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BY CERTIFIED MAIL/RRR: Z-471-036-407

March 26, 1999

New York State Ethics Commission
39 Columbus Street
Albany, New York 12207-2717

RE: NEWLY-INITIATED ETHICS COMPLAINTS:
(1) against the Ethics Commissioners and, particularly Ethics Chairman Paul Shechtman
(2) against former Ethics Commission Executive Director, now Deputy Attorney General Richard Rifkin;
(3) against Governor George Pataki;
(4) against the NYS Commission on Judicial Nomination;
(5) against Attorney General Eliot Spitzer, personally
SECOND SUPPLEMENT TO CJA's March 22, 1995 ETHICS COMPLAINT AGAINST THE NYS COMMISSION ON JUDICIAL CONDUCT

Dear Commissioners:

This letter presents an ethics complaint against you for complicity in the subversion of the Ethics Commission by your former Executive Director, Richard Rifkin, to protect this state's politically-powerful, including the State Attorney General, from the consequences of their corrupt, criminal, and unethical conduct. It is based on your "substantial neglect of duty" and "gross misconduct in office" in ignoring CJA's fact-specific, documented showing of Mr. Rifkin's misfeasance, presented to you in voluminous correspondence over many years. This has resulted in vast and irreparable injury to the People of this state. It has also enabled the wrongdoing Mr. Rifkin, a former high-ranking member of the Attorney General's staff under Robert Abrams, to return to the Attorney General's office as a high-ranking member of Eliot Spitzer's staff. Indeed, as Deputy Attorney General for the Division of State Counsel, Mr. Rifkin now oversees the very unit in the Attorney General's office whose conflict of interest and litigation fraud were the subject of CJA's September 14, 1995 and December 16, 1997 ethics complaints, covered-up by him.

Ex "A-2"

Under §94.7 of the Executive Law:

> "Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for reply".

The Ethics Commissioner bearing foremost responsibility is the Commission's chairman and most senior member, Paul Shechtman. By this letter, CJA invokes that provision and requests that prerequisite steps be taken to secure his removal, including referral to Governor Pataki pursuant thereto.

Simultaneously, this letter initiates an ethics complaint against the Governor for his own subversion of the Ethics Commission. Such subversion includes his May 1998 reappointment of Mr. Shechtman to the Ethics Commission and designation of him as its chairman in face of notice and actual knowledge that Mr. Shechtman had not only wilfully neglected his duties as an Ethics Commissioner, but was complicitous with him in corrupting the judicial appointments process to the lower state courts to advantage unfit, politically-connected judicial candidates. The Governor's corruption of that judicial appointments process forms an additional basis for this ethics complaint against him -- as does his corruption of the "merit selection" process to the Court of Appeals -- each to achieve illegitimate personal and political goals.

Because the Governor's corruption of the "merit selection" process to the Court of Appeals involves the New York State Commission on Judicial Nomination's corruption of its own evaluation procedures to advance the corrupt and politically-favored Albert Rosenblatt, this letter initiates an ethics complaint against the members and counsel of that body. Additionally, this letter should be deemed a second supplement to CJA's March 22, 1995 ethics complaint against the members and staff of the New York State Commission on Judicial Conduct for continuing the pattern of protecting politically-connected judges detailed therein, as well as for protecting the Governor and Commission on Judicial Nomination in their corruption of the Court of Appeals' "merit selection" process.

Finally, inasmuch as Attorney General Spitzer has failed to remove Mr. Rifkin as Deputy Attorney General, notwithstanding notice and documentary proof of Mr. Rifkin's subversion of the Ethics Commission and its most recent catastrophic consequence -- the elevation of Appellate Division, Second Department Justice Rosenblatt to the Court of Appeals -- this letter should be deemed an ethics complaint against Mr. Spitzer, personally, for his protectionism of Mr. Rifkin and the political interests and powerful individuals he protected -- and which Mr. Spitzer has been protecting -- to the detriment of the People of this state.

All the foregoing ethics complaints, as well as CJA's formal ethics complaint against Mr. Rifkin, also initiated by this letter, are based on wilful and deliberate violations of §74 of the Public Officers Law,

"Code of ethics", and, specifically, §§74.2 and 74.3(d); (f); and (h). In addition, that portion of CJA's ethics complaint against the Governor involving the Senate's "rubber-stamp" confirmation of his judicial appointees, both to the lower state courts and to the Court of Appeals, is based on the Governor's wilful and deliberate violation of §75 of the Public Officers Law, "Bribery of members of the legislature" -- with members of the Senate and, particularly, Senate Judiciary Committee Chairman James Lack reciprocally violating §76, "Receiving bribes by members of legislature", and §77, "Unlawful fees and payments". These provisions are printed in a booklet issued by the Ethics Commission in August 1998, when Mr. Rifkin was Executive Director and Mr. Shechtman its Chairman. The pertinent pages are annexed hereto as Exhibit "A".

