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Elena Ruth Sassower, Coordinator

BY E-MAIL & FAX (7 pages)

DATE: September 2, 2005

TO: THE MAINSTREAM PRESS
The New York Times
New York Law Journal
The Wall Street Journal
The New York Post
New York Daily News
Newsday
The New York Sun
The New York Observer
The New Yorker
The Village Voice

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

RE: **ELECTION COVERAGE: Examining Manhattan D.A. Morgenthau's Record with Respect to Judicial Corruption and Conflicts of Interest – and Getting His Response and that of Would-Be D.A. Snyder**

In his "Press Clips" column, "*Serving a Life Term*" (Village Voice, August 17-23, 2005), Sydney Schanberg states that the accolades heaped on Robert Morgenthau, "award[ing] him sainthood"¹, are NOT the result of press scrutiny of his years in office – and suggests

¹ "...Mr. Morgenthau is one of the liveliest, sharpest, most effective, and honest prosecutors in New York County, or any American county, has ever had. He's an American institution..."; Mr. Morgenthau's record is not his alone. He has assembled and nurtured an extraordinary office..." (*Morgenthau for D.A.*, New York Sun, editorial endorsement, 8/31/05).

"Robert Morgenthau has given Manhattan a world-class district attorney's office"; "iconic status"; "legendary tenure" (*When to End an Era*, New York Times editorial endorsing Leslie Crocker Snyder, 8/30/05);

"There are few public officials who merit being described as distinguished and fewer still who deserve the distinction for decades of public service. Robert Morgenthau is one who does.", "Morgenthau leads a prosecutor's office that is the national gold standard." "He has prosecuted without fear or favor", New York Daily News, editorial endorsement, 8/28/05);

"his record so impeccable", (*Robert Morgenthau: Simply the Best*, New York Observer, editorial endorsement, 8/1/05)

“a full look at Morgenthau’s record”. According to him, in Mr. Morgenthau’s 32 years as Manhattan D.A. and his seven years before that as U.S. Attorney for the Southern District of New York “it’s hard to recall any truly comprehensive and balanced coverage of his work by the city’s mainstream press”.

Mr. Schanberg provides an important historical note: In the 1970’s D.A. Morgenthau played a leading role in opposing Governor Carey’s appointment of a special state prosecutor to investigate and prosecute judicial corruption because, in his view, existing prosecutors were “doing the job properly”. D.A. Morgenthau was then instrumental in the downfall of Maurice Nadjari as special prosecutor such that “Eventually the office was shut down. It was the last time any governor or mayor has tried to create an aggressive investigation of the state’s or city’s judiciary”.

Consequently, the question as to whether D.A. Morgenthau has been “doing the job properly” in addressing judicial corruption is an appropriate starting point in examining his record – and all the more so as the State Commission on Judicial Conduct – the agency born of the judicial scandals that led Governor Carey to appoint Special Prosecutor Nadjari – has its principal office in Manhattan. Examining this one aspect of D.A. Morgenthau’s record would end the exalted encomiums about him and his office and cast rightful doubt on the rest of his record. Indeed, it would expose a scandal that would end D.A. Morgenthau’s political future² – with equally devastating consequences for his protégé, Attorney General Spitzer, who D.A. Morgenthau has “protected” from criminal investigation by refusing to respect the most fundamental conflict of interest rules.

The GOOD NEWS – especially as the Democratic primary for Manhattan D.A. is less than two weeks away – is that verifying the most salient aspects of D.A. Morgenthau’s damning record with respect to judicial corruption and conflicts of interest can be accomplished within several hours. All that is required is examining the paper trail of our interaction with D.A. Morgenthau’s office arising from:

(1) the two lawsuits we brought against the Commission on Judicial Conduct in 1995 and 1999, suing it for corruption – each served on D.A. Morgenthau’s office on the day they were commenced because each sought, by formal Notice, his intervention, on behalf of the public interest. These lawsuits demonstrated that the Commission was unlawfully dismissing, *without investigation*, facially-meritorious, indeed documented, judicial

“There’s never been a hint of corruption” (“*The Lawman*”-- Q & A, The New Yorker, Jeffrey Toobin, 5/9/05 on-line).

