

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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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").

Ex "A"

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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

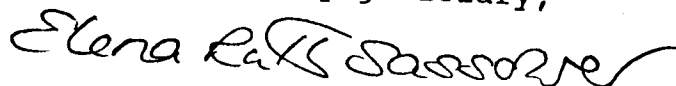
David Gruenberg, Esq.

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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