

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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*Elena Ruth Sassower, Coordinator*

BY FAX: 212-262-5152 (3 pages)

CERTIFIED MAIL/RRR: 7099-3400-0001-2791-8462

November 16, 2000

New York State Commission on Judicial Nomination  
666 Fifth Avenue, 28<sup>th</sup> Floor  
New York, New York 10103-0084

ATT: Stuart A. Summit, Counsel

RE: The Commission's Older Reports to the Governor

Dear Mr. Summit:

This responds to your October 18<sup>th</sup> letter, transmitting copies of eight of the Commission's reports to the Governor<sup>1</sup> -- for which we thank you. You state, however, "we have been unable to locate a number of older reports".

Based on your enclosed list, there appear to be eight missing "older reports". These are:

- For vacancy #1: the report that culminated in Lawrence Cooke's appointment as Chief Judge in 1979;
- For vacancy #2: the report that culminated in Bernard Meyer's appointment as an Associate Judge in 1979;
- For vacancy #3: the report that culminated in Matthew Jason's appointment as an Associate Judge in 1981;
- For vacancy #4: the report that culminated in Richard Simons' appointment as an Associate Judge in 1983;

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<sup>1</sup> The copy of the Commission's November 12, 1998 report transmitted with your letter -- unlike the copy transmitted with your February 24, 1999 letter-- omits the heading that it is "CONFIDENTIAL".

- For vacancy #5: the report that culminated in Judith Kaye's appointment as an Associate Judge in 1983;
- For vacancy #8: the report that culminated in Vito Titone's appointment as an Associate Judge in 1985;
- For vacancy #9: the report that culminated in Stewart Hancock's appointment as an Associate Judge in 1986;
- For vacancy #10: the report that culminated in Joseph Bellacosa's appointment as an Associate Judge in 1987.

Presumably, you have some independent recollection of these "older reports", as you have been counsel to the Commission on Judicial Nomination since its inception in 1978. Please advise whether the generic presentation in the extent reports also characterized the earlier reports. Specifically, did none of these earlier reports "include the *Commission's findings* relating to the character, temperament, professional aptitude, experience, qualifications and fitness for office of *each candidate* recommended to the governor"<sup>2</sup>, but only the boilerplate that all recommended candidates are "in the collective judgment of the Commission" "well qualified by *their* character, temperament, professional aptitude..."<sup>3</sup>? Did these "older reports" also annex a "summary of the careers"?

While "[t]he Governor may have copies of the missing reports", it is hard to believe that, years ago, *immediately* following your discovery of the "unfortunate incident" of the landlord "dispos[ing] of the Commission's files", you made no attempt to reconstitute those files, at very least by obtaining copies of the Commission's reports from the Governor, from the nominees, and from other sources.

Based on CJA's past experience with the Governor, where for over a year and a half he has yet to respond to CJA's several requests for a copy of Justice Rosenblatt's publicly-accessible financial statement, pursuant to both Judiciary Law §63.4 and F.O.I.L.<sup>4</sup>, it is unlikely he would respond to our request for copies of the Commission's "missing reports".

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<sup>2</sup> Judiciary Law §63.3, emphasis added.

<sup>3</sup> Emphasis added.

<sup>4</sup> This non-response has continued even after CJA filed its March 26, 1999 ethics complaint (at p. 22) and September 15, 1999 supplemental complaint (at p. 3), annexed to CJA's October 16, 2000 report as Exhibits "A-2" and "B", respectively.

Assuredly, the Governor is far more likely to respond to a Commission request for copies of these reports. Consequently, CJA requests that you take steps to recover copies of these "missing reports" from the Governor – and that you apprise us of the outcome.

Finally, inasmuch as your October 18th letter is "in further response" to CJA's October 11<sup>th</sup> letter, please note that our October 11<sup>th</sup> letter also requests that you identify whether the Commission has finally promulgated rules and regulations for record access pursuant the F.O.I.L. – and, if so, that you provide us with a copy, as well as a copy of the required "subject matter" list of "all records" in the Commission's possession. [§87.3c of the Public Officers Law]<sup>5</sup>.

Thank you.

Yours for a quality judiciary,



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

<sup>5</sup>

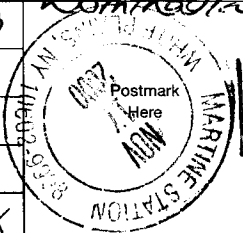
This request is also highlighted at page 5 of CJA's October 16, 2000 report.

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