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The New York Times

Marianne Giordano, Political Editor/Metro

cc: James C. McKinley, Jr., Albany Bureau

[fax: 518-436-7109]

RE: ELECTION COVERAGE:
Exposing the REAL Attorney General Spitzer --
not the P.R. version

Dear Ms. Giordano:

Transmitted herewith is a politically-explosive story proposal, full documentation for which I provided to James McKinley three months ago. It sits in two cartons in his Albany office.

Today, Mr. McKinley informed me, in a telephone conversation he punctuated and concluded with crude expletives, that there is "no story" about Attorney General Spitzer. He would not explain this in a rational way, including whether Mr. Spitzer had given him specific responses to the few key questions I suggested he pose -- or even whether he posed such questions to Mr. Spitzer. These key questions -- identified as the "linchpin" of the story -- I had provided Mr. McKinley in a September 18, 2002 letter, a copy of which is enclosed.

With all due respect, I believe Mr. McKinley suffers from undisclosed conflicts of interest -- perhaps because he enjoys a professional, if not personal, relationship with the charismatic and very personable Mr. Spitzer. Indeed, from the outset, Mr. McKinley has been resistant to my entreaties that, as part of his election coverage, he critically examine Mr. Spitzer's on-the-job performance in defending lawsuits and the hoax of his "public integrity unit".

I look forward to your more professional and objective response -- including your own inspection of the documentary proof substantiating this story.

Thank you.

STORY PROPOSAL

Repeatedly, the public is told that Eliot Spitzer is a “shoe-in” for re-election as Attorney General¹ and a rising star in the Democratic Party with a future as Governor and possibly President². The reason for such favorable view is simple. The press has *not* balanced its coverage of lawsuits and other actions *initiated* by Mr. Spitzer, promoted by his press releases and press conferences, with any coverage of lawsuits *defended* by Mr. Spitzer. This, despite the fact that defensive litigation is the “lion’s share” of what the Attorney General does.

The Attorney General’s *own* website identifies that the office “defends thousands of suits each year in every area of state government” -- involving “nearly two-thirds of the Department’s Attorneys in bureaus based in Albany and New York City and in the Department’s 12 Regional offices.”³ It is, therefore, long past time that the press critically examine at least one lawsuit *defended* by Mr. Spitzer. Only by so doing will the voting public be able to gauge his on-the-job performance in this vital area.

Our non-partisan, non-profit citizens’ organization proposes a specific lawsuit as ideal for press scrutiny. The lawsuit was not only expressly brought in the

¹ “*Court of Claims Judge to Face Spitzer*”, (New York Law Journal, May 15, 2002, John Caher, Daniel Wise), quoting Maurice Carroll, director of Quinnipiac College Polling Institute, “Spitzer has turned out to be a very good politician, and he is just not vulnerable”; “[Gov. Pataki] could pick the Father, Son and Holy Ghost and he wouldn’t beat Spitzer”; “*The Attorney General Goes to War*”, (New York Times Magazine, June 16, 2002, James Traub), “Spitzer’s position is considered so impregnable that the Republicans have put up a virtually unknown judge to oppose him this fall – an indubitable proof of political success”; “*The Enforcer*” (Fortune Magazine, September 16, 2002 coverstory, Mark Gimein), “he’s almost certain to win a second term as attorney general this fall”.

² “*Spitzer Pursuing a Political Path*” (Albany Times Union, May 19, 2002, James Odatto); “*A New York Official Who Harnassed Public Anger*” (New York Times, May 22, 2002, James McKinley); “*Spitzer Expected to Cruise to 2nd Term*” (Gannett, May 27, 2002, Yancey Roy); “*Attorney General Rejects Future Role as Legislature*” (Associated Press, June 4, 2002, Marc Humbert); “*Democrats Wait on Eliot Spitzer, Imminent ‘It Boy’*” (New York Observer, August 19, 2002, Andrea Bernstein), “many insiders already are beginning to talk – albeit very quietly -- about the chances of a Democrat winning back the Governor’s office in 2006. At the top of their wish list is Mr. Spitzer, whose name recognition has shot through the roof in the last year, private pollsters say, and who appears – for now, at least – to have no negatives.”

³ See www/oag.state.ny.us/: “Tour the Attorney General’s Office” – Division of State Counsel.

public interest, but has spanned Mr. Spitzer's tenure as Attorney General and is now before the New York Court of Appeals. Most importantly, it is a lawsuit with which Mr. Spitzer is *directly familiar and knowledgeable*. Indeed, it was generated and perpetuated by his official misconduct – and seeks monetary sanctions and disciplinary and criminal relief against Mr. Spitzer *personally*.

Documented by the lawsuit is that Mr. Spitzer has used his position as Attorney General to cover-up systemic governmental corruption involving, *inter alia*, Governor Pataki, high-ranking judges, and the State Commission on Judicial Conduct. He has done this by wilfully failing to investigate the documented allegations of corruption underlying the lawsuit and by employing fraudulent defense tactics to defeat it -- tactics which would be grounds for disbarment if committed by a private attorney.

