

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

BY PRIORITY MAIL

December 16, 1998

Mr. Al Guart
New York Post
500 Pearl Street
Room 480
New York, New York 10007

RE: PROTECTING THE PUBLIC INTEREST IN GOVERNMENT INTEGRITY

Dear Al:

The Senate Judiciary Committee's attempt to prevent a public hearing on Justice Rosenblatt's confirmation to New York's highest court and its refusal to allow CJA to publicly testify reflects its knowledge that this nominee *cannot* withstand public scrutiny -- and, particularly, *not* scrutiny of CJA's documented opposition.

Enclosed is that documented opposition, consisting of the materials we provided to the Commission on Judicial Nomination under our October 5, 1998 coverletter. In one fell swoop, these expose the unfitness of Justice Rosenblatt for *any* judicial office AND the fraudulent "merit selection" process that resulted in his nomination to the Court of Appeals. Indeed, as discussed, these materials expose more than the corruption of the State Commission on Judicial Nomination -- concealed from public view by the confidentiality of its proceedings -- but the corruption of the State Commission on Judicial Conduct -- likewise concealed by the confidentiality of its proceedings. On top of this, our November 18, 1998 letter to the Executive Committee of the City Bar, with copies to the Governor and other bar leaders, exposes the complicity of the bar in the corruption of these two state commissions -- and the fact that Governor Pataki's decision to nominate Justice Rosenblatt was NOT, as touted by the New York Times, a "wise choice"¹ (Exhibit "A"), but a corrupt one.

You already have a "head start" on this extraordinary story of systemic corruption -- having long ago interviewed me and received from us documentary materials on the corruption of the Commission on Judicial Conduct for what was supposed to have been a series of stories about the Commission, which

1

"Governor Pataki's Wise Choice", NYT editorial, 12/12/98.

never appeared. As you know, the single story you did write in February 1996 -- "*Critics: Review Panel Protects Worst Jurists*" (Exhibit "B") made no mention whatever of the Article 78 proceeding we had brought against the Commission the previous year and the documentary fact, established by the litigation file we provided, that the Commission survived the case ONLY by fraud. Over a year later, in May 1997, you also were at the public hearing at the Association of the Bar of the City of New York, at which we testified², focusing on our Article 78 proceeding against the Commission. As discussed, the City Bar, to which we gave TWO copies of the litigation file, has never -- TO THIS DAY -- issued any report, let alone one on its findings. CJA's November 18th letter to the City Bar's Executive Committee, which I faxed you earlier today, highlighted this most telling fact (at p. 2).

Among the eight judicial misconduct complaints against high-ranking, politically-connected judges -- annexed to the petition in our Article 78 proceeding against the Commission -- were three against Justice Rosenblatt for conduct on Appellate Division Conduct³. The first, dated September 19, 1994, was based on Justice Rosenblatt's violation of fundamental rules of judicial disqualification and fraudulent judicial decision in the Article 78 proceeding *Sassower v. Mangano, et al.*, covering up the criminal conduct of his judicial brethren by their retaliatory suspension of Doris Sassower's law license. It is this misconduct that is reflected in the latter half of CJA's \$20,000 public interest ad, "*Where Do You Go When Judges Break the Law?*" (NYT, 10/26/94, Op-Ed page; NYLJ, 11/1/94, p. 9, Exhibit "C-1"). The two subsequent complaints, dated October 26, 1994 and December 5, 1994, were based on Justice Rosenblatt's failure to recuse himself and fraudulent and retaliatory judicial decision in an unrelated case consolidating seven appeals involving Doris Sassower's law firm.

Examining for yourself these judicial misconduct complaints will enable you to READILY verify that each is *facially-meritorious*. As you know, pursuant to Judiciary Law §44.1⁴, the Commission is required to investigate *facially-meritorious complaints*. Gerald Stern, the Commission's Administrator, himself publicly acknowledged this in an August 20, 1998 New York Law Journal column defending the Commission's investigation of Judge Lorin Duckman⁵ -- a copy of which is annexed to CJA's

² Our May 14, 1997 testimony is accessible from CJA's website: www.judgewatch.org

³ Exhibits "G", "I", and "J".

⁴ In pertinent part, Judiciary Law §44.1 reads as follows:

"Upon receipt of a complaint (a) the commission *shall* conduct an investigation of the complaint; or (b) the commission *may* dismiss the complaint *if* it determines that the complaint on its face lacks merit." (emphases added).

⁵ You may recall that it was in the context of looking for an "angle" on the Judge Duckman story that you called me in February 1996, the very month in which the story broke. The "angle" I provided you was -- as reflected by your February 23, 1996 article (Exhibit "B") -- the Commission on Judicial Conduct.

current misconduct complaint against Justice Rosenblatt, dated October 6, 1998. That *facially-meritorious* complaint is based on his complicity in the defense misconduct in the §1983 federal civil rights action *Sassower v. Mangano* -- in which he a defendant, sued for corruption, as well as our belief, for reasons specified, that Justice Rosenblatt PERJURED HIMSELF in answering the written questionnaire of the Commission on Judicial Nomination⁶. That complaint is still pending before the Commission on Judicial Conduct.

