

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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BY PRIORITY MAIL

December 15, 1998

John Caher
Albany Times Union
The Capitol
LCA Room, 3rd Floor
Albany, New York 12224

RE: Governor Pataki's nomination of Albert Rosenblatt to the Court of Appeals

Dear John:

Following our phone conversation yesterday, enclosed are primary source, evidentiary materials which, in one fell swoop, will enable you to expose the unfitness of Appellate Division, Second Department Justice Rosenblatt for *any* judicial office AND the fraudulent "merit selection" process that resulted in his nomination to the Court of Appeals. Indeed, as discussed, these materials not only expose the corruption of the State Commission on Judicial Nomination -- concealed from public view by the confidentiality of its proceedings -- but, additionally, the corruption of the State Commission on Judicial Conduct -- likewise concealed by the confidentiality of its proceedings. On top of this, they expose the complicity of the bar associations in the corruption of these two state commissions -- as well as the complicity of Governor Pataki, whose decision to nominate Justice Rosenblatt was NOT, as touted by the New York Times, a "wise choice"¹, but a corrupt one.

Although you were extremely skeptical that so many processes and persons should be corrupt -- even after I explained the particulars in some detail -- you agreed to be "open-minded" and examine the evidence for yourself. You admitted that, in 18 years of reporting, you had NEVER seen materials that were part of the Commission on Judicial Nomination's consideration of any of its recommendees -- and, likewise, had NEVER seen judicial misconduct complaints filed with the Commission on Judicial Conduct.

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"Governor Pataki's Wise Choice", NYT editorial, 12/12/98.

Enclosed are FOUR judicial misconduct complaints against Justice Rosenblatt, which CJA filed with the Commission on Judicial Conduct. ALL detail CRIMINAL conduct by him: (1) CJA's October 6, 1998 judicial misconduct complaint based on Justice Rosenblatt's complicity and collusion in the fraudulent defense of the §1983 federal civil rights action, *Sassower v. Mangano, et al*, to which he is a defendant, sued for corruption, and our belief that he perjured himself in responding to the Commission on Judicial Nomination's questionnaire; and (2) CJA's three judicial misconduct complaints from 1994 -- the first, dated September 19, 1994, based on Justice Rosenblatt's violation of fundamental rules of judicial disqualification and fraudulent judicial decision in the Article 78 proceeding *Sassower v. Mangano, et al*. in order to cover up the criminal conduct of his judicial brethren by their retaliatory suspension of Doris Sassower's law license, and two subsequent two complaints, dated October 26, 1994 and December 5, 1994, based on Justice Rosenblatt's failure to recuse himself and fraudulent judicial decision in an unrelated case involving seven appeals involving Doris Sassower's law firm.

Examining for yourself these judicial misconduct complaints will enable you to READILY verify that each is not only facially-meritorious, but FULLY documented. Pursuant to Judiciary Law §44.1², the Commission is required to investigate facially-meritorious complaints. This was recognized by Gerald Stern, the Commission's Administrator, in an August 20, 1998 New York Law Journal column defending the Commission's investigation of Judge Lorin Duckman -- a copy of which is annexed to CJA's October 6, 1998 misconduct complaint against Justice Rosenblatt.

Nonetheless, each of the three 1994 misconduct complaints against Justice Rosenblatt was unlawfully dismissed by the Commission on Judicial Conduct, *without* investigation and *without* any determination that they were facially lacking in merit -- the ONLY basis upon which complaints may be dismissed without investigation under Judiciary Law §44.1. Consequently, in 1995, we sued the Commission on Judicial Conduct for its unlawful dismissals -- dismissals which protected high-ranking, politically-connected judges -- Justice Rosenblatt, among them -- from the disciplinary consequences of their corrupt acts. The Commission survived that case ONLY by fraud, as particularized by CJA's \$3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97, pp. 3-4) (Exhibit "A-2"). As reflected by that ad -- and by CJA's predecessor \$1,600 public interest ad, "*A Call for Concerted Action*" (NYLJ, 11/20/96) (Exhibit "A-3"), which described our public defense of Judge Duckman -- we long ago provided copies of the file of our suit against the Commission to the Governor, to other state officials and agencies, and to bar associations. This, so that they could verify, for themselves, that the Commission had survived our litigation challenge only by fraud -- and take action to protect the public. Their response, as recounted in the ads, was non-response.

² In pertinent part, Judiciary Law §44.1 reads as follows:

"Upon receipt of a complaint (a) the commission *shall* conduct an investigation of the complaint; or (b) the commission *may* dismiss the complaint *if* it determines that the complaint on its face lacks merit." (emphases added).

By letter dated October 5, 1998 to the Commission on Judicial Nomination, CJA opposed Justice Rosenblatt's reported candidacy, supplying copies of the three judicial misconduct complaints from 1994 and information about their unlawful dismissal. Additionally, we provided the Commission on Judicial Nomination with the *unopposed* cert petition and supplemental brief in the §1983 *Sassower v. Mangano, et al.* federal action -- in which the *uncontroverted* defense fraud is meticulously detailed. We also provided a free-standing copy, with exhibits, of our July 27, 1998 criminal complaint, filed with the U.S. Justice Department's Public Integrity Section, seeking criminal investigation and prosecution, *inter alia*, of the *Sassower v. Mangano* defendants.

