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Elena Ruth Sassower, Coordinator

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March 17, 2000

U.S. Attorney for the Eastern District of New York
One Pierrepont Plaza, Room 1558
Brooklyn, New York 11201

ATT: Andrew Weissmann, Deputy Chief, Criminal Division

RE: (1) Your inaction on CJA's September 7, 1999 criminal complaint and disregard of conflict of interest rules;
(2) Supervision by your superiors and, specifically, by U.S. Attorney for the Eastern District of New York, Loretta E. Lynch

Dear Mr. Weissmann:

This letter follows up and supplements CJA's September 7, 1999 criminal complaint¹ against Governor George Pataki and others for:

- (1) disabling and corrupting the New York State Ethics Commission – the *only* state agency with disciplinary jurisdiction over the Governor and other statewide public officers and agencies, such as the New York State Attorney General, the New York State Commission on Judicial Conduct, and the New York State Commission on Judicial Nomination;
- (2) corrupting the judicial appointments process to the lower state courts and the “merit selection” process to the New York Court of Appeals; and
- (3) complicity in the corruption of the New York State Commission on Judicial Conduct – the *only* state agency having disciplinary jurisdiction over state judges and state judicial candidates.

¹ CJA's September 7, 1999 criminal complaint to the U.S. Attorney for the Eastern District of New York is part of the *Elena Ruth Sassower v. Commission* Article 78 file: annexed as Exhibit “H” to petitioner's September 24, 1999 reply affidavit in support of her omnibus motion

As of this date – more than six months after hand-delivery of that September 7, 1999 criminal complaint and its mountain of substantiating evidentiary proof – we have received no information as to either the status of your review or whether, as *expressly* requested (at p. 5), you have referred “this documented complaint of high-level corruption, involving all three U.S. branches of state government, to the U.S. Justice Department’s Public Integrity Section for investigation and prosecution”.

Indeed, in response to my phone inquiries to you on September 29, 1999 and December 17, 1999², you stated you could not comment. In those phone conversations, I apprised you that CJA was available to be interviewed by investigators and that we had additional evidentiary proof, reinforcing that transmitted with the September 7, 1999 criminal complaint. Nonetheless, and despite the fact that the most cursory review of the already transmitted documentation showed an “emergency” state of affairs, mandating prompt action to protect the public from systemic governmental corruption, including Attorney General Spitzer’s flagrant defense fraud in the then unfolding Article 78 proceeding, *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* (N.Y. Co. #99-108551) – a case implicating the Governor in the Commission’s corruption and in fraud in connection with the nomination and confirmation of Albert Rosenblatt to the Court of Appeals -- no one from the U.S. Attorney for the Eastern District of New York saw fit to contact us.

This inaction by the U.S. Attorney for the Eastern District of New York is perfectly consistent with the inaction of other public officers and agencies to whom CJA has turned with ethics and criminal complaints: the New York State Ethics Commission, the State Attorney General, the Manhattan District Attorney, the U.S. Attorney for the Southern District of New York, each of whom was also requested to intervene in *Elena Ruth Sassower v. Commission* -- if for no other reason that to safeguard the integrity of the judicial process from the subversion detailed in CJA’s \$3,000 public interest ad, “*Restraining ‘Liars in the Courtroom’ and on the Public*

² My December 17th call to you was occasioned by a news article in the December 16th *New York Times*, reporting that an indictment had been unsealed in your “two-and-a-half-year grand jury investigation into accusations that Pataki campaign officials used the promise of early parole to drum up contributions” (Exhibit “A-1”). As with the August 19th *Times* article that had prompted us to contact you (Exhibit “A” to our September 7, 1999 criminal complaint), the December 16th article reported that “no evidence had been uncovered that Mr. Pataki...participated in or had knowledge of the crimes”. My December 17th call to you followed my phone message, which I had left the previous day, for Margaret Giordano (718-254-6295), who the *Times* identified as “the prosecutor who had overseen the investigation”. CJA never received any return call from Ms. Giordano.

*Payroll*³ (NYLJ, 8/27/97, pp. 3-4), the subject of each of those complaints³. As the ethics and criminal complaints themselves particularize, these public officers and agencies are each afflicted by multiple conflicts of interests, resulting from their professional and personal relationships with those responsible for the complained-of corruption⁴.

It seems obvious that staff of the U.S. Attorney for the Eastern District of New York, likewise, have relationships with some of these same persons – many of whom are or were in law enforcement bodies with which the U.S. Attorney for the Eastern District has frequent contact: the U.S. Attorney for the Southern District of New York, the New York State Attorney General, the Manhattan District Attorney.

