

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

LISA R. RANA,

a Justice of the East Hampton Town Court and
the Sag Harbor Village Court, Suffolk County.

**AGREED
STATEMENT OF FACTS**

Subject to the approval of the Commission on Judicial Conduct
("Commission"):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Honorable Lisa R. Rana ("Respondent"), who is represented in this proceeding by Deborah A. Scalise of Scalise and Hamilton, PC, that further proceedings are waived and that the Commission shall make its determination upon the following facts, which shall constitute the entire record in lieu of a hearing.

1. Respondent was admitted to the practice of law in New York in 1992. She has been a Justice of the East Hampton Town Court, Suffolk County, since 2004, and a Justice of the Sag Harbor Village Court, Suffolk County, since 2011. Respondent's current terms as East Hampton Town Court Justice and Sag Harbor Village Court Justice expire on December 31, 2023, and June 30, 2023, respectively.
2. Respondent was served with a Formal Written Complaint dated January 14, 2021. She enters into this Agreed Statement of Facts in lieu of filing an Answer.

As to Charge I

3. From June 2019 to October 2019, Respondent engaged in inappropriate political activity in that she (A) edited as many as eight political opinion essays and letters to the editor intended and/or submitted for publication by David Gruber, then a candidate for non-judicial elected office in the Town of East Hampton, and (B) offered written advice to Mr. Gruber regarding issues raised in his proposed submissions.

Specifications as to Charge I

4. Beginning in April 2019, David Gruber was a candidate for East Hampton Town Supervisor, running on the Independence and Libertarian lines. Prior to that time, Respondent was a candidate for reelection as East Hampton Town Court Justice, running on the Republican and Conservative lines as well as the Independence and Libertarian lines.

5. In June 2019, Mr. Gruber began circulating drafts of political opinion essays and letters to the editor that he intended to submit for publication in local newspapers. The drafts were sent via email to members of his campaign staff, his running mates, and his friends, including Respondent, whom he invited to edit his submissions.

6. From June 2019 through August 2019, Respondent edited at least eight of Mr. Gruber's submissions using Microsoft Word's "Track Changes" feature which, when enabled, displayed all of Respondent's proposed changes in demarcated colored text. All the submissions were statements in Mr. Gruber's name alone.

A. Although many of Respondent's suggested edits to Mr. Gruber's

draft submissions were stylistic, others were substantive and concerned political topics. For example, in a draft article dated August 5, 2019, which was published on August 8, 2019, Respondent *inter alia* changed a reference about local political maneuvers from “corrupt bargain” to “backroom deal,” and added a new sentence alleging that the Town Board had shown “ineptitude in addressing the emergency communications disaster in the Springs.” A copy of the edited article showing the changes is appended as Exhibit 1.

- B. In another version of the same draft article, Respondent *inter alia* deleted half a page in redline and then rewrote the text, stating that “public officials ha[d] shown their indifference to our residents on many . . . occasions.” A copy of this version of the article showing the changes is appended as Exhibit 2.

7. In addition to editing the articles and letters, Respondent also emailed Mr. Gruber separately with additional advice, both substantive and strategic. On August 5, 2019, Respondent emailed the following suggestion to Mr. Gruber:

David, if you start off with DW Wind, you will only reach the same people. This letter isn't about DDW and should not begin with that. If you start off talking about the upcoming election and that there is something new happening, others will start to read it. . . . The letter is about you guys, not 1 political issue. You can touch on these issues briefly but these issue mentions are only there to illustrate how and why you are different.

A copy of the email is appended as Exhibit 3.

8. In an email dated August 25, 2019, Respondent wrote to Mr. Gruber:

We can tighten up the fusion party part. . . . Let me know what issues D[emocrat]s will want to have focused [sic] on. There are a lot of D[emocrat]s in Springs so focusing on Springs issues is important. (Emphasis added.)

A copy of the email is appended as Exhibit 4.

