

JUDGE DIAMOND IN THE ROUGH

By DAREH GREGORIAN

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MARYLIN DIAMOND
Choice between job and trustee.

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The state's top administrative judge is weighing a request to revoke the special permission he granted embattled Manhattan Supreme Court Justice Marilyn Diamond allowing her to serve as a co-trustee for a multimillion-dollar charitable trust, The Post has learned.

If Chief Administrative Judge Jonathan Lippmann grants the request, that could force Diamond to choose between keeping her judgeship and her potentially lucrative position as trustee of the Jacques and Natasha Gelman Trust.

Diamond was once a lawyer for the late Natasha Gelman, who left behind an estimated \$400 million fortune when she died in 1998. As The Post first reported in 2000, Gelman named Diamond as co-trustee in a will the art heiress's family charges was made while she was mentally incompetent.

"Diamond's a trustee of a trust that shouldn't even exist," said Gelman's cousin, Jerry Jung, who's challenging the documents validity.

The case is under review by the FBI, which is also investigating conflict of interest charges against Diamond.

Because she's a sitting judge, Diamond, 62, had to seek approval from Lippmann to administer the trust when Gelman died. He granted it after Diamond wrote him saying she "was like a daughter" to Gelman, and that her work would "not interfere with my judicial duties in any way."

Jung family lawyer David Cohen wrote Lippmann on Sept. 24 asking him to rescind his approval, arguing Diamond had omitted "important and relevant information" when she wrote to him, including not mentioning the size and details of the trust and the controversy over it.

Cohen called that "a calculated, deliberate, and successful attempt at deception."

State filings show the trust has \$32 million in assets. While Diamond doesn't receive a salary from it, she does receive commissions - \$46,000 in 2001, and \$15,000 in 2000.

Lippmann's spokesman, David Bookstaver, refused to comment on the letter, but said his boss had received it "and I assume he will be responding in the near future."

Diamond's lawyer, Jane Parver, said there was no deceit on her client's part, and disputed Cohen's contention that Diamond stands to make millions from her position.

"It's a charitable trust," she said, adding that its size is not an issue for her client.

"It's my understanding it does not take time from Judge Diamond's schedule, apart from the nights and weekends," she said.

Parver noted that Jung's two previous attempts to get the will tossed in Lichtenstein and Manhattan - where a judge found Gelman was "in all respects competent" when she signed the will - were unsuccessful, and called their pending federal court lawsuit "a third bite from the apple."

Jung pointed to a taped 1994 phone conversation he had with Gelman where she says she doesn't know who Diamond is as proof the judge lied to Lippmann.

"She betrayed my aunt," he said. "This isn't just a fight for money. This is a fight for what's right."

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