



NINTH JUDICIAL COMMITTEE

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January 5, 1993

Thea Hoeth, Executive Director
New York State Ethics Commission
39 Columbia Street
Albany, New York 12207-2717

Dear Ms. Hoeth:

Relative to our most remarkable conversation together yesterday wherein you expressed complete unfamiliarity with the investigatory duties of the New York State Board of Elections, enclosed herewith is a copy of §3-102 and §3-104 of the New York State Election Law (Ex. "A").

Since you also expressed unfamiliarity that there were "court cases" involving the admitted failure of the State Board of Elections to conduct any investigation of eye-witness complaints of Election Law violations at the Democratic and Republican Judicial Nominating Conventions for the Ninth Judicial District, I draw your attention to the case of Castracan v. Colavita, which I mentioned in our phone conversation. The Castracan case is discussed in each of the three letters to Governor Cuomo which were enclosed with my February 5, 1992 letter to the Ethics Commission (Ex. "B"). You will note that the December 19, 1991 letter to Governor Cuomo annexed affidavits of three eye-witnesses to the Judicial Nominating Conventions concerning the violations of Election Law observed by them. Those affidavits, together with Objections and Specifications to the Democratic and Republican Certificates of Nomination, were attachments to the Castracan Petition.

As previously discussed with your staff, an indexed copy of the court papers of Castracan v. Colavita is already in the possession of G. Oliver Koppell, Chairman of the Assembly Judiciary Committee. A copy has also been provided to the Assembly Committee on Election Law. May I suggest that the Ethics Commission access a copy from either Committee. To assist you in reviewing the papers contained in those indexed copies, I enclose a 3-page "Itemization of Documents Essential to Determining the Nonfeasance and Malfeasance of the New York State Board of Elections" (Ex. "C").

January 5, 1993

Although you refused to identify what documents had been reviewed by the Ethics Commission prior to your December 30th dismissal letter (Ex. "D") and stated that such information was "confidential", it seems obvious that you neither reviewed the statutory duties of the State Board of Election or the court files of the Castracan v. Colavita case.

I am also surprised that you, as Executive Director of the Ethics Committee, claimed to be unfamiliar with the provision of the Public Officers Law applicable to this matter. For immediate purposes, I direct your attention to §74.3(d)(f)(h), as well as §94.9(1) of the Executive Law, which appear to be quite relevant (Ex. "E")--and which I previously brought to the attention of your staff.

In light of the foregoing, we trust that this matter will be reopened for appropriate disposition. To that end, we are undertaking a 3-1/2 hour trip to Albany from Westchester County to meet with you on Wednesday, February 3rd. Unfortunately, you adamantly refused to slot more than an hour for our 2:00 p.m. meeting.

Because of the utmost seriousness of our complaint regarding the New York State Board of Elections--and the extensive documentation relative thereto--we hope you will recognize the likely possibility that more than an hour will be necessary for our consultation together.

Yours for a quality judiciary,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosures:

- (a) NYS Election Law §3-102, §3-104
- (b) my 2/5/92 letter to Mr. Mark Davies
- (c) 3-page "Itemization of Documents Essential to Determining the Nonfeasance and Malfeasance of the New York State Board of Elections"
- (d) your 12/30/92 letter to Doris L. Sassower
- (e) Public Officers Law §74.3(d)(f)(h); Executive Law §94.9(1)

cc: G. Oliver Koppell, Chairman, Assembly Judiciary Committee
Eric N. Vitaliano, Chairman, Assembly Committee on Election Law