

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

October 25, 2013

TO: Florence Seff, Owner/President
Precise Court Reporting Services, Inc.

FROM: Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: The Pattern of Errors in the Stenographic Transcription of the Oral Testimony of Elena Sassower at the September 17, 2013 Public Hearing of the Commission to Investigate Public Corruption – Material to Her Presentation as to the Commission’s Conflicts of Interest

This follows up my phone call on October 15, 2013, requesting to speak with your stenographer, Stefanie Krut, whose transcription of my testimony before the Commission to Investigate Public Corruption at its September 17, 2013 public hearing is materially erroneous, as verifiable from the video of the hearing.

Unlike the video, which is posted on the Commission’s website, <http://www.publiccorruption.moreland.ny.gov>, Ms. Krut’s transcription is not. I found it by a google search, posted on what appears to be a publicly-inaccessible part of the Commission’s website: <http://publiccorruption.moreland.ny.gov/sites/default/files/PUBLIC-CORRUPTION09-17-13.pdf>.

Your office manager, Kelly Iacobellis, told me she would pass my message to Ms. Krut, who would call me back. However, a short time later, Ms. Iacobellis phoned to say that she had spoken to you, that you had stated that it is not company policy to have reporters speak with witnesses directly, and that I should furnish, in writing, the respects in which the transcription is erroneous.

This I have done by marking up the pages of Ms. Krut’s transcription of my testimony, based on the video. These are pages 91-98 of her transcription and they are enclosed.

Suffice to say – and it must be said – that the video reveals a troubling pattern to the errors in Ms. Krut’s transcription:

- As is audible from the video, I identified the Commission on Judicial Conduct three separate times. However, from Ms. Krut’s transcription, it is as if I never identified it even once. Thus: on page 92, at line 14, she has the words “judicial misconduct”, rather than Commission on Judicial Conduct; on page 97, at lines 16-17, she has the words “judicial conduct of the State of New York”, rather than “Commission on Judicial Conduct of the

State of New York”; and on page 97, at line 22, she has the word “Commissioner”, rather than “Commission on Judicial Conduct”;

- As is audible from the video, my reference to the “disciplinary system” was to the “attorney disciplinary system” – and not, as inferable from Ms. Krut’s page 92, lines 14-15, a “disciplinary system” relating to “judicial misconduct”;
- As is audible from the video, I had supported my assertion that the Commission had used written statements of witnesses to “[c]ensor” testimony – appearing at Ms. Krut’s page 94, line 19 – by the further assertion “But, actually, I’m familiar with some of these statements” – missing from Ms. Krut’s transcription;
- As is audible from the video, I spoke of “the many people who are coming forward to complain about the corruption in the judiciary” – not, as Ms. Krut’s page 97, lines 12-13 has it – “many people coming out of forward in the judiciary”;
- As is audible from the video, I twice used the word “monitor” in referring to the Commission on Judicial Conduct. Both times are missing from Ms. Krut’s page 97, lines 16-17;
- As is audible from the video, I identified three specific persons who had engaged in misconduct – Betty Weinberg Ellerin, Robert Morgenthau, and Daniel Castleman. Two of those names, Betty Weinberg Ellerin and Daniel Castleman, are entirely omitted. As for the name Robert Morgenthau, it is so transmogrified as to be unrecognizable. Thus, Betty Weinberg Ellerin’s name should appear on page 97, at line 21, but does not; Daniel Castleman’s name should appear on page 98, at line 3, but does not; and Robert Morgenthau’s name should appear on page 98, at line 3, but does not, being transmogrified to “Robert Rosenthal”;
- As is audible from the video, I repeated three separate times the words “aided and abetted” to describe the misconduct of Robert Morgenthau and Daniel Castleman. All three times are missing from pages 97-98. Similarly the descriptive word for the misconduct of Betty Weinberg Ellerin is missing from page 97, line 21 – that word being “threw”;
- As is audible from the video, I specified the conflict of interest relating to: “judicial pay raises when district attorney salaries are tied to judicial pay raises”. This is entirely omitted from page 98, line 7.

