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Elena Ruth Sassower, Coordinator

BY HAND

November 13, 2001

Steven C. Krane, President
New York State Bar Association
c/o Proskauer Rose LLP
1585 Broadway, 17th Floor
New York, New York 10036-8299

RE: Your July 5, 2001 letter – and CJA's request herein for your endorsement that the New York State Bar Association's Special Committee on Procedures for Judicial Discipline make findings as to the accuracy of the *uncontroverted* analyses in the appellate papers of *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission o n Judicial Conduct of the State of New York* (NY Co. 108551/99) showing that the New York State Commission on Judicial Conduct has been the beneficiary of FOUR fraudulent judicial decisions, without which it would *not* have survived, and, upon verification of same, that the Special Committee provide *amicus* and other support therein and join in CJA's long-standing efforts to obtain an official investigation of the Commission's demonstrated corruption.

Dear President Krane:

This belatedly responds to your July 5, 2001 letter (Exhibit "A"), marked "Personal and Confidential" – to which I was unable to earlier reply due to time pressures resulting from having to single-handedly ensure the integrity of the appellate process in the above-entitled public interest lawsuit against the New York State Commission on Judicial Conduct, *unassisted* by the New York State Bar Association. Absent the Appellate Division, First Department's adjournment of the November 21st oral argument pending adjudication of my August 17th motion for its recusal and other relief, the appeal will proceed on that date -- the 125th anniversary of the State Bar Association.

Assuming -- as you state -- that you "reviewed the materials" I gave you "down at Jim Silkenat's office"[1], "as well as the additional materials" I "subsequently" provided you, and,

[1] You were "down at Jim Silkenat's office" on March 1, 2001, giving a luncheon seminar to the New

additionally, that you "also read" my "fax of June 18", you know, *for a fact*, that the first paragraph of your letter is false and that your second paragraph is false and defamatory. Indeed, your knowledge of the false and defamatory nature of your letter may be gleaned from your conspicuous failure to identify, let alone address, the specifics of the documents you purport to have "reviewed" and "read".

As you know, the purportedly "reviewed... materials" are the appellate papers in my above-entitled lawsuit against the Commission on Judicial Conduct, current as of the date they were provided to you, as well as correspondence between myself and the Commission's attorney, the New York State Attorney General, pertaining to his duty under Executive Law §63.1 and under New York's Code of Professional Responsibility.

Thus, on March 1st, under a coverletter of that date (Exhibit "B"), I gave you, *in hand*, my Appellant's Brief and Appendix so that you could *verify* that Acting Supreme Court Justice William Wetzel "threw" the lawsuit by a decision so "factually fabricated [and] legally insupportable" as to eliminate *any* legitimate defense and that the Attorney General's duty, pursuant to Executive Law §63.1, was to disavow his representation of the Commission and support the appeal. On May 3rd, I hand-delivered to your office the Attorney General's Respondent's Brief and my 66-page Critique[2] thereof so that you could *verify* that the Attorney General had now demonstrated that there was "NO legitimate defense to the appeal" by a Respondent's Brief so completely fashioned on misrepresentation, distortion, and omission of the material facts and controlling law that his supervisory duty under the mandatory provisions of DR-104 of New York's Code of Professional Responsibility was to withdraw it.

As for the "fax of June 18" (Exhibit "C"), it alerted you to your duty, pursuant to EC 8-6 of the American Bar Association's Code of Professional Responsibility, to notify the New York State Senate Judiciary Committee of Justice Wetzel's unfitness for judicial office based on his *readily verifiable* fraudulent judicial decision in my lawsuit, as detailed by my Appellant's Brief. This, because the State Senate Judiciary Committee was then poised to confirm Justice Wetzel's

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York State Fellows of the American Bar Foundation on "*New Developments in Legal Ethics and Lawyers' Professional Responsibility*" – which I attended.

[2] This 66-page Critique, now incorporated by reference in my Reply Brief (at p. 5), is Exhibit "U" to my pending August 17th motion in support of a request for an order to strike the Attorney General's Respondent's Brief "based on a finding that it is a 'fraud on the court', violative of 22 NYCRR §130-1.1 and 22 NYCRR §1200 *et seq.*, specifically, §§1200.3(a)(4), (5); and 1200.33(a)(5), with a further finding that the Attorney General and Commission are 'guilty' of 'deceit or collusion' 'with intent to deceive the court or any party' under Judiciary Law §487". In addition to costs and sanctions against both the Attorney General and Commission, the August 17th motion seeks to refer them for disciplinary and criminal investigation and prosecution and to disqualify the Attorney General from representing the Commission for violation of Executive Law §63.1 and conflict of interest rules.

reappointment to the bench. As pointed out by my fax, you had had my Appellant's Brief "for months" and had not denied or disputed its accuracy, nor the accuracy of my subsequently provided 66-page Critique of the Attorney General's Respondent's Brief.