Where the substantiating documentation to these ethics complaints is not already in the possession of the Ethics Commission, it is enclosed. An inventory of these enclosed materials, as organized in separate file folders, is appended to the end of this letter. To further assist you, a Table of Contents follows to facilitate access to the interrelated, but nonetheless separate and distinct, ethics complaints herein.

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INTRODUCTION

The evidence herein presented is of systemic governmental corruption reaching New York's highest state officer, the Governor, its highest legal officer, the State Attorney General, and the essential state monitoring agency whose purpose is to safeguard the integrity of state officers and state agencies, the State Ethics Commission.

The Commissioners have a clear conflict of interest in reviewing CJA's ethics complaints against themselves, their chairman, and the appointing authorities who designated them. Indeed, based on the disqualification of three of the Ethics Commissioners, there is not even a quorum of the required three members to address these complaints.

Presently, there are only four Ethics Commissioners. This, because the Governor has maintained a vacancy on the Ethics Commission for the past *22 months*, in violation of Executive Law §94.5, requiring him to fill any vacancy "within sixty days of its occurrence". Of the four current Commissioners, Chairman Shechtman is absolutely disqualified because all the ethics complaints herein either directly involve his misconduct or the consequences of that misconduct. That leaves three Commissioners. Of these, Robert Giuffra, who the Governor appointed in November 1998, is also disqualified. Mr. Giuffra is not only the nominee of former Attorney General Dennis Vacco, against whom CJA's December 16, 1997 ethics complaint is personally directed, but clerked for two of the federal judges ultimately involved in the §1983 federal action presented by that complaint. These are Ralph Winter, Chief Judge of the Second Circuit Court of Appeals, and William Rehnquist, Chief Justice of the U.S. Supreme Court, each of whom aided and abetted in the obliteration of ALL adjudicative and ethical standards by the lower federal judges in *Doris L. Sassower v. Hon. Guy Mangano, et al.* (#94 Civ. 4514 (JES), 2nd Cir. #96-7805, US S. Ct. #98-106) to protect the defendant New York's Appellate Division, Second Department judges and State Attorney General, sued for corruption. By reason of their judicial misconduct, including a fraudulent decision by Chief Judge Winter corrupting the federal judicial complaint mechanism under 28 U.S.C. §372(c)[1], impeachment complaints have been filed against them with the House Judiciary Committee, as well as criminal complaints, filed with the Justice Department's Public Integrity Section [2]. No reasonably

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[1] The enclosed cert petition of the *Sassower v. Mangano* federal action [File Folder "I"] contains the documents establishing Chief Judge Winter's corruption of the §372(c) judicial complaint process: (1) plaintiff-appellant Doris L. Sassower's §372(c) misconduct complaints against the district judge and appellate panel [A-242; A-251]; (2) Chief Judge Winter's decision dismissing the complaints [A-28]; (3) plaintiff-appellant Sassower's petition for review to the Second Circuit Judicial Council of Judge Winter's decision [A-272]; and (4) the Second Circuit Judicial Council's order denying review [A-31].

[2] Copies of CJA's March 23, 1998 impeachment complaint and July 27, 1998 criminal complaint against Chief Judge Winter are reprinted, respectively, in the appendix to the *Sassower v. Mangano* cert petition [A-301, at A-316] and supplemental brief [SA-47] [File Folder "I"]. Both that cert petition and supplemental brief

objective observer would believe that Mr. Giuffra could fairly and impartially address the December 16, 1997 ethics complaint or the instant ethics complaints against the Commission on Judicial Nomination and the Commission on Judicial Conduct, also involving the *Sassower v. Mangano* federal action, when doing so would require him, under ethical rules of professional responsibility, to take steps to ensure impeachment and criminal investigations of each of these powerful high-ranking judges, with whom he doubtlessly continues to have personal and professional relationships.

