

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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BY MAIL

August 17, 2000

Mayor's Advisory Committee on the Judiciary
26 West 44th Street
New York, New York 10038

ATT: Paul J. Curran, Chairman

RE: Request for Clarification of your August 2, 2000 letter

Dear Chairman Curran:

This replies to your August 2, 2000 letter, purporting to respond to CJA's July 31, 2000 letter to you "and its two requests".

At the outset, CJA's July 31st letter makes only a single request, followed by a statement of fact. This is obvious from the letter's *five-sentence* text AND from its "RE: clause", which reads as follows:

- "(1) Request for the transcript of the July 6, 2000 public hearing;
- (2) CJA's *unresponded-to* July 10, 2000 letter"

As to CJA's single request for a copy of the July 6, 2000 transcript, you advise: "In accordance with City policy, the reproduction cost is 25 cents per page".

Please identify the "City policy" to which you are referring – as we would be quite astonished if there were any "City policy" which did not allow the Mayor's Advisory Committee on the Judiciary to provide, **FREE OF CHARGE**, the transcript of its public hearings to public-spirited citizens who have taken their valuable time to testify at those hearings.

Indeed, four years ago, the Committee sent us, **FREE OF CHARGE**, a copy of the 25-page transcript of the December 27, 1995 public hearing at which I had testified.

Reflecting this is Mr. Siegfried's May 1, 1996 coversheet and letter, transmitting that transcript in response to CJA's April 26, 1996 letter request. Copies of these are enclosed for your convenience. As you can see, although Mr. Siegfried refers to a "City policy" of "25 cents per page", he does so ONLY in the context of CJA's larger request for transcripts of public hearings to which it had NO testimonial connection.

Certainly, it is in the public interest for the Committee to provide copies of the transcript, FREE OF CHARGE, to persons testifying – even without any request for same. This, so that they can confirm the accuracy of the transcription of their testimony and alert the Committee to possible errors.

Moreover, despite your attempt to make it appear that reproducing the 30-page transcript of the July 6th hearing is somehow complicated and involves a whole lot of arrangements, the fact is that the Committee office has a copier, which, assuredly, can complete reproduction within a minute or two at a total cost, including paper, of less than a dollar. Consequently, it is unseemly for you to try to make money off CJA by charging \$7.50 for the hearing transcript, when CJA, acting on behalf of the public interest, has already expended thousands of dollars of uncompensated legal time to assist the Committee in upholding "merit selection" principles. Nor is there any reason for you to request that CJA make payment by "certified check or official bank check or bank money order" – as if you could not comfortably rely on an uncertified check drawn on CJA's account for such a paltry sum.

As to the July 31st letter's statement of fact that we received no response from you to our July 10th letter to you – and, likewise, no response from Mr. Siegfried and Ms. Hynes – there is no request attached. Of course, *if* you believed that CJA should have received a response because you or they had responded to the July 10th letter, you were free to set that forth. Your failure to do so impliedly concedes the truth of CJA's factual statement and of the further fact that neither you, Mr. Siegfried, nor Ms. Hynes responded.

It is to avoid acknowledging your collective and individual non-response to CJA's July 10th letter, which had inquired as to the Committee's post-hearing procedures, that your August 2nd letter asserts "The Committee's post-hearing procedures are set forth in Section 10(a) of the Procedure and Policy of the Mayor's Advisory Committee on the Judiciary". You then express your "understanding" that CJA

already has a copy, advising that if that is not the case, one can be obtained by a phone call to Ms. Jacobs at the Committee's office¹. The inference is that since the Committee's post-hearing procedures are set forth in Section 10, a copy of which is already in our possession or easily obtainable, response to CJA's July 10th letter is quite superfluous.

The untruth of this inference is exposed by CJA's July 10th letter itself, which *expressly* identifies (at p. 2) that Section 10 does *not* answer CJA's questions as to the Committee's post-hearing procedures. Among these questions:

- (1) whether you and Ms. Hynes – the only two members of the 19-member Committee present at the July 6th hearing – would be reporting back to the full Committee;
- (2) whether the Committee would be transmitting to the Mayor the copy of CJA's June 30th letter to Chief Judge Judith Kaye, which CJA had provided the Committee in opposition to the Mayor's prospective judicial appointment of Susan Knipps;
- (3) whether the Committee would provide CJA with Ms. Knipps' written response to CJA's June 30th letter, to which you made mention at the June 6th public hearing;
- (4) whether CJA's June 30th letter and supporting materials which CJA had provided to the Committee would be part of the *publicly-available* record of the June 6th public hearing.