Examining for yourself such fact-specific evidentiary materials of corruption and complicity in corruption by Justice Rosenblatt should readily convince you that they are dispositive of Justice Rosenblatt's unfitness for ANY judicial office and that he should rightfully be removed from the Appellate Division office, Second Department office he occupies. The question then becomes how the Commission on Judicial Nomination could simply IGNORE those materials and, *without* interviewing us or soliciting from us the underlying substantiating documentation, recommend Justice Rosenblatt as "well qualified" to sit on our state's highest court. And how could the bar associations, who, thereafter, purported to "screen" the Commission's recommendations, then give its imprimatur in the face of CJA's November 18th letter to them, alerting them to the Commission's dysfunction and corruption, as to which it provided the substantiating evidentiary proof. Finally, how could the Governor -- who, in addition to having been notified by phone, was sent a copy of that November 18th letter -- with a request (at p. 2) that he access the materials we had supplied to the Commission -- nonetheless nominate Justice Rosenblatt.

The fact that the Governor nominated Justice Rosenblatt while our October 6, 1998 *facially-meritorious* judicial misconduct against him is pending before the Commission on Judicial Conduct reflects his arrogant confidence that it will "dump" that complaint, just as it dumped our three 1994 complaints -- and that just as the Justice Department took no previous action on our prior complaints of state judicial corruption, as detailed in our July 27, 1998 complaint, so it will take none on the July 27, 1998 complaint.

This an explosive story of systemic governmental corruption -- one which should bring down some of the most powerful state figures -- first and foremost Governor Pataki. CJA has full documentary proof of the Governor's long-standing corrupt conduct and betrayal of the public trust. This includes a three-year correspondence with him, protesting his violation of *express* procedures laid out in his own Executive Orders #10 and #11 for making judicial appointments to the Court of Claims and interim Supreme Court and county court judgeships -- and wholesale violation of the public's *express* rights relative thereto -- his disregard for the evidentiary file, provided to him, that the Commission on Judicial Conduct is corrupt and that it survived our litigation challenge only by fraud, and his subversion of the State Ethics Commission by his appointments and prolonged non-appointments to it.

I would point out that two and a half years ago, some of that documentary proof was provided you. This is reflected by my August 23, 1996 letter to you, a copy of which is enclosed (Exhibit "B")³. Also enclosed is my own subsequently published Letter to the Editor on the subject, "*In Choosing Judges, Pataki Creates Problems*", (New York Times, 11/16/96) (Exhibit "C").

Finally, should you wish to refresh your recollection as to the good and sufficient basis for our 1993 Senate testimony in opposition to the nominations of Justices Levine and Ciparick to the Court of Appeals by then Governor Cuomo -- it is accessible on CJA's website: www.judgewatch.org. In the context of THIS nomination, I would particularly recommend to you our latter testimony (12/15/93), in which we set forth our contention that the statutorily-imposed confidentiality of the Commission on Judicial Nomination's procedures is UNCONSTITUTIONAL and, additionally, set forth pertinent facts about the Commission on Judicial Conduct, of which then Justice Ciparick was a member.

Yours for a quality judiciary,

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

Enclosures

P.S. In the event you are not interested in pursuing this important -- and prize-winning story -- we ask that you return the substantiating evidentiary materials to us. They are costly and time-consuming for us to reproduce and assemble, and we would appreciate being able to make them available to other journalists.

³ I would point out that CJA's \$20,000 public interest ad, "*Where Do You Go When Judges Break the Law?*", printed in the New York Times (Op-Ed page, 10/26/94) and The New York Law Journal (11/1/94) (Exhibit "A-1") -- which you told me you had not seen -- was among the materials transmitted with that letter.

CENTER FOR JUDICIAL ACCOUNTABILITY, INC. (CJA)
INVENTORY OF TRANSMITTAL

Correspondence:

Commission on Judicial Nomination (CJN)

CJA's 10/5/98 ltr
CJN's 11/25/98 ltr
CJA's 12/1/98 ltr

Commission on Judicial Conduct (CJC)

CJA's 10/6/98 complaint
CJA's 11/3/98 ltr
CJC's 11/3/98 acknowledgment
CJC's 12/2/98 acknowledgment
CJA's 12/10/98 ltr

Bar Leaders -- Governor Pataki

CJA's 11/18/98 ltr to Executive Committee of the City Bar,
with fax and certified mail receipts to Governor Pataki

CJA's 1994 Judicial Misconduct Complaints against Justice Rosenblatt:

CJA's 9/19/94 misconduct complaint
CJA's 10/26/94 misconduct complaint
CJA's 12/5/94 misconduct complaint

CJC's ltrs of acknowledgment and dismissal:

9/28/94; 11/4/94; 12/13/94; 12/14/94; 1/24/95

Sassower v. Mangano, et al. #98-106

unopposed cert petition
supplemental brief
errata sheets

Criminal Complaint: U.S. Department of Justice

8/27/98 letter to Lee Radek, Chief, Public Integrity Section
U.S. Department of Justice, Criminal Division