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Testimony of Elena Ruth Sassower,
Director, Center for Judicial Accountability, Inc.
at the Public Hearing of the Commission to Investigate Public Corruption
September 17, 2013, Manhattan

My name is Elena Ruth Sassower and I am Director and Co-Founder of the nonpartisan, nonprofit citizens' organization Center for Judicial Accountability, Inc. (CJA). For nearly 25 years we have been documenting that New York's judiciary is "corrupt, pervasively, systemically corrupt"; that such corruption involves supervisory and appellate levels, including the Commission on Judicial Conduct; and that collusive in this corruption and perpetuating it are all three branches of our state government, at their highest levels, as likewise the three branches and highest public officers of our federal government. Also collusive, the "fourth branch" – the press – as well as academia, bar associations, and so-called "good government" groups, all co-conspirators in the obliteration of the rule of law in our courts in case, after case, after case.

The operative word for what we have been doing is "documenting" – and a goldmine of documentation that could easily convict a multitude of judges and public officers for official misconduct and corruption, including members and special advisors of this Commission, is posted on our website, www.judgewatch.org. Particularly important is the left sidebar panel entitled "Test Cases" – these being the cases we developed as vehicles to methodically and explicitly test the remedies and safeguards for ensuring judicial integrity, and to thereby prove their complete worthlessness. Our second "Test Case" is the public interest Article 78 proceeding we brought against the Commission on Judicial Conduct in 1999, suing it for corruption. Physically incorporated within its record was the record of two other Article 78 proceedings suing the Commission for corruption, with all three cases evidencing the identical pattern: that the Commission had no legitimate defense, that it was defended by the State Attorney General who corrupted the judicial process because he had no legitimate defense – and that it was rewarded by fraudulent judicial decisions without which it could not have survived.

Since the Commission on Judicial Conduct is the SOLE state agency whose duty it is to investigate complaints against New York's state judges, examining the three-in one record of this "Test Case", which went up to the New York Court of Appeals in 2002 on both an appeal of right and by leave,

* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

must be your JOB #1 in examining the judicial branch of our state government and all the remedies and safeguards for ensuring its integrity. Indeed, it is may truly to said that ALL the citizens testifying before you today about the judicial abuse and lawlessness that scarred and destroyed their lives– and who will be testifying before you at subsequent hearings – and who have and will be submitting statements – would either not have been so-victimized or would have long ago secured redress, but for what a succession of corrupt New York state judges did in these three Article 78 proceedings against the Commission on Judicial Conduct, aided and abetted by a panoply of state and federal public officers, all of whom we alerted to what was taking place, as likewise the press, academia, bar associations, and “good government” groups.

The record of our “Test Case” against the Commission on Judicial Conduct is a “paper trail” of unabashed corruption by public officers in all three government branches, encompassing not just judicial discipline, but judicial selection. I was scheduled to have publicly presented it and the record of our first “Test Case”, a federal civil rights action under 28 USC 1983, challenging New York’s unconstitutional attorney disciplinary law, utilized by this state’s judiciary to retaliate against judicial whistle-blowing lawyers, aided and abetted by the attorney general, at Senator John Sampson’s December 16, 2009 Senate Judiciary Committee hearing on the Commission on Judicial Conduct and court-controlled attorney disciplinary system. Here is the extensive written testimony I had prepared, as it is germane to your investigations, which must begin with questioning Senator Sampson, by subpoena if necessary, as to why that hearing was cancelled, why no further hearings on the subject were thereafter scheduled, why there was no investigation of the testimony and documentary evidence of corruption that two dozen citizens had already presented to him at the two prior hearings on June 8, 2009 and September 24, 2009; and why the Senate Judiciary Committee made no findings and rendered no committee report. Indeed, inasmuch as Attorney General Schneiderman was a member of the Senate Judiciary Committee, at that time, he should be questioned as to his knowledge and as to the reason for his absence – and that of ALL white Democratic Senate Judiciary Committee members and virtually all the white Republican Senate Judiciary Committee members – from the June 8, 2009 and September 24, 2009 hearings, at which Senator Sampson sat virtually alone.