Certainly, as the Committee's Chairman you should know that Section 10's particularization of post-hearing procedures is confined to two sentences:

“At the conclusion of each hearing the Committee will promptly evaluate the information received and will determine whether to reconsider the nomination of any such nominee. If any reconsideration results in withdrawal of a nomination, the Mayor

¹ That CJA has a copy of the Committee's "Procedure and Policy" and, specifically, its Rule 10, should have been obvious from CJA's July 10th letter, referencing Rule 10. It could also have been readily inferred from CJA's June 27th letter to Mr. Siegfried, annexed as Exhibit "A-2" to CJA's June 30th letter to Chief Judge Kaye.

will at once be notified in writing by the chairman.”²

It is, therefore, completely incongruous for your August 2nd letter to refer us back to this non-instructive Section 10, with no elaboration as to how it answers CJA’s aforesaid questions as to the Committee’s post-hearing procedures – nor the further question in CJA’s July 10th letter as to whether, apart from yourself, the other 18 members of the Mayor’s Advisory Committee were supplied with copies of CJA’s June 30th letter and supporting materials and with Ms. Knipps’ purported written response. Therefore, please advise as to why you have referred us to Section 10, when it is non-responsive to the aforesaid five questions posed by CJA’s July 10th letter. We reiterate our request for answers to those questions – and also request that you answer whether, as part of the Committee’s post-hearing procedures, the Committee forwarded to the Mayor a copy of the transcript of the July 6th public hearing – and, if so, on what date.

Plainly, the fact that your August 2nd letter makes no mention of any additional “rules” which the Committee has promulgated for public hearings, pursuant to Section 10 -- notwithstanding a copy of any such “rules” was *expressly* requested by CJA’s July 10th letter – suggests that either there are no “rules” or that you are concealing their existence. Please, therefore, clarify whether the Committee has promulgated “rules”, pursuant to Section 10. Needless to say, such “rules”, if they exist, might clarify the Committee’s policy of providing, FREE OF CHARGE, transcripts of public hearings to persons testifying at those hearings.

Finally, inasmuch as Mr. Siegfried has not denied or disputed the accuracy of the fact-specific recitation in CJA’s July 10th letter of his abusive and unprofessional conduct (at pp. 1-3), as likewise Ms. Hynes has not denied or disputed the accuracy of the letter’s fact-specific recitation of her disqualifying conflict of interest (at pp. 3-4), there is NO basis for you to take “exception” to what you describe as the “renewed comments concerning Mr. Siegfried and Ms. Hynes” in CJA’s July 31st letter. Nor is there justification for your “cheap shot” at impugning CJA by characterizing our charges against them as “manifestly false and, indeed, quite sad”.

² For your convenience, a copy of Section 10 of the Committee’s “Procedure and Policy” is enclosed.

August 17, 2000

You should be readily able to back up your defamatory pretense that CJA's charges against Mr. Siegfried and Ms. Hynes are "manifestly false" with relevant particulars from the July 10th letter, and CJA calls upon you to do so.

Frankly, what is "quite sad" is that, immediately upon receipt of CJA's July 10th letter, you, as the Committee's Chairman, did not deem it your duty to insist that Mr. Siegfried and Mr. Hynes provide CJA with a written rebuttal to the recitation therein of their serious misconduct. This, in addition to recognizing your duty to promptly respond to CJA's reasonable inquiries as to the Committee's post-hearing procedures and to hold in abeyance any recommendation to the Mayor regarding Ms. Knipps' prospective appointment to the civil court until that was done. In that regard, please advise when and in what fashion the Committee notified the Mayor of its approval of Ms. Knipps' prospective judicial appointment following the July 6th public hearing.

Yours for a quality judiciary,



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

- Enclosures: (1) CJA's April 26, 1996 letter
(2) Mr. Siegfried's May 1, 1996 coversheet and letter
(3) Section 10 of the Committee's "Procedure and Policy"

cc: Paul Siegfried, Esq. [by fax]
Patricia Hynes, Esq. [by fax]

P.S. Although Mr. Siegfried and Ms. Hynes are not indicated recipients of CJA's July 31st letter, they were each faxed a copy by the Committee's office, at my request. So that they can have the benefit of your August 2nd letter, as they read this response thereto, I will request the Committee's office to fax them a copy.

