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BY FAX: 5 pages
BY E-MAIL

DATE: October 30, 2006

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FROM: Elena Ruth Sassower, Director
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RE: **THE HEVESI SCANDAL – AND THE PLATFORM FOR DECEIT UPON THE PUBLIC IT IS PROVIDING TO ATTORNEY GENERAL SPITZER & GOVERNOR PATAKI, AMONG OTHERS**

Memo enclosed.



P.S. The e-mail to follow will include a superseding copy of CJA's October 27th memo to you, correcting errors. This superseding memo is already posted on CJA's website, www.judgewatch.org, accessible via "Elections 2006: Informing the Voters". Apologies for any inconvenience.

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DATE: October 30, 2006

TO: **NEW YORK MEDIA: NEWS DEPARTMENTS & EDITORIAL BOARDS**

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: **THE HEVESI SCANDAL – AND THE PLATFORM FOR DECEIT UPON THE PUBLIC IT IS PROVIDING TO ATTORNEY GENERAL SPITZER & GOVERNOR PATAKI, AMONG OTHERS**

This is to bring to your attention that statements by and about Attorney General Spitzer, Governor Pataki, and others pertaining to the Hevesi scandal – which you are uncritically reporting¹ – are exposed as hypocritical deceptions by the four ethics complaints pending before the New York State Ethics Commission, summarized by CJA's October 27, 2006 memorandum to you.

As illustrative, the report in "*Two Parties Scramble as Spitzer Abandons Hevesi*" (New York Sun, October 27, 2006) that:

"A source close to Mr. Spitzer said the attorney general decided to take back his endorsement of Mr. Hevesi after watching the comptroller debate Mr. Callaghan on NY1 on Wednesday evening. Mr. Spitzer 'perceived Alan during the debate to be questioning the integrity of the [Ethics] commission,' the source said. 'We are aware of him subsequently attacking the commission more so today. That's where Alan crossed the line in Eliot's mind.'

The source said Mr. Spitzer has particular professional respect for the chairman of the commission, Paul Shechtman, with whom Mr. Spitzer worked together at the office of the Manhattan district attorney..."

Also, Governor Pataki's press conference remarks – broadcasted and recounted in such articles as "*Pataki Asks Former Federal Prosecutor to Probe Hevesi*" (Associated Press, October 27, 2006):

"We have to have confidence in not just our electoral process, but also in our elected

¹ This includes The New York Times' October 28, 2006 article, "*Faso Plays Up the Woes of a Spitzer Ally*", purporting to critically examine Mr. Faso's campaign commercial, "Corrupt", whose script begins with the words: "Eliot Spitzer has one set of standards for his friends and another for everyone else" and ends "Eliot Spitzer. Stupendously protecting his cronies at our expense." Both the commercial and the Times confine themselves to the Hevesi scandal – with The Times uncritically reporting by paraphrase, rather than quote, that a spokeswoman for Mr. Spitzer had said it was "the proper process" for the Attorney General to have waited to investigate Mr. Hevesi until after the Ethics Commission's report.

officials and I will do everything in my powers to make sure that continues to be the case for the people of New York.”

As highlighted by our October 27, 2006 memorandum, the four pending ethics complaints are against Attorney General Spitzer, the Ethics Commission, Mr. Shechtman, Governor Pataki, the Commission on Judicial Nomination, and the Commission on Judicial Conduct. They establish – resoundingly – that but for the Ethics Commission’s corruption – in which Mr. Shechtman is front and center as chairman – its October 23, 2006 report finding reasonable cause that Mr. Hevesi violated ethics laws would not have been the first time in its 19-year history that the Commission so-found against a statewide official. Rather, the Commission would have so-found, years ago, against both Attorney General Spitzer and Governor Pataki.

To further motivate you to examine these dispositive complaints for yourself², I will summarize the content of the first, on which the subsequent three rest. Sworn to on March 26, 1999 and sent to the Ethics Commission as well as to Governor Pataki and Attorney General Spitzer on that date³, this 29-page complaint particularized how the Governor had disabled the Ethics Commission, which has disciplinary jurisdiction over him (at pp. 2, 4, 9-11, 14-15). Among the ways the Governor had done this was by appointing Mr. Shechtman, his former Director of Criminal Justice, to be a member of the Ethics Commission and, thereafter, its chairman. Such served to prevent the Ethics Commission from pursuing complaints against the Governor – especially those in which Mr. Shechtman was involved. The March 26, 1999 complaint then detailed Governor Pataki’s corruption of the judicial appointments process to the lower state courts (at pp. 14-20), as to which Mr. Shechtman was shown to be complicitous as chairman of the Governor’s State Judicial Screening Committee and as a member of the Governor’s long-lived, but by-then defunct, Temporary Judicial Screening Committee. Likewise, the complaint showed Mr. Shechtman’s complicity in the Governor’s cover-up of the corruption of the Commission on Judicial Conduct (at p. 15).

