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NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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GERALD STERN
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EXT 231

April 27, 2000

Ms. Elena Sassower,
Coordinator
Center for Judicial Accountability
PO Box 69, Gedney Station
White Plains, NY 10605-0069

Dear Ms. Sassower:

I am responding to your two letters dated April 24, 2000, one addressed to Albert Lawrence, and the other addressed to me.

As you were advised by Mr. Lawrence's letter of April 6, 2000, the Commission reviewed your letters of complaint and dismissed your complaint. That action was taken on March 30, 2000. Mr. Berger's term ended on March 31, 2000. All eleven members were present at the meeting; all had received your letters of complaint; and all considered the complaint. As you know, Commission votes are not public information. No other details will be provided

You and I have corresponded many times about the reasons why your complaints have been dismissed. I recognize that you would interpret the Judiciary Law to give the Commission much more authority to review the official actions of judges than the Commission and the courts have determined is appropriate. Thus, once again, I am advising you that the Commission has no authority to determine whether judges made errors of law. The Commission is not a court, and cannot replace the appellate courts in reviewing the decisions of trial courts. The Commission determined that your complaint did not provide a proper basis to conduct an investigation. To put that another way, the Commission decided that your complaint lacked merit as a complaint of judicial misconduct. The Commission's authority is limited, and the fact that you add that a decision was "thrown" or that the judge is "corrupt" does not elevate a complaint that

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lacks merit to one that has merit on its face. Moreover, the Commission has no authority to investigate how and why a case was assigned to a particular judge or court part. I recognize that you will not agree with this explanation, and that because of my explanations to you, I, too, will be called, "corrupt," as you have done in the past. I cannot give you reasons that will be satisfactory to you, and in the event you ask me for other reasons, my response will be to refer you to this letter.

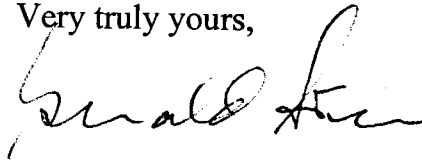
You have also asked for legal authority for the dismissal of your complaint. As I have indicated numerous times in the past, the Commission's legal authority to consider and dismiss complaints is Section 44 of the Judiciary Law, which specifically states that the Commission may dismiss a complaint "if it determines that the complaint on its face lacks merit." The Commission determined that the complaint you submitted lacks merit. Once it determined that it lacked merit, it had no choice but to dismiss. The law goes on to provide that if the Commission dismisses a complaint, "the commission shall so notify the complainant." As you are aware, the Commission notified you of its action. Thus, the Commission complied with the law. I understand that you do not agree with the Commission's decision, but there is nothing more that I can do about that.

You asked Mr. Lawrence how you might seek a review of the Commission's decision to dismiss your complaint. Neither the Judiciary Law nor the Commission's rules provide for review of the Commission's decision to dismiss a complaint. As you know, the only review by law is an Article 78 proceeding, in which the burden on the petitioner is considerable. In fact, your complaint stems from an adverse decision in an Article 78 proceeding.

As to your April 24 letter to me, the Commission discards old complaint letters that had not resulted in investigations. The State's records retention policies are governed by the State Archives and Records Administration, and the Commission's actions with respect to discarding old complaints are consistent with State law. There has been no violation of State law in the purging of records - which as you can surmise is made necessary by the limitations of office space. When the State required us to move into smaller office space several years ago, we were compelled to seek alternatives to our records-retention policies. I trust that you will not ask me to convince you that our policies are consistent with law, since I would not be inclined to pursue this discussion further.

I believe I have replied to the questions you have raised in your letters of April 24.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Gerald Stern".

Gerald Stern