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August 14, 2000

Loretta E. Lynch, U.S. Attorney for the Eastern District of New York
One Pierrepont Plaza
Brooklyn, New York 11201

RE: Request for your supervisory review of the official misconduct of Andrew Weissmann, now Chief of the Criminal Division, and of other attorneys at the U.S. Attorney's Office for the Eastern District of New York

Dear Ms. Lynch:

This letter is written to give you an opportunity to address issues which, if not addressed by you, will be the subject of a complaint of official misconduct against you – and those under your supervisory authority – to be filed with the U.S. Justice Department's Office of Professional Responsibility.

At the outset, we protest your promotion of Andrew Weissmann to be Chief of the Criminal Division (Exhibit "A") while pending in your office were two letters from the Center for Judicial Accountability, Inc. (CJA), requesting your supervisory oversight of his inaction as Deputy Chief, born of conflicts of interest, in the handling of CJA's September 7, 1999 criminal complaint against Governor Pataki and others for their participation in high-level systemic governmental corruption. For your convenience, copies of these two letters, dated March 17, 2000 and April 24, 2000, are annexed (Exhibits "B" and "C"). Also annexed is the only response we received, a June 20, 2000 letter from Timothy A. Macht, an Assistant U.S. Attorney (Exhibit "D"), making no reference to the issue of Mr. Weissmann's official misconduct, for which the March 17th and April 24th letters sought your supervisory oversight.

CJA's March 17th letter, which was directed to Mr. Weissmann's attention, requested (at p. 6) his response as to "how, if at all" he had addressed the multiple conflicts of interests presented by CJA's September 7, 1999 criminal complaint. The March 17th letter highlighted (at pp. 3-6) the particulars relating to these

conflicts, with relevant legal authority, *to wit*, the policy for "Recusals by United States Attorneys' Offices", appearing at the outset of the Annual Report to Congress of the Justice Department's Public Integrity Section, and 28 USC §528, "Disqualification of officers and employees of the Department of Justice". As part thereof, CJA's March 17th letter requested (at p. 6) that Mr. Weissmann provide:

"a copy of the Attorney General's 'rules and regulations', promulgated pursuant to 28 USC §528, as well as a copy of any further 'rules and regulations' pertinent thereto promulgated by the U.S. Attorney for the Eastern District."

Additionally, the March 17th letter requested (at p. 6) that Mr. Weissmann:

"forward [the September 7, 1999 criminal complaint] immediately to [his] two immediate superiors, Jason Brown, Chief of the Criminal Division, and Alan Vinegrad, Chief Assistant to the U.S. Attorney, in the event they are unaware of it."

CJA also requested (at p. 6) that following preliminary review by Mr. Brown and Mr. Vinegrad that they forward the criminal complaint to you to "personally determine the recusal issue and [your] responsibilities to ensure independent investigation and prosecution."

Simultaneously, CJA's March 17th letter supplemented the September 7, 1999 criminal complaint by transmitting evidentiary proof of "the *continuation* of the systemic governmental corruption established by the...evidentiary materials transmitted by the September 7, 1999 criminal complaint" (at p. 7).

Five weeks later, with no response from Mr. Weissmann, or from his two immediate superiors, Mr. Brown and Mr. Vinegrad, or from yourself, CJA sent its April 24th letter to you (Exhibit "C"). In addition to alerting you to the fact that we had received no response to our request for "your supervisory review of the official misconduct" of Mr. Weissmann, the April 24th letter raised the possibility that Messrs. Weissmann, Brown, and Vinegrad may have withheld from you the March 17th letter and underlying September 7, 1999 criminal complaint.

