

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
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Elena Ruth Sassower, Coordinator

BY FAX: 212-262-5152 (4 pages)

BY MAIL

May 3, 1999

State of New York Commission on Judicial Nomination
666 Fifth Avenue
New York, New York 10103-0084

ATT: Stuart A. Summit, Counsel

RE: Compliance with Article 6 of the Public Officer's Law: The Freedom of Information Law (F.O.I.L.)

Dear Mr. Summit:

We have received from Robert Freeman, Executive Director of the Committee on Open Government, an April 26, 1999 letter -- to which you are an indicated recipient -- advising that you informed him that "the Commission is taking all necessary steps to comply with the Freedom of Information Law, including the promulgation of procedural rules and regulations".

Mr. Freeman's letter follows our prior communications with him, seeking confirmation that the Commission on Judicial Nomination is subject to F.O.I.L. These communications included our March 8th letter to Mr. Freedman, referred to in his April 26th letter to us, as well as our March 30th letter to him. Copies of each of these two letters are enclosed for your background information.

As part of our March 30th letter to Mr. Freeman, we provided him with a copy of our March 12, 1999 letter to you, invoking our rights under F.O.I.L. to the Commission's written reports of its "well qualified" recommendees to the Governor for appointment to the Court of Appeals. That letter (at p. 3) *expressly* brought to your attention that F.O.I.L. requires response to an information request thereunder within *five* business days of its receipt.

May 3, 1999

Despite such notice, we have received no response from you to our March 12, 1999 letter, faxed to you on that date. This was highlighted in our March 26, 1999 ethics complaint against the Commission¹, which we filed with the New York State Ethics Commission -- a copy of which we sent you, certified mail/return receipt -- in an envelope containing the "hard copy" of our March 12, 1999 letter. Consequently, and in keeping with your apparent representations to Mr. Freeman as to the Commission's compliance with F.O.I.L. requirements, please advise when we can expect the Commission's response to our March 12, 1999 F.O.I.L. request for its written reports of "well qualified" recommendees over its 20-year history.

Additionally, as soon as the Commission completes its promulgation of rules and regulations, in belated compliance with §87.1 of the Public Officers Law, and draws up the "reasonably detailed current list by subject matter, of all records in the possession of the agency, whether or not available under...article [6]", as required by §87.3c of the Public Officers Law", we request copies of both documents.

Thank you.

Yours for a quality judiciary,



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

cc: Committee on Open Government
ATT: Robert J. Freeman, Executive Director
New York State Ethics Commission

¹ See p. 24.

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BY FAX: 518-474-1927

March 8, 1999

Robert Freeman, Executive Director
Committee on Open Government
NYS Department of State
162 Washington Avenue
Albany, New York 12231

RE: NYS COMMISSION ON JUDICIAL NOMINATION
NYS Constitution, Article VI, §2c-f
Judiciary Law, Article 3A
22 NYCRR Section §7100.1 *et seq.*

Dear Mr. Freeman:

Following up our phone conversation on Friday, kindly confirm that the NYS Commission on Judicial Nomination is an agency covered by Public Officers Law, Article 6, "Freedom on Information Law".

Please also advise as to whether the Commission on Judicial Nomination has complied with the regulations implementing the Public Officers Law, including designation of a records access officer and up-to-date subject matter lists. In contrast to the NYS Commission on Judicial Conduct, whose rules regarding public access to records appear at 22 NYCRR §7001.1 *et seq.*, I have not found similar rules for the Commission on Judicial Nominaiton.

Thank you.

Yours for a quality judiciary,



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

P.S. If your response is in writing, please send it by fax, as well as by mail

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BY FAX: 518-474-1927 (10 pages)

March 30, 1999

Robert Freeman, Executive Director
Committee on Open Government
162 Washington Avenue
Albany, New York 12231

RE: NYS COMMISSION ON JUDICIAL NOMINATION

NYS Constitution, Article VI, §2c-f

Judiciary Law, Article 3A

22 NYCRR Section §7100.1 *et seq.*

Dear Mr. Freeman:

As discussed, enclosed is a copy of CJA's March 12, 1999 letter to the Commission on Judicial Nomination -- to which the Committee on Open Government is an indicated recipient. That letter invokes our rights under F.O.I.L. to the written reports of the Commission's findings as to the qualifications of its recommendees to the Governor.

Although Judiciary Law §63.3 *expressly* requires the Commission to release such "written report" to the public, Mr. Summit has refused to release any but its most recent written report. So that you can see this for yourself, also enclosed is the exchange of correspondence referred to in the March 12, 1999 letter: CJA's February 5, 1999 letter to the Commission -- and Mr. Summit's February 24, 1999 response.

I look forward to your advisory opinion as to the Commission's obligations to have promulgated "rules and regulations", pursuant to §87.1 of the Public Officers Law, to have "a reasonably detailed current list by subject matter, of all records in the possession of the agency, whether or not available under this article, pursuant to §87.3c of the Public Officers Law", and to produce, upon a F.O.I.L. request, the written reports it has rendered, pursuant to Judiciary Law §63.3, over its 20 year history.

Thank you.

Yours for a quality judiciary,



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

Enclosures

TRANSMISSION VERIFICATION REPORT

TIME : 05/03/1999 14:26

NAME : CJA

FAX : 9144284994

TEL : 9144211200

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