



NINTH JUDICIAL COMMITTEE

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January 2, 1992

Lee Kiklier, Administrative Assistant
Commission on Judicial Conduct
801 Second Avenue
New York, New York 10017

Dear Mr. Kiklier:

Following up our telephone conversation earlier today, I am enclosing a copy of my most recent correspondence with Governor Cuomo, dated December 19, 1991, which you may consider as a new and separate complaint against Justice Lawrence E. Kahn.

Frankly, the Ninth Judicial Committee was most disappointed that your form letter acknowledging receipt of my October 24, 1991 letter to the Governor stated that my complaint "would be presented to the Commission, which will decide whether or not to inquire into it". This is precisely what you said in your form letter, dated November 10, 1989, in response to the November 3, 1989 complaint letter written to the Commission by our founder and first Chairman, Eli Vigliano, Esq., on the same subject.

We are at a loss to understand why the Commission has to "decide whether or not to inquire" when the evidence clearly shows unlawful and unethical conduct by sitting judges and judicial candidates. The failure of the Commission to promptly investigate the 1989 Three-Year Deal trading seven judgeships in the Ninth Judicial District and its implementation at fraudulently held Judicial Nominating Conventions means that these individuals have not only profited from their wrong-doing, but are now supposed role models sitting in judgment of others.

Many of the facts set forth in my October 24, 1991 letter have been previously made known to the Commission--which already possesses many of the documents referred to therein. Indeed, the second paragraph of my October 24, 1991 letter to the Governor refers to Mr. Vigliano's letter of more than two years ago. As noted, that letter, with exhibits, was sent to the Commission on November 3, 1989--and acknowledged by you.

Moreover, extensive materials concerning the Deal and the 1990 case challenging it, Castracan v. Colavita, were filed with your Deputy Administrator, Robert H. Tembeckjian. At his invitation, Mr. Vigliano and I travelled down from White Plains to the Commission's offices in New York City on May 7, 1991, where we spent several hours discussing those materials in person.

Since then, we have not heard from the Commission as to any action taken or any investigation by your office into the palpably unethical aspects of the Deal agreed to by judges within your jurisdiction--conduct, which your own Commission member, Justice William Thompson stated "would not be approved by the Commission on Judicial Conduct"¹.

Every objective lawyer hearing about the 1989 Deal unanimously agrees it is contrary to law, the Code of Judicial Conduct, and the Rules of the Chief Administrator of the Courts. They are incredulous that its participants and beneficiaries have been allowed to "get away with it" by state judges who have chosen to shut their eyes to patently unlawful and unethical, if not criminal, acts by those who were part of this "judicial Watergate".

Lawyers and judges are both bound by an ethical duty to maintain the integrity of the legal profession. So long as no action is taken relative to the Three-Year Deal or the serious violations of the Election Law at the Judicial Nominating Conventions which implemented it², respect for our legal system and the Commission is necessarily diminished. The public has already concluded from the cases of Castracan v. Colavita and Sady v. Murphy that the integrity of the judiciary is not being protected by our courts and that judges are unwilling to discipline their brethren--where the issues to be adjudicated affect or might reflect upon them personally³.

¹ Justice Thompson's candid comments on the Deal--and those of Presiding Justice Guy Mangano and Justice Sullivan were made this past summer during oral argument before the Appellate Division, Second Department in the case of Sady v. Murphy. Their remarks are discussed at pages 4-5 of my October 24, 1991 letter to Governor Cuomo.

² As highlighted by my December 19, 1991 letter to Governor Cuomo and its enclosures, the affidavits submitted in the case Castracan v. Colavita showed, inter alia, that the 1990 Democratic Judicial Nominating Convention, like that of 1989, was conducted without a quorum.

³ It must be noted that three out of the five members of the Appellate Division, Third Department, deciding the appeal involving the legality of the 1989 Cross-Endorsements Deal at

This cynicism extends to the Commission on Judicial Conduct. As shown from the enclosed "Letter to the Editor" printed in the December 30, 1991 issue of the Gannett Newspapers, the Commission is perceived as sweeping judicial misconduct "under the rug" precisely because it is "comprised of former judges and people of the like." The clear implication is that judges, rather than adjudicating according to the law and facts, are bound by their own partisan interests.

Plainly, immediate action against the now sitting judges who participated in the fraud at the Judicial Nominating Conventions and the Three-Year Deal would go far to change this perception of the Commission.

As the aforesaid "Letter to the Editor" points out, we are presently confronted with a "tidal wave of corruption and misconduct within our government and judicial system here in Westchester". This view is a reflection of the findings of the Commission on Governmental Integrity after a 2-1/2 year investigation, costing the taxpayers some \$10,000,000⁴.

issue in the Castracan v. Colavita case had themselves received major-party cross-endorsements--a fact they did not disclose.

⁴ As part thereof, an 18-month investigation in Westchester County was conducted by the Commission--culminating in a Report entitled "The Blurred Line: Party Politics and Government in Westchester County". The Introduction to that Report made the following statement:

"The Commission's investigation revealed a case study of the relationship between party politics and government in a county dominated by a powerful local political party and its leader. The investigation disclosed that the local Republican party and its leader, Anthony Colavita, wield considerable power and influence in county personnel and budgetary matters and that Colavita is perceived by people both in and out of government as able to influence the processes of Westchester County government. The investigation revealed that Colavita has worked himself into the processes of both the legislative and executive branches of county government to an extent that makes him a de facto official of that government."

It should be noted that the mandate of the Commission on Government Integrity did not permit it to investigate the judiciary directly. However, the Ninth Judicial Committee can detail Mr. Colavita's controlling influence on judicial nominations, well documented in the case of Castracan v. Colavita.

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Nonetheless, while the people most directly affected by such corruption and misconduct by public officials are suffering, the courts have done nothing about it, the Governor has done nothing about it--and, likewise, the Commission on Judicial Conduct, as far as we know, has not even undertaken an investigation--let alone taken disciplinary action.

We would greatly appreciate hearing from you with some encouraging progress report--rather than just another form letter signifying no awareness of any relationship with prior communications relative to the Three-Year Deal, the judges involved in it, and the profound impact the Deal--and the unfit judges it generated--have had on the lives of people who live and work in the Ninth Judicial District, as set forth in my October 24, 1991 letter to the Governor. For your further information, I am enclosing a copy of my October 31, 1991 letter to Governor Cuomo highlighting its role in contributing to the present financial crisis in the courts.

Needless to say, I am prepared to offer live testimony under oath relative to any of the serious allegations I have made so that you and the Commission can be fully satisfied as to the accuracy, truthfulness and reliability thereof. In that connection, I wish to state that in 1989 I was elected a Fellow of the American Bar Foundation, an honor reserved for "less than one-third of one per cent of the practicing bar". At such time as you desire, I have additional documentary materials to supplement your files bearing on the fitness of individual judges in this District and the biased and/or incompetent manner in which they perform their judicial duties--a most shameful reflection of the political "facts of (courthouse) life" here--well known to long-time practitioners in these parts.

Very truly yours,



DORIS L. SASSOWER
Director, Ninth Judicial Committee

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Enclosures: (1) 12/19/91 ltr to Governor Cuomo
(2) 10/31/91 ltr to Governor Cuomo
(3) "Letter to the Editor":
12/30/91, Gannett Newspapers

cc: Hon. Mario Cuomo, Governor State of New York
Chief Judge Sol Wachtler, Court of Appeals
John D. Feerick, Chairman
Commission on Government Integrity

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