

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

Post Office Box 3002
Southampton, New York 11969

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Website: www.judgewatch.org

Elena Ruth Sassower, Director

BY FAX: 914-422-1395 (6 pages)

May 4, 2009

Mayor Joseph M. Delfino
City of White Plains
255 Main Street
White Plains, New York 10601

RE: The Appointment Process by which White Plains Gets its City Court Judges:
The Report of the Judicial Screening Committee is VOID and a NULLITY,
Particularly any Recommendation for Judge Hansbury's Reappointment

Dear Mayor Delfino:

Reference is made to the agenda of the Common Council's regular stated meeting for May 4, 2009,¹ whose first order of business is:

"APPOINTMENT:

1. Communication from the Mayor regarding re-appointment to the White Plains City Court of a Full Time City Court Judge for a term of ten years."
(underlining in the original).

This "Communication" is apparently your April 30, 2009 letter to the members of the White Plains Common Council – although your April 30th letter says nothing about "re-appointment" In pertinent part, it states:

"At the request of the Common Council, I recommend that this matter be considered for action at the Regular Stated Meeting of the Common Council on

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¹ The agenda was not posted on the White Plains website until after I telephoned the White Plains Clerk's Office at approximately 4:30 p.m. to inquire why it had not been posted. I was connected to your office – which faxed me a copy at 4:47 p.m.

May 4, 2009.” (underlining added).²

Pursuant to FOIL, please furnish me with a copy of the Common Council’s aforesaid “request” that “this matter be considered for action” at today’s Common Council meeting. Presumably such “request” – for which your April 30th letter provides no date or other specificity – was *before* the members of the Common Council received and reviewed my April 30th memo addressed to you and them, enclosing my April 29th letter to Corporation Counsel Dunphy.

In the interest of “sunshine”, please advise whether your responding letter to the Common Council was drafted by Mr. Dunphy, the date and time he proffered it to you for signature, and whether you signed it *before or after* you received and reviewed my April 30th memo, which I hand-delivered to your office shortly after 11:00 a.m. on April 30th – simultaneous with my oral request to meet with you about its contents, to which you have not responded.³

Please note that when I hand-delivered my April 29th letter to Mr. Dunphy at approximately 11:00 a.m. on April 30th, I had also orally requested to meet with him – and left my cellphone number with his secretary, Wendy Kirkpatrick, with the message that I would be in White Plains and available until 3:30 p.m. Nevertheless, I did not hear from Mr. Dunphy then – or thereafter. This includes even to the limited extent of his informing me of the Common Council meeting this evening, as to which my April 29th letter to him had stated (at p. 4):

“Should the Judicial Review Committee fail to interview me, fail to refer Judge Hansbury to disciplinary and criminal authorities, and approve him for reappointment^{fn.4}, I request to appear before the Common Council in

² This April 30th letter was read to me at shortly before 5 p.m. on Friday, May 1st by White Plains Clerk Ann McPherson, who refused to fax it to me, stating that I would have to pay \$.25 for it and pick it up. She rejected my offer to pay her \$1.00 to fax it – or any other amount she deemed appropriate. I related this to your secretary, Theresa Romano, to whom I spoke this morning and she faxed me the letter at 9:50 a.m.

³ Ms. Romano confirmed that she had received that oral request on April 30th, from your receptionist, who had written my name and phone number on a slip of paper so that I could be contacted for a time and date for a meeting.

^{fn.4} Rule 8.2 of New York’s new Rules of Professional Conduct, entitled ‘Judicial Officers and Candidates’, and effective as of April 1, 2009, states:

‘(a) A lawyer shall not knowingly make a false statement of fact concerning the qualifications, conduct or integrity of a judge or other adjudicatory officer or of a candidate for election or appointment to judicial office.’

‘New Attorney Rules of Professional Conduct Announced’, highlights as ‘noteworthy’ that:

‘Rule 8.2 expands the prohibition against false statements of fact regarding

opposition...

In any event, please notify me of the date that the Common Council will be meeting to discuss and vote on nominations to the White Plains City Court – and ensure that the copy of the casefile transmitted by my March 23rd letter is brought to the meeting.”

Today, in the absence of Mr. Dunphy’s response to my April 29th letter, whose serious and substantial nature is obvious upon the most cursory review, I telephoned members of the Judicial Screening Committee, speaking with two. Neither knew who I was or had received any of my correspondence. Such can only mean that Mr. Dunphy not only withheld from them the casefile evidence of Judge Hansbury’s on-the-bench corruption that I had delivered to your office on March 23rd, but failed to “send to each committee member” a copy of my March 20th letter to him, as his April 3rd letter had assured me he would.

Based on your April 30th letter to the Common Council, I now know that the chairman of the Judicial Screening Committee is Robert Feder, Esq. I have placed several calls for him today, but have been unable to reach him so as to verify his knowledge – including of my request to appear before the Committee, which Mr. Dunphy’s April 3rd letter had assured me would be “passed onto the Chair”.

As it appears that Mr. Dunphy has perverted his duties as “liaison/counsel” to the Committee by depriving its members of information and evidence critical to their evaluation of Judge Hansbury’s performance in office, any recommendation contained in their Committee report endorsing his reappointment is void and a nullity. Indeed, based on my correspondence with Mr. Dunphy – copies of which I have provided you and the members of the Common Council – the only conclusion that can be drawn is that the whole judicial screening process is sham, endangering the welfare of The People of White Plains and beyond – and subjecting you and the Common Council to liability by reason thereof.

‘qualifications’ of judges or judicial candidates to include false statements about ‘conduct and integrity.’”

Additionally, Rule 8.4 of the Rules of Professional Conduct, entitled “Misconduct”, proscribes a lawyer from:

“(f) knowingly assist[ing] a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law”.

