

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY HAND

June 30, 2000

JUL 6 2000

Chief Judge Judith Kaye
Chief Judge of the State of New York
230 Park Avenue, Suite 826
New York, New York 10036-6689

RE: (1) CJA's unresponded-to April 18, 2000 letter to you [pp. 1-4];
(2) CJA's opposition to the Mayor's appointment of your Deputy Counsel, Susan K. Knipps, for a civil court judgeship, scheduled for a July 6, 2000 "public hearing" at the Association of the Bar of the City of New York [pp. 5-9]

Dear Judge Kaye:

Please advise when CJA can expect your response to our April 18, 2000 letter to you – whose significant content is reflected by its "RE:" clause:

- "(1) Formal Misconduct Complaint against Michael Colodner, Counsel of the Unified Court System;
- (2) Request for Clarification of your Supervisory Power as Chief Judge and your Administrative and Disciplinary Responsibilities under §§100.3C and D of the Chief Administrator's Rules Governing Judicial Conduct".

As you will recall, I asked you that question five weeks ago, on May 23rd, at the Association of the Bar of the City of New York. This was shortly before the City Bar's Annual Meeting at which Evan Davis was being installed as its new president. Presumably, you and Chief Administrative Judge Jonathan Lippman were there to congratulate incoming President Davis and other incoming officers, including E. Leo Milonas, formerly Chief Administrative Judge, now one of the City Bar's new vice presidents.

EX - N "

In the presence of Chief Administrative Judge Lippman, you breezily told me that you didn't know when you would be responding to the letter. To this, I voiced my expectation that your response be forthcoming and, specifically, that it identify the legal authority by which Administrative Judge Stephen Crane interfered with the random assignment of my Article 78 proceeding against the New York State Commission on Judicial Conduct to "steer" it to Acting Supreme Court Justice William Wetzel. CJA's request for such legal authority appears at page 6 of the April 18th letter (*see fn. 10* therein).

I do not believe that you and Chief Administrative Judge Lippman actually remained at the City Bar for the Annual Meeting. This is too bad as you missed President Davis' inspiring inaugural address about the City Bar's historic origins, rooted in a "campaign to drive corrupt judges off the bench and corrupt politicians out of office", and his pledge to facilitate the role of lawyers – and the City Bar – in upholding the rule of law and the public interest.

As you know, the City Bar was an indicated recipient of CJA's April 18th letter and predecessor March 3rd letter to you. Both the March 3rd and April 18th letters detailed the corruption of the Commission on Judicial Conduct by its dismissals, *without investigation*, of *facially-meritorious* judicial misconduct complaints, in violation of Judiciary Law §44.1, and by the fraudulent defense tactics of its attorney, the State Attorney General, to defeat challenges to its unlawful conduct in three separate Article 78 proceedings. Transmitted with the March 3rd letter was a carton containing the substantiating proof – copies of the files of all three of these Article 78 proceedings¹: *Doris L. Sassower v. Commission* (NY Co. #95-109141), *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, acting pro bono publico v. Commission* (NY Co. #99-108551), and *Michael Mantell v. Commission* (NY Co. #99-108655). Included therein and by the copy of CJA's February 23, 2000 letter to Governor Pataki, transmitted with the March 3rd letter, were analyses of the judicial decisions in the three proceedings, showing each decision to be factually fabricated and legally insupportable².

¹ A 3-page inventory of the transmitted files of the three Article 78 proceedings is annexed to CJA's March 3rd letter to you.

² CJA's analysis of Justice Wetzel's fraudulent judicial decision in *Elena Ruth Sassower v. Commission* appears at pages 15-29 of CJA's February 23rd letter to the Governor, with the administrative misconduct of Administrative Judge Crane particularized at pages 6-14 therein. CJA's 3-page analysis of Justice Herman Cahn's fraudulent judicial decision in *Doris L.*

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CJA's purpose in transmitting this evidentiary proof was to establish your duty under §§100.3C and D of the Chief Administrator's Rules Governing Judicial Conduct. CJA's March 3rd letter identified that duty to include demoting Administrative Judge Crane from his administrative position and designating a Special Inspector General to investigate the Commission's *readily-verifiable* corruption, covered up by the state judiciary, also *readily verifiable*.

