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October 27, 1999

New York State Ethics Commission
39 Columbia Street
Albany, New York 12207-2717

RE: Agenda of the October 27, 1999 meeting of the Ethics Commissioners

(1) Second supplement to CJA's March 26, 1999 ethics complaint against the Ethics Commissioners;

(2) New ethics complaint against the NYS Attorney General and NYS Commission on Judicial Conduct;

(3) Duty to intervene in the Article 78 proceeding, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York* (NY Co. #99-108551) – and to inform the Court as to the status of CJA's September 15, 1999 supplement relating to the litigation misconduct of the NYS Attorney General and NYS Commission on Judicial Conduct therein.

Dear Ethics Commissioners:

This letter, for the agenda of today's meeting, constitutes a second supplement to CJA's March 26, 1999 ethics complaint against you. It is based on your wilful failure to take *any* discernible action following receipt of CJA's September 15, 1999 letter, constituting a first supplement to CJA's March 26th ethics complaint.

According to your public information officer, Walter Ayres, copies of the September 15th letter were distributed to you on September 15th, the date of your last meeting. Mr. Ayres has also advised that he brought to your attention the concluding page of that letter, requesting that you notify the Court in my above-entitled Article 78 proceeding against the Commission on Judicial Conduct as to your intentions with respect to that portion of the September 15th supplement pertaining to the litigation misconduct of

the Attorney General and Commission, as particularized in my July 28, 1999 omnibus motion. You failed to notify the Court of your intentions – much as you failed to notify CJA with respect thereto or with respect to any other portion of the supplement. For that matter, we have yet to even receive a written acknowledgment of the September 15th supplement, much as we have yet to receive a written acknowledgment of our March 26th ethics complaint or of our December 16, 1997 ethics complaint – both of which you have completely ignored.

This nonfeasance continues the pattern of official misconduct by you, covering up systemic governmental corruption. CJA's March 26th ethics complaint and September 15th supplement chronicle your long-standing protectionism of state agencies and public officers involved in that corruption. Indeed, it is the basis upon which the September 15th supplement (at pp. 7-8) *expressly* called for your resignations. As set forth therein (at p. 6), you are NOT free to simply ignore sworn ethics complaints against state agencies and public officers within your jurisdiction. The fact that you have done so – and continue to do so – is a manifestation of your conflicts of interest, borne of your disqualifying personal and professional relationships with those who are the subject of CJA's complaints or implicated therein. The most supremely disqualified of the Commissioners is Chairman Paul Shechtman, against whom the March 26th complaint is particularly directed (at pp. 2, 14-20).

Mr. Shechtman should be demonstrating the leadership that is required of a Chairman. He should recognize that the individual and collective conflicts of interest highlighted by the Introduction of the March 26th ethics complaint (at pp. 4-7) warrant referral of that complaint and the September 15th supplement for independent review and investigation.

The best possibility for securing independent review and investigation of CJA's ethics complaints against this state's highest and most influential public officers and employees -- complaints, which, additionally, directly implicate state and federal judges in corruption -- is referral to the Public Integrity Section of the U.S. Justice Department's Criminal Division. This is the body identified by the March 26th ethics complaint (at pp. 7, 29) as equipped to handle that complaint, following determination by Attorney General Spitzer that he and his "Public Integrity Unit" are disqualified.

CJA's experience with the Attorney General's "Public Integrity Unit" in the months since the March 26th ethics complaint have made plain that it is a hoax and that the Attorney General is criminally collusive in the systemic corruption the complaint

documents. This is highlighted by CJA's September 7, 1999 letter to Andrew Weissmann, Deputy Chief of the Criminal Division of the U.S. Attorney for the Eastern District of New York (at pp. 4-5). That letter -- a copy of which was enclosed with CJA's September 15th supplement -- requested direct referral to the Justice Department's Public Integrity Section of the high-level corruption in which Mr. Shechtman has played such a pivotal role.

As part of this second supplement, we have already transmitted to you a copy of our October 21, 1999 letter to Andrew Dember, Chief of the Public Corruption Unit of the U.S. Attorney for the Southern District of New York, and our October 21, 1999 letter to Thomas Wornam, Deputy Chief of the Special Prosecutions Bureau of the Manhattan District Attorney's office. These identify Mr. Shechtman's former positions with *both* the U.S. Attorney for the Southern District of New York and Manhattan District Attorney, disqualifying those offices from investigating the high-level state corruption in which he has played such a complicitous role. Each of these letters requests referral to the Justice Department's Public Integrity Section¹.