The Ethics Commission also has disciplinary jurisdiction over the Attorney General. The March 26, 1999 complaint (at p. 1), supplemented by our September 15, 1999 complaint (at pp. 8-10) showed how the Commission’s oversight over the Attorney General had been sabotaged by its then current and immediate past executive directors. They had each worked at the highest echelons of the Attorney General’s office and had switched positions with each other in a scenario that went like this: Following Mr. Spitzer’s election as Attorney General in 1998, he appointed the Ethics Commission’s executive director, Richard Rifkin, to be his Deputy Attorney General in charge of defending lawsuits against the state and its agencies. Under Attorney General Vacco, that position

² The complaints are accessible *via* the “Elections 2006: Informing the Voters” webpage of CJA’s website, www.judgewatch.org. Scroll down to the section on “The Candidates” to the hyperlink for “Paper Trail of A.G. Spitzer’s Corruption in Office”. That “Paper Trail” page will provide further hyperlinks – including to a webpage for the Ethics Commission, containing our full correspondence with it, as well as to webpages for the U.S. Attorney for the Eastern District of New York, the U.S. Attorney for the Southern District of New York, the Justice Department, and Manhattan District Attorney Morgenthau, with whom we filed criminal complaints based thereon.

³ CJA’s transmittal of the March 26, 1999 ethics complaint to Attorney General Spitzer was followed up by a April 2, 1999 letter to his Assistant Chief of Staff, identifying that it had been sent with “more than eleven pounds” of substantiating documentary proof.

had been held by Donald J. Berens, Jr. – and Mr. Berens, having been replaced by Mr. Rifkin as Deputy Attorney General for the Division of State Counsel, then replaced Mr. Rifkin as the Ethics Commission's executive director. Further adding to this incest, Mr. Rifkin and Mr. Berens had previously worked together at the top levels of the Attorney General's office under Mr. Abrams and Mr. Koppell.

The March 26, 1999 complaint, which was also against Mr. Rifkin (at pp. 1, 12-14), detailed that during his tenure as the Ethics Commission's executive director, Mr. Rifkin had dismissed, without presentment to the Ethics Commissioners, a September 14, 1995 ethics complaint that CJA had filed against Attorney General Vacco for his litigation fraud in defending the Commission on Judicial Conduct and for violation of conflict of interest rules. Simultaneously, and also without presentment to the Ethics Commissioners, Mr. Rifkin dismissed CJA's March 22, 1995 ethics complaint against the Commission on Judicial Conduct for its protectionism of powerful, politically-connected judges. The Ethics Commissioners then ignored CJA's protesting letters to them. Likewise, they ignored CJA's subsequent December 16, 1997 ethics complaint against Attorney General Vacco, based on CJA's \$3,077 public interest ad "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, August 27, 1997), and encompassing the litigation fraud committed by the Attorney General's office under Mr. Abrams and Mr. Koppell in defending state judges – for which they had all been rewarded by fraudulent judicial decisions, as *readily-verifiable* from the casefiles

As the March 26, 1999 complaint reflects (at pp. 2, 14, 27-29), when Attorney-General Elect Spitzer appointed Mr. Rifkin to be his Deputy Attorney General for the Division of State Counsel, we immediately notified him of Mr. Rifkin's corrupt conduct at the Ethics Commission – providing copies of CJA's substantiating past ethics complaints and correspondence to the Ethics Commission so that he could rescind the appointment and take other appropriate action, consistent with his campaign pledge to set up a "public integrity unit". There was no response from Mr. Spitzer to this documentary evidence – or to the further documentary evidence we provided him. This includes the evidence described by the March 26, 1999 complaint as establishing the corruption of "merit selection" to the New York Court of Appeals involving Governor Pataki, the Commission on Judicial Nomination, the Commission on Judicial Conduct, and the Senate Judiciary Committee (at pp. 20-22, 22-24, 25-27). I gave a substantial portion of this documentary evidence to Attorney General Spitzer directly on January 27, 1999, accompanied by a coverletter of that date. Such was in the context of my public exchange with him at the Association of the Bar of the City of New York, immediately following his public announcement that, as of that day, he was "creating a public integrity unit". Commending him for making good on his "pre-election proposal" of a "public integrity unit", I asked what he was going to do about the allegations of "*Restraining 'Liars'*" that "the Attorney General's office uses fraud to defend state judges and the Commission [on Judicial Conduct] sued in litigation". His answer, "Anything that is submitted to us we will look at it", then triggered my going up to him and handing him the document-supported January 27, 1999 letter.⁴ Yet neither Attorney General Spitzer nor his "public integrity unit" thereafter responded. CJA's March 26, 1999 ethics complaint (at pp. 27-29) recites this – further asserting (at p. 6) that Mr. Spitzer had not, in fact, set up the unit, because of his "recognition that it could not credibly 'clean up' corruption elsewhere in state government without first 'cleaning up' the corruption in the Attorney General's office that is the subject of CJA's September 14, 1995 and December 16, 1997

