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BY EXPRESS MAIL

November 18, 1998

Executive Committee

Association of the Bar of the City of New York
42 West 44th Street
New York, New York 10036-6689

ATT: Alan Rothstein, General Counsel

RE: Protecting the Public from the Dysfunctional, Politicized and Corrupted
New York State Commission on Judicial Nomination

Dear Mr. Rothstein:

This letter follows up Monday's phone conversation in which you confirmed that the City Bar's Executive Committee will be evaluating the seven candidates recommended by the Commission on Judicial Nomination for the vacancy on the New York Court of Appeals.

Thorough evaluation of ALL seven candidates is absolutely essential because the Commission on Judicial Nomination has shamelessly abandoned "merit selection" principles, as its recommendation of Justice Rosenblatt clearly demonstrates. The Commission on Judicial Nomination recommended Justice Rosenblatt as "well qualified" in face of irrefutable court records and other documentary proof that he is not only unfit for higher judicial office, but unfit for *any* judicial office. Indeed, were the New York State Commission on Judicial Conduct not corrupt -- and state officials and bar leaders not complicitous in that corruption¹ -- Justice Rosenblatt would long ago have been removed from the bench for retaliatory use of his judicial powers for ulterior, political purposes. Consequently, CJA requests that the Executive Committee not only disapprove the candidacy of Justice Rosenblatt, considered one of the "front-runners", according to today's New York Law Journal, but that it call

¹ See, *inter alia*, CJA's public interest ads, "A Call for Concerted Action" (NYLJ, 11/20/96, p. 3) and "Restraining 'Liars in the Courtroom' and on the Public Payroll" (NYLJ, 8/27/97), annexed as Exhibits "E-2" and "D", respectively, to CJA's October 5, 1998 letter to the Commission on Judicial Nomination. A copy of the latter ad is annexed hereto.

Ex "S"

for a formal investigation into the operation of the Commission on Judicial Nomination. This, in addition to calling for a similar investigation of the Commission on Judicial Conduct. In that connection it must be noted that the City Bar's Committee on Judicial Conduct *never* issued a report following its May 14, 1997 public hearing at which CJA testified about the corruption of the Commission on Judicial Conduct and the fact that only by fraud was it able to survive our 1995 Article 78 challenge, *Doris L. Sassower v. Commission on Judicial Conduct* (NY Co. #95-109141). CJA's public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", recites what occurred at that day's hearing.

The Commission on Judicial Nomination's counsel, Stuart Summit, has refused to divulge the Commission's procedures following its announcement of its recommendees. Judiciary Law, Article 3A, §66(2) states that "the governor shall have access to all papers and information relating to persons recommended to him by the commission." Mr. Summit has refused to identify whether such "papers and information" are automatically forwarded to the Governor or only at his request. Consequently, we have telephoned the Governor's office and advised that such "papers and information" and, in particular, CJA's documentary opposition to Justice Rosenblatt, be requisitioned from the Commission on Judicial Nomination. By copy of this letter to Governor Pataki, we reiterate the necessity that such materials be immediately obtained for his review.

CJA's documentary opposition to Justice Rosenblatt was formally presented to the Commission on Judicial Nomination by letter dated October 5, 1998. The letter also included CJA's opposition to two Appellate Division, Third Department Justices, who, like Justice Rosenblatt, had been reported by the New York Law Journal to have been interviewed by the Commission. As to Justice Rosenblatt², the following substantiating documentation was transmitted: CJA's three judicial misconduct complaints against him, filed with the Commission on Judicial Conduct. The first, dated September 19, 1994, detailed Justice Rosenblatt's misconduct in the Article 78 proceeding, *Doris L. Sassower v. Hon. Guy Mangano, et al.*; the other two, dated October 26, 1994, and December 5, 1994, detailed his misconduct on seven combined appeals in an unrelated civil action to which Doris Sassower and her law firm were party defendants. In both cases, Justice Rosenblatt, with his Second Department brethren, violated fundamental rules of judicial disqualification and "threw" the cases by factually fabricated and legally unsupported decisions. Although all three of these misconduct complaints were facially-meritorious, each was summarily dismissed by the Commission on Judicial Conduct, in violation of Judiciary Law §44.1, without investigation and without any determination by the Commission of facial insufficiency. Copies of the Commission's dismissal letters were enclosed, as were the Commission's initial acknowledgment letters.

² CJA's documentary opposition to the other two Justices is not herein transmitted. It included our testimony before the New York State Senate in opposition to two prior nominees to the Court of Appeals. Such testimony is accessible from CJA's website: www.judgewatch.org

Additionally supplied were the cert petition and supplemental brief in the §1983 federal civil rights action, *Doris L. Sassower v. Hon. Guy Mangano, et al.*, wherein Justice Rosenblatt and his Second Department brethren are being sued for corruption³. Those documents not only set forth the Second Department's criminal and retaliatory conduct in the *Sassower v. Mangano* Article 78 proceeding (particularized by the verified complaint included in the appendix to the cert petition [A-49-100]) but its litigation fraud in defending against the federal action. As part thereof, we also supplied the Commission on Judicial Nomination with a free-standing copy of our July 27, 1998 letter to the Chief of the Public Integrity Section of the U.S. Justice Department, reprinted in the supplemental brief [SA-47-60]. The free-standing copy, unlike the reprint, includes the exhibits to the July 27, 1998 letter.

