

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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April 15, 1997

Governor George Pataki
Executive Chamber
Albany, New York 12224

RE: New York State Ethics Commission

Dear Governor Pataki:

As you know, the New York State Ethics Commission is an important oversight agency, whose purpose is to ensure the integrity of agencies of state government, as well as of state elected officials, including yourself.

For this reason, in the 1996-1997 fiscal year, the People of this State paid \$1,443,900 of their tax dollars to fund the Commission's operation.

Yet, while the People of this State have met their substantial financial obligation to enable the State Ethics Commission to do its job, you, as Governor, have *not* met your minimal obligations under the Executive Law. Indeed, for *more than eight months*, you have been in violation of Executive Law §94.5, requiring you to fill "any vacancy occurring on the commission...within sixty days of its occurrence".

More seriously, since May 31, 1996, with the resignation of State Ethics Commission Chairman Joseph Bress, there has not only been a vacancy on the five-member Commission -- which you have *not* filled -- but the Commission has been without a chairman. This is because under Executive Law §94.4, the chairman of the Ethics Commission is to be designated by the Governor -- and you have made *no* such designation.

CJA, therefore, respectfully requests to know why -- in all this time -- you have not designated a chairman for the State Ethics Commission and filled the membership vacancy, particularly when the Executive Law gives you a *free-hand* in designating a chairman and, as to the vacancy created by Mr. Bress' departure, a *free-hand* in appointing a new Commission member.

April 15, 1997

We regard your violation of the Executive Law as particularly detrimental to the People of this State inasmuch as its consequence has been to enable the Executive Director of the State Ethics Commission, Richard Rifkin, to more easily manipulate the four unchaired volunteer Commission members so as to wholly transform the Ethics Commission into an agency that covers up -- rather than investigates -- conduct by state officers and agencies which is not only unethical, but criminally corrupt. In the event you are unaware, a *confidential* resolution -- inaccessible to the tax-paying public -- purports to empower the Commission's Executive Director to dismiss filed ethics complaints *without* presentment to the members of the Ethics Commission. Mr. Rifkin has dishonestly used such power to shamelessly subvert the very purpose of the Commission.

This is not the only instance where your Administration has failed to make fundamental appointments that would safeguard the integrity of government and governmental processes. As you know, last year CJA exposed your deliberate failure to implement your own Executive Order providing for the establishment of permanent judicial screening committees to evaluate candidates for appointive state court judgeships -- and your use, instead, of a temporary judicial screening committee, whose operations were not only completely secretive, but demonstrably sham. A fraction of the political manipulation we documented and your deliberate disregard for the public weal was highlighted by our Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*", which appeared in the November 16, 1996 New York Times, as well as by our ad, "*A Call for Concerted Action*", in the November 20, 1996 New York Law Journal. For your convenience, copies of those published pieces, which we previously sent you, are annexed.

Based on our *direct, first-hand experience* with your Administration, we know that your furthest interest is in uprooting government corruption, including political abuse and cover-up in the Executive Branch. Nevertheless, when -- belatedly -- you meet your obligation under the Executive Law to appoint a chairman to the State Ethics Commission and fill the Commission's membership vacancy, we urge you to do so with an individual or individuals having the integrity and courage to make the New York State Ethics Commission more than the expensive window-dressing it presently is.

Yours for a quality judiciary,



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

cc: The four unchaired volunteer members of the New York State Ethics Commission:
Ethics Commissioners Eggenchiller, Constanza, Odell, Brewster
Richard Rifkin, Executive Director, New York State Ethics Commission
New York media