Illustrating this is Paul Shechtman, whose complicity with the Governor's corruption was singled out at page 3 of CJA's September 7, 1999 criminal complaint⁵ and particularized by

³ A copy of "Restraining 'Liars'" is annexed as Exhibit "C-3" to CJA's September 7, 1999 criminal complaint.

⁴ All of CJA's ethics and criminal complaints are part of the record in *Elena Ruth Sassower v. Commission* and identify conflicts of interest, mandating referral.

CJA's ethics complaints to the New York State Ethics Commission:

CJA's March 26, 1999 ethics complaint (of which you have a free-standing copy) is Exhibit "E" to petitioner's July 28, 1999 omnibus motion [see, *inter alia*, pp. 4-7 for conflict of interest];

CJA's September 15, 1999 supplemental ethics complaint (of which you have a free-standing copy) is Exhibit "G" to petitioner's September 24, 1999 reply affidavit in support of her omnibus motion [see, pp. 8-10 for conflict of interest];

CJA's October 27, 1999 ethics complaint is Exhibit "J" to petitioner's enclosed November 5, 1999 letter to Justice Kapnick [see, pp. 1-3 for conflict of interest].

CJA's ethics complaints to the New York State Attorney General:

CJA's August 6, 1999 ethics complaint is Exhibit "A" to petitioner's enclosed September 24, 1999 reply affidavit in support of her omnibus motion [see, *inter alia*, ¶¶8, 40-53 of petitioner's moving affidavit in support of her July 28, 1999 omnibus motion and pp. 3-11 of her September 24, 1999 reply memorandum of law for conflict of interest].

CJA's October 25, 1999 ethics complaint is Exhibit "I" to petitioner's enclosed November 5, 1999 letter to Justice Kapnick.

CJA's criminal complaint to the Manhattan District Attorney:

CJA's October 21, 1999 criminal complaint is Exhibit "G" to petitioner's enclosed November 5, 1999 letter to Justice Kapnick. [See pp. 5-7 for conflict of interest]

CJA's criminal complaint to the U.S. Attorney for the Southern District of New York:

CJA's October 21, 1999 criminal complaint is Exhibit "H" to petitioner's enclosed November 5, 1999 letter to Justice Kapnick. [See pp. 2-3, 18-20 for conflict of interest]

⁵ CJA's September 7, 1999 criminal complaint referred to our "understand[ing]" that the U.S. Attorney's investigation "touches on Mr. Shechtman". The September 1999 issue of *Empire State Report* reflects that Mr.

CJA's *uninvestigated* March 26, 1999 ethics complaint to the New York State Ethics Commission (at pp. 10-11, 14-20), a copy of which was transmitted therewith. Mr. Shechtman may be presumed to have a range of personal and professional relationships with staff of the U.S. Attorney for the Eastern District of New York, stemming from his years in "public service". As Governor Pataki's Director of Criminal Justice, Mr. Shechtman doubtlessly interfaced with upper-level staff of the U.S. Attorney for the Eastern District, developing new relationships, in addition to enhancing prior relationships from his years at the U.S. Attorney for the Southern District of New York, where he was Chief of the Criminal Division (1993-95), Chief Appellate Attorney, and Chief of the General Crimes Unit (1981-1985), and from his years at the Manhattan District Attorney's office (1987-1993), where he was counsel to Mr. Morgenthau. Friendships from those years plainly did not end once Mr. Shechtman left those positions. Indeed, independent of any interaction he may currently have by virtue of his "volunteer" positions as the Governor's appointed chairman of the New York State Ethics Commission and of the State Judicial Screening Committee, Mr. Shechtman's private law practice specializing in "white collar crime" has brought him in professional contact with the U.S. Attorney for the Eastern District of New York – including in connection with its investigation of the tie between contributions to Governor Pataki's campaign and parole decisions (Exhibit "A-2", p. 55; Exhibit "A-3": "*Pataki's 1994 Fund-Raising Is Under Investigation*", NYT, 1/21/98)⁶.

Likewise, Attorney General Spitzer, whose official misconduct, including complicity with the Governor's corruption, is identified in CJA's September 7, 1999 criminal complaint (at pp. 4-6) and detailed in CJA's *uninvestigated* March 26, 1999 ethics complaint (at pp. 2, 5-7, 27-29). As New York's highest law enforcement officer, he plainly interfaces with the U.S. Attorney for the Eastern District of New York, developing relationships with its upper level staff and enhancing prior relationships, including from his six years at the Manhattan District Attorney's office, where he rose to Chief of the Labor Racketeering Unit. Mr. Spitzer's choice of David Nocenti⁷ to be his counsel may reflect those relationships, Mr. Nocenti having been an

Shechtman was "under federal scrutiny for his actions involving parole" and, additionally, his disrespect for conflict of interest rules by his simultaneous representation of Pataki campaign officials, whose actions were also under scrutiny (Exhibit "A-2", at p. 55).