² According to Jeffrey Toobin, “It usually requires a crime wave or a corruption scandal to force a sitting district attorney out of office – especially a legendary figure like Morgenthau”. He then mistakenly added “neither event is likely to occur soon.” “*The Upstart: Manhattan’s Legendary D.A. Faces a tough challenger*”, The New Yorker, 5/16/05.

misconduct complaints, especially including complaints of criminal conduct by judges and judicial candidates who were high-ranking and politically-connected. Among the relief these lawsuits sought: a request to the Governor for appointment of a special prosecutor to investigate the Commission's "complicity in judicial corruption by powerful, politically-connected judges", as well as referral of Commission members and staff "for appropriate criminal and disciplinary investigation" by the State Attorney General, the U.S. Attorney, the Manhattan District Attorney, and the State Ethics Commission; and.

(2) the criminal complaints we filed with D.A. Morgenthau for his investigation and prosecution of the Commission for corruptly dismissing, *without investigation*, the very judicial misconduct complaints that the law requires it to investigate and, additionally, for his investigation and prosecution of the State Attorney General and Manhattan judges, based on the casefiles of the lawsuits, establishing that the Commission survived legal challenge only because they corrupted the judicial process.

We would be pleased to promptly deliver to you hard copies of the primary source materials relating to this interaction-- the substantial nature of which you can readily discern from our website, www.judgewatch.org. The sidebar panel, "CORRESPONDENCE - NYS Officials: Manhattan District Attorney Robert Morgenthau" posts the most significant of these. Inasmuch as our website is unexpectedly "down" and our technical staff is away for the Labor Day holiday, we are herewith e-mailing you the pertinent postings. Should you wish us to e-mail or fax any of the documents to which these refer, we will speedily do so.

As chronicled by our enclosed correspondence pertaining to our intervention requests and criminal complaints, D.A. Morgenthau's office would not identify Mr. Morgenthau's personal involvement and supervisory review, although repeatedly requested by us. However, on September 27, 2000, I apprised D.A. Morgenthau, *face-to-face*, of what had been going on and the necessity of responsive action by him. He was then speaking on "Integrity and the Law" as part of a lecture series sponsored by Makor, since taken over by the 92nd Street Y. To reinforce my comments to him about his office's cover-up of the documentary evidence we had provided of the Commission's corruption, aided and abetted by Attorney General Spitzer and Manhattan judges, among others, I gave him a copy of my letter of that date addressed to Attorney General Spitzer³, to which he was an indicated

³ This September 27, 2000 letter is posted on our website, accessible *via* the sidebar panel "CORRESPONDENCE - NYS Officials: Attorney General Eliot Spitzer" and is also part of "TEST CASES - State (*Commission*)" [see October 24, 2002 motion for leave to appeal to the Court of Appeals].

recipient, along with a package of substantiating documents. An attorney who was with him, whose business card I still have, took the package on his behalf. A copy of that September 27, 2000 letter – to which D.A. Morgenthau did not respond -- is also enclosed herewith.

The paper trail of our enclosed lawsuit papers, criminal complaints, and correspondence to D.A. Morgenthau affords an unparalleled “inside look” at his gross misfeasance and that of his office when presented with unrefuted and irrefutable documentary evidence of systemic judicial corruption, involving a “who’s who” of powerful names and government offices. It constitutes a solid basis for you to demand, on behalf of the voters, an explanation from him responsive to the evidence. It also provides a solid basis for you to demand, on behalf of the voters, a response from would-be D.A. Leslie Crocker Snyder, whose good friend and supporter, so-noted by the press⁴, is Lawrence Goldman, Chairman of the Commission on Judicial Conduct. Mr. Goldman is fully aware of the Commission’s corruption and how it survived legal challenge – as may be seen from our February 1 and April 15, 1996 letters to him⁵. Troublingly, Ms. Snyder’s campaign website (www.snyderforny.org) does not identify government corruption as an issue.