Annexed to the litigation papers is a paper trail of correspondence with Mr. Spitzer, establishing his *direct knowledge and personal liability* for the fraudulent defense tactics of his Law Department by his wilful refusal to meet his mandatory supervisory duties under DR-1-104 of New York's Code of Professional Responsibility (22 NYCRR §1200.5).

I do not exaggerate in saying that press scrutiny of this one lawsuit will not only *rightfully* end Mr. Spitzer's re-election prospects and political career, but his legal career as well. Indeed, it may prove equally devastating for Governor Pataki.

Added to this, the lawsuit provides an "inside view" of the hoax of Mr. Spitzer's "public integrity unit" – which, according to a September 1999 Gannett article, "*Spitzer's Anti-Corruption Unit Gets Off to a Busy Start*", had "already logged more than 100 reports of improper actions by state and local officials across New York".

Obviously, verifying the hoax of the "public integrity unit" should begin with the first two reports it received – which were from CJA and involve the very issues thereafter embodied in the lawsuit. These two reports were publicly handed to Mr. Spitzer on January 27, 1999, immediately upon his announcement of the establishment of his "public integrity unit". Reflecting this is the transcript excerpt of my public exchange with Mr. Spitzer at that time. A copy is enclosed, along with CJA's \$3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (New York Law Journal,

August 27, 1997, pp. 3-4), to which my transcript exchange refers.

Tellingly, a “search” of the Attorney General’s website [www.oag.state.ny.us/] produces only *seven* entries for his “public integrity unit”, with virtually *no* substantive information about its operations and accomplishments. This is all the more astounding when viewed against Mr. Spitzer’s 1998 campaign promise “to take on the task of cleaning up government by taking on *all* of the problems that have led to governmental stagnation and corruption in New York” (emphasis in the original). Specifically, Mr. Spitzer promised to set up “a Public Integrity Office to uncover and remedy government abuses throughout the state”. It would be “empowered to”:

- (1) **“Vigorously Prosecute Public Corruption...Using the Attorney General’s subpoena powers...to conduct independent and exhaustive investigations of corrupt and fraudulent practices by state and local officials”;**
- (2) **“Train and Assist Local Law Enforcement...And if a local prosecutor drags his heels on pursuing possible improprieties...to step in to investigate and, if warranted, prosecute the responsible public officials”;**
- (3) **“Create a Public Integrity Watchdog Group...made up of representatives of various state agencies, watchdog groups and concerned citizens...[to] recommend areas for investigation, coordinate policy issues pertaining public corruption issues, and advocate for regulations that hold government officials accountable”;**
- (4) **“Encourage Citizen Action to Clean Up Government...[by] a toll-free number for citizens to report public corruption or misuse of taxpayer dollars”;**
- (5) **“Report to the People...[by] an annual report to the Governor, the legislature and the people of New York on the state of public integrity in New York and incidents of public corruption”.**

This was all laid out in Mr. Spitzer’s 1998 campaign policy paper, “Making New York State the Nation’s Leader in Public Integrity...”. Its first three pages are enclosed to enable you to begin to CHECK OUT whether, and to what extent, Mr. Spitzer has implemented his proposed plan of action. Mr. Spitzer’s

2002 re-election website [www.spitzer2002.com] says NOTHING about any "Public Integrity Office", let alone its accomplishments. NOR does it mention "governmental corruption" and "public integrity" as issues. Examination of the lawsuit file reveals why.

For immediate purposes -- and to give you a flavor of this important politically-explosive lawsuit -- enclosed is an article about it, "*Appeal for Justice*" from Albany's alternative newspaper Metroland (April 25-May 1, 2002). Also enclosed is my long ago published Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*" (New York Post, December 28, 1998), which not only provides some of the underlying facts, but was part of what I gave Mr. Spitzer *in hand* on January 27, 1999 in immediate response to his public statement to me, as recorded by the transcript, "Anything that is submitted to us we will look at it". The concluding words to that published Letter, "This is why we will be calling upon our new state attorney general as the 'People's lawyer,' to launch an official investigation", referred to investigating the corruption of "merit selection" to the Court of Appeals, as established by evidence involving Governor Pataki.

Finally, I enclose my June 17, 2002 notice of motion for sanctions and disciplinary and criminal referral of Mr. Spitzer *personally* and to disqualify him from the lawsuit for his unlawful representation of the State Commission on Judicial Conduct, its sole respondent, whose Chairman, Election Law lawyer Henry T. Berger, helped secure Mr. Spitzer's 1998 razor-close victory as Attorney General.

I would be pleased to come to Albany and meet with you so that you can better understand the lawsuit's significance and see for yourself the lawsuit file, from which the extraordinary story of Mr. Spitzer's official misconduct and the hoax of his "public integrity unit" is *readily and swiftly verifiable*. I await your enthusiastic response.

Yours for a quality judiciary
and electorally-meaningful reporting,



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

Enclosures