9. In an email dated August 1, 2019, Respondent advised Mr. Gruber:

I agree that quoting Murphy is good but what he has really done in his quote is defined what the current status quo is. So, I noted that. We refer to the status quo several times in the letter so using his words as the definition of what the status quo currently helps - I think. (Emphasis added.)

A copy of the email is appended as Exhibit 5.

10. On August 6, 2019, Respondent emailed Mr. Gruber to express her concern that he had submitted an article to a local newspaper with her “Track Changes” edits still visible. Respondent expressed her belief that it would be “very bad...indeed” if her involvement in editing his articles were to be made public. After Mr. Gruber (incorrectly) assured her that he had not made this mistake, Respondent continued to edit his submissions. A copy of the email is attached as Exhibit 6.

11. On October 17, 2019, a local newspaper revealed that Mr. Gruber had in fact submitted an article with the “Track Changes” feature enabled and showing that edits had been made by a user named “lisa rana.” When reached for comment by the newspaper, Respondent did not deny having edited Mr. Gruber’s submissions.

12. 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 she failed to respect and comply with the law and 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 failed to refrain from inappropriate political activity, in that she engaged in partisan political activity other than for her own campaign for elective judicial office, in violation of Section 100.5(A)(1)(c) of the Rules, and participated in a political campaign and/or permitted her name to be used in connection with the activity of a political organization, in violation of Section 100.5(A)(1)(d) of the Rules.

Additional Factors

13. It is noted that Respondent is charged with engaging in political activity, which is prohibited for other than her own campaign. She is not charged with misbehavior on the bench or with such actionable “deceitful” conduct as a lawyer making misrepresentations to a court or “ghostwriting” submissions for a litigant appearing to be acting *pro se*.

14. In 2005, the Commission confidentially cautioned Respondent for personally preparing and approving a radio advertisement for her judicial candidacy that misrepresented facts about her opponent’s reasons for seeking judicial office.

15. Respondent avers that she and Mr. Gruber were friends prior to his decision to run for office in April of 2019.

16. Respondent resides in East Hampton and has long been active in her community. She has been an attorney licensed to practice law in the State of New York and Massachusetts for twenty-eight (28) years. Respondent avers, and the Administrator has no information to the contrary, that she has never been sanctioned by any court in any jurisdiction. She supports many local charities and grew up in the town where she now serves as a local Justice.

17. Respondent has been cooperative and contrite throughout the Commission's inquiry.

18. Respondent avers that she did not edit any political opinion essays and letters to the editor for any other political candidate and will not do so in the future.

19. Respondent has studied and appreciates that the Commission has publicly admonished other judges who have expressed support for political candidates by writing published letters on their behalf. *See Matter of Campbell*,¹ *Matter of Cacciatore*² and *Matter of Decker*.³

20. Respondent also appreciates that, as set forth in Opinion 16-85 of the Advisory Committee on Judicial Ethics, prohibited political activity is not rendered permissible by being conducted anonymously.

¹ <http://cjc.ny.gov/Determinations/C/campbell.htm>

² <http://cjc.ny.gov/Determinations/C/cacciatore.htm>

³ <http://cjc.ny.gov/Determinations/D/decker.htm>

IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the appropriate sanction is public Admonition based upon the judicial misconduct set forth above.

IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Admonition without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, Respondent or the Administrator and Counsel to the Commission.

Dated:


3/4/21



Honorable Lisa R. Rana
Respondent

Dated:

3/4/21



Deborah Sealise
Sealise and Hamilton
Attorney for Respondent

Dated: March 5, 2021



Robert H. Tembeekjian
Administrator & Counsel to the Commission
(Mark Levine and Stella Gilliland, Of Counsel)

EXHIBIT 1

August 5, 2019

The East Hampton Star

Dear David,

~~—The pretense by the town board, that the town of East Hampton will participate in the Public Service Commission review of Deepwater Wind to protect the interests of the people of East Hampton, its fishermen, its beaches, or its residents, continues.~~

