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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK: CIVIL TERM: PART 68

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ELENA  
ELAINA RUTH SASSOWER, Coordinator of  
the Center for Judicial Accountability, Inc.,  
acting pro bono *publico*,

Index No.  
99-108551

Petitioner,

- against -

Commission on Judicial Conduct of the  
STATE OF NEW YORK,

Respondent.

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111 Centre Street  
New York, New York  
October 8, 1999

B E F O R E :

HONORABLE RONALD ZWEIBEL,

J u s t i c e .

A P P E A R A N C E S :

ELLIOT SPITZER, ESQ.  
Attorney General of the  
State of New York  
By: CAROLYN CAIRNS-OLSON, ESQ.  
Assistant Attorney General

↕

ELENA  
ELAINA R. SASSOWER, ~~ESQ.~~  
~~Attorney for Petitioner~~ *Pro Se*

\* \* \*

Crystal B. Scudder  
Sr. Court Reporter

Ex "C"

1  
2 THE COURT: <sup>Ms.</sup> ~~Miss~~ Sassower, the first thing I  
3 just want to take up is the matter of your recusal  
4 motion. I know what your position is. I want to  
5 hear from the respondent at this time.

6 MS. CAIRNS-OLSON: Well, Your Honor, <sup>Judiciary</sup> ~~Judicial~~  
7 Law Section 14 sets forth the only ground for  
8 mandatory recusal-- and in all other cases-- it is  
9 up to the discretion of the Court. <sup>Ms.</sup> ~~Miss~~ Sassower's  
10 argument that because Your Honor is an Acting  
11 Supreme Court Justice should require recusal should  
12 not be accepted. The State's Constitution, Article  
13 Six, authorizes acting Supremes the appointment of  
14 acting Supremes, and it establishes and bestows on  
15 acting Supreme Court Justice all subject matters of  
16 a Supreme Court Justice. The Constitution does not  
17 limit or preclude the Court from acting or  
18 presiding over a case in which the Court's original  
19 appointing authority was a party to the proceeding,  
20 much less in cases whereas here, there is suspicion  
21 that there might be some kind of influence by  
22 Governor Pataki. Upon this Court's decision, we  
23 submit that the ground stated by Petitioner for  
24 this Court's recusal are inappropriate, and should  
25

1  
2 not be considered by the Court; and would, I  
3 believe, establish a bad precedent. We submit,  
4 however, and understand that it is up to the  
5 conscience and discretion of the Court to recuse  
6 itself, if it believes it necessary under any  
7 circumstances. It's a matter of the Court's  
8 individual conscience, and we'll defer to that.  
9 But, the grounds stated by the Petitioner in this  
10 case, we believe, challenging this Court's  
11 authority as an acting Supreme Court Judge should  
12 be rejected.

13 THE COURT: I agree that this is strictly a  
14 discretionary matter. I don't see any actual  
15 conflict, and I don't see any reason why I couldn't  
16 render a fair and impartial determination in this  
17 matter, but in view of the petition taken by <sup>Ms.</sup> Miss  
18 Sassower; and in order to avoid even the appearance  
19 of any impropriety, I'm going to recuse myself.

20 MS. CAIRNS-OLSON: Thank you.

21 MS. SASSOWER: May I thank the Court?

22 THE COURT: Just one second. This will now be  
23 re-assigned.

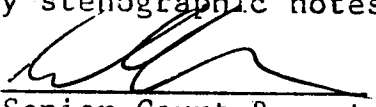
24 MS. CAIRNS-OLSON: It will go back to IAS?  
25

THE COURT: --forthwith.

MS. SASSOWER: May I take the occasion to thank the Court for its concern for the appearance of impartiality, which, of course, is the foremost standard? Thank you very much, and for your courtesies extended to me during the course of this litigation before you. Thank you.

\* \* \*

I, Crystal B. Scudder, an Official Court Reporter of the State of New York, do hereby certify that the foregoing is a true and correct transcript of my stenographic notes.

  
Senior Court Reporter