

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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April 11, 1997

Reverend Robert E. Eggenschiller
St. Peter's Episcopal Church
107 State Street
Albany, New York 12207-1622

RE: The New York State Ethics Commission

Dear Reverend Eggenschiller:

I am sure your secretary informed you that I stopped by St. Peter's Episcopal Church last Tuesday. She was kind enough to "hear me out" as to the purpose of my visit -- which was to find out what had become of your promise to me last year when I spoke with you by phone.

At that time, I turned to you in the belief that you -- as a clergyman -- would act with honesty and integrity in the face of the information I had to impart, namely, that the New York State Ethics Commission -- on which you sit as a Commissioner -- was improperly dismissing fully-documented filed complaints of political protection and corruption by state agencies and doing so by an unauthorized and secretive delegation of power to its Executive Directors, whose palpable dishonesty we had meticulously demonstrated in correspondence.

I implored you to review the correspondence relating to the complaints we had filed with the State Ethics Commission against the New York State Board of Elections, the New York State Commission on Judicial Conduct, and the New York State Attorney General's office so that you could verify for yourself the documented facts as to the malfeasance, indeed corruption, of those agencies -- and the complicity of the State Ethics Commission.

My June 6, 1996 telephone call to you was precipitated by my receipt of a three-sentence letter, dated May 28, 1996, from Joseph Bress, then Chairman of the State Ethics Commission. By that letter, Mr. Bress purported to respond to our April 24, 1996 letter and advised us that the Commission, at its May 28, 1996 meeting, had reviewed our "previous correspondence and the Executive Director's responses". *Without* addressing any of the specific issues presented by that correspondence -- all bearing upon the integrity of the Commission's operations, including its supposedly confidential resolution delegating to its Executive Directors the power to dismiss ethics complaints *without* presentment to the Commissioners -- Mr. Bress, who, until becoming Chairman in 1991 had himself been Executive Director of the Commission from its inception, made the conclusory claim "We believe that the matters have been fully and completely reviewed". As I discussed with you, *no* self-respecting examination of that correspondence could reach such insupportable and dishonest conclusion.

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In our half-hour telephone conversation, you agreed to review the correspondence and our filed ethics complaints. Indeed, because you understood that such review would require you to *independently* evaluate the actions of Executive Director Richard Rifkin as to our ethics complaint against the State Commission on Judicial Conduct and the State Attorney General's office, and of his predecessor, Thea Hoeth, as to our ethics complaint against the State Board of Elections, you told me that you would ask your daughter, an attorney, to assist you. I believe I stated that should a waiver of confidentiality be needed for such purpose, we would readily provide one -- and that, if necessary, we would supply you with duplicate documents¹.

It is my recollection that you told me that you would not be able to undertake such examination until the end of the summer -- or perhaps you stated that the members of the State Ethics Commission would not be holding another meeting of its Commissioners until that time. In any event, I never, thereafter heard from you -- or from the other Ethics Commissioners.

We have now learned that immediately after the May 28, 1996 meeting, Mr. Bress stepped down as Chairman of the State Ethics Commission -- and that in all this time since then the Commission has been functioning *without* its full complement of five commissioners and *without* a chairman. The obvious result has been to vest even more unsupervised power in the hands of Mr. Rifkin, whose dishonest and unethical conduct is unequivocally established by our correspondence.

Your secretary explained to me that you are very busy. However, you voluntarily accepted appointment to the State Ethics Commission -- and with it the concomitant responsibilities to the People of this State who rely on the Commission to enforce legal and ethical standards -- and who pay their tax dollars -- \$1,443,900 in the fiscal year 1996-7 -- for it to do so. Indeed, the inclusion of a clergyman as an Ethics Commissioner is plainly to encourage the People of this State to believe that, notwithstanding the Governor appoints each of the Commissioners and designates its chairman to serve "at the pleasure of the governor" (Executive Law §94(4)), the Commission will be true to its purpose.

