

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

William Francis Kuntz, II

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Eastern District of New York

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Baker Hostetler, LLP
45 Rockefeller Plaza
New York, New York 10111

4. **Birthplace**: State year and place of birth.

1950; New York, New York

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1972 – 1979; Harvard University, joint program with the Graduate School of Arts and Sciences and the Harvard Law School; J.D., 1977; Ph.D., 1979

1972 – 1974; Harvard University Graduate School of Arts and Sciences, M.A., 1974

1968 – 1972; Harvard College, A.B., 1972

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2005 – Present
Baker Hostetler LLP
45 Rockefeller Plaza
New York, New York 10111
Partner

2004 – 2005
Constantine Cannon (now Constantine Aborn)
450 Lexington Avenue
New York, New York 10017
Of Counsel

2001 – 2004
Torys LLP
237 Park Avenue
New York, New York 10017
Partner

1994 – 2001
Seward & Kissel, LLP
One Battery Park Plaza
New York, New York 10004
Partner

1986 – 1994
Milgrim Thomajan Jacobs & Lee
405 Lexington Avenue
New York, New York 10005
Partner

1987 – 2003
Brooklyn Law School
250 Joralemon Street
Brooklyn, New York 11201
Associate Professor of Law (Adjunct)

1978 – 1986
Shearman & Sterling
599 Lexington Avenue
New York, New York 10022
Associate

1972 – 1978

Harvard University Graduate School of Arts and Sciences
1350 Massachusetts Avenue
Cambridge, Massachusetts 02138
Tutor

Summer 1976

United States Attorney for the Southern District of New York
One Saint Andrew's Plaza
New York, New York 10007
Summer intern

Summers 1974, 1975

Children's Defense Fund
25 East Street, NW
Washington, D.C. 20001
Summer Intern

Summer 1973

Harvard University
Eliot House
Cambridge, Massachusetts 02138
Assistant Senior Tutor

Summer 1972

Harvard University
Cambridge, Massachusetts 02138
Summer Assistant to the Dean of Students

Other Affiliations (uncompensated except as noted):

2004 – present

The Brooklyn Hospital Center
121 DeKalb Avenue
Brooklyn, New York 11201
Board of Directors

2003 – present

Federal Bar Council and Federal Bar Foundation
123 Main Street, Suite L100
White Plains, New York 10601
Vice President (Council) (2004 – 2009)
Director (Foundation) (1993 – 1996; 2003 – 2004)
Secretary (Foundation) (1996 – 1999)

2002 – present
New York Lawyers for the Public Interest
151 West 30th Street, 11th Floor
New York, New York 10001
Director Emeritus (2010 – present)
Board of Directors (2002 – 2009)

2001 – present
The Academy of Political Science
1527 New Hampshire Avenue, NW
Washington, DC 20036
Board of Directors (2001 – present)
General Counsel (2004 – present)

1997 – present
Lawyers' Committee for Civil Rights Under Law
1401 New York Avenue NW, Suite 400
Washington, DC 20005
Board of Trustees

1996 – present
The Practising Law Institute
810 Seventh Avenue, 21st Floor
New York, New York 10019
Board of Directors (1996 – present)
Chair, Executive Committee of the Board of Directors (2006 – present)

2005 – 2010
The Legal Aid Society of New York
199 Water Street
New York, New York 10038
Board of Directors

1987 – 2010
Civilian Complaint Review Board of the City of New York
40 Rector Street
New York, New York 10006
Commissioner (received per diem)

2005 – 2008
Association of the Bar of the City of New York
42 West 44th Street
New York, New York 10036
Vice President (2006 – 2008)
Chair of the Executive Committee (2005 – 2006)

1997 – 1999

New York City Transit Museum
130 Livingston Street, 10th Floor
Brooklyn, New York 11201
Board of Directors

1994 – 1997

Brooklyn Navy Yard Development Corporation
Building 292
63 Flushing Avenue, Unit 300
Brooklyn, New York 11205
Board of Directors

1991 – 1996

New York County Lawyers Association
14 Vesey Street
New York, New York 10007
Board of Directors

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

The Tribune Society Distinguished Service Award (2011)
New York Super Lawyers (2006 – 2010)
Volunteer Lawyers Project of the Brooklyn Bar Association, Leadership Award (2008)
Graduate Prize Fellowship, Harvard University

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Advisory Committee on Civil Practice in The State of New York (1997 – 2010)
Advisory Council of Chief Judge Jonathan Lippman to The Attorney Emeritus Program (2010 – present)
American Bar Association (1979 – present)
American Bar Foundation (2009 – present)

