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December 31, 1999

New York Post
Letters to the Editor
1211 Avenue of the Americas
New York, New York 10036

RE: "Eliot Spitzer's Rocky Start", Editorial, December 30, 1999

Dear Editor:


You are far too generous in your editorial, "*Eliot Spitzer's Rocky Start*" (Dec 30). The "real record" of Mr. Spitzer's first year as Attorney General disqualifies him from *any* future office of public trust. Indeed, it requires that he be promptly removed from his present office for official misconduct.

These are the facts: Mr. Spitzer became Attorney General proclaiming he would restore public confidence by rooting out government corruption. Taking him at his word, our non-partisan citizens' organization presented him with proof of systemic corruption involving top public officials and essential oversight agencies. This included copies of judicial misconduct complaints against high-ranking, politically-connected judges, each dismissed without investigation by the State Commission on Judicial Conduct -- in violation of its statutory investigative duty. These were provided, *in hand*, to Mr. Spitzer, who *publicly* promised to "look at" them. That was last January, moments after he announced the creation of his "public integrity unit".

The importance to the public of a meaningful mechanism to discipline miscreant and corrupt judges is obvious. Yet, Mr. Spitzer not only completely failed to respond to our many follow-up phone calls and letters as to the status of his review, but did so knowing it would leave us no choice but to bring a citizen lawsuit against the Commission to hold it accountable. He then completely failed to respond to our many requests that he vindicate the public's rights by helping to prosecute the case.

Instead, Mr. Spitzer came to the Commission's defense, engaging in a level of litigation misconduct which, if committed by a private attorney, would be ground for disbarment. His "public integrity unit" was nowhere to be seen.

The lawsuit, in which Mr. Spitzer is defense counsel, is pending in New York Supreme Court (#99-108551). It includes a fully-documented motion for the Court to sanction Mr. Spitzer *personally* and to refer him to disciplinary and criminal authorities. This is the "real record" which should rightfully end not only Mr. Spitzer's political career, but his legal one as well.


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

NOTE: The foregoing recitation of official misconduct by Mr. Spitzer is fully documented by the litigation file of the referred-to pending lawsuit against the State Commission on Judicial Conduct (NY Co. #99-108551)-- a copy of which I would be pleased to provide, upon request. Likewise fully documented is my referred-to *in-hand* presentation of evidence to Mr. Spitzer, as well as his *public* response to me -- which took place at a January 27, 1999 event at the City Bar, co-sponsored by the New York Law Journal.

Among the materials presented to Mr. Spitzer on that date was a copy of my previous Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*", published by the Post on December 28, 1998. The final paragraph of that Letter read: "That is why we will be calling upon our new state attorney general as the 'People's lawyer' to launch an official investigation." Needless to say, the new state attorney general to whom I was then referring was Mr. Spitzer.

Finally, since the Post has long been critical of the State Commission on Judicial Conduct, including for its protectionism of downstate, politically-powerful judges (i.e. "*Who Judges the Judges*" (3/7/95), "*The Duckman Travesty*" (4/24/96), I ask that you refer this proposed Letter to one of the Post's investigative reporters for follow-up about the pending lawsuit against the Commission -- now before its SEVENTH judge: five judges having disqualified themselves and one judge having been pulled from the case by the Administrative Judge.

NEW YORK POST

America's oldest continuously published daily newspaper

Eliot Spitzer's Rocky Start

Eliot Spitzer spent years constructing the facade from behind which he successfully ran for attorney general of New York — that of the law-and-order-oriented centrist, the Bill Clinton-style New Democrat.

Then he took office, and the truth came out. Boy, did it ever.

Gone was the lawyer who fought, pro bono, to rid the Upper West Side of the notorious Wild Man of 96th Street. Gone was the vocal advocate of the death penalty — the fellow who viewed safe streets as the *sine qua non* of urban civilization.

Back, for all intents and purposes, was Bobby Abrams — the cuddly “consumer’s” AG. Got a big corporation that needs suing? Need to find a job for an activist attorney with a soft spot in his heart for Ralph Nader? Are there some cops that need bashing?

Who ya gonna call?

Eliot Spitzer.

Spitzer quickly swept out the folks left behind by the Republican incumbent he had defeated, Dennis Vacco. Fair enough: To the victors go the paychecks.

But soon Spitzer’s staff was acquiring a distinctly *unmiddle-of-the-road* character. This was reflected in the policies he crafted.

There was the high-profile attempt to make political capital on the Amadou Diallo case. Specifically, Spitzer went trolling for “civil-rights” violations committed by the NYPD — coming up far short of his announced expectations, by the way.

And Spitzer turns out to be greener than the Jolly Giant (as is Gov. Pataki these days; maybe they use the same pollsters). This has implications for New York’s perky, but precariously situated, economy.

Case in point: Spitzer’s lawsuit against General Electric, one of the state’s major employers. It was brought on the flimsiest of grounds — and then Spitzer piled on, exhorting local governments up and down the Hudson River to file suits of their own, though to what good purpose was never made clear.

It’s said that Eliot Spitzer’s ultimate goal is to become governor himself. This is an honorable ambition, even if he does deny it. But if it should come to that, the attorney general will be running on a real record. He’s got at least three more years, maybe much longer, to establish himself as a true centrist.

The sooner he gets to it, the better for New York state.

NEW YORK POST

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An Appeal to Fairness: Revisit the Court of Appeals

•Your editorial "Reclaiming the Court of Appeals" (Dec. 18) asserts that Albert Rosenblatt will be judged by how well he upholds the democratic process "from those who would seek to short-circuit" it.

On that score, it is not too early to judge him. He permitted the state Senate to make a mockery of the democratic process and the public's rights when it confirmed him last Thursday.

