



STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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NEW YORK, NY 10017

Gerald Stern
Administrator

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January 17, 1996

Ms. Elena Ruth Sassower
Center for Judicial Accountability, Inc.
Box 69, Gedney Station
White Plains, New York 10605

Dear Ms. Sassower:

This is in reply to your letter of January 9, 1996. I do not take well to warnings that unless I retract a letter, you will disclose "the content" of your letter to me. Please feel free to disclose to anyone any letter you have written to me and any letter I have written to you.

With respect to your letter of January 9, you have distorted what I had said to you. I have the clearest recollection having told you that the Commission does not investigate errors of law. I told you repeatedly, and I tell you again, that even if the Commission members were to disagree with a ruling or decision, that would not give the Commission jurisdiction to discipline the judge. As to the alleged failure to disqualify, I did not indicate to you whether I agreed or disagreed with the judge. You may find my position "utterly shameful and revolting", but I would ask you to accurately state it for the benefit of anyone you are writing to. I told you in that context that I read about decisions that I personally disagree with, but that does not give me the authority to initiate an investigation of a judge or to recommend that such an investigation be initiated. The Court of Appeals has been critical of the Commission for having tried to discipline judges for conduct that constitutes only judicial error. The law in New York is clear that the Commission does not have the powers of an appellate court and, generally, may not discipline a judge for a judicial decision or ruling. If the Commission's authority is to be enlarged, that change must come from the legislature. I can hear you asking whether I would support such a change. The answer is that I would not, since the present balance is fine, and judges should be free to make decisions subject only to appellate review.

With that introduction, I want to make clear what I have been

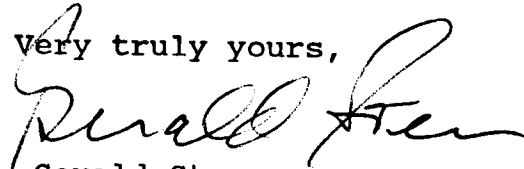
telling you repeatedly: The Commission is not about to have a discussion with you about the court decisions you keep citing. First, you are not sufficiently objective about the issues you raise and the caselaw you cite. Second, you are talking about decisions and their applicability to particular matters, and I am talking about the limits of authority on judicial conduct commissions in every State in this country. So there will be no response to your caselaw; nor will the Commission explain or debate why it is not taking action (although I have explained the limits of our authority).

I have already dealt with issues you raised in your letter of September 14, 1995 to Mr. Berger. With respect to your repeated claims of "protectionism", as I have told you numerous times, your claims are nonsense. With respect to your claim that the Assembly Judiciary Committee will also expect answers and explanations, and will "demand an accounting", I find it astounding that you purport to speak for the Committee. As I have told you, your letter to the NY Law Journal made the false claim that the Commission does not pursue complaints against politically powerful judges. (Actually, I usually do not know who is, and who is not, politically powerful; that is your term, and I do not believe you know who is, and who is not, politically powerful. I hear that some Surrogates had political clout, and the Commission removed a few. Reportedly, there are some very politically-connected Town & Village Justices. Based on the anger of some politicians, I believe the Commission has taken action against some judges with political connections.)

With respect to your claims that I have failed to deal with every question raised in your numerous letters, it would be impossible to satisfy you and I do not have the time or the budget to get into a lengthy dialogue on every issue you raise. I believe my letters are sufficiently comprehensive, and they have been supplemented by numerous conversations.

Your letter of January 9 states that you will delay communicating with the Assembly Judiciary Committee until you hear from me, and "For your sake, Don't disappoint me." Well, I have communicated -- once again-- and please feel free to communicate with whomever you choose. I seriously considered not responding because of the implicit threat ("For your sake..."), but I decided to do so anyway. We have reached a point, however, that I will not repeat myself again on any issue you raise or claim that you make. And as to new matter, I will not respond if your letter states, "For your sake..." or if you otherwise warn me to respond "or else".

Very truly yours,



Gerald Stern