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Elena Ruth Sassower, Coordinator

BY HAND

April 18, 2001

New York State Attorney General Eliot Spitzer
120 Broadway
New York, New York 10271-0332

01 APR 19 2001
COMMUNICATIONS SECTION

RE: *Withdrawing your Respondent's Brief in the appeal of 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*
(S. Ct. NY Co. #108551/99; Appellate Division, First Dept.:
Cal. #2000-5434: September 2001 Term)

Dear Mr. Spitzer:

This follows up my January 10, 2001 letter to you, putting you on notice that you had NO legitimate defense to my appeal of the decision of Acting Supreme Court Justice William Wetzel dismissing my above-entitled public interest Article 78 proceeding against the New York State Commission on Judicial Conduct. Said letter called upon you, pursuant to Executive Law §63.1, to disavow your representation of the Commission and join in support of the appeal. For your convenience, a copy is enclosed.

You have now proven that you have NO legitimate defense. After obtaining from me a stipulation for a two-month extension of time to respond to my December 22, 2000 Appellant's Brief, your Solicitor General's office served me with a March 22, 2001 Respondent's Brief, which, from beginning to end, is fashioned on fraud, deceit, and the most shameless and dangerous legal positions¹.

¹ Among these legal positions (1) that *sua sponte*, without notice and opportunity to be heard, and without findings, a court may enjoin a party – and non-party – from further litigation; (2) that a complainant, whose *facially-meritorious* judicial misconduct complaint has been dismissed by the Commission on Judicial Conduct, lacks "standing" to sue the Commission; and (3) that a litigant lacks "standing" to challenge a court's interference with "random selection"

EX "T-2"

As illustrative of the fraud and deceit, the Respondent's Brief conceals the existence of my two analyses of the two decisions on which Justice Wetzel *exclusively* relied to dismiss my Article 78 proceeding [A-12-13]²: Justice Herman Cahn's decision in *Doris L. Sassower v. Commission* (NY Co. #109141/95) [A-189-194] and Justice Edward Lehner's decision in *Michael Mantell v. Commission* (NY Co. #108655/99) [A-299-307]. This is because these two analyses [A-52-54; A-321-334]— both part of the record before Justice Wetzel — establish that the decisions of Justices Cahn and Lehner are factually fabricated and legally insupportable. The Respondent's Brief does not deny or dispute that these analyses are completely accurate, but conceals their very existence in order to urge that Justice Wetzel's decision be affirmed.

You yourself are well familiar with these analyses — and have never denied or disputed their accuracy in face of my repeated efforts to get you to do your duty as “the People's Lawyer” and take steps to vacate the decisions of Justices Cahn and Lehner for fraud³.

Likewise, you are well familiar with my analysis of the Appellate Division, First Department's affirmance of Justice Lehner's decision. Such analysis was contained in CJA's December 1, 2000 notice to you of your duty to take steps to vacate that appellate decision for fraud -- referred to by my January 10, 2001 letter (at p. 3).

It is without denying or disputing the accuracy of this further analysis — including the bogus nature of the Appellate Division's one-sentence add-on to its affirmance that Mr. Mantell lacked “standing” — that the Respondent's Brief also deceitfully purports, based on the *Mantell* appellate decision, that I, too, lack “standing”. Indeed, the Respondent's Brief not only fraudulently claims that the issue of “standing”, as decided in the *Mantell* decision, disposes of my appeal, but conceals that when I had tried to intervene on Mr. Mantell's appeal, arguing that the appellate decision might affect my rights, you had opposed my intervention motion.

rules.

² References [A-] are to my Appellant's Appendix..

³ See, *inter alia*, my September 27, 2000 letter to you, with citation references at pp. 2-3. [Annexed as Exhibit “B” to my October 5, 2000 reply affidavit in support of my motion to

I have placed the Solicitor General's office on notice that unless the Respondent's Brief is withdrawn, I will be making a motion for sanctions. Although the fraudulence of the Respondent's Brief is obvious from the most cursory comparison of it and my Appellant's Brief, I have been requested to supply the Solicitor General's office with a written presentation. This, I am in the process of preparing.

By this letter, I call upon you to identify what steps you took, pursuant to my January 10, 2001 letter, to evaluate your obligations pursuant to Executive Law §63.1, as well as your disqualification by reason of conflicts-of-interest. Your violation of Executive Law §63.1 and disqualifying self-interest is flagrantly manifested by the Respondent's Brief - and will be the subject of a formal motion unless it is withdrawn.

Yours for a quality judiciary,



ELENA RUTH SASSOWER
Petitioner-Appellant *Pro Se*

Enclosure

cc: Office of the Solicitor General
ATT: Deputy Solicitor General Michael S. Belohlavek
Assistant Solicitor General Carol Fischer