

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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April 24, 1996

Honorable George Pataki
Governor of the State of New York
Executive Chamber
State Capitol
Albany, New York 12224

Attention: Martha McHugh, Director of Scheduling

Dear Governor Pataki:

As you may know from past correspondence sent to your office, the Center for Judicial Accountability, Inc. is a national non-profit, non-partisan, citizens' organization -- headquartered in White Plains, New York -- working to rebuild our judicial system by meaningful reform of the judicial selection and discipline processes. Earlier this month, our work was featured on an A&E cable documentary about judicial misconduct, which aired throughout the country. A copy of our informational brochure is enclosed.

We understand that you are to be the Law Day speaker on May 1st at Pace University Law School in White Plains. Although you are probably heavily scheduled on that day, would it be possible for us to make a brief presentation to you on behalf of the People of the State of New York while you are in White Plains? Our presentation is not an award or citation, but something far more important to the citizenry of this State: Petitions expressly addressed to you as Governor and signed by thousands of New Yorkers--calling for an investigation of judicial corruption in New York State.

To substantiate the compelling need for such investigation, we also wish to present you with a copy of the litigation file of our case against the New York State Commission on Judicial Conduct. As detailed in our past correspondence to your office, that file documentarily establishes that the Commission on Judicial Conduct is corrupt and has corrupted the judicial process. For your convenience, we enclose a copy of our Letter to the Editor, "Commission Abandons Investigative Mandate" published in the August 14, 1995 *New York Law Journal* about our ground-breaking legal challenge to the Commission and how it was dumped by the Supreme Court, New York County, in a fraudulent judgment of dismissal.

It would be a powerful symbol of your commitment to restoring public confidence in our third branch of government if you, as New York's CEO, could find a moment on Law Day to personally accept the Petitions of thousands of New Yorkers addressed to you, as well as our corroborating litigation file against the Commission on Judicial Conduct.

If it is impossible to schedule our personal presentation on Law Day, please let us know when we could make such presentation on an alternate date as close to Law Day as convenient to commemorate your commitment. Kindly fax or telephone the Center so that appropriate arrangements can be made.

Our deepest appreciation for your attention to this issue of transcending public importance.

Yours for a quality judiciary,

A handwritten signature in cursive script that reads "Elena Ruth Sassower". The signature is written in dark ink and is positioned above the typed name.

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

Enclosures

Monday, August 14, 1995

LETTERS

*To the Editor***Comm'n Abandons
Investigative Mandate**

Your front-page article, "Funding Cut Seen Curbing Disciplining of Judges," (*NYLJ*, Aug. 1) quotes the chairman of the New York State Commission on Judicial Conduct as saying that budget cuts are compromising the commission's ability to carry out "its constitutional mandate." That mandate, delineated in Article 2-A of the Judiciary Law, is to "investigate" each complaint against judges and judicial candidates, the only exception being where the commission "determines that the complaint on its face lacks merit" (§44.1).

Yet, long ago, in the very period when your article shows the commission had more than ample resources — and indeed, was, thereafter, requesting less funding — the commission jettisoned such investigative mandate by promulgating a rule (22 NYCRR §7000.3) converting its mandatory duty to an optional one so that, unbounded by any standard and without investigation, it could arbitrarily dismiss judicial misconduct complaints. The unconstitutional result of such rule which, as written, cannot be reconciled with the statute, is that, by the commission's own statistics, it dismisses, without investigation, over 100 complaints a month.

For years, the commission has been accused of going after small town justices to the virtual exclusion of those sitting on this state's higher courts. Yet, until now, the confidentiality of the commission's procedures has prevented researchers and the media from glimpsing the kind of facially-meritorious complaints the commission dismisses and the protectionism it practices when the complained-of judge is powerful and politically-con-

nected. However, the Center for Judicial Accountability Inc., a not-for-profit, non-partisan citizens' organization, has been developing an archive of duplicate copies of such complaints. Earlier this year, we undertook a constitutional challenge to the commission's self-promulgated rule, as written and applied. Our Article 78 petition annexed copies of eight facially-meritorious complaints against high-ranking judges filed with the commission since 1989, all summarily dismissed by the commission, with no finding that the complaints were facially without merit.

In "round one" of the litigation, Manhattan Supreme Court Justice Herman Cahn dismissed the Article 78 proceeding in a decision reported on the second-front-page of the July 31 *Law Journal* and reprinted in full. By his decision, Justice Cahn, ignoring the fact that the commission was in default, held the commission's self-promulgated rule constitutional. He did this by ignoring the commission's own explicit definition of the term "investigation" and by advancing an argument never put forward by the commission. As to the unconstitutionality of the rule, as applied, demonstrated by the commission's summary dismissals of the eight facially-meritorious complaints, Justice Cahn held, without any law to support such ruling and by misrepresenting the factual record before him, that "the issue is not before the court."

The public and legal community are encouraged to access the papers in the Article 78 proceeding from the New York County Clerk's office (*Sassower v. Commission*, #95-109141) — including the many motions by citizen intervenors. What those papers unmistakably show is that the commission protects judges from the consequences of their judicial misconduct — and, in turn, is protected by them.

Elena Ruth Sassower
White Plains, N.Y.

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