Our three-in-one “Test Case” against the Commission on Judicial Conduct and Senator Sampson’s historic 2009 hearings on the Commission and court-controlled disciplinary system are pivotally summarized by the verified complaint in the lawsuit we commenced on March 30, 2012 to secure judicial accountability and void the judicial pay raises that New York’s judiciary procured through the most shameless fraud, acting collusively with the executive and legislative branches.¹ Brought expressly “on behalf of the People of the State of New York” and naming as defendants Governor Cuomo, Attorney General Schneiderman, Comptroller DiNapoli, Temporary Senate President Skelos, Assembly Speaker Silver, and Chief Judge Lippman, it has, for over a year, been in limbo in Supreme Court/New York County, sitting on a shelf in the Clerk’s Office, due to brazen record tampering, as to which we have been unable to secure investigation, let alone certification of missing documents from the New York County Clerk, to which we are unequivocally entitled by Judiciary Law §255.

¹ See, *inter alia*, ¶¶17-36, 47-55, 62-67.

Meanwhile, the fraudulent judicial pay raises have stolen approximately \$50 million from New York taxpayers since April 1, 2012 – a figure which grows by roughly \$3 million each month and which, by the end of next fiscal year, will be an annual recurring expense, in perpetuity, of at least \$50 million, if not more, topping a billion dollars in less than 20 years.

To protect the People of New York from this “grand larceny of the public fisc” arising from the fraudulent judicial pay raises – and the further larceny committed by the Legislature and Governor with respect to the slush-fund judiciary and legislative budgets for fiscal year 2013-2014, involving tens, if not hundreds, of millions of unaccounted-for taxpayer dollars – we have filed complaints with criminal and ethics authorities. The first, on April 15, 2013, was filed with U.S. Attorney Preet Bharara (SDNY). It was followed by a corruption complaint to U.S. Attorney Loretta Lynch (EDNY) on May 13, 2013 and by a corruption complaint to U.S. Attorney Richard Hartunian (NDNY). All three of these corruption complaints additionally sought intervention in our stalled lawsuit, *CJA v. Governor Cuomo, et al.* Such relief was also sought of Albany County District Attorney David Soares – a member of this Commission – with whom we filed a corruption complaint on July 19, 2013. We also filed an ethics complaint with the Joint Commission on Public Ethics on June 27, 2013 and a corruption complaint with the New York State Inspector General on July 11, 2013. Additionally, on June 4, 2013, we sent a letter to every member of the Senate Committee on Investigations and Government Operations and of the Assembly Committee on Oversight, Analysis, and Investigation, entitled: “Doing Your part to End Public Corruption: Part III: Request for Legislative Oversight of CJA’s April 15, 2013 corruption complaint to U.S. Attorney Bharara”.

All these complaints, resting on the rock-solid evidence of the verified complaint in *CJA v. Governor Cuomo, et al.*, on our correspondence based thereon, and on the video of my testimony at the Legislature’s February 6, 2013 budget hearing on “public protection”, provide a *prima facie*, open-and-shut case to not only indict, but convict for corruption all the named defendants – Governor Cuomo, Attorney General Schneiderman, Comptroller DiNapoli, Temporary Senate President Skelos, Assembly Speaker Silver, and Chief Judge Lippman – as well as a who’s who of other powerful public officers in our state’s three government branches, colluding with them.

So that you can do your job of investigating public corruption and referring wrongdoers for criminal prosecution, here is a copy of the corruption complaints we filed with all these public prosecutors, agencies, and legislators – whose bulk is attributable to the verified complaint in *CJA v. Governor Cuomo, et al.*, in particular to its substantiating exhibits. Among these: our final two motions to the Court of Appeals in our “Test Case” against the Commission on Judicial Conduct, dated October 15, 2002 and October 24, 2002, and our October 27, 2011 Opposition Report to the Commission on Judicial Compensation’s August 30, 2011 ‘Final’ Report, also furnished. From these exhibits, it takes but minutes to verify the essential facts on which to rest criminal indictments.

