

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

Elena Ruth Sassower, Coordinator

BY HAND

October 25, 1999

Mr. David Rohde/The New York Times
100 Centre Street
Press Room #136
New York, New York

RE: Following up "*If a Judge Gets Out of Line: Seeking a Cure*", NYT, 8/28/99; AND "*Spitzer Sets Up Unit to Investigate Both State and Local Corruption*" NYT, 8/26/99

Dear Mr. Rohde:

The articulated premise of CJA's advocacy against the NYS Commission on Judicial Conduct is that the Commission's corrupt protectionism of judges is READILY-VERIFIABLE from:

- (1) examination of judicial misconduct complaints dismissed by the Commission, *without* investigation; and
- (2) examination of litigation files of legal challenges against the Commission for its wrongful and illegal dismissals of judicial misconduct complaints.

This is reflected by our Letter to the Editor, "*Commission Abandons Investigative Mandate*", (Exhibit "A-1": NYLJ, 8/14/95); our \$1,600 public interest ad, *A Call for Concerted Action*" (Exhibit "A-2": NYLJ 11/20/96, p. 3); our \$3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (Exhibit "A-3": NYLJ, 8/27/97, pp. 3-4) – all already in your possession, but nonetheless annexed hereto for your convenience – as well as by our May 14, 1997 testimony before the Association of the Bar of the City of New York, which, in the event I did not supply it to you and you did not access it from our website, is also annexed hereto for your convenience (Exhibit "B").

It was to **enable** you to *yourself* verify the Commission's corruption that I provided you with a copy of the Verified Petition in my current Article 78 proceeding against the Commission – to which copies of two judicial misconduct complaints filed with the Commission are annexed as exhibits (Exhibits "C" and "F-6"). This is why I also provided you with my affidavit in support of my omnibus motion seeking, *inter alia*, monetary sanctions and disciplinary and criminal sanctions against the Commission and its counsel, the State Attorney General, for their fraudulent defense tactics.

While I am decidedly not averse to answering your questions as to whether, as you "heard", "my parents were disbarred"¹ or as to whether there are "any law professors who agree with us", these questions have NOTHING to do with your own examination of *readily-verifiable evidentiary proof* that the Commission is corrupt and that legal challenges to it are defended with litigation fraud by New York's highest law enforcement officer.

As stated, although I am a child of both my parents – of whom I am extremely proud – I am an independent, educated, 43 year old adult woman. I have spent the past decade DOCUMENTING the corruption of the processes of judicial selection and discipline. This includes documenting the kind of judicial abuse and corruption which my whistleblowing parents so fearlessly tried to expose and for which they were viciously retaliated against. Each was run out of the legal profession, *without fundamental due process*. This, because New York's state judiciary controls the disciplining and licensing of lawyers and uses the state's flagrantly unconstitutional attorney disciplinary law, as well as its other judicial powers, to destroy, reputationally, and otherwise, its most powerful and potent critics: the few lawyers who, not naive as to what is and is not judicial misconduct, are courageous enough to take a stand by action, not rhetoric.

Had the Commission on Judicial Conduct not been corrupt – dismissing without investigation the kind of substantive judicial misconduct complaints it is required, by law, to investigate -- my parents would be practicing law today. Instead, *all* of the many judicial misconduct complaints they each filed with the Commission were dismissed, *without* investigation. This includes their complaints as to the judicial retaliation to which they were being subjected for their judicial whistleblowing.

As part of my response to your question about my parents, I referred you to CJA's public interest ad, "*Where Do You Go When Judges Break the Law?*" – printed on

¹ My mother is NOT disbarred. She was indefinitely suspended.

the Op Ed page of The New York Times five years ago tomorrow (10/26/94) – at a cost to us of \$16,770 – and then, four days later, in the *New York Law Journal*, at an added \$2,280 cost. That ad, a copy of which is annexed (Exhibit “C-1”)², was my mother’s most famous judicial misconduct complaint – hand-delivered to the Commission on the very day it appeared in the Times, in further support of two judicial misconduct complaints, then pending before the Commission. Thereafter, and *without* reasons, the Commission both dismissed those complaints, *without* investigation, and ignored my mother’s requests for reasons and other information concerning their dismissal, as well as the dismissals of her prior judicial misconduct complaints. Indeed, this is the background to her Article 78 proceeding against the Commission, in which a copy of “*Where Do You Go When Judges Break the Law?*” -- as receipted by the Commission on October 26, 1994 – was annexed to the Verified Petition therein as Exhibit “A” – following which copies of nine separate judicial misconduct complaints were annexed as exhibits.

