

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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*Elena Ruth Sassower, Coordinator*

### BY HAND

November 13, 2001

A. Rene Hollyer, Chairman  
Special Committee on Procedures for Judicial Discipline  
New York State Bar Association  
c/o Hollyer, Brady, Smith & Hines, LLP  
551 Fifth Avenue, 27<sup>th</sup> Floor  
New York, New York 10176

**RE:** The duty that the New York State Bar Association's Special Committee on Procedures for Judicial Discipline owes the Association's 72,000 lawyer members to address the corruption of the New York State Commission on Judicial Conduct -- *as readily-verifiable* from the record of *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York* (NY Co. 108551/99)

Dear Mr. Hollyer:

Following up your prompt return call on November 2<sup>nd</sup> of my phone message from the previous day, enclosed, as discussed, are the appellate papers in the above-entitled Article 78 proceeding against the New York State Commission on Judicial Conduct, scheduled for oral argument at 10 a.m. on Wednesday, November 21<sup>st</sup>. The 67,000 lawyer-membership of the New York State Bar Association would assuredly expect that a representative of the Special Committee on Procedures for Judicial Discipline be present at the oral argument of this important appeal and the Center for Judicial Accountability, Inc. (CJA) specifically invites and requests the presence of such representative on what is the State Bar Association's 125<sup>th</sup> anniversary.

As you indicated that the Special Committee, under your chairmanship, has yet to have an organizational meeting and that, for many years, the Special Committee has been "inactive", CJA submits that the important issues presented by this proceeding -- encompassing two other Article 78 proceedings against the Commission, *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (NY Co. 109141/95) and *Michael Mantell v. New York State*

*Commission on Judicial Conduct* (NY Co. 108655/99) – should be the basis for immediately convening an organizational meeting and bringing the Special Committee out of its dormant state.

According to the State Bar's Albany office, the Standing Committee has 24 members, including yourself. This is more than ample manpower and legal talent to review the enclosed appellate papers -- and to make findings of law as to the accuracy of the *uncontroverted* analyses therein that the Commission has been the beneficiary of FOUR fraudulent judicial decisions without which it would *not* have survived three separate legal challenges. In chronological order, these are:

The *uncontroverted* 3-page analysis of Justice Herman Cahn's fraudulent decision in *Doris L. Sassower v. Commission*: the analysis appears at A-52-54 of the Appendix in *E. R. Sassower v. Commission* and the decision at A-189-194.

The *uncontroverted* 13-page analysis of Justice Edward Lehner's fraudulent decision in *Mantell v. Commission*: the analysis appears at A-321-334 of the Appendix in *E.R. Sassower v. Commission* and the decision at A-299-307.

The *uncontroverted* analysis of Justice William Wetzel's fraudulent decision in *Elena Ruth Sassower v. Commission* – the subject of the instant appeal: the analysis is presented by the Appellant's Brief and, in particular, by pages 55-60 relating to Justice Wetzel's *exclusive* reliance on Justice Cahn's fraudulent decision in *Doris L. Sassower v. Commission* [A-189-194] and on Justice Lehner's decision in *Mantell v. Commission* [A-299-307] to dismiss the Verified Petition;

The *uncontroverted* 1-page analysis of the Appellate Division, First Department's fraudulent decision in *Mantell v. Commission*: the analysis is annexed as Exhibit "R" to the August 17, 2001 motion in *E. R. Sassower v. Commission* and particularized at pages 40-47 of the *uncontroverted* Critique, annexed as Exhibit "U" to the August 17, 2001 motion.

Following verification of the accuracy of the legal arguments in these FOUR analyses, the 24 members of the Special Committee should verify their factual accuracy, as well. CJA is ready to provide copies of the lower court records and the appellate record in *Mantell v. Commission* for such purpose<sup>1</sup>. Indeed, CJA long ago provided the State Bar with a copy of the lower court

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Copies of these records were long ago provided to the Association of the Bar of the City of New York.

record in *Doris L. Sassower v. Commission* so that it could verify the 3-page analysis of Justice Cahn's fraudulent analysis therein and take steps to protect the public.

Based on verification of these FOUR analyses, CJA requests that that the Special Committee provide *amicus* and other assistance in *E. R. Sassower v. Commission* and, additionally, that it join in CJA's long-standing efforts to obtain an official investigation of the Commission's demonstrated corruption. CJA has asked State Bar President Steven C. Krane to endorse these requests in a letter of today's date – and a copy is enclosed.

Please be advised that it is now nearly 15 years since the Legislature last held oversight hearings over the Commission. The prior hearings were on December 18, 1981 and September 22, 1987 – at which the Chairmen of the Special Committee testified. For your convenience, a copy of the testimony of Martin Drazen and Arthur Gellert from the 1981 and 1987 hearings are enclosed.

CJA looks forward to working with the Special Committee so that “procedures for judicial discipline” will provide meaningful redress to victims of judicial conduct and to the adversely affected public. As discussed, once the Special Committee confronts the *readily-verifiable* corruption of the New York State Commission on Judicial Conduct, it should extend its sights to the corrupt judicial disciplinary mechanism that exists in the federal system, where, presumably, a substantial portion of the State Bar's members litigate. In that regard, a copy of CJA's article, “*Without Merit: The Empty Promise of Judicial Discipline*” (The Long Term View (Massachusetts School of Law) Vol. 4, No. 1 (Fall 1997)), is enclosed.

Yours for a quality judiciary,



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

See next page for enclosures and cc's.

- Enclosures:
- (1) CJA informational brochure
  - (2) appellate papers in *E.R. Sassower v. Commission*  
(inventory annexed)
  - (3) New York Law Journal listing for November 21, 2001 oral argument
  - (4) CJA's November 13, 2001 letter to President Steven C. Krane
  - (5) Transcript of December 18, 1981 oversight hearing: pp. 1-3, 128-144
  - (6) Transcript of September 22, 1987 oversight hearing: pp. 1-3, 227-237
  - (7) "Without Merit: The Empty Promise of Judicial Discipline" (The Long Term View (Massachusetts School of Law) Vol. 4, No. 1 (Fall 1997))

cc: President Steven C. Krane, New York State Bar Association [w/o enclosures]  
New York State Bar Association Albany Office: [w/o enclosures]  
Kathleen Mulligan Baxter/Counsel  
Patricia K. Bucklin, Executive Director  
James R. Silkenat, Chair [w/o enclosures]  
New York Fellows of the American Bar Foundation

## **INVENTORY OF TRANSMITTAL**

CJA's November 13, 2001 letter to A. Rene Hollyer, Chairman,  
New York State Bar Association's Special Committee on Procedures for Judicial Discipline

*Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York (NY Co. 108551/99)*

### **THE APPELLATE BRIEFS**

- (1) Appellant's Brief and Appendix
- (2) Attorney General's Respondent's Brief
- (3) Appellant's Reply Brief

**APPELLANT'S AUGUST 17, 2001 MOTION to disqualify the Appellate Division, First Department, strike the Attorney General's Respondent's Brief, sanction the Attorney General and Commission and refer them for disciplinary and criminal prosecution; and to disqualify the Attorney General**

- (1) Appellant's August 17, 2001 motion
- (2) Attorney General's August 30, 2001 opposing papers:  
Assistant Solicitor General Carol Fischer's opposing affirmation  
and opposing memorandum of law
- (3) Appellant's October 15, 2001 reply affidavit

### **CORRESPONDENCE**

Appellant's November 13, 2001 letter to Appellate Division, First Department Presiding Justice Joseph Sullivan and the panel assigned to the appeal