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November 25, 2003

Jill Pearson, Executive Director  
The Commonwealth of Massachusetts  
Commission on Judicial Conduct  
14 Beacon Street Suite 102  
Boston, Massachusetts 02108

Dear Director Pearson:

Thank you for your informative letter dated November 10 regarding our complaint of October 14, 2003 alleging judicial misconduct of Judge Richard J. Chin. Naturally we were disappointed with your determination, but can understand your reservations about our allegations as presented.

According to your letter, our complaint was neither investigated nor docketed by your Commission. We herewith submit a revision which we believe answers the exceptions you noted.

We acknowledge, as you accurately noted, that our suggestion of *ex parte* communication by the judge and/or his staff was conjecture. We had not meant to imply that we possessed hard evidence of that impropriety, but rather to recommend to your investigator(s) a probable explanation for the various, blatant distortions of the record occurring in the Judge's decision and order of summary judgment.

We recognize moreover that we failed to provide a basis – i.e. “specific facts” – for our allegations. The instructions given on your input form clearly indicate that each complaint is “screened on the basis of [the] form only... not ... upon attachments ...” Indeed, only in our attachments did we compare passages in Judge Chin's decision with their references in the record. Thus we did not provide *on the form itself* evidence of deliberate alteration.

In our present complaint we have focused – within your Commission's two-page format – on just one of the numerous irregularities we noted in our earlier, October 14 submission. In order to allow direct, immediate comparison, we juxtaposed the passage from the exhibit we selected and its misquote in the Court's decision and order. We suggest that *fraud* is immediately evident *by comparison alone*; our attachments then serve only to authenticate the passages compared.

Massachusetts General Laws c.211C§2(4) provides that “[i]n the absence of fraud, corrupt motive, bad faith, or clear indication that the judge's conduct violates the code of judicial conduct, the commission shall not take action against a judge for making findings of fact, reaching a legal conclusion, or applying the law as he understands it.” [italics supplied]

Therefore, in filing charges of judicial misconduct *amounting to fraud*, we are not perforce “... asking [the Commission] to do precisely what the Commission on Judicial Conduct is not allowed to

do: review a judge's decision for error." Rather, we are asking that your body consider misconduct, regardless of *possible* ramifications of judicial error, which may or may not be found on appeal.

Of the variously misquoted and/or metaphrased exhibits identified in our attachment,<sup>1</sup> the document we have illustrated in our current complaint stands in stark contrast to its remarkable misquotation in Justice Chin's decision and order. We believe that even the proverbial 'fool' – let alone the 'reasonable man' or, especially, your august Commission – can appreciate the mischief in the Court's artful rewording of an authoritative report of the Federal Bureau of Investigation.

Undoubtedly by design – *certainly not* through inadvertent *error* – the clear effect of the words, phrases, and entire clauses that the Court inserted, replaced, and deleted – *in between and from in-between quotation marks* – is to *reverse* an official government determination. Such fraud stands with or without determination of *judicial error* by an Appeals Court or other authority – let alone the Commission on Judicial Conduct.

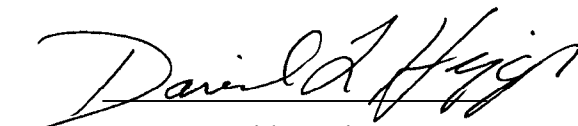
We say there's a baker's dozen of such grievous twists to be found in the Judge's decision – each expounded in our *Super Brief*.

*As litigants* we are forced by a blatant abuse of judicial power to take on the burden of appeal – not, however, for the legitimate purpose of resolving matters of law and of fact. Rather, after years and years, only to establish, through appellate review, ridiculously obvious "error." In the meantime, we are duty bound *as citizens* to report judicial misconduct to an appropriate authority, such as your Commission.

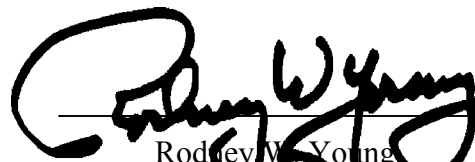
When, if ever, we finally confront fact finders with our evidence, and prevail, then justice so long obstructed and delayed indeed will have been denied – particularly to our co-plaintiff Roberta Beck who blew the whistle in 1997, and thereafter fought a losing battle with malfeasant administrators and judges, and tragically, this spring, with a decades-long, terminal illness.

The interests of the high and ostensibly mighty defendants in Beck v. DOE have been well protected – through courtly monkey business, that, for the sake of us all, the Commission on Judicial Conduct must act forthrightly to discourage.

Sincerely yours,



David L. Higgs



Rodney W. Young

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<sup>1</sup> See Super Brief, 'Table of Court Errors,' pp. vi – vii (dark shaded cells).