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Elena Ruth Sassower, Coordinator

BY FAX: 518-445-2303 (12 pages)

January 10, 2000

Patricia Salkin, Associate Dean and Director
Government Law Center
Albany Law School

RE: Primary Source Materials Relating to Attorney General Spitzer's
Betrayal of the Public Trust and Use of his "Public Integrity Unit" as
a "Front" to Cover Up Systemic Governmental Corruption

Dear Professor Salkin:

I am deeply gratified by your open-minded willingness to review primary source materials bearing upon the accuracy of your endorsement of Mr. Spitzer's commitment to government ethics and the functioning of his "public integrity unit" for the Attorney General's January 6, 2000 press release "*Legal Experts Praise Spitzer's First Year*".

For immediate purposes, enclosed is the transcript of my January 27, 1999 public exchange with Attorney General Spitzer at the Association of the Bar of the City of New York (at pp. 13-14), just moments after he announced the creation of his "public integrity unit" (at pp. 7-8). Also enclosed is a copy of CJA's \$3,000 ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97) – referred to in my remarks to Mr. Spitzer – since you stated you were unaware of it.

Reflecting the seriousness of Mr. Spitzer's betrayal of the public trust is my proposed Letter to the Editor of the New York Post, responding to the Post's editorial, "*Eliot Spitzer's Rocky Start*" (12/30/99) – both of which are enclosed, together with my predecessor Letter to the Editor, published by the Post on December 28, 1998, "*An Appeal to Fairness: Revisit the Court of Appeals*" – referred to in the postscript note to my proposed Letter.

As soon as I can ready the transmittal, I will forward you the case file of the pending Article 78 proceeding against the Commission on Judicial Conduct – which includes CJA's repeated ethics complaints against the State Attorney

Professor Salkin

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General, including the three filed in 1999 against Mr. Spitzer personally. These the Ethics Commission has ignored, *without* even acknowledgment – as, likewise, Mr. Spitzer’s “public integrity unit”.

Thank you again.

Yours for a quality judiciary,

A handwritten signature in black ink, appearing to read "Elena Ruth Sassower". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

Enclosures

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Breakfast with Eliot Spitzer

Hosted by the New York Law Journal and the Association of the Bar of the City of New York

January 27, 1999

MR. COOPER: Good morning. My name is Mike Cooper. I'm the president of the Association of the Bar, and it's my great pleasure to welcome you to meet and hear the Attorney General, the chief legal officer of the State of New York, Eliot Spitzer.

Eliot was here a little over four months ago with three other candidates in the Democratic primary, and took that occasion to tell you something about his vision for the office of Attorney General and the changes that he would make in its operation. And I guess that message got through, because he bested three other candidates in the primary and then defeated the incumbent.

We are very pleased this morning at the Association to co-host this event with the New York Law Journal, who were our co-hosts back at the candidates debates in early September. And without further ado, I would like to present the president and chief executive officer of the American Lawyer Media, Bill Pollak.

MR. POLLAK: Thank you, Michael. And thank you all for coming to the second of what we hope will be a continuing series of programs in which the Law Journal and the City Bar join to shed light on issues in this state and city's legal and judicial arenas.

The Attorney General is the state's chief legal officer. It's a position that the bar has a unique interest in and concern about. Administrator of a vast legal bureaucracy of about 500 attorneys and more than 1,800 employees, the Attorney General is the lawyer chiefly

Now, what is -- as I said, this office is and public advocacy, generally, can be an answer to the disillusionment in the public. The law can help restore the integrity of institutions, the law can elevate individuals, point the way towards progress in society, and the law and a certain type of lawyering can do much more than that. What, of course, I'm talking about is public interest law. I'm talking about aggressive advocacy. Not Republican advocacy. Not Democratic advocacy. But, a team of made up of lawyers for the public. And that is at what we will do.

For years we have heard the right words spoken from all sides of the political spectrum. Everyone wants to clean up the environment, stop predatory conduct on the part of companies and antitrust violations, change the political order, impose campaign finance, but little of it has happened.

What I have made clear to the lawyers in the Attorney General's office is that our job is to turn the desire to accomplish those objectives into reality. And the way we will do this is through specific plans that we have begun to articulate.

* First and foremost as of today I am creating a public integrity unit. We live in one of the largest and most progressive states in the union. We also live in a state that falls short when it comes to insuring the integrity of our public institutions.

Today I'm announcing the creation of a public integrity unit within the AG's office that will investigate and root out corruption throughout the state.

I want to send the signal to you as my fellow members of the bar that if you know of corruption in contracting, in procurement, in false billings of state agencies, we want to hear about it.

I want to further send the signal that if local prosecutors are unable or lack the resources to prosecute these cases, we will do so and we'll do it aggressively.

And I want to say something about the dedicated public servants, in and out of uniform, who are a aware of impropriety in their midst. You have a place to go. We will listen to your complaints. We will take them seriously, and we will pursue them, every single one.

