



NEW YORK STATE  
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**CONFIDENTIAL**

November 19, 2025

**VIA EMAIL TO:** [REDACTED]

David M. Garber, Esq.  
[REDACTED]

*Re: Matter of Walter Jones*

Dear Mr. Garber:

Please accept this letter as Commission Counsel's reply to Respondent's post-hearing memorandum in the above-captioned matter. Commission Counsel reiterates and relies on the arguments in its memorandum dated October 22, 2025, and writes this letter only to comment on several discrete points raised by Respondent in his submission.

First, by continuing to insist that he did nothing wrong in saying the word "n\*\*\*\*r" while "simply quoting his father" (Resp Mem: 4), Respondent again demonstrates his failure to accept responsibility for his misconduct (*see* Comm Mem: 22-25). Although he maintains that the "context" in which he used the slur is "critical" and that he spoke the full epithet to "demonstrate that his father, despite being a racist 'did the right thing' in one isolated instance" (Resp Mem: 4), Respondent had no reason to recount this story to Valenti and Bartolotta in the first place. Even then, he could have made his point just as effectively without repeating the vile slur. It is especially surprising that that Respondent continues to defend the propriety of "quoting his father," given his acknowledgement that his father was "an avowed racist" (Resp Mem: 4). Quoting epithets that a racist was known to use surely creates at least the appearance of bias.

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Next, Respondent's contention that the Commission's holding in *Matter of Agresta*, and the Court of Appeals decision upholding it, were "well intentioned" but went "too far" (Resp Mem: 4-5) is severely misguided. Respondent's supposition that it would not be misconduct for him to say "n\*\*\*\*r" while reciting *Tom Sawyer* aloud at a library reading (Resp Mem: 5) itself demonstrates his insensitivity to the damage that word causes when spoken by a judge "in any context" outside of what may be necessary to conduct court business. *See Agresta*, 1985 Ann Rep of NY Commn on Jud Conduct at 111. Indeed, as the Court of Appeals held, "it is improper for a judge to make remarks of a racist nature even when the remarks are made out of court." *Matter of Agresta*, 64 NY2d 327, 330 (1985).

In any event, Respondent's library hypothetical is far removed from the circumstances of this case, where Respondent gratuitously spoke the slur to a captive audience of two subordinates who were unable to find a way out of the uncomfortable situation he had created. And Respondent's concern that a judge would commit misconduct by reading aloud from the *Agresta* determination itself (Resp Mem: 5) is similarly inapposite. It is hard to conceive of any scenario in which that might happen, and if it did, the reader would be able to replace the full slur with "N-word," just as Respondent should have done on May 10, 2024.<sup>1</sup>

Respondent's assertions that he "regrets using the N-word" in telling his story to Valenti and Bartolotta (Resp Proposed Findings of Fact ¶ 41) and "wishes he had not" used the slur (Resp Mem: 8) are disingenuous at best. As discussed previously (*see* Comm Mem: 22-24), Respondent repeatedly defended his use of the slur, asserted that he would have spoken the full epithet even if a Black person had been present in the parking lot, and stated that he would omit the slur in the future only "[b]ecause it causes so much upset and consternation and discomfort" – not because the word is hateful and destructive in and of itself. That testimony demonstrates that Respondent does not regret saying the word "n\*\*\*\*r" out of recognition that it was wrong to use the slur, but rather regrets that doing so has landed him in so much trouble.

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<sup>1</sup> Respondent's related claim that "[t]he cases cited in the *Agresta* opinion amply demonstrate that [his] statements [at issue] are far less egregious than the statements and conduct of the respondents in those proceedings" (Resp Mem: 5) goes to the issue of sanction, and thus is beyond the scope of the Referee's Report. *See* Operating Rules and Procedures of the Commission on Judicial Conduct § 7000.6(1).