Obviously, a stenographer will have difficulty taking down overlapping statements when more than a single party is speaking. However, Ms. Krut’s omissions and inaccuracies occur even when I alone am speaking. Moreover, where multiple parties were speaking, Ms. Krut surely knew she had failed to capture everything. Quite apart from whether she was also audio-recording the hearing, she certainly knew that the Commission was webcasting it and recording the video. At best, she failed to utilize the video to ensure the accuracy of her transcription of my testimony – as, likewise, the

accuracy of her keyword index.

According to your website, <http://www.precisecrs.com>, a “keyword index” is a:

“Glossary of all the words in the transcript with the page number it appears on in the transcript. This would make it easier to find the word you are looking for.”

http://www.precisecrs.com/Services_Detail.php?ServiceID=8

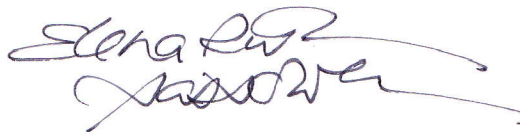
Plainly, any keyword index that Ms. Krut prepared would have failed to include significant names and words from my testimony: “Commission on Judicial Conduct”, “attorney disciplinary system”, “monitor”, “Betty Weinberg Ellerin”, “Daniel Castleman”, “Robert Morgenthau”, and “judicial pay raises”. Is it a coincidence that all of these are material to the Commission’s “conflicts of interest” about which Ms. Krut’s transcript shows I spoke so strongly – even apart from the two further places, audible from the video, but not so-transcribed (page 96, line 3; page 98, line 9).

Please advise as to what safeguards Precise Court Reporting, Inc. utilizes to ensure the precision of its transcripts. Do your stenographers additionally audio record proceedings – and did Ms. Krut have an audio? Did she not check it? And what about the Commission’s video? Why did she not proof her transcription – at least those parts that were difficult – with the video of the hearing? This she could have easily done as the video was posted on the Commission’s website for well over a week before she certified her transcription on September 30, 2013.

I note Ms. Krut’s certification page states that her transcription is “a true and accurate transcript of [her] stenographic notes”. I respectfully ask that you examine those “stenographic notes” and state whether – based on the Commission video and any additional audio recording Ms. Krut made – you believe her “stenographic notes” meet the standard of precision and accuracy required of stenographers.

Finally, I would appreciate your furnishing me with Ms. Krut’s corrected transcription, a certification thereof, and a keyword index correcting any she may have previously provided the Commission.

Thank you.

A handwritten signature in black ink, appearing to read "Elena R. Krut", with a stylized flourish underneath.

Enclosure: Transcript pages 1-2, 91-98, 148

cc: Commission to Investigate Public Corruption
The Public & The Press

1 -----X

2 PUBLIC HEARING ON THE MORELAND COMMISSION

3 TO INVESTIGATE PUBLIC CORRUPTION.

4 -----X

5 One Pace Plaza

6 New York, New York

7

8 September 17, 2013

9 6:05 P.M.

10

11

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13

14 Reported By:

15 Stefanie Krut

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1 A P P E A R A N C E S:

2 COMMISSIONERS PRESENT:

3 Kathleen Rice - Co-Chair

4 Milton Williams, Jr. - Co-Chair

5 William Fitzpatrick - Co-Chair

6 Joanne Mahoney

7 Eric Corngold

8 Makau Mutua

9 Derek Champagne

10 Patrick Barrett

11 Nancy Hoppock

12 Seymour James

13 Gerald Mollen

14 Betty Weinberg Ellerin

15 Kathleen Hogan

16 David Javdan

17 Benito Romano

18 Kristy Sprague

19 Richard Briffault

20 P. David Soares

21 Peter Zimroth

22 Robert Johnson

23 Barbara Bartoletti - Special Advisor

24 Regina Calcaterra - Executive

25 Director

1 system referred the writ to Attorney General Eliot Spitzer.
2 He quickly dove in to represent this judge. This began the
3 cascading violations of the court system's and of the
4 Attorney General's duty to comply with the constitutional
5 safeguards and their respective roles in creating checks and
6 balances. I only have six seconds left. You have the rest
7 of my documentation. I have gone to the Commission on
8 Judicial Conduct twice, I have gone to Eliot Spitzer as
9 Attorney General in 2006, I testified before a Judge -
10 Senator Sampson's committee in 2009. Obviously misconduct
11 and malfeasance, open and shut. Obvious. I have the
12 documentation. No one has done anything. I'm asking for
13 this Commission to take it seriously and look at the
14 judicial misconduct that took place in my case. Void these
15 orders. Simple. Thank you.

