

CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

BY FAX: 212-643-7831 (3 pages)

April 12, 2000

Mr. Larry Cohler/Daily News

RE: Investigative Expose on the Occasion of the 25th Anniversary of the
NYS Commission on Judicial Conduct

Dear Larry:

Thank you for meeting with me on April 4th. As a follow-up – and to assist you in making a presentation to your editors -- enclosed is a copy of yesterday's Newsday editorial, "Open Up the Process for Disciplining Judges in NY". Its example of the Commission's behind-closed-doors cover-up – that the Commission sent judges advisory letters of caution, rather than pursuing charges against them, is "small change" against the larger, more prevalent reality of the Commission's operations. As discussed, this reality is READILY-VERIFIABLE – and the sources of verification are indicated in the brackets that follow:

- (1) that the Commission summarily dismisses 85% of the judicial misconduct complaints it receives – that is, *without* investigation [See statistic from Commission's 1999 Annual Report; statistic from 1998 Annual Report was 88%];
- (2) that included among these summarily-dismissed complaints are *facially-meritorious* complaints which the law *requires* the Commission to investigate [See Judiciary Law §44.1 AND duplicate copies of filed complaints from CJA's archive]
- (3) that when the Commission's unlawful dismissals, *without* investigation, of *facially-meritorious* complaints are challenged in court, it subverts the judicial process by fraudulent litigation tactics of its attorney, the State Attorney General, so as to defeat the challenge [See litigation files of the three most recent Article 78 proceedings against the Commission – *all in Supreme Court/NY County*];
- (4) that state judges cover up the Commission's corruption, including the Attorney General's defense fraud on its behalf, by "throwing" the Article 78 challenges with fraudulent judicial decisions [See CJA's analyses of the decisions, including its analysis of the most recent decision, appearing at pages 15-29 of its February 23, 2000 letter to the Governor].

April 12, 2000

PLEASE NOTE the concluding lines of yesterday's Newsday editorial:

"the state Legislature talks endlessly about opening up the process, but it never does anything about it. It's time it did."

The ONLY way to get the self-dealing Albany Legislature to stop talking and to start acting in the public interest is by an expose of the Commission. Such expose would cause a political upheaval, reaching Attorney General Spitzer, Governor Pataki, and Chief Judge Kaye. It would rightfully win the Daily News a Pulitzer – making up for this year's failure to obtain such prestigious award.

Again, thanks for your time and interest. Let me know if there's anything more you need. I assume that you were able to obtain from Juan Gonzalez the materials that I left for him on February 25th, most importantly, the Article 78 petition in *Elena Ruth Sassower v. Commission* and CJA's February 23, 2000 letter to the Governor, as I have not heard from you otherwise.

Yours for a quality judiciary,



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

Enclosure

cc: Juan Gonzalez [by fax: 212-210-1542]

P.01

To: PERS
From: RPS

A34

TOTAL P.01

Newsday

Publisher, President and C.E.O.

EDITORIALS

ANTHONY MARRO, Editor
ROBERT F. BRANDT, Managing Editor
CHARLOTTE H. HALL, Managing Editor
HOWARD SCHNEIDER, Managing Editor

JAMES M. KLUMFELD, Editor of the Editorial Pages
CAROL R. RICHARDS, Deputy Editor of the Editorial Pages

"Where there is no vision, the people perish."

Open Up the Process for Disciplining Judges in NY

In "Animal House," the college dean declares slovenly Delta House to be on "double secret probation." This fuzziness is funny in the movie, but in New York State, which in reality disciplines its judges via a system every bit as amorphous, it's not a bit amusing.

But it is comfortable, quite comfortable, for judges and their always amorphous political contacts. The notion of a double secret procedure is actually a part of a very real system set up in a 1974 statute. Investigations are done behind closed doors and the conclusions become public only if the Commission on Judicial Conduct decides to admonish, censure, remove or retire a judge.

That leaves a lot of rug under which embar-

rassments may be quietly swept. Earlier this year, for example, the commission completed its formal inquiry into the Suffolk County Conservative Party's practice of soliciting expensive ads from judicial candidates. The ads, in a pre-election newspaper, cost as much as \$5,000, and over the course of five years the party collected \$75,000 from candidates. Comparable ads in Suffolk Life, with five times the circulation, cost \$1,800.

Were the candidates for judgeships buying the party's endorsement? In letters sent to the judges who advertised, the commission said they "should avoid such payments because they may reasonably be construed as a quid pro quo for the nomination." But that's as

far as it went. Nobody was accused of (a) selling or (b) buying nominations. Commenting on the commission's action, Suffolk Commissioner of Jurors Michael O'Donohoe, himself a Conservative on the outs with the party leadership, said a major revenue source for the Conservative Party had dried up. "You can no longer go down to [Suffolk Conservative Party chairman Pasquale] Curcio and buy an endorsement. This puts an end to that."

Maybe it does. Maybe it doesn't.

This form of double secret probation should not be a part of the system of judicial discipline. The state Legislature talks endlessly about opening up the process, but it never does anything about it. It's time it did.

APRIL 11, 2000