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REPORT OF THE CENTER FOR JUDICIAL ACCOUNTABILITY, INC. (CJA)

**THE COMPLICITOUS ROLE OF THE BAR ASSOCIATIONS
IN THE CORRUPTION OF "MERIT SELECTION" APPOINTMENT
TO THE NEW YORK COURT OF APPEALS**

An Expose of the Rigged and Fraudulent Ratings of:


**The New York State Bar Association
The Association of the Bar of the City of New York
The Women's Bar Association of the State of New York
The New York State Trial Lawyers Association**

**Evaluating the Qualifications of Candidates Recommended by the
October 4, 2000 Report of the New York State Commission on Judicial Nomination**

Submitted by:


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Read and approved by:


DORIS L. SASSOWER, Director*

* First woman practitioner nominated for the New York Court of Appeals at statewide Judicial Nominating Convention (1972); First woman appointed to the Judicial Selection Committee of the New York State Bar Association (1972-1980); Authored first published article on the newly-introduced use of judicial selection panels in New York, "Judicial Selection Panels: An Exercise in Futility?", New York Law Journal (10/22/71, p. 1); President, New York Women's Bar Association (1968-1969).

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contents of the File Folders had never even been disturbed¹⁷.

B. The New York State Bar Association

The State Bar was the last of the four bar associations to issue its ratings. It did so on October 24, 2000 by a letter to the Governor (Exhibit "B-1") and a simultaneous "News Release" (Exhibit "B-2"), announcing its highest "Well-Qualified" rating on all seven recommendees.

The State Bar's October 24th letter, signed by its President, Paul Michael Hassett, purports that its Committee on Judicial Selection, chaired by John Horan, appointed subcommittees to review candidates' qualifications, which "interviewed those who knew the candidates" and that the information gathered by the subcommittees was "then considered at length by the full Committee...". The letter enclosed a copy of the State Bar's "Guidelines for Evaluating the Qualifications of Judicial Candidates". This identifies that each subcommittee is to have "the assistance of Association staff" so as to "make a complete and thorough investigation of the candidate's qualifications".

Yet, no subcommittee or staff contacted CJA following delivery of its October 16, 2000 report to Chairman Horan's office at 1:15 p.m. on October 17th – even where the coverpage to that report identified that CJA's Director, Doris Sassower, had been the first woman on the State Bar's Committee on Judicial Selection, had served as a member for eight years (1980-88), and, prior thereto, had been the first woman practitioner nominated to the Court of Appeals at a statewide judicial nominating convention (1972).

Likewise no subcommittee or staff contacted CJA in the week prior thereto – a period in which the State Bar's "Staff Liaison" to the Committee on Judicial Selection, Kathleen Mulligan Baxter, and Chairman Horan himself were on notice that CJA had adverse information to impart. Thus, on Tuesday, October 10th, I telephoned Ms. Baxter (518-463-3200), who expressly told me she would "advise" the specific subcommittees reviewing the qualifications of Justice Crane and Judge Newton that we had adverse information. As to Chairman Horan, I telephoned his law office repeatedly (212-480-4800), leaving urgent messages on his voice mail as to CJA's opposition and attempting to verify whether I should deliver CJA's report to him or to some other committee member. These calls were once on October 12 (at 2:30 p.m.), twice on October 13th (at 10:10 a.m. and at 2:07 p.m.), once on October 16th (at 1:30 p.m.), and once on October 17th (at 10:40 a.m.). NONE of these calls were returned.

¹⁷ As hereinabove set forth, the City Bar already had in its possession copies of the contents of File Folders "A" and "B", as well as appended Exhibits "J-2" and "J-3". While it is not impossible that Executive Committee and panel members would have reviewed those copies – rather than the ones transmitted with the hand-delivered report – it is far less likely that Mr. Rothstein would have waded through the mountain of documents in his possession to find the ones needed for the review, rather than provide the members with the meticulously organized and inventoried copies transmitted with the hand-delivered report.

impart may be due to the fact that she knew her "witch-hunt" claim was utterly bogus¹⁹. Perhaps, too, it was because she recognized that information adverse to Justice Crane and Judge Newton would inure to the benefit of Mr. Moore, one of the seven recommendees and, presumably, the State Bar's favorite. Indeed, I stated as much to Ms. Baxter, who had no response.

In any event, Ms. Baxter refused to provide me with the names of the Judicial Selection Committee's members or any information about its procedures, except that separate subcommittees would be investigating each of the seven recommendees. She would not identify whether, as part of the Committee's evaluation, candidates were required to complete a questionnaire such as the uniform judicial questionnaire. Nor would she identify the timetable for the Committee's work, such as when it would be interviewing the candidates. Indeed, when I stated I would get that information from Mr. Horan, Ms. Baxter responded that she would tell him *not* to tell me.

