

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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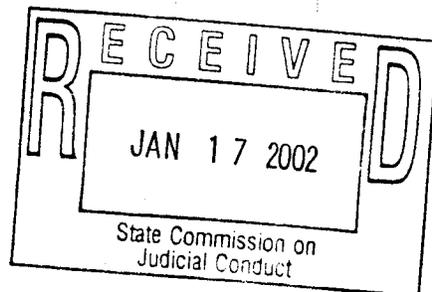
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*Elena Ruth Sassower, Coordinator*

BY HAND

January 14, 2002

New York State Attorney General Eliot Spitzer  
120 Broadway  
New York, New York 10271-0332



RE: Your continuing duty under Executive Law §63.1 to safeguard the "the interest of the state" in *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York* (S.Ct. NY Co. #108551/99)

Dear Mr. Spitzer:

Pursuant to Executive Law §63.1, this is to request that you meet your continuing duty to "protect the interest of the state" in my above-entitled public interest Article 78 proceeding by *immediately* disavowing your unlawful and lawless representation of the Commission on Judicial Conduct. Your misconduct on the Commission's behalf – which would be grounds for disbarment if committed by a private attorney -- was the subject of our *face-to-face* public exchange and private conversation on April 18, 2001 at the Fair Trial Free Press Conference at Columbia School of Journalism, at which time I gave you, *in hand*, a letter summarizing this misconduct<sup>1</sup>, along with substantiating evidentiary proof<sup>2</sup>. Thereafter, I particularized this misconduct in a mountain of correspondence to you, culminating in my *fully-documented* August 17, 2001 motion, *inter alia*, to strike your Respondent's Brief as "a fraud on the court" – as to which you likewise received a mountain of correspondence from me.

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MANAGING ATTY'S OFC.  
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<sup>1</sup> My April 18, 2001 letter to you is Exhibit "T-2" to my August 17, 2001 motion, *infra*.

<sup>2</sup> This is recounted in my May 3, 2001 letter to you, which is Exhibit "T-3" to my August 17, 2001 motion, *infra*.

The Appellate Division, First Department has now covered-up your litigation misconduct by a fraudulent December 18, 2001 decision & order, whose seventh and final sentence falsifies the relief sought by my August 17<sup>th</sup> motion and then, *without reasons or findings*, purports to deny it. This is detailed by my enclosed January 7, 2002 memorandum-notice to you and the Commission, calling upon both of you to meet:

“[y]our ethical and professional duty to take steps to vacate for fraud the Appellate Division, First Department’s December 18, 2001 decision...and to secure the criminal prosecution of the five-judge appellate panel, in addition to initiation of disciplinary proceedings to remove them from the bench” (at p. 1, RE: clause)

Within the coming days, I will be making a motion to reargue the December 18, 2001 decision & order. Based thereon, I will request the Appellate Division to vacate the decision for fraud, as well as for lack of jurisdiction by reason of its disqualification for interest pursuant to Judiciary Law §14. Joined therewith will be a request for leave to appeal to the Court of Appeals.

Unless you deny or dispute the accuracy of my January 7, 2002 memorandum-notice, I, hereby, expressly request that you join in support of that upcoming motion. Additionally, I request your assistance in obtaining review by the Court of Appeals, if not by right, then by leave – and, that, in connection therewith, you assist in ensuring that the Court of Appeals constitutes itself as a fair and impartial tribunal by the disqualification of five of its seven judges<sup>3</sup> and their replacement, pursuant to Article VI, §2a of the New York State Constitution.

Your duty as a public officer is to transcend your substantial conflicts of interest – which, over the past three years, have grown all the greater as you have knowingly and deliberately corrupted the judicial process by fraudulent defense tactics to protect those with whom you have personal and professional relationships. Among those you have protected – at the public’s expense -- is the Commission’s Chairman Henry T. Berger, “a prominent Election Law lawyer who helped establish [your]

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<sup>3</sup> The judges whose disqualification for interest and bias will be the subject of a motion are Chief Judge Kaye, Judge Albert Rosenblatt, Judge Victoria Graffeo, Judge Carmen Ciparick, and Judge Howard Levine.

narrow [1988] election victory – so close that it could not be determined without an unprecedented post-election ballot counting”<sup>4</sup>.

By copy of this letter to the Commission, I again request that it undertake its own defense, as it is well capable of doing. As I have previously pointed out<sup>5</sup>, there has been no claim that the Commission “requires the services of attorney or counsel”, pursuant to Executive Law §63.1. That it does not is obvious from the fact that all but two of its 11 commissioners are lawyers and it has ample lawyers on staff. Moreover, it is the Commission – not the Attorney General’s office – which has the expertise to address the issues herein presented, involving judicial disqualification and judicial misconduct, which are uniquely within the Commission’s purview.

Yours for a quality judiciary,



ELENA RUTH SASSOWER  
Petitioner-Appellant *Pro Se*

Enclosure

cc: Henry T. Berger, Chairman  
New York State Commission on Judicial Conduct  
New York State Commission on Judicial Conduct  
ATT: Commissioners  
Gerald Stern, Administrator & Counsel

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<sup>4</sup> See, *inter alia*, my July 28, 1999 omnibus motion (¶51); my June 7, 2001 letter to Solicitor General Preeta Bansal (at p. 6), annexed as Exhibit “W” to my August 17, 2001 motion.

<sup>5</sup> See, *inter alia*, my January 10, 2001 letter to you (at p. 3), annexed as Exhibit “T-1” to my August 17, 2001 motion, *supra*, my October 15, 2001 reply affidavit (¶¶29-30).