Also disqualified by reason of his personal and professional relationships is Ethics Commissioner O. Peter Sherwood, appointed by the Governor on the nomination of the Comptroller. Mr. Sherwood was Solicitor General under former Attorney General Robert Abrams. The litigation misconduct of Attorney General Abrams' office is encompassed in CJA's September 14, 1995 ethics complaint. Mr. Sherwood is also a former officer and member of the Executive Committee of the Association of the Bar of the City of New York [hereinafter "the City Bar"]. Investigation of these ethics complaints would readily reveal the pivotal role of the City Bar's leadership in facilitating and enabling the systemic corruption and abuse of power by state agencies and officials, documented herein[3].

This leaves a single Ethics Commissioner, former State Supreme Court Justice Gossel, appointed by the Governor in 1997. Even were he not conflicted, by reason of the personal and professional ties that led to his appointment, Mr. Gossel alone cannot constitute a quorum under Executive Law §94.6.

Under the circumstances, these separate, yet interrelated, ethics complaints should be referred to other investigative bodies. Initially, referral should be made to Attorney General Spitzer's "public integrity unit" -- whose creation Mr. Spitzer announced on January 27, 1999 at the City Bar, with great rhetoric as to its purpose: to ensure "the integrity of our public institutions"; "to investigate and root out corruption throughout the state"; "to shine light into the dark corners of the state and

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were provided to the Commission on Judicial Nomination and the Commission on Judicial Conduct -- and form part of CJA's instant ethics complaints against them. Indeed, the Commission on Judicial Nomination was provided with a free-standing copy of the July 27, 1998 criminal complaint, where Exhibit "J-1" thereto is a March 28, 1996 criminal complaint against Judge Winter, based on his participation in the fraudulent and retaliatory appellate decision in *Elena Ruth Sassower and Doris L. Sassower v. Katherine Field, et al.*. As for the impeachment-criminal complaint against Chief Justice Rehnquist, based on the *Sassower v. Mangano* federal action, a copy of CJA's November 6, 1998 memorandum to the House Judiciary Committee and Public Integrity Section is enclosed [File Folder "I"].

[3] Reflecting Mr. Sherwood's guilty knowledge of the appearance and actuality of his disqualifying bias is his failure to return *any* of four phone messages [3/12/99; 3/17/99 (2x); 3/19/99], including a voice mail message, for information as to his tenure as Solicitor General for Mr. Abrams and the offices he held at the City Bar. Such information was *expressly* identified as being for the purpose of evaluating his disqualification as Ethics Commissioner from consideration of CJA's ethics complaints.

make sure that those who thrive on secrecy and obfuscation no longer do so". A copy of the transcript of Mr. Spitzer's inspiring City Bar remarks -- and CJA's audience comment and question -- is annexed as Exhibit "C" (pp. 4-12; 13-14). Such referral might have the added benefit of prompting Mr. Spitzer to *actually* set up such unit. This, he has *not* done despite the lapse of two months -- a period longer than the period between his hotly-contested November 3, 1998 election and his January 1, 1999 inauguration, within which he appointed Mr. Rifkin as one of his top aides.

Mr. Spitzer's delay in setting up his "public integrity unit" may be attributable to his recognition that it could not credibly "clean up" corruption elsewhere in state government without first "cleaning up" the corruption in the Attorney General's office that is the subject of CJA's September 14, 1995 and December 16, 1997 ethics complaints -- covered up by Mr. Rifkin. Indeed, in conjunction with our January 27, 1999 comment and question to Mr. Spitzer (Exhibit "C": pp. 13-14), we publicly presented him with a January 27, 1999 letter highlighting those ethics complaints and Mr. Rifkin's cover-up. **A copy of CJA's January 27, 1999 letter -- to which the Ethics Commission is an indicated recipient -- is enclosed [File Folder "II"].**

The fact that Mr. Spitzer has completely ignored that letter, which additionally called upon him to initiate an investigation of the appointment and confirmation of Albert Rosenblatt to the Court of Appeals -- based on the transmitted evidentiary proof that the Governor and Senate Judiciary Committee had colluded in the corruption of the "merit selection" process by the Commission on Judicial Nomination and the Commission on Judicial Conduct -- suggests that our new Attorney General does not have the courage of his rhetoric and that he is compromised by personal and professional relationships[4] and