American Law Institute (2000 – 2010)
 Association of the Bar of the City of New York
 Vice President (2006 – 2008)
 Chair, Executive Committee (2005 – 2006)
 Member, Executive Committee (2004 – 2008)
 Chair, Municipal Affairs Committee (1992 – 1993)
 Brooklyn Bar Association
 Committee on the Judiciary (2002 – 2010)
 Commercial Courts Task Force (1995 – 1999)
 Departmental Disciplinary Committee of the New York State Supreme Court, Appellate Division, First Department (2001 – present)
 Policy Committee (2005 – present)
 Federal Bar Council and Federal Bar Council Foundation
 Vice President (Council) (2004 – 2009)
 Director (Foundation) (1993 – 1996; 2003 – 2004)
 Secretary (Foundation) (1996 – 1999)
 Executive Committee (2007 – present)
 Awards Committee (2004 – 2006; 2009 – present)
 Special Committee on Prison Reform (2009 – 2011)
 Winter Bench & Bar Planning Committee (2004 – 2011)
 Chair (2008 – 2009)
 Nominating Committee (2005 – 2008)
 Membership Committee (2003 – 2006)
 Fund for Modern Courts
 John J. McCloy Memorial Award Event Committee (2002 – 2003)
 Lawyers' Committee for Civil Rights Under Law
 Board of Trustees (1997 – present)
 Legal Aid Society of New York
 Board of Directors (2005 – 2010)
 Magistrate Judge Selection Committee for the Eastern District of New York (2000 – 2004)
 Magistrate Judge Selection Committee for the Southern District of New York (2008 – 2010)
 Metropolitan Black Bar Association (2008 – present)
 National Bar Association (2008 – present)
 New York County Lawyers Association
 Board of Directors (1991 – 1996)
 New York County Lawyers Foundation (2004 – 2010)
 New York Lawyers for the Public Interest
 Director Emeritus (2010 – present)
 Board of Directors (2002 – 2009)
 The Practising Law Institute
 Board of Directors (1996 – present)
 Chair, Executive Committee of the Board of Directors (2006 – present)

10. Bar and Court Admission:

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

New York, 1978

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Second Circuit (1992)

United States Court of Appeals for the Third Circuit (1983)

United States Court of Appeals for the Tenth Circuit (1985)

United States District Court for the Southern District of New York (1978)

United States District Court for the Eastern District of New York (1979)

There has been no lapse in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

The Academy of Political Science

Board of Directors (2001 – present)

General Counsel (2004 – present)

Brooklyn Friends School

Board of Trustees (2005 – 2008)

The Brooklyn Hospital Center

Board of Directors (2004 – present)

The Brooklyn Navy Yard Development Corporation

Board of Directors (1994 – 1997)

The Feerick Center for Social Justice and Dispute Resolution at The Fordham University School of Law (2006 – present)

New York City Transit Museum

Board of Directors (1997 – 1999)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the listed organizations above presently engages or formerly engaged in discrimination of any kind.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Werner L. Polak and William F. Kuntz II, *Report of the Chair of the Board of Trustees and Chair of the Executive Committee*, Practising Law Institute Annual Report, 2009. Copy supplied.

Gerald Walpin & William Francis Kuntz II, *In Defense of a Judge*, Nat'l L.J., Nov. 24, 2008. Copy supplied.

Civilian Complaint Review Board Policy Change Grossly Unfair to Police Officers, Staten Island Advance, Oct. 21, 2007. Copy supplied.

Comment under an on-line article entitled, *Only Mel Weiss Can Save Milberg Weiss Now*, CNNMoney.com, July 10, 2007. Copy supplied.

Referees and Special Masters Chapter 30 in Commercial Litigation in New York State Courts, Second Edition, Thompson West, 2005 through present with supplement pocket parts. Copy supplied.

Taking & Defending Depositions in Commercial Cases, Practising Law Institute Course Handbook, June 1998, reprinted in identical form in 1999, 2000 and 2001. Copy of the 1998 version supplied.

Preparing and Conducting Opening and Closing Arguments: Case Analysis and Theory Development, Practising Law Institute Course Handbook, August 18, 1993. Copy supplied.

Criminal Sentencing in Three Nineteenth Century Cities: A Social History of Punishment in New York, Boston, and Philadelphia. 1830-1880 (Garland Press, 1988). Copy supplied.

Reviewing the Reviewers, The Crimson, Jan. 15, 1974. Copy supplied.

I performed research for Marian Wright Edelman's publication, Children Out of School in America (The Children's Defense Fund, 1974), but I did not take part in writing the report.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In 2009, I co-chaired the Subcommittee on Addressing Inadequate Representation of the Study Group on Immigrant Representation. A member of the subcommittee, Careen Shannon, wrote a report on behalf of the entire subcommittee entitled, *Regulating Immigration Legal Service Providers: Inadequate Representation and Notario Fraud*. A copy of the report is supplied.

In 2007, I participated in an Education Working Group as part of the The Pipeline Crisis's initiative Winning Strategies for Young Black Men. A copy of the report is supplied.