⁶ Because the January 21, 1998 *Times* article identified that Mr. Shechtman had been retained by Pataki campaign officials under federal investigation, CJA faxed a copy of the article to the NYS Ethics Commission – of which Mr. Shechtman was a member, though not yet its chairman -- with the question, "Is this proper?" (Exhibit "A-4). CJA received no response from the Ethics Commission to this question.

⁷ Mr. Nocenti name appears in CJA's September 7, 1999 criminal complaint (at fn. 6)—and he is also listed as an indicated recipient of the letter. Ever since CJA's initial contact with Mr. Nocenti on July 26, 1999, recited

Assistant U.S. Attorney for the Eastern District of New York for 4-1/2 years.

It is obvious that the politically-ambitious Mr. Spitzer would have cultivated many personal and professional relationships over the years. Indeed, that Mr. Spitzer places a higher value on these relationships than on his duty to the public is evident from the file of *Elena Ruth Sassower v. Commission* – a copy of which was transmitted with CJA's September 7, 1999 criminal complaint. Particularly pertinent is petitioner's affidavit in support of her omnibus motion to disqualify Mr. Spitzer from representing the Commission for conflict of interest. ¶¶40-53 detail how Mr. Spitzer elevated Michele Hirshman as his First Deputy Attorney General and Richard Rifkin as his Deputy Attorney General for State Counsel, notwithstanding documentary proof that in their respective positions as Chief of the Public Corruption Unit of the U.S. Attorney for the Southern District of New York and as Executive Director of the New York State Ethics Commission they had each covered up file evidence of the Attorney General's *modus operandi* of fraudulent defense tactics, including in the Article 78 proceeding, *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (NY Co. #95-109141) [see ¶¶24-39]. The specifics of Mr. Rifkin's misconduct as Executive Director of the Ethics Commission are chronicled in CJA's *uninvestigated* March 26, 1999 ethics complaint (at pp. 1, 12-14)

It may be presumed that during Ms. Hirshman's tenure at the U.S. Attorney for the Southern District, including as Chief of its Public Corruption Unit, she developed relationships with high-level staff of the U.S. Attorney for the Eastern District. As for Mr. Rifkin, he may be presumed to have developed relationships with the U.S. Attorney for the Eastern District in the 15 years he occupied the highest echelons of Attorney General Robert Abrams' office before becoming the Ethics Commission's Executive Director. Their current positions in Attorney General Spitzer's inner circle plainly enable them to expand and consolidate these relationships with the U.S. Attorney for the Eastern District.

Assuredly, you are aware of the policy regarding referrals to the Justice Department's Public Integrity Section -- *independent* of CJA's *express* request for referral in the September 7, 1999 complaint (at p. 5). The policy is prominently featured in its yearly Report to Congress, including in the most recent Report, under the heading "Recusals by United States Attorneys' Offices":

at ¶102 of petitioner's July 28, 1999 affidavit in support of her omnibus motion, CJA has directed ALL its voluminous correspondence for the Attorney General to Mr. Nocenti's express attention.

“...if the United States Attorney or a prosecutor in his or her office has had a significant business, social, political, or personal relationship with a subject or principal witness in a corruption investigation, it may be difficult, and often inappropriate, for that office to handle the investigation. Cases involving corruption allegations in which the conflict is substantial are usually referred to the Public Integrity Section for prosecution or direct operational supervision.” (Exhibit “B-1”: 1998 Report, p. 1)

This policy presumably implements 28 USC §528, “Disqualification of officers and employees of the Department of Justice”:

“The Attorney General shall promulgate rules and regulations which require the disqualification of any officer or employee of the Department of Justice, including a United States attorney or a member of such attorney’s staff, from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.” (Exhibit “B-2”).

As there is plainly an “appearance” – and, likely, an actuality – that staff of the U.S. Attorney for the Eastern District of New York are conflicted by relationships with a long list of individuals whose criminal conduct is established by the mountain of evidentiary proof substantiating CJA’s September 7, 1999 criminal complaint, please advise how, *if at all*, you have addressed these conflicts of interest. Please also supply us with a copy of the Attorney General’s “rules and regulations”, promulgated pursuant to 28 USC §528, as well as a copy of any further “rules and regulations” pertinent thereto promulgated by the U.S. Attorney for the Eastern District.