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[4] Some of these disqualifying relationships may be gleaned from newspaper articles. Among them, "*Spitzer Claims Victory; And Now, the Litigation*", in the November 20, 1998 New York Law Journal (Exhibit "C") which reported the participation of Election Law attorney, Henry T. Berger, in establishing Mr. Spitzer's narrow election victory. In apparent violation of Judiciary Law §41.2, Mr. Berger has been chairman of the State Commission on Judicial Conduct since 1990 or 1991 (*See* p. 25, *infra*). Mr. Berger's complicity in the corruption of the Commission on Judicial Conduct is identified in CJA's $3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", New York Law Journal, 8/27/97, pp. 3-4, [annexed as Exhibit "A" to CJA's January 27, 1999 ltr to Mr. Spitzer: File Folder "II"]. More recently, a column entitled "*Republicans Get a Pass from Spitzer -- for Now*" in the February 8, 1999 New York Observer. (Exhibit "D") about Mr. Spitzer's City Bar announcement of a "public integrity unit", identified that two years ago the Governor offered Mr. Spitzer the position of criminal justice coordinator. This, presumably, was on the recommendation of Mr. Shechtman, then in that position and, before that, counsel to Manhattan District Attorney Robert Morgenthau (from 1987-1993), where Mr. Spitzer was an Assistant District Attorney (from 1986-1992), including Chief of the Labor Racketeering Unit (from 1991-1992). Notwithstanding Mr. Shechtman's full knowledge of Mr. Rifkin's official misconduct as Executive Director of the Ethics Commission in dumping CJA's ethics complaints, *infra*, the column quotes Mr. Shechtman as endorsing Mr. Spitzer's appointment of Mr. Rifkin to run the Attorney General's Albany office as "a very savvy appointment". As to Mr. Rifkin, the column characterizes him and the Governor's counsel, James

self-interest[5].

Consequently, in referring these ethics complaints to Mr. Spitzer's non-existent "public integrity unit", the Ethics Commission should request that if the Attorney General's personal and professional relationships and self-interest would interfere with the independence of his "public integrity unit" investigation of the systemic and high-level state corruption here at issue -- including Mr. Rifkin's pivotal role -- he seek the appointment of a special prosecutor. In the likely event that such special prosecutor cannot be obtained -- because appointment is made by the Governor, whose official misconduct the special prosecutor would be investigating -- Mr. Spitzer should be asked to make a referral to the U.S. Justice Department's Public Integrity Section of its Criminal Division. As may be seen from **CJA's July 27, 1998 criminal complaint to the Public Integrity Section [File Folder "I"]** against the lower federal judges in the *Sassower v. Mangano* federal action -- which is also against the State Attorney General -- the Public Integrity Section already has documentary proof of the Attorney General's criminal complicity in systemic state governmental corruption, including of the judicial processes, state and federal -- and is knowledgeable of the Ethics Commission's collusive inaction (at pp. 1-3).

A. CJA'S COMPLAINT AGAINST THE ETHICS COMMISSIONERS FOR "SUBSTANTIAL NEGLECT OF DUTY" AND "GROSS MISCONDUCT IN OFFICE"

Until now, CJA has filed three formal ethics complaints with the State Ethics Commission. The first, dated February 5, 1992, was against the State Board of Elections for protecting Republican and Democratic party leaders and their cross-endorsed judicial candidates by failing to investigate a corrupt *written* deal trading judgeships and the illegally-conducted judicial nominating conventions implementing it and for its litigation misconduct to prevent judicial review of its malfeasance in the Election Law case, *Castracan v. Colavita, et al.*, brought by Doris L. Sassower, as *pro bono* counsel, to Republican and Democratic petitioners, acting *pro bono publico*. Supporting the February 5, 1992 ethics complaint was a full copy of the *Castracan v. Colavita* case file[6], supplied to the Ethics

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McGuire, as "buddies".

[5] Mr. Spitzer may have a particular self-interest in not examining Mr. Rifkin's cover-up of CJA's meritorious February 5, 1992 ethics complaint against the NYS Board of Elections, pp. 7 and 9 (fn. 9) *infra*. According to a special report in the December 28, 1998 New York Times (Exhibit "E"), two of Mr. Spitzer's democratic rivals had filed complaints against him with the Board of Elections three months *before* the November election, which the Board had yet to consider nearly two months *after* the election.

[6] *Castracan v. Colavita, et al.*, S.Ct, Albany Co. #6056/90; Appellate Division, 3rd Dept. #62134; Ct of Appeals, Mo. No. #1061. Also enclosed was a copy of the record in the companion Election Law case of *Sady*

Commission at a meeting with members of its staff in Albany on March 1, 1993[7].