One final historical note: In 1989, New York State Comptroller Edward Regan issued a report on the Commission whose title, “*Not Accountable to the Public*”, and accompanying press release, “COMMISSION ON JUDICIAL CONDUCT NEEDS OVERSIGHT”, reflected his conclusion⁶. He stated that the Commission had “shielded itself from any independent review of its operations” by an overbroad interpretation of confidentiality provisions. As a result, he had been unable to obtain access to the Commission’s records of judicial misconduct complaints – without which he could not determine whether it was “abusing its authority by wrongfully dismissing complaints against judges without cause or justification.” He stated that corrective legislation was needed to provide for independent review of the Commission, but that the Commission had refused to propose it. Today, 16 years later, the Commission continues to operate without oversight, no legislation having been enacted -- and D.A. Morgenthau having concealed its corruption.

Our lawsuits, criminal complaints, and correspondence to D.A. Morgenthau gave him the very evidence that State Comptroller Regan recognized as the basis for assessing the Commission’s operations, *to wit*, judicial misconduct complaints dismissed by the Commission. Voters are entitled to know of D.A. Morgenthau’s pivotal role in keeping the Commission a corrupt façade – and to know from Ms. Snyder what steps she will take, if

⁴ “*The Dragon Lady Runs for D.A: Ex-judge Leslie Crocker Snyder wants to talk about everything except her law firm*”, Village Voice, 5/24/05.

⁵ These letters are posted under “CORRESPONDENCE – NYS Officials: New York State Commission on Judicial Conduct”.

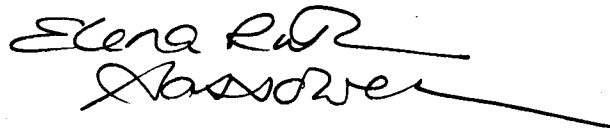
⁶ These are posted on our website, accessible *via* the sidebar panel “LIBRARY”.

they choose her for Manhattan D.A., to investigate and prosecute the Commission's culpable members and staff – including her good friend and supporter Mr. Goldman -- and how she will handle such other conflicts of interest as she will face. THAT'S THE JOB OF THE PRESS.

To assist you in getting answers based on evidence from D.A. Morgenthau and Ms. Snyder, copies of this document-substantiated memo are being sent to each. Needless to say, if Ms. Snyder does not herself raise and exploit the issue of D.A. Morgenthau's profound official misconduct in covering up the *readily-verifiable* evidence of the Commission's corruption, involving a "who's who" of New York's high and mighty -- when the editorializing press has claimed that she and they "lack[] a rationale for dumping Morgenthau"⁷ -- the inference is that she will not, if elected, rise above the conflicts of interest that led D.A. Morgenthau to sacrifice the unprotected public interest for the vested interests which are the beneficiaries of that corruption.

We await your response, consistent with the important role the press is supposed to play in our democracy of enabling voters to make informed electoral decisions.

Thank you.



cc: Manhattan District Attorney Robert Morgenthau
Would-Be Manhattan District Attorney Leslie Crocker Snyder
Sydney Schanberg
Jeffrey Toobin

P.S. We hereby also propose that the mainstream press examine the record of Brooklyn D.A. Charles Hynes with respect to judicial corruption and the corruption of the Commission on Judicial Conduct. His comparable cover-up and betrayal of the public interest is established by the fully-documented criminal complaints we filed with him against high-ranking Brooklyn judges and our subsequent correspondence to him relating thereto, posted on our website [*see* "CORRESPONDENCE – NYS Officials: Brooklyn District Attorney Charles Hynes"].

Enclosures: *See* accompanying Inventory

⁷ Daily News editorial, "Robert Morgenthau for Manhattan D.A." (8/28/05). *See also*, The New York Sun editorial, "Morgenthau for D.A." (9/1/05): "The Times and Judge Snyder have been unable to advance any reason for opposing Mr. Morgenthau except one – the notion that he's too old."