Tellingly, your July 5, 2001 letter (Exhibit "A") does *not* deny or dispute the accuracy of my Appellant's Brief and Critique, to which you make *no* reference. Instead, you purport, that the New York State Bar Association cannot be of "any assistance" because:

> "Among other things, the matters you raise, although portrayed otherwise, are not matters of statewide significance, or of general interest to the bar, but arise out of an individual case with unique facts."

Conspicuously, you do not identify "the matters" I have raised, including that they pertain to the New York State Commission on Judicial Conduct. The reason is obvious. You could not do so and pretend that there is no "statewide significance" or "general interest to the bar". Indeed, the Commission's "statewide significance" and "general interest to the bar" is evident from the fact that since 1977 the New York State Bar Association has had a Special Committee on Procedures for Judicial Discipline specifically devoted to it. The Committee's mission statement reads:

> "The Special Committee on Procedures for Judicial Discipline shall review legislation relating to the State Commission on Judicial Conduct and the rules, procedures, and performance of the commission. It shall receive and consider information, complaints, with respect to the operation of the commission; it shall also consider proposals for the improvement of the procedures relating to judicial discipline, and make recommendations thereon. After such investigation and study, including holding of hearings, as it shall consider appropriate." (sic) (Exhibit "D-1").

Only on November 1st did I learn that the State Bar's Special Committee on Procedures for Judicial Discipline was still extent[3]. I also learned that on June 1st – a mere five weeks before your July 5th letter to me (Exhibit "A")-- you had appointed A. Rene Hollyer to chair the Special Committee. As you know, prior to that June 1st appointment, I had telephoned your law office at least five times, on March 26th, April 3rd, April 11th, April 19th, and May 22nd – each time leaving messages for you. Likewise, on June 8th and June 18th. In virtually every one of these phone messages, I had expressly requested that if you were too busy to get back to me that you

[3] My only prior knowledge of the State Bar's Special Committee on Procedures for Judicial Discipline was from the transcripts of the State Senate/Assembly Judiciary Committees oversight hearings of the Commission in 1981 and 1987 at which its Chairmen testified. The Legislature has held no subsequent oversight hearings on the Commission in the nearly 15 years since.

designate someone for that purpose. Yet, apparently, you did not so designate Mr. Hollyer – who, on November 2nd, when he promptly returned my phone message for him from the previous day – stated he knew nothing about who I was or about the lawsuit.

That the State Bar has never discharged its Special Committee on Procedures for Judicial Discipline, notwithstanding the Committee's lapse into virtual inactivity, only reinforces what you may be presumed to know: the transcendent "statewide significance" and "general interest to the bar" of the New York State Commission on Judicial Conduct as the *sole* state agency charged with the duty of receiving and investigating misconduct complaints against virtually ALL this state's judges. Both judicial accountability and independence are threatened when the Commission does not meet that duty and when its operations fail to comport with the requirements of statutory and constitutional provisions. Surely, it did not escape you that the Verified Petition in my Article 78 proceeding [A-18-121] details the violative nature of the Commission's rules and operations, which it challenges in six Claims for Relief [A-37-45]:

The First Claim for Relief [A-37-38] challenges 22 NYCRR §7000.3, *as written*, as unconstitutional and unlawful in contravening Article VI, §22a of the New York State Constitution and Judiciary Law §44.1;

The Second Claim for Relief [A-38-40] challenges 22 NYCRR §7000.3, *as applied*, as unconstitutional and unlawful in contravening Article VI, §22a of the New York State Constitution and Judiciary Law §44.1;

The Third Claim for Relief [A-40-42] challenges Judiciary Law §45, *as applied*, as unconstitutional, and, in the event such relief is denied, challenges Judiciary Law §45, *as written*, as unconstitutional;

The Fourth Claim for Relief [A-42-44] challenges 22 NYCRR §7000.1, *as written and applied*, as unconstitutional and, in the event such relief is denied, challenges Judiciary Law §§41.6 and 43.1, *as written and applied*, as unconstitutional;

The Fifth Claim for Relief [A-44-45] challenges the Commission for violating Judiciary Law §41.2 by the continued long-time chairmanship of Henry T. Berger and mandating his removal;

The Sixth Claim for Relief [A-45] challenges the Commission for failing to formally "receive" and "determine" a *facially-meritorious* judicial misconduct complaint in conformity with Article VI, §22a of the New York State Constitution and Judiciary Law §44.1.

My Brief highlights (pp. 19-20, 30-34) how the Commission, having "NO legitimate defense" to these Six Claims for Relief [A-37-45], engaged in fraudulent litigation conduct by its attorney, the State Attorney General, to defeat the proceeding in the lower court. From the Attorney General's Respondent's Brief and my Critique thereof, you could yourself *verify* that on the appellate level, the Attorney General, also having "NO legitimate defense", engaged in fraudulent litigation conduct by interposing a Respondent's Brief which, from beginning to end, was "fashioned on wilful misrepresentation and omission of the material facts and concealment of the applicable law".