Your Deputy Counsel, Susan Knipps, who routinely responds, on your behalf, to citizens turning to you for redress³, did not respond to CJA's March 3rd letter. Rather, for reasons unknown, the response came from Michael Colodner, Counsel of the Unified Court System. His March 27, 2000 letter⁴ was so egregiously dishonest and deceitful that CJA's reply, by our April 18th letter to you, called upon you to take

"immediate steps to ensure that Mr. Colodner is appropriately disciplined, if not removed, in accordance with your supervisory powers as head of the Unified Court System, your mandatory administrative and disciplinary responsibilities under §§100.3C and D of the Chief Administrator's Rules Governing Judicial Conduct, and such comparable provisions of New York's Disciplinary Rules of the Code of Professional Responsibility as DR 1-103 "Disclosure of Information to Authorities" (22 NYCRR §1200.4) and DR-104 "Responsibilities of a Partner or Supervisory Lawyer" (22 NYCRR §1200.5)." (at pp. 2-3)

It also requested your response to specific informational inquiries having to do with your supervisory powers and administrative and disciplinary responsibilities under §§100.3C and D of the Chief Administrator's Rules Governing Judicial Conduct. These included, in addition to CJA's request for the legal authority for Administrative Judge Crane's tampering with random assignment of my Article 78

Sassower v. Commission is annexed to the verified petition in *Elena Ruth Sassower v. Commission* as part of Exhibit "A". CJA's 13-page analysis of the fraudulent judicial decision of Justice Edward Lehner in *Mantell v. Commission* is annexed as Exhibit "D" to Elena Sassower's December 9, 1999 letter to Justice Wetzel in *Elena Ruth Sassower v. Commission*.

³ See, *inter alia*, Exhibits "B-2", "B-4" to CJA's March 3rd letter to you and Exhibit "F-2" herein.

⁴ Mr. Colodner's March 27th letter is Exhibit "A" to CJA's April 18th letter to you.

proceeding against the Commission:

- (1) the applicable procedure for securing Administrative Judge Crane's demotion as Administrative Judge (at p. 6);
- (2) copies of documents or other information pertaining to the yearly redesignation procedures for administrative judges (at p. 6); and
- (3) your view as to whether Judiciary Law §212 confers upon you jurisdiction to investigate publicly-available evidence of the Commission's corruption (at p. 9).

CJA's April 18th letter further requested (at p. 11) that in the unlikely event you doubted your duty, as New York's Chief Judge, to either investigate or to refer for investigation the *readily-verifiable* proof of the Commission's corruption, covered up by fraudulent decisions of state judges in the three most recent Article 78 proceedings against it, that you obtain an advisory opinion from the Advisory Committee on Judicial Ethics. The letter also requested that you obtain an advisory opinion as to the propriety of your continuing to direct victims of judicial misconduct, who turn to you for help, to file complaints with the Commission, while, simultaneously, taking no action on the *readily-verifiable* proof of the Commission's corruption.

Last week, in an extensive June 20, 2000 letter to President Davis, CJA brought both the March 3rd and April 18th letters to his attention, as likewise the files of the three Article 78 proceedings on which they rest – all three of which CJA long ago provided to the City Bar. Based thereon, CJA requested that the City Bar join in calling upon you – and upon Governor Pataki – “to appoint an independent investigative and prosecutorial body” (at p. 7).

Assuredly, after President Davis reads CJA's April 18th letter, he will wonder why you took your valuable time to put in a “cameo” appearance at the City Bar on May 23rd, when you had so serious a matter before you, to which you had not responded and to which you have a duty to respond, if you are worthy of your office as Chief Judge.

Presumably, it is Ms. Knipps' responsibility as your Deputy Counsel to assist you in meeting your duties. According to the front-page notice in the June 27th New York Law Journal, Ms. Knipps has been appointed by the Mayor to be a civil court judge – and a “public hearing” before the Mayor’s Advisory Committee on the Judiciary will be held at the City Bar on July 6th (Exhibit “A-1”).

CJA has already notified the Mayor’s Advisory Committee of our desire to testify in opposition to Ms. Knipps’ appointment based on her “nonfeasance and misfeasance” as your Deputy Counsel (Exhibit “A-2”). In preparation of that testimony, CJA has endeavored to ascertain Ms. Knipps’ assigned responsibilities in that position. It was for that reason that I telephoned your office on June 27th [212-661-6787]. Ms. Knipps answered the phone⁵.