CJA's second ethics complaint, dated March 22, 1995, was against the State Commission on Judicial Conduct for protecting powerful, politically-connected judges by unlawfully dismissing, *without* investigation, eight *facially-meritorious*, documented judicial misconduct complaints against them, in violation of Judiciary Law §44.1, which mandates investigation of *facially meritorious* judicial misconduct complaints. Supporting the March 22, 1995 ethics complaint were full copies of the four most recent of CJA's judicial misconduct complaints -- beginning with CJA's September 19, 1994 judicial misconduct complaint against the justices of an Appellate Division, Second Department panel who, in violation of statutory disqualification and fundamental ethical conflict of interest rules, dismissed an Article 78 proceeding against themselves, *Doris L. Sassower v. Hon. Guy Mangano, et al.* (AD 2nd Dept. #93-02925; NY Ct. of Appeals: Mo. No. 529, SSD 41; 933; US S.Ct. #94-1546) in a fraudulent judicial decision. This, to advance their unlawful political objectives of retaliating against judicial whistle-blowing attorney Doris Sassower by suspending her law license *without* written charges, *without* findings, *without* reasons, *without* a hearing, either pre- or post-suspension, and *without* affording her any appellate review. One of these judges was Albert Rosenblatt -- against whom the three subsequent judicial misconduct complaints were also directed[8]. On September 14, 1995, CJA supplemented the March 22, 1995 ethics complaint against the Commission to include its litigation misconduct, by its counsel, the State Attorney General, in an Article 78 proceeding, *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (NY Co. Clerk #95-109141), and its failure to meet its ethical and professional duty to take remedial steps in the face of a fraudulent Supreme Court decision, dismissing the proceeding.

Simultaneously, CJA initiated its third ethics complaint -- this one against the State Attorney General. This September 14, 1995 ethics complaint was based on the Attorney General's conflict of interest and litigation misconduct in *Sassower v. Commission on Judicial Conduct*, his failure to take ethically and professionally required remedial steps to appeal or move to vacate for fraud the Supreme Court decision, as well as his litigation misconduct in the *Sassower v. Mangano* Article 78 proceeding, where he was counsel to the Appellate Division, Second Department justices sued. On December 16, 1997, CJA supplemented that September 14, 1995 ethics complaint to include the Attorney General's litigation misconduct in the *Sassower v. Mangano* federal action, in which he was counsel to all defendants, as well as himself a defendant, sued for corrupting the Article 78 remedy in the state *Sassower v. Mangano* Article 78 proceeding.

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v. Murphy, et al., Appellate Division, 2nd Dept. #91-07706.

[7] The meeting followed CJA's January 5, 1993 letter to Thea Hoeth, then Executive Director of the Ethics Commission.

[8] These three subsequent judicial misconduct complaints are dated October 5, 1994, October 26, 1994, and December 5, 1994. The October 26, 1994 complaint incorporates the October 5, 1994 complaint.

With the exception of CJA's still pending December 16, 1997 supplemental ethics complaint against the Attorney General, each of these ethics complaints was dismissed, *without* presentment to the Ethics Commissioners, in an unauthorized and secretive supposed delegation of power to the Executive Director, whose palpable dishonesty CJA particularized in voluminous correspondence[9].

Capping this voluminous correspondence was a series of three CJA letters, directed to the Ethics Commissioners, individually, for disposition at Commission meetings. These highlighted: (1) Mr. Rifkin's official misconduct in protecting the State Board of Elections, the State Commission on Judicial Conduct, and the State Attorney General; (2) Governor Pataki's violations of Executive Law §94.5, by failing to fill long-standing vacancies on the Ethics Commission, and his violation of Executive Law §94.4, by failing to appoint a chairman from among its members; and (3) Mr. Shechtman's involvement, as the Governor's Director of Criminal Justice and member of his temporary judicial screening committee, in the Governor's corrupt political manipulation of judicial appointments to the lower state courts and his cover-up of the Commission on Judicial Conduct's corruption.

The first of these three CJA letters was dated April 11, 1997. Addressed to then Commissioner Reverend Eggenschiller and transmitted to all Commissioners under an April 15, 1997 coverletter, the letter requested that Mr. Rifkin's official misconduct, as particularized in CJA's prior correspondence, be included in the agenda of the Commission's upcoming April 29, 1997 meeting and that "the full files of our ethics complaints be on the table for inspection by the Commissioners" (at p. 3, emphasis in original). Also enclosed was a copy of CJA's April 15, 1997 letter to Governor Pataki, protesting his violations of Executive Law §§94.5 and 94.4, in failing to fill a then *10-month* vacancy on the Commission and to designate a chairman. The detrimental consequences of such violations were identified as enabling

> "the Executive Director of the State Ethics