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By PRIORITY MAIL: Certified/RRR: P-571-752-173

January 24, 1997

Herbert D. Sledd, Chair
Fellows of the American Bar Foundation
1500 Lexington Financial Center
250 West Main Street
Lexington, Kentucky 40507

Dear Herb:

A year has passed since the last Fellows Annual Meeting, the Fortieth Anniversary Meeting in Baltimore, Maryland, at which I made a formal presentation at the Business Breakfast and successfully defeated the motion to adopt a by-law amendment to automatically suspend from membership any Fellow who ceases to be a member of the bar in good standing.

Based upon my presentation, the assembled Fellows directed Brian Garth, Director of the American Bar Foundation, to undertake a study of the issues raised by my letter dated January 3, 1996 (Exhibit "A") -- copies of which I distributed to all the Fellows at the Business Breakfast. Those issues, as to which Brian was to make findings and report his conclusions, involved my unlawful suspension from the bar, by an interim order dated June 14, 1991:

"without charges, without a hearing, without findings, without reasons, and without any right of appellate review...that I had been denied any appeal, either of right or by leave and denied, as well, any post-suspension hearing as to the alleged basis of my suspension...in retaliation for my judicial 'whistle-blowing'." (Exhibit "A", p. 1)

Additionally, by its enclosed cert petition to the U.S. Supreme Court, provided to the "leadership" of the Fellows, my letter demonstrated the patent unconstitutionality of New York's attorney disciplinary law, as written and as applied -- a state of affairs directly impacting upon each and every attorney admitted to practice in New York and, upon society at large, where -- as shown -- such law is utilized to retaliate against attorneys who challenge judicial misconduct and political manipulation of judgeships.

Nevertheless, in all this time, and notwithstanding the transcending importance of the issues and the express direction of the membership, I have not heard from you or anyone else concerning the subject.

As you know, prior to the Fellows Meeting in Orlando in last August, I telephoned you, expressing my surprise and disappointment about the lack of any follow-up. You agreed to arrange for my receipt of all relevant communications on the subject without delay: a letter that had passed between yourself, Marna, and a Mr. Miller, who you said had made a report. This is reflected by the coversheet to my July 30, 1996 fax to you following our phone conversation (Exhibit "B").

Enclosed by my July 30, 1996 fax (Exhibit "B") was pertinent correspondence that had been sent to Marna: a March 19, 1996 letter addressed to her, as well as to then ABA President Roberta Cooper Ramo, alerting them to the conduct of the staff of the ABA Center for Professional Responsibility and the Chairman and counsel of its constituent ABA committees who had not only refused to in any way address the issues raised by my cert petition: the unlawful suspension of my license and the unconstitutionality of New York's attorney disciplinary law, but had failed to place them before the committee membership "thereby thwarting the democratic process" (at p. 3). My fax coversheet expressly asked "Please let me know what *you* intend to do, now that you have this information." Thereafter, I never heard back from you.

It would appear that whereas the ABA has failed and refused to present the issues to its membership, the "leadership" of the Fellows, having presented the issues to its membership, is, nonetheless, thwarting the democratic process by disregarding their directive for evaluative study and report. Perhaps even more seriously, it appears that the Minutes of the Business Breakfast have been "sanitized" to delete what transpired at that meeting.

Last week, I called Carol Murphy, Staff Director of the Fellows, to check on what the Minutes of the Business Breakfast reflected. She advised me that they reflected only that the motion to amend Article III, Section 2(i) had "failed", and that they contained no further detail as to my presentation, the ensuing discussion, or the vote that took place at that time. Nor, according to Carol, do the Minutes contain any reference to the mandate then given Brian.