That the Commission, charged with the duty of enforcing judicial standards of conduct, and the State Attorney General, our highest law enforcement officer, should engage in conduct which would be grounds for disbarment if committed by a private attorney should have been of particular concern to you -- an expert in legal ethics and professional responsibility, whose credentials in these areas are extensively recited in the State Bar's June 1, 2001 press release, "*First Baby Boomer to Head N.Y. State Bar Association Will Work to Restore Trust and Confidence in the Legal System*" (Exhibit "E-1"), and reflected by the New York Law Journal's June 11, 2001 article, "*New State Bar President Champions Openness, Service*" (Exhibit "E-2"). Indeed, your concern should have been all the greater because my Brief and 66-page Critique detailed two other Article 78 proceedings – each physically part of the record in my proceeding [A-346, 350]-- in which the Commission and Attorney General had engaged in similarly fraudulent defense tactics to defeat legitimate challenge. In both these proceedings, *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), as in my own proceeding, the Commission, represented by the Attorney General, had been rewarded by fraudulent judicial decisions [A-189-194; A-299-307] without which it would *not* have survived [A-48-54; A-321-334]. This included a fraudulent appellate decision in *Mantell v. Commission*[4].

Moreover, from such Appendix documents as CJA's $3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97, pp. 3-4) [A-79-80], you could see that the Attorney General's *modus operandi* of fraudulent defense tactics extended beyond three Article 78 proceedings against the Commission. Detailed were two other lawsuits which, though not involving the Commission, are of obvious importance to both the legal community and general public. This, because they concerned the misuse of the attorney disciplinary mechanism for the politically-motivated purpose of retaliating against a judicial

[4] The appellate decision in *Mantell v. Commission* and my 1-page analysis thereof were included among the "materials" handed to you on March 1st (Exhibit "B"). My more extensive analysis of the decision was set forth at pages 40-47 of my 66-page Critique of Respondent's Brief, transmitted to you on May 3rd. These documents are now part of my pending August 17th motion: Exhibit "B-1" (appellate decision); Exhibit "R" (1-page analysis); Exhibit "U" (66-page Critique).

whistleblowing attorney who, acting *pro bono*, brought an Election Law challenge to a written judicial cross-endorsement deal, implemented at illegally-conducted judicial nominating conventions, in which the two major political parties divvied up seven judgeships over a three-year period. The attorney was *immediately*, *indefinitely*, and *unconditionally* suspended – *without* any underlying petition, *without* reasons, *without* findings, and *without* any *pre*-suspension hearing – and thereafter denied any *post*-suspension hearing or appellate rights.

These two lawsuits, an Article 78 proceeding and a §1983 federal action, each with a shortened title of *Doris L. Sassower v. Hon. Guy Mangano, et al.*, challenged New York's attorney disciplinary law, *as written* and *as applied*. Here, too, as "*Restraining 'Liars'*" summarizes [A-79-80], the Attorney General subverted the judicial process by fraudulent defense tactics and was rewarded by fraudulent judicial decisions. The result -- as I told you when we spoke on March 1st following your ethics presentation "down at Jim Silkenat's office", has been the perpetuation of a blatantly unconstitutional attorney disciplinary law and the continued blatantly lawless suspension of Ms. Sassower's law license, now in its 11th year – both without a peep from the bar community[5].

The State Bar has no shortage of committees devoted to professional ethics, responsibility, and attorney discipline. These, no less than the State Bar's Committee [to Promote] Public Trust and Confidence in the Legal System, MUST – if they function with any semblance of respect

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[5] You also raise not a peep. Instead you pretend, as to the New York Law Journal, "It is very important for us not to appear that we are hiding our problems or hiding how we deal with them. We have nothing to hide." (Exhibit "E-2"). This is part of the P.R. you employ to advance your "personal crusade" to open attorney disciplinary proceedings, once "probable cause" has been found. Yet, as I *expressly* told you when we spoke on March 1st "down at Jim Silkenat's office", disciplinary proceedings are commenced WITHOUT "probable cause" findings. This fact is *verifiable* from the files of the disciplinary proceedings against Doris Sassower, which I offered you on March 1st, and also *verifiable* from the disciplinary files of other attorneys –as summarized by CJA's June 1, 1995 letter to the then Chairman of the State Bar's Committee on Professional Discipline, requesting a meeting to discuss this important subject. Such request was rejected, *without reasons*, by a June 5, 1995 letter from State Bar Counsel Kathleen Mulligan Baxter [*See* exchange of correspondence at Exhibit "K" herein].

