

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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By Priority Mail

March 20, 1996

Professor Alan Dershowitz  
Harvard Law School  
Cambridge, Massachusetts 02138

Dear Professor Dershowitz:

Following up our brief conversation last week at Hofstra's conference on "Legal Ethics: The Core Issues", I thank you for agreeing to review the file in our ground-breaking case against the New York State Commission on Judicial Conduct. The file is transmitted herewith, together with our December 15, 1995 letter to the New York State Assembly Judiciary Committee, detailing (at pages 1-3) the respects in which the Supreme Court's dismissal of the case is a fraud--and known to be such by the Commission on Judicial Conduct, as well as other state agencies charged with protecting the public<sup>1</sup>.

When we spoke, you took from me a copy of our Letter to the Editor, "Commission Abandons Investigative Mandate", published on August 14, 1995 in the New York Law Journal. By that letter (Exhibit "A"), we publicly invited the legal community to examine the file and verify the facts establishing such readily-verifiable fraud and cover-up. Yet, in all this time no sector of the legal community has been willing to do so. This includes those sectors of the legal community we affirmatively solicited, among them, major bar associations, such as the Association of the Bar of the City of New York and New York County Lawyers' Association, preeminent private organizations, such as the Fund for Modern Court<sup>2</sup> and American Judicature Society, and such towering figures of the "legal ethics" community as Professor

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<sup>1</sup> Our initial correspondence with the Commission on Judicial Conduct, as well as with the New York State Attorney General and the New York State Ethics Commission, as to their ethical and professional duty to move to vacate the Supreme Court's fraudulent judgment of dismissal is annexed as Exhibits "C", "D", and "E" to our enclosed December 15, 1995 letter to the Assembly Judiciary Committee.

<sup>2</sup> Our communications with the Fund for Modern Court are reflected at pages 4-6 of our December 15, 1995 letter to the Assembly Judiciary Committee and by the correspondence annexed thereto as Exhibits "F" and "G". There has been no response by the Fund to that December 15, 1995 letter--although we sent it a copy.

Monroe Freedman, organizer of "Legal Ethics: The Core Issues", and Professor Stephen Gillers, one of its invited participants.

I might mention that the context for our soliciting Professors Freedman and Gillers was because we felt that the producers of an A & E documentary, who were filming us last fall, should not only hear what we had to say about the significance of our legal challenge to the Commission on Judicial Conduct, but should have the benefit of an independent evaluation of it. Yet, these ethics experts not only did not respond to our telephone and written requests for their "independent evaluation" of this important public interest case, they would not even recommend anyone who we could turn to for such assistance. Copies of our letter requests to them are annexed hereto (Exhibit "B-1", "B-2"), as are the "Questions to be Answered" that we provided them (Exhibit "C").

Had the legal and ethics community been content to merely stand idly by and close its eyes to the documentary proof, established by the enclosed file, that the Commission on Judicial Conduct is corrupt, this would be bad enough. However, it has used its stature to publicly endorse the efficacy and independence of the Commission and to pretend that it is worthy of public confidence and respect. As to that contemptible hypocrisy, I enclose a copy of our March 18, 1996 letter to the President of the Association of the Bar of the City of New York--which details the abdication of ethical responsibility by the organized bar, now constituting itself as a "Committee to Preserve the Independence of the Judiciary" (Exhibit "D")<sup>3</sup>.

The result of this kind of rhetorical endorsement of the Commission by bar leaders and established organizations, not to mention by recognized ethicists (Exhibit "E"), is that the media gives short shrift to our proffer of proof that the Commission on Judicial Conduct is corrupt and the beneficiary of a fraudulent judgment of dismissal--without which it could not have survived our legal challenge<sup>4</sup>.

Despite unceasing efforts--only partially reflected by the within transmittal--we have been unable to find anyone to champion the

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<sup>3</sup> As may be seen from Exhibit "F" thereto, our letter dated February 20, 1996, we hand-delivered a copy of the file of our case against the Commission on Judicial Conduct to Mayor Giuliani--with a request that he refer the Commission for criminal investigation.

<sup>4</sup> The posture of the case is that the fraudulent July 13, 1995 decision/judgment of dismissal has not been served on us--and has not been filed.

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undefended public interest, plainly endangered by a corrupt Commission on Judicial Conduct. We, therefore, turn to you, the "lawyer of last resort".

This case meets all the criteria stated in the Introduction to your book, The Best Defense, where you write:

"I try to pick the most challenging, the most difficult, and the most precedent-setting cases. Because I am somewhat insulated from the pressures of the courts and the bar, I also feel a responsibility to take on cases from which other lawyers might shy away...I also take on cases that raise novel issues suitable for class discussion..." (xv)

Moreover, it provides you with a splendid and unique opportunity to take your negative observations about judges ("...lying, distortion, and other forms of intellectual dishonesty are endemic among judges...Beneath the robes of many judges, I have seen corruption, incompetence, bias, laziness, meanness of spirit, and plain ordinary stupidity" (xvii-iii)) and to forcefully respond to what you identify as the "largely unanswered question confronting the American legal system"--namely, "why judges are permitted to get away with [this]" (xx).

The answer to that "unanswered question" gets back to the two-fold question I publicly posed to you at the Hofstra conference --which had to do with what the legal community is doing to encourage lawyers to meet their ethical duty to take action against incompetent, abusive, and corrupt judges--and to protect them from the judicial retaliation they fear will result from "blowing the whistle". In real-life, practical terms, the answer is less than nothing.

Your championing of our historic public interest case against New York's Commission on Judicial Conduct will powerfully demonstrate what the solution must be: a genuine commitment by the legal and ethics community to ensuring the proper functioning and effectiveness of the mechanisms for redressing complaints of judicial misconduct--including complaints of judicial retaliation. We would hope that you will personally meet that commitment and, by your role-model example, galvanize other courageous and responsible lawyers to do likewise.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc.

Enclosures