

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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White Plains, New York 10605

By Priority Mail

Certified: RRR 801-449-639

March 22, 1995

New York State Ethics Commission  
39 Columbia Street, 4th Floor  
Albany, New York 12207

RE: Complaint against the New York State  
Commission on Judicial Conduct

Dear Commission Members:

This letter constitutes our formal complaint against the State of New York Commission on Judicial Conduct, which, pursuant to Public Officers Law §73, is a "state agency" under your jurisdiction.

In violation of Public Officers Law, §74.3(d), (f), (h), the members and/or employees of the Commission on Judicial Conduct have used their official positions to protect from disciplinary investigation and prosecution powerful and politically-connected judges -- among them, and most egregiously, Justice William Thompson, himself a member of the Commission on Judicial Conduct.

Enclosed herewith is a copy of our hand-delivered letter to the Commission on Judicial Conduct, dated March 10, 1995, wherein we made such serious allegations of "protectionism" based on the Commission's summary dismissals of *eight* complaints filed by us since 1989 -- all against powerful and politically-connected judges, who have corrupted and abused their judicial office.

The statutory mandate of the Commission on Judicial Conduct, set forth in Judiciary Law §44(1)(a) and (b) is that said Commission shall investigate every complaint but that which "it determines...on its face lacks merit." Examination of our eight complaints shows that not one of them fell into that category of frivolous complaints. Nonetheless, on information and belief, each of our eight complaints was dismissed by the Commission *without* investigation<sup>1</sup>.

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<sup>1</sup> It must be noted that the Commission on Judicial Conduct is operating under rules violating the statutory mandate of Judiciary Law §44(1)(a) and (b). Under 22 NYCRR §7000.3, the Commission may dismiss, without investigation, a complaint against a judge, without any requirement that there be a determination that same "on its face lacks merit". Presumably, by reason thereof, in 1993, the Commission dismissed, *without* investigation and *without* a determination that same were frivolous, 1275 complaints, representing 87.5% of the total number of complaints filed with it. Such action is violative of the statute which, as indicated, requires the Commission on Judicial Conduct to investigate all but frivolous complaints.

Our eight complaints provide a revealing glimpse of the fact that when it comes to high level state court judges, the Commission on Judicial Conduct is summarily dismissing complaints of the most serious, profound, and far-reaching nature -- and doing so in the face of documentary evidence establishing, *prima facie*, either the judicial misconduct complained of or "probable cause" to believe that such judicial misconduct had occurred.

For present purposes and sufficient to establish the flagrant judicial "protectionism" here at issue, we enclose our four 1994 complaints, dated September 19, 1994, October 5, 1994, October 26, 1994, and December 5, 1994 -- referred to at page 2 of our enclosed March 10, 1995 letter to the Commission on Judicial Conduct. Those four complaints each involve Commission Member Justice Thompson, who served as *Presiding Justice* in the two separate cases before the Appellate Division, Second Department, described therein. In each of those two separate cases, Justice Thompson brazenly defied fundamental judicial disqualification rules requiring his recusal and knowingly and deliberately rendered decisions without factual or legal basis so as to injure me and advance his own interest and that of the Appellate Division, Second Department.

In the case of our September 19, 1994 complaint, the documentation we provided the Commission on Judicial Conduct -- herewith also enclosed -- included the complete submissions that were before Justice Thompson when he and his fellow justices refused to recuse themselves from adjudicating my Article 78 proceeding, *Sassower v. Mangano, et al.* Such submissions established that Presiding Justice Thompson had directly participated in *each* of the orders which that Article 78 proceeding challenged as unlawful and criminal. Indeed, paragraph 3 of page 3 of our September 19, 1994 complaint made it easy for the Commissioners to verify our allegations of gross violations of conflict of interest rules by directing their attention to the *precise* location in the record of the disciplinary orders challenged by my Article 78 proceeding, further highlighting in yellow-marker the participation therein of Justice Thompson, as well as the three other justices, similarly disqualified under Judiciary Law §14, Canon 3C of the Code of Judicial Conduct, and §100.3(c) of the Rules Governing Judicial Conduct.

