

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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Box 69, Gedney Station

White Plains, New York 10605

By Certified Mail/RRR: P-801-449-993

April 18, 1996

David Gruenberg, Counsel  
Senate Judiciary Committee  
Senator James J. Lack, Chairman  
Room 413, The Capitol  
Albany, New York 12247

RE: Opposition to Senate Confirmation of Judge Newton  
Member, New York State Commission on Judicial Conduct

Dear Mr. Gruenberg:

This confirms our telephone conversation yesterday in which I notified you of the Center's intention to oppose Senate confirmation of Juanita Bing Newton--should Governor Pataki reappoint her to the Court of Claims. As hereinafter set forth, the basis for our opposition is Judge Bing's self-serving betrayal of the public trust in her capacity as a judicial member of the New York State Commission on Judicial Conduct.

Although last week's New York Law Journal reported that Ms. Newton was being interviewed by Governor Pataki's temporary judicial screening commission (Exhibit "A"), we have been unable to reach the Governor's temporary judicial screening commission directly. This is because the Governor's office has refused to provide us with any information as to how to do so.

Indeed, it is now four months that we have been endeavoring, without success, to obtain the names of the members of the temporary judicial screening commission from the Governor's office. The Governor's office has not only refused to provide us with such basic information--as may be seen from the enclosed repeatedly faxed letter request (Exhibits "B-1", "B-2")--it varyingly pretends that it has no liaison to the temporary judicial screening commission who can provide us with procedural information as to how the Governor's temporary judicial screening commission operates.

Between the non-information and misinformation we have received from the Governor's office over the past many months, it would seem that the Governor wants to make it as difficult as possible for the public to contribute anything to his behind-closed-doors selection of judges. Such private conduct of government business is consistent with what was reported by Andrea Bernstein in her piece "Pataki's Secrets" that appeared on the Op-Ed page of the March 23, 1996 New York Times (Exhibit "C").

You told me you also had no information about the membership and rules and procedures of the Governor's temporary judicial screening commission. Nor could you explain why Governor Pataki, now in his second year in office, has not yet established a permanent judicial screening commission.

We believe it is absolutely essential that the public--as well as the Senate Judiciary Committee--have such information. Therefore, we are sending a copy of this letter to Michael Finnegan, the Governor's counsel, so that he can enlighten both you and us on the subject.

You did tell me that the Governor has made no judicial nominations since last June. We would greatly appreciate your written confirmation of that fact, as well as information as to:

- (1) how many judicial nominations were made by the Governor up until that time;
- (2) their names;
- (3) the dates on which they were nominated;
- (4) the dates on which the nominees were confirmed by the Senate Judiciary Committee and full Senate.

Although you assured me that you would contact us immediately should Governor Pataki reappoint Judge Newton to the Court of Claims, we would like to provide you with a bit more specificity--in the interim--as to the serious and substantial nature of our opposition to Judge Newton.

In her capacity as a judicial member of the New York State Commission on Judicial Conduct, Judge Newton has not protected the public from unfit judges--as has been her duty to do. Rather, she has used her position as Commissioner to protect high-ranking, politically-connected judges from the consequences of their official misconduct. She has done this by permitting fully documented complaints against them--including complaints of heinous criminal acts--to be summarily dismissed. Such summary dismissals, without any determination by the Commission that the complaints facially lack merit (because indeed they do not), violate the Commission's explicit statutory investigative duty under Judiciary Law §44.1.

Last year, we brought an Article 78 proceeding against the Commission on Judicial Conduct. Included among the relief was a request for referral to the Governor so that a special prosecutor might be appointed to investigate the Commission's complicity in high-level judicial corruption, demonstrated by its aforesaid contrary-to law dismissal of documented complaints of

criminal conduct by powerful judges.

Our Article 78 challenge was so devastating that the only way the Commission on Judicial Conduct could survive it was by engaging in litigation misconduct before a Supreme Court Justice who, by a fraudulent decision of dismissal, would dump the case. This is proven by the litigation file--a copy of which is in the possession of the Assembly Judiciary Committee, together with voluminous correspondence from us on the subject.

As reflected by that correspondence, Judge Newton, as a member of the Commission on Judicial Conduct, has been on notice of the Commission's litigation misconduct in the Article 78 proceeding and of the fraudulent dismissal--of which it is the beneficiary. Indeed, on August 14, 1995, the New York Law Journal, published our Letter to the Editor "Commission Abandons Investigative Mandate", which publicly proclaimed that the dismissal was an insupportable fraud (Exhibit "D")--a charge the Commissioners have not denied, let alone controverted.

Yet, Judge Newton--like the rest of the Commissioners--has refused to meet her ethical and professional duty to take corrective steps. Such an individual is unworthy of any judicial office.

We would expect that the Senate--under the leadership of Senate Majority Leader Joseph Bruno--will be particularly interested in clarifying the facts relative to the Commission on Judicial Conduct. As may be seen from the article "State Politicians to Scrutinize Judicial Conduct Panel", which appeared in the March 1, 1996 issue of The New York Post (Exhibit "E"), Majority Leader Bruno has expressed great concern at indications that the Commission on Judicial Conduct is "ineffective". As documented by the Article 78 file, the Commission is not merely "ineffective" or dysfunctional, it is corrupt.

