH 31, 2009, IN THE COUNTY OF THE BRONX, DID ENGAGE IN A SCHEME CONSTITUTING A SYSTEMATIC ONGOING COURSE OF CONDUCT WITH INTENT TO DEFRAUD MORE THAN ONE PERSON AND SO OBTAINED PROPERTY WITH A VALUE IN EXCESS OF ONE THOUSAND DOLLARS FROM ONE OR MORE SUCH PERSONS, THAT BEING, A SUM OF UNITED STATES CURRENCY FROM THE BRONX PUBLIC ADMINISTRATOR AS ADMINISTRATOR OF THE ESTATES OF CUSHMAN, GREENBAUM, MCGOLDRICK, LASKHOFF, AND RIZZO.

SECOND COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 175.35, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT JUNE 10, 2004, IN THE COUNTY OF THE BRONX, KNOWING THAT A WRITTEN INSTRUMENT CONTAINED A FALSE STATEMENT OR FALSE INFORMATION AND WITH INTENT TO DEFRAUD THE STATE OR ANY POLITICAL SUBDIVISION, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION OF THE STATE, DID OFFER OR PRESENT IT TO A PUBLIC OFFICE OR PUBLIC SERVANT WITH THE KNOWLEDGE OR BELIEF THAT IT WOULD BE FILED WITH, REGISTERED OR RECORDED IN OR OTHERWISE BECOME A PART OF THE RECORDS OF SUCH PUBLIC OFFICE OR PUBLIC SERVANT, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION, THAT BEING AN AFFIRMATION OF LEGAL SERVICES RENDERED AS COUNSEL TO THE PUBLIC ADMINISTRATOR, AS ADMINISTRATOR OF THE ESTATE OF CUSHMAN.

THIRD COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 175.35, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT JUNE 10, 2004, IN THE COUNTY OF THE BRONX, KNOWING THAT A WRITTEN INSTRUMENT CONTAINED A FALSE STATEMENT OR FALSE INFORMATION AND WITH INTENT TO DEFRAUD THE STATE OR ANY POLITICAL SUBDIVISION, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION OF THE STATE, DID OFFER OR PRESENT IT TO A PUBLIC OFFICE OR PUBLIC SERVANT WITH THE KNOWLEDGE OR BELIEF THAT IT WOULD BE FILED WITH, REGISTERED OR RECORDED IN OR OTHERWISE BECOME A PART OF THE RECORDS OF SUCH PUBLIC OFFICE OR PUBLIC SERVANT, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION, THAT BEING AN ACCOUNTING PREPARED BY MICHAEL LIPPMAN, ESQ. AS COUNSEL TO THE BRONX PUBLIC ADMINISTRATOR, AS ADMINISTRATOR FOR THE ESTATE OF CUSHMAN.

FOURTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 175.10, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT JUNE 10, 2004, IN THE COUNTY OF THE BRONX, WITH INTENT TO DEFRAUD AND WITH THE INTENT TO COMMIT ANOTHER CRIME OR TO AID OR CONCEAL THE COMMISSION THEREOF, DID MAKE OR CAUSE A FALSE ENTRY IN THE BUSINESS RECORDS OF AN ENTERPRISE, THAT BEING AN AFFIRMATION OF LEGAL SERVICES RENDERED AS COUNSEL TO THE PUBLIC ADMINISTRATOR, AS ADMINISTRATOR OF THE ESTATE OF CUSHMAN.

FIFTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 175.10, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT JUNE 10, 2004, IN THE COUNTY OF THE BRONX, WITH INTENT TO DEFRAUD AND WITH THE INTENT TO COMMIT ANOTHER CRIME OR TO AID OR CONCEAL THE COMMISSION THEREOF, DID MAKE OR CAUSE A FALSE ENTRY IN THE BUSINESS RECORDS OF AN ENTERPRISE, THAT BEING AN ACCOUNTING PREPARED BY MICHAEL LIPPMAN, ESQ. AS COUNSEL TO THE BRONX PUBLIC ADMINISTRATOR, AS ADMINISTRATOR FOR THE ESTATE OF CUSHMAN.

SIXTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF GRAND LARCENY IN THE SECOND DEGREE, IN VIOLATION OF PENAL LAW § 155.40(1), COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN ON OR ABOUT AND BETWEEN MARCH 5, 2002 AND JULY 7, 2010, IN THE COUNTY OF THE BRONX, DID STEAL PROPERTY HAVING A VALUE OF MORE THAN FIFTY THOUSAND DOLLARS, THAT BEING A SUM OF UNITED STATES CURRENCY, HELD BY THE BRONX PUBLIC ADMINISTRATOR AS ADMINISTRATOR TO THE ESTATE OF CUSHMAN.

SEVENTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 175.35, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT MARCH 1, 2005, IN THE COUNTY OF THE BRONX, KNOWING THAT A WRITTEN INSTRUMENT CONTAINED A FALSE STATEMENT OR FALSE INFORMATION AND WITH INTENT TO DEFRAUD THE STATE OR ANY POLITICAL SUBDIVISION, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION OF THE STATE, DID OFFER OR PRESENT IT TO A PUBLIC OFFICE OR PUBLIC SERVANT WITH THE KNOWLEDGE OR BELIEF THAT IT WOULD BE FILED WITH, REGISTERED OR RECORDED IN OR OTHERWISE BECOME A PART OF THE RECORDS OF SUCH PUBLIC OFFICE OR PUBLIC SERVANT, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION, THAT BEING AN AFFIRMATION OF LEGAL SERVICES RENDERED AS COUNSEL TO THE PUBLIC ADMINISTRATOR, AS ADMINISTRATOR OF THE ESTATE OF GREENBAUM.

EIGHTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF OFFERING A FALSE INSTRUMENT, IN VIOLATION OF PENAL LAW § 175.35, FOR FILING IN THE FIRST DEGREE COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT MARCH 1, 2005, IN THE COUNTY OF THE BRONX, KNOWING THAT A WRITTEN INSTRUMENT CONTAINED A FALSE STATEMENT OR FALSE INFORMATION AND WITH INTENT TO DEFRAUD THE STATE OR ANY POLITICAL SUBDIVISION, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION OF THE STATE, DID OFFER OR PRESENT IT TO A PUBLIC OFFICE OR PUBLIC SERVANT WITH THE KNOWLEDGE OR BELIEF THAT IT WOULD BE FILED WITH, REGISTERED OR RECORDED IN OR OTHERWISE BECOME A PART OF THE RECORDS OF SUCH PUBLIC OFFICE OR PUBLIC SERVANT, PUBLIC AUTHORITY, OR PUBLIC BENEFIT CORPORATION, THAT BEING AN ACCOUNTING PREPARED BY MICHAEL LIPPMAN, ESQ. AS COUNSEL TO THE BRONX PUBLIC ADMINISTRATOR, AS ADMINISTRATOR FOR THE ESTATE OF GREENBAUM.

NINTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 175.10, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT MARCH 1, 2005, IN THE COUNTY OF THE BRONX, WITH INTENT TO DEFRAUD AND WITH THE INTENT TO COMMIT ANOTHER CRIME OR TO AID OR CONCEAL THE COMMISSION THEREOF, DID MAKE OR CAUSE A FALSE ENTRY IN THE BUSINESS RECORDS OF AN ENTERPRISE, THAT BEING AN AFFIRMATION OF LEGAL SERVICES RENDERED AS COUNSEL TO THE PUBLIC ADMINISTRATOR, AS ADMINISTRATOR OF THE ESTATE OF GREENBAUM.

TENTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, IN VIOLATION OF PENAL LAW § 175.10, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN, ON OR ABOUT MARCH 1, 2005, IN THE COUNTY OF THE BRONX, WITH INTENT TO DEFRAUD AND WITH THE INTENT TO COMMIT ANOTHER CRIME OR TO AID OR CONCEAL THE COMMISSION THEREOF, DID MAKE OR CAUSE A FALSE ENTRY IN THE BUSINESS RECORDS OF AN ENTERPRISE, THAT BEING AN ACCOUNTING PREPARED BY MICHAEL LIPPMAN, ESQ. AS COUNSEL TO THE BRONX PUBLIC ADMINISTRATOR, AS ADMINISTRATOR FOR THE ESTATE OF GREENBAUM

ELEVENTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT, ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF GRAND LARCENY IN THE THIRD DEGREE, IN VIOLATION OF PENAL LAW § 155.35, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN ON OR ABOUT AND BETWEEN MARCH 18, 2004 AND JULY 7, 2010, IN THE COUNTY OF THE BRONX, DID STEAL PROPERTY HAVING A VALUE OF MORE THAN THREE THOUSAND DOLLARS, THAT BEING A SUM OF UNITED STATES CURRENCY, HELD BY THE BRONX PUBLIC ADMINISTRATOR AS ADMINISTRATOR TO THE ESTATE OF GREENBAUM.

TWELFTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT,  
ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF GRAND LARCENY IN THE  
THIRD DEGREE, IN VIOLATION OF PENAL LAW § 155.35, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN ON OR ABOUT AND BETWEEN JANUARY 9,  
2003 AND JULY 7, 2010, IN THE COUNTY OF THE BRONX, DID STEAL PROPERTY HAVING  
A VALUE OF MORE THAN THREE THOUSAND DOLLARS, THAT BEING A SUM OF UNITED  
STATES CURRENCY, HELD BY THE BRONX PUBLIC ADMINISTRATOR AS ADMINISTRATOR TO THE  
ESTATE OF MCGOLDRICK.

THIRTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT,  
ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF GRAND LARCENY IN THE  
THIRD DEGREE, IN VIOLATION OF PENAL LAW § 155.35, COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN ON OR ABOUT AND BETWEEN MAY 7, 2005  
AND JULY 7, 2010, IN THE COUNTY OF THE BRONX, DID STEAL PROPERTY HAVING A  
VALUE OF MORE THAN THREE THOUSAND DOLLARS, THAT BEING A SUM OF UNITED STATES  
CURRENCY, HELD BY THE BRONX PUBLIC ADMINISTRATOR AS ADMINISTRATOR TO THE ESTATE  
OF LASKHOFF.

FOURTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT,  
ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF GRAND LARCENY IN THE  
SECOND DEGREE, IN VIOLATION OF PENAL LAW § 155.40(1), COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN ON OR ABOUT AND BETWEEN JANUARY 7,  
2005 AND JULY 7, 2010, IN THE COUNTY OF THE BRONX, DID STEAL PROPERTY HAVING  
A VALUE OF MORE THAN FIFTY THOUSAND DOLLARS, THAT BEING A SUM OF UNITED  
STATES CURRENCY, HELD BY THE BRONX PUBLIC ADMINISTRATOR AS ADMINISTRATOR TO THE  
ESTATE OF RIZZO.

FIFTEENTH COUNT

THE GRAND JURY OF THE COUNTY OF THE BRONX BY THIS INDICTMENT,  
ACCUSES THE DEFENDANT MICHAEL LIPPMAN OF THE CRIME OF CONFLICT OF INTEREST, IN  
VIOLATION OF N.Y.C. CHARTER CHAPTER 68, § 2604(B)(3), COMMITTED AS FOLLOWS:

THE DEFENDANT, MICHAEL LIPPMAN ON OR ABOUT AND BETWEEN FEBRUARY 5,  
2002 AND JULY 7, 2010, IN THE COUNTY OF THE BRONX, DID USE HIS POSITION AS A  
PUBLIC SERVANT TO OBTAIN FINANCIAL GAIN OR OTHER PRIVATE OR PERSONAL ADVANTAGE,  
DIRECT OR INDIRECT, FOR THE PUBLIC SERVANT OR ANY PERSON OR FIRM ASSOCIATED WITH  
THE PUBLIC SERVANT.