This possibility *seems* all the more likely in light of Mr. Macht's June 20th letter (Exhibit "D"), which, conspicuously, contains *no* reference to CJA's April 24th letter raising that possibility – and does not elucidate when, *if at all*, you received

the March 17th letter. Indeed, Mr. Macht nowhere refers to having been designated by you – or even that he is responding on your behalf. All he says in the first sentence of his three-sentence letter is that the “March 17, 2000 letter and enclosures have been forwarded to [him] for response”. Absent is any identification of the forwarding party – who may have been Mr. Weissmann himself. For all we know, Mr. Weissmann may have withheld the March 17th letter from Messrs. Brown and Vinegrad, ultimately passing it on to his *subordinate*, Mr. Macht, for the limited purpose of sending out a cover-up “response” in the days immediately preceding public announcement of his promotion (Exhibit “A”).

The June 20th letter’s two remaining boiler-plate sentences further demonstrate Mr. Macht’s cover-up role. There is no identification of the very issues for which CJA’s March 17th letter sought your supervisory review: (1) Mr. Weissmann’s official misconduct by his disregard of the conflict of interest issues and his resulting inaction on the September 7, 1999 criminal complaint; and (2) the requested recusal of the U.S. Attorney’s Office and referral to the Justice Department’s Public Integrity Section.

Indeed, Mr. Macht’s boiler-plate final sentence that CJA’s “materials” will be “carefully review[ed] – suggesting that this had not yet been done -- is wholly inappropriate where the U.S. Attorney already had *nine and a half months* to “carefully review” the September 7, 1999 criminal complaint, a fact Mr. Macht conceals by omitting any mention of the criminal complaint, including its date. It certainly would be official misconduct for Mr. Weissmann to NOT have promptly reviewed the criminal complaint, inasmuch as the very reason CJA filed it was to aid the U.S. Attorney’s Office for the Eastern District of New York in its then “widening” investigation into whether donors to Governor Pataki’s 1994 gubernatorial campaign had been promised favorable parole decisions in return for their contributions – a 2-1/2 year investigation which, reportedly, had disclosed “no evidence that [Governor Pataki] had any involvement in parole decisions” and which was rumored to touch upon Paul Shechtman, the Governor’s former Director of Criminal Justice¹. CJA’s September 7, 1999 criminal complaint *expressly* referenced that investigation (at pp. 1, 3), providing a mountain of irrefutable documentary proof as to how the Governor and Mr. Shechtman had either corrupted or were complicitous in the corruption of *four* state agencies: the New York State

¹ See fn. 5 of CJA’s March 17th letter citing an article in the September 1999 issue of *Empire State Report* that Mr. Shechtman was “under federal scrutiny for his actions involving parole”.

Ethics Commission, the New York State Commission on Judicial Conduct, the New York State Commission on Judicial Nomination, and the Office of the New York Attorney General, as well as the Governor's judicial screening committees². Such proof plainly strengthened the likelihood that the Governor's corruption and complicity – as likewise Mr. Shechtman's -- extended to other areas, such as to the State Parole Board.

The more logical scenario is that Mr. Weissmann and others at the Office of the U.S. Attorney for the Eastern District of New York long, long ago "carefully reviewed" the September 7, 1999 criminal complaint, but, seeing that it provided *prima facie* proof of criminal conduct by highly-placed individuals with whom members of the Office have personal and professional relationships – Mr. Shechtman, among them – decided to protect them by simply ignoring it³. CJA's March 17th letter (at pp. 3-5) identifies several of these relationships, which, assuredly, do not require months and months to "carefully review" in order "to determine what, *if any*, action is appropriate under the circumstances." (Exhibit "D", emphasis added). It is a simple matter to see that the "action... appropriate under the circumstances" is recusal by the U.S. Attorney's Office and referral to the Justice Department's Public Integrity Section.

² This corruption and complicity are particularized in CJA's *uninvestigated* March 26, 1999 ethics complaint to the New York State Ethics Commission (at pp. 14-22), accompanying its September 7, 1999 criminal complaint.

