

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

ALEXANDER CHANANAU,

Determination

a Justice of the Supreme Court, First
Judicial District (Bronx County).

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
John J. Bower, Esq.
David Bromberg, Esq.
E. Garrett Cleary, Esq.
Dolores DelBello
Victor A. Kovner, Esq.
Honorable William J. Ostrowski
Honorable Isaac Rubin
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Raymond S. Hack and Barry M.
Vucker, Of Counsel) for the Commission

Irving Anolik for Respondent

The respondent, Alexander Chananau, a Justice of the
Supreme Court, First Judicial District (Bronx County), was served
with a Formal Written Complaint dated February 29, 1980, alleging
misconduct in that, inter alia, he received financial benefits with
respect to two of three vacation trips arranged by a man who was
actively soliciting and receiving receivership appointments by other
judges of respondent's court and in whose cases respondent had ruled

on motions and once approved a fee. Respondent filed an answer dated May 7, 1980.

By order dated June 19, 1980, the Commission designated the Honorable James Gibson referee to hear and report proposed findings of fact and conclusions of law.

Upon respondent's assertion that a health condition made impossible his participation in the proceeding, and upon his consequent motion to dismiss the Formal Written Complaint therefore, the referee appointed an impartial physician to examine respondent and report his findings. On February 4, 1982, upon consideration of the physician's report, the referee accepted the physician's conclusion that respondent "is able to participate in the pending proceedings at this time with no significant threat to his health or life." Respondent's motion to dismiss the Formal Written Complaint was denied, and the referee directed that the hearing proceed.

On April 20, 1982, the administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts pursuant to Section 44, subdivision 5, of the Judiciary Law, in which respondent agreed that his conduct created an appearance of impropriety, and waived the hearing provided by Section 44, subdivision 4, of the Judiciary Law. The Commission approved the agreed statement as submitted and heard oral argument on June 28, 1982, as to appropriate sanction. Respondent appeared by counsel for oral argument. Thereafter the Commission made the following findings of fact, as submitted by the parties in the agreed statement:

1. Bernard Lange was a person who knew the management of the Americana Aruba Hotel, and could obtain at that hotel excellent accommodations at lower rates than were available to the general public.

2. Mr. Lange was not a member of the International Association of Travel Agents and did not hold himself out to the general public as a person engaged in the travel business.

3. From 1975 to 1978, Mr. Lange actively solicited and received numerous judicial appointments from justices of the Supreme Court, Bronx County, as a receiver in real property mortgage foreclosure proceedings. Mr. Lange's main source of income during this period was derived from such judicial appointments.

4. Mr. Lange was appointed more than 150 times as a receiver in real property mortgage foreclosure proceedings. These appointments resulted in over \$500,000 in fees to Mr. Lange.

5. Respondent knew or should have known that Mr. Lange had and was likely to continue to have frequent transactions in the Supreme Court, Bronx County, because of his numerous appointments to serve as referee.

6. Between October 25, 1977, and June 26, 1978, respondent ruled upon 20 motions in real property mortgage foreclosure proceedings in which Mr. Lange was serving as receiver. (Attached to the agreed statement and made a part thereof as Exhibits 1 to 20 are copies of those motions.)

7. From April 1976 to December 1977, Mr. Lange arranged transportation and hotel accommodations for respondent and his wife for four vacation trips. On two of those trips respondent and his family obtained excellent hotel accommodations at substantial savings. On the other two trips respondent and his family received no discounts and no preferential treatment.

8. From April 14 to April 18, 1976, respondent vacationed with his wife at the Southampton Princess Hotel in Bermuda. Transportation, hotel accommodations and hotel rates for this trip were arranged through Mr. Lange.

9. On this trip, respondent and his wife were lodged in deluxe accommodations at the Southampton Princess Hotel. The rate to the general public for such accommodations was \$120 per night including breakfast and dinner; Mr. Lange arranged to have respondent billed at the rate of \$45 per night.

10. With respect to this trip, the value of the room, food and other services received by respondent and his wife based upon the rates available to the general public was approximately \$534.20. Respondent paid \$217.70.

11. Arrangements for this trip were made by another judge through a friend of the other judge. Respondent was unaware of the identity of the travel agent until after the arrangements were completed. Respondent was not aware of any rates until he registered at the hotel and was given a registration card to sign which showed the rate to be \$45.00 per night which respondent paid as billed.

12. From December 18, 1976, to January 2, 1977, respondent vacationed with his wife at the Americana Aruba Hotel in Aruba. Transportation, hotel accommodations and hotel rates for this trip were arranged at respondent's request through Mr. Lange.

13. On this trip respondent and his wife were lodged in deluxe accommodations at the Americana Aruba Hotel. The value of the room, food and other services received by respondent and his wife based upon respondent's bill was \$1,957.75. Respondent paid \$1,293.20.

14. Respondent knew that he was receiving a reduced rate at the Americana Aruba Hotel through Mr. Lange equal in value to the difference between his hotel bill and what respondent paid.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2, 33.3(c)(1) and 33.5(c)(3)(iii) of the Rules Governing Judicial Conduct (now Sections 100.1, 100.2, 100.3[c][1] and 100.5[c][3][iii]), Section 20.4 of the General Rules of the Administrative Board of the Judicial Conference (now the Rules of the Chief Administrator) and Canons 1, 2, 3C(1) and 5C(4)(c) of the Code of Judicial Conduct. Charges I through III of the Formal Written Complaint are sustained and respondent's misconduct is established.

By his conduct, respondent, as he stipulated in the agreed statement, failed to conduct himself in a manner that promoted public confidence in the integrity and impartiality of the judiciary; created the appearance of impropriety; permitted the impression to

be conveyed that Mr. Lange was doing favors for him and was in a special position to influence him; created the appearance that Mr. Lange had paid for part of his trip; failed to observe high standards of conduct; presided over 20 motions in which his impartiality could reasonably be questioned; and accepted gifts, the value of which was the difference between the rates charged to the general public and the rates that respondent paid through Mr. Lange, a person who was receiving judicial appointments and whose interests were likely to come before the Supreme Court in Bronx County.

Respondent knew that Mr. Lange was soliciting and receiving receivership appointments from Supreme Court justices and had himself presided over motions involving Mr. Lange's work as a receiver. Nevertheless, during the same period, respondent took vacations arranged by Mr. Lange and accepted financial benefits arranged through Mr. Lange in the form of significant reductions in hotel rates. In so doing, respondent violated the rule which prohibits a judge from receiving "any gratuity or gift from any attorney or person having or likely to have any official transaction with the court" (Section 20.4 of the General Rules). Respondent further failed to refrain "from financial and business dealings that...involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves" (Section 33.5[c][3][iii] of the Rules Governing Judicial Conduct), as he was required to do. While a judge may not know all the people who are likely to come before the court on which he serves, respondent was fully aware of

Mr. Lange's business with the court and indeed had presided over a number of Mr. Lange's matters.

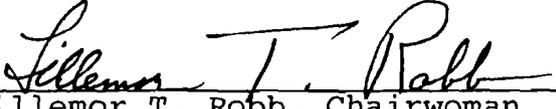
By reason of the foregoing, the Commission determines that respondent should be admonished.

All concur.

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: September 10, 1982


Lillemor T. Robb, Chairwoman
New York State Commission on
Judicial Conduct