

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY FAX: 718-624-5626 (10 pages)
AND BY MAIL

July 25, 2000

Barry Kamins, Chairman, Judiciary Committee
Association of the Bar of the City of New York
c/o Flamhaft, Levy, Kamins & Hirsch
16 Court Street
New York, New York 11241

RE: Responding to the July 12, 2000 Letter of Dennis Cariello,
Presidential Fellow of the Association of the Bar of the City
of New York

Dear Chairman Kamins:

This letter responds to Mr. Cariello's July 12, 2000 letter to you, "defend[ing] [his] actions as complained of" in my July 3, 2000 letter to you.

Mr. Cariello asserts that my July 3rd letter "fails to mention many details that show how reasonable [his] actions were" in not messengering to your home the time-sensitive materials that I left with him for you on Friday, June 30th when you did not pick them up by 5 p.m. Yet, the "details" he provides do not show the "reasonable[ness]" of his actions. Rather, they belie his assertion that he "bear[s] no responsibility" for what he describes as "[my] inability to adequately provide a means for getting materials to your home" over the July 4th holiday. This he refers to as "a situation of [my] own making".

The most significant "detail" presented by Mr. Cariello to absolve himself of responsibility and to attribute it to me is his statement that he told me, by way of "repeated protests", that he "neither had knowledge of your home address nor of a means for procuring it." The implication is that I was on notice that this might prevent him from messengering the materials to you and, that, therefore, the fault is mine for leaving them with him.

Mr. Cariello should be ashamed to write a letter which repetitively portrays obtaining your home address as some kind of insurmountable obstacle and complains that I had "rel[ied] on [him] to somehow find it". One doesn't have to be a Presidential Fellow to know that obtaining a home address is a simple matter, generally accomplished by flipping through the pages of the phone book or calling directory assistance. Mr. Cariello makes no claim that at the time I provided him with the materials he knew your address to be unlisted or that he subsequently learned such fact.

I certainly told Mr. Cariello that I was sure that he could obtain your home address from the City Bar's committee and membership records. Mr. Cariello does not identify any attempt to contact relevant City Bar personnel having access to such records, but only that staff had been permitted to leave at 3 p.m. on June 30th for the July 4th holiday.

Mr. Cariello claims that I "arrived at his office shortly after 3 PM, and discussed the issues [my] letter raised until approximately 4:15 PM", by which time

"the only person in the building who would have had your home address was Alan Rothstein. When I contacted him, he said it should wait, as he did not think it fit to disturb at your home you (sic) until after the holiday. Thus, without a means of getting your home address I was unable to send you the documents."

Mr. Cariello implies – *although without actually saying so* – that Mr. Rothstein refused to provide him with your address. Elsewhere in his letter, Mr. Cariello acknowledges that he had "told [me] that [he] would contact Mr. Rothstein for the address." By copy of this letter to Mr. Cariello, CJA requests that he identify whether, in fact, he did ask Mr. Rothstein for your home address and whether Mr. Rothstein refused to provide it.

It is my recollection that it was during one of Mr. Cariello's juvenile protests on June 30th that he didn't have your home address and didn't know how to obtain it that I suggested that he ask Mr. Rothstein for it. This, because he was going to be calling Mr. Rothstein anyway to obtain from him, at my request, the documentary materials identified in my July 3rd letter as essential for you to review so that the City Bar's Judiciary Committee could reconsider and retract its improvidently-

issued approval of Ms. Knipps for the Civil Court.

I not only discussed with Mr. Cariello that Mr. Rothstein had in his possession those documentary materials, but that Mr. Rothstein also had a larger collection of documentary materials substantiating CJA's June 20th letter to President Davis as to the City Bar's complicity in systemic judicial and governmental corruption. Indeed, when Mr. Cariello writes that I discussed with him "the issues raised by [my] letter", he should properly identify that the issues discussed related to two separate letters: CJA's June 20th letter to President Davis, which I had hand-delivered to the President's office ten days earlier, along with its two substantiating compendia of exhibits, and CJA's June 30th letter to Chief Judge Judith Kaye, to which President Davis and you were each indicated recipients – two copies of which I left with Mr. Cariello on June 30th.

In my June 30th conversation with Mr. Cariello, he stated that he did not know anything about CJA's June 20th letter to President Davis. This was of great concern to me inasmuch as Mr. Cariello is in the same office suite as the President. Indeed, a considerable portion of my discussion with Mr. Cariello related to my fear that President Davis, not realizing that the June 20th letter chronicled Mr. Rothstein's pivotal role in that complicity, might have inadvertently passed it on to Mr. Rothstein for disposition.