Moreover, your attempt to purport that opening attorney disciplinary proceedings upon "probable cause" will "show the public that it is a serious process" and that the profession is "capable of self-regulating" – which is what you stated in your March 1st ethics presentation "down at Jim Silkenat's office"-- is a deceit. The real cover-up takes place at the initial stages, where most of the complaints are dismissed, particularly against lawyers who are powerful and connected, in favor of disciplinary investigations and prosecutions, including those *without* "probable cause", of the "unconnected" little guy and those "rocking the boat" with challenges to the *status quo*. The same holds true with judicial disciplinary proceedings which, you stated during your March 1st presentation you also espouse opening "at a suitable point". The real cover-up at the Commission is at the initial stage, following receipt of complaints, where over 80% are dismissed, *without investigation* – including those which are not only *facially-meritorious*, but fully-documented as to serious misconduct by some of this state's most powerful and connected judges.

for professional responsibility -- be greatly concerned when *readily-available* case file evidence shows that New York's highest attorney, the State Attorney General, wilfully violates the most basic disciplinary rules of New York's Code of Professional Responsibility to thwart legitimate challenges to unlawful and unconstitutional conduct by the Commission, state judges, and by a court-controlled attorney grievance committee – and, adding to this, is rewarded by fraudulent judicial decisions, of which he is fully knowledgeable, but takes NO corrective steps. That this is happening *as a pattern and* practice makes the situation all the more dangerous and dire.

The State Bar's Committee on Professional Ethics, formed in 1952, has a mission statement reading:

> "The Committee on Professional Ethics is charged with the duty of observing the ethical standards of the profession. With the approval of the Executive Committee, it may take original action and may cooperate with other bar associations and federations in taking action to maintain high ethical standards among the members of the profession... The terms 'members of the profession'... shall be deemed to include members of the judiciary; and the jurisdiction of the Committee on Professional Ethics shall extend to the canons of judicial ethics as well as to the code of professional responsibility." (Exhibit "D-2")

Additionally, the State Bar's Committee on Professional Discipline, formed in 1977, has, as its charge, to "refer to the appropriate agency allegations of professional misconduct brought to its attention against any member of the bar" (Exhibit "D-3").

Other pertinent State Bar committees include, the Committee on Attorney Professionalism, formed in 1989, to "formulate recommendations to promote and improve professionalism throughout the Legal Profession in New York State" (Exhibit "D-4"), the Committee on Attorneys in Public Service, whose purpose is to "promote the highest standards of professional conduct and competence, fairness, social justice, diligence and civility" among government and public sector lawyers (Exhibit "D-5"), and the Committee to Review the Code of Professional Responsibility, formed in 1992, and renamed in 1999 as the Special Committee of Standards of Attorney Conduct. Such Committee, which *you* chair, is supposed to "evaluate the Code of Professional Responsibility to determine whether and to what extent amendments should be proposed thereto" (Exhibit "D-6"). Obviously, where case file evidence shows that lawyers, *who are public officers*, brazenly violate fundamental Code requirements – and are permitted to do so by the courts – special emendation of the Code is in order to emphasis the seriousness of this two-fold misconduct.

Although you purport that mine is an "individual case with unique facts" – a description surely applicable to virtually EVERY case -- the "unique fact" is that even the *facially-meritorious* judicial misconduct complaint whose unlawful dismissal by the Commission underlies my lawsuit has "statewide interest" and "general interest to the bar". The two grounds of that complaint [A-57-83] clearly transcend anything "individual": (1) the believed perjury of then Appellate Division, Second Department Justice Albert Rosenblatt on his *publicly-inaccessible* application to the New York State Commission on Judicial Nomination relating to his candidacy for our state's highest court, the New York Court of Appeals; and (2) Justice Rosenblatt's litigation misconduct and that of his Appellate Division, Second Department brethren, by their co-defendant attorney, the Attorney General, in the §1983 federal action against them, *Doris L. Sassower v. Hon. Guy Mangano, et al*, -- a case directly challenging the constitutionality of New York's attorney disciplinary law, *as written and as applied*.

As to your second paragraph, in which you "speak[] for [your]self only, and not for the Association" in purporting that you are "not at all persuaded by [my] presentation that there is rampant corruption in the judicial system in this State", the simple fact is that you do *not* deny or dispute the accuracy of my *uncontroverted* presentations in the "materials" you claim to have "reviewed" that the Commission, aided and abetted by the Attorney General, has been the beneficiary of FOUR fraudulent judicial decisions in three separate Article 78 proceedings. These are:

> The fraudulence of Justice Wetzel's decision [A-9-14] – the subject of the appeal – as detailed by my *uncontroverted* Brief, and, in particular, by pages 55-60 relating to Justice Wetzel's *exclusive* reliance on Justice Herman Cahn's fraudulent decision in *Doris L. Sassower v. Commission* [A-189-194] and on Justice Edward Lehner's decision in *Mantell v. Commission* [A-299-307] to dismiss my Verified Petition;
>
> The fraudulence of Justice Cahn's decision in *Doris L. Sassower v. Commission* [A-189-194], as detailed by my *uncontroverted* 3-page analysis thereof in the record before Justice Wetzel, appearing at A-52-54 of my Appellant's Appendix;
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> The fraudulence of Justice Lehner's decision in *Mantell v. Commission* [A-299-307], as detailed by my *uncontroverted* 13-page analysis thereof in the record before Justice Wetzel, appearing at A-321-334 of my Appellant's Appendix;
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> The fraudulence of the Appellate Division, First Department's decision in *Mantell v. Commission*, as summarized by my *uncontroverted* 1-page

> analysis, enclosed with my March 1st coverletter to you (Exhibit "A"), and detailed at pages 40-47 of my *uncontroverted* 66-page Critique (*see* fn 4, *supra*).