~~The PSC review is an adversary proceeding in which the parties, including the town, must critique the evidence introduced by the applicant, Deepwater, and introduce evidence of burden or harm that they may suffer unless the project is modified or for which they should be compensated.~~

~~East Hampton, although nominally a party for months now, has still not retained the services of anyone with the expertise to review the thousands of pages of submissions by Deepwater and others, let alone prepare a scientifically informed submission on behalf of East Hampton.~~

~~To no surprise, really, Supervisor Van Scoyoc and Town Councilmembers Overby, Lys, and Burke-Gonzalez improperly sold out Beach Lane and our commercial fisherman to Deepwater Wind months in advance of any environmental review. They will do nothing new that might upset that deal by putting facts on the table.~~

~~These are lawless public officials, indifferent or hostile to their responsibility to uphold the law. We have seen their corrupt bargain with Duryea's Lobster Deck for it to evade Planning Board review, their attempt to give away a town road in Amagansett to a client of Democratic party boss Chris Kelley, their fake compliance with the State Environmental Quality Review Act in respect of their shellfish hatchery vanity project, authorized from the get-go in an illegal executive session, and their failure to submit it for Planning Board review.~~

~~With this crowd, it is government by cronyism and patronage all the way down W.~~

~~But we do have an election coming in November, democracy's great opportunity for the people to decide whether their elected representatives are doing their jobs. The East Hampton Reform Democrats, East Hampton Town Republican Committee, and East Hampton Independence Party have joined together to back a joint slate of candidates we call the EH Fusion Party.~~

~~As we now know, Supervisor Van Scoyoc and Town Councilmembers Overby, Lys, and Burke-Gonzalez sold out Beach Lane and our commercial fisherman to Deepwater Wind months in advance of any environmental review. The Town Board has still not retained the services of anyone with the expertise to review the thousands of pages of submissions by Deepwater and others.~~

~~Yet, we have seen this before. These public officials have shown their indifference to our local residents on many other occasions. We have seen their backroom deal with Duryea's Lobster Deck to evade Planning Board review, their attempt to give away a town road in Amagansett to a client of Democratic party boss Chris Kelley, their fake compliance with the State Environmental Quality Review Act in respect of their shellfish hatchery vanity project, authorized from the get-go in an illegal executive session, and their ineptitude in addressing the emergency communications disaster in Springs.~~

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~~Working together without partisanship or control by any political party, we will solve local problems, such as the lack of affordable housing for locals who are being forced out, declining water quality, life threatening gaps in emergency communications, as to which our present town board just goes through the motions with little or no effect.~~

I am the EH Fusion Party candidate for Town Supervisor. Bonnie Brady and Betsy Bambrick are our candidates for Town Board. We have a slate of trustee candidates committed to independence from control by any political party. Working together without partisanship or control by any political party, EH Fusion Party candidates will solve local problems, such as the lack of affordable housing for locals who are being forced out, declining water quality, and life threatening gaps in emergency communications.

If elected, we pledge scrupulous adherence to the letter and spirit of the law, especially environmental and open government laws. We pledge zero tolerance for cronyism, favoritism, party control of government, giving away public assets, and backroom deals for a select few.

Sincerely,

David Gruber

August 5, 2019

The East Hampton Star

Dear David,

As we now know, Supervisor Van Scoyoc and Town Councilmembers Overby, Lys, and Burke-Gonzalez sold out Beach Lane and our commercial fisherman to Deepwater Wind months in advance of any environmental review.

Their pretense that they will defend East Hampton's interests, our fishermen, our beaches, and our residents, before the Public Service Commission continues. In fact, in more than a year and a half, the Town Board has still not retained the services of anyone with the expertise to review the thousands of pages of submissions by Deepwater, let alone prepare a scientifically grounded submission on our behalf.

These public officials are about cronyism, patronage, and little else. We have seen their backroom deal with Duryea's Lobster Deck to evade Planning Board review, their attempt to give away a town road in Amagansett to a client of Democratic party boss Chris Kelley, their fake compliance with the State Environmental Quality Review Act in respect of their shellfish hatchery vanity project, authorized from the get go in an illegal executive session, and their ineptitude in addressing the emergency communications disaster in Springs.

