

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY FAX: 518-472-5878 (11 pages)

February 26, 2002

Professor Vincent Martin Bonventre
Albany Law School
80 New Scotland Avenue
Albany, New York 12208

RE: Recapting the title of my February 4, 2002 letter: Assisting the media with evaluative comment as to the *readily-verifiable* corruption of the NYS Commission on Judicial Conduct, documented by the appellate papers in *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*

Dear Professor Bonventre:

A short while ago I received a phone call from Erin Sullivan of Metroland, indicating that she had telephoned you for comment about my public interest lawsuit against the Commission, but that you indicated you wanted a "release" from me.


No one needs a "release" to discuss the specifics of my lawsuit against the Commission. As you know, you refused to discuss those specifics when we met together on Friday – even to the limited extent of giving your opinion as to whether 22 NYCRR §7000.3 is inconsistent and irreconcilable with Judiciary Law §44.1 and whether my October 6, 1998 judicial misconduct complaint [A-57] based, *inter alia*, on Justice Rosenblatt's believed perjury on his *publicly-inaccessible* application for the Court of Appeals is *facially-meritorious*. However, I would be most pleased if you would answer Erin's direct questions about these and other specifics of my lawsuit so that, through her, the public can have the benefit of your professional expertise.

For your convenience, faxed herewith, are the first four pages of the letter I sent to Erin yesterday, recapping some of the specifics, for which she has a right to expect evaluative comment from those, like yourself, in leadership positions. In the event you are unable to answer her questions as to these important specifics, please advise her as to where she can turn.

As Professor David Siegel is also at Albany Law School and, as you know, has his *own* copy of my Appellant's Brief, Appendix, Respondent's Brief, and my Critique of Respondent's Brief, which I provided him under a May 11, 2001 coverletter so that, at very least, he could give his expert opinion as to the "standing" issue, discussed at pages 40-47 of my Critique, I would especially appreciate if you would act as an intermediary to Professor Siegel, from whom I have received NO response whatever. For your convenience, I again enclose a copy of my May 11, 2001 coverletter to Professor Siegel and, additionally, the appellate decisions, invoking "lack of standing", in Mr. Mantell's appeal and my own¹.

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures

cc: Erin Sullivan/Metroland
[By Fax: 518-463-3712]

¹ My analysis of the "lack of standing" claim in the third sentence of the appellate decision in my case is set forth in my January 17, 2002 reargument motion: Exhibit "B-2", pp. 15-16; See also my February 20, 2002 motion for leave to appeal to the Court of Appeals, p. 14.

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Elena Ruth Sassower, Coordinator

BY FAX: 518-463-3712 (11 pages)

February 25, 2002

Erin Sullivan, Metroland

- RE: **Your Investigative Expose of the *Readily-Verifiable Evidence* of the Corruption of the NYS Commission on Judicial Conduct;**
- (a) Specific Questions for those in leadership;
 - (b) Contact Information for those in leadership;
 - (c) Today's full-page "Judging the Judges" Daily News editorial "*Lax Discipline Lacks Effectiveness*".

Dear Erin:

Thank you for the time you gave me on Friday to outline the *readily-verifiable* evidence of the corruption of the NYS Commission on Judicial Conduct – culminating in my public interest lawsuit against it.

As discussed, this lawsuit encompasses two other lawsuits against the Commission and CJA long ago provided copies of pertinent litigation papers to governmental leaders, bar associations, law professors, public interest organizations, and others *from whom leadership is expected*. This, so that they could meet their leadership responsibilities and take appropriate steps to protect the public.

There is NO reason why these public officers, associations, organizations, professors, etc. should not be able to provide you with meaningful comment as to the significance of my public interest lawsuit and the evidence it presents of the Commission's corruption. To keep them from dodging the issues and to minimize "spin", your questions to them should be specific and should include a request for comment as to:

(1) the merit of my Verified Petition's six Claims for Relief [A-37-45];

As to the First Claim for Relief [A-37-38]: whether, as particularized, 22 NYCRR §7000.3 is facially inconsistent and irreconcilable with Judiciary Law §44.1 in converting the Commission's mandatory investigative duty to investigate *facially-meritorious* complaints into a discretionary option, unbounded by *any* standard;

As to the Second Claim for Relief [A-38-40]: whether my October 6, 1998 judicial misconduct complaint (alleging that then Appellate Division, Second Department Justice Albert Rosenblatt perjured himself in response to two questions on his *publicly-inaccessible* application for the Commission on Judicial Nomination) [A-57-58] is *facially-meritorious* – therefore requiring the Commission to investigate it, pursuant to Judiciary Law §44.1

As to the Third Claim for Relief [A-40-42]: whether, as particularized, the Commission has wrongfully extended the confidentiality of Judiciary Law §45 to deprive complainants of basic information establishing the lawfulness and propriety of its dismissals of their complainants and as to the existence of procedures for review of such dismissals;

As to the Fourth Claim for Relief [A-42-44]: whether, as particularized, the Commission's disposition of judicial misconduct complaints by three-member panels, pursuant to Judiciary Law §§43.1 and 41.6 and 22 NYCRR §7000.11, is unconstitutional and/or unlawful

As to the Fifth Claim for Relief [A-44-45]: whether the ten-year chairmanship of Henry T. Berger throughout the 1990's flouted the express limitation of Judiciary Law §41.2 restricting the chairmanship to a member's "term in office or for a period of two years, whichever is shorter";

As to the Sixth Claim for Relief [A-45]: whether Article VI, §22a of the New York State Constitution and Judiciary Law §44.1 impose upon the Commission a mandatory duty to receive and determine complaints – which the Commission violated in failing and refusing to receive and determine my February 3, 1999 judicial misconduct complaint against then Appellate Division, Second Department Justice Daniel W. Joy, then the Commission's highest-ranking judicial member [A-97-101].