ROBERT T. JOHNSON  
DISTRICT ATTORNEY

G R A N D J U R Y R E P O R T

C O U N T Y : B R O N X

INDICTMENTS#                      GRAND JURY # 43276/2010      FINDING: INDICTED

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DEFENDANTS

CORRESPONDING DOCKETS

---

1. LIPPMAN, MICHAEL

IBNA

---

INDICTMENT CHARGES

SCHEME TO DEFRAUD IN THE FIRST DEGREE (ONE COUNT)

P.L. 190.65(1) (b)

OFFERING A FALSE INSTRUMENT FOR FILING IN THE FIRST DEGREE (FOUR COUNTS)

P.L. 175.35

FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE (FOUR COUNTS)

P.L. 175.10

GRAND LARCENY IN THE SECOND DEGREE (TWO COUNTS)

P.L. 155.40(1)

GRAND LARCENY IN THE THIRD DEGREE (THREE COUNTS) \_

P.L. 155.35

CONFLICT OF INTEREST (ONE COUNT)

N.Y.C.C. 2604(B) (3)

SCHEDULED ARRAIGNMENT DATE:

ARRAIGNMENT PART:

OTHER ASSOCIATED INDICTMENTS:

DATE COMPLETED: JULY 7, 2010

ADA: MOSTAJO, MARIA C  
BUREAU: RACKETS BUREAU

Exhibit D

Press  
Release

2010-25 Thursday, July 8, 2010

**July 8, 2010**

**GRAND JURY INDICTS FORMER COUNSEL TO THE BRONX PUBLIC ADMINISTRATOR WITH  
OVERCHARGING LEGAL FEES INVOLVING THE ESTATES OF PEOPLE WHO DIED WITHOUT  
LEAVING A WILL**

Public  
Information  
198 E. 161st St.  
Bronx, NY  
10451  
(718) 590-2234

Bronx District Attorney Robert T. Johnson and NYC Department of Investigation Commissioner Rose Gill Hearn announced today the indictment and arrest of attorney Michael Lippman, former Counsel to the Bronx Public Administrator.

Robert T.  
Johnson  
District  
Attorney

A grand jury returned a 15 count indictment charging Lippman with Grand Larceny in the 2nd and 3rd degrees, Scheme to Defraud in the 1st degree, Offering a False Instrument for Filing in the 1st degree, Falsifying Business Records in the 1st degree, and Conflict of Interest. The most serious offense, Grand Larceny in the 2nd degree is a Class C felony offense punishable by a maximum sentence of up to 15 years imprisonment.

The charges in this indictment are merely accusations and the defendant is presumed innocent unless and until proven guilty.

Lippman surrendered with his attorney and was arraigned before Acting State Supreme Court Justice Steven Barrett who released Lippman on his own recognizance with the People's consent.

Today's arrest is the result of a joint investigation by the New York City Department of Investigation and the Office of the Bronx District Attorney.

The investigation uncovered evidence that the defendant allegedly charged the estates of five individuals \$300,000 in excessive legal fees and filed fraudulent documents with the Surrogate Court in order to conceal the thefts.

The Public Administrator in each of the City's five counties is responsible for administering the estates of those who die intestate (without a will), or when no other individual is willing or qualified to do so. The Administrators report to their respective county Surrogates. Each Administrator has assigned counsel to assist in the collection of assets, the payment of debts, managing the decedents' assets and search for possible heirs. The Administrator is also responsible for filing tax returns on behalf of heirs and eventually the distribution of collected assets. In addition, counsel to the Administrator is responsible for the preparation and submission of informatory Accountings to the county Surrogate, explaining the transactions conducted on behalf of the estate, as well as the submission of Affirmation of Legal Services, indicating the nature of the work performed, the amount of time spent and the legal fees to be paid by the estate. Legal fees paid to counsel for the Public Administrator are set by the Interim Report and Guidelines of the Administrative Board for the Offices of the Public Administrators (Administrative Board Guidelines) and are approved by the county's Surrogate.

The indictment charged that Michael Lippman received advance legal fees and fees in excess of the Administrative Board Guidelines. Moreover, it is alleged that Lippman failed to file Accountings in a timely manner, which led the estates to linger unattended for years and beneficiaries did not receive their inheritance. Lippman is also charged with, in some instances, under-reporting the fees which he actually received, in reports filed with the court in an effort to hide the excessive fees.