Finally, per our October 5th letter (at p. 8), we simultaneously filed a copy of that letter with the Commission on Judicial Conduct as a judicial misconduct complaint against Justice Rosenblatt. We supplied the Commission on Judicial Nomination with a copy of our October 6, 1998 coverletter to the Commission on Judicial Conduct, reiterating the two-fold basis of our judicial misconduct complaint, as set forth in the October 5th letter: (a) our belief, for reasons particularized, that Justice Rosenblatt perjured himself in responding to specific questions on the Commission on Judicial Nomination's questionnaire as to whether he had been the subject of judicial misconduct complaints and litigation; and (b) Justice Rosenblatt's collusion and complicity in the fraudulent defense in the *Sassower v. Mangano* federal case. Thereafter, on November 3, 1998, we faxed the Commission on Judicial Nomination a copy of our faxed letter to the Commission on Judicial Conduct, inquiring as to why, in the month that had elapsed, we had received no acknowledgment of our misconduct complaint.

At no time did the Commission on Judicial Nomination contact us for further information about Justice Rosenblatt or about any of the other candidates under consideration. This notwithstanding the October 5th letter offered the underlying files, particularly of the *Sassower v. Mangano* Article 78 proceeding, and concluded with the statement:

"As reflected by the foregoing presentation, CJA has a great deal to offer in providing the Commission with readily-verifiable information pertinent to candidate qualifications. We, therefore, request that much as the Commission, in the normal course of its investigations, purports to contact references and individuals having knowledge of the candidates, so it include CJA among its knowledgeable sources before finalizing its deliberations." (at p. 8)

³ The case is now pending before the U.S. Supreme Court on a petition for rehearing, a copy of which was mailed to City Bar President Michael Cooper on November 7, 1998 by certified mail/return receipt: Z-471-036-398.

Herewith transmitted for the Executive Committee is a copy of CJA's October 5th letter, as well as CJA's three 1994 judicial misconduct complaints against Justice Rosenblatt, with the annexed exhibits⁴. Also enclosed is our current judicial misconduct complaint against Justice Rosenblatt, including the November 3, 1998 acknowledgment letter of the Commission on Judicial Conduct, advising that "the complaint will be presented to the Commission, which will decide whether or not to inquire into it.". Not enclosed are the cert petition and supplemental brief in *Sassower v. Mangano* and the July 27, 1998 letter to the Justice Department, since copies of these documents were previously transmitted to the City Bar, under coverletters dated August 12, 1998 and September 8, 1998⁵, with an additional copy of the cert petition and supplemental brief having been given, in hand, to City Bar Vice President Michael B. Gerrard on September 9, 1998.

The foregoing materials suffice to establish the unfitness of Justice Rosenblatt, covered up first by the Commission on Judicial Conduct and now by the Commission on Judicial Nomination. The City Bar, however, has additional substantiating materials in its possession: (1) TWO copies of the file of our Article 78 proceeding against the Commission on Judicial Conduct⁶; and (2) a copy of the file in the *Sassower v. Mangano* federal action. Both cases were transmitted so that the City Bar could take action to protect the public since at issue was not only corruption of the judicial process -- each case having been "thrown" by fraudulent judicial decisions, but the active complicity of New York State Attorney General Vacco, who engaged in litigation fraud on behalf of the respondents and defendants in those cases.

We would appreciate if these additional substantiating materials were made available to other bar associations, which we understand will be at the City Bar on Monday, November 23rd to conduct interviews of the Court of Appeals candidates as part of their own evaluation. We have already contacted the New York State Bar Association, the New York Women's Bar Association, and the Women's Bar Association of the State of New York and will be supplying them with copies of our October 5th letter and the aforescribed transmitted materials relative to Justice Rosenblatt.

⁴ In fact, the City Bar already has copies of these three judicial misconduct complaints -- albeit without the exhibits annexed to the October 26, 1994 and December 5, 1994 complaints -- since these are Exhibits "G", "I", and "K" to the petition in the Article 78 proceeding, *Sassower v. Commission on Judicial Conduct* -- which has long been in the City Bar's possession. [See fn. 6 *infra*.]

⁵ The August 12, 1998 letter is reprinted at RA-30-32 of the appendix to the petition for rehearing in *Sassower v. Mangano* -- which was mailed on November 7th to President Cooper's attention at the City Bar. Likewise, the September 4, 1998 letter is reprinted in the rehearing appendix at R-25-26.

⁶ The first of those two copies was hand-delivered under a coverletter dated January 25, 1996. The second was given, in hand, to one of the members of the City Bar's Committee on Judicial Conduct at its May 14, 1997 hearing.

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As for the Governor, he has long had a copy of the file of our Article 78 proceeding against the Commission on Judicial Conduct, transmitted to him with petition signatures of 1,500 New Yorkers calling upon him to appoint "a State Commission to investigate and hold public hearings on judicial corruption and the political manipulation of judgeships in the State of New York." The demonstrated corruption of the Commission on Judicial Nomination, as recounted herein, makes such action by the Governor even more compelled.

Finally, in the hope that when all the paper ballots have been counted Eliot Spitzer will be New York's next Attorney General -- and that he will make good on his campaign promise that the Office of the Attorney General "should be the greatest public interest law firm that the state has ever seen" -- a copy of this letter is also being transmitted to him. According to a New York Times article, appearing four days before the November 3rd election, Mr. Spitzer has proposed "an office of public integrity under the attorney general to monitor state government..." (NYT, 10/30/98, B7). Setting up such office should be among Mr. Spitzer's first priorities -- with investigation of the State Commission on Judicial Conduct and the State Commission on Judicial Nomination among its top assignments.

Yours for a quality judiciary,



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

cc: Governor George Pataki
ATT: James McGuire, Counsel
Richard Platkin, Senior Assistant
Eliot Spitzer, Attorney General-Elect (?)
New York State Commission on Judicial Nomination
Stuart Summit, Counsel
New York State Commission on Judicial Conduct
Gerald Stern, Administrator
New York State Bar Association
New York Women's Bar Association
Women's Bar Association of the State of New York
New York State Ethics Commission
The New York Times
The New York Law Journal