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Grievance Committee for the  
Ninth Judicial District

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**Confidential**

January 9, 2017

Elena Ruth Sassower  
c/o Center for Judicial Accountability, Inc.  
P. O. Box 8101  
White Plains, NY 10602

**Re: Our File Nos.: I-15792/16, I-15793/16,  
I-15794/16, I-15795/16, I-15796/16**

Dear Ms. Sassower:

This will acknowledge receipt of your letter dated December 23, 2016 concerning your complaint against five attorneys within the jurisdiction of this Committee.

As you have been advised, the function of this Committee is to investigate and prosecute acts of professional misconduct committed by attorneys. When a complaint is received, it is reviewed to determine if it involves behavior which could constitute professional misconduct by the attorney. An attorney may be found guilty of professional misconduct if it can be proven that an ethical rule or law was violated. If there is a sufficient basis to conduct an investigation, the Committee will do so. However, there are instances where the Committee may decline to pursue an investigation due to other contributing factors.

By letter dated November 23, 2016, you were advised that you did not state a complaint of professional misconduct. Your letter dated October 30, 2016, provides no basis to deviate from this conclusion.

Insofar as your letter dated December 23, 2016 constitutes a FOIL request with regard to "written conflict-of-interest procedures utilized by the five district attorney offices within the Committee's jurisdiction- including as relates to their handling of public corruption complaints," please be advised that this Committee is part of the "judiciary" and thus is not subject to FOIL (see Public Officers Law § 86[3]). The Appellate Division Second Department has exclusive jurisdiction over the records and proceedings of attorney disciplinary matters (see Judiciary Law § 90; 22 NYCRR Parts 603, 691, 806, and 1022). Pursuant to section 90(10) of the Judiciary Law, disciplinary records are sealed, and only the Appellate Division has the authority to provide access to those records, upon application for a written order, with "good cause being shown."

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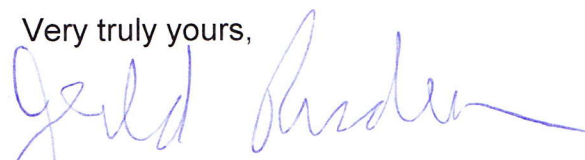
Moreover, even if this Committee was deemed an agency subject to FOIL, which it is not, its records are sealed by statute (Judiciary Law §90(10)), and thus would be exempt from disclosure under FOIL (see Public Officers Law § 87[2][a]). Nor would FOIL require the compilation of information or creation of records (see Public Officers Law § 89[3]). Where disciplinary records are not maintained by categories of complaints, or job titles of attorneys, such as "prosecutors" or "assistant district attorneys," FOIL would not require the compilation of information or creation of records to respond to your request.

In addition to conducting your own on line legal research for certain categories of publicly reported attorney discipline, you also may find information related to your requests in the reports for certain years available at the following public links:

<http://www.nvcourts.gov/reports/annual/index.shtml>  
<https://www.nvsba.org/copdannualreports/>

Accordingly, for the reasons stated above, the Committee is unable to assist you. This determination does not preclude you from pursuing any other legal remedies that may be available. Any further requests for reconsideration should be made, in writing, to the attention of the Appellate Division Second Department, care of the Office of the Clerk.

Very truly yours,



Jerold R. Ruderman  
Chairperson

JRR/ges