

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY FAX 212-416-8139 (5 pages)

BY CERTIFIED MAIL/RRR: 7000-1670-0007-0498-0614

October 4, 2001

Solicitor General Caitlin J. Halligan
Office of New York State Attorney General Eliot Spitzer
120 Broadway
New York, New York 10271

RE: Mr. Stern's bad-faith response to my September 21st letter to the
NYS Commission on Judicial Conduct

*appeal of Elena Ruth Sassower, Coordinator of the Center
for Judicial Accountability, Inc., acting pro bono publico,
against Commission on Judicial Conduct of the State of New
York (S. Ct/NY Co. #108551/99; Appellate Division, First
Department, November 2001 Term)*

Dear Ms. Halligan:

Yesterday afternoon, I received a September 26th letter from Gerald Stern, Administrator and Counsel of Respondent New York State Commission on Judicial Conduct, your client in the above-entitled appeal, refusing to answer my September 21st letter to him as to whether he had transmitted to the Commission members all papers relating to my lawsuit, including, those germane to my pending August 17th motion for sanctions against, and disciplinary and criminal referral of, the Commission members¹. As Mr. Stern fails to designate you as an indicated recipient of his letter, a copy is enclosed.

Mr. Stern uses the fact that "[t]he Commission is represented by counsel" as the pretext for why he will "not engage in any discussions pertaining to the pending litigation". This, notwithstanding my September 21st letter expressly identifies (at p. 2) that the

¹ My September 21st letter to Mr. Stern is annexed to my October 2nd letter to you as Exhibit "H".

Commission's counsel, appearing in the person of Assistant Solicitor General Carol Fischer, had failed to respond to three "highlights" from my May 3rd Critique of her Respondent's Brief – and that these "highlights" are dispositive of my entitlement to the granting of my August 17th motion.

Mr. Stern's failure to advise that he is instructing the Commission's counsel to respond, on its behalf, to the three "highlights" presented in my September 21st letter (at p. 2) bespeaks his knowledge that the "highlights" cannot be addressed without conceding my entitlement to the granting of the motion – and, by extension, to the granting of my unopposed appeal by a fair and impartial tribunal. If you disagree, you should demonstrate it by confronting these "highlights". This is, moreover, what my October 2nd letter to you (at p. 7) asks you to do in the event you do not withdraw Ms. Fischer's opposition to my motion, based on my September 17th Critique thereof.

Mr. Stern also pretends that it is "against the policy of the Commission to confirm what reading materials, other than complaints against judges, are distributed to the members of the Commission". He thereby purports -- but without saying so -- that the Commission has an identical "policy" for handling a complainant's judicial misconduct complaint, as it does for handling a complainant's lawsuit against it. He thus refuses to confirm whether the litigation papers and related correspondence that I hand-delivered and mailed to the Commission's office throughout this litigation were timely furnished to the members of the Commission – and, specifically, the three enumerated items (at p. 4) germane to the instant motion, including the motion itself. As Mr. Stern well knows, the Commission recognizes a difference between judicial misconduct complaints and lawsuits. Reflecting this is Exhibit "G" to my Verified Petition, appending my correspondence with Mr. Stern for a list of all lawsuits against the Commission brought by complainants whose judicial misconduct complaints had been dismissed, as well as for access to the Commission's files of those lawsuits for purposes of inspection and copying². Whereas a request by me for a list of all judicial misconduct complaints filed with the Commission and for access thereto would have been denied, I obtained from Mr. Stern a list of lawsuits brought by complainants and access to the Commission's files thereof.

Moreover, notwithstanding Mr. Stern's claim that the Commission will only confirm "complaints against judges", I do not believe that he ever previously asserted such "policy" over the years in which I inquired about distribution of my correspondence to the Commissioners³.

² See Exhibits "C-1" - "C-15" thereto.

³ See, *inter alia*, Mr. Stern's April 18, 1996 letter to me, annexed to Exhibit "G" to the

Consequently, by copy of this letter to the Commission, I hereby request the specifics of the Commission's purported "policy" of denying a litigant confirmation that Commission members have been furnished with the pertinent litigation papers and correspondence relating to their individual liability in the lawsuit.

As reflected by to my September 21st letter (at p. 3), I have provided the Commission with duplicate sets of papers and correspondence in this litigation so that its members will not be able to escape liability for the litigation misconduct of its counsel by pleading "ignorance". My position is that:

"there is no reason why a fully-informed, knowledgeable client like the Commission – all but two of whose members are lawyers and which is staffed with lawyers – should not be held to have supervisory responsibilities over its demonstrably misbehaving attorney. Certainly, 22 NYCRR §1200.3(a)(1), proscribing a lawyer or law firm from "circumvent[ing] a disciplinary rule through the actions of another", would make the fully-informed lawyer members and staff of the Commission liable for ALL the [Attorney General's] violative conduct in this proceeding – including the wilful refusal of Deputy Solicitor General Belohlavek, Solicitor General Bansal, and Attorney General Spitzer to discharge their mandatory supervisory responsibilities under 22 NYCRR §1200.5."

Please be advised that absent notification from you and/or Mr. Stern that the Commission members have been furnished copies of the dispositive documents on this motion: my May 3rd Critique – annexed as Exhibit "U" to the pending motion – and my September 17th Critique, detailing the fraudulence of Ms. Fischer's opposition to my August 17th motion, it is my intention to communicate directly with the eleven individual members of the Commission – public officers each and every one -- so as to verify that they have knowledge of these dispositive documents and of the motion presently pending against them.

Yours for a quality judiciary,

Elena Ruth Sassower

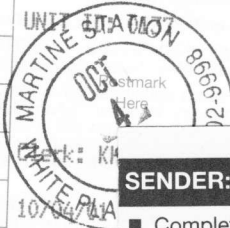
ELENA RUTH SASSOWER
Petitioner-Appellant *Pro Se*

cc: New York State Attorney General Eliot Spitzer
[By Fax: 212-416-8139 and mail]
Commission on Judicial Conduct of the State of New York
[By Fax: 212-949-8864 and mail]
ATT: Chairman Henry T. Berger & Commissioners
Gerald Stern, Administrator & Counsel

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*Solicitor General
Caitlin J. Halligan
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120 Broadway
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