

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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By Hand and By Fax: 212-335-8914

March 5, 1996

Robert M. Morgenthau, District Attorney
New York County
1 Hogan Place
New York, New York 10013

ATT: Assistant District Attorney Thomas A. Wornom
Deputy Chief, Special Prosecutions Bureau

Dear Mr. Wornom:

This follows up our February 13, 1996 telephone conversation in which I detailed the respects in which your February 7th response to our January 31st letter is in bad-faith.

The first inquiry enumerated in our January 31st letter asked:

"What--if anything--the Manhattan District Attorney has done with our criminal complaint against the Commission on Judicial Conduct of the State of New York--filed on May 19, 1995." (at p. 1)

The answer is obviously nothing. Your February 7th letter conclusory response that:

"the information contained in [our] criminal complaint is insufficient to warrant or support a criminal prosecution of the Commission on Judicial Conduct and its members"

is palpably spurious, in light of the fact that our May 19, 1995 criminal complaint transmitted a second copy of our verified Article 78 Petition. The exhibits thereto documentarily established the complicity by the Commission on Judicial Conduct in criminal and corrupt conduct by judges and judicial candidates, which had been the subject of facially-meritorious misconduct complaints to the Commission--dismissed by it, without investigation, in violation of Judiciary Law §44.1. Such summary dismissals by the Commission, shown by the Article 78 Petition to be part of a knowing and deliberate pattern of protectionism, including of its own highest-ranking judicial member--satisfies the essential elements of the crime of "Official Misconduct", as defined in Penal Law §195.00. Additionally, as to our

September 19, 1995 complaint, based on the Commission's litigation misconduct in our Article 78 proceeding against it and complicity in a fraudulent judgment of dismissal, the record establishes additional crimes committed by the Commission, inter alia, Obstructing Governmental Administration (§195.05) through Perjury (§§210.05, 210.10), Offering a False Instrument for Filing (§§175.30, 175.35), several of which are Class E felonies. This is quite apart from criminal conspiracy.

Even cursory review of the misconduct complaints annexed as Exhibits "C" through "J" to the verified Article 78 Petition reveals that corroborating documentation of the criminal acts was submitted to the Commission, with proffers of yet further corroborating documentation to support the filed complaints.

This is further highlighted at paragraphs "TWENTY-FIRST" and "TWENTY-SECOND" of the verified Article 78 Petition (Exhibit "A"), which explicitly stated that such substantiating documentation:

"...established, prima facie, judicial misconduct by the judges complained of or probable cause to believe that the judicial misconduct complained of had been committed."
(paragraph "TWENTY-SECOND").

The Addendum to our May 19, 1995 criminal complaint to the Manhattan District Attorney¹ further emphasized this point, as follows:

"If there is the slightest question as to the serious and criminal nature of the complaints filed with the Commission on Judicial Conduct, the documentary evidence submitted to the Commission should be requisitioned.

Alternatively, we will expeditiously make available to you such documentary proof establishing either 'probable cause' to believe that the misconduct complained of had occurred or the 'prima facie' evidence.

Additionally, we will produce for you scores of complainants whose complaints of serious misconduct were summarily dismissed by the Commission--without any finding by it that the complaints so-dismissed were facially 'without merit'.

¹ See Exhibit "A" to our January 31, 1996 letter.

Yet, you have confirmed that the Manhattan District Attorney did not request from the Commission on Judicial Conduct the corroborating proof we submitted to substantiate the serious and criminal allegations of our facially-meritorious misconduct complaints. You also confirmed that the District Attorney did not request from us copies of those materials or ask us to produce other complainants, as we offered to do. Indeed, as set forth at page 2 of our January 31st letter and detailed in Exhibit "B" thereto, on May 23, 1995, when we brought approximately 20 people to the Manhattan D.A.'s office, ready to file their own complaints against the Commission, they were barred from even entering the "walk-in" complaint room, even on a one-by-one basis.

It is thus plain that the Manhattan District Attorney--in concluding, without specification of the particulars, that our "criminal complaint is insufficient to warrant or support a criminal prosecution"--has not only not undertaken the most obvious and fundamental investigation to verify our criminal complaint of protectionism and corruption by the Commission on Judicial Conduct, but has resisted undertaking such investigation.