As my March 1st coverletter to you reflects (Exhibit "B"), you were offered a copy of the substantiating lower court record in my lawsuit against the Commission, as well as a copy of the appellate papers in *Mantell v. Commission*, including my dispositive motion to intervene therein. You have chosen *not* to avail yourself of such records, although you surely would agree that they constitute the *readily-verifiable* documentary proof of *precisely* what took place in the three Article 78 proceedings against the Commission. By the same token, you have chosen *not* to avail yourself of copies of the substantiating court records in *Doris L. Sassower v. Hon. Guy Mangano, et al.*, either the Article 78 proceeding or the §1983 federal action, which I offered to you in our March 1st conversation following your presentation on ethics "down at Jim Silkenat's office". These likewise constitute the *readily-verifiable* documentary proof of *precisely* what occurred in these two cases – a fact highlighted in "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" [A-55-56].

As to your further assertion:

> "Indeed, even if there were any merit to your contentions, it is obscured by your barrage of accusations against, it would seem, virtually any judge who has ever touched the *Sassower* litigations. Indeed, it seems as if anyone who rules against you becomes your next target. Such a pattern has a negative impact on credibility",

examination of my Appellant's Brief and Critique shows there is nothing "obscured" or accusatory in my fact-specific, law-supported above-cited analyses as to the fraudulence of the FOUR judicial decisions – *and you identify nothing*. Moreover, no "credibility" issues are involved in verifying the accuracy of the legal argument embodied in these *uncontroverted* analyses – or, for that matter, of the serious legal issues presented by my Verified Petition's six Claims for Relief [A-37-45].

In any event, there is absolutely NO basis for you to impugn my "credibility". The "materials" and "fax" you purport to have "reviewed" and "read" belie your malicious attempt to besmirch me by implying that I make wanton charges against judges and mistake unfavorable rulings for judicial misconduct. Rather, they firmly establish my considerable expertise in matters pertaining to judicial misconduct and my clear respect for, and adherence to, the very highest standards of professionalism -- *and you cite nothing to the contrary*.

As you are a partner in the litigation department of the prestigious New York law firm Proskauer, Rose, with an expertise in professional responsibility (Exhibits "E-1", E-2"), there can be no question but that you are superbly equipped to recognize the serious and significant nature of the appellate papers in my lawsuit against the Commission – as well as the State Bar's obligations flowing therefrom. It is therefore logical to assume that your grossly unprofessional conduct herein is the result of conflicts of interest, including conflicts born of your personal and professional relationships with those in leadership positions responsible for the Commission's corruption.

Your letter makes no acknowledgement of any such conflicts. However, clearly, you have personal and professional relationships with the many, many prominent leaders of the bar who, in violation of their ethical responsibilities, have kept silent in the face of the proof of the Commission's corruption which CJA long ago provided them. Indeed, more than five years ago, I turned to you, in your capacity as Chairman of the Committee on Professional and Judicial Ethics of the Association of the Bar of the City of New York, to provide assistance to City Bar President Barbara Paul Robinson "and other leaders of the bar" in meeting their "fundamental ethical and professional responsibilities" to confront the record of *Doris L. Sassower v. Commission* and my 3-page analysis of Justice Cahn's fraudulent decision therein [A-52-54]. Annexed hereto (Exhibit "F") is a copy of my April 12, 1996 letter to President Robinson, to which you and other bar leaders were indicated recipients, such as Incoming City Bar President Michael Cardozo, former City Bar President John Feerick, New York State Bar President Maxwell Pfeifer, and New York County Lawyer President Klaus Eppler. Also annexed is your responding April 17, 1996 letter (Exhibit "G"), which, *without* the slightest expression of concern for the shocking particulars recited by my April 12, 1996 letter and by my March 18, 1996 letter appended thereto, and with *no* referral to a "jurisdictionally-proper" body, blithely stated, "the Committee lacks the jurisdiction to entertain inquiries that call for an evaluation of the conduct of a lawyer other than the inquirer or that relate to past conduct." The result, highlighted by CJA's $1,650 public interest ad, "*A Call for Concerted Action*" (NYLJ, 11/20/96, p. 3) [A-51-52], was that, seven months later, we still could not find "anyone in a leadership position willing even to comment on the Commission file." – a state of affairs which continued, nine months after that, when CJA paid $3,077 to publish "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" [A-55-56]. It is a state of affairs which continues to this day and which is replicated in the refusal of those in leadership positions to comment on the files of the two subsequent Article 78 proceedings against the Commission.