In 2005, while I was serving as chair of the Executive Committee of the New York City Bar Association, the Committee reported that then-Judge Samuel Alito was qualified to serve as a Supreme Court Justice. A copy of the press release of the announcement is supplied.

In January 2004, while I was serving as a member of the Unified Court System of New York's Advisory Committee on Civil Practice, the committee released a report to the Chief Administrative Judge of the Courts of the State of New York. A copy of the report is supplied.

In 1997, I co-chaired the Subcommittee on the Profile of the Courthouse and its Users of the Race and Ethnicity Committee of the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts. Based on the work of all the committees, the committee chairs then created a report entitled, *Report of the Working Committees to the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts*. A copy of the report is supplied. The Task Force also released a final report based on all findings and reports; this report was entitled, *Report of the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts*. A copy of the report is supplied. While I did participate

in discussions and meetings as co-chair of the Subcommittee, I did not directly contribute to the writing of either of these reports.

Civilian Complaint Review Board

From October 1987 to 2010, as a Commissioner on the Civilian Complaint Review Board, I have contributed to reports concerning the activities of the Board. These reports are listed below. Unless indicated below, copies of reports are available on-line at <http://www.nyc.gov/html/ccrb/html/reports.html>.

Recommendation to retrain officers patrolling buildings owned by the New York City Housing Authority as outlined in October 27, 2010 Press Release.

Recommendation to Issue Order Regarding Proper Handling of Police Union "Courtesy" Cards, Nov. 9, 2006.

Recommendation to Improve Training for Policing Demonstrations, May 9, 2006.

Recommendation that the NYPD Enhance Training Regarding Strip Search Procedures, May 12, 2004.

Recommendation to Show "No-Knock" Search Warrants upon Request, Nov. 20, 2003.

Recommendation to Institute Measures to Facilitate Identification of Subject Officers at Demonstrations, Feb. 15, 2003.

Recommendation that the New York City Police Department Create Search Warrant Database, Jan. 2003.

Recommendation about Officer Refusal to Provide Name and/or Shield Number, 2003.

CCRB Street Stop Encounter Report, June 2001.

75th – 81st Precinct Study, Aug. 11, 1998.

Hollow-Point Bullet Report, July 8, 1998.

Analysis of Arrest Situations Resulting in Civilian Complaints, Dec. 1992. Copy supplied.

Nationwide Survey of Civilian Complaint Systems, Sept. 1992. Copy supplied.

Final Report on the Tompkins Square Park Incident, Apr. 10, 1989. Copy supplied.

Report of the Civilian Complaint Review Board, Oct. 1987 – Dec. 1989. Copy supplied.

CCRB Annual Reports, 1988 to 2009. Reports issued in 2001 and after are available at the above web site. Copies of reports issued prior to 2001 are supplied.

CCRB Mid-Year Status Reports, 1994 to 2010. Reports issued after 2002 are available at the above web site. Copies of reports issued prior to 2002 are supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

In 2008, I signed a petition to the Regents of the University of the State of New York in support of a provisional charter for Brooklyn Friends School. A copy of the petition is supplied.

On October 3, 1992, I testified in my capacity as a former CCRB member before the New York City Council Public Safety Committee about a proposed referendum on removing Police Department employees from the CCRB. I have been unable to obtain a transcript or recording, but press coverage is supplied.

On October 31, 1988, I testified in my capacity as a member of the CCRB during a hearing held by Brooklyn Borough President Howard Golden. The hearing examined the functions and operations of the CCRB. I have been unable to obtain a transcript or recording, but press coverage is supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Practising Law Institute

I have taught as a faculty member of the Practising Law Institute on several of its panels. Below is a list of my speaking events that I was able to identify. I do not have notes, transcripts or recordings for all events and have indicated where I

have materials. The address of the PLI is 810 Seventh Avenue, New York, New York 10019.

July 2009: Ethics in Context.

October 7, 2008: "The Deadly Dozen: 12 of the Most Common Mistakes Lawyers Make When Dealing with Clients," Bridge the Gap I: Ethics and Skills for Newly Admitted Attorneys 2008. Video supplied.

July 30, 2008 and August 8, 2006: Ethics for Commercial Litigation.

Other Events

February 24, 2011: Distinguished Service Award recipient, Black History Month Program and Reception, New York State Unified Court System. Remarks supplied.

June 16, 2010: Remarks at induction of Denny Chin, Circuit Judge for the U.S. Court of Appeals for the Second Circuit. Remarks supplied.

July 22-24, 2009: Lecture, New York State Judicial Conference on Legal Ethics, showing the film Judgment at Nuremberg and leading a two day discussion on the role of judges and lawyers in the criminal regime of Nazi Germany. I have no notes, transcript or recording. The conference itself does not have a physical address, but the address of the New York State Unified Court System is Office of Court Administration, Room 852, 25 Beaver Street, New York, New York 10004.

