

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

ROBERT T. RUSSELL, JR.,

DETERMINATION

a Judge of the Buffalo City Court, Erie County.

THE COMMISSION:

Honorable Eugene W. Salisbury, Chairman
Henry T. Berger, Esq.
Jeremy Ann Brown, C.A.S.A.C.
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Honorable Frederick M. Marshall
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

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

Terrence M. Connors for Respondent

The respondent, Robert T. Russell, Jr., a judge of the Buffalo City Court,
Erie County, was served with a Formal Written Complaint dated March 15, 2000,
alleging that over a seven-year period respondent failed to file his financial disclosure

statements with the Ethics Commission for the Unified Court System within the time required by the Rules of the Chief Judge.

On September 14, 2000, 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 admonished and waiving further submissions and oral argument.

On September 14, 2000, the Commission approved the agreed statement and made the following determination.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a judge of the Buffalo City Court since 1992.
2. Respondent failed to file his financial disclosure statements for the years 1992 through 1998 with the Ethics Commission for the Unified Court System ("Ethics Commission") within the time required by Section 40.2 of the Rules of the Chief Judge (22 NYCRR 40.2). In each of those years, the Ethics Commission sent respondent a Notice To Cure, and in three of those years, the Ethics Commission sent respondent a Notice of Delinquency, as set forth on the annexed Schedule A.
3. Respondent's delayed filings with the Ethics Commission of his 1996, 1997 and 1998 financial disclosure statements occurred after the Commission had

sent respondent a Letter of Dismissal and Caution dated February 7, 1997, pertaining to his failure to file his 1995 financial disclosure statement in a timely manner and cautioning him to file his financial disclosure statements as required by Section 40.2 and Judiciary Law Section 211(4).

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Section 100.3(C)(1) of the Rules Governing Judicial Conduct. Charge I is sustained, and respondent's misconduct is established.

As reflected in Judiciary Law Section 211(4) and Rules of the Chief Judge Section 40.2, the Legislature and the Chief Judge have determined that financial disclosure by judges serves an important public function, and it is the duty of every judge to file the required reports promptly. Since becoming a judge in 1992, respondent repeatedly violated the requirement that his financial disclosure statements be filed each year by May 15th; his first report, due on May 15, 1993, was filed 150 days late, and over a seven-year period his reports were late by an average of 85 days. Each year, a month after the May 15th due date, the Ethics Commission sent respondent a Notice To Cure reminding him of his obligation, and in three of those years, when he did not file within 30 days of the Notice To Cure, respondent was sent a Notice Of Delinquency.

Respondent's negligence in this regard is exacerbated by the fact that his pattern of late filing continued even after he received a Letter of Dismissal and Caution

from the Commission concerning his failure to file his 1995 financial disclosure statement in a timely manner. Notwithstanding this warning, respondent continued to ignore the relevant ethical rules, and for each of the next three years, he continued to file his reports well past the due date and only after receiving a Notice To Cure.

Respondent's conduct violated Section 100.3(C)(1) of the Rules Governing Judicial Conduct, which requires a judge to diligently discharge his or her administrative responsibilities, maintain professional competence in judicial administration and cooperate with court officials in the administration of court business. Although this behavior does not reflect on respondent's performance on the bench, it is misconduct that warrants public discipline.

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

Judge Salisbury, Mr. Berger, Ms. Brown, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Luciano, Judge Peters and Mr. Pope concur.

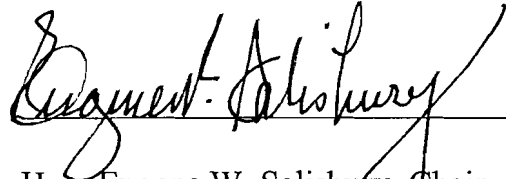
Judge Marshall and Judge Ruderman were not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State

Commission on Judicial Conduct.

Dated: October 31, 2000

A handwritten signature in black ink, appearing to read "Eugene W. Salisbury", written over a horizontal line.

Hon. Eugene W. Salisbury, Chair
New York State
Commission on Judicial Conduct

Schedule A

<u>Year</u>	<u>Due Date</u>	<u>Notice To Cure</u>	<u>Notice Of Delinquency</u>	<u>Date Filed</u>	<u>Days Late</u>
1992	5/15/93	6/93		10/12/93	150
1993	5/15/94	6/94		7/7/94	53
1994	5/15/95	6/15/95	7/20/95	8/9/95	86
1995	5/15/96	6/17/96	7/30/96	9/10/96	118
1996	5/15/97	6/97		6/23/97	39
1997	5/15/98	6/98		7/14/98	60
1998	5/15/99	6/17/99	7/21/99	8/9/99	86