One can only speculate whether you could have risen to be President of the New York State Bar Association had you then challenged your more powerful bar leader colleagues, many of whom were and are your colleagues at Proskauer, Rose (Exhibit "H"), to meet their professional responsibilities as bar leaders by addressing the documentary proof of corruption presented by the file of *Doris L. Sassower v. Commission* – or had you taken it upon yourself to respond to

that proof. Certainly, if you were not free to do so as Chairman of the City Bar's Committee on Professional and Judicial Ethics, which had just issued a Formal Opinion, 1996-1, printed in the February 29, 1996 New York Law Journal, arising from the Commission's dismissal of a judicial misconduct complaint filed by "a highly experienced trial attorney" (Exhibit "I")[6], you could have done so as a private attorney. Formal Opinion 1996-1 (Exhibit "I") itself identifies Canon 8 of the Code of Professional Responsibility, "A lawyer should assist in improving the legal system" and that "EC 8-1 specifically acknowledges that attorneys 'are especially qualified to recognize deficiencies in the legal system." Indeed, Formal Opinion 1996-1 even quotes from that portion of EC 8-6, which I quoted to you in my "fax of June 18" (Exhibit "C"):

> "Lawyers should protest earnestly against the appointment or election of those who are unsuited for the bench."

The multiple conflicts of interest that afflict the leadership of the organized bar are fairly obvious. As highlighted by my Brief and as is clear from my Verified Petition, any proper adjudication of the lawsuit requires adjudication of my 3-page analysis of Justice Cahn's fraudulent decision in *Doris L. Sassower v. Commission* [A-52-54]. Because this would expose the wilful cover-up of that fraudulent decision by bar leadership [A-25-27; 48-56], their "interest" – which is your own "interest" -- is NOT to have this case decided on the facts and the law, but to have it torpedoed. To that end, you are perfectly satisfied that Justice Wetzel annihilated ALL adjudicative standards – which, as my appellate papers chronicle, is precisely what he did in this monumental public interest lawsuit, whose purpose, accurately "portrayed" by me, is to vindicate the public's right to a lawfully-functioning disciplinary complaint mechanism.

The bar's leadership has a further "interest" in the outcome of this lawsuit – as it also exposes the corruption of the "merit selection" process in connection with Justice Rosenblatt's appointment to the Court of Appeals. That bar leaders were participants in this corrupt process, rendering evaluative ratings of the Commission on Judicial Nomination's 1998 nominees, including Justice Rosenblatt, is reflected by CJA's November 18, 1998 letter to the City Bar's Executive Committee [A-86-90] – a copy of which was provided to the State Bar, among others [A-89, 90].

A copy of CJA's exchange of correspondence with the State Bar based on this November 18, 1998 letter and relating to its fraudulent approval rating of Justice Rosenblatt's nomination is annexed as Exhibit "I" to CJA's November 13, 2000 report, "*The Complicitous Role of the Bar*

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[6] This Formal Opinion 1996-1 – important in more ways than one – was an exhibit to CJA's March 18, 1996 letter to City Bar President Barbara Paul Robinson – a *full* copy of which letter was itself an exhibit to CJA's April 12, 1996 letter to her (Exhibit "F").

Associations in the Corruption of 'Merit Selection Appointment to the New York Court of Appeals". For your convenience, a further copy of that correspondence is annexed hereto (Exhibit "J"), along with a further copy of Exhibit "J" to the November 13, 2000 report, consisting of CJA's exchange of correspondence with the State Bar concerning the unconstitutionality of New York's attorney disciplinary law, *as written and as applied*, set forth in the cert petition in the *Sassower v. Mangano* Article 78 proceeding, prefaced by CJA's $16,770 public interest ad, "*Where Do You Go When Judges Break the Law?*" (NYT, 10/26/94). This is now Exhibit "K" herein.

The focus of the November 13, 2000 report, however, is not what the bar associations did in 1998 in approving Justice Rosenblatt, or their deliberate disregard of the unconstitutionality of New York's attorney disciplinary law, *as written and as applied*, but what they did in 2000 in evaluating a subsequent batch of nominees of the Commission on Judicial Nomination, one of whom was then Administrative Judge Stephen G. Crane. As you know from my Appellant's Brief (pp. 39-42, 15, 22, 29-30, 34), Administrative Judge Crane committed serious judicial misconduct in my Article 78 proceeding against the Commission. He twice interfered with random assignment of the case – the second time "steering" it to Acting Supreme Court Justice Wetzel. Thereafter, he disregarded my written request to him for information as to the basis for this interference, including his awareness of facts pertaining to Justice Wetzel's disqualifying self-interest. CJA's November 13, 2000 report details how the State Bar's approval rating for Judge Crane's nomination was in face of its knowledge of his violative conduct in my lawsuit – knowledge derived from CJA's October 16, 2000 report to the bar associations involved in rating the nominees. Indeed, the October 16, 2000 report, particularizing Administrative Judge Crane's misconduct in my lawsuit and providing, in substantiation, the key documents that now appear in my Appellant's Appendix [A-122; 127; 291-293; 250-290] -- had been hand-delivered to the law office of the Chairman of the State Bar's Judicial Selection Committee, John Horan.

