

CENTER for  
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ACCOUNTABILITY



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September 29, 1994

Dennis Vacco, Esq.  
Box 267  
Niagara Square Station  
Buffalo, New York 14201-0267

ATT: William Flynn, Esq.

RE: Campaign Issues in the Race for  
New York State Attorney General

Dear Mr. Flynn:

Per our telephone conversation yesterday, I enclose a copy of the September 17th New York Times' editorial, "After the Primaries: New York's Mystery General". I specifically draw your attention to its statement:

"...the voters need to know how the candidates intend to handle the job's meat-and-potatoes job of defending the state against legal actions..."

We agree. We believe that Mr. Vacco should let voters know whether he--like predecessor Attorney Generals--will disregard black-letter law and ethical rules regarding conflict-of-interest and judicial disqualification.

As discussed, when my mother<sup>1</sup> brought the Article 78 proceeding, Sassower v. Mangano, et al., charging the Appellate Division, Second Department with using its judicial offices to retaliate against her for "whistleblowing" on judicial corruption, it was the Attorney General who defended the judicial respondents. How

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<sup>1</sup> For your information, I annex a copy of my mother's credentials, as they appeared in the 1989 Martindale-Hubbell law directory. Additionally, in 1989 my mother was elected to be a Fellow of the American Bar Foundation, an honor reserved for less than one-third of one percent of the practicing bar in each state.

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did the Attorney General defend the judges, accused of heinous criminal acts? By allowing the very judges whose orders were the subject of the Article 78 challenge to decide their own case.

The case is presently pending before the New York State Court of Appeals, where Attorney General Koppell, without legal authority, argues that the Appellate Division, Second Department was not disqualified from adjudicating its own case. Likewise, without legal authority, he argues that there should be no appellate review of the Appellate Division's self-interested decision in its own favor, granting the dismissal motion of its own Attorney, the Attorney General.

Such grotesque insensitivity to conflict-of-interest by our State's highest law officer endangers the integrity of the judicial process and destroys the sanctity of Article 78 proceedings, historically designed to provide independent review of governmental abuses. It must be exposed and unequivocally disavowed by the candidates for Attorney General, vying for election in November.

Since Judiciary Law §14, as well as §100.3(c) of the Rules Governing Judicial Conduct, which is incorporated by reference in the New York State Constitution (Article VI, §20) each explicitly require that a judge disqualify himself from a case wherein he is a party or has an "interest that could be substantially affected by the outcome of the proceeding", the public is entitled to know--in advance of the election--whether Dennis Vacco, if elected Attorney General in November--will obey such clear-cut law and ethical rules. Indeed, were Mr. Vacco to be elected, Sassower v. Mangano, et al. would be on his desk in January.

As discussed, if the Court of Appeals does not grant review of Sassower v. Mangano, et al., we will prepare a petition for a writ of certiorari to the U.S. Supreme Court. What will be Mr. Vacco's position to such petition? To enable him to respond, we enclose the submissions which are now before the Court of Appeals.

Will Mr. Vacco also argue--without citation to legal authority (because there is none)--that permitting accused judges to decide an Article 78 proceeding against themselves is okay? And what position will he take as to the constitutionality of the Article 78 statute and Judiciary Law §90--discussed in detail at pp. 4-10, 16-23 of my mother's enclosed reargument/renewal motion--but ignored entirely by Mr. Koppell, notwithstanding that the Attorney General has the affirmative duty to address the constitutionality of statutes, where they are impugned. (See, my mother's Reply Affidavit, ¶¶10-13)

The public is also entitled to know how Mr. Vacco, as Attorney General, proposes to handle complaints of judicial corruption--such as here presented. The extensive correspondence with Attorney General Koppell, annexed to my mother's Court of Appeals submissions<sup>2</sup>, shows the complete failure of his office to respond to the documentary evidence provided it. Since Mr. Vacco, if elected our new Attorney General, will have on his desk the evidentiary proof of criminal, fraudulent, and collusive conduct by sitting judges--that question is actual, not speculative or abstract.

As you may recall, on September 12, 1994, The New York Times described Ms. Burstein's view of the Attorney General's role regarding governmental corruption as:

"favors an expansion of duties for attorney general but is uncertain of exact role."

Now that Ms. Burstein is the Democratic candidate, it is time for her--as well as for Mr. Vacco--to articulate for the voters how the Attorney General will handle issues involving governmental corruption.

Indeed, the Times' September 17th editorial specifically asks the questions: "What, exactly, does the New York State Attorney General do? What should the job be?"

As reflected by my mother's August 4th letter to Ms. Burstein, Ms. Burstein was made aware of the "real life" situation of Sassower v. Mangano, et al, wherein independent review of the allegations of judicial corruption was cynically blocked by the Attorney General.