As reflected by the first paragraph of page 4 of our September 19, 1994 complaint, we also provided the Commissioners with record references permitting them to verify that the panel, after refusing to recuse itself, then wilfully advanced its own self-interest. Such record references establish, as alleged in our complaint, that Justice Thompson and his disqualified brethren granted the Attorney General's dismissal motion, with full knowledge that it was legally insufficient, as a matter of law, and factually perjurious.

The aforesaid documentary evidence established *prima facie* our allegations of judicial misconduct and furnished "probable cause" as to the truth of the serious allegations of my Article 78 proceeding, to wit, that Justice Thompson and his fellow justices of the Appellate Division, Second Department were using their disciplinary jurisdiction for ulterior retaliatory purposes. Indeed, our September 19, 1994 complaint to the Commission asserted that the reason Justice Thompson and the panel had refused to recuse themselves was because they could not risk an independent review of my disciplinary files, which, they knew, documented an "ongoing pattern of heinous judicial misconduct and criminal acts, mandating their removal from office." (at p. 4).

Yet, the Commission did not even request the disciplinary files, which that complaint explicitly offered to provide upon request (at pp. 6-7).

As to our three additional complaints, the *uncontroverted* documentary evidence annexed thereto showed that on September 20, 1994 -- the day after we faxed our September 19, 1994 complaint to the Commission -- Justice Thompson, without explanation, joined an Appellate Division, Second Department panel deciding seven appeals involving me and took over as its Presiding Justice. He then used such position to obliterate my rights -- even going so far as to deny me my right, at the October 5, 1994 call of the appeals calendar, to make oral application for his recusal, as well as my right to submit my written affidavit in support of such recusal. The *uncontroverted* documentary evidence which we provided to the Commission as part of our October 26, 1994 and December 5, 1994 complaints showed that Justice Thompson, with the complicity of the appellate panel over which he presided, then falsified the facts concerning what had occurred in open court on October 5, 1994, which was monstrous misconduct by him.

It may be noted that although the gravamen of our December 5, 1994 complaint was that the appellate panel was disqualified from adjudicating the seven appeals, our complaint pointed out that the decision nonetheless rendered by such biased and vindictive appellate panel was "factually and legally insupportable", offering to particularize same for the Commission, upon request.

The Commission on Judicial Conduct made no such request for additional information or documentation as to any of our four 1994 complaints, much as it failed to avail itself of similar proffered opportunities relative to the four earlier complaints filed by us with the Commission.

Our four earlier complaints are no less dispositive of the Commission's "protectionism" of high-ranking and powerful judges, those complaints, likewise, providing *prima facie* evidence of the judicial misconduct complained of or evidence sufficient to establish "probable cause". Upon your request, we will, likewise, transmit those fully documented complaints to you and provide you with all possible assistance.

March 22, 1995

Inasmuch as the within fully documented complaint establishes, unequivocally, official misconduct by the Commission on Judicial Conduct, that directly and immediately threatens the public by subjecting it to judges who are demonstrably corrupt and malevolent, the public has a right to expect that the Ethics Commission will handle such complaint on an expedited, emergency basis.

Very truly yours,



DORIS L. SASSOWER, Director  
Center for Judicial Accountability, Inc.

DLS/er

cc: Jack Newfield, *New York Post*

- Enclosures: (a) 3/10/95 ltr to Commission on Judicial Conduct  
(b) Four 1994 complaints filed with Commission on Judicial Conduct,  
with all enclosures thereto  
(c) Commission's letters of acknowledgment and dismissals

P 801 449 639  
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PS Form 3800, June 1985

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*John P. Schmidt*

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 39 Columbia Street  
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