

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY FAX: 212-949-8864 (7 pages)

October 9, 2001

New York State Commission on Judicial Conduct
801 Second Avenue
New York, New York 10017

ATT: Gerald Stern, Administrator and Counsel

RE: Pertinent Disclosure in Connection with my August 17, 2001 Motion, *inter alia*, for Special Assignment/Transfer of Appeal 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* (NY Co. #99-108551; Appellate Division, First Department: November Term)

Dear Mr. Stern:

Your failure to submit an affidavit of your own in opposition to my August 17th motion has deprived me of valuable information, which the ethical duty of candor may have otherwise compelled you to include. For example, your biography in the Commission's Annual Reports states that prior to your being employed as the Commission's Administrator since its inception you were "Director of Administration of the Courts, First Judicial Department".

As this is plainly relevant to my request for special assignment of the appeal or transfer to the Appellate Division, Fourth Department and for disclosure, based, *inter alia*, on the appearance that the Appellate Division, First Department is compromised by "relationships with, and dependencies on, the persons and entities whose misconduct is the subject of this lawsuit or exposed thereby", please immediately advise as to the dates of your employment with the Appellate Division, First Department.

EX-111-2

According to ...And Justice For All, the 1973 report of the Temporary Commission on the State Court System, chaired by former State Senator D. Clinton Dominick,

“In 1968, the appellate division of the first department created a judiciary relations committee composed of two supreme court justices, a lawyer, and one judge each from the family, civil, and criminal courts. *The director of administration for the first department serves as executive secretary of the committee*, and all complaints concerning judges in the first department are forwarded to him. He dismisses most of them because, on their faces they concern the substantive merits of cases. The remainder are investigated by the director’s staff...” (Part II, at p. 58, emphasis added)

Please confirm the dates during which you served as Executive Director of the Appellate Division, First Department’s Judiciary Relations Committee. Please also advise whether now Appellate Division, Second Department Justice Stephen Crane – whose judicial misconduct as Administrative Judge is a threshold issue on the appeal¹ and was the subject of a *facially-meritorious* March 3, 2000 judicial misconduct complaint² -- was ever part of your Appellate Division, First Department investigative staff. As set forth at ¶73 of my affidavit in support of my motion, Justice Crane worked at the Appellate Division, First Department for 13 years, from 1966-1979, as Senior Law Assistant and Chief Law Assistant. Inasmuch as the Appellate Division, First Department is a small place, you and Justice Crane presumably were not only professional colleagues, but developed ties of friendship with each other -- as likewise with Appellate Division, First Department justices.

Additionally, please advise as to the names of the members of the Appellate Division, First Department’s Judiciary Relations Committee – whose membership

¹ See my Appellant’s Brief: Question 1 of my “Questions Presented” (at p. 1) and Point I of my “Argument” (at pp. 39-41).

² My *facially-meritorious* March 3, 2001 judicial misconduct complaint against Administrative Judge Crane is Exhibit “M-1” to my affidavit in support of my August 17th motion. The Commission’s unlawful dismissal of that complaint, *without* investigation, *without* reasons, and, *without* determination or even disclosure of the conflict of interest issues involved, is Exhibit “M-2” thereto.

increased in 1972, according to page 2 of your article, "*The State Commission on Judicial Conduct: A New Approach to an Ancient Problem*" (Syracuse Law Review, Vol 28: 1-12 (1977)).

As the publicly-available records of the Appellate Division, First Department's Judiciary Relations Committee – especially its written procedures setting forth the standard for investigation based on *facial merit* – would appear to be quite relevant to the appeal, please advise as to whether the Commission has these records – and whether I may arrange an appointment to inspect and copy them, pursuant to F.O.I.L. (Article 6 of the Public Officers Law).

Finally, enclosed is my letter of today's date to Solicitor General Halligan.

Yours for a quality judiciary,



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

Enclosure

cc: Attorney General Eliot Spitzer [By Fax: 212-416-8139]
Solicitor General Caitlin Halligan [By Fax: 212-416-6350]

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ATT: David Nocenti, Peter Pope, William Casey

RE: Sassower v. Commission

FROM: ELENA RUTH SASSOWER, Coordinator

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Spitzer is an indicated
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