Consequently, by copy of this letter directly to Judge Newton, we call upon her to demonstrate that the dismissal of our Article 78 proceeding against the Commission on Judicial Conduct is not a fraud--and to justify the constitutionality of the Commission's rule, 22 NYCRR §7000.3, as written and as applied--challenged in that proceeding.

To assist Judge Newton in meeting the specific legal and factual issues involved, we enclose the first three pages of our December 15, 1995 letter to the Assembly Judiciary Committee (Exhibit "F")--a copy of which was sent to the Administrator of the

April 18, 1996

Commission on Judicial Conduct, with a request that it be distributed to the Commissioners.

Yours for a quality judiciary,



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

Enclosures

cc: Michael Finnegan, Counsel to Governor Pataki  
By Certified Mail/RRR: P-801-449-994  
Senate Majority Leader Joseph Bruno  
By Certified Mail/RRR: P-801-449-995  
Judge Juanita Bing Newton  
By Certified Mail/RRR: P-801-449-996  
Assembly Judiciary Committee  
By Certified Mail/RRR: P-801-449-997  
Andrea Bernstein, New York Observer  
The New York Times  
The New York Law Journal  
Al Guart, The New York Post

P 801 449 994

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to <i>Michael Finnegan</i> <i>Gov. George Pataki</i>	
Street and No. <i>Executive Chamber</i>	
P.O., State and ZIP Code <i>Albany, NY 12224</i>	
Postage	\$ <i>1.47</i>
Certified Fee	<i>1.10</i>
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	<i>APR 11 1996</i>
Return Receipt showing to whom, Date, and Address of Delivery	<i>APR 11 1996</i>
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1.  Addressee's Address

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3. Article Addressed to:

*Michael Finnegan*  
*Gov. George Pataki*  
*Executive Chamber*  
*Albany, NY 12224*

5. Received By: (Print Name)

*X Paul Boye*

6. Signature (Addressee or Agent)

4a. Article Number  
*P 801 449 994*

4b. Service Type

Registered  Certified

Express Mail  Insured

Return Receipt for Merchandise  COD

7. Date of Delivery  
*4-22-96*

8. Addressee's Address (Only if requested and fee is paid)

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PS Form 3800, June 1985

P 801 449 993  
**RECEIPT FOR CERTIFIED MAIL**

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Sent to *David Frensen*  
*Senate Judiciary Committee*

Street and No. *Room 413 Capitol*

P.O. State and ZIP Code *Albany, NY 12247*

Postage \$ *1.47*

Certified Fee \$ *1.10*

Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing to whom and Date Delivered

Return Receipt showing to whom, Date, and Address of Delivery

TOTAL Postage and Fees \$ *2.57*

Postmark or Date *APR 22 1996*

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*Senate Judiciary Committee*  
*Room 413, The Capitol*  
*Albany, NY 12247*

4a. Article Number  
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Sent to *Assembly Judiciary Committee*

Street and No. *Pat Thomas, Encl*  
*LOB 831 Empire State Plaza*

P.O. State and ZIP Code *Albany, NY 12248*

Postage \$ *1.24*

Certified Fee \$ *1.10*

Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing to whom and Date Delivered

Return Receipt showing to whom, Date, and Address of Delivery

TOTAL Postage and Fees \$ *2.34*

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**SENDER:**

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3. Article Addressed to:  
*Assembly Judiciary Committee*  
*Pat Thomas, Encl*  
*LOB 831 Empire State Plaza*  
*Albany, NY 12248*

4a. Article Number  
*P 801-449-997*

4b. Service Type

Registered  Certified

Express Mail  Insured

Return Receipt for Merchandise  COD

7. Date of Delivery

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)  
*Thomas*

8. Addressee's Address (Only if requested and fee is paid)

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3. Article Addressed to:  
 Senate Majority Leader Bruno  
 NYS Senate  
 Albany, NY 12247

4a. Article Number  
 P 801 449 995

4b. Service Type  
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 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery

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8. Addressee's Address (Only if requested and fee is paid)

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Sent to	<i>Senate Majority Leader Joseph Bruno</i>	
Street and No.	<i>NYS Senate</i>	
P.O., State and ZIP Code	<i>Albany, NY 12247</i>	
Postage	\$	<i>1.47</i>
Certified Fee		<i>1.10</i>
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt showing to whom and Date Delivered		
Return Receipt showing to whom, Date, and Address of Delivery		
TOTAL Postage and Fees	\$	<i>2.57</i>
Postmark of Origin	<i>APR 19 1996</i>	

PS Form 3800, June 1985

Sent to	<i>Senate Majority Leader Joseph Bruno</i>	
Street and No.	<i>NYS Senate</i>	
P.O., State and ZIP Code	<i>Albany, NY 12247</i>	
Postage	\$	<i>1.47</i>
Certified Fee		<i>1.10</i>
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt showing to whom and Date Delivered		
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3. Article Addressed to:  
 Judge Sandra Biggs  
 New York, Com. Ass.  
 NYS Commission on Judicial Conduct  
 801 Second Avenue  
 NYC 10017

4a. Article Number  
 P 801 449 996

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)  
 X *M. M. M. M. M.*

PS Form 3811, December 1994

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