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LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

JOHN W. McCONNELL
COUNSEL

August 27, 2015

Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
P.O. Box 8101
White Plains, New York 10602

Via email to: elena@judgewatch.org

Dear Ms. Sassower:

This is in response to your Freedom of Information Law ("FOIL") request dated July 10, 2015, concerning the Committee to Review the procedures of the Committees on Character and Fitness and the Grievance Committees of the Appellate Division, Second Department.

Please be advised that information and records responsive to your questions concerning Committee activity pertaining to the "genesis," "methodology," hearings, review process, interview process, and public commentary, and action taken are available at the following links:

http://courts.state.ny.us/courts/ad2/pdf/PressRelease_KrausmanReport20041005.pdf

<http://courts.state.ny.us/courts/ad2/pdf/PressReleasePresidingJusticeReleasesReporttoPublicandBar.pdf>

<http://www.nycourts.gov/courts/ad2/pdf/ReporttoPublicandBaronAdmissionDisciplineandReinstatementofAttorneys.pdf>

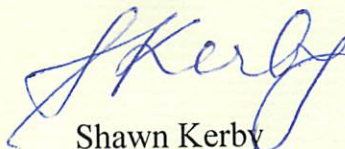
<http://www.nycourts.gov/courts/ad2/pdf/KrausmanCommitteeReport20040730.pdf>

Additionally, archived press releases are available at the following link where you can search for any existing responsive 2002 press releases that might relate to your request: <http://www.nycourts.gov/press/archive.shtml>

Attached please find a PDF copy of the public comments and communications responsive to your request.

It is unclear what records you are seeking regarding "cost of the Second Department Review Committee." The members of the Krausman Committee are identified in the Report at the above link.

Very truly yours,

A handwritten signature in blue ink, appearing to read "S. Kerby".

Shawn Kerby
Assistant Deputy Counsel

Shawn Kerby

To: Center for Judicial Accountability
Subject: RE: Records Request: Committee to Review the Procedures of the Committees on Character & Fitness and the Grievance Committees of the Appellate Division, 2nd Dept, Etc.

Dear Ms. Sassower:

We will process your FOIL request and expect to respond within 20 business days.

Very truly yours,
Shawn Kerby
Assistant Deputy Counsel

From: Center for Judicial Accountability [mailto:elena@judgewatch.org]

Sent: Friday, July 10, 2015 9:49 AM

To: Shawn Kerby

Subject: Records Request: Committee to Review the Procedures of the Committees on Character & Fitness and the Grievance Committees of the Appellate Division, 2nd Dept, Etc.

Dear Ms. Kerby,

Attached is the Center for Judicial Accountability's above-entitled records request of today's date.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
(914) 421-1200

Center for Judicial Accountability

98 Research Report: Center for Judicial Accountability and the State of Florida

2001

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Center for Judicial Accountability

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Tallahassee, Florida 32310
Phone: 904.438.2222
Fax: 904.438.2223
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Center for Judicial Accountability

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Center for Judicial Accountability

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CENTER for JUDICIAL ACCOUNTABILITY, INC.*

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White Plains, New York 10602

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

BY E-MAIL: skerby@nycourts.gov

July 10, 2015

Shawn Kerby, Records Access Officer & Assistant Deputy Counsel
Office of Court Administration
25 Beaver Street, 11th Floor
New York, New York 10004

RE: Records Request: Committee to Review the Procedures of the Committees on Character and Fitness and the Grievance Committees of the Appellate Division, Second Department, Etc.

Dear Ms. Kerby:

In November 2002, Chief Administrative Judge A. Gail Prudenti – who was then Presiding Justice of the Appellate Division, Second Department – appointed a “Committee to Review the Procedures of the Committees on Character and Fitness and the Grievance Committees of the Appellate Division, Second Department” [hereinafter “Second Department Review Committee”].

Pursuant to §124 of the Chief Administrator’s Rules and Public Officers Law, Article VI [Freedom of Information Law (F.O.I.L.)], this is to request all publicly-available records pertaining to that Second Department Review Committee including:

- (1) All records pertaining to the genesis of the Second Department Review Committee – including whether such was a product of a determination by then Chief Judge Judith Kaye and/or the Administrative Board that each of the four judicial departments should examine attorney discipline and admission in their respective departments;
- (2) All press releases about the Second Department Review Committee, including the press release that gave rise to the November 26, 2002 New York Law Journal article “*Committee to Study Discipline Process*”, whose opening sentence reads: “Hoping to get perspective on how attorney disciplinary and admission matters are handled among the four departments of the state’s Appellate Division, the presiding justice of the Second Department has appointed a committee to study the 10 counties in her jurisdiction” (Exhibit A);

* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens’ organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

THE UNIVERSITY OF CHICAGO

Department of Chemistry

Chicago, Illinois

January 15, 1950

Dear Mr. [Name]