I asked Mr. Cariello to ascertain the status of CJA's June 20th letter to President Davis. For his convenience, as well as to alleviate his skepticism as to the letter's seriousness, I insisted that he take the June 20th letter I had brought with me and make a copy for himself on the office copier. This he did. I also asked him to ascertain whether Mr. Rothstein had as yet transmitted to President Davis the voluminous documentary materials on which that letter rested. I told Mr. Cariello that Mr. Rothstein had refused to identify whether he would, as CJA had requested, immediately transmit the materials or whether it would be necessary for President Davis to requisition them from him¹.

¹ Annexed hereto is a copy of CJA's June 22nd letter to Mr. Rothstein on the subject, to which Mr. Rothstein had NOT responded. The June 25, 1998 letter from Doris Sassower it enclosed is referred to at fn. 37 of CJA's (superseding) June 20th letter to President Davis.

Notably, Mr. Cariello's letter, which recites Mr. Rothstein's view that it was not "fit" to disturb you at home by messengering the materials I had left for you, omits any endorsement of that position. Plainly, being chairman of the City Bar's Judiciary Committee is not a ceremonial honor, but one entailing professional responsibilities, including those that may be inconvenient. Surely Mr. Cariello repeated to Mr. Rothstein what I had emphasized to him: that the consequence of not messengering the materials and of, instead, leaving them at the City Bar for the four days that the building was closed for the July 4th holiday would be that you would not obtain them until July 5th *at the earliest* and that this would leave you without sufficient time to review them prior to the July 6th public hearing on Ms. Knipps' proposed judicial appointment, let alone time to present them to the Committee. That Mr. Rothstein could believe that this did not warrant the materials being messengered to your home – and did not propose to Mr. Cariello any alternate arrangement, such as *immediately* phoning your law office and leaving a message inquiring as to whether you would be agreeable to having the materials messengered to your home or, after verifying that you were planning to be at work on Monday, July 3rd, simply messengering the materials to your law office – is yet a further example, beyond those reflected by CJA's June 20th letter to President Davis, of Mr. Rothstein's unfitness for the important office he holds as the City Bar's General Counsel.

It was my understanding from my June 30th conversation with Mr. Cariello that President Davis was either at the City Bar or was expected before the building closed. Based thereon, I *expressly* emphasized to Mr. Cariello – *more than once* -- that if he had any difficulty in messengering the materials to your home in the event you did not arrive to pick them up by 5:00 p.m. that he discuss the situation with President Davis – or that he leave a note for President Davis so that the problem could be resolved in a way that would enable you to timely obtain the materials. Assuredly, President Davis has a roster with the home phone numbers and addresses of the City Bar's officers and committee chairs for emergency purposes or knows persons who might have your home phone number and address. Conspicuously, Mr. Cariello's letter omits any "detail" as to whether he communicated to President Davis regarding his alleged inability to obtain your home address – and President Davis' response thereto. All he says is "I did, consistent with my conversation with Ms. Sassower, leave the materials for Evan Davis".

While I am pleased that Mr. Cariello concludes his letter by expressing his full agreement with my "intentions" and by asserting that "It is certainly the goal of this Bar Association, one to which I fully support, to root out corruption in the judiciary and elsewhere", it is just as well that his term as Presidential Fellow is nearing its end. Assuredly, the private law firm he will be joining will demand from him greater intelligence and professionalism than he demonstrated when he allowed time-sensitive materials, whose importance I amply highlighted in the course of what he estimates to have been an hour's conversation on June 30th, to sit for four days in a closed City Bar building. As I told Mr. Cariello on July 6th² – when I handed him a copy of my July 3rd letter and related to him the mockery of the July 6th public hearing on Susan Knipps' prospective judicial appointment, exacerbated by the City Bar's nonfeasance – a private attorney who had allowed those materials to sit for four days might properly find himself the subject of a malpractice claim.

Yours for a quality judiciary,



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

Enclosures

cc: Dennis Cariello, Esq.

[By Fax: 212-768-8116]

Alan Rothstein, Esq.

[By Fax: 212-398-6634]

² In the course of our conversation on that date Mr. Cariello made some rather shocking comments concerning CJA's June 20th letter to President Davis, including his view that that it was not evidentiarily supported. For this, Mr. Cariello specifically criticized CJA's use of its own published pieces to summarize the corruption of the processes of judicial selection and discipline. This, notwithstanding he conceded he did not have *any* of the exhibits annexed to the letter – including Exhibit "A", which was those published pieces – or *any* of the supporting documents in the two correspondence compendia which accompanied the letter – or *any* of the mountain of substantiating proof to which the letter repeatedly referred, most of it in Mr. Rothstein's possession and in the possession of former Judiciary Committee Chairman Daniel Kolb.

TRANSMISSION VERIFICATION REPORT

TIME : 07/25/2000 12:49

NAME : CJA

FAX : 9144284994

TEL : 9144211200

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