June 17, 2009: Introduced Judge Theodore T. Jones, Brooklyn Bar Association Volunteer Lawyers Project Award Ceremony. I have no notes, transcript or recording. The address of the Brooklyn Bar is 123 Remsen Street, Brooklyn, New York 11201.

March 11, 2009: Presenter, Subcommittee work on "Addressing Inadequate Representation," Fordham Levine Forum. I have no notes, transcript or recording, but a copy of the report on which my presentation was based is supplied in response to 12(b).

June 5, 2008: Award recipient, Brooklyn Bar Association Volunteer Lawyers Project, remarks on civil legal services. I have no notes, transcript or recording, but Brooklyn Bar coverage is supplied. The address of the Brooklyn Bar is 123 Remsen Street, Brooklyn, New York 11201.

July 13, 2007: Co-presenter, Education Working Group Report, Winning Strategies for Young Black Men, The Pipeline Crisis Second Plenary Session. I have no notes, transcript or recording, but a copy of the report on which my presentation was based is supplied in response to 12(b).

October 2006: Mock Supreme Court argument, Office of the Appellate Defender. I have no notes, transcript or recording. The address of the Office of the Appellate Defender is 11 Park Place, Suite 1601, New York, New York 10007.

Summer 2006: Judge, Mock Trial with Baker Hostetler summer associates. I have no notes, transcript or recording. The address for Baker Hostetler is 45 Rockefeller Plaza, 11th Floor, New York, New York 10111.

December 13, 2005: Remembrance of Hon. Constance Baker Motley, New York County Lawyers Association Annual Dinner. A copy of my remarks is supplied.

October 5, 1998: Mock Supreme Court argument, Office of the Appellate Defender. I have no notes, transcript or recording. The address of the Office of the Appellate Defender is 11 Park Place, Suite 1601, New York, New York 10007.

April 15, 1998: Panelist, "Police Violence: Causes and Cures," Brooklyn Law School. A transcript of my remarks is supplied.

August 25, 1988: Public meeting with residents of Tompkins Square Park, St. Brigid's School, discussed role of Civilian Complaint Review Board in the investigation of police conduct during demonstrations in the Tompkins Square neighborhood. I have no notes, transcript or recording. The address of the CCRB is 40 Rector Street, New York, New York 10006.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Sam Stanton, *Newsmaker/Gerald Walpin, Ex-Inspector General*, Sacramento Bee, July 12, 2009. Copy supplied.

Noeleen G. Walder, *Local Attorneys Support Walpin, Watchdog Dismissed by Obama*, New York Law Journal, July 1, 2009. Copy supplied.

Interview Taped on January 23, 2009 with Professor Douglas Muzzio, Political Analyst, *City Talk* on CUNY TV, Professor School of Public Affairs, Baruch College/CUNY. Video available at <http://www.cuny.tv/series/citytalk/listen.lasso?-database=CUNYPROG&-response=detail2.lasso&-table=webprogdetail2&-sortField=TapeDate&-sortOrder=descending&-op=eq&SeriesTitle=City%20Talk&-op=neq&MediaAvailable=%3d%3d&-op=lte&TapeDate=12%2f31%2f2009&-op=gte&TapeDate=1%2f1%2f2009&-maxRecords=1&-skipRecords=32&-search>.

Christine Hauser, *Complaint Board Lawyers Will Assist at Police Trials*, New York Times, Sept. 11, 2008. Copy supplied.

Lynn E. Judell, *First-Year Associates; You Can't Beat Pro Bono*, New York Law Journal Magazine, Sept. 2008. Copy supplied.

Member Profile, New York County Lawyer, Sept. 2007. Copy supplied.

Jaime Adame, *Questioning Police Statistics for Crime and Cases of Misconduct*, Gotham Gazette, Apr. 4, 2005. Copy supplied.

Daniel J. Wakin, *Gibson's Movie Goes to Church*, New York Times, Apr. 9, 2004. Copy supplied.

William K. Rashbaum, *Police Abuse Cases Rising, Complaint Review Board Says*, New York Times, June 3, 2003. Copy supplied.

Thomas Adcock, *Law Firm Consortium Grapples with Diversity*, New York Law Journal, June 7, 2002. Copy supplied.

Jane Gross, *Public Lives; Looking for a Line the Police Shouldn't Cross*, New York Times, Jan. 2, 2001. Copy supplied.

Douglas Montero, *Lost Paperwork & Lost Trust*, New York Post, Dec. 18, 2000. Copy supplied.

William K. Rashbaum, *Safir Says Civilian Panel Exceeds its Authority in Citing Officers for Lying*, New York Times, Jan. 8, 2000. Copy supplied.

Jodi Wilgoren, *Federal Inquiry of Police Draws Mixed Reaction*, New York Times, July 11, 1999. Copy supplied.