As rector of St. Peter's Episcopal Church, you surely recognize that your congregants, like all New Yorkers, are impacted by government corruption. Ensuring the integrity of the State Ethics Commission is serving them: They are adversely affected when the State Board of Elections fails to

¹ The pertinent *post*-dismissal correspondence relating to our ethics complaint against the New York State Board of Elections includes: our April 8, 1994 letter to Ms. Hoeth, to which Mr. Rifkin purported to respond by letter dated April 19, 1994. This we followed up with a May 18, 1994 letter addressed to Jerry Koenig of the Assembly Election Law Committee, with a copy to Mr. Rifkin. The pertinent *post*-dismissal correspondence relating to our ethics complaint against the New York State Commission on Judicial Conduct and the Attorney General's office includes: our January 24, 1996 letter to Mr. Rifkin, to which he purported to respond by letter dated February 29, 1996. This we followed up with our April 24, 1996 letter to Mr. Rifkin, subsequent to which we received Mr. Bress' May 28, 1996 letter.

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investigate political leaders who manipulate judicial elections and then maliciously blocks judicial review of its actions, when the State Commission on Judicial Conduct refuses to investigate the wilful misuse of judicial office by powerful and politically-connected judges and then uses litigation misconduct to subvert judicial review of its actions, and when the Attorney General, rather than meeting his obligations to the People of this State, is the instrument of that litigation misconduct, unlawfully protecting the Commission on Judicial Conduct and individual judges from judicial scrutiny of their corrupt and unconstitutional acts.

We have learned that the next meeting of the State Ethics Commissioners is scheduled to take place in just over two weeks, on April 29th. We respectfully request that you take steps prior thereto to ensure that this serious matter is on the agenda and that the full files of our ethics complaints are on the table for inspection by the Commissioners.

Additionally, we request that you clarify what actions, if any, have been taken by Mr. Rifkin, over the course of these past many months in light of Governor Pataki's violation of Executive Law §94(5). That law requires the Governor to fill any vacancy on the Commission "within sixty days of its occurrence". Although Walter Ayres, the Ethics Commission's Public Information Officer, has stated that the Commission is *not* precluded from disclosing information as to whether it has requested the Governor to fill the vacancy, it is not required to do so. According to Mr. Ayres, the decision as to whether to make such information publicly available rests with Mr. Rifkin, who has declined to acknowledge whether there have been communication with the Governor on the subject. Such behavior by Mr. Rifkin, unnecessarily denying public access to basic information about the Commission's functioning, further demonstrates the closed manner in which the Ethics Commission has been operating under his directorship. Mr. Ayres has further stated that relevant correspondence between the Commission and the Governor, should it exist, are not discoverable under FOIL, pursuant to Public Officers Law §87.2(g).

Please let us hear from you as soon as possible. With each passing day, untold numbers of individual New Yorkers -- and the public at large -- suffer irrevocable and continuing injury from the Ethics Commission's cover-up dismissal of documented complaints against this state's most important agencies.

Yours for a quality judiciary,



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

Enclosures

cc: Ethics Commissioner Angelo A. Costanza
Ethics Commissioner Donald A. Odell
Ethics Commissioner Evans V. Brewster

P.S. I left with your secretary a copy of CJA's informational brochure -- a further copy of which is herein enclosed. Please read it and the inserts, specifically our New York Times Op-Ed ad "*Where Do you Go When Judges Break the Law?*" and our New York Law Journal ad "*A Call for Concerted Action*" because they give an overview of the pervasive corruption and cover-up that is encompassed by our filed ethics complaints.

I also left with your secretary a brochure about the state constitutional convention, which will be a referendum question on this November's ballot. Another copy is also enclosed. Please let your congregants know about the unique opportunity they will have in voting "Yes". The corruption of governmental checks and balances, including a panoply of oversight mechanisms and agencies -- reflected by our filed ethics complaints -- leave the People with no alternative but to reclaim their rights by a constitutional convention.