It may well be that Mr. Shechtman has been relying on the strength of his connections with the offices of the U.S. Attorney and Manhattan District Attorney to protect him -- and you -- from the criminal consequences of the Ethics Commission's on-going nonfeasance. However, it is now long past time for the four other Ethics Commissioners to seize the initiative and refer CJA's March 26th complaint and September 15th supplement to the Justice Department's Public Integrity Section. By this letter CJA makes such direct referral request.

As identified by the March 26th ethics complaint and September 15th supplement (at pp. 6-7), the consequence of your nonfeasance is that the state agencies and public officers you have collusively failed to investigate, have continued their corrupt conduct. Indeed, your disregard of CJA's April 11, 1997, June 9, 1997, and December 16, 1997 letters and March 26th ethics complaint concerning CJA's fully-documented September 14, 1995 ethics complaint against the Attorney General for his litigation misconduct in defense of the Commission on Judicial Conduct in the Article 78 proceeding, *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (NY Co. #95-109141), has not only emboldened the Attorney General to engage in even more egregious litigation misconduct in my above-entitled

¹ See pp. 2-3, 19-20 of CJA's October 21st letter to Mr. Dember and pp. 5-7 of CJA's October 21st letter to Mr. Wornam.

pending Article 78 proceeding against the Commission, but to engage in litigation misconduct in a concurrent Article 78 proceeding against the Commission, *Michael Mantell v. New York State Commission on Judicial Conduct* (NY Co. #99-108655).

By this letter, CJA initiates a new ethics complaint against the Attorney General and the Commission based on their misconduct in Mr. Mantell's proceeding and puts them on notice of their ethical duty to take corrective steps to vacate Justice Edward Lehner's palpably fraudulent dismissal decision therein.

Substantiating this new ethics complaint is the file of Mr. Mantell's proceeding – a copy of which we have already transmitted to you. Within the near future, we will provide you with an analysis of Justice Lehner's fraudulent decision, covering up the Attorney General's litigation misconduct on behalf of the Commission.

The fact that Mr. Mantel's Article 78 proceeding against the Commission was "thrown" by a fraudulent judicial decision – as likewise Doris Sassower's Article 78 proceeding against the Commission was "thrown" by a fraudulent judicial decision – reinforces the Ethics Commission's duty to intervene in my current Article 78 proceeding against the Commission – lest it be "thrown" as well. The full file of my proceeding is in your possession. This includes documents subsequent to my September 15th supplement relating to the Attorney General's continuing litigation misconduct in the proceeding. These are my September 24, 1999 Reply Memorandum of Law and Reply Affidavit – the former demonstrating that the Attorney General's opposition to my July 28th omnibus motion is, like his dismissal motion, founded on fraud and deceit, in virtually each and every line².

As discussed with Mr. Ayres, the October 1st oral argument on my omnibus motion and the Attorney General's dismissal motion was rescheduled to October 8th, on which date Justice Zweibel – the third judge assigned to the Article 78 proceeding -- recused himself.

² CJA's September 15th supplement – and the Ethics Commission's non-response thereto – are discussed at pages 11-12 of my Reply Memorandum of Law and at ¶¶3, 7-12 of my Reply Affidavit.

October 27, 1999

Two days ago, on October 25th, Justice Franklin Weissberg became the fourth assigned judge and, yesterday, I left a message for his law secretary, requesting a status conference.

At such status conference, I plan to discuss the responsibility of the public agencies and officers served with Notice of Right to Seek Intervention to intervene, based on the record of the Article 78 proceeding, copies of which they have, and to apprise the Court of the status of CJA's fact-specific, documented-supported complaints against the Attorney General and Commission, filed with them.

In view of the extraordinary posture of the Article 78 proceeding against the Commission on Judicial Conduct and the transcendent public interest involved, I invite a representative of the Ethics Commission -- as well as representatives of the other proposed intervenors -- to personally appear before Justice Weissberg.

Yours for a quality judiciary,



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

cc: NYS Commission on Judicial Conduct
ATT: Gerald Stern, Administrator
NYS Attorney General Eliot Spitzer
ATT: David Nocenti, Counsel
Peter Pope, Chief, "Public Integrity Unit"
William Casey, Chief of Investigations, "Public Integrity Unit"
U.S. Attorney, Eastern District of New York
ATT: Andrew Weissmann, Deputy Chief, Criminal Division
U.S. Attorney, Southern District of New York
ATT: Andrew Dember, Chief, Public Corruption Unit
Manhattan District Attorney
ATT: Thomas Wornam, Deputy Chief, Special Prosecutions Bureau