- (2) **the accuracy of my 3-page analysis of Justice Cahn's decision in *Doris L. Sassower v. Commission* [A-52-54] and of my *uncontroverted* 13-page analysis of Justice Lehner's decision in *Michael Mantell v. Commission* [A-321-334] – whose ACCURACY HAS NEVER BEEN DENIED OR DISPUTED BY ANYONE.**

In one fell swoop, verifying the accuracy of these two undisputed analyses [A-52-54; A-189-194] will establish that the Commission has been the beneficiary of FIVE fraudulent judicial decisions without which it would not have survived three separate lawsuits. These FIVE decisions are:

- (a) Justice Cahn's decision in *Doris L. Sassower v. Commission* [A-189-194];
 - (b) Justice Lehner's decision in *Mantell v. Commission* [A-299-307];
 - (c) Justice Wetzel's decision in my lawsuit [A-9-14], where dismissal of my Verified Petition rests exclusively on the decisions of Justices Cahn and Lehner [A-12-13], with NO findings by Justice Wetzel as to the accuracy of my undisputed analyses of these two decisions in the record before him;
 - (d) the Appellate Division's affirmance in *Mantell*¹ – with NO findings by the Appellate Division as to the accuracy of my undisputed analysis of Justice Lehner's decision in the record before it;
 - (e) the Appellate Division's affirmance in my lawsuit² – with NO findings by the Appellate Division as to the accuracy of my undisputed analyses of the decisions of Justices Cahn and Lehner.
- (3) The Appellate Division's addition of "lack of standing" in its appellate decisions in *Mantell* and in my lawsuit to unlawfully insulate the Commission from future legal challenge.**

In *Mantell*, the Appellate Division's addition of "lack of standing" – a ground for dismissal NOT part of Justice Lehner's decision – was by a single ambiguous sentence, *unsupported by any facts or legal citation*. The fraudulence of this sentence is highlighted by pages 40-44 of my Critique of Respondent's Brief.

In my lawsuit, the Appellate Division added a single-sentence pertaining to my supposed "lack of standing to sue the Commission"

¹ The *Mantell* appellate decision, as printed in the New York Law Journal, is Exhibit "E-4" to my January 17, 2002 reargument motion.

² The appellate decision in my lawsuit, as printed in the New York Law Journal, is Exhibit "A-1" to my January 17, 2002 reargument motion.

is *unsupported* by citation to ANY facts in the record; does not directly cite ANY legal authority and discusses none; and does NOT address even identify ANY of my appellate arguments in support of my "standing to sue the Commission", set forth at pages 40-47 of my Critique of Respondent's Brief. The fraudulence of this sentence is highlighted in my January 17, 2002 reargument motion: Exhibit "B-2", pp. 15-16.

- (4) **The Attorney General's litigation misconduct and unlawful representation of the Commission, documented by my motions for sanctions against him and the Commission, as to which neither Justice Wetzel nor the appellate decision make ANY findings.**

* * *

CONTACT INFORMATION:

PUBLIC OFFICERS:

Governor George Pataki: who is the subject of fact-specific ethics and criminal complaints which CJA long ago filed with the NYS Ethics Commission³ and the US Attorney for the Eastern District of NY, based on his nonfeasance in the face of the Commission's corruption -- and which have never been dismissed -- has a copy of the lower court files in all three lawsuits against the Commission, and, as to my appeal, has had access to the copy of my Appellant's Brief, Appendix, Respondent's Brief, and my Critique of Respondent's Brief in the possession of the Senate Judiciary Committee. The Governor's telephone number, c/o his counsel, James McGuire, who is fully-familiar with this matter, is 518-474-8343 [Fax #: 518-486-9652].

Attorney General Eliot Spitzer: who is the subject of ethics and criminal complaints, which CJA long ago filed with the NYS Ethics Commission and the US Attorney for the Eastern District of NY -- based on his active complicity in the Commission's corruption -- and which have never been dismissed -- has complete files of ALL three lawsuits against the Commission. This includes duplicate copies of my sanctions motions against him personally based on his knowledge and complicity in his office's fraudulent defense tactics, which I provided for him. On three separate occasions I spoke with Attorney General, face-to-face on the subject of this misconduct. On January 27, 1999 at the City Bar, where our public exchange

³

I left with you a copy of CJA's March 26, 1999 ethics complaint against the Governor.