In my brief conversation with Ms. Knipps, I identified that CJA would be opposing her judicial appointment. I pointed out that we had received no response to the April 18th letter. Although Ms. Knipps denied knowledge of that letter, which I had hand-delivered to your office (Exhibit “C-1”), she did not deny having read CJA’s March 3rd letter, for which she had *personally* signed an acknowledgment when I hand-delivered it on that date (Exhibit “C-2”)⁶.

From reading the March 3rd letter (at pp. 8-9), Ms. Knipps was aware – if she didn’t already know – that you have a self-interest in keeping the Commission a corrupt façade, not the least reason being because you yourself are subject to the Commission’s disciplinary jurisdiction. During her four-year tenure as your Deputy Counsel, Ms. Knipps may well have seen copies of judicial misconduct complaints against you, filed with the Commission, which complainants had sent you. In any

⁵ Ms. Knipps declined to provide me with information about her position and salary, advising me to telephone Mr. Colodner [212-428-2150]. According to Mr. Colodner’s office, Ms. Knipps \$87,378 position has no “job description” – a fact reflected by CJA’s follow-up written request (Exhibit “B”), as yet unanswered.

⁶ Ms. Knipps incorrectly dated her receipt of that letter “3/2/00”, as likewise her receipt of CJA’s March 3, 2000 letter to the Commission on Judicial Conduct, constituting a judicial misconduct complaint against Acting Supreme Court Justice Wetzel and Administrative Judge Crane (Exhibit “C-3”). She did, however, correctly date her receipt of two other documents she received for you on that date: CJA’s February 23, 2000 letter to the Governor (Exhibit “C-4”) and CJA’s February 25, 2000 memorandum-notice to the NYS Attorney General, the Manhattan District Attorney, the U.S. Attorney for the Southern District of NY, and the NYS Ethics Commission (Exhibit “C-5”).

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event, from the March 3rd letter (p. 8), Ms. Knipps could see that CJA objected to your ignoring *readily-verifiable* evidence of the Commission's corruption, of which CJA's advocacy had long given you notice, while simultaneously referring victims of judicial misconduct, who turned to you for assistance, to file complaints with the Commission. That you could do so was, in our view, a manifestation of your conflict of interest.

Ms. Knipps did not deny my assertion that following the March 3rd letter, she has continued to refer victims of judicial misconduct, who have turned to you for help, to file complaints with the Commission. Rather, she tried to justify such action as "just following orders" – yours. She also seemed to dispute the dispositive nature of the proof of the Commission's corruption, transmitted with the March 3rd letter.

IF Ms. Knipps is unable to recognize the inappropriateness of "just following orders" – particularly when the ordering individual so clearly suffers from conflict of interest – and *IF* she is unable to appreciate the dispositive significance of the files of the three Article 78 proceedings against the Commission, copies of which she *personally* received with the March 3rd letter (Exhibit "C-2"), there is NO question that she is unfit to be a judge. Either she lacks the most rudimentary competence or she is dishonest. Based upon the summary of Ms. Knipps' credentials that we received from the Mayor's Advisory Committee on the Judiciary in response to our letter to it (Exhibit "A-2), the likelihood is not that she lacks competence. Rather, it appears that notwithstanding she is a member of the City Bar's Committee on Professional Responsibility, Ms. Knipps lacks professional responsibility, as well as the "personal honesty, integrity, and moral courage", which top the list of the Mayor Advisory Committee's "Evaluation Scale of Judicial Applicants".

