CENTER for JUDICIAL ACCOUNTABILITY, INC.

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White Plains, New York 10605

By Fax: 202-225-3673

June 30, 1995

Tom Mooney, Counsel
Subcommittee on Intellectual Property
and Judicial Administration
B-351A RHOB
Washington, D.C. 20515

RE: Our First Telephone Conversation Today

Dear Mr. Mooney:

This letter follows up our telephone conversation earlier today--our first in the many months I have been trying, unsuccessfully, to reach you.

In view of your admission to me that the Subcommittee on Intellectual Property and Judicial Administration confines itself to legislation and does not investigate complaints of judicial misconduct filed with it, I reiterate that it is incumbent upon you--as its counsel--to take immediate steps to correct the Report of the National Commission on Judicial Discipline and Removal (pp. 32-38).

That Report, which purported to examine the adequacy of present mechanisms of judicial discipline, expressly identified the House Judiciary Committee as the proper recipient of complaints of judicial misconduct (pp. 35-6). Nowhere did the Report state or suggest that complaints alleging impeachable conduct would not be investigated.

The aforesaid critical discrepancy between the National Commission's Report and the reality of what the Committee does--or, rather, does not do--has been the subject of four letters from us to your predecessors, dated August 26, 1993, January 31, 1994, December 2, 1994, and December 27, 1994--all of which have been unresponded to. For immediate purposes and since you stated you were unfamiliar with our correspondence, I enclosed a copy of our August 26, 1993 letter (Exhibit "A").

As discussed by phone, such letter reflects the fact that when we first filed our judicial misconduct complaint with the House Judiciary Committee, on June 9, 1993, we did so on the advice of the Chief Deputy Clerk of the Supreme Court, who told us that the House Judiciary Committee investigates complaints of misconduct by federal judges.

More recently, that view was reiterated by our Congresswoman, Hon. Nita Lowey, in a letter dated February 7, 1995, expressing regret that we have "not yet received an acknowledgement from the Judiciary Committee that [our] complaint has been investigated". A copy of Congresswoman Lowey's aforesaid letter to me, together with a copy of her letter of the same date addressed to you, are annexed hereto as Exhibits "B" and "C", respectively.

It is our position that back in 1992 and 1993, during the tenure of the National Commission, the House Judiciary Committee had an affirmative duty to come forward and disencumber the Commission members, who would be preparing a Report, as well as government officials and members of the public, of the "popular" notion that the House Judiciary Committee investigates complaints of misconduct by federal judges. It is evident from the National Commission's Report that the Judiciary Committee not only failed to do that, but created the opposite impression.

If--as you several times indicated during our telephone conversation--it is budgetary constraints that prevent the House Judiciary Committee from fulfilling its investigative duty, a memorandum must immediately issue so that appropriate allocations may be made for such essential purpose. Indeed, sufficiency of the Judiciary Committee's resources was one of the recommendations made by the National Commission:

> "The Commission recommends that the House ensure that its Committee on the Judiciary has the resources to deal with judicial discipline matters..." (pp. 37, 148)

Since Congresswoman Lowey is a member of the Committee on Appropriations, she will, assuredly, be particularly interested in the funding issues relating to the currently unfulfilled investigative function of the House Judiciary Committee.

I look forward to pursuing this critical matter with you in the near future--a period in which the Congress breaks for its summer recess. Please access our June 9, 1993 complaint and supporting documentation, as well as our above-cited correspondence with the Committee so that your discussions with me and Congresswoman Lowey's office can be fully informed.

In the event you or anyone at the House Judiciary Committee can meet with me next Wednesday or Thursday when I plan to be in Washington, I would greatly appreciate it.

Yours for a quality judiciary,

Elena Ruth Sassower

ELENA RUTH SASSOWER, Coordinator

Enclosures

cc: Congresswoman Nita Lowey

TRANSMISSION VERIFICATION REPORT

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16 Lake Street, Apt. 2C
White Plains, New York 10603
August 26, 1993

Edward O'Connell, Counsel
Subcommittee on Intellectual Property
and Judicial Administration
Room 207
Canon House Office Building
Washington, D.C. 20515

RE: Judicial Discipline and Removal

Dear Mr. O'Connell:

This letter follows up our telephone conversation on August 12, 1993 in which you stated that "there has never been an investigation of an individual complaint in the history of the House Judiciary Committee".

If so, the Report of the National Commission on Judicial Discipline and Removal is highly misleading in suggesting, as it does, that the House Committee on the Judiciary is an available mechanism for addressing complaints of judicial misconduct.

We refer you, specifically, to pages 33-39 of the Draft Report[1], which identify the House Committee on the Judiciary as the proper recipient of complaints regarding judicial misconduct. Nowhere is it stated or even suggested that individual complaints alleging impeachable conduct not within the purview of the 1980 Act will not be investigated by the Committee.

Indeed, both Michael Remington and William Weller, Director and Deputy Director, respectively, of the National Commission on Judicial Discipline and Removal, informed me that the House Committee on the Judiciary was the appropriate place for review of our complaint against District Court Judge Gerard L. Goettel and Circuit Court Judge Jon O. Newman.