Thank you

for your letter of January 10, 1950, regarding the [Subject]

and the information you have provided regarding the [Subject]

is appreciated

and will be forwarded to the appropriate [Department]

for their consideration. I will contact you again

when a decision has been reached regarding the [Subject]

Very truly yours,
[Signature]

Enclosed for you are [Number] copies of [Document]

(3) All records pertaining to the Second Department Review Committee's methodology, such as:

- (a) whether the Committee or its three subcommittees held any public hearings to receive sworn testimony:
 - (i) from members of the public who had filed attorney grievance complaints;
 - (ii) from attorneys who had been the subject of disciplinary proceedings;
 - (iii) from disbarred/suspended attorneys who had applied for re-instatement; or
 - (iv) from attorneys and law school graduates whose applications for bar admission had been rejected.

- (b) whether the Committee or its three subcommittees privately interviewed, under oath:
 - (i) members of the public who had filed attorney grievance complaints;
 - (ii) attorneys who had been the subject of disciplinary proceedings;
 - (iii) disbarred/suspended attorneys who had applied for re-instatement; or
 - (iv) attorneys and law school graduates whose applications for bar admission had been rejected.

- (c) whether the Committee or its three subcommittees reviewed:
 - (i) the record of complaints filed by members of the public that had been dismissed by grievance committees, without imposition of discipline;
 - (ii) the record of grievance committee proceedings against attorneys underlying Appellate Division orders;
 - (iii) the record of applications by disbarred/suspended attorneys for re-instatement;
 - (iv) the record of rejected applications for bar admission of law school graduates and lawyers.

- (d) whether the Committee or its three subcommittees reviewed the records of lawsuits filed against the Appellate Division, Second Department and/or its committees on character and fitness or its grievance committees brought by:
 - (i) members of the public who had filed attorney grievance complaints;
 - (ii) attorneys who had been the subject of disciplinary proceedings;
 - (iii) disbarred/suspended attorneys who had applied for re-instatement;
 - (iv) attorneys and law school graduates whose applications for bar admission had been rejected.

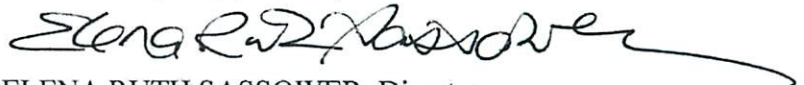
- (4) All records pertaining to communications received by the Second Department Review Committee from members of the public relative to attorney discipline and admissions prior to its July 30, 2004 Report and Recommendations – and the responses to those communications by the Committee and its members, if any.
- (5) All comments received in response to the October 5, 2004 press release “Appellate Division, Second Judicial Department, Makes Report on Attorney Admission and Discipline Available to Public”, announcing “a 30-day comment period so that the public will have the opportunity to express their views...” (Exhibit B)
- (6) All records of action taken by then Presiding Justice Prudenti, by the Administrative Board, and/or by then Chief Judge Judith Kaye with respect to the Second Department Review Committee’s July 30, 2004 Report and Recommendations and the comments thereon.
- (7) All records pertaining to the cost of the Second Department Review Committee.

To the extent that the Appellate Divisions for the First, Third, and Fourth Judicial Departments also formed committees to review attorney discipline and admissions, request is made for comparable records with respect to each.

Pursuant to §124.6 of the Chief Administrator’s Rules and Public Officers Law §89.3, your response is required “within five business days” of your receipt of this request. I would appreciate if you e-mailed it to me at elena@judgewatch.org.

Thank you.

Yours for a quality judiciary,



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

Enclosures

1940 1941 1942

1943 1944 1945

1946 1947 1948

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Committee to Study Discipline Process

By Cerisse Anderson
New York Law Journal

Hoping to get a perspective on how attorney disciplinary and admission matters are handled among the four departments of the state's Appellate Division, the presiding justice of the Second Department has appointed a committee to study the 10 counties in her jurisdiction.



Presiding Justice A. Gail Prudenti

Associate Justice Gabriel M. Krausman was tapped Monday by Presiding Justice A. Gail Prudenti to head a 29-member committee that will make recommendations to the appellate court on grievance committee procedures, admissions issues pertaining to an applicant's character and fitness to practice, and the handling of reinstatement requests.

Justice Krausman, who has more than 20 years of judicial experience in Brooklyn courts and the Appellate Division, will have three subcommittees to focus on attorney discipline, reinstatement and admissions.

Justice Prudenti, who became the presiding justice nine months ago, said Monday that she hoped the committee "would take a good hard look at the differences among the departments and make sure we are acting fairly and equitably" when dealing with an attorney's right to practice.

The Second Department has two committees that make recommendations to the court on character and fitness of applicants to the bar. It also has three committees handling attorney discipline matters. The committees have some variations in their procedures, and occasionally suggestions have been made about centralizing their operations. Justice Prudenti said she expected such options would be

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examined.

