

STATE OF NEW YORK  
STATE COMMISSION ON JUDICIAL CONDUCT

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In the Matter :

-of- :

DETERMINATION

DONALD L. CHASE, :

A Justice of the Town of New :  
Scotland, County of Albany.

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STATE COMMISSION ON  
JUDICIAL CONDUCT

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DETERMINATION OF THE  
STATE COMMISSION ON JUDICIAL CONDUCT  
IN THE MATTER OF NEW SCOTLAND  
TOWN JUSTICE DONALD L. CHASE

PRELIMINARY STATEMENT

This Determination of the State Commission on Judicial Conduct (hereinafter the "Commission") is submitted in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law, for transmittal by the Chief Judge of the Court of Appeals to the Honorable Donald L. Chase.

Donald L. Chase is a justice of the Town Court of New Scotland in Albany County. He is not an attorney. He first took office in January 1967. His current term of office expires on December 31, 1981.

Pursuant to Section 43, subdivision 2, of the Judiciary Law, the present investigation of Judge Chase commenced on May 25, 1977. In the course of its investigation, the Commission discovered two instances in which Judge Chase made ex parte requests of other judges for favorable dispositions for defendants in traffic cases and five instances in which Judge Chase granted favorable dispositions to defendants in traffic cases pursuant to requests from third parties.

JUSTICE CHASE'S REQUESTS FOR FAVORABLE  
DISPOSITIONS FOR DEFENDANTS IN TRAFFIC CASES

On or about October 24, 1974, Judge Chase sent a letter

on official court stationery to Judge Wayne G. Smith of the Town Court of Plattekill on behalf of the defendant, who was charged with speeding, in People v. Robert E. Dietz, Sr., a case then pending before Judge Smith. Judge Chase referred in his letter to a prior telephone conversation he had held with Judge Smith regarding the Dietz case, and he enclosed a check in payment of the fine to be levied by Judge Smith on the defendant for the reduction to a non-moving violation.

On or about August 7, 1975, Judge Chase or someone at his request communicated with Judge Harold Schultz of the Town Court of New Scotland on behalf of the defendant, who was charged with driving with a faulty exhaust system, in People v. Eldridge S. Bushnell, a case then pending before Judge Schultz.

JUSTICE CHASE'S GRANTS OF FAVORABLE  
DISPOSITIONS TO DEFENDANTS IN TRAFFIC CASES

On or about May 3, 1976, Judge Chase reduced a charge of failure to stop at a stop sign to illegal parking in People v. Gerald E. Gunlach as a result of a communication he received on behalf of the defendant from Ms. Marie E. Oakes, Court Clerk of the Town of Bethlehem.

On or about June 13, 1976, Judge Chase reduced a charge of turning illegally on a grade to illegal parking in People v. Robert A. DeSantis as a result of a communication he received on behalf of the defendant from Judge Patrick Maney of the Town Court of East Greenbush. Judge Maney's communication was addressed to another justice of the Town of New Scotland, Harold Schultz, who

forwarded it to Judge Chase.

On or about August 26, 1976, Judge Chase reduced a charge of speeding to illegal parking in People v. George F. Miller, Jr., as a result of a communication he received on behalf of the defendant from Ms. Marie E. Oakes, Court Clerk of the Town of Bethlehem.

On or about September 16, 1976, Judge Chase reduced a charge of speeding to illegal parking in People v. Gregory W. Goetsch as a result of a communication he received on behalf of the defendant from Judge Raymond Galarneau of the Town Court of Waterford.

On or about December 3, 1976, Judge Chase reduced a charge of speeding to illegal parking in People v. John C. Leyden as a result of a communication he received on behalf of the defendant from Judge Robert H. Rice of the Town Court of Bethlehem.

JUSTICE CHASE'S WAIVER OF A SCHEDULED  
HEARING BEFORE THE COMMISSION

The Commission sent Judge Chase letters dated July 15, 1977, and October 21, 1977, asking him to comment on his requests for favorable treatment in the Deitz and Bushnell cases and his granting of favorable treatment in the Gunlach, DeSantis, Miller and Goetsch cases. In letters dated July 18, 1977, and October 31, 1977, Judge Chase acknowledged making the requests and granting the dispositions in these cases.

Pursuant to Section 43, subdivision 5, of the Judiciary Law, the Commission determined that cause existed to conduct a hearing with respect to the judge's apparent conduct in the cases noted above and in the Leyden case. On November 25, 1977, Judge Chase was served with a Notice of Hearing and a Formal Written Complaint detailing the factual allegations in the seven cases noted above. In an Answer dated December 23, 1977, Judge Chase admitted all the factual allegations while denying any knowledge that his conduct was improper. On the same date, in an accompanying letter from his attorney, the judge waived his right to the scheduled hearing.

#### CONCLUSION

By making ex parte requests of other judges for favorable dispositions for defendants in traffic cases and by granting favorable dispositions to defendants in traffic cases at the request of third parties, Judge Chase was in violation of Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct of the Administrative Board of the Judicial Conference, and Canons 1, 2 and 3(A) of the Code of Judicial Conduct, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him.... [Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it.... [Section 33.3(a) (1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings.... [Section 33.3(a) (4)]

#### DETERMINATION

By reason of the foregoing, in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Section 43, subdivision 7, of the Judiciary Law, the State Commission on Judicial Conduct has determined that Judge Chase should be publicly censured.

Respectfully submitted,

State Commission on Judicial  
Conduct

Dated: February 16, 1978  
New York, New York

#### APPEARANCES:

Kohn, Bookstein & Karp (By Richard A. Kohn) for Respondent

Gerald Stern (Mary E. Bisantz, Of Counsel) for the Commission