A particularized description of what took place in that prior Article 78 proceeding, as readily verifiable from the litigation file, appears in “*Restraining ‘Liars’*” (Exhibit “A-3”). That ad, as well as the prior ad, “*A Call for Concerted Action*” (Exhibit “A-2”), identifies the refusal of those in leadership positions, in and out of government, to address the file evidence that the proceeding was “thrown” by a fraudulent judicial decision, protecting the Commission, which having no legitimate defense to the allegations of the Verified Petition had been defended by the litigation misconduct of the state Attorney General. That these leaders include “distinguished law school deans and professors” may be seen from the FIRST paragraph of my May 14, 1997 testimony before the City Bar (Exhibit “B”).

Among such “distinguished law school deans and professors” are Monroe Freedman and Stephen Gillers, both “ethics” experts affiliated with New York law schools, and Alan Dershowitz, of Harvard Law School, who needs no introduction. You were especially interested in seeing CJA’s correspondence with them – which I offered you. I am, therefore, enclosing CJA’s March 20, 1996 letter to Professor Dershowitz, which had transmitted a copy of the file of that prior Article 78 proceeding. Annexed to that letter, as Exhibit “B-1”, is CJA’s November 17, 1995 letter to Professor Freedman and, as Exhibit “B-2”, CJA’s December 1, 1995 letter to Professor Gillers. From each of these professors CJA had sought independent evaluation of the Article 78 file, answering five specific questions (Exhibit “C”

² The ad is also annexed to the Verified Petition in the current Article 78 proceeding against the Commission (as part of Exhibit “C-2”).

thereto). This, for an A & E investigative documentary about judicial misconduct. Not only were Professors Freedman and Gillers uninterested in providing an independent evaluation, they would not even recommend anyone who would. Indeed, as to Professor Gillers, notwithstanding his refusal to examine the Article 78 file, he, thereafter, felt no ethical compunction in stating to a print journalist that our allegations against the Commission were "total nonsense". This is recited in CJA's March 18, 1996 letter to Professor Gillers, annexed as Exhibit "E" to my letter to Professor Dershowitz. As for Professor Dershowitz, his failure to follow-through with his promise to review the Article 78 file -- or to assist us in finding a lawyer who would -- is reflected by the enclosed subsequent exchange of correspondence: his secretary's April 2, 1996 letter, CJA's April 12, 1996 response, and his secretary's April 15, 1996 letter.

Also enclosed is CJA's April 17, 1996 letter to Ron Kuby, who I also mentioned to you. Mr. Kuby appeared in the A & E investigative documentary³, in the same segment about the Commission on Judicial Conduct in which my mother and I appeared. Despite his forceful comments, Mr. Kuby seemed unaware of the Article 78 proceeding against the Commission, substantiating so many of his contentions. CJA's letter, therefore, reminded him of the case, offered to send him the file, and asked him "to champion the undefended public interest, plainly endangered by a corrupt Commission on Judicial Conduct" -- or for a recommendation for someone with the courage to handle the case. Mr. Kuby never responded.

Annexed to each of these letters are further letters of note:

- (1) Annexed to CJA's letter to Mr. Kuby (Exhibit "C") is a copy of CJA's November 17, 1995 letter to the associate producer of the A & E documentary, reflecting the fact that on the same date as I spoke and wrote to Professor Freedman about his serving as an independent evaluator, CJA "put its money where its mouth is" as to the importance of an independent evaluation by offering to provide the producers, who had used up their "shooting budget", with the financial resources to "shoot" an interview with an independent evaluator.