As Ms. Knipps' most recent and prestigious employer, your favorable recommendation and support were assumedly necessary to advance her judicial aspirations. Ms. Knipps apparently realized that such recommendation and support would be jeopardized were she to meet her duty, as your Deputy Counsel. That duty required her to advise you that CJA's March 3rd letter identified multiple grounds upon which you plainly suffer from conflict of interest in regard to investigating the Commission and to further advise you that in light of the *prima facie* proof of the Commission's corruption from the three Article 78 files, your failure to meet your obligations under §§100.3C and D of the Chief Administrator's Rules would legitimately subject you to a judicial misconduct complaint – as

expressly identified by the March 3rd letter (at p. 8). Indeed, it would properly justify your removal from office. Moreover, because of the immediate and irreparable injury to the public from the systemic corruption established by those files, Ms. Knipps' duty to you – and to the public paying her \$87,378 salary -- was to demonstrate "moral courage" by backing up her advice to you with a readiness to meet her own ethical obligations under 22 NYCRR §1200.4 [DR-103 of New York's Code of Professional Responsibility], "Disclosure of Information to Authorities". This included "blowing the whistle" on Mr. Colodner's subsequent cover-up – and your complicity therein -- which should have been obvious to her, even without the benefit of CJA's fact-specific, legally-supported April 18th letter.

It may be noted that this is not the first-time that Ms. Knipps, as your Deputy Counsel, has shown a lack of "personal honesty, integrity, and moral courage" – while you and Mr. Colodner have betrayed the public trust. Two and a half years ago, she stood "idly by" in the wake of CJA's January 7, 1998 letter to you⁷, pleading, in the context of Governor Pataki's nomination of Westchester County Executive Andrew O'Rourke to the Court of Claims, that you "safeguard the public's right to a state judicial appointments process that complies with the *explicit* requirements of the Governor's own Executive Order #10 and the 'Uniform Rules of the N.Y.S. Judicial Screening Committees'" – a state judicial screening process in which *you* participate. Ms. Knipps' awareness of that letter may be seen from CJA's January 8, 1998 and January 12, 1998 faxes to Claire Gutekunst (Exhibits "D-1" and "D-3"), your designee on the Governor's State Judicial Screening Committee that purported to have "screened" Mr. O'Rourke. Her awareness of the mountain of evidentiary materials that CJA provided you in connection therewith may be seen from CJA's subsequent February 1, 1998 letter to you (Exhibit "E"). CJA's February 1, 1998 letter, which sought your "immediate supervisory attention", reflected yet a further outrage: Chief Administrative Judge Lippman's unlawful approval of Mr. O'Rourke's application to collect a \$80,000 government pension on top of his \$130,000 judicial salary. Such approval was purportedly based upon advice of Mr. Colodner, prompting CJA to call for an investigation of Mr. Colodner's "competence and integrity". Despite the seriousness of CJA's January 7, 1998 and February 1, 1998 letters, which, with supporting evidentiary proof, chronicled profound violations of the public's rights and of respect for the rule of law, we received no response from you or from Ms. Knipps.

⁷ CJA's January 7, 1998 letter to you is Exhibit "E" to CJA's February 23, 2000 letter to the Governor.

So that CJA's testimony at the July 6th "public hearing" may be fully informed by facts, rather than inference and reasonable surmise, CJA requests that you identify: (1) Ms. Knipps' responsibilities as your Deputy Counsel⁸; (2) whether you have other staff filling a counsel position in your office; (3) Ms. Knipps' involvement in reviewing CJA's January 7, 1998 and February 1, 1998 letters, including the mountain of evidentiary proof CJA provided in support; (4) Ms. Knipps' involvement in reviewing CJA's March 3rd letter and in referring it to Mr. Colodner for response; (5) whether Ms. Knipps reviewed Mr. Colodner's responding March 27th letter - to which you were an indicated recipient; (6) whether you discussed CJA's April 18th letter with Ms. Knipps or *vice versa*; and (7) whether, following receipt of CJA's March 3rd letter and/or receipt of CJA's April 18th letter, you instructed Ms. Knipps to continue to refer victims of judicial misconduct, who turn to you for help, to the Commission on Judicial Conduct.

Illustrative of Ms. Knipps' continuing to direct complainants to the Commission is her May 5, 2000 letter to Thomas Thornton (Exhibit "F-2"), responding to his February 11, 2000 letter to you. Mr. Thornton wrote his February 11th letter on behalf of himself and two other signators, John Heard and Ross Giunta (Exhibit "F-1"), complaining of the Unified Court System's protectionism of Supreme Court Justice Phyllis Gangel-Jacob. Mr. Thornton's subsequent June 6, 2000 letter to you (Exhibit "F-3"), which objected to Ms. Knipps' response⁹, specifically identified

⁸ As part of the application Ms. Knipps was required to complete for the Mayor's Advisory Committee on the Judiciary were question #16(a):

"Have you ever held judicial, public or political office, elective or appointive, including that of arbitrator, mediator, or law clerk. If so, state position held and dates and *any specific functions you have been assigned*" (emphasis added);

and question #16(c):

"Describe any executive or administrative experience you have had, whether through your occupation or otherwise, *giving details and duties*" (emphasis added).