We have an election coming in November, democracy's great opportunity for the people to decide whether their elected representatives are doing their jobs. The East Hampton Reform Democrats, East Hampton Town Republican Committee, and East Hampton Independence Party have joined together to back a joint slate of candidates we call the EH Fusion Party.

I am the EH Fusion Party candidate for Town Supervisor. Bonnie Brady and Betsy Bambrick are our candidates for Town Board. We have a slate of Town Trustee candidates committed to independence from control by any political party. Working together without partisanship or political party control, EH Fusion Party candidates can and will solve local problems, such as the lack of affordable housing for locals who are being forced out, declining water quality, and life-threatening gaps in emergency communications.

If elected, we pledge scrupulous adherence to the letter and spirit of the law, especially environmental and open government laws. We pledge zero tolerance for cronyism, favoritism, party control of government, giving away public assets, and backroom deals for a select few.

Sincerely,

David Gruber

lisa rana 8/5/19 10:42 AM

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With this crowd, it is government by
by cronyism and patronage all the way
downW.

lisa rana 8/5/19 10:32 AM

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Van Scoyoc and Town Councilmembers
Overby, Lys, and Burke-Gonzalez
improperly sold out Beach Lane and our
commercial fisherman to Deepwater Wind
months in advance of any environmental
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lisa rana 8/5/19 10:46 AM

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EXHIBIT 3

From: Lisa Rana <[REDACTED]@[REDACTED]>
Date: Mon, Aug 5, 2019 at 10:52 AM
Subject: Re: LTE
To: David Gruber <[REDACTED]@[REDACTED]>

David, if you start off with DW Wind, you will only reach the same people. This letter isn't about DDW and should not begin with that. If you start off talking about the upcoming election and that there is something new happening, others will start to read it. This is why I made the changes I made. The letter is about you guys, not 1 political issue. You can touch on these issues briefly but these issue mentions are only there to illustrate how and why you are different.

On Mon, Aug 5, 2019 at 10:06 AM David Gruber <[REDACTED]@[REDACTED]> wrote:
Thoughts? As you will recall, I also sent a different letter to the Indy this week, about affordable housing, that I do expect to be published.

:-D

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Lisa R. Rana

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Lisa R. Rana

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EXHIBIT 4

From: Lisa Rana <[REDACTED]@[REDACTED]>
Date: Sun, Aug 25, 2019 at 11:36 AM
Subject: Re: Letter
To: David Gruber <[REDACTED]@[REDACTED]>

Still long but... EDIT IT ON

On Sun, Aug 25, 2019 at 10:35 AM David Gruber <[REDACTED]@[REDACTED]> wrote:
Ok

On Aug 25, 2019, at 10:20 AM, Lisa Rana <[REDACTED]@[REDACTED]> wrote:

I already accepted all of the changes! LOL! Just compare them. Your edit is not acting normal so I just did it and accepted the changes before I sent it to you.

On another note, get your palm cards done so that you have something to hand out if you go to the POffice, etc...

On Sun, Aug 25, 2019 at 10:15 AM David Gruber <[REDACTED]@[REDACTED]> wrote:
Try to edit.
Sent from my Verizon Wireless BlackBerry

From: Lisa Rana <[REDACTED]@[REDACTED]>
Date: Sun, 25 Aug 2019 09:50:43 -0400
To: David Gruber<[REDACTED]@[REDACTED]>
Subject: Re: Letter

What do you think?

On Sun, Aug 25, 2019 at 8:53 AM Lisa Rana <[REDACTED]@[REDACTED]> wrote:
I had to start a new email stream as the prior stream is acting weird.