Lippman was relieved of his position as counsel to the Public Administrator in April 2009 after having served as counsel for more than thirty years.

District Attorney Johnson and Commissioner Hearn thanked the following for their hard work and dedication which resulted in this indictment: Floralba Paulino, Chief Investigative Auditor; Keith Schwam, Assistant Commissioner; Bonnie Gould, Bronx County Public Administrator; and Counsel to the Public Administrator, John Reddy of the Law Firm Reddy, Levy and Ziffer; Assistant District Attorney Thomas Leahy, Chief of the Rackets Bureau; and Assistant District Attorneys Maria Mostajo and Vanessa McEvoy of the Rackets Bureau.

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2011 Bronx District Attorney's Office



STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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

Affidavit of Murray Richman

**LEE L. HOLZMAN,**

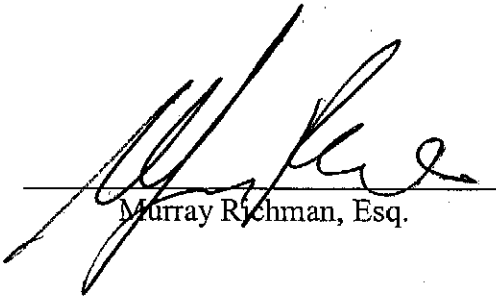
a Judge of the Surrogate's Court,  
Bronx County.

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

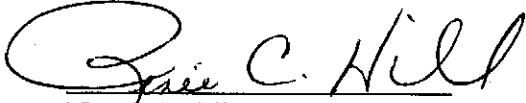
MURRAY RICHMAN, ESQ., being duly sworn, deposes and says:

1. I am an attorney and a member of The Law Offices of Murray Richman, a law firm specializing in the field of Criminal Law.
2. I am over the age of eighteen (18) and I am not a party to this action. I am an attorney admitted to the New York Bar in 1964.
3. I currently represent Michael Lippman, former Counsel to the Bronx Public Administrator's Office, in a criminal action, *People of the State of New York v. Michael Lippman*, currently pending in Supreme Court, Bronx County under the Case Number 02280-10.
4. I recently have become aware of the proceedings currently related to the Honorable Lee L. Holzman, the subject of this motion herein.
5. Should my client, Mr. Lippman, be subpoenaed to testify in this proceeding prior to the resolution of his criminal prosecution, in response to any questions posed, I would advise my

client to exercise his constitutional rights to refuse to answer any such questions under the Fifth Amendment.

  
Murray Richman, Esq.

Sworn to before me this  
31<sup>st</sup> day of January, 2011

  
Notary Public

**RENEE C. HILL**  
Notary Public, State of New York  
No. 03-5011465  
Qualified in Bronx County  
Commission Expires 4/19/11

Exhibit F



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN  
ADMINISTRATOR & COUNSEL

61 BROADWAY  
NEW YORK, NEW YORK 10006

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EDWARD LINDNER  
DEPUTY ADMINISTRATOR

JEAN JOYCE  
ROGER J. SCHWARZ  
SENIOR ATTORNEYS

BRENDA CORREA  
KELVIN S. DAVIS  
STAFF ATTORNEYS

ALAN W. FRIEDBERG  
SPECIAL COUNSEL

**CONFIDENTIAL**

January 24, 2011

By Hand

Jean M. Savanyu, Esq.  
Clerk  
New York State Commission on Judicial Conduct  
61 Broadway  
New York, New York 10006

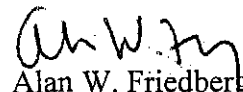
*Re: Matter of Lee L. Holzman*

Dear Ms. Savanyu:

We believe that Judge Holzman reaches the mandatory retirement age of 70 in 2011 and that the Commission must therefore complete proceedings by the end of this year. Accordingly, we request the prompt designation of a referee.

Thank you for your attention to this matter.

Very truly yours,

  
Alan W. Friedberg  
Special Counsel

cc: By Hand  
David Godosky, Esq.  
Godosky & Gentile, P.C.  
61 Broadway – Suite 2010  
New York, New York 10006