16 MS. CALCATERRA: Thank you so much, Ms. Renzulli.
17 We do have additional documentation. Thank you. Next is
18 Elena Sassower. Thereafter, Ellen Oxman and then Leon
19 Koziol. And I apologize for the mispronunciation.

✓ 20 MS. SASSOWER: My name is Elena Sassower. I am
21 director and cofounder ^{of} ~~for~~ the Center for Judicial
22 Accountability, a non-profit, [↔] nonpartisan citizen^{s'}~~s~~
23 organization that documents corruption in the judiciary,
24 involving judicial selection, judicial discipline, the
25 judicial process itself. Cases are perfect paper trails.

1 There is a record. So it's easy to document judicial
2 corruption. ^{TP} Now, I have much to say and three minutes is
3 utterly inadequate, but I cannot present the testimony that
4 I have intended to present without protesting vigorously as
5 to what has taken place here with respect to this hearing.
6 I contacted the Commission to Investigate Public Corruption
7 on July 19th. That was just days after it had announced the
8 public hearings that were to begin today. And I spoke with
9 Bryce Jones, your administrative assistant, and I gave him a
10 tip and a comment. I said your announcement does not
11 indicate any RSVP. You are not requiring registration. How
12 is this going to work? I said in 2009 John Sampson, Senator
13 John Sampson, as chair of the senate judiciary committee,
14 held hearings on the ^{Commission on} judicial ~~mis~~conduct and the ^{attorney}
15 disciplinary system, and there were so many people, they
16 couldn't be accommodated.

17 So let me tell you, if you are going to be holding
18 hearings on corruption, public corruption generally, take
19 this example, take this word for the wise, you need to have
20 a process, a procedure, an RSVP, a registration. I followed
21 it up in a correspondence. And I have to ask, because I
22 don't want to say nasty things that are not deserved, how
23 many of you commissioners are familiar with my August 5th
24 letter?

25 MR. FITZPATRICK: Are you asking for a show of

09-17-13

Ms Sassower: yes, actually.

Mr. Fitzpatrick: '93

1 hands ~~or~~ if we've read it? I have read all of your
2 correspondence that you ~~wrote~~ ^{sent}.

3 MS. SASSOWER: ^{And} Did you not feel it needed to be
4 responded to?

5 MR. FITZPATRICK: ^{Well,} I don't want to debate with you.
6 I don't want you to waste your time -

7 MS. SASSOWER: ^{Okay, well} Well, let me tell you what has
8 happened, because after 5:00 p.m. on September 5th, that is
9 about 11 days ago, you suddenly put on your website a
10 registration procedure. ^{But} there was no public announcement
11 of that, ~~so~~ there were many people who were aware of the
12 hearings who didn't know that they were going to have to
13 register. And then there was another problem, because there
14 was a - you didn't announce the registration procedure, but
15 there was a lack of clarity because you seemed to indicate
16 that registration was required by 12:00 noon yesterday, but
17 then there was a requirement of a written statement also by
18 12:00 noon. So the question was, was that a twofold
19 requirement, you had to have a written statement in addition
20 to the registration? And I sent an e-mail asking, well,
21 what does this mean? And there was no response. So what
22 has happened?