In view of the systemic governmental corruption, documentarily-established by CJA’s September 7, 1999 criminal complaint, involving New York’s most powerful public officers, and the questions that are reasonably raised as to your inaction to date, CJA requests that you forward it immediately to your two immediate superiors, Jason Brown, Chief of the Criminal Division, and Alan Vinegrad, Chief Assistant to the U.S. Attorney, in the event they are unaware of it. Following their preliminary review, CJA requests that Mr. Brown and Mr. Vinegrad forward the complaint to Loretta Lynch, the U.S. Attorney for the Eastern District of New York, so that she can personally determine the recusal issue and her responsibilities to ensure independent investigation and prosecution.

Supplementing CJA's September 7, 1999 complaint is the enclosed evidentiary proof – to which I referred in my September 29, and December 17, 1999 phone conversations with you, but never thereafter forwarded. Presumably, had the U.S. Attorney for the Eastern District been undertaking any investigation, these additional materials would have been requested, which they never were.

This further evidentiary proof demonstrates the *continuation* of the systemic governmental corruption established by the three categories of evidentiary materials transmitted by the September 7, 1999 criminal complaint. Those three categories were:

- (1) *The New York State Ethics Commission's cover-up of, and complicity in, systemic governmental corruption involving Governor Pataki*: as established by its inaction on CJA's March 26, 1999 document-supported ethics complaint against, *inter alia*, the Governor in tandem with Mr. Shechtman, Mr. Rifkin, and Mr. Spitzer;
- (2) *Governor Pataki's unlawful concealment of information pertaining to his judicial appointments process*: as established by his failure to substantively respond to CJA's March 30, 1999 letter invoking F.O.I.L. to obtain, *inter alia*, the judicial screening committee reports of the qualifications of his judicial appointees – such reports being publicly accessible under the Governor's own Executive Orders #10 and #11; and
- (3) *Attorney General Spitzer's defense fraud in the Article 78 proceeding, Elena Ruth Sassower v. Commission, known to Mr. Spitzer personally*: as established by petitioner's July 28, 1999 omnibus motion, seeking, *inter alia*, to disqualify the Attorney General for violation of Executive Law §63.1 and multiple conflicts of interests, as well as sanctions and disciplinary and criminal referral against Mr. Spitzer personally.

The enclosed proof, updating each of those three categories, is contained in the balance of the file of *Elena Ruth Sassower v. Commission*. The pertinent record references are as follows:

- (1) *The Ethics Commission's continued cover-up and complicity*: established by (1) CJA's September 15, 1999 supplemental ethics complaint, which is Exhibit "G" to petitioner's September 24, 1999 reply affidavit in support of her omnibus motion;⁸ and (2) CJA's October 27, 1999 ethics complaint, which is Exhibit "J" to

⁸ See, also ¶¶7-12 of the reply affidavit and p. 11 of petitioner's September 24, 1999 reply memorandum of law.

petitioner's November 5, 1999 letter to Justice Kapnick. Like CJA's March 26, 1999 ethics complaint, the Ethics Commission has neither acknowledged nor disposed of either of these subsequent ethics complaints;

- (2) The Governor's continued unlawful concealment pertaining to his judicial appointments process: is established by CJA's December 2, 1999 letter to the Governor – to which he has not responded. The letter is Exhibit "J" to petitioner's December 2, 1999 letter to Justice Wetzel;
- (3) Attorney General Spitzer's continued defense fraud in Elena Ruth Sassower v. Commission: is established by (1) the 63 pages of petitioner's September 24, 1999 reply memorandum and her September 24, 1999 reply affidavit (¶¶2, 6, 16-17); and (2) petitioner's December 9, 1999 and December 17, 1999 letters to Judge Wetzel. [See also petitioner's November 5, 1999 letter to Justice Kapnick (at pp. 6-7) identifying Attorney General Spitzer's simultaneous defense fraud in the Article 78 proceeding, *Michael Mantell v. New York State Commission on Judicial Conduct* (NY Co. #99-108655)].

Currently, the last document in the file of *Elena Ruth Sassower v. Commission* is the fraudulent January 31, 2000 decision/order of Acting Supreme Court Justice William Wetzel, Governor Pataki's former law partner, who the Governor appointed in 1995 to a Court of Claims term, which expired more than eight and a half months ago.

