

June 13, 1997

STATEMENT OF ADMONITION OF THE
HONORABLE JAMES E. LETSINGER, JUDGE OF THE LAKE SUPERIOR
COURT

The Indiana Commission on Judicial Qualifications on this date publicly admonishes Judge James E. Letsinger of the Criminal Division of the Lake Superior Court for violations of the Code of Judicial Conduct. This admonition follows the Commission's finding that formal disciplinary charges are warranted and is issued in lieu of those charges with the consent of Judge Letsinger.

The Commission's finding that charges were warranted stemmed from public comments made by Judge Letsinger in late 1996. The comments, reported in the press, related to allegations that over \$8000.00 was missing from the Lake Superior Court Probation Department funds. The Commission found that Judge Letsinger's comments violated the rules of judicial conduct which prohibit judges from commenting on impending cases which could affect their outcomes or impair their fairness. (Canon 3B(10) of the Code of Judicial Conduct). Also, the Commission found that Judge Letsinger's comments violated the rules of judicial conduct which require judges to uphold the integrity of the judiciary and to act at all times in a manner which promotes the public confidence in the integrity of the judiciary. (Canons 1 and 2 of the Code of Judicial Conduct).

Judge Letsinger stated to the press that the head of the Probation Department, from which the money was missing, and who, therefore, presumably would play a key role in the pending investigation and possible subsequent court proceeding, was "stonewalling" and was "being less than candid" and "less than forthcoming." The Commission's position is that under Canon 3B(10), a judge is prohibited from making public comments about the credibility or good faith of a witness in an impending proceeding.

Judge Letsinger also stated to the press that one of his colleague judges, the Honorable James L. Clement, was "being less than candid" and "less than forthcoming" relating to the court's internal investigation and alleged prior knowledge about problems with missing funds. He said about the judge, "He knew about this...The can of worms is starting to smell, and it's smelling higher and higher." Judge Letsinger also stated that the other judges on the Lake Superior Court were "protecting Clement." The Commission's position is that under Canons 1 and 2, a judge must tailor his comments to ensure they do not create an unfairly negative perception of the judiciary. In fact, if Judge Letsinger did believe other judges were acting inappropriately, his duty was to report them to the Qualifications Commission and to not express inflammatory and unconstructive opinions to the press about his colleagues in the judiciary.

The Commission members believe it is important to stress here that Judge Letsinger is admonished not simply because he spoke publicly about a difficult situation in the Lake Superior Court. Judges are not forbidden from making public comments; in fact, they should be encouraged to engage in temperate and judicious speech on any subject, so long as the speech does not compromise the high ethical standards by which judges, unlike other citizens, are held. Judges do not lose entirely their rights to free speech, but it is well established that the preservation of the integrity and of the public perception of the judiciary justifies certain infringements on a judge's right to speak out.

Judge Letsinger is admonished because of the injudicious and intemperate nature of his comments, and because some of them were inappropriate comments about an impending proceeding. His comments were not fact-based information from which the public could benefit; rather, as with his comment about the "can of worms smelling higher and higher," Judge Letsinger created through his speech an inflammatory association between his colleague and a somewhat unclear, but distinctly negative, circumstance involving the investigation into the missing funds. Thus, it is largely the manner in which he expressed himself, and not the fact that he did so, which warrants this admonition.

The release of this public admonition concludes the investigation into Judge Letsinger's conduct and, again, forecloses a formal disciplinary procedure before the Supreme Court. Any questions about this admonition may be directed to Chief Justice Randall T. Shepard, Chairman of the Commission, (317) 232-2550, or to Meg Babcock, Counsel to the Commission, (317) 232-4706, or to Kathryn D. Schmidt, attorney for Judge Letsinger, (219) 769-1313.