

**ATTORNEY GRIEVANCE COMMITTEE**

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January 5, 2017

PERSONAL AND CONFIDENTIAL

Ms. Elena Ruth Sassower  
c/o Center for Judicial Accountability, Inc.  
Post Office Box 8101  
White Plains, NY 10602

Re: Matter of Darcel D. Clark, Esq.  
Docket No. 2016.2435  
Matter of Cyrus R. Vance, Esq.  
Docket No. 2016.2436  
Matter of Robert T. Johnson, Esq.  
Docket No. 2016.2437

Dear Ms. Sassower

This will acknowledge receipt of your complaint dated October 4, 2016, filed against three attorneys within the jurisdiction of this Committee.

Please be advised that the function of the Chief Attorney and the Committee is to investigate and prosecute acts of professional misconduct committed by attorneys. When a complaint is received, we review it to determine if there is a sufficient basis to conduct an investigation. Pursuant to the Rules for Attorney Disciplinary Matters (formally cited as 22 NYCRR part 1240), the Chief Attorney is vested with discretion to decline to undertake an investigation of any complaint for appropriate reasons. Such reasons include, but are not limited to, the following: the allegations, if true, would not constitute professional misconduct; the complaint seeks a legal remedy more appropriately obtained in another forum; or the allegations are intertwined with another pending legal proceeding.

After careful review, we have determined that your complaint does not provide a sufficient basis to conduct an investigation. The substance of your complaint alleges that the subject attorneys, acting in their respective capacities as an officially elected or appointed District Attorney, each engaged in a "conflict of interest/misconduct" by not

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Page 2


undertaking an investigation or prosecution of alleged criminal corruption, and further engaged in a "larcenous pocketing" of salary increases they knew to be unlawful. It is not my function as the Chief Attorney to the Committee to review the actions and decisions within the discretion of a District Attorney made in the ordinary course of the performance of duties vested in that office by law. Among such duties is the determination of whether to conduct a criminal investigation or prosecution. Further, it is beyond the power of the Chief Attorney and Committee to determine the propriety of a District Attorney's acceptance of a legislatively-authorized salary increase. Whether or not such increase was "unlawful" is an issue that must be addressed and resolved in another more appropriate forum. Moreover, it appears from your complaint that this issue is the subject of a pending legal proceeding.

Accordingly, for the reasons stated above, we are closing the files in these matters. This determination does not preclude you from pursuing any other legal remedies that may be available.

You may seek review of this decision by submitting a written request for reconsideration to this office addressed to "Committee Chair" at the above address within thirty (30) days of the date on this letter. One of the Committee Chairs will grant or deny your request; or, refer your request to one of the Committees, or a subcommittee thereof, for whatever action it deems appropriate.

Thank you.

Very truly yours

  
Jorge Dopico  
Chief Attorney

JD:VL/cmn