³ A tape of the A & E documentary, in which CJA was featured in a segment dealing with solutions to judicial misconduct, is enclosed. Although rewound to that segment, perhaps you'll have the time to see the whole program (about 45 minutes). PLEASE BE SURE TO RETURN THE TAPE TO US.

- (2) Annexed to CJA's letter to Professor Dershowitz (Exhibit "D") is a copy of CJA's March 18, 1996 letter to then City Bar President Barbara Paul Robinson, with copies to the Presidents of the New York County Lawyers' Association, the State Bar Association, as well as Governor Pataki, Mayor Guiliani, the Assembly Judiciary Committee – setting forth facts that, eight months later, would be summarized in "*A Call for Concerted Action*" (Exhibit "B-2"). The letter detailed that President Robinson's praise of the Commission on Judicial Conduct as a "good system for disciplining or even removing a judge for misconduct", appearing in her March 14, 1996 Op-Ed article in The New York Times, was written in face of evidence of presented by the Article 78 file, then already in the possession of the City Bar – and known to her (a) that the Commission is corrupt; (b) that it corrupted the judicial process; and (c) that it is the beneficiary of a fraudulent judicial decision without which it could not have survived the Article 78 challenge.

So that you can see President Robinson's wholly inadequate March 26, 1996 response – and my reply – enclosed is CJA's April 12, 1996 letter to President Robinson, responding to her March 26, 1996 letter, annexed thereto is Exhibit "A". We received no answer from President Robinson – nor from any of the other indicated recipients of the letter. This includes her presidential successor Michael Cardozo, who, according to the Introduction of the City Bar's newly-released "Report of the Ad Hoc Committee on Judicial Conduct", set up the Committee in September 1996. It was before this Committee which CJA testified on May 14, 1997.

Needless to say, CJA's subsequent correspondence with President Cardozo and those in leadership at the City Bar fully substantiates the serious charges of cover-up and betrayal of the public trust that we made about them in our May 14, 1997 testimony (Exhibit "B") and about the necessity that the Committee question the Commission's Chairman Henry Berger and its Administrator, Gerald Stern, about the Article 78 proceeding and about CJA's 3-page analysis of the fraudulent judicial decision dismissing it⁴. As highlighted by "*Restraining Liars*" (Exhibit "A-3"), both Mr. Berger and Mr. Stern – each of whom had received a written challenge

⁴ The three-page analysis, annexed to CJA's May 5, 1997 memorandum, is Exhibit "A" to the Verified Petition in the current Article 78 proceeding. CJA's May 6, 1997 fax to the Commission transmitting that memorandum, and our subsequent exchange of correspondence with Mr. Berger and Mr. Stern on the subject are annexed to the Verified Petition as part of Exhibit "G" [See Exhibits "E-1", "E-2", "E-3", and "E-4" thereto].

from CJA -- were present at the hearing. Neither, however, addressed the Article 78 proceeding or CJA's analysis of the decision. Nor did the Committee did question either of them on the subject. Indeed, its Chairman, Robert Jossen, abruptly closed the hearing when CJA protested the Committee's failure and refusal to raise such obvious questions.

As discussed, enclosed is a copy of the City Bar's just released report of its Committee on Judicial Conduct. It continues the City Bar's dishonest cover-up of the Commission, complained of in our testimony and protested at the hearing. This may be seen from its only reference to CJA's evidence-supported presentation, at p. 608:

"Elena Ruth Sassower, the Coordinator of the Center for Judicial Accountability, Inc., as well as other members of that organization, presented submissions which were highly critical of the Commission on a host of grounds."

Tellingly, the Report does not identify a single one of these "host of grounds" -- let alone assess their seriousness. In other words, faced with CJA's fact-specific, evidence-supported presentation that the Commission is corrupt and survived the prior Article 78 challenge only by fraud, the report does not deny or dispute anything.