I have asked the very best lawyers in the office to create this unit and the mandate is to shine light into the dark corners of the state and to make sure that those who thrive on secrecy and obfuscation, no longer do so.

A goal of the public interest law firm operating in the people's good also means that we have to address a litany of other issues that are often given lip service, that are also ignored. This means not just handling individual cases that resolve problems between litigants, but taking on those systemic cases that can have an impact throughout an industry or throughout a piece of society.

Let me just run through a few the industries where I think we can do that. The telecom industry. Clearly this is an industry in flux, an industry in turmoil, an industry where, by design, the federal government has passed a statute which is designed to bring the forces of competition to bear, to shake things up, so that we can generate competition, not only in our local phone services, but in cable, in Internet service, so that we can see the convergence technologies and resources and capital that will benefit consumers and continue to generate the excitement in our economy that we need.

But, it hasn't happened. For better or for worse, it simply hasn't happened. And I have said to the lawyers in the telecom unit, who are absolutely stupendously skilled, what can we do structurally that will induce competition, what can we do to reduce the barriers to competition, even in the context of the Supreme Court opinion on Monday, that certainly reinforced the FCC's power to handle these issues.

We as advocates, forceful advocates before the PFC, will be in a very critical position to ensure that the local phone companies reduce the barriers to entry and do everything that is possible to create local competition in the local phone markets.


We're going to pursue that. This will have a tremendous impact upon consumers across the state. Will we also handle the smaller cases, telemarketing scams, telemarketing frauds that prey upon seniors? Of course we will. But, we will try to look at the systemic case to change an industry that needs to be changed.

Health care, one other industry that is, of course, in absolute turmoil. Where is it going? We simply don't know for sure. But one thing we do know is that this is an industry that needs to be reformed.

So, yes we will examine those cases and we have already moved to expand the range of cases that will be handled by the Civil Rights Bureau. Without looking backward, I think there is nothing to be gained any more by retrospective analysis of what happened in the past four years. I can merely say there will be a much more aggressive civil rights agenda over the next four years.

We have already begun a significant number of cases, which I am not at liberty to talk about. We have already begun looking at some very tough issues and we will move quickly on them.

MS. HOCHBERGER: Thank you. Go ahead.

 MS. SASSOWER: My name is Elena Sassower, I'm the coordinator of the Center for Judicial Accountability. I want to congratulate you and thank you for making as your first priority here the announcement of a public integrity unit. Indeed, that was the first question that I submitted by E-mail and by fax, what had become of that pre-election proposal. So, I am really delighted and overjoyed.

Let me just though skip to my third question that I had proposed today, and that is, that I would hope that a public integrity section would also examine the practices of the Attorney General's office in defending state judges and state agencies sued in litigation.

As you know, we ran a \$3,000 public interest ad about the fraudulent defense tactics of the Attorney General's office.

MS. HOCHBERGER: Is there a question?

MS. SASSOWER: Yeah.

MS. HOCHBERGER: Could we get to the question.

MS. SASSOWER: What steps are you going to take in view of those allegations that the Attorney General's office uses fraud to defend states judges and the State Commission on Judicial Conduct sued in litigation.

MR. SPITZER: Anything that is submitted to us we will look at it.

MS. SASSOWER: I have it. I have it right here.

MR. SPITZER: Okay. Why did I suspect that? Thank you.

MS. HOCHBERGER: This one also came in over E-mail.

What are your views on the unauthorized practice of law generally, and specifically with respect to the unauthorized practice of immigration law in New York? How will your office deal with it?

MR. SPITZER: It is an area where the Attorney General's office has enforcement authority, as I was reminded this morning by my very good friend Ed Meyer. We have co-authority to enforce those rules with the Board of Regents, and we will do so aggressively.

I think it does raise interesting issues in areas of the law where there is, frankly, not sufficient representation. And immigration law in particular is one such area. So I know there have been some grave proposals over the years to permit some non-licensed lawyers to give advice up to a certain threshold in those areas, but it's obviously an area where we will be aggressive in our enforcement where it's appropriate.

MS. HOCHBERGER: Yes.

A SPEAKER: Good morning. It sounds like we're ready for an E-ride for those of you that remember Disney.

What role do you see or foresee for the judicial system, meaning the courts, the bar, your office and other offices with respect to the YK issues that may or may not manifest themselves.

MR. SPITZER: Well, the first thing I have done is to try to see where the Attorney General's office is in terms of being prepared for this problem. And I don't yet have a clear answer in terms of where we are in terms of getting our computer systems ready for the -- for that moment. And obviously people are more worried about hospitals and getting paychecks and the banking system crashing. But, I think we will be prepared.

What role generally there is for lawyers, I really haven't thought about that in particular.

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December 31, 1999

New York Post

Letters to the Editor

1211 Avenue of the Americas

New York, New York 10036

RE: "Eliot Spitzer's Rocky Start", Editorial, December 30, 1999

Dear Editor:

You are far too generous in your editorial, "*Eliot Spitzer's Rocky Start*" (Dec 30). The "real record" of Mr. Spitzer's first year as Attorney General disqualifies him from *any* future office of public trust. Indeed, it requires that he be promptly removed from his present office for official misconduct.