That all these public officers, agencies, and legislators have been sitting on these complaints for so many months provides this Commission with a window into how they and others react, routinely, when citizens turn to them with evidence no less damning, if less far-reaching for investigation and

prosecution.

Since co-chair Onondaga County District Attorney Fitzpatrick has pledged to “follow the money”, these complaints furnish lots of money for the Commission to follow – en route to its cleaning up of our state’s corrupt judiciary, and those who have aided and abetted it.

Time does not permit me to detail the conflicts of interest that afflict members of this Commission, its advisors, and its staff with respect to these corruption complaints – and with respect to the serious and substantial issues pertaining to the Commission’s jurisdiction – which is essentially that of a functioning legislature, whose utter dysfunction – a euphemism for corruption – must, therefore, be high on the Commission’s agenda.

Suffice to say, we have received no response from the Commission to our August 5, 2013 letter entitled “Ensuring the Commission to Investigate Public Corruption is True to its Name & Announced Purpose”, requesting, *inter alia*, “a copy of all [the Commission’s] ‘procedures and rules’ – and...protocol for dealing with conflicts of interest, whether of Commission members, special advisors, or staff” – despite repeated follow-up e-mails from us. A copy of that letter and follow-up e-mail is furnished with this testimony so that each and every member of the Commission can be on record – and held accountable – for his views as to the public’s right to that information – and to the other information therein sought.

Also furnished is a copy of my August 22, 2013 e-mail to Commission “special advisor” Barbara Bartoletti. Entitled “Achieving BOTH a Properly Functioning Legislature & the Public Trust Act (Go Program Bill #3 – the Sine Qua Non for ‘Government Working’ & ‘Working for the People’”, it attached our August 21, 2013 letter to Governor Cuomo, similarly entitled, as to which I asked Ms. Bartoletti whether she did not agree:

“that each of the Commissioners should be furnished a copy of the letter for their evaluation – beginning with its assertion that ‘high on the agenda of the Commission to Investigate Public Corruption’ must be the question as to what the legislative committees have been doing by way of ‘oversight’?”

I received no response from Ms. Bartoletti – and, on September 10, 2013, called her on her cellphone to discuss it with her. She told me she was in a meeting and that I should call her back in an hour. She did not answer when I called back at that time – and I have received no return call or e-mail to the voice mail message I left.

I have no doubt as to the answer to the question I asked Ms. Bartoletti. Suffice to say, Ms. Bartoletti not only testified on February 10, 2009 before the Senate Judiciary Committee’s Temporary Committee on Rules and Administration Reform, but brought 29 students to its April 21, 2009 final meeting as part of the League of Women Voters’ “Students Inside Albany Day” so they could see how their government works.

The only way that government will work is through a functioning legislature – which requires legislative rule changes divesting the leaders of their stranglehold over the legislative process and

empowering the individual legislators and the committees so that they engage in the functions that the Governor has given over to the Commission.

As it is the Senate and Assembly Judiciary Committees that have principle oversight over this state's judiciary, this Commission must call upon their chairs, ranking members, and committee members to account for how they handle citizen complaints of corruption in the courts by judges and lawyers – and to justify their willful nonfeasance with respect to Senator Sampson's 2009 hearings on the Commission on Judicial Conduct and court-controlled attorney disciplinary system, failing to continue the hearings, failing to investigate the testimonial and documentary evidence presented at that time, failing to make findings of fact and recommendations for reform in committee reports.

Likewise, the Commission must call upon the chairs, ranking members, and the committee members of the Senate Committee on Investigations and Government Operations and of the Assembly Committee on Oversight, Analysis, and Investigation to identify what their intentions are with respect to our June 4, 2013 letter for oversight and investigation of our April 15, 2013 complaint to U.S. Attorney Bharara.