³ The U.S. Attorney's inaction on the documentary proof of criminal conduct by Governor Pataki and Mr. Shechtman, presented by CJA's September 7, 1999 criminal complaint, gives reason to believe that it may have been less than vigorous in following leads that would have tied the Governor and Mr. Shechtman to impropriety in connection with the campaign contributions and parole decisions, preferring, instead, to go after low level players. After a 2-1/2 year investigation, the U.S. Attorney appears to have achieved no more than convictions and guilty pleas on various obstruction of justice charges. Highlighting this less than impressive record is the recent hung jury verdict in the U.S. Attorney's prosecution of Yung Soo Yoo on the critical charge of whether Mr. Yoo had actually promised early parole release in exchange for campaign contributions. At the opening of Mr. Yoo's trial, federal prosecutors had contended that "a 'pipeline' of political corruption stretched from Gov. George E. Pataki's campaign headquarters to the highest levels of the state criminal justice system." (*New York Times*, 7/12/00: Exhibit "E-1"). Yet, from the hung verdict, it seems obvious that the prosecution did not prove its case. In the words of Mr. Yoo's lawyer, "The jurors seemed to have rejected the corruption angle in the case entirely." (*New York Times*, 7/29/00: Exhibit "E-2").

Tellingly, Mr. Macht's cover-up June 20th letter does not indicate that CJA will be informed of the outcome of the purported "careful[] review". Six weeks have now elapsed – and we have heard nothing. Consequently, CJA requests that you clarify the status of that "careful[] review", beginning with who has been conducting it and how the threshold conflict of interest questions have been resolved, *to wit*,

- (1) whether, as highlighted by CJA's March 17th letter (at pp. 3-6), the personal and professional ties that exist between the U.S. Attorney's Office and persons implicated in the systemic governmental corruption that is the subject of CJA's September 7, 1999 criminal complaint create an appearance of conflicts of interest; and
- (2) whether Mr. Weissmann's inaction on CJA's September 7, 1999 criminal complaint and non-response to CJA's March 17th letter, as likewise, the unexplained lack of supervision by Mr. Weissmann's superiors and Mr. Macht's cover-up by his June 20th letter, manifest the actuality of those apparent conflicts of interest.

CJA submits that the answers to these two questions require the recusal of the U.S. Attorney's Office and referral of CJA's September 7, 1999 criminal complaint and March 17th supplement to the Justice Department's Public Integrity Section. CJA further submits that they also require that you firmly discipline the culpable members of your staff for their wilful violation of conflict of interest rules in connection with CJA's September 7, 1999 criminal complaint and March 17th letter – knowingly subjecting the public to the irreparable consequences of systemic governmental corruption, at the highest levels. In addition to Mr. Weissmann, whose wilful conflict of interest violations are compounded by his attempted concealment thereof by his non-response to the March 17th letter, is the complicitous Mr. Macht, who, before signing his June 20th "response" had the duty to ensure that, at very least, Messrs. Brown and Vinegrad had reviewed CJA's March 17th letter, as expressly requested therein (at p. 6). Indeed, your supervisory oversight must encompass investigation of the behind-the-scenes involvement of Messrs. Brown and Vinegrad so as to ascertain if they, like Mr. Weissmann and Mr. Macht, should be removed from their offices of public trust.

In that connection, CJA reiterates the request in its March 17th letter for:

"a copy of the Attorney General's 'rules and regulations', promulgated pursuant to 28 USC §528, as well as a copy of any further 'rules and regulations' pertinent thereto promulgated by the U.S. Attorney for the

August 14, 2000

Eastern District.”

Obviously, to the extent you yourself are complicitous in or responsible for your staff's violation of conflict of interest rules or have personal and professional relationships with them which would interfere with your ability to discharge your supervisory duties, their misconduct – as likewise the high-level systemic governmental corruption presented by CJA's September 7, 1999 criminal complaint – must be referred to the Justice Department's Public Integrity Section.

Yours for a quality judiciary
and government integrity,



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

Enclosures

cc: Governor George Pataki
Chief Judge Judith Kaye
Attorney General Spitzer
New York State Commission on Judicial Conduct
U.S. Attorney for the Southern District of New York
Manhattan District Attorney
New York State Ethics Commission
Association of the Bar of the City of New York