

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 E-MAIL: erikriss@aol.com (5 pages)

October 3, 2002

Syracuse Post-Standard
Albany Bureau

ATT: Erik Kriss

RE: ELECTION COVERAGE:
The REAL Attorney General Spitzer -- Not the P.R. Version

The enclosed is for election coverage. Its most salient aspects can be *independently* verified within a few hours. The resulting story would not only *rightfully* end Mr. Spitzer's re-election prospects and political career, but his legal career as well. The repercussions on Governor Pataki would be similarly devastating.

* * *

STORY PROPOSAL

Repeatedly, the public is told that Eliot Spitzer is a "shoe-in" for re-election as Attorney General¹ and a rising star in the Democratic Party with a future as Governor and possibly President². The reason for such favorable view is

¹ "Court of Claims Judge to Face Spitzer", (New York Law Journal, May 15, 2002, John Caher, Daniel Wise), quoting Maurice Carroll, Director of Quinnipiac College Polling Institute, "Spitzer has turned out to be a very good politician, and he is just not vulnerable"; "[Gov. Pataki] could pick the Father, Son and Holy Ghost and he wouldn't beat Spitzer"; "The Attorney General Goes to War", (New York Times Magazine, June 16, 2002, James Traub), "Spitzer's position is considered so impregnable that the Republicans have put up a virtually unknown judge to oppose him this fall - an indubitable proof of political success"; "The Enforcer" (Fortune Magazine, September 16, 2002 coverstory, Mark Gimein), "he's almost certain to win a second term as attorney general this fall".

² "Spitzer Pursuing a Political Path" (Albany Times Union, May 19, 2002, James Odato);

simple. The press has *not* balanced its coverage of lawsuits and other actions *initiated* by Mr. Spitzer, promoted by his press releases and press conferences, with any coverage of lawsuits *defended* by Mr. Spitzer. This, despite the fact that defensive litigation is the “lion’s share” of what the Attorney General does.

The Attorney General’s *own* website identifies that the office “defends thousands of suits each year in every area of state government” -- involving “nearly two-thirds of the Department’s Attorneys in bureaus based in Albany and New York City and in the Department’s 12 Regional offices.”³ It is therefore appropriate that the press critically examine at least one lawsuit *defended* by Mr. Spitzer. Only by so doing will the voting public be able to gauge his on-the-job performance in this vital area.

Our non-partisan, non-profit citizens’ organization, Center for Judicial Accountability, Inc. (CJA), proposes a specific lawsuit as ideal for press scrutiny. The lawsuit -- against a single high-profile respondent, the New York State Commission on Judicial Conduct -- was not only *expressly* brought in the public interest, but has spanned Mr. Spitzer’s tenure as Attorney General and is now before the New York Court of Appeals. Most importantly, it is a lawsuit with which Mr. Spitzer is *directly familiar and knowledgeable*. Indeed, it was generated and perpetuated by his official misconduct -- and seeks monetary sanctions and disciplinary and criminal relief against Mr. Spitzer *personally*.

Documented by the lawsuit is Mr. Spitzer’s complete disregard for conflict of interest rules and his wilful use of his position as Attorney General to cover-up systemic governmental corruption. Having secured his razor-close 1998 electoral victory as Attorney General with the help of Election Law lawyer, Henry T. Berger, the Commission’s long-standing Chairman, Mr. Spitzer then wilfully failed to investigate the evidentiary proof of the Commission’s

“A New York Official Who Harnessed Public Anger” (New York Times, May 22, 2002, James McKinley); “Spitzer Expected to Cruise to 2nd Term” (Gannett, May 27, 2002, Yancey Roy); “Attorney General Rejects Future Role as Legislature” (Associated Press, June 4, 2002, Marc Humbert); “Democrats Wait on Eliot Spitzer, Imminent ‘It Boy’” (New York Observer, August 19, 2002, Andrea Bernstein), “many insiders already are beginning to talk -- albeit very quietly -- about the chances of a Democrat winning back the Governor’s office in 2006. At the top of their wish list is Mr. Spitzer, whose name recognition has shot through the roof in the last year, private pollsters say, and who appears -- for now, at least -- to have no negatives.”

³ See www/oag.state.ny.us/: “Tour the Attorney General’s Office” -- Division of State Counsel.

corruption. This necessitated the lawsuit, which Mr. Spitzer has defended with litigation tactics so permeated by fraud as to be grounds for disbarment if committed by a private attorney.