INVENTORY OF TRANSMITTAL

PAPER TRAIL OF EVIDENTIARY PROOF AS TO D.A. MORGENTHAU'S RECORD WITH RESPECT TO JUDICIAL CORRUPTION & CONFLICTS OF INTEREST

April 10, 1995 Notice of Right to Seek Intervention, Notice of Petition, and Petition in Doris L. Sassower v. Commission on Judicial Conduct of the State of New York (NY Co. #109141/95)

CJA's May 19, 1995 criminal complaint against the NYS Commission on Judicial Conduct, handwritten on form provided by D.A. Morgenthau's walk-in Special Prosecutions Bureau

CJA's May 23, 1995 letter to Special Prosecutions Bureau

CJA's September 19, 1995 criminal complaint, handwritten on a copy of Elena Sassower's Letter to the Editor, "*Comm'n Abandons Investigative Mandate*", New York Law Journal, 8/14/95, for intervention and action to vindicate the public's rights

CJA's January 31, 1996 letter to Special Prosecutions Bureau, protesting "the inaction and dereliction of the Manhattan D.A.'s office" – with request for the "direct personal involvement of District Attorney Morgenthau" on "an emergency basis"

February 7, 1996 letter from Deputy Chief, Special Prosecutions Bureau

CJA's March 5, 1996 letter to Deputy Chief, Special Prosecutions Bureau, requesting "direct personal involvement of District Attorney Morgenthau" on an "an emergency basis"

CJA's May 6, 1997 fax to Deputy Chief, Special Prosecutions Bureau, enclosing CJA's May 5, 1997 notice-challenge to D.A. Morgenthau

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April 22, 1999 Notice of Right to Seek Intervention, Notice of Petition, and Verified Petition in Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York (NY Co. #108551/99)

- with "*Comm'n Abandons Investigative Mandate*", ltr to editor, NYLJ, 8/14/95
- with "*A Call for Concerted Action*", \$1,648 paid ad, NYLJ, 11/20/96
- with "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", \$3,077 paid ad, NYLJ, 8/27/97

CJA's October 21, 1999 letter to Deputy Chief, Special Prosecutions Bureau, *inter alia*, initiating and supplementing criminal complaints against Attorney General, Commission, and NYS Commission on Judicial Nomination, and for Manhattan D.A. Morgenthau's recusal due to conflicts of interest and referral to the U.S. Justice Department's Public Integrity Section of its Criminal Division

CJA's October 29, 1999 letter to Deputy Chief, Special Prosecutions Bureau, requesting legal authority, specificity, and review by D.A. Morgenthau personally

October 29, 1999 letter from Deputy Chief, Special Prosecutions Bureau

CJA's November 4, 1999 letter to Deputy Chief, Special Prosecutions Bureau, requesting legal authority, specificity, and referral to superiors, including D.A. Morgenthau personally

CJA's February 25, 2000 memo to D.A. Morgenthau & other proposed intervenors, with enclosed February 23, 2000 letter to Governor Pataki

CJA's March 17, 2000 letter to Deputy Chief, Special Prosecutions Bureau, protesting his wilful disregard of fundamental conflict of interest rules, requesting supervisory review by superiors, including by D.A. Morgenthau, and enclosing CJA's March 17, 2000 covermemo to D.A. Morgenthau & other proposed intervenors, transmitting correspondence to which he was an indicated recipient

CJA's April 24, 2000 letter to D.A. Morgenthau, reiterating request for supervisory review, and enclosing CJA's April 24, 2000 covermemo to D.A. Morgenthau & other proposed intervenors, transmitting correspondence to which he was an indicated recipient

CJA's September 27, 2000 letter to Attorney General Spitzer – to which D.A. Morgenthau was an indicated recipient and to whom it was given, *in hand*, on that date

PAPER TRAIL OF SUPPLEMENTARY EVIDENTIARY PROOF
FOR WOULD-BE D.A. SNYDER TO CONFRONT

CJA's February 1, 1996 letter to Lawrence Goldman, Commission on Judicial Conduct

CJA's April 15, 1996 letter to Lawrence Goldman, Commission on Judicial Conduct

NYS Comptroller Edward Regan's December 7, 1989 press release "COMMISSION ON JUDICIAL CONDUCT NEEDS OVERSIGHT"