⁴ A copy of the FULL transcript of Mr. Spitzer's January 27, 1999 announcement of his "public integrity unit" and my exchange with him is annexed to CJA's March 26, 1999 complaint as Exhibit B.

ethics complaints – covered up by Mr. Rifkin.” Indeed, the final sentence of CJA’s March 26, 1999 ethics complaint, immediately before its “Conclusion” (at p. 29), stated that Attorney General Spitzer’s failure to set up his “public integrity unit” – when the need to do so was so overwhelmingly reinforced by what we had provided him – “shows that Mr. Spitzer’s priority is not the public good, but what is good for his powerful friends and political allies, complicitous in the systemic governmental corruption presented...”

Because of the Ethics Commissioner’s obvious conflicts of interest with respect to the March 26, 1999 complaint against themselves, their chairman, Mr. Shechtman, their former executive director, Mr. Rifkin, Governor Pataki, and Attorney General Spitzer, with whom, as the complaint noted, Mr. Shechtman had worked in Manhattan District Attorney Morgenthau’s office (fn. 4), the complaint expressly requested (at pp. 4-7, 29) that the Commission refer it to Mr. Spitzer’s “public integrity unit”, with a request that if Mr. Spitzer’s own conflicts of interest and relationships would prevent that unit’s independent investigation, he seek appointment of a special prosecutor and, if unsuccessful, make a referral to the U.S. Justice Department’s Public Integrity Section of its Criminal Division.

Instead, under Mr. Shechtman’s chairmanship, the Commission ignored the March 26, 1999 ethics complaint – and our subsequent September 15, 1999, October 27, 1999, and March 27, 2001 complaints, protesting the Commission’s inaction and identifying it as a direct violation of law governing the Commission. These subsequent complaints provided additional evidence to substantiate and further expand the March 26, 1999 complaint, especially with respect to Mr. Spitzer. The passage of time had reinforced the hoax of his “public integrity unit”, which had neither acknowledged receipt of our complaints nor notified us concerning the documentary evidence we had provided – including as to the fraudulent defense tactics of Mr. Spitzer’s attorney general predecessors, chronicled by “*Restraining Liars*”. Meanwhile, Attorney General Spitzer was engaged in the identical fraudulent tactics in defending the Commission on Judicial Conduct in two lawsuits against it. The first of these, a public interest lawsuit brought by CJA, arose from the same evidence of the corruption of “merit selection” to the New York Court of Appeals involving the Governor, the Commission on Judicial Nomination, and the Senate Judiciary Committee as I had given to Mr. Spitzer on January 27, 1999, without subsequent response from him or his “public integrity unit”. Each of these two lawsuits was thrown by fraudulent judicial decisions, as *readily-verifiable* from the files of those cases and as brought to Mr. Spitzer’s attention by a mountain of correspondence from CJA, enclosing analyses of the decisions to make his verification all the simpler.

Election Day is just a week away – and the Ethics Commission’s October 23, 2006 report will be much in the news as the Hevesi scandal unfolds. That is still time for you to give the public some contextual background to the Ethics Commission and to the posturings of Attorney General Spitzer, Governor Pataki, and so many of our other public officers running for re-election or aspiring to further public office, who are complicitous in the systemic governmental corruption chronicled by our four pending ethics complaints. These complaints – or at least the March 26, 1999 complaint – should be your starting point, followed by our criminal complaints based thereon, which we filed with the U.S. Attorney for the Eastern District of New York, with the U.S. Attorney for the Southern District of New York, and with Manhattan District Attorney Morgenthau – the former boss of Mr. Spitzer and Mr. Shechtman.