A separate folder is enclosed containing copies of CJA's correspondence pertaining to Justice Wetzel's fraudulent decision – to which the U.S. Attorney for the Eastern District of New York is an indicated recipient. Of foremost significance is CJA's February 23, 2000 letter to Governor Pataki, containing a fact-specific, record-referenced analysis of the decision (at pp. 15-29), as well as a recitation (at pp. 6-14) of how the case was "steered" to Justice Wetzel by Administrative Judge Stephen Crane, who has long sought to be appointed by the Governor to the Appellate Division. As detailed, the misconduct of both these judges was in face of their knowledge that unless the case was "thrown" by a fraudulent decision, Governor Pataki would be criminally implicated in the Commission's corruption, including in connection with the Court of Appeals' candidacy of Albert Rosenblatt, whose nomination by the Governor and confirmation by the Senate were -- as particularized by CJA's *uninvestigated* March 26, 1999 ethics complaint (at pp. 20-22) – a fraud upon the People of this State.

March 17, 2000

For your convenience, and that of U.S. Attorney Lynch, Mr. Vinegrad and Mr. Brown, annexed hereto are inventories of the transmitted balance of the Article 78 file and CJA's correspondence pertaining to Justice Wetzel's fraudulent decision.

Yours for a quality judiciary
and government integrity,



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

Enclosures

cc: Governor George Pataki
Chief Judge Judith Kaye
Attorney General Spitzer
New York State Commission on Judicial Conduct
U.S. Attorney for the Southern District of New York
Manhattan District Attorney
New York State Ethics Commission
Association of the Bar of the City of New York
Media

INVENTORY: Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct (NY Co. #99-108551)

1. **Petitioner's Notice of Right to Seek Intervention, Notice of Petition, and Verified Petition (April 22, 1999)**
2. **Attorney General's Affirmation (Carolyn Cairnes Olson) in Support of Respondent's Application Pursuant to CPLR §3012(d) (May 17, 1999)**
3. **Attorney General's Dismissal Motion (May 24, 1999), consisting of:**
 - (a) **Notice of Motion, with Affirmation of Assistant Attorney General Michael Kennedy and Affidavit of Albert Lawrence, Commission Clerk;**
 - (b) **Memorandum of Law in Support of Motion to Dismiss, signed by Assistant Attorney General Carolyn Cairns Olson**
4. **Petitioner's Omnibus Motion (July 28, 1999), consisting of:**
 - (a) **Notice of Motion, with Affidavit of Petitioner and Affidavit of Doris L. Sassower, CJA's Director;**
 - (b) **Memorandum of Law in Opposition to Respondent's Dismissal Motion & in Support of Petitioner's Motion for Disqualification of the Attorney General, Sanctions, a Default Judgment, and Other Relief**
[with free-standing File Folders: see inventory annexed to Petitioner's Affidavit]
5. **Attorney General's Reply Memorandum in Further Support of a Motion to Dismiss and in Opposition to Petitioner's Motion for "Omnibus Relief", signed by Assistant Attorney General Carolyn Cairns Olson (August 13, 1999)**
6. **Petitioner's Papers in Reply and in Further Support of her Omnibus Motion (September 24, 1999), consisting of:**
 - (a) **Petitioner's Reply Affidavit**
 - (b) **Petitioner's Reply Memorandum of Law**
7. **Petitioner's November 5, 1999 letter to Acting Supreme Court Justice Barbara Kapnick**
8. **Petitioner's December 2, 1999 letter to Acting Supreme Court Justice William Wetzel**
9. **Petitioner's December 2, 1999 letter to Administrative Judge Stephen Crane**
10. **Petitioner's December 9, 1999 letter to Acting Supreme Court Justice William Wetzel**
[with file of *Mantell v. Commission* (NY Co. #99-108655)]
11. **Petitioner's December 17, 1999 letter to Acting Supreme Court Justice William Wetzel**
12. **Decision/Order of Acting Supreme Court Justice William Wetzel, dated January 31, 2000**

***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)***

POST-DECISION CORRESPONDENCE:

1. CJA's February 7, 2000 memorandum-notice to Attorney General Spitzer and the New York State Commission on Judicial Conduct
2. CJA's February 23, 2000 letter to Governor George Pataki
3. CJA's February 25, 2000 memorandum-notice to the Proposed Intervenors
4. CJA's March 3, 2000 letter to Chief Judge Judith Kaye
5. CJA's March 3, 2000 letter to the Commission on Judicial Conduct
6. CJA's March 17, 2000 letter to the Proposed Intervenors
7. CJA's March 17, 2000 letter to Manhattan District Attorney
8. CJA's March 17, 2000 letter to U.S. Attorney for the Southern District of New York
9. CJA's March 17, 2000 letter to U.S. Attorney for the Eastern District of New York

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PS Form 3800, April 1995

