

**State of New York
Commission on Judicial Conduct**

In the Matter of the Proceeding Pursuant to Section 44.
subdivision 4, of the Judiciary Law in Relation to

Determination

RICHARD H. TIFFANY,

a Justice of the Croghan Town Court,
Lewis County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Myriam J. Altman*
Helaine M. Barnett, Esq.
Herbert L. Bellamy, Sr.
Honorable Carmen Beauchamp Ciparick*
E. Garrett Cleary, Esq.
Dolores Del Bello
Lawrence S. Goldman, Esq.
Honorable Eugene W. Salisbury
John J. Sheehy, Esq.
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (John J. Postel, Of Counsel) for the
Commission

The respondent, Richard H. Tiffany, a justice of the Croghan Town Court, Lewis County, was served with a Formal Written Complaint dated July 8, 1993, alleging that he failed to deposit and remit court funds in a timely manner and that he failed to cooperate with the Commission. Respondent did not answer the Formal Written Complaint.

*Judge Altman and Judge Ciparick resigned effective December 31, 1993. The vote in this matter was on December 9, 1993.

By motion dated September 24, 1993, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct be deemed established. Respondent did not file any papers in response thereto. By determination and order dated October 28, 1993, the Commission granted the administrator's motion.

The administrator submitted a memorandum as to sanction. Respondent did not submit any papers or request oral argument.

On December 9, 1993, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent is a justice of the Croghan Town Court and was during the time herein noted.

2. Between April 1992 and February 1993, as denominated in Schedule A appended hereto, respondent failed to deposit court funds into his official account within 72 hours of receipt, as required by the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.9(a). During this 11-month period, respondent made only one deposit, even though he had received court funds each month. By the end of the period, he had received \$3,111.74 more than he had deposited.

As to Charge II of the Formal Written Complaint:

3. Between April 1992 and May 1993, as denominated in Schedule B appended hereto, respondent failed to remit court funds to the state comptroller by the tenth day of the month following collection, as required by UJCA 2020 and 2021(1), Vehicle and Traffic Law §1803 and Town Law §27(1). As of September 15, 1993, respondent had remitted no money at all since the previous March.

As to Charge III of the Formal Written Complaint:

4. Between October 1985 and July 1993, respondent failed to perform the administrative duties of his office in that he:

a) failed to notify the Department of Motor Vehicles of the disposition of 272 traffic tickets, as required by Vehicle and Traffic Law §514(1)(a); and,

b) with respect to 170 traffic tickets, failed to notify the Department of Motor Vehicles of the defendants' failure to appear in court or otherwise answer the charges or to pay fines imposed by the court, as required by Vehicle and Traffic Law §514(3).

As to Charge IV of the Formal Written Complaint:

5. Respondent failed to cooperate in a duly-authorized Commission investigation in that he:

a) failed to respond to letters sent certified mail by staff counsel on September 24 and October 20, 1992; and,

b) failed to appear for the purpose of giving testimony on May 18, 1993, even though he was notified by letter dated May 5, 1993, that his appearance was required pursuant to Judiciary Law §44(3).

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(a), 100.3, 100.3(a)(5) and 100.3(b)(1), and Canons 1, 2A, 3, 3A(5) and 3B(1) of the Code of Judicial Conduct. Charges I, II, III and IV of the Formal Written Complaint are sustained insofar as they are consistent with the findings herein, and respondent's misconduct is established.

Respondent has neglected nearly every aspect of his administrative responsibilities, showing indifference and disdain for the duties of a judge.

His failure to promptly deposit court money constitutes misconduct and raises questions about its interim use. (See, Matter of More, 1990 Ann Report of NY Commn on Jud Conduct, at 140, 141). The failure to remit court funds to the state is also misconduct. (Matter of Ranke, 1992 Ann Report of NY Commn on Jud Conduct, at 64). Respondent has offered no excuse or mitigating factor which would moderate the otherwise severe penalty to be imposed for such ethical breaches. (See, Matter of Rater v State Commission on Judicial Conduct, 69 NY2d 208, 209).

Respondent has also failed in 170 cases to use the legal means available to him to compel defendants to answer charges properly lodged in his court or to pay fines that he had imposed. This permits defendants to avoid legal process by ignoring the summonses or the fines levied against them. As a result, respondent promoted disrespect for the law and the judiciary. (See, Matter of Ware, 1991 Ann Report of NY Commn on Jud Conduct, at 79, 80-81).

Moreover, by his failure to cooperate in the Commission investigation, respondent has compounded the misconduct and further exhibited flagrant disregard of his obligations as a judge.

By reason of the foregoing, the Commission determines that the appropriate sanction is removal.

Mr. Berger, Judge Altman, Ms. Barnett, Mr. Bellamy, Judge Ciparick, Mrs. Del Bello, Mr. Goldman, Judge Salisbury, Mr. Sheehy and Judge Thompson concur.

Mr. Cleary was not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: January 26, 1994

Henry T. Berger
Henry T. Berger, Esq., Chair
New York State
Commission on Judicial Conduct

Schedule A

<u>Month</u>	<u>Received</u>	<u>Deposited</u>	<u>Surplus or Deficiency</u>	<u>Cumulative</u>
4/92	\$ 505.00	0	\$ -505.00	\$ -505.00
5/92	250.00	0	-250.00	-755.00
6/92	1,089.96	0	-1,089.96	-1,844.96
7/92	954.58	\$1,541.96	+587.38	-1,257.58
8/92	350.00	0	-350.00	-1,607.58
9/92	75.00	0	-75.00	-1,682.58
10/92	175.00	0	-175.00	-1,857.58
11/92	170.00	0	-170.00	-2,027.58
12/92	260.00	0	-260.00	-2,287.58
1/93	339.58	0	-339.58	-2,627.16
2/93	484.58	0	-484.58	-3,111.74

Schedule B

<u>Month</u>	<u>Remitted</u>	<u>Days Late</u>
4/92	10/27/92	170
5/92	"	139
6/92	"	109
7/92	"	78
8/92	"	47
9/92	"	17
10/92	"	0
11/92	3/11/93	91
12/92	3/11/93	60
1/93	3/11/93	29
2/93	*	--
3/93	*	--
4/93	*	--
5/93	*	--

*Not received as of September 15, 1993.