23 I will tell you what happened today, today you had -
24 I took names - I took maybe 40, 50 names of people outside,
25 and those were just the names that I could get, but there

1 were many, many people who came from very far away, who
 2 traveled hours to be here just to have an opportunity to be
 3 heard for three minutes, which is an obscenely small amount
 4 of time. You didn't have to have a hearing with Preet
 5 Bharara and Loretta Lynch and Cy Vance, ^{rus} who can call the
 6 press at any opportunity. Nothing they said today you
 7 didn't know. We all knew it. We all heard it. They took
 8 our valuable time. They took away from those people who you
 9 turned away.

10 And - and look at the size of this room. First of
 11 all, it's too small, but even still, you could have put
 12 twice the number of chairs here, but you didn't choose to.
 13 You even called up people this morning, I don't know how
 14 many - maybe a reasonable question is how many people
 15 registered? And how many people did you call up this
 16 morning and say to them no, they weren't going to be
 17 permitted to testify, and sometimes the reason was that you
 18 claim^{ed} that their statements were not germane. In other

19 words, you used the statement to ~~sensor~~ ^{But actually I'm familiar} - ^{with some of these} ~~statements~~ -
 20 MS. CALCATERRA: Ms. Sassower, actually we didn't

21 do that, and what we are doing - I understand your
 22 criticisms. I really do. But I want to make sure that
 23 everyone gets an opportunity to testify, ^{as well}

24 MS. SASSOWER: ^{okay, alright, fine. let me just say} Well, ~~I just want to say~~ ^{let me just say} this very
 25 institution has an auditorium. You could have held this

1 hearing in the auditorium. You could have held it in an
2 Armory. This is Manhattan. You turned people away, not
3 even giving them an opportunity to sit and be part of
4 something so important. Now, ~~just~~ let me - just before^{before} I
5 promised that I would recite their names, the people whose
6 names I took, but it would fill three minutes just to do
7 that.

8 But let me not leave before saying something further.
9 This Commission is supposed to restore, restore public
10 trust. It's right behind you. You have operated in such an
11 illegitimate fashion, behind closed doors. You have serious
12 and substantial correspondence about your procedures, your
13 rules, and you don't respond, and you put together a hearing
14 where there's hardly an opportunity to speak in three
15 minutes, but let me just say -

16 MS. CALCATERRA: Ms. Sassower, I'm ~~sorry~~, but you've
17 ~~have~~ spoken for seven ^{there are who} and others want to speak too.

18 MS. SASSOWER: ^{Fine, Fine Then I cannot} ~~But I will not~~ leave - I will travel
19 to Albany so I might have another three minutes. However,
20 before leaving, this is ^{oh,} okay. I respectfully submit and
21 ask each member of this Commission to read the
22 correspondence that was withheld from you by your executive
23 director, Regina Calcaterra, and by your three co-chairs,
24 because I think you need to know how they are operating.
25 And also, because, as I'm sure you know, most of you being

1 lawyers, that there are threshold issues relating to
2 conflicts of interest. You are presuming to judge others as
3 to conflicts of ^{interest} ~~others~~. How are you ^{-how are you -}
4 MS. CALCATERRA: Ms. Sassower, ^{there are plenty of} ~~other~~ people ^{who} want to
5 testify.

6 MS. SASSOWER: ^{How are you -} What are your rules? ^{and} ~~What are your~~
7 procedures? What is your protocol for conflicts of
8 interest? Now I will leave with you, this is the verified
9 complaints in the lawsuit against the state suing Governor
10 Cuomo and Attorney General Schneiderman, as the first named
11 defendants for corruption, for fraud, for grand larceny of
12 the public ^{fisc} ~~fips~~, involving tens and hundreds of millions of
13 dollars and ultimately billions with respect to the judicial
14 pay raises. This is part of a verified ^{of} complaints that have
15 been filed with US Attorney Preet Bharara, with US Attorney
16 Loretta Lynch, with US Attorney Richard Hartunian, ^{with}

17 MS. CALCATERRA: Ms. Sassower, actually, you have
18 almost ^{had} 10 minutes -

19 MS. SASSOWER: ^{the Joint Committee on} ~~Public~~ Ethics, with the Inspector
20 General, and I'm leaving out the last, well, actually there
21 are some that I have not included, District Attorney Soares.
22 District Attorney Soares -

23 MS. CALCATERRA: Ms. Sassower -

24 MR. FITZPATRICK: ^{you really, you really} Ms. Sassower, ^{we} have extended
25 you 10 minutes, but I have no -

yes
Alright. Fine. So

1 MS. SASSOWER: *Let me just conclude —*

2 MR. FITZPATRICK: No. I do not need you to
 3 conclude. You have been here for 10 minutes. All you have
 4 talked about is process, and we have to get to our next
 5 speaker.

