

June 27, 1994

COPY

Mr. Albert B. Lawrence, Esq.
Commission on Judicial Conduct
38-40 State Street
Albany, NY 12207

Re: Dismissed Complaint addressing the Conduct of Andrew Piraino, Town of Salina
(Onondaga County)

Dear Mr. Lawrence:

I am in receipt of your letter, dated, June 21, in regards to the above matter. I now write with the request to be provided with more detail why the complaint was dismissed. I will assume that you have access to the entire file.

I have again reviewed the statutory mandate of the Commission, most particularly, Section 44, which states in pertinent part: "The commission shall receive, initiate, investigate and hear complaints with respect to the conduct, qualifications, fitness to perform, or performance of official duties of any judge..." In the case in question, the individual named above was at the time of the alleged misconduct, a lawyer, subject to the *Code of Professional Responsibility*, (Judiciary Law Appendix), and the *Code of Judicial Conduct* (DR-8-103).

The case of Nicholson v. State Commission on Judicial Conduct, 431 N.Y.S.2d 340 Ct. App. 1980), appears to stand for, among other things, the ability of the Commission to investigate charges of misconduct of a judge or a judicial candidate. (Emphasis added). In Nicholson, supra, at 345, the Court found that:

"Misconduct by a Judge or judicial candidate cannot be shielded from scrutiny merely because it takes place in the political forum. The First Amendment implications, if any there be, are far outweighed by the State's interest in the integrity of its judiciary."

Please recall that the Grand Jury Report, dated October 8, 1993, determined the "Caucus" was akin to a "Banana Republic Coup," and it was a "miscarriage of justice that the candidates selected at the caucus are the nominees of (that) party." The Grand Jury further found that the "intentional" avoidance of service (of judicial candidate Piraino) essentially quashed judicial review of the events surrounding the "Caucus."

I cannot believe that the information provided to the Commission could not be construed as a sound evidentiary basis to further inquire whether a conspiracy existed to improperly capture the Democratic nominations at the May 6 "Caucus." The evidence pointed most conspicuously to the then Democratic Chairwoman, Barbara Wallace, and her attorney, Aaron Zimmerman, Piraino's law partner, as the perpetrators of the conspiracy.

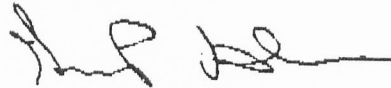
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To the Commission, the most pertinent question becomes: Was then judicial candidate Piraino aware that a vote was to be held that evening, knowing that other candidates were to be denied the right to supply supporters for a fair vote to determine candidates? I must say that to conclude "no," in consideration of the evidence submitted, without further inquiry, is an insult to the intelligence of the entire Salina citizenry.

I invite your comment on the above matter. Please understand the extreme disappointment I feel by the State allowing a candidate to ascend to public office, "selected" at a "Caucus," which is essentially declared illegal by an Onondaga County Grand Jury. The matter seems to defy logic in any sense of the word. My professional and personal disappointment is shared by many others, both named and unnamed, who respectfully demand an explanation.

Sincerely,



George P. Alessio

mtb
pc

Hon. William, J. Fitzpatrick, Onon, Cty. Dist. Atty.
Paul J. Ginnelly, Esq., 5th. Jud. Dist. Griev. Ctme.
Stephanie Miner, NYS Dept. State
Richard R. Southwick, Esq., Asst. U.S. Atty.
Hon. Michael J. Bragman, NYS Assembly
Hon. Michael F. Nozzolio, NYS Senate
Hon. James E. Morris, NYS Mag. Assn.
Hon. Richard A. Wittenburg, Onon. Cty. Mag. Assn.