- 1) It is too long. I know you are tired of hearing it but it is true.
- 2) This is going to Dems and they know you are a Dem. You waste too much time justifying your Dem status.
- 3) Too much focus on Duryea's - not enough on other issues that are important to Ds. I know for Rs, wasteful spending, corruption, locals, safety are important. Identify the most important D issues and focus on them.
- 4) We can tighten up the fusion party part. I am hesitant to make draft corrections as we had issues there so I will use your letter, do a draft and return it to you. Let me know what issues Ds will want to have focused on. There are a lot of Ds in Springs so focusing on Springs issues is important.

Lisa

--

Lisa R. Rana

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Lisa R. Rana

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Lisa R. Rana

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EXHIBIT 5

From: Lisa Rana <[REDACTED]@[REDACTED]>
Subject: Re: Thoughts on the attached?
Date: August 1, 2019 at 3:50:36 PM EDT
To: David Gruber <[REDACTED]@[REDACTED]>

My final tweaks. David, I took out the Kappell quote as you really do not need it - that can be addressed in another forum or another letter if someone brings it up. It was addressed in the article. But more to the point, you need to get to the part about you, your vision and your candidacy sooner. Of course, my opinion. This is better. I agree that quoting Murphy is good but what he has really done in his quote is defined what the current status quo is. So, I noted that. We refer to the status quo several times in the letter so using his words as the definition of what the status quo currently helps - I think.

Lisa

On Thu, Aug 1, 2019 at 9:58 AM David Gruber <[REDACTED]@[REDACTED]> wrote:

Tweaks to the tweaks.

I think the quote from the Indy is important so that it is not only my words. And the description of the housing need should be in the present tense even though the problem is longstanding.

D

On Aug 1, 2019, at 8:21 AM, Lisa Rana
<[REDACTED]@[REDACTED]> wrote:

Here are some revisions. Let me know what you think.

On Thu, Aug 1, 2019 at 7:51 AM David Gruber
<[REDACTED]@[REDACTED]> wrote:

There you have it. Half my usual length and still "too long."

I am just going to send a letter saying, "The Town Board sucks."
That should persuade everyone.

Begin forwarded message:

From: Phyllis Italiano

<[REDACTED]@[REDACTED]>

Subject: Re: Thoughts on the attached?

Date: August 1, 2019 at 12:26:42 AM EDT

To: David Gruber <[REDACTED]@[REDACTED]>

Up zoning...not in Springs....of course, it's too long

Sent from my iPadq

On Jul 31, 2019, at 8:30 PM, David
Gruber <[REDACTED]@[REDACTED]>
wrote:

<Draft letter to Indy.docx>

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Lisa R. Rana

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<Draft letter to Indy rev 1.docx>

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Lisa R. Rana

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EXHIBIT 6

From: Lisa Rana <[REDACTED]@[REDACTED]>
Date: Tue, Aug 6, 2019 at 7:26 AM
Subject: Re: Letter to the Editor Attached in Word
To: David Gruber <[REDACTED]@[REDACTED]>

Um - the letter that was sent to the Indy and Star did have the tracking turned off, yes? Otherwise, they will see my name attached to the corrections?? That would be very bad... indeed.

On Mon, Aug 5, 2019 at 11:26 PM David Gruber <[REDACTED]@[REDACTED]> wrote:
Please don't send me any drafts with track changes on them.

On Aug 5, 2019, at 10:03 PM, Dawn Brophy <[REDACTED]@[REDACTED]> wrote:

Did you see how the attachement was sent to us. I hope not to the star this way.

On Aug 5, 2019, at 9:40 PM, David Gruber <[REDACTED]@[REDACTED]> wrote:

Here's my LTE as sent. I wasn't entirely happy with it — it needed somewhat better transitions between thoughts — but out of time today.

D

Begin forwarded message:

From: David Gruber <[REDACTED]@[REDACTED]>
Subject: Letter to the Editor Attached in Word
Date: August 5, 2019 at 2:15:37 PM EDT
To: "[REDACTED]@easthamptonstar.com" <[REDACTED]@easthamptonstar.com>

This letter is exclusive to the Star.

Thank you.

David Gruber
[REDACTED]
[REDACTED]
[REDACTED]

<Gruber to Star 8-5-19.docx>

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