

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

GEORGE HRYCUN,

a Justice of the Ward Town Court, Allegany
County.

DETERMINATION

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Frederick M. Marshall, Vice Chair
Honorable Frances A. Ciardullo
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

Gerald Stern (John J. Postel, Of Counsel) for the Commission

Honorable George Hrycun, *pro se*

The respondent, George Hrycun, a justice of the Ward Town Court,
Allegany County, was served with a Formal Written Complaint dated April 20, 2001,
containing three charges. Respondent filed an answer dated May 10, 2001.

On August 28, 2001, the Administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based upon the agreed facts, jointly recommending that respondent be censured and waiving further submissions and oral argument.

On November 8, 2001, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Ward Town Court since 1990. He is not a lawyer. He has attended and successfully completed all required training sessions for judges.

As to Charge I of the Formal Written Complaint:

2. From August 2000 through October 2000, respondent failed to report any cases or remit to the State Comptroller any of the \$520 in court funds he had received, in violation of Sections 2020 and 2021(1) of the Uniform Justice Court Act, Section 1803 of the Vehicle and Traffic Law and Section 27.1 of the Town Law. The \$520 in court funds that respondent had received during this period were deposited as required by law.

3. From August 2000 through October 2000, respondent failed to report and remit to the State Comptroller, notwithstanding that he had received two letters of

dismissal and caution, dated July 27, 1994, and February 10, 2000, from the Commission concerning his prior failures to report and remit to the State Comptroller as required by law.

4. Respondent failed to report and remit to the State Comptroller as required by law as a result of the seasonal demands of his personal employment, which had increased during this period.

5. Respondent agrees that he will comply with the requirements of Sections 2020 and 2021(1) of the Uniform Justice Court Act, Section 1803 of the Vehicle and Traffic Law and Section 27.1 of the Town Law and will submit his monthly reports to the State Comptroller within the first ten days of the month succeeding collection.

As to Charge II of the Formal Written Complaint:

6. From August 1999 through October 1999, respondent failed to report any cases or remit to the State Comptroller any of the \$970 in court funds he had received, in violation of Sections 2020 and 2021(1) of the Uniform Justice Court Act, Section 1803 of the Vehicle and Traffic Law and Section 27.1 of the Town Law. The \$970 in court funds that respondent had received during this period were deposited as required by law.

7. From August 1999 through October 1999, respondent failed to report and remit to the State Comptroller, notwithstanding that he had received a letter of

dismissal and caution, dated July 27, 1994, from the Commission concerning his prior failure to report and remit to the State Comptroller as required by law.

As to Charge III of the Formal Written Complaint:

8. From July 1993 through October 1993, respondent failed to report any cases or remit to the State Comptroller any of the \$245 in court funds he had received, in violation of Sections 2020 and 2021(1) of the Uniform Justice Court Act, Section 1803 of the Vehicle and Traffic Law and Section 27.1 of the Town Law. The \$245 in court funds that respondent had received during this period were deposited as required by law.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(A) and 100.3(C)(1) of the Rules Governing Judicial Conduct. Charges I, II and III of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Notwithstanding two prior confidential cautions by the Commission for similar misconduct, respondent failed to report cases and remit court funds to the State Comptroller within the time required by law. Six months after receiving his second letter of dismissal and caution, respondent reverted to his earlier lax practices, filing no reports and remitting no funds to the State Comptroller from August to October 2000

notwithstanding that he had received \$520 in court funds during this period.

A town justice is required to report cases and remit court funds to the State Comptroller by the tenth day of the month following collection (UJCA §2021[1]; Town Law §27[1]; Vehicle and Traffic Law §1803]). The mishandling of public funds by a judge is misconduct, even when not done for personal profit. Bartlett v. Flynn, 50 AD2d 401, 404 (4th Dept 1976). The failure to remit funds promptly to the State Comptroller constitutes neglect of a judge's administrative duties, even if the money is accounted for and on deposit and even if the amounts are small. See Matter of Ranke, 1992 Ann Report of NY Commn on Jud Conduct 64; Matter of Erway, 1997 Ann Report of NY Commn on Jud Conduct 91.

Respondent's negligence with respect to his administrative duties is not excused by the demands of his personal employment. The judicial responsibilities of a judge take precedence over all the judge's other activities (Section 100.3[A] of the Rules Governing Judicial Conduct).

Respondent's failure to heed previous Commission warnings to comply with the remitting requirements exacerbates his misconduct. Matter of Goebel, 1990 Ann Report of of NY Commn on Jud Conduct 101; Matter of Erway, *supra*. Any future conduct by respondent which violates the ethical standards concerning the reporting and remitting requirements may well be cause for removal.

By reason of the foregoing, the Commission determines that the appropriate sanction is censure.

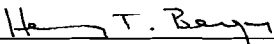
Mr. Berger, Judge Marshall, Judge Ciardullo, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Peters, Mr. Pope and Judge Ruderman concur.

Judge Luciano was not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: November 19, 2001



Henry T. Berger, Esq., Chair
New York State
Commission on Judicial Conduct