As for the three 1994 judicial misconduct complaints against Justice Rosenblatt, each was unlawfully dismissed by the Commission on Judicial Conduct, *without* investigation and *without* any determination that they were *facially* lacking in merit -- the ONLY basis upon which complaints may be dismissed without investigation under Judiciary Law §44.1. That was why we sued the Commission for corruption in our 1995 Article 78 proceeding against it -- which the Commission survived ONLY by fraud. The particulars of this fraud are set forth in CJA's \$3,000 public interest ad, "Restraining 'Liars in the Courtroom' and on the Public Payroll" (NYLJ, 8/27/97, pp. 3-4) (Exhibit "C-2"). As reflected by that ad -- and by CJA's predecessor \$1,600 public interest ad, "A Call for Concerted Action" (NYLJ, 11/20/96) (Exhibit "C-3"), which described our public defense of Judge Duckman -- we long ago provided copies of the file of our suit against the Commission to the Governor, to other state officials and agencies, and to bar associations. This, so that they could verify, for themselves, the fraud that had taken place -- and take action to protect the public. Their response, as recounted in the ads, was non-response.

We transmitted copies of these three unlawfully-dismissed judicial misconduct complaints against Justice Rosenblatt to the Commission on Judicial Nomination under our October 5th coverletter, providing it, as well, with a copy of our October 6th misconduct complaint, which we simultaneously filed with the Commission on Judicial Conduct. Additionally, we provided the Commission on Judicial Nomination with the *unopposed* cert petition and supplemental brief in the §1983 federal action *Sassower v. Mangano, et al.*, together with a free-standing copy, with exhibits, of our July 27, 1998 criminal complaint, filed with the U.S. Justice Department's Public Integrity Section, seeking criminal investigation and prosecution, *inter alia*, of the defendants in the *Sassower v. Mangano* federal action.

Examining for yourself such fact-specific evidentiary materials of corruption and complicity in corruption by Justice Rosenblatt should readily convince you that they are dispositive of Justice Rosenblatt's unfitness for ANY judicial office and that he should rightfully be removed from the Appellate Division office, Second Department office he occupies. The question then becomes how the Commission on

⁶ Justice Rosenblatt should be called upon to PUBLICLY DISCLOSE his questionnaire responses. Indeed, it is CJA's position that the public, which will be paying his \$125,000 judicial salary on the pretext that he has been found "well qualified" by a legitimate "merit selection" process -- should be entitled to inspect the questionnaire he was required to complete.

Judicial Nomination could simply IGNORE those materials and -- *without* interviewing us or soliciting from us the underlying substantiating documentation -- recommend Justice Rosenblatt as "well qualified" to sit on our state's highest court. And how could the bar associations, who, thereafter, purported to "screen" the Commission's recommendations, then give its imprimatur in the face of CJA's November 18th letter to them, alerting them to the Commission's dysfunction and corruption, as to which it provided the substantiating evidentiary proof. Finally, how could the Governor -- who, in addition to having been notified by phone, was sent a copy of that November 18th letter -- with a request (at p. 2) that he access the materials we had supplied to the Commission -- nonetheless nominate Justice Rosenblatt.

The fact that the Governor nominated Justice Rosenblatt while our October 6th *facially-meritorious* judicial misconduct against him is pending before the Commission on Judicial Conduct reflects his arrogant confidence that it will "dump" that complaint, just as it dumped our three 1994 complaints -- and that just as the Justice Department took no previous action on our prior complaints of state judicial corruption, as detailed in our July 27, 1998 complaint (pp. 3-7), so it will take none on the July 27, 1998 complaint.

This an explosive story of systemic governmental corruption, one which -- IF exposed by the press -- will stop the otherwise rubber-stamp Senate confirmation of Justice Rosenblatt and bring down the Commission on Judicial Nomination, the Commission on Judicial Conduct, and some of the most powerful state figures -- first and foremost Governor Pataki. For the sake of the otherwise unprotected public interest, PLEASE DO YOUR PART TO MAKE THAT HAPPEN.

Yours for a quality judiciary,

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

Enclosures

P.S. If, for some reason, you yourself are not interested in this dynamite story, please forward these enclosed materials to your editor so that we may speak with him about arranging the assignment of another Post reporter. Needless to say, time is of the essence.

CENTER FOR JUDICIAL ACCOUNTABILITY, INC. (CJA)
INVENTORY OF TRANSMITTAL

Correspondence:

CJA's 12/16/98 ltr to David Gruenberg, Senior Counsel, Senate Judiciary Committee

Commission on Judicial Nomination (CJN)

CJA's 10/5/98 ltr
CJN's 11/25/98 ltr
CJA's 12/1/98 ltr

Commission on Judicial Conduct (CJC)

CJA's 10/6/98 complaint
CJA's 11/3/98 ltr
CJC's 11/3/98 acknowledgment
CJC's 12/2/98 acknowledgment
CJA's 12/10/98 ltr

Bar Leaders -- Governor Pataki

CJA's 11/18/98 ltr to Executive Committee of the City Bar,
with fax and certified mail receipts to Governor Pataki

CJA's 1994 Judicial Misconduct Complaints against Justice Rosenblatt:

CJA's 9/19/94 misconduct complaint
CJA's 10/26/94 misconduct complaint
CJA's 12/5/94 misconduct complaint

CJC's ltrs of acknowledgment and dismissal:
9/28/94; 11/4/94; 12/13/94; 12/14/94; 1/24/95

Sassower v. Mangano, et al. #98-106

unopposed cert petition
supplemental brief
errata sheets

Criminal Complaint: U.S. Department of Justice

8/27/98 letter to Lee Radek, Chief, Public Integrity Section
U.S. Department of Justice, Criminal Division