In that October 10th conversation, Ms. Baxter did not identify that the State Bar's "Guidelines for Evaluating Qualifications of Judicial Candidates" is a publicly-accessible document (Exhibit "B-1"). Nor did she mention that she had sent me a copy two years earlier. At that time, I had written a February 17, 1999 letter to the office of President Moore (Exhibit "I-3"), to which Ms. Baxter had responded. By letter dated February 18, 1999 (Exhibit "I-4"), Ms. Baxter supplied the requested "Guidelines", whose existence I had learned of from the transcript of the Senate

¹⁹ In our subsequent October 25th conversation, I asked Ms. Baxter if she had any other basis for her claim that CJA was on a "witch-hunt", apart from CJA's opposition to the Senate Judiciary Committee's rubber-stamp 1993 "hearing" on Justice Levine's confirmation. She answered by saying that she had "seen" CJA's "activities". The two "activities" she then identified, without any specificity as to why they were objectionable, were: (1) a 1996 A & E investigative report on judicial misconduct, which had featured CJA's work as a critic of the New York State Commission on Judicial Conduct for protecting powerful, politically-connected judges; and (2) CJA's public interest ad, "Where Do You Go When Judges Break the Law?" (New York Times, 10/26/94; Op-Ed page, New York Law Journal, 11/1/94, p. 9), which described the lawless and retaliatory suspension of Doris Sassower's law license, as well as the perversion of the Article 78 remedy in *Doris L. Sassower v. Mangano* (Exhibit "J-1").

It should be noted that even before CJA had provided Mr. Stave with its document-supported November 18, 1998 letter, establishing the Commission on Judicial Conduct's protectionism of Justice Rosenblatt by its dismissals, without investigation of facially-meritorious, fully documented complaints against him, including one based on his role in perverting the Article 78 remedy in *Sassower v. Mangano*, the State Bar had copies of the substantiating court file in *Doris L. Sassower v. Commission* and the cert papers in the *Sassower v. Mangano* Article 78 proceeding.

Ms. Baxter is personally knowledgeable that CJA provided the State Bar with copies of the *Sassower v. Mangano* cert papers as she received CJA's June 1, 1995 letter to Frank Rosiny, then Chairman of the State Bar's Committee on Professional Discipline on the subject (Exhibit "J-2"). Her response, by letter dated June 5, 1995 (Exhibit "J-3"), put her own imprimatur on the grotesquely unethical and unprofessional conduct of Mr. Rosiny and his committee members, in ignoring, without reason, CJA's document-supported presentation as to the unconstitutionality of New York's attorney disciplinary law and empirical proof showing that the committee's proposal to amend Judiciary Law §90 to open up attorney disciplinary process, after court authorization of disciplinary proceedings, was the product of a "rigged" committee study, concealing that disciplinary proceedings were being authorized without the requisite "probable cause" finding and where, additionally, NO "probable cause" finding was even possible.

Judiciary Committee's confirmation "hearing" of Justice Rosenblatt²⁰. However, her February 18, 1999 letter refused, on confidentiality grounds, my request for a blank copy of any questionnaire that Justice Rosenblatt had been required to complete as part of the evaluation process, as, likewise, information as to the members of the Committee on Judicial Selection who had participated in Justice Rosenblatt's evaluation. This latter request Ms. Baxter had rejected by claiming "under a policy established by our House of Delegates, we are not permitted to release rosters of committees or sections to entities outside the Association for purposes unrelated to Association business." (Exhibit "I-4").

Nevertheless, on Wednesday, October 25th, following a front-page item in the Law Journal that the State Bar had found all recommendees to be "well qualified" (Exhibit "B-3"), Ms. Baxter – perhaps forgetting the supposed "policy" she had asserted in her February 18, 1999 letter (Exhibit "I-4") – faxed me a copy of the roster of members of the Committee on Judicial Selection, as well as the roster of the Executive Committee (Exhibit "B-5"). This followed my October 25th phone call to her requesting that information. In that conversation, I asked Ms. Baxter to elucidate upon the Guidelines, as they do not state how many members are on each investigative subcommittee. Ms. Baxter claimed she did not know the number -- notwithstanding the Guidelines expressly reflect the involvement of "Association staff" in the work of the subcommittees. She also would not answer whether the candidates had been required to complete a questionnaire, pursuant to the Guidelines providing that "the form" for securing "written biographical and other data from the candidate" be determined by the Committee.

Additionally, Ms. Baxter stated she had not seen CJA's October 16, 2000 report. However, she told me that Mr. Horan had informed her that Justice Crane had "independently" brought with him a copy of the judicial misconduct complaint that CJA had filed against him. This was presumably CJA's March 3, 2000 complaint to the Commission on Judicial Conduct resting on the detailed recitation of Justice Crane's misconduct in *Elena Ruth Sassower v. Commission*, appearing at pages 6-14 of CJA's February 23, 2000 letter to the Governor, with copies of the court records showing he had "steered" the case, appended at Exhibit "C-1" and "C-6" thereto.

Thereafter, I faxed to Chairman Horan a written request that he forward to Ms. Baxter CJA's document-supported October 16, 2000 report under a coversheet that asked that he "Please do so IMMEDIATELY" (Exhibit "B-4"). As of November 13, 2000, it appears Chairman Horan had not done so, as Ms. Baxter stated to me she had still not received it when I telephoned her on that date.

²⁰ The Senate Judiciary Committee transcript contained a December 10, 1998 letter from then State Bar President Moore to Judiciary Committee Chairman James Lack, advising that the State Bar's Judicial Selection Committee had found Justice Rosenblatt to be "well qualified" pursuant to the attached "Guidelines". However, the "Guidelines" were not part of the transcript, which referred to the letter at pages 7 and 33.