Although Ms. Burstein's hand-written note to my mother claims she "will look into this matter when [she is] attorney general", the voting public knows better than to rely on vague promises of politicians. Ironically, the September 12th New York Times quotes Ms. Burstein as saying: "Promises are very easy to make and cheap in fact".

It would, therefore, be refreshing for Mr. Vacco--as a candidate for Attorney General--to define how the Attorney General's office, under his leadership, will handle judicial corruption issues. Certainly, we would not expect that someone like

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<sup>2</sup> See the correspondence annexed to Mr. Schwartz' 3/14/94 letter to the Court of Appeals as Exhibits "2", "4", "5", "6", "7", "8", "9", and to my mother's 7/19/94 reargument motion as Exhibits "M", "N", "O", "P", "R".

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Mr. Vacco, who is "tough" on crime in our streets, would be "soft" on crime when it is committed by judges in our courtrooms.

As discussed, Ms. Burstein, who was given copies of our Court of Appeals' papers, has refused to disavow the actions of her Democratic predecessors--even on the single issue of letting accused judges decide their own case. Indeed, she would not even give her own opinion on the propriety of such conduct, when we pressed her for an answer in a telephone conversation on August 8th. It seems quite plain that Ms. Burstein--for all her civil liberties rhetoric--is part of the Democratic machine and will not show leadership, where to do so would threaten her political patrons.

Consequently, it is up to Mr. Vacco to let the public--and the editors of The New York Times--know how he intends to handle the "meat-and-potatoes" work of the Attorney General in a real case involving a suit against the State, Sassower v. Hon. Guy Mangano, et al.

Finally, I draw your attention to The New York Times' September 27th editorial "No Way to Pick a Judge". That editorial is directly germane to the judicial corruption issues involved in Sassower v. Hon. Guy Mangano, et al., since that Article 78 proceeding alleges that the criminal conduct of the Appellate Division, Second Department arises from its retaliation against my mother for her activities as pro bono counsel in an Election Law case challenging a political judge-trading deal in the Ninth Judicial District, implemented at illegally-conducted judicial nominating conventions. On that subject, I refer you to pp. 14-16 of my mother's reargument/renewal motion. Annexed thereto as Exhibit "K" is her October 24, 1991 letter to Governor Cuomo. By such letter, my mother three years ago called upon the Governor to appoint a special prosecutor to investigate documentary evidence of judicial corruption and the politicization of the bench. As reflected by Sassower v. Hon. Guy Mangano, et al., the documentary evidence, warranting that appointment--including that of the complicity of the Attorney General's office in the cover-up of such corruption--is even more overwhelming today.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability

Enclosures: see next page

- Enclosures:
- (a) 1989 Martindale Hubbell listing
  - (b) letter from the Fellows of the American Bar Foundation
  - (c) New York Times editorial, 9/17/94
  - (d) New York Times, 9/12/94 article and grid
  - (e) New York Times editorial, 9/27/94
  - (f) 8/4/94 ltr to Karen Burstein
  - (g) Karen Burstein's hand-written response
  - (h) Judiciary Law §14
  - (i) §100.3(c) of Rules Governing Judicial Conduct
  - (j) Article 78 papers before the Court of Appeals
    - (1) 1/24/94 Jurisdictional Statement
    - (2) 2/11/94 ltr of Attorney General
    - (3) 3/14/94 ltr of Evan Schwartz
    - (4) 7/19/94 Reargument/Renewal Motion
    - (5) 8/4/94 "Memorandum of Law"  
of Attorney General
    - (6) 8/8/94 DLS Reply Affidavit

cc: Dennis Vacco, Esq.  
786 Ellicott Square  
Buffalo, New York 14203  
[Certified Mail: RRR 389-708-758]

The New York Times: Board of Editors [By Hand]