These are the facts: Mr. Spitzer became Attorney General proclaiming he would restore public confidence by rooting out government corruption. Taking him at his word, our non-partisan citizens' organization presented him with proof of systemic corruption involving top public officials and essential oversight agencies. This included copies of judicial misconduct complaints against high-ranking, politically-connected judges, each dismissed without investigation by the State Commission on Judicial Conduct -- in violation of its statutory investigative duty. These were provided, *in hand*, to Mr. Spitzer, who *publicly* promised to "look at" them. That was last January, moments after he announced the creation of his "public integrity unit".

The importance to the public of a meaningful mechanism to discipline miscreant and corrupt judges is obvious. Yet, Mr. Spitzer not only completely failed to respond to our many follow-up phone calls and letters as to the status of his review, but did so knowing it would leave us no choice but to bring a citizen lawsuit against the Commission to hold it accountable. He then completely failed to respond to our many requests that he vindicate the public's rights by helping to prosecute the case.

Instead, Mr. Spitzer came to the Commission's defense, engaging in a level of litigation misconduct which, if committed by a private attorney, would be ground for disbarment. His "public integrity unit" was nowhere to be seen.

The lawsuit, in which Mr. Spitzer is defense counsel, is pending in New York Supreme Court (#99-108551). It includes a fully-documented motion for the Court to sanction Mr. Spitzer *personally* and to refer him to disciplinary and criminal authorities. This is the "real record" which should rightfully end not only Mr. Spitzer's political career, but his legal one as well.



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

NOTE: The foregoing recitation of official misconduct by Mr. Spitzer is fully documented by the litigation file of the referred-to pending lawsuit against the State Commission on Judicial Conduct (NY Co. #99-108551)-- a copy of which I would be pleased to provide, upon request. Likewise fully documented is my referred-to *in-hand* presentation of evidence to Mr. Spitzer, as well as his *public* response to me -- which took place at a January 27, 1999 event at the City Bar, co-sponsored by the New York Law Journal.

Among the materials presented to Mr. Spitzer on that date was a copy of my previous Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*", published by the Post on December 28, 1998. The final paragraph of that Letter read: "That is why we will be calling upon our new state attorney general as the 'People's lawyer' to launch an official investigation." Needless to say, the new state attorney general to whom I was then referring was Mr. Spitzer.

Finally, since the Post has long been critical of the State Commission on Judicial Conduct, including for its protectionism of downstate, politically-powerful judges (i.e. "*Who Judges the Judges*" (3/7/95), "*The Duckman Travesty*" (4/24/96), I ask that you refer this proposed Letter to one of the Post's investigative reporters for follow-up about the pending lawsuit against the Commission -- now before its SEVENTH judge: five judges having disqualified themselves and one judge having been pulled from the case by the Administrative Judge.

NEW YORK POST

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Eliot Spitzer's Rocky Start

Eliot Spitzer spent years constructing the facade from behind which he successfully ran for attorney general of New York — that of the law-and-order-oriented centrist, the Bill Clinton-style New Democrat.

Then he took office, and the truth came out. Boy, did it ever.

Gone was the lawyer who fought, pro bono, to rid the Upper West Side of the notorious Wild Man of 96th Street. Gone was the vocal advocate of the death penalty — the fellow who viewed safe streets as the *sine qua non* of urban civilization.

Back, for all intents and purposes, was Bobby Abrams — the cuddly “consumer’s” AG. Got a big corporation that needs suing? Need to find a job for an activist attorney with a soft spot in his heart for Ralph Nader? Are there some cops that need bashing?

Who ya gonna call?

Eliot Spitzer.

Spitzer quickly swept out the folks left behind by the Republican incumbent he had defeated, Dennis Vacco. Fair enough: To the victors go the paychecks.

But soon Spitzer’s staff was acquiring a distinctly *un*middle-of-the-road character. This was reflected in the policies he crafted.

There was the high-profile attempt to make political capital on the Amadou Diallo case. Specifically, Spitzer went trolling for “civil-rights” violations committed by the NYPD — coming up far short of his announced expectations, by the way.

And Spitzer turns out to be greener than the Jolly Giant (as is Gov. Pataki these days; maybe they use the same pollsters). This has implications for New York’s perky, but precariously situated, economy.

Case in point: Spitzer’s lawsuit against General Electric, one of the state’s major employers. It was brought on the flimsiest of grounds — and then Spitzer piled on, exhorting local governments up and down the Hudson River to file suits of their own, though to what good purpose was never made clear.

It’s said that Eliot Spitzer’s ultimate goal is to become governor himself. This is an honorable ambition, even if he does deny it. But if it should come to that, the attorney general will be running on a real record. He’s got at least three more years, maybe much longer, to establish himself as a true centrist.

The sooner he gets to it, the better for New York state.