William K. Rashbaum, *CCRB Memo Sez City Auditing Lost Cases*, New York Daily News, Nov. 21, 1998. Copy supplied.

Mark Fazlollah, *Audit: N.Y. Police Panel Let Misconduct Cases Lapse*, Philadelphia Inquirer, Sept. 3, 1998. Copy supplied.

Michael Cooper, *Police Say Panel Withheld Findings Against 108 Officers*, New York Times, Sept. 2, 1998. Copy supplied.

Michael Cooper, *Chief to Leave the City's Police Review Board*, New York Times, Aug. 19, 1998. Copy supplied.

Dan Barry, *Mayor Defies Bar Association and Reappoints Queens Judge*, New York Times, Apr. 1, 1998. Copy supplied.

Pete Bowles and Mohamad Bazzi, *Family Court Judge's 10-Year Term Decried*, Newsday, Apr. 1, 1998. Copy supplied.

Michael Cooper, *New York Undercounted Civilian Complaints Against Police*, New York Times, Dec. 11, 1997. Copy supplied.

Alice McQuillan, *Cop Brutality Complaints Undertallied*, New York Daily News, Dec. 11, 1997. Copy supplied.

Liz Willen, *Budget Cuts on Mayor's Agenda*, Newsday, Nov. 15, 1997. Copy supplied.

Alice McQuillan, *Rudy's Budget Ax Looms Over CCRB*, New York Daily News, May 15, 1997. Copy supplied.

Barbara Benson, *Lawyers Find Being Small is Liability*, Crain's New York Business, May 15, 1995. Copy supplied.

Garry Pierre-Pierre, *Examining a Jump in Police Brutality Complaints*, New York Times, Feb. 22, 1995. Copy supplied.

Keith A. Saunders, *Contemporaries Disagree with Mansfield Remarks*, The Crimson, Mar. 24, 1993. Copy supplied.

Bob Liff, *Review Board Vacancies Raise Ire*, Newsday, Mar. 18, 1992. Copy supplied.

Paul Moses and Rita Giordano, *Review's In: Few Are Satisfied with Board*, Newsday, Mar. 31, 1991. Copy supplied.

Alison Carper, *Cop Watchdog Panel Seeks More Power*, Newsday, Feb. 24, 1990. Copy supplied.

Mitch Gelman, *Complaint Board Draws Complaints*, Newsday, Aug. 7, 1989. Copy supplied.

Rose Marie Arce, *Tompkins Square a Year Later*, Newsday, Aug. 4, 1989. Copy supplied.

Press Conference, Civilian Complaint Review Board, draft report of the board, Apr. 18, 1989. I have no notes, transcript or recording.

Mitch Gelman and Richard Esposito, *'87 Cop Complaints Fall, But '88...*, Newsday, Nov. 26, 1988. Copy supplied.

Don Terry, *Board Cites Dip in Complaints Against Police*, New York Times, Nov. 24, 1988. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

- i. Of these, approximately what percent were:

jury trials:	_____%
bench trials:	_____% [total 100%]
civil proceedings:	_____%
criminal proceedings:	_____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I was appointed by Mayors Edward Koch, David Dinkins, Rudy Giuliani, and Michael Bloomberg, and confirmed by the New York City Council, to serve on the New York City Civilian Complaint Review Board from 1987 through 2010.

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever

held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

In 1994, I served on George Pataki's gubernatorial transition team as a member of the criminal justice committee.

16. Legal Career: Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a clerk to a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

I was never a sole practitioner.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1978 – 1986
Shearman & Sterling
599 Lexington Avenue
New York, New York 10022
Associate

1986 – 1994
Milgrim Thomajan Jacobs & Lee
405 Lexington Avenue
New York, New York 10005
Partner

1994 – 2001
Seward & Kissel, LLP
One Battery Park Plaza
New York, New York 10004
Partner

2001 – 2004
Torys LLP
237 Park Avenue
New York, New York 10017
Partner

2004 – 2005
Constantine Cannon (now Constantine Aborn)
450 Lexington Avenue
New York, New York 10017
Of Counsel

2005 – Present
Baker Hostetler, LLP
45 Rockefeller Plaza
New York, New York 10111
Partner

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or an arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

The general character of my law practice throughout my career has been commercial litigation. I have represented clients including the most sophisticated financial services institutions in the world, the largest industrial entities, and the most demanding general counsel and business clients in a challenging array of litigations including international letters of credit, tender offer litigation, business frauds – including the Wedtech and Madoff cases – and creditors rights cases.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

