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October 3, 1995

Elena Ruth Sassower
Coordinator
Center for Judicial Accountability, Inc.
Box 69
Gedney Station
White Plains, New York 10605

Dear Ms. Sassower:

This is in response to your letter of September 14, 1995.

First, let me deal with the matter of my recusal. You request that I recuse myself from consideration of your complaints because of my 14 years in the Attorney General's office. However, it has been about 18 months since I left that office. The proceeding underlying your complaint to the Ethics Commission, Sassower v. Commission on Judicial Conduct of the State of New York, was commenced more than one year after I left. In addition, there is a new Attorney General, Dennis Vacco, whom I do not know and have never met. I understand that Attorney General Vacco has hired an entirely new executive staff. Under these circumstances, I do not believe any appearance of impropriety is created by my involvement. I, therefore, see no need for recusal.

With regard to the substance of your complaint, I begin by noting a matter on which we disagree. You state in your letter that Judge Cahn's decision in the Sassower case, mentioned above, "is entitled to no respect." We do not share that view, as we believe that, under our system of laws, it is entitled to full and complete respect. Our institutions provide a party dissatisfied with a judicial determination the means to seek relief. Such a party may appeal, but it cannot, by its own declaration, announce that all should disregard the ruling. Thus, we begin the consideration of your complaint to the Commission with the view that we are bound to follow the Court's ruling.

With respect to your complaint regarding the Commission on Judicial Conduct ("CJC"), Judge Cahn held that CJC's procedure for addressing complaints filed with it meets the constitutional and statutory mandates that it is bound to follow. Since your petition alleging that CJC acted erroneously was dismissed, there is no support for the

Elena Ruth Sassower

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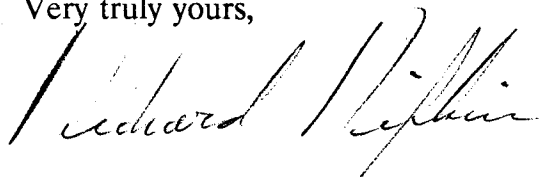
allegation in your complaint to the Ethics Commission that CJC's erroneous actions were due to unethical conduct. In sum, the Court has decided the matters you presented to the Commission in your original complaint.

With respect to your recent complaint against the Attorney General's office, it is based on the alleged "litigation misconduct" of that office in handling the proceeding before Judge Cahn. However, the Commission's role is not to "second guess" how a case is handled. Our authority would be invoked only if it were shown that the Attorney General's office took a position in litigation for the personal benefit or gain of an individual, or for some other reason in violation of Public Officers Law §73 or § 74. There is no such allegation here. To the extent that the Attorney General's office protected the interests of CJC, that was its obligation since CJC was its client. There is nothing for the Commission to investigate.

With respect to the nature of the decision making process within the Commission and our contacts, if any, with the Attorney General's office, this is confidential and protected by statute and/or privilege.

Finally, as to the proposed meeting with the Assembly Judiciary Committee, if the subject matter of the meeting concerns the Commission and its role in State government, and if an invitation to the Commission is extended by the Committee, a representative of the Commission will be present.

Very truly yours,



cc: Assembly Judiciary Committee
Patricia Gorman, Counsel
Joanne Barker, Counsel
New York State Attorney General Dennis Vacco
New York State Commission on Judicial Conduct
Henry T. Berger, Chairman
Gerald Stern, Administrator