The new committee includes a number of lawyers who prosecute and defend attorneys in grievance procedures, and it includes two lay members -- Jeffrey Cohen, an employee in Supreme Court, Queens County, and Antoinette D'Orazio of Pace University's School of Law -- and two mental health practitioners -- Dr. Renay Bevins of Orange County and Dr. Greta Rainsford of Nassau County.

The committee will have three subcommittees, each with co-chairs. The attorney discipline subcommittee will be co-chaired by Associate Justice Nancy E. Smith, a Second Department justice who comes from Rochester in the Fourth Department, and Barry Kamins of Brooklyn, chairman of the New York State Bar's Committee on Professional Discipline. The reinstatement subcommittee will be co-chaired by Associate Justice Sandra J. Feuerstein from Nassau County, and John P. Bracken, former head of both the New York State Bar and the Suffolk County Bar associations. And heading up the admissions subcommittee will be Associate Justice Barry A. Cozier, a former administrative judge who has served in courts in Brooklyn, Queens and Manhattan, and Brooklyn District Attorney Charles J. Hynes.

Committee members who have experience in representing attorneys in disciplinary proceedings include Kamins; John L. Kase of Kase & Drucker in Garden City; Paul Gianelli of Reynolds, Caronia, Gianelli & Hagney in Hauppauge; Edward W. Hayes of Manhattan; Jerome Karp of Brooklyn; and John Z. Marangos of Staten Island.

Committee members from other admissions and grievance committees include Fred A. Bodoff, executive secretary of the Second Department's Committee on Character and Fitness; Gary L. Casella, chief counsel of the 9th Judicial District's grievance committee covering the five northern counties of the department; Diana M. Kearse, chief counsel for the 2nd and 11th Judicial Districts, covering Brooklyn, Queens and Staten Island; Robert P. Guido, chief counsel for the 10th Judicial District covering Nassau and Suffolk counties; and Peter J. Johnson Jr., chairman of the First Department's Committee on Character and Fitness.

Rounding out the committee are Milton Mollen, presiding justice of the Second Department from 1978 to 1990; Joseph J. Kunzeman, retired justice of the Appellate Division; John Q. Barrett, professor at St. John's University School of Law; Frederick C. Johs of Lewis, Johs, Avallone, Aviles & Kaufman in Melville, a civil practitioner; Grace Moran, former chief counsel to the 10th Judicial District's grievance committee and now in private practice; Jerold R. Ruderman of Wilson, Elser, Moskowitz, Edelman & Dicker in White Plains; Walter Schwartz, of Siegler & Schwartz in Yonkers; and Stephen J. Singer of Sparrow, Singer & Schreiber in Queens, a criminal practitioner.

Date Received: November 25, 2002

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Supreme Court of the State of New York
Appellate Division, Second Judicial Department
45 Monroe Place
Brooklyn, New York 11201

A. GAIL PRUDENTI
Presiding Justice

Contact: James Edward Pelzer
Clerk of the Court
Appellate Division,
Second Judicial Department

(718) 722-6307

Release: Immediate, October 5, 2004

**Appellate Division , Second Judicial Department,
Makes Report on Attorney Admission and Discipline
Available to Public**

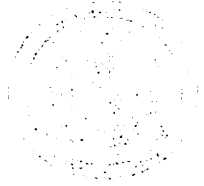
BROOKLYN HEIGHTS, N.Y. - Presiding Justice A. Gail Prudenti of the Supreme Court, Appellate Division, Second Judicial Department, is pleased to announce that the Report and Recommendations of the Committee to Review the Procedures of the Committees on Character and Fitness and the Grievance Committees of the Appellate Division, Second Judicial Department, chaired by the Honorable Gabriel M. Krausman, is now available to the public on the court's website: www.nycourts.gov/courts/ad2/. For members of the public without internet access, copies of the report may be obtained by writing to the Clerk of the Court, James Edward Pelzer, at 45 Monroe Place, Brooklyn, New York 11201.

(more)

Krausman Report - 2

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The public may submit comments on the Report and Recommendations for the court's consideration during the 30-day period ending on November 4, 2004.

According to Justice Prudenti, "The areas of attorney admissions to the bar and attorney grievance procedures are of the utmost importance not only to members of the bar and applicants for admission to practice, but to the public as well. We must always keep in mind that it is never enough to do the right thing; we must also be sure that the public perceives that the right thing is being done. Whether it is the manner in which we screen applicants or the procedures we use to discipline admitted attorneys who violate the rules of professional conduct, we must act in ways that foster the public's trust and confidence in the legal system while remaining sensitive to the rights of those who are being judged.

"The court has provided for a 30-day comment period so that members of the public will have the opportunity to express their views regarding the recommendations of the Krausman Committee concerning these important issues."

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