The Senate Judiciary Committee's hearing on Justice Rosenblatt's confirmation to our state's highest court was by invitation only.

The Committee denied invitations to citizens wishing to testify in opposition and prevented them from even attending the hearing by withholding information of its date, which was never publicly announced.

Even reporters at the Capitol did not know when the confirmation hearing would be held until last Thursday, the very day of the hearing.

The result was worthy of the former Soviet Union: a rubber-

stamp confirmation "hearing" with no opposition testimony — followed by unanimous Senate approval.

In the 20 years since elections to the Court of Appeals were scrapped in favor of what was purported to be "merit selection," we do not believe the Senate Judiciary Committee ever — until last Thursday — conducted a confirmation hearing to the Court of Appeals without notice to the public and opportunity for it to be heard in opposition.

That it did so in confirming Justice Rosenblatt reflects its conscious knowledge — and that of Justice Rosenblatt — that his confirmation would not survive publicly presented opposition testimony. It certainly would not have survived the testimony of our non-partisan citizens' organization.

This is why we will be calling upon our new state attorney general as the "People's lawyer," to launch an official investigation. **Elena Ruth Sassower**
Center for Judicial Accountability
White Plains

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editorial

April 24, 1996

NEW YORK POST

America's oldest continuously published daily newspaper

The Duckman travesty

Gov. Pataki Monday cut right through the fog surrounding the state Commission on Judicial Conduct's review of Criminal Court Judge Lorin Duckman's tenure on the bench. The governor called on the commission to remove Duckman immediately. Indeed, Pataki suggested that the judge might do well simply to resign, thereby rendering the issue moot.

Alas, the governor's arguments have not been heeded. Not by the commission, which determined that Duckman's handling of the Galina Komar case doesn't justify his removal. And not by the judge himself, who seems inclined to hang tough.

This shouldn't surprise.

Duckman, who's on leave while the commission considers various decidedly ancillary charges, will likely get his regular paycheck for nine months to a year — maybe longer. Why *shouldn't* he stand pat?

As for the commission itself, it's well to remember that some 17,000 complaints have been filed against sitting judges since the panel was created in 1978. Yet it has ordered the removal of only 112 jurists, the overwhelming majority of whom have been part-time upstate justices of the peace. Many weren't even lawyers in the first place.

Rare, indeed, is the full-fledged New York City judge who falls afoul of the commission — so rare, in fact, that the scandal behind the scandal here may well be the panel itself.

Certainly its handling of this matter betrays a stunning insensitivity to simple justice. Ex-boyfriend Benito Oliver had been accused of beating Galina Komar; Duckman ordered Oliver freed without bail because — we kid you not — he'd

never broken any of Komar's bones.

Once released, however, Oliver did more than break a few bones; he murdered his former girlfriend. Galina Komar's plea for a court order of protection was pending before Duckman when she was killed.

Other Duckman rulings indicate that this is a judge who is, among other things, strikingly insensitive to domestic violence. The commission, however — fearful of establishing any sort of relevant precedent — held that Duckman's decisions fall well within his "wide [statutory] discretion."

The panel, to be sure, didn't want to draw upon itself further obloquy by failing in any way to act against Duckman. As a consequence, the members agreed to consider allegations that the judge is routinely hostile to prosecutors and that he once insulted a female court officer by tendering an inappropriate "compliment."

The former charge certainly merits scrutiny: Anti-prosecution judges are an insidious component of the city's criminal justice system. As for the alleged insult, even though the accusation carries the odor of Political Correctness, it seems altogether plausible.

Neither charge, however, speaks to the primary issue: Lorin Duckman came under scrutiny — and drew criticism from Pataki, Mayor Giuliani and many others — because his ruling led directly to a foreseeable crime against an innocent woman, Galina Komar. The commission may have managed to find a way to punish this misguided jurist — it's even possible that he'll be removed from the bench. But this doesn't mitigate the fact that it dodged the key issue.

Poor show.

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NEW YORK POST

Founded by Alexander Hamilton in 1801

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Who judges the judges?

In the recently concluded — and eye-opening — series entitled “New York’s 10 worst judges,” Post reporters Jack Newfield and William Neuman demonstrated in distressing detail that the judiciary in this town is sadly lacking in oversight.

By its nature, compiling such a list focuses attention on the bad actors — and thus can disguise the fact that New York, by and large, has a competent corps of judges.

And while it’s possible that any one individual named to the list may have been judged too harshly, it’s equally possible that a lot of judges who didn’t make the list deserved to be at or near the top of it.

The fact of the matter is that — apart from courthouse insiders — nobody really knows which judges measure up to the responsibilities vested in them, and which do not.

And nobody’s looking — at least nobody in a position to do anything about bad judges. One of the jurists examined by Newfield and Neuman is a perjurer; another appears to have a very serious drinking problem — yet both remain on the bench and likely will stay there indefinitely. Partisan politics of the

rankest sort routinely elevates spectacular incompetents to positions where — as the series demonstrated — they can do real damage.

It would be impossible, of course, to totally divorce politics from the judicial selection process — and to do so is probably not an altogether good idea to begin with. The so-called merit selection process is no more free of politicking than is the outright election of judges — it just takes a different form.

What’s needed is meaningful oversight of judges once they’re on the bench, irrespective of how they got there. The judiciary itself can’t — or simply won’t — police itself. That leaves the state Commission on Judicial Conduct — created for precisely that purpose but at present a distressingly toothless tiger.

To be sure, the commission is hell on wheels when it comes to disciplining rural justices of the peace and other small-town magistrates, many of whom are not lawyers. The next time it comes to New York City to do serious business, however, will be the *first* time it does so.

Newfield and Neuman established that there’s a real need in this realm; the next move is the commission’s.

