

**State of New York**  
**Commission on Judicial Conduct**

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In the Matter of the Proceeding Pursuant to Section 44,  
subdivision 4, of the Judiciary Law in Relation to

**Determination**

V. ROY CACCIATORE,

a Justice of the Freeport Village Court,  
Nassau County.

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THE COMMISSION:

Henry T. Berger, Esq., Chair  
Jeremy Ann Brown  
Stephen R. Coffey, Esq.  
Mary Ann Crotty  
Lawrence S. Goldman, Esq.  
Honorable Daniel F. Luciano  
Honorable Frederick M. Marshall  
Honorable Juanita Bing Newton  
Alan J. Pope, Esq.  
Honorable Eugene W. Salisbury  
Honorable William C. Thompson

APPEARANCES:

Gerald Stern for the Commission

Jaspan Schlesinger Silverman & Hoffman, L.L.P. (Stanley Harwood, Of Counsel)  
for Respondent

The respondent, V. Roy Cacciatore, a justice of the Freeport Village Court,  
Nassau County, was served with a Formal Written Complaint dated November 25, 1997, alleging  
improper political activity. Respondent did not answer the charge.

On December 8, 1997, the administrator of the Commission, respondent and  
respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5),

waiving the hearing provided by Judiciary Law §44(4), stipulating that the Commission make its determination based on the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On December 11, 1997, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Freeport Village Court during the time herein noted.
2. Respondent was a candidate for re-election in the March 1997 village elections.
3. On March 5, 1997, respondent sent a letter to voters in the village, asking them to support the candidacies of several individuals who were running for non-judicial positions and to oppose the opponents of those candidates.
4. The letter was signed by respondent under the letterhead of respondent and his wife and was enclosed in an envelope with the return address, "The Glacken Team Home Rule Party."
5. In the letter, respondent expressed concern about the financial condition of the village and the "huge tax increase that we all are facing." He also stated that "our hometown... is being threatened," and he called for the election of "a new Mayor and new Trustees on our Village Board."

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2 and 100.5. Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established.

Although a judge may participate in political activity during a period in which he or she is a candidate for elective judicial office (Rules Governing Judicial Conduct, 22 NYCRR 100.5[A][1][c]), those campaign activities are significantly circumscribed (see, Matter of Decker, 1995 Ann Report of NY Commn on Jud Conduct, at 111, 112). “ ...Judges must hold themselves aloof from and refrain from engaging in political activity, except to the extent necessary to pursue their candidacies during their public election campaigns.” (Matter of Maney, 70 NY2d 27, at 30).

A judicial candidate may stand as part of a slate for other offices (Opns 90-166, 91-94 of the Advisory Committee on Judicial Ethics) but may not publicly endorse or publicly oppose other candidates (Rules Governing Judicial Conduct, 22 NYCRR 100.5[A][1][e]; see, Matter of Decker, supra). The candidate may not participate in partisan political activity unrelated to the judge’s campaign (22 NYCRR 100.5[A][1][c]; see, Matter of Gloss, 1989 Ann Report of NY Commn on Jud Conduct, at 81, 83) and shall not “make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office” (22 NYCRR 100.5[A][4][d][i]).

Respondent violated these standards by endorsing certain candidates for mayor and trustee and criticizing their opponents, and he made statements on partisan political issues in the campaign.

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

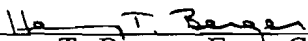
Mr. Berger, Ms. Brown, Mr. Coffey, Ms. Crotty, Mr. Goldman, Judge Luciano, Judge Marshall, Judge Newton and Judge Thompson concur.

Mr. Pope and Judge Salisbury were not present.

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: February 6, 1998

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