You are presumed to know about CJA's October 16, 2000 and November 13, 2000 reports, which provided the State Bar with the pertinent facts and documents relating to my Article 78 proceeding against the Commission. As the State Bar's President-Elect in that period, you and then State Bar President Paul Michael Hassett were "ex officio non-voting members" of the Judicial Selection Committee[7]. Unless Mr. Horan withheld the October 16, 2000 report from the Committee, you would likely have seen it at that time – or shortly thereafter when CJA sent the November 13, 2000 report to President Hassett, under a November 13, 2000 coverletter addressed to the attention of State Bar Counsel, Kathleen Mulligan Baxter (Exhibit "L"), which identified that it was being "filed with the First Department Disciplinary Committee as a formal

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[7] *See*, the Judicial Selection Committee's "Guidelines for Evaluating Qualifications of Judicial Candidates" (D-2), annexed as Exhibit "B-1" to CJA's November 13, 2000 report.

complaint of professional misconduct against the New York State Bar Association and its culpable officers, members and staff" and requested that copies of the October 16, 2000 and November 13, 2000 reports be distributed to the State Bar's "committees on ethics and professional responsibility, as well as [its] Committee on Public Trust and Confidence in the Legal System". Of course, since the November 13, 2000 report recited (at pp. 14-17) (Exhibit "M"[8]) Ms. Baxter's unprofessional and insulting conduct as liaison to the State Bar's Judicial Selection Committee, she had motive to withhold the reports from you, President Hassett, and from the pertinent State Bar Committees.

Suffice it to say, CJA received no response from Ms. Baxter, President Hassett, or anyone else at the State Bar to the factual recitation and legal argument presented by the two reports as to the "rigged and fraudulent" ratings of its Judicial Selection Committee for two sets of Court of Appeals nominees, in 1998 and 2000 – both integrally part of the State Bar's cover-up of the corruption of the Commission on Judicial Conduct.

Presumably your July 5, 2001 letter to me (Exhibit "A") indicates Ms. Baxter as a recipient thereof because she was a designated recipient of my "fax of June 18" (Exhibit "C"). If, based on that fax – and its enclosed June 17, 2001 letter from CJA to the State Senate Judiciary Committee referring (at p. 4) to CJA's October 16, 2000 and November 13, 2000 reports – you had discussions with Ms. Baxter, she had an obligation to provide those reports to you, along with the documentation on which they rested pertaining to Administrative Judge Crane's misconduct in my Article 78 proceeding against the Commission and my attempts to obtain from Governor Pataki and Chief Judge Kaye his demotion and removal of the bench.

Your July 5, 2001 letter (Exhibit "A") also indicates "Patricia K. Bucklin, Esq." as a recipient thereof. Ms. Bucklin, the State Bar's new Executive Director, is also fully knowledgeable of CJA's October 16, 2000 and November 13, 2000 reports – knowledge acquired from her tenure at the Office of Court Administration. By coverletter dated March 2, 2001 (Exhibit "N-1"), CJA provided Ms. Bucklin with copies of these reports for presentment to Chief Judge Kaye's Committee to Promote Public Trust and Confidence in the Legal System – to which she was counsel. This, because Chief Judge Kaye, to whom CJA had previously provided the reports for presentment to the Committee, had withheld them from the Committee and Ms. Bucklin – a fact reflected by CJA's March 1, 2001 letter to Chief Judge Kaye (Exhibit "N-2"). From Ms. Bucklin's review of CJA's prior correspondence with the Chief Judge, which was among the documents supporting the reports, Ms. Bucklin could well discern that they established the Chief Judge's official misconduct so serious as to warrant her removal from office. Such documents showed that nearly a full year earlier, on March 3, 2000, the Chief Judge had been

[8] Exhibits "I" and "J" referred to in that recitation are herein annexed as Exhibits "J" and "K", respectively.

supplied a copy of the underlying record in my Article 78 proceeding against the Commission, including its physically incorporated records from *Doris L. Sassower v. Commission* and *Mantell v. Commission*, to support CJA's formal request for an investigation of the Commission's corruption, as well as for demotion of Administrative Judge Crane – and that, in wilful violation of her mandatory administrative and disciplinary duties under §§100.3C and D of the Chief Administrator's Rules Governing Judicial Conduct, she had taken no corrective steps. Even worse, she had used her office to "protect" Administrative Judge Crane from any disciplinary consequences of his misconduct in the lawsuit.