Such conduct by those entrusted with "leadership" of the Fellows of the American Bar Foundation raises profound issues of professional responsibility and ethics which should be a subject for discussion by the Fellows membership. This is over and beyond the ABA's unprofessional and unethical conduct, detailed by the correspondence sent with my July 30, 1996 fax (Exhibit "B"), reinforced and expanded upon by the letter to ABA President N. Lee Cooper, dated January 17, 1996 -- a copy of which we sent you (Exhibit "C"). Please immediately advise me as to your intentions concerning the issues raised herein and by these aforesaid materials. Additionally, please provide me with a copy of the promised report of Mr. Miller and the correspondence relative thereto (Exhibit "B").

I would particularly emphasize that as to the recommendation of the 1993 Report of the National Commission on Judicial Discipline and Removal that the bar "defend[] lawyers against retaliation by vindictive judges", highlighted in the materials sent to you with my July 30, 1996 fax. I distributed to the Fellows at the Business Breakfast copies of the pertinent pages from that Report.

Yet, as pointed out by the January 17, 1996 letter to President Cooper (Exhibit "C"), the ABA has "turned a deaf ear to our *express* request that the ABA develop 'implementing structures' to enable lawyers to meet their ethical and professional duty to protect their clients and the public from unfit judges." The "leadership" of the Fellows has done likewise.

I wish the record to reflect my vigorous and vehement objection to what has transpired to date, as well as my objection to the current proposed by-law amendment, which is on the agenda for the February 2, 1997 Business Breakfast of the Fellows in San Antonio, Texas.

Although this new proposal does not affect me directly since it applies only "final" orders of discipline -- which mine is not -- as a matter of principle, I wish to record my continuing objection inasmuch as the proposed by-law change does not overcome the due process objection to your previous proposed revision, as set forth in "1" of the second paragraph of my January 3, 1996 letter (Exhibit "A").

Consequently, I request an opportunity to be heard at the upcoming Business Breakfast on this agenda item. Indeed, such by-law amendment is *premature* prior to a report by Brian in accordance with the expressed wishes of the Fellows a year ago. Plainly, if New York's attorney disciplinary law is unconstitutional and final orders of discipline are being entered against New York attorneys without compliance with due process requirements, such amendment only serves to exacerbate the injustice to the affected attorney. I emphasize that *Mildner v. Gulotta*, 405 F.Supp. 182 (E.D.N.Y. 1975), *aff'd* 425 U.S. 901 (1976), discussed at length in my cert petition, was a consolidation of three cases of New York attorneys, disciplined under final orders. As highlighted by my cert petition (pp. 13-15), Judge Jack Weinstein held more than 20 years ago in a powerful dissent that New York's attorney disciplinary law was unconstitutional and Justices Powell and Marshall, voted in favor of Supreme Court review of the constitutional questions involved.

As reflected by my January 3, 1996 letter (Exhibit "A"), I requested

"amicus curiae or other *pro bono* assistance in my continuing challenge to the constitutionality of New York's attorney disciplinary law, as written and applied" (at p. 1).

Throughout the past year, I have been single-handedly raising these issues in a §1983 federal action. The constitutional issues are now before the Court of Appeals for the Second Circuit and I hereby reiterate my request for *amicus* assistance. I will bring a copy of my Brief and Record on Appeal to the San Antonio meeting for that purpose.

Herbert Sledd, Chair

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Among the lofty purposes of the American Bar Foundation is "to foster and maintain the honor and integrity of the profession of the law". Based upon my experience thus far, it is long past time for the "leadership" to breathe life into those words. I await your prompt response.

Sincerely,



DORIS L. SASSOWER

DLS/er

Enclosures

cc: Marna Tucker, past Chair, Fellows of the American Bar Foundation
Carol Murphy, Staff Director, Fellows of the American Bar Foundation
Brian Garth, Director of American Bar Foundation
Robert Geltzer, Past Chair, NY Fellows:
James Silkenat, Chair, NY Fellows
ABA President N. Lee Cooper
ABA President-Elect Jerome Shestack
J. Scott Parrott, Staff Director
ABA Lawyers Conference

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