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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Box 69, Gedney Station
White Plains, New York 10605

By Fax and Mail:

212-768-4115

April 26, 1996

Paul D. Siegfried, Executive Director
Mayor's Advisory Committee on the Judiciary
Room 203
36 West 44th Street
New York, New York 10036

Dear Mr. Siegfried:

Request is hereby made to inspect and copy all transcripts of public hearings held on the judicial appointees of Mayors Giuliani, Dinkins, and Koch.

Most immediately, we request access to the transcript of the public hearing of December 27, 1995--at which I testified.

Additionally, we request access to the transcript of the public hearing held in 1992 on the appointment of Lorin Duckman to the criminal court.

Your prompt attention would be greatly appreciated.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

The City
of
New York



MAYOR'S ADVISORY COMMITTEE ON THE JUDICIARY
38 WEST 44TH STREET
NEW YORK, N.Y. 10036

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TELECOMMUNICATIONS INFORMATION PAGE

PLEASE DELIVER THE FOLLOWING TO: Elena Ruth Sassower, Coordinator

AREA CODE AND FACSIMILE NUMBER: (914) 684-6554

FROM: Paul D. Siegfried, Esq.

TOTAL PAGES INCLUDING THIS PAGE: 27

COMMENTS: _____

IF YOU DO NOT RECEIVE LEGIBLE COPIES OF ALL THE PAGES, PLEASE
CALL BACK AS SOON AS POSSIBLE (212) 944-6225

TRANSMITTED BY: JA DATE May 1, 1996

The City
of
New York



MAYOR'S ADVISORY COMMITTEE ON THE JUDICIARY
38 WEST 44TH STREET
NEW YORK, N.Y. 10036

Telephone (212) 844-8225
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May 1, 1996

BY FAX AND BY MAIL

Ms. Elena Ruth Sassower
Coordinator, Center for
Judicial Accountability, Inc.
Box 69, Gedney Station
White Plains, New York 10605

Dear Ms. Sassower:

Pursuant to your request of April 26, 1996, as a courtesy, the Committee is mailing with this letter a copy of the December 27, 1995 public hearing transcript.

In accordance with City policy--at a reproduction cost of 25 cents per page--the Committee will provide you with copies of all public hearing transcripts with respect to the judicial appointments of former Mayors Koch and Dinkins and of Mayor Giuliani. There are 87 transcripts, consisting of 1162 pages in the aggregate.

Accordingly, please mail to the Committee a certified or official bank check in the amount of \$290.50, payable to the City of New York. Upon receipt, the Committee will make arrangements for reproduction of the transcripts. After the reproduced transcripts have been delivered to the Committee, the Committee will so advise you in order that you may make appropriate arrangements with your courier for delivery to the Center for Judicial Accountability, Inc.

Please note that the Committee does not hold public hearings for judges under consideration for reappointment. Accordingly, there is no public hearing transcript relating to Judge Duckman's reappointment.

Very truly yours,

A handwritten signature in cursive script that reads "Paul D. Siegfried" with a small number "7" written below the name.

Paul D. Siegfried
Executive Director

PDS/tj

10. Public Hearings.

(a) Before any initial judicial appointment, the Mayor will inform the Committee of each nominee he intends to appoint and to which court. The Committee will promptly schedule a public hearing, to be conducted by the Committee, at which any person may present information concerning the fitness of each nominee for judicial office. At least 10 days before the hearing a public notice will be placed by the Committee in a publication of appropriate city-wide distribution, stating the names of all such nominees, the relevant courts, the time and place of the hearing, and its purpose. The Committee may adopt rules governing such hearings. At the conclusion of each hearing the Committee will promptly evaluate the information received and will determine whether to reconsider the nomination of any such nominee. If any reconsideration results in withdrawal of a nomination, the Mayor will at once be notified in writing by the chairman.

(b) The Committee will, whenever practical, hold additional public hearings to permit individuals and groups to express their views and recommendations as to the judicial selection process in general.

11. Period of Nominee's Eligibility. After the Mayor appoints a nominee to fill a judicial vacancy, the remaining nominations submitted for that vacancy shall immediately expire unless there is another existing vacancy in a court for which