My practice has been principally in the area of financial services litigation for banks, brokerage houses, and insurance companies. I have also handled bankruptcy and creditors rights litigation. At present my law firm, Baker Hostetler, is counsel to my partner Irving Picard as the Trustee in the Madoff case. I am heading one of the many feeder fund litigation teams addressing the issues presented by this case. My practice involves

designing and executing discovery programs, taking and defending depositions, making and opposing motions for full and partial summary judgment where appropriate, analyzing electronic discovery issues for clients, educating junior partners and associates on the intricacies of trying cases, arguing appeals, and ensuring that we comply with the highest standards of ethics in the practice of the law, a topic on which I lecture at the Practising Law Institute.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Virtually all of my practice has been litigation, and I have made occasional court appearances throughout my career.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 60% |
| 2. state courts of record: | 30% |
| 3. other courts: | |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 100% |
| 2. criminal proceedings: | |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Approximately 50 cases, of which I was sole counsel in 25, chief counsel in 10 and associate counsel in 15.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 50% |
| 2. non-jury: | 50% |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases

were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Wedtech Adversary Proceedings*, Bankruptcy No. 86 B 1236 (HCB) (SDNY) (1986). After Wedtech filed for bankruptcy, I served as counsel to Citibank, N.A. in its capacity as a member of the Wedtech Official Unsecured Creditors Committee bringing numerous actions to recover property for the estate. The Hon. Brian Cogan (United States District Judge, Eastern District of New York) served as counsel to the Committee during his practice as a partner at Stroock & Stroock & Lavan. The case was pending for several years in the United States Bankruptcy Court, Southern District of New York.

Counsel for the Creditors Committee:

Brian Cogan

Then a Partner at Stroock & Stroock & Lavan

Now United States District Judge for the Eastern District of New York

225 Cadman Plaza East

Brooklyn, New York 11201

2. *The Bank of Nova Scotia v. Lawaetz*, District of the Virgin Island and Third Circuit, published opinions at 728 F.2d 177 (3d Cir. 1984); 653 F. Supp. 1278 (D.V.I. 1987). I tried a series of cases and argued appeals to the Third Circuit Court of Appeals representing the Bank of Nova Scotia against its hotelier borrower and his St. Croix Hotel Corporation, involving the valuation of a series of complex corporate notes and interest rate changes over a decade of dealing. The Bank had been found to have committed fraud for the first time in its history prior to my involvement in the case. The Third Circuit reversed the adverse jury findings against The Bank of Nova Scotia and ordered new trials on both liability and damages claims. The parties subsequently resolved the action consensually.

Opposing counsel:
Joel Holt
2132 Company Street, Suite 2
Christiansted, VI 00820
340-773-8709

3. *Bao v. Bank of America, N.T.*, No 84 Civ. 6013 (John F. Keenan, United States District Judge for the Southern District of New York; February 3, 1986). I was counsel with other attorneys at Shearman & Sterling for Citibank, N.A. in a case in which plaintiff depositors brought an action against the defendant banks for repayment after the banks were forced to close and to relocate after the Vietnam War. The complaint was held barred by the statute of limitations and the doctrine of equitable estoppel did not defeat the defense. The case was significant in the further development of law in the Second Circuit confirming the situs of the debt as the place of deposit in an extremely important holding for the financial services industry in New York.

Opposing counsel:
Arthur M. Boal, Jr.
Boal, Doti & Larsen
New York, New York
The firm no longer exists, but the phone no. for Mr. Boal is 303-670-5710.

Andrew J. Connick
Paul T. Shoemaker
Kelley A. Cornish
Milbank, Tweed, Hadley & McCloy
One Chase Manhattan Plaza
New York, New York 10005
212-530-5000

4. *Spitzer v. Gen. Electric Co.*, Case Index No. 400927/00. I represented the General Electric Company in an action brought by the State of New York before Justice Louise Gruner Gans in the Supreme Court of New York County. The case was decided in July of 2001. The action alleged that General Electric had engaged in deceptive business conduct in connection with a recall of dishwashers in 1999. The Court found by memorandum decision dated January 16, 2001 that GE had acted deceptively in connection with a recall of certain models of dishwashers it had manufactured and sold. I worked with GE, counsel for the Attorney General and the Court to facilitate the recall and repair of the product.

Opposing counsel:
Christine Morrison
Assistant Attorney General
120 Broadway
New York, New York 10271
212-416-8000

5. *Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC v. Beacon Associates LLC* (Hon. Burton R. Lifland, Bankruptcy Court Judge, Southern District of New York) SIPA Liquidation No. 08-01789. This is the SIPC liquidation arising from the Ponzi scheme of Bernard L. Madoff and Bernard L. Madoff Investment Securities LLC. I am heading one of several of our firm's feeder fund teams litigating against and negotiating with the large corporate and partnership entities that steered investors to Madoff. The cases are ongoing and relatively new, but my involvement in our firm's efforts has already resulted in considerable recoveries for the estate, some of which have been publicly reported in the courts and in the legal press following the case.