⁹ Unknown to Mr. Thornton was Ms. Knipps' considerable past experience with Family Court and, in particular, with issues relating to children - as reflected by the Mayor's Advisory Committee's summary of her credentials. If anything, this should have deepened Ms. Knipps' concern about Mr. Thornton's report of the injury caused to children by Justice Gangel-Jacob's long-standing and on-going judicial misconduct (Exhibit "F-1").

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that he possessed copies of CJA's March 3rd and April 18th letters to you regarding the Commission's corruption. As may be seen from that June 6th letter, Mr. Thornton is President of the Children's Rights Council.

It must be noted that Mr. Thornton not only possesses a copy of CJA's March 3rd and April 18th letters, but a copy of the file of *Doris L. Sassower v. Commission*. This was provided to him two years ago, following my presentation about the Commission's corruption, which I made at a July 1, 1998 meeting of the Council's membership (Exhibits "G-1" and G-2"), at which the Commission's Administrator declined an invitation to speak or to send a Commission representative (Exhibit "G-3"). Of course, the members of the Children's Rights Council have their own first-hand experience with the Commission's corruption. Years before Ms. Knipps' May 5th letter, Messrs. Thornton and Heard had each filed judicial misconduct complaints with the Commission against Justice Gangel-Jacob. Mr. Thornton's exchange of correspondence with the Commission relative to his judicial misconduct complaints, which overlaps his invitation to the Commission's Administrator to speak at the July 1, 1998 meeting of the Children's Rights Council, is annexed (Exhibits "H-1" - "H-13").

Should Ms. Knipps wish to respond to any of the above-enumerated questions #1-7, she should also feel free to do so. A copy of this letter is being provided to her for that purpose and to permit her to confirm whether, in our June 27th phone conversation together, she stated, as I believe she did, that the carton of files transmitted with CJA's March 3th letter did NOT establish the Commission's corruption.

So that CJA will have time to incorporate your responses -- and those of Ms. Knipps -- in our July 6th testimony, we request that you fax them to us [914-428-4994] no later than by noon on Wednesday, July 5th.

Inasmuch as the City Bar, by its Judiciary Committee, has approved Ms. Knipps' candidacy, copies of this letter will be delivered to President Davis AND to Judiciary Committee Chairman Barry Kamins. By this letter, CJA requests that Chairman Kamins *immediately* obtain the copies of CJA's March 3rd and April 18th letters to you, CJA's February 23rd letter to Governor Pataki, and the supporting Article 78 files -- all in the City Bar's possession -- as well as the voluminous materials that CJA long ago provided to the City Bar relating to our January 7, 1998 and February 1, 1998 letters to you. This, so that the City Bar's Judiciary

Committee can meet its ethical duty to reconsider and retract its improvidently issued approval of Ms. Knipps. Chairman Kamins should be particularly sensitive to the Committee's ethical duty, as he also chairs the New York State Bar Association's Committee on Professional Responsibility.

To enable the Mayor's Advisory Committee to meaningfully question Ms. Knipps at the July 6th "public hearing", copies of CJA's March 3rd and April 18th letters are being supplied to it with this letter. Additionally supplied is a copy of CJA's February 23rd letter to the Governor, which Ms. Knipps received with the March 3rd letter (Exhibits "C-2" and "C-4"). Should the Mayor's Advisory Committee wish to review the substantiating three Article 78 files or the voluminous material supporting CJA's January 7, 1998 and February 1, 1998 letters in advance of the July 6th "hearing", CJA will promptly furnish copies. In any event, CJA requests that Chairman Kamins arrange that the City Bar's copies be brought to the "hearing" so that members of the Mayor's Advisory Committee may examine them at that time. As the "hearing" is at the City Bar, such request should not be unduly burdensome.

