

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

### BY HAND

June 1, 2001

Dean Paul R. Verkuil  
Chairman, ABA Advisory Council  
c/o Benjamin N. Cardozo School of Law  
Office of the Dean, Room 936  
55 Fifth Avenue  
New York, New York 10003

- RE: (1) Violative conduct by the ABA Standing Committee on Judicial Independence in connection with CJA's request for *amicus* and other support in the appeal of the public interest lawsuit, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York* (NY Co. #108551/99), to be argued in the Appellate Division, First Department in the September 2001 Term;
- (2) Endorsement of CJA's request to the Director of the Jacob Burns' Ethics Center for *amicus* and other support, including assistance "in building a coalition of support and involvement by members of New York's legal ethics community and, in particular by the professors of legal ethics and professional responsibility at New York law schools" for the issues relating to legal ethics and professional responsibility presented by the appeal of *Elena Sassower v. Commission*.

Dear Dean Verkuil:

The Center for Judicial Accountability, Inc. (CJA) is a non-partisan, non-profit citizens' organization, documenting the dysfunction, politicization, and corruption of the closed-door processes of judicial selection and discipline on federal, state, and local levels. A copy of our informational brochure is enclosed.

As you are Chairman of the American Bar Association's Advisory Council working with the ABA's Standing Committee on Judicial Independence, you are an indicated recipient of CJA's May 30, 2001 letter to the Standing Committee's Director, Luke Bierman. Such enclosed letter seeks reconsideration of the Standing Committee's denial, *without reasons or other elaboration*,

of our request for *amicus* and other assistance in the above-entitled already-perfected appeal of a public interest lawsuit against the New York State Commission on Judicial Conduct. The letter details that the Standing Committee's disposition is not only inconsistent with its mission, but flies in the face of the ABA's touted "leadership" role in "tak[ing] ethics seriously", as set forth in its publication, "*Promoting Professionalism*". As you may know, George Soros' Open Society Institute not only provides financial support to the Standing Committee on Judicial Independence, but paid \$20,000 for distribution of that ABA publication "in an effort to encourage bar associations and lawyers to take concrete steps to enhance professional values"<sup>1</sup>.

The two paragraphs of CJA's May 30th letter that relate to you appear on the fourth page as follows:

"In connection with this reconsideration request, and because the Standing Committee's disposition raises serious questions as to whether it is yet another ABA facade designed to mislead the public and such well-meaning benefactors as George Soros' Open Society Institute into believing that the ABA is an "honest broker" on the issues [of judicial independence and ethics and professional responsibility], a copy of the materials that were before the Standing Committee when it rendered its disposition will be furnished to Dean Paul R. Verkuil. As identified by the Committee's letterhead (Exhibit "A"), Dean Verkuil chairs the Advisory Council. His review will be particularly fitting as the Standing Committee has no New York members and Dean Verkuil heads Cardozo Law School, located in New York.

On the unlikely possibility that Dean Verkuil has any doubt that the Standing Committee's disposition herein is not remotely consistent with ethical rules of professional responsibility and with the ABA's rhetorical claims in "*Promoting Professionalism*" about its "leadership" role in "tak[ing] ethics seriously" (Exhibit "C", pp. 9-10), he can turn to Cardozo Law School's Jacob Burns Ethics Center, whose presumed purpose is to advance the study and understanding of ethical and professional responsibility – and which, along with New York's somnolent legal ethics community, has a special duty to uphold the rule of law in this transcendingly important public interest case which goes to the very heart of judicial independence, accountability, and ethical rules of professional responsibility. Inasmuch as I have already been in contact with the Ethics Center's Director, Ellen Yaroshefsky, a full copy of these appellate papers and correspondence will also be sent to her, with a request for assistance, including in building a coalition of support and involvement by members of New York's legal ethics community and, in particular by the

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<sup>1</sup> See June 1998 newsletter of the Open Society Institute (at p. 10), annexed as Exhibit "C" to CJA's May 30, 2001 letter to Luke Bierman

professors of legal ethics and professional responsibility at New York law schools.”

The transmitted materials that were before the Standing Committee when it denied the request for *amicus* and other assistance are those itemized by CJA's enclosed March 2nd and April 25<sup>th</sup> letters. The additional materials transmitted in further support of reargument are itemized by CJA's enclosed May 30th letter. For your convenience, the entire transmittal is inventoried on the accompanying page, with a duplicate set of documents enclosed for you, as well as a separate duplicate set for Professor Yaroshefsky.

CJA also requests that, in your capacity as Dean of Cardozo Law School, you endorse our separate request to Professor Yaroshefsky, as Director of the Law School's Jacob Burns Ethics Center, for *amicus* and other support, including assistance “in building a coalition of support and involvement by members of New York's legal ethics community and, in particular by the professors of legal ethics and professional responsibility at New York law schools” for the transcending issues of legal ethics and professional responsibility presented by the appeal.

Needless to say, should you – or Professor Yaroshefsky -- wish to see the substantiating lower court record in this most extraordinary case against the Commission, CJA would be pleased to provide a copy.

Thank you.

Yours for a quality judiciary,



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

Enclosures

cc: Luke Bierman, Director  
ABA Standing Committee on Judicial Independence  
ABA Justice Center  
Ellen C. Yaroshefsky, Director  
Cardozo Law School's Jacob Burns Ethics Center

**INVENTORY OF TRANSMITTAL**

*Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York*

**CJA's March 2, 2001 Letter to Luke Bierman:**

Appellant's Brief and Appendix, dated December 22, 2000

Appellant's January 10, 2001 letter to Attorney General Spitzer, with CJA's December 1, 2000 memorandum to the Attorney General and Commission attached

Appellant's January 11, 2001 letter, enclosing stipulation of that date, extending the Attorney General's time to file his Respondent's Brief

**CJA's April 25, 2001 Letter to Luke Bierman:**

Appellant's April 18, 2001 letter to Attorney General Spitzer

**CJA's May 30, 2001 Letter to Luke Bierman:**

Appellant's May 3, 2001 letter to Attorney General Spitzer

Appellant's May 3, 2001 letter to Deputy Solicitor General Belohlavek

Appellant's Critique of Respondent's Brief, dated May 3, 2001

Attorney General's Respondent's Brief, dated March 22, 2001

Stipulation, dated April 6, 2001, extending Appellant's time to file her Reply Brief

Appellant's petition in support of an application to the Appellate Division, First Department for a "record" to be made of oral argument of the appeal