Opposing counsel:

Lewis Liman
Cleary, Gottlieb Steen and Hamilton
One Liberty Plaza
New York, New York 10006
212-225-2000

Tab Rosenfeld
Rosenfeld and Kaplan
535 Fifth Avenue, Suite 1006
New York, New York 10017
212-682-1400

6. *Mayer v. Sutcin Holding Corp.*, Arbitration before Arbitrator Frank Liantonio of Cushman and Wakefield (1986). This was a lengthy and contentious arbitration held at the Association of the Bar of the City of New York over many days involving the valuation of the ground lease of the Cinema 1 and 2 Theatres on the Upper East Side of Manhattan. These theatres had been the first art house multi-plexes in New York and the twenty-year renewals were of great value to the litigants: to have the lease valued as a theatre would mean a great saving to the corporate owner as opposed to having the valuation done at the highest and best use levels. The result was a valuation as a theatre rather than highest and best use.

Opposing counsel:

H. Richard Penn
118 East 60th Street
New York, NY 10022
212-751-0718

7. *Citibank v. Plapinger*, 66 N.Y.2d 90, 495 N.Y.S.2d 309, 485 N.E.2d 974 (1985). I was one of the principal authors of the brief for this action, argued by another Shearman & Sterling attorney, which was ultimately resolved in the New York Court of Appeals. The Court upheld the sanctity of absolute and unconditional personal guarantees and limited the ability to use oral evidence to modify written agreements by violating the

bar and merger language of corporate guarantees when executed, as here, by sophisticated borrowers advised by counsel.

Opposing counsel:
Owen McGivern (deceased)

8. *Burson-Marsteller, LLC v. Wachovia Bank, N.A. v. Morgan Stanley and Discovery Bank*, Docket Number 06 Civ 00121 (Judge Deborah A. Batts); United States District Court, Southern District of New York. I was lead counsel for Morgan Stanley in this action brought initially by the complaint of Burson-Marsteller, L.L.C. against Wachovia Bank alleging the improper cashing of a series of checks presented by fictitious payees. Extensive claims, cross-claims and third party claims were alleged as the details of the fraud were uncovered. Eventually, given that Baker Hostetler had representational relationships with each of the banking defendants added, we had to withdraw as counsel with the consent of the court and all parties.

Opposing counsel:
Jenifer Tafet Klausner
Davis & Gilbert, LLP
1740 Broadway
New York, New York 10019
212-468-4800

John A. Nocera
Rosner, Nocera & Ragone, LLP
110 Wall Street, 23rd Floor
New York, New York 10005
212-635-2244

James J. Coster
Satterlee Stephens Burke & Burke, LLP
230 Park Avenue
New York, New York 10169
212-818-9200

9. *Laro Services Sys., Inc. v. New Fulton Fish Mkt. Coop.*, Docket Number 112884/05, Supreme Court New York County (Justice Carol Edmead), appeal to the Appellate Division First Department (2005). I was lead counsel in this litigation to defeat the challenge of Petitioner Laro Service System, Inc. to the decision by the Business Integrity Commission of New York granting the Cooperative an unloading license at the New Fulton Fish Market at Hunts Point in the Bronx, New York. The litigation also involved the move of the New Fulton Fish Market from its traditional commercial leasehold space on the East side of Manhattan. The action was resolved after trial and appeals to the satisfaction of all parties.

Opposing counsel:
Randy Mastro
Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
212-351-3825

10. *Devito v. AmTrust Bank*, Case Number 1:09-cv-03858 (BMC) (2009). This class action is pending in the United States District Court for the Eastern District of New York (Hon. Brian Cogan) having been filed on September 4, 2009. I am counsel for AmTrust Bank defending a class action brought challenging the legitimacy of fees consumers paid to financial services institutions at closing – a “Table Funding Fee” of approximately \$350. The plaintiffs assert that the claims violate the Real Estate Settlement Procedures Act of 1974, Sections 8(b), 12 U.S.C. 2607(b) (“RESPA”) and Section 349 of New York General Business Law – Deceptive Acts and Practices, N.Y. GBL Section 349.

Opposing counsel:
Oren Giskan
Catherine Anderson
Giskan Solotaroff Anderson & Stewart, LLP
11 Broadway, Suite 2150
New York, New York 10004
212-847-8315

Cory L. Zajdel
Z Law, LLC
8830 Orchard Tree Lane, Suite 117
Towson, Maryland 21286
443-632-3010

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s).

I have served as a special master and as a referee in approximately ten (10) cases, having received appointments from the Hon. Denny Chin of the United States District Court for the Southern District of New York; the Hon. Arthur M. Schacht of the New York State Supreme Court, Kings County, the Hon. Edward Rappaport of the New York State Supreme Court, Kings County (ret.), and the Hon. Marsha L. Steinhardt, for the Supreme Court, New York State, Kings County.