CJA calls upon you to ensure that the only action taken on “this matter” at this evening’s Common Council meeting is an interrogation of Mr. Dunphy as to the foregoing and the particulars presented by my March 20th, March 23rd, and April 29th letters. This, preliminary to his removal as corporation counsel for official misconduct and corruption and his referral to disciplinary and criminal authorities for investigation and prosecution. In support – and in opposition to Judge Hansbury’s reappointment – I request to testify at this evening’s meeting.

Thank you.

Yours for a quality judiciary,



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

Enclosures: receipt-stamped first pages of my April 29th letter to Mr. Dunphy & my April 30th letter to you and members of the Common Council

cc: White Plains Corporation Council Edward P. Dunphy

White Plains Common Council:

Council President Benjamin Boykin

Council Member Rita Z. Malmud

Council Member Glen Hockley

Council Member Milagros Lecuona

Council Member Thomas M. Roach

Council Member Dennis J. Power

White Plains Judicial Screening Committee:

Robert Feder, Esq., Chairman

Robert Adams, Esq.

William H. Bave, Jr.

Kathleen Donelli, Esq.

J. Gregory Drummond, Esq.

Russell M. Smith, Esq.

White Plains City Court Judge Brian Hansbury

White Plains City Court Senior Judge Jo Ann Friia

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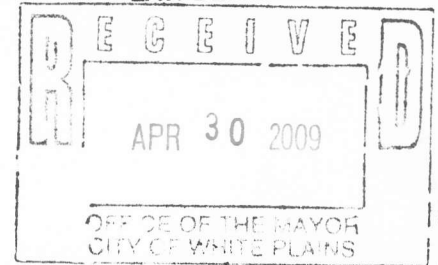
DATE: April 30, 2009

TO: Mayor Joseph M. Delfino
White Plains Common Council:
Council President Benjamin Boykin
Council Member Rita Z. Malmud
Council Member Glen Hockley
Council Member Milagros Lecuona
Council Member Thomas M. Roach
Council Member Dennis J. Power

RECEIVED
Per W. Kukulski

APR 30 2009

The City of White Plains
LAW DEPARTMENT



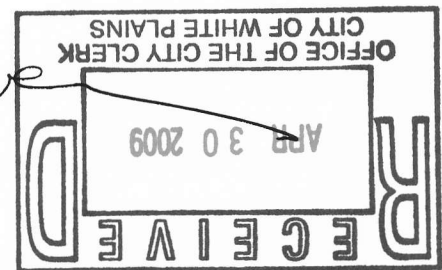
FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: The Appointment Process by which White Plains Gets its City Court Judges:
On-the-Bench Corruption of White Plains City Court Judge Brian Hansbury,
Disqualifying Him from Reappointment upon Expiration of His Term

Enclosed is my yesterday's letter to White Plains Corporation Counsel Edward Dunphy, to which you are indicated recipients.

As reflected therein (at p. 4), I am requesting to appear before the Common Council in opposition to Judge Hansbury's reappointment to the White Plains City Court in the event the Judicial Review Committee fails to interview me, fails to refer Judge Hansbury to disciplinary and criminal authorities, and approves him for reappointment. In any event, I request to be notified of the date of the Common Council's meeting to discuss and vote on nominations to the White Plains City Court.

Thank you.



cc: Edward Dunphy, White Plains Corporation Counsel
White Plains City Court Judge Brian Hansbury
White Plains City Court Senior Judge Jo Ann Friia

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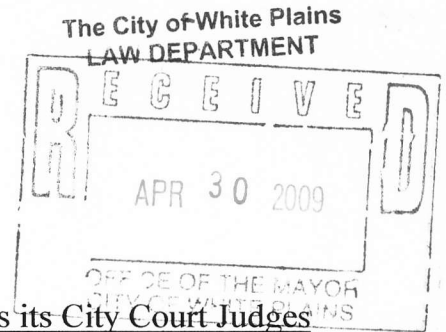
Elena Ruth Sassower, Director

BY FAX: 914-422-1231 (10 pages)
BY HAND: April 30, 2009

April 29, 2009

Edward P. Dunphy, Corporation Counsel
Department of Law
City of White Plains
255 Main Street
White Plains, New York 10601

RECEIVED
Per *W. Kirkpatrick*
APR 30 2009



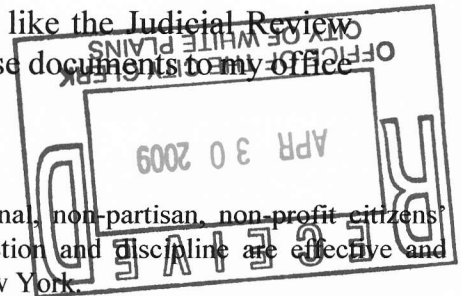
RE: The Appointment Process by which White Plains Gets its City Court Judges
& FOIL Appeal:
On-the-Bench Corruption of White Plains City Court Judge Brian Hansbury,
Disqualifying Him from Reappointment upon Expiration of His Term

Dear Mr. Dunphy:

This follows up my visit to the Department of Law nearly a week ago, on Thursday, April 23rd, hoping to speak with you about your April 3, 2009 letter. Your secretary, Wendy Kirkpatrick, after going to your office, told me you were busy preparing for a Common Council meeting, but took notes as to the reason for my visit, which I stated I would formalize in a letter. This is that letter.

Your April 3rd letter to me purports to respond to my March 20th letter to you – without indicating that you were furnishing copies to the Mayor and members of the Common Council, each indicated recipients of my March 20th letter. If you did furnish them with copies of your April 3rd letter, they surely must be confounded by your second sentence:

“If you wish to provide any documents you would like the Judicial Review Committee to consider, kindly forward a copy of those documents to my office and I will present them to the screening committee.”



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