6 MS. CALCATERRA: We have other speakers. *isn't it? Right?*

7 MS. SASSOWER: Process is most important. *Due*
 8 process. *Mr. Fitzpatrick: Thank you very much.*

9 MS. CALCATERRA: Ms. Sassower -

10 MS. SASSOWER: *But* I cannot leave without saying -

11 MR. FITZPATRICK: Please step aside.

12 MS. SASSOWER: *that* - there are many people *who are* coming out
 13 *to complain about the corruption* forward in the judiciary -

14 MR. FITZPATRICK: *Ms. Sassower* I am going to ask you for the
 15 last time. *your time is up.*

16 MS. SASSOWER: *The monitor is the Commission on* - Judicial Conduct of the State of
 17 New York. *was that* That *Commission is the monitor.*

18 MR. FITZPATRICK: I'm going to have to get security
 19 to remove you, ma'am, if you don't give up your time.

20 MS. CALCATERRA: You have had *over* 10 minutes.

21 MS. SASSOWER: *Betty Weinberg Ellen threw* - the lawsuit, the key lawsuit
 22 against the Commission *on Judicial Conduct*

23 MS. CALCATERRA: Ms. Sassower, you are well over 10
 24 minutes. Please. There are many other people *here this evening* who want to
 25 speak. *so* Please give them *them to* an opportunity to speak as well.

Ms. Sassower: Added and abotted —

Ms. SASSOWER!
Added and added

09-17-13

98

is going to be the next speaker

1 Ellen Oxman, And after that, Leon Koziol. Thank you so
2 much for your time this evening.

3 MS. SASSOWER: ^{Added Added and added} ^{Morganthau,} ^{By Robert Rosenthal} ^{By Daniel Castleman}

4 MS. CALCATERRA: Is Ellen Oxman available? Is
5 Ellen Oxman available? Great.

6 MS. SASSOWER: How are you dealing ^{going to} with conflicts
7 of interest and conflicts of interest involving the ^{judicial pay} raises when
8 ^{distinct attorney salaries are tied to the judicial pay raises.}

9 MS. CALCATERRA: ^{Ma'am,} you have already testified.
10 You have already utilized plenty of time. ^{ms SASSOWER: How are you dealing with} Thank you for ^{conflicts}
11 your testimony this evening. Is Ellen Oxman available? And ^{interest?}
12 then after that, Leon Koziol.

13 MS. SASSOWER: Shame. Shame. This is corruption.
14 This is public corruption.

15 SPEAKER: Yes. You spent too much time for them.

16 ^{Ms. SASSOWER} SPEAKER: ^{oh} No. This is for them.

17 MS. CALCATERRA: Is Ellen Oxman available?

18 MS. SASSOWER: ^{investigate it.} It's open and shut. Can be done in
19 a matter of minutes.

20 MS. CALCATERRA: Ms. Oxman. And then after, Leon
21 Koziol.

22 MS. OXMAN: Good evening. My name is Ellen Oxman.
23 I'm lucky that Thomson Reuters Foundation has been invested
24 in a group I founded, Women For Justice in New York Courts.
25 I will leave my cards here. I believe the topics that you
all wanted to hear was the unethical conduct by elected

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CERTIFICATION

I, STEFANIE KRUT, a Notary
Public in and for the State of New
York, do hereby certify:

THAT the foregoing is a true and
accurate transcript of my stenographic
notes.

IN WITNESS WHEREOF, I have
hereunto set my hand this 30th day of
September 2013.

Stefanie Krut

STEFANIE KRUT