This letter, therefore, constitutes our formal demand that the Manhattan District Attorney immediately requisition from the Commission on Judicial Conduct the corroborating documentation that we provided it in connection with the facially-meritorious complaints annexed to our Article 78 Petition.

As I emphasized in our telephone conversation, the Commission failed and refused to provide such corroborating documentation to the Court, as requested by paragraph "TWENTY-FIRST" of our Article 78 Petition (Exhibit "A")--and reiterated in a separate NOTICE TO FURNISH RECORD TO THE COURT PURSUANT TO CPLR §§409, 7804(e), AND 2214(c) (Exhibit "B").

As to the second inquiry enumerated in our January 31st letter:

"whether--if at all--the Manhattan District Attorney made a determination as to his duty to intervene, on behalf of the public, in the Article 78 proceeding, Sassower v. Commission, as requested in our April 10, 1995 Notice of Right to Seek Intervention" (at p. 1),

your February 7th response is, again, palpably spurious. Indeed, your claim therein that a "decision not to intervene" is reflected by a June 23, 1995 affirmation is belied by that very document (Exhibit "C"), which has nothing whatever to do with our requested intervention by the Manhattan District Attorney on

on behalf of the public. Such fact was even pointed out--expressly--in our January 31st letter (see p. 3 and fn. 2).

Consequently, we reiterate our inquiry as to whether the Manhattan District Attorney ever determined that he would not intervene, on behalf of the public, in our Article 78 proceeding against the Commission.

As to the third inquiry enumerated in our January 31st letter:

"what--if anything--the Manhattan District Attorney has done with our criminal complaint, filed on September 19, 1995--requesting him to take steps at this juncture to protect the public from a demonstrably fraudulent and dishonest decision of the Supreme Court dismissing the Sassower v. Commission Article 78 proceeding" (at p. 3),

your February 7th letter gives no response whatever. Instead, by your advice that we consider undertaking an appeal, you leave it to us to continue, as we have, single-handedly, to protect the public. This is totally outrageous and inappropriate--since that is the job of the Manhattan District Attorney and the other public officials and government agencies, which have resources and staffs paid-for by taxpayer dollars.

It would appear that the Manhattan District Attorney has not compared Justice Cahn's decision dismissing the Article 78 proceeding with the court file, requisitioned from the County Clerk's office. Had he done so, you would have been able to address the demonstrably fraudulent nature of Justice Cahn's decision, which was not only detailed in our January 31st letter, but which was the subject of our September 19, 1995 criminal complaint to the Manhattan District Attorney.

Because of the danger to the public represented by a corrupted Commission on Judicial Conduct, which now is the beneficiary of a demonstrably fraudulent decision of dismissal, we have already transmitted duplicate copies of the file in the Article 78 proceeding to both Mayor Giuliani and to Manhattan Borough President Messinger--with a request that they take steps to secure a criminal investigation of the Commission. A copy of the hand-delivered letter of transmittal to Mayor Giuliani, dated February 20, 1996, is enclosed.

So that the Manhattan District Attorney does not have to requisition the readily-available court file or request access to the file we have provided to the Mayor and Manhattan Borough President, we enclose a duplicate set of papers--with the exception of the Article 78 Petition--since he already has two

copies in his possession--and the motions of citizen intervenors.

We believe that the Mayor, the Manhattan Borough President, and the Assembly Judiciary Committee will be particularly interested in knowing the extent to which District Attorney Morgenthau has been personally involved in the decision-making regarding our criminal complaint against the Commission and our request for his intervention in the Article 78 proceeding. Although page 5 of our January 31st letter expressly requested that information--as well as information as to other procedural matters--your February 7th letter conspicuously gives no response.

Under the circumstances, we strongly reiterate the last paragraph of our January 31st letter:

"In view of the gravity of the issues and the immediate threat to the public represented by the criminal conduct of the public officers involved, we expect this letter to be dealt with on an emergency basis, with the direct personal involvement of District Attorney Morgenthau."

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures

cc: Assembly Judiciary Committee
Mayor Rudolph Giuliani
Manhattan Borough President Ruth Messinger
United States Attorney for the Southern District of New York

TRANSMISSION VERIFICATION REPORT

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