As a Commissioner of the CCRB from the Fall of 1987 through November 1, 2010, I have reviewed thousands of complaints filed by ordinary citizens against police officers

employed by The New York City Police Department. The complaints properly under the jurisdiction of the CCRB fall in one or more of these four categories and did not include official corruption cases: Excessive Force, Abuse of Official Authority, Discourtesy to a member of the public, and/or Offensive Language directed to a member of the public including ethnic slurs, racial slurs, gender related slurs, sexual orientation slurs, national origin slurs, and religious slurs. The abbreviation of F.A.D.O. (Force, Abuse, Discourtesy, Offensive Language) governs the activities of the Board. Each case is assigned to one or more investigators who then interviews the complainant, any public witnesses to the alleged event, any police officer witnesses to the alleged event, and then finally the police officer who was the subject of the complaint. The CCRB has subpoena power, and so medical and other records are also obtained as part of the record of each case. Under a now longstanding Memorandum of Understanding between the CCRB and the NYPD, as well as the governing statutes, the NYPD provides documents to the CCRB upon request. The CCRB investigators then prepare a written report of each case, and submit it to a Panel consisting of three Commissioners for review, report and recommendation to the Police Commissioner. The recommendations are not binding, but are advisory in nature. The range of recommendations includes substantiation of the allegations of a given complaint with an attendant recommendation of punishment within a range of possible punishments (charges and specifications; command discipline; warnings) to exoneration of all the allegations of a given complaint. The CCRB also has a mediation program that allows, in a range of cases, for the citizen complainant and the subject police officer to agree to a mediation of the complaint at the CCRB with professionally trained mediators agreed upon by both parties. The Police Commissioner usually elects to follow the recommendations of the CCRB, but is not required to do so. The complainant and the police officer are informed of the disposition of the case recommended by the CCRB, and the reasons for the disposition. The deliberations of the CCRB with respect to particular cases are confidential, although the CCRB does publish monthly statistics concerning the nature of complaint (i.e. the particular category under the F.A.D.O. jurisdiction), the precinct location of the complaints, the demographics of the individuals involved in the complaints, and any statistically observed trends reflected by the complaints. The CCRB also periodically issues reports on important issues related to Police Civilian relations, such as hollow point bullets, repairs of doors mistakenly destroyed in exigent circumstances or warranted searches by police officers, and stop and frisk encounters. Those reports are all available on the CCRB web site.

I have performed no lobbying activities on behalf of any client or organization.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

For sixteen years (1987-2003), I taught a course in American Legal History as an adjunct professor of law at Brooklyn Law School. I used the Presser and Zaindland case book entitled, *Law and Jurisprudence in American History: Cases and Materials*. I do not prepare any syllabi.

20. **Deferred Income/Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None, other than the standard payout from my vested pension 401K plan with Baker Hostetler and my personal rollover IRA.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

None, other than to continue as a member of the Board of the Practising Law Institute, which does no fundraising. I would resign all other board affiliations.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

There are no financial arrangements that are likely to present potential conflicts-of-interest. My spouse, Dr. Alice Beal, M.D., is Director of Palliative Care for the New York Harbor Healthcare System Veterans Administration. My son is the Assistant Director for Baseball Operations for The New York Yankees. I would certainly recuse myself from any cases in which the Veterans Administration or The New York Yankees were parties. Moreover, I would consult the Code of Conduct for United States Judges and other relevant canons and statutory

provisions, and consult with my colleagues on the bench for additional guidance as appropriate.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I would consult with my colleagues on the bench, and retain ethics counsel to advise me with respect to any such potential conflict. If confirmed, I would carefully apply the recusal statutes, the relevant canons of the Code of Conduct for United States Judges. I would also consult Professor Stephen Gillers, Barbara Gillers and/or Michael Ross, ethics experts whom I have known for many years through Bar Association activities, for guidance.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have devoted thousands of hours in my capacity as faculty member and trustee of The Practising Law Institute. I have devoted many hours to the work of the Civilian Complaint Review Board whose per diem payment is substantially less than the hourly rate I charge at my law firm. My work with the Federal Bar Council, the Brooklyn Hospital Corporation, the Association of the Bar of the City of New York, the New York Lawyers for the Public Interest and the Kings County Inns of Court and the Lawyers Committee for Civil Rights has also been pro bono.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I submitted a completed Confidential Questionnaire for U.S. District Court Candidate to the Screening Committee for Senator Charles E. Schumer in September of 2009. I met with that Committee in October of 2009. I subsequently met with Senator Schumer and his staff in October of 2010. Shortly thereafter I received a phone call from pre-nomination officials at the Department of Justice, and have been in contact with them since that time. On January 11, 2011, I interviewed with attorneys from the White House Counsel's Office and

the Department of Justice. On March 9, 2011, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

I, William Francis Kuntz, II, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

March 7, 2011
(DATE)

[Signature]
(NAME)

[Signature] 3/17/11
(NOTARY)

Frank Anthony Chiotalo
Notary Public, State of New York
No. 01CH8174970
Qualified In King County
Commission Expires 10/01/2011