Such position was shared by Francis Lorson, the Chief Deputy Clerk of the Supreme Court to whom I made inquiry immediately following that Court's June 4, 1993 denial of our Petition for Rehearing. Mr. Lorson stated that investigation of the misconduct alleged in our Petition for Rehearing was the

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[1] Page references are to the Commission's Draft Report since the the Final Report is not yet available from the Government Printing Office.

Exhibit "A"

responsibility of the House Committee on the Judiciary. It was for this reason that we filed our June 9, 1993 complaint with you.

Since there appears to be substantial contradiction as to the investigatory role of the House Committee on the Judiciary--and its Subcommittee on Intellectual Property and Judicial Administration--we believe a statement on the subject by you, as counsel to the Subcommittee, and by Allen Erenbaum, counsel to the Committee, is appropriate. Inasmuch as both you and Mr. Erenbaum are liaisons to the National Commission on Judicial Discipline and Removal, we trust you will be particularly concerned about ambiguities which its Report creates.

Obviously, where complaints received by the House Committee are properly within the scope the 1980 Act and can be handled by the judicial mechanism, there is no need for investigation by the Committee.

The important question is what the House Committee does with complaints, such as ours: (a) which are not covered by the Act; (b) where appellate remedies have been exhausted and have shown themselves ineffective; and (c) where the allegations, if true, would constitute impeachable conduct. If, as you indicated by telephone, the answer is nothing--such fact should be unequivocally reflected in a "clarification" to the Commission's Report.

Certainly, one would not infer from the Report that the sole purpose of the House Committee's receiving complaints is so that it can play score-keeper: compiling statistical tabulations of the "number and nature of judicial discipline complaints received" for publication in its "Summary of Activities" (at p. 36). What is the purpose then?

We note that page 39 of the Draft Report refers to the Commission's analysis that "well over 90 percent of the complaints [received by the Committee] do not raise genuine issues pertinent to judicial discipline or impeachment". In light of your statement to me that "there has never been an investigation of an individual complaint in the history of the House Judiciary Committee", are we, therefore, correct in assuming that the nearly 10 percent of the complaints received by the House Committee which do raise serious "discipline or impeachment" issues are not investigated? Are these complaints simply "archived" by the House Committee (at p. 36) and allowed to lie fallow, without follow-up. A direct answer to this question is essential since our complaint--which, indisputably, raises serious "discipline [and] impeachment issues"--is plainly within the aforesaid 10 percent category.

It is shocking to believe that such serious complaints--which citizens take the time and trouble to present in the interest of protecting our system from dishonest and unethical federal judges--would simply be ignored <u>without</u> investigation by the House Committee responsible for such review.

Very truly yours,

Elena Ruth Sassower

ELENA RUTH SASSOWER

cc: Michael J. Remington, Director
William J. Weller, Deputy Director
National Commission on Judicial Discipline and Removal
Francis J. Lorson, Chief Deputy Clerk, U.S. Supreme Court
Congresswoman Nita Lowey
Jeffrey M. Shaman, Senior Fellow and Project Director
American Judicature Society
Charles Stephen Ralston, Esq.
NAACP Legal Defense and Educational Fund

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Nita M. Lowey
Congress of the United States
18th District, New York

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February 7, 1995

Ms. Elena Sassower
Center for Judicial Accountability
Box 69, Gedney Station
White Plains NY 10605

Dear Ms. Sassower:

Thank you for contacting us regarding the status of your complaint against District Court Judge Gerald L. Goettel and Circuit Judge Jon O. Newman. I have reviewed the documents you sent to our office and have written letters regarding your complaint to Mr. Tom Mooney, Counsel for the Judiciary Subcommittee on Courts and Intellectual Property.

I regret that you have not yet received an acknowledgement from the Judiciary Committee that your complaint has been investigated. I hope that we are able to resolve this problem quickly.

Sincerely,

Nita M. Lowey
Member of Congress

NML:th

Exhibit "B"

PRINTED ON RECYCLED PAPER

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February 7, 1995

Mr. Tom Mooney
Subcommittee on Courts and Intellectual Property
B-351A RHOB
Washington DC 20515

Re: Complaint from Center for Judicial Accountability

Dear Mr. Mooney:

I am writing to ask that you review the documents submitted to the Subcommittee on Courts and Intellectual Property by Elena Ruth Sassower of the Center for Judicial Accountability and to inform her of your decision regarding her complaint. Ms. Sassower has been corresponding with our office as well as the Subcommittee for over a year in order to receive a decision about her complaint.

Ms. Sassower feels that two Second Circuit judges, District Court Judge Gerald L. Goettel and Circuit Judge Jon O. Newman, acted improperly by imposing one hundred thousand dollars in sanctions on her in a civil rights case she litigated. Ms. Sassower wrote numerous times to your predecessor at the Subcommittee and did not receive what she felt to be a satisfactory answer. She needs to know whether there is a formal procedure she should follow in order to have her complaint investigated and when the Subcommittee intends to investigate her complaint.

I understand that you may have had no previous connection to this case, but I would appreciate it if you would look over your files and inform Ms. Sassower of your assessment of her complaint and how she might proceed.

I have attached a copy of the last letter received by our office from Ms. Sassower in order to aid you in your review of her files. If you are unable to find the documents she has submitted, please contact Tiffanie Heben in my office or Ms. Sassower directly. In addition, please let Ms. Heben know what the Subcommittee decides in this matter so that she may close this file.

Sincerely,

Nita M. Lowey

Exhibit "C"

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