Yours for a quality judiciary,

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

Immediate Recipients:

- cc: Administrative Judge Jonathan Lippman
- Michael Colodner, Counsel, Unified Court System
- Sherrill R. Spatz, Special Inspector General for Fiduciary Appointments
- New York State Commission on Judicial Conduct
- Susan K Knipps, Deputy Counsel, Chief Judge Judith Kaye
- Mayor's Advisory Committee on the Judiciary
- Paul D. Siegfried, Executive Secretary
- Association of the Bar of the City of New York
- President Evan Davis
- Barry Kamins, Chairman, Judiciary Committee
- Thomas Thornton, President, Children's Rights Council

Eventual Recipients:

- Governor George Pataki
- New York State Attorney General Eliot Spitzer
- District Attorney, New York County
- U.S. Attorney, Southern District of New York
- New York State Ethics Commission
- U.S. Attorney, Eastern District of New York
- Media

TABLE OF EXHIBITS

- Exhibit "A-1": June 27, 2000 notice in the New York Law Journal
- "A-2": CJA's June 27, 2000 letter to the Mayor's Advisory Committee on the Judiciary
- Exhibit "B": CJA's June 27, 2000 letter to Michael Colodner, Counsel, Office of Court Administration
- Exhibit "C-1": received first page of CJA's April 18, 2000 letter to Chief Judge Kaye
- "C-2": first page of CJA's March 3, 2000 letter to Chief Judge Kaye, received by Susan Knipps
- "C-3": first page of CJA's March 3, 2000 letter to the NYS Commission on Judicial Conduct, received by Susan Knipps
- "C-4": first page of CJA's February 23, 2000 letter to Governor Pataki, received by Susan Knipps
- "C-5": first page of CJA's February 25, 2000 memorandum to NYS Attorney General, Manhattan District Attorney, U.S. Attorney/Southern District of NY, and NYS Ethics Commission, received by Susan Knipps
- Exhibit "D-1": CJA's January 8, 1998 fax coversheet to Claire Gutekunst, Chief Judge Kaye's designee on Governor Pataki's State Judicial Screening Committee
- "D-2": Claire Gutekunst's January 8, 1998 faxed acknowledgment
- "D-3": CJA's January 12, 1998 fax coversheet to Claire Gutekunst, with the two published newspaper items it enclosed

- "D-4": Claire Gutekunst's January 12, 1998 faxed acknowledgment
- Exhibit "E": CJA's February 1, 1998 letter to Chief Judge Kaye, enclosing CJA's two January 30, 1998 letter to Chief Administrative Judge Jonathan Lippman
- Exhibit "F-1": Thomas Thornton's February 11, 2000 letter to Chief Judge Kaye, on behalf of himself and John Heard and Ross Giunta, co-signators
- "F-2": Susan Knipps' May 5, 2000 letter to Thomas Thornton, on behalf of Chief Judge Kaye
- "F-3": Thomas Thornton's June 6, 2000 letter to Chief Judge Kaye
- Exhibit "G-1": Thomas Thornton's May 30, 1998 letter to Gerald Stern, Administrator, NYS Commission on Judicial Conduct
- "G-2": Thomas Thornton's June 25, 1998 letter to Gerald Stern
- "G-3": Gerald Stern's June 25, 1998 letter to Thomas Thornton
- "G-4": Thomas Thornton's June 26, 1998 letter to Gerald Stern
- Exhibit "H-1": Thomas Thornton's January 18, 1998 judicial misconduct complaint against Phyllis Gangel-Jacob
- "H-2": Commission's January 30, 1998 acknowledgement letter
- "H-3": Thomas Thornton's March 29, 1998 letter to the Commission
- "H-4": Thomas Thornton's June 19, 1998 letter to the Commission
- "H-5": Commission's July 1, 1998 dismissal letter
- "H-6": Commission's July 7, 1998 acknowledgment letter
- "H-7": Thomas Thornton's July 9, 1998 letter to the Commission

- "H-8":** Thomas Thornton's July 25, 1998 letter to the Commission
- "H-9":** Commission's July 29, 1998 letter
- "H-10":** Commission's August 3, 1998 acknowledgment letter
- "H-11":** Commission's October 7, 1998 dismissal letter
- "H-12":** Thomas Thornton's October 15, 1998 letter to the Commission
- "H-13":** Commission's November 10, 1998 letter