The lawsuit file includes a paper trail of letters to Mr. Spitzer, throughout the past 3-1/2 years, establishing his *direct knowledge* of his Law Department's fraudulent defense conduct and his *personal liability* by his wilful refusal to meet his mandatory supervisory duties under DR-1-104 of New York's Code of Professional Responsibility (22 NYCRR §1200.5).

Added to this, the lawsuit provides an "inside view" of the hoax of Mr. Spitzer's "public integrity unit" – which, according to a September 1999 Gannett article, "*Spitzer's Anti-Corruption Unit Gets Off to a Busy Start*", had "already logged more than 100 reports of improper actions by state and local officials across New York".

Exposing this hoax rightfully begins with examining how Mr. Spitzer's "public integrity unit" handled the first two "reports" it received. These were from CJA and involved the very issues subsequently embodied in the lawsuit. Indeed, these two "reports" were publicly handed to Mr. Spitzer on January 27, 1999, upon his public announcement of the establishment of his "public integrity unit". This is reflected by a transcript excerpt of my public exchange with Mr. Spitzer at that time, transcribed by the New York Law Journal

The substance of CJA's first "report" was encompassed by CJA's \$3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (New York Law Journal, August 27, 1997, pp. 3-4). At issue was investigating the ad's particularized allegations, fully verifiable from litigation files, that predecessor Attorneys General had engaged in fraudulent defense tactics to defeat meritorious lawsuits, including a 1995 lawsuit against the Commission, sued for corruption. In other words, this first "report" required Mr. Spitzer to "clean up" his own "house" before tackling corruption elsewhere in the state.

The nature of CJA's second "report" was reflected by my Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*" (New York Post, December 28, 1998), whose closing paragraph read: "This is why we will be calling upon our new state attorney general as the 'People's lawyer,' to launch an official investigation." At issue was investigating the documentary evidence of the corruption of "merit selection" to the Court of Appeals, of which the

Commission's corruption is part. This included evidence as to the involvement and complicity of Governor Pataki.

Tellingly, a "search" of the Attorney General's website [www.oag.state.ny.us/] produces only *seven* entries for his "public integrity unit", with virtually *no* substantive information about its operations and accomplishments. This is all the more astonishing when compared to Mr. Spitzer's 1998 campaign promise that his "Public Integrity Office" would:

- (1) "Vigorously Prosecute Public Corruption...Using the Attorney General's subpoena powers...to conduct independent and exhaustive investigations of corrupt and fraudulent practices by state and local officials";
- (2) "Train and Assist Local Law Enforcement...And if a local prosecutor drags his heels on pursuing possible improprieties...to step in to investigate and, if warranted, prosecute the responsible public officials";
- (3) "Create a Public Integrity Watchdog Group...made up of representatives of various state agencies, watchdog groups and concerned citizens...[to] recommend areas for investigation, coordinate policy issues pertaining public corruption issues, and advocate for regulations that hold government officials accountable";
- (4) "Encourage Citizen Action to Clean Up Government...[by] a toll-free number for citizens to report public corruption or misuse of taxpayer dollars";
- (5) "Report to the People...[by] an annual report to the Governor, the legislature and the people of New York on the state of public integrity in New York and incidents of public corruption".

The foregoing is excerpted from Mr. Spitzer's 1998 campaign policy paper, "Making New York State the Nation's Leader in Public Integrity: Eliot Spitzer's Plan for Restoring Trust in Government". Such campaign platform is a "marker" by which to evaluate Mr. Spitzer's 2002 re-election website [www.spitzer2002.com] – wherein public integrity and government corruption have disappeared as campaign issues. This is not because of the success of Mr. Spitzer's "public integrity unit", whose existence is altogether absent from the campaign website.

Should you wish to see any of the above-indicated documents or the article about the lawsuit, "*Appeal for Justice*" (Metroland, April 25-May 1, 2002), please let me know and I will promptly fax them to you. Needless to say, I would be pleased to answer your questions AND provide you with a copy of the lawsuit file from which this prize-winning story of Mr. Spitzer's official misconduct and the hoax of his "public integrity unit" is *readily and swiftly verifiable*.

I await your enthusiastic response.

Yours for a quality judiciary
and electorally-meaningful reporting,

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