The report then goes on to thwart public inquiry that would expose this dangerous state of affairs -- and the direct and irreparable harm to the public resulting therefrom. This may be seen from the "first" of its five "recommendations":

"First, critics of the State Commission often call for the establishment of some kind of oversight process. The nature or form of such oversight never has been carefully articulated, but presumably the options range from review of all actions of the Commission, including those of non-prosecution, to hearings before committees of the State Legislature to assess the work of the Commission. The Committee believes that *such oversight function is neither necessary nor productive...*" (at p. 613).

The Committee was well aware that if it wanted CJA to further articulate its oversight proposals, it had only to ask. Among CJA's proposals, reflected by petitions it had circulated, signed by 1,500 New Yorkers, was appointment by

Governor Pataki of a commission "to investigate and hold public hearings on judicial corruption and the political manipulation of judgeships in the State of New York". Based on the evidentiary proof in its possession – the Article 78 file with its annexed judicial misconduct complaints – the Committee not only knew that oversight by an objective, independent body was exigent, but that it would result in sweeping recommendations overhauling the Commission and removing its members and staff.

I would be pleased to discuss with you further respects in which the City Bar's report is not just deceitful, but dangerous. This, not only as it relates to the Commission on Judicial Conduct, but the federal mechanism for judicial discipline under 28 USC §372(c). Suffice to say that the reason the City Bar never held a hearing on §372(c) is because it knew that CJA would publicly present it with evidentiary proof of the federal judiciary's corruption of that mechanism, much as we had publicly presented it with proof of the Commission's corruption at the May 14, 1997 hearing. Indeed, CJA long ago transmitted to it copies of publicly-inaccessible §372(c) judicial misconduct complaints, dispositive of the federal judiciary's corrupting of that mechanism, as well as a copy of our published article, "*Without Merit: The Empty Promise of Judicial Discipline*" The Long Term View (Massachusetts School of Law) Vol. 4, No. 1 (summer 1997). I believe I already transmitted to you a copy of that article. However, a further copy is enclosed, which should be read in conjunction with the City Bar's report and, in particular, the latter portion (at pp. 615-625) pertaining to the §372(c) mechanism. You will note that encompassed by CJA's law review article (at pp. 93-97) is a critique of the 1993 Report of the National Commission on Judicial Discipline and Removal, including its methodology pertaining to §372(c) complaints. It is this critique, as well as its faulty methodology, on which the City Bar's report relies.

I would note that both my parents filed §372(c) judicial misconduct complaints in the context of their federal lawsuits challenging the unlawful state court orders preventing them from practicing law. The corruption of §372(c) – as demonstrated by the record of those complaints – like the corruption of the Commission on Judicial Conduct -- further explains why they have been unable to regain their licenses to practice law.

FYI, I enclose a copy of a June 6, 1989 Village Voice article about my father, "*To the Gulag: Courthouse Leper George Sassower Takes On Every Judge in Town*" (Exhibit "D"). Although my father has yet to be recognized, beyond this article, for his courageous judicial whistleblowing, my mother received an award in the fall of 1997 from the "Giraffe Project" for "sticking her neck out for the common good"

October 25, 1999

by her judicial whistleblowing. A copy is annexed (Exhibit "C-2"), as is a copy of a March 19, 1998 article, "*True Believers*" in The Westchester County Weekly (Exhibit "C-3"). That publication commemorated Women's History Month by selecting "six women whose belief in an ideal has informed their life work to the benefit of the entire community". My mother and I were two of those six and the life work for which we were recognized is judicial accountability.

Should you desire additional information or documentation about my parents – or about CJA's extensive outreach efforts to the legal community and beyond – I will gladly supply it. However, the most immediate and critical issue for which CJA sought Times' coverage is the *evidentiarily-verifiable* corruption of the Commission on Judicial Conduct and its litigation misconduct in the pending Article 78 proceeding by its attorney, the state Attorney General.

To update you on where matters now stand in that case – and CJA's request for intervention by the Manhattan District Attorney and U.S. Attorney for the Southern District of New York – enclosed are CJA's October 21st letters to them, hand-delivered today.

Yours for a quality judiciary,

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

Enclosures