

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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April 12, 1996

Barbara Paul Robinson, President
Association of the Bar of the City of New York
42 West 44th Street
New York, New York 10036

RE: The Legal Community's Ethical/Professional Responsibility

Dear President Robinson:

This letter responds to yours dated March 26, 1996 (Exhibit "A"), acknowledging receipt of our March 18, 1996 letter concerning the New York State Commission on Judicial Conduct (Exhibit "B").

Your letter baldly states "clearly we do not agree about the Commission on Judicial Conduct". Yet, it does not address any of the legal issues and documentary proof presented by the file of our Article 78 proceeding against the Commission, identified by our March 18th letter as establishing that the Commission is "not merely dishonest, but corrupt" (Exhibit "B", p. 1).

Our March 18th letter emphasized as a "reasonable request" that the City Bar express its

"view of the constitutionality, as written and as applied, of the self-promulgated rule of the Commission, challenged by our case, as well as of our contention¹ that the Supreme Court's dismissal of the case is a fraud."
(Exhibit "B", at pp. 2-3)

We do not believe that is too much to ask--considering the result of your unspecified disagreement is that the "Association can not assist [us]" (Exhibit "A").

Our legal challenge to the Commission not only directly affects the public, but the thousands of lawyers who are the rank and file members of the Association. These lawyers, in the course of their careers, inevitably come into contact with incompetent, abusive, and dishonest judges, who destroy their meritorious cases and the lives of their clients, as represented by those

¹ As detailed at pages 1-3 of our December 15, 1995 letter to the Assembly Judiciary Committee, which accompanied our transmittal of the file to the City Bar.

cases. The recently-published opinion of the City Bar's Committee on Professional and Judicial Ethics--annexed as Exhibit "B" to our March 18th letter--may be seen as illustrative.

Therefore, we reiterate our "reasonable request" that the City Bar detail its view of those legal and evidentiary issues, as well as our previous requests for information as to who at the City Bar has been involved in the decision-making process (See, Exhibit "B", p. 2).

It may very well be that the decision-making has been preempted by highly-placed individuals, who, by reason of their social and professional relationships, have interests in conflict with the public and rank and file membership of the Association. For example, Helaine M. Barnett, who sat on the City Bar's Executive Committee and now sits on its Nominating Committee which nominates the Association's highest officers, including its President, is a member of the Commission on Judicial Conduct--a position she has held since 1990. As such, she is implicated in the criminal complicity represented by the Commission's dismissal of seven of the eight facially-meritorious complaints of criminal conduct by high-ranking judges and judicial candidates, which are annexed to the Article 78 petition².

The conflicts existing "at the top" would explain the astonishing statement of general counsel Alan Rothstein--as set forth at page 2 of our March 18th letter, which you have now confirmed--that the City Bar will neither assist us through its committees nor provide us with any referral to individual lawyers who might assist us. Ms. Barnett, who, additionally, is the liaison to the Committee on Ethics and Professional Responsibility of the American Bar Association from its Board of Governors, could surely recite for you the specific violations of Canons 1 and 2 of the Code of Professional Responsibility, reflected by such position which, in the context of a case as this, involving issues of government and judicial integrity and public safety, is further violative of Canon 8.

As you know, on April 1st, former City Bar President John Feerick lectured on "Judicial Independence and the Impartial Administration of Justice", during which he referred to the importance of the Commission on Judicial Conduct. I introduced myself to you at the reception, immediately following. You flew into a rage when I requested that you elaborate on your March 26th letter (Exhibit "A")--not only walking away from our private conversation, but threatening to call security to have me removed when I asked your view of the City Bar's ethical and professional

² See Exhibits "D"--"J" thereto.

responsibilities in this matter. I believe you thereafter approached Mr. Rothstein for that purpose.

Such behavior by you, as President of the City Bar, is inconsistent with the City Bar's "goal of a responsible and responsive legal profession"--to which, on the opening page of its publicly-distributed pamphlet about the Commission on Judicial Conduct, it purports to be "committed" (Exhibit "C").

Indeed, your awareness of the indefensibility of your March 26th letter may be discerned from your conspicuous failure to forward copies of it to the recipients indicated by our March 18th letter (Exhibit "B")--among them, the Assembly Judiciary Committee, Governor Pataki, Mayor Giuliani, the New York County Lawyers' Association, and the New York State Bar Association--all of whom would be interested in the City Bar's evaluation of the Article 78 file.

Following your appalling mistreatment of me, I provided copies of our exchange of correspondence to former City Bar President Feerick, who said he would speak with you, and to incoming City Bar President Michael Cardozo, who refused to comment about the file--which he acknowledged having seen.

As you know, Dean Feerick and Mr. Cardozo are, respectively, the Chairman and Vice-Chairman of the Fund for Modern Courts. You yourself are on the Board of Directors of the Fund³--a preeminent organization publicly promoting the Commission on Judicial Conduct, which it was instrumental in creating.

Both Dean Feerick and Mr. Cardozo are personally aware that more than seven months ago we requested that the Fund--to which we had previously given a copy of the Article 78 file--address the very issues we have asked the City Bar to address. A copy of our August 22, 1995 letter to them concerning our case against the Commission is annexed hereto as Exhibit "D"⁴. The Fund's Executive Director, Gary Brown, has refused to go on record with any response.

³ Three of the City Bar's past presidents, Robert Kaufman, Robert MacCrate, and Cyrus Vance, are Chairmen Emeriti of the Fund for Modern Courts.

⁴ That letter is, in fact, already in your possession--annexed to our December 15, 1995 letter to the Assembly Judiciary Committee as Exhibit "F".

April 12, 1996

It is our contention that the reason the City Bar, the Fund for Modern Courts, the New York County Lawyers' Association, and others have refused to confront the straight-forward issues presented by our lawsuit against the Commission is because the Commission's self-promulgated rule is unconstitutional, as written and as applied, and the Supreme Court decision of dismissal is a fraudulent cover-up. Such contention is fully supported by the litigation file.

To assist you--and other leaders of the bar--in meeting fundamental ethical and professional responsibilities, which you are so determined to shirk, a copy of this letter is being sent to Steven C. Krane, Chairman of the City Bar's Committee on Professional and Judicial Ethics so that an opinion may be rendered.

For such purpose, we request that you promptly furnish to the Committee on Professional and Judicial Ethics the materials we hand-delivered to the City Bar on January 25, 1996, inventoried in our coverletter of that date⁵.

Yours for a quality judiciary,



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

Enclosures

cc: Steven C. Krane, Chairman
Committee on Professional and Judicial Ethics
Helaine M. Barnett, Esq.
Former President John D. Ferrick
Incoming President Michael A. Cardozo
Gary Brown, Executive Director
Fund for Modern Courts
Recipients of our March 18, 1996 letter:
Assembly Judiciary Committee
Governor George Pataki
Mayor Rudolph Giuliani
New York County Lawyers' Association
President Klaus Eppler
Irwin S. Davison, Executive Director
New York State Bar Association
President Maxwell Pfeifer
Ronald Russo, Esq., Attorney for Judge Lorin Duckman
New York media

⁵ See Exhibit "D" to our March 18, 1996 letter to you.