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October 17, 1995

John A. Holtaway, Assistant Regulation Counsel  
Standing Committee on Professional Discipline  
American Bar Association  
541 North Fairbanks Court  
Chicago, Illinois 60611-3314

Dear Mr. Holtaway:

This letter responds to yours of October 11th. As we have stated, over and again, the December 1982 report you sent us is entitled "the Lawyer Disciplinary System of the Appellate Division, First Department, New York". Copies of the coverage and Table of Contents are enclosed.

Yet, according to the Introduction of the Report:

"...on May 6, 1981, Honorable Lawrence H. Cooke, Chief Judge of the Court of Appeals of New York, invited the Standing Committee to conduct an evaluation of the disciplinary systems of all four judicial departments in New York. Accordingly, a statewide evaluation team of six members was sent to visit the four judicial departments on March 4-5, and 8-11, 1982. The members who visited the First and Second Departments were...Jeanne P. Gray, Director of the ABA National Center for Professional Responsibility..." (at pp. 1-2, emphasis added).

We understand that your "records reflect there was only one written report issued by the ABA following the 1982 consultation with the New York disciplinary system" (emphasis added). However, since Ms. Gray, with whom you work, actually participated in the ABA study, we would appreciate her confirmation that there were no additional reports addressing the disciplinary mechanisms within the other departments with the specificity that appears in the December 1982 Report relative to the First Department.

October 17, 1995

I would note that several weeks ago I was told--perhaps by you or possibly by Brad Hoffman, Assistant to Ms. Gray--that the reason we had gotten no response to our request for ABA reports on the disciplinary systems in New York's other appellate departments was that they were "confidential" and that the report on the First Department we had received had been sent to us in error.

I know I discussed the "confidentiality" issue at some length with Mr. Hoffman on September 29th--and that he was supposed to "get back to me" promptly about it since, as I told him, we are presently before the New York State Court of Appeals raising a constitutional challenge to New York's attorney disciplinary law. Yet, despite several messages left for Mr. Hoffman, he has not returned my calls.

Indeed, in my conversation with Mr. Trombadore last week, I expressly brought up the fact that I had been told that the reports were "confidential". Inasmuch as Mr. Trombadore, although Chairman of the Standing Committee on Professional Discipline, was unaware of the 1982 ABA report on the New York system until I told him about it and expressed surprise that it would be considered "confidential"--I believe Ms. Gray should, additionally, clarify the "confidentiality" issue for him.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc.

cc: Raymond R. Trombadore, Chair  
ABA Standing Committee on Professional Discipline  
Jeanne P. Gray, Director  
ABA Center for Professional Responsibility

Enclosures

EVALUATION OF THE LAWYER  
DISCIPLINARY SYSTEM OF THE  
THE APPELLATE DIVISION,  
FIRST DEPARTMENT, NEW YORK

FINAL REPORT  
December, 1982

Sponsored by the  
American Bar Association  
Standing Committee on Professional Discipline

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