In view of your close personal and professional relationship with Chief Judge Kaye, for whom you clerked, and your close personal and professional relationship with her husband Stephen R. Kaye, with whom you work at Proskauer, Rose (Exhibit "E-2"), it is obvious that even were you and your upper tier bar association colleagues not complicitous in the corruption of the Commission on Judicial Conduct, the subject of my lawsuit, and of "merit selection", exposed thereby, you would be profoundly conflicted by its disciplinary, indeed criminal, ramifications upon Chief Judge Kaye.

In the spirit of restoring trust and public confidence in the legal system to which you pledged your presidency (Exhibit "E-1"), and in keeping with the State Bar's participation in the American Bar Association's agenda to restore such trust and confidence, please consider responding to the particulars hereinabove set forth. In any event, CJA requests that, at least belatedly, you recognize your transcendent duty to the 67,000 lawyers who are the State Bar's rank and file members, and to the lay public, which the State Bar also purports to serve, by endorsing CJA's request to the State Bar's Special Committee on Procedures for Judicial Discipline that it make findings as to the *uncontroverted* analyses in the appellate papers in *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), showing that the Commission has been the beneficiary of FOUR fraudulent judicial decisions, without which it would *not* have survived, and, upon verification of same, that it provide *amicus* and other assistance therein and, additionally, that it join in CJA's long-standing efforts to obtain an official investigation of the Commission's demonstrated corruption.

A copy of CJA's letter of today's date to the Special Committee's Chairman, Mr. Hollyer, is enclosed.

Yours for a quality judiciary,

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

Enclosure

cc: A. Rene Hollyer, Chair
NYSBA Special Committee on Procedures for Judicial Discipline
New York State Bar Association Albany Office:
Kathleen Mulligan Baxter/Counsel
Patricia K. Bucklin, Executive Director
James R. Silkenat, Chair
New York State Fellows of the American Bar Foundation

INVENTORY OF EXHIBITS TO CJA's NOVEMBER 13, 2001 LETTER TO NEW YORK STATE BAR ASSOCIATION PRESIDENT STEVEN C. KRANE

Exhibit "A":	New York State Bar Association President Steven C. Krane's July 5, 2001 letter to CJA
Exhibit "B":	CJA's March 1, 2001 letter to President-Elect Krane
Exhibit "C":	CJA's June 18, 2001 memo to President Krane, *et al.*
Exhibit "D-1":	Mission Statement of NYSBA Special Committee on Procedures for Judicial Discipline
"D-2":	Mission Statement of NYSBA Committee on Professional Ethics
"D-3":	Mission Statement of NYSBA Committee on Professional Discipline
"D-4":	Mission Statement of NYSBA Committee on Attorney Professionalism
"D-5":	Mission Statement of NYSBA Committee on Attorneys in Public Service
"D-6":	Mission Statement of NYSBA Special Committee on Standards of Attorney Conduct [formerly Committee to Review the Code of Professional Responsibility]
Exhibit "E-1":	"*First Baby Boomer to Head N.Y. State Bar Association Will Work to Restore Trust and Confidence in the Legal Profession*", NYSBA Press Release, June 1, 2001
"E-2":	"*New State Bar President Champions Openness, Service*", NYLJ, June 11, 2001
Exhibit "F":	CJA's April 12, 1996 letter to Barbara Paul Robinson, President, Association of the Bar of the City of New York

Exhibit "G": April 17, 1996 letter of Steven C. Krane, Chairman, Committee on Professional and Judicial Ethics, Association of the Bar of the City of New York

Exhibit "H": "*Bar Presidents Flourish at Proskauer, Rose*", NYLJ, April 8, 1996

Exhibit "I": "*Ethics Opinion Allows Criticism of Trial Judge*, NYLJ, February 29, 1996, with Formal Opinion 1996-1 of the Committee on Professional and Judicial Ethics, Association of the Bar of the City of New York

Exhibit "J": Exhibits "I-1" – "I-4" of CJA's November 13, 2000 Report, "*The Complicitous Role of the Bar Associations in the Corruption of 'Merit Selection' Appointment to the New York Court of Appeals*"

Exhibit 'K": Exhibits "J-1" – "J-3" of CJA's November 13, 2000 Report, *The Complicitous Role of the Bar Associations in the Corruption of 'Merit Selection' Appointment to the New York Court of Appeals*"

Exhibit "L": CJA's November 13, 2000 letter to State Bar President Michael Hassett/ATT: Kathleen R. Mulligan Baxter, State Bar Counsel

Exhibit "M": Cover, Table of Contents, and Pages 14-17 of CJA's November 13, 2000 Report, "*The Complicitous Role of the Bar Associations in the Corruption of 'Merit Selection' Appointment to the New York Court of Appeals*"

Exhibit "N-1": CJA's March 2, 2001 letter to Patricia K. Bucklin, Counsel, Chief Judge Kaye's Committee to Promote Public Trust and Confidence in the Legal System

"N-2": CJA's March 1, 2001 letter to Chief Judge Kaye

"N-3": CJA's March 7, 2001 letter to Ms. Bucklin, enclosing CJA's letter to Louis Craco, Chairman, Institute on Professionalism in the Law