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## Law Directory

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DORIS L. SASSOWER, born New York, N.Y., September 25, 1932; admitted to bar, 1955, New York; 1961, U.S. Supreme Court, U.S. Claims Court, U.S. Court of Military Appeals and U.S. Court of International Trade. Education: Brooklyn College (B.A., summa cum laude, 1954); New York University (J.D., cum laude, 1955). Phi Beta Kappa. Florence Allen Scholar. Law Assistant: U.S. Attorney's Office, Southern District of New York, 1954-1955; Chief Justice Arthur T. Vanderbilt, Supreme Court of New Jersey, 1956-1957. President, Phi Beta Kappa Alumnae in New York, 1970-71. President, New York Women's Bar Association, 1968-69. President, Lawyers' Group of Brooklyn College Alumni Association, 1963-65. Recipient: Distinguished Woman Award, Northwood Institute, Midland, Michigan, 1976. Special Award "for outstanding achievements on behalf of women and children," National Organization for Women—NYS, 1981; New York Women's Sports Association Award "as champion of equal rights," 1981. Distinguished Alumna Award, Brooklyn College, 1973. Named Outstanding Young Woman of America, State of New York, 1969. Nominated as candidate for New York Court of Appeals, 1972. Columnist: ("Feminism and the Law") and Member, Editorial Board, *Woman's Life Magazine*, 1981. Author: Book Review, *Separation Agreements and Marital Contracts*, *Trial Magazine*, October, 1987; *Support Handbook*, *ABA Journal*, October, 1986; Anatomy of a Settlement Agreement Divorce Law Education Institute 1982, "Climax of a Custody Case," *Litigation*, Summer, 1982; "Finding a Divorce Lawyer you can Trust," *Scarsdale Inquirer*, May 20, 1982. "Is This Any Way To Run An Election?" *American Bar Association Journal*, August, 1980; "The Disposable Parent: The Case for Joint Custody," *Trial Magazine*, April, 1980. "Marriages in Turmoil: The Lawyer as Doctor," *Journal of Psychiatry and Law*, Fall, 1979. "Custody's Last Stand," *Trial Magazine*, September, 1979; "Sex Discrimination—How to Know It When You See It," *American Bar Association Section of Individual Rights and Responsibilities Newsletter*, Summer, 1976; "Sex Discrimination and The Law," *NY Women's Week*, November 8, 1976; "Women, Power and the Law," *American Bar Association Journal*, May, 1976; "The Chief Justice Wore a Red Dress," *Woman In the Year 2000*, Arbor House, 1974; "Women and the Judiciary: Undoing the Law of the Creator," *Judicature*, February, 1974; "Prostitution Review," *Juris Doctor*, February, 1974; "No-Fault Divorce and Women's Property Rights," *New York State Bar Journal*, November, 1973; "Marital Bliss: Till Divorce Do Us Part," *Juris Doctor*, April, 1973; "Women's Rights in Higher Education," *Current*, November, 1972; "Women and the Law: The Unfinished Revolution," *Human Rights*, Fall, 1972; "Matrimonial Law Reform: Equal Property Rights for Women," *New York State Bar Journal*, October, 1972; "Judicial Selection Panels: An Exercise in Futility?," *New York Law Journal*, October 22, 1971; "Women in the Law: The Second Hundred Years," *American Bar Association Journal*, April, 1971; "The Role of Lawyers in Women's Liberation," *New York Law Journal*, December 30, 1970; "The Legal Rights of Professional Women," *Contemporary Education*, February, 1972; "Women and the Legal Profession," *Student Lawyer Journal*, November, 1970; "Women in the Professions," *Women's Role in Contemporary Society*, 1972; "The Legal Profession and Women's Rights," *Rutgers Law Review*, Fall, 1970; "What's Wrong With Women Lawyers?," *Trial Magazine*, October-November, 1968. Address to: The National Conference of Bar Presidents, Congressional Record, Vol. 115, No. 24 E 815-6, February 5, 1969; The New York Women's Bar Association, Congressional Record, Vol. 114, No. E5267-8, June 11, 1968. Director: New York University Law Alumni Association, 1974; International Institute of Women Studies, 1971; Institute on Women's Wrongs, 1973; Executive Woman, 1973. Co-organizer, National Conference of Professional and Academic Women, 1970. Founder and Special Consultant, Professional Women's Caucus, 1970. Trustee, Supreme Court Library, White Plains, New York, by appointment of Governor Carey, 1977-1986 (Chair, 1982-1986). Elected Delegate, White House Conference on Small Business, 1986. Member, Panel of Arbitrators, American Arbitration Association. Member: The Association of Trial Lawyers of America; The Association of the Bar of the City of New York; Westchester County, New York State (Member: Judicial Selection Committee; Legislative Committee, Family Law Section), Federal and American (ABA Chair, National Conference of Lawyers and Social Workers, 1973-1974; Member, Sections on: Family Law; Individual Rights and Responsibilities Committee on Rights of Women; 1982; Litigation) Bar Associations; New York State Trial Lawyers Association; American Judicature Society; National Association of Women Lawyers (Official Observer to the U.N., 1969-1970); Consular Law Society; Roscoe Pound-American Trial Lawyers' Foundation; American Association for the International Commission of Jurists; Association of Feminist Consultants; Westchester Association of Women Business Owners; American Womens' Economic Development Corp.; Womens' Forum. Fellow: American Academy of Matrimonial Lawyers; New York Bar Foundation.

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The  
Fellows  
of the  
American Bar Foundation

750 North Lake Shore Drive  
Chicago, Illinois 60611-4403  
(312) 988-6606

November 13, 1992

TO WHOM IT MAY CONCERN:

This is to certify that Doris L. Sassower of White Plains, New York, was elected a Fellow of the American Bar Foundation in 1989 and is in good standing. This honor is limited to one-third of one percent of lawyers licensed to practice in each jurisdiction.

The Fellows is an honorary organization of practicing attorneys, judges and law teachers whose professional, public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Established in 1955, The Fellows encourage and support the research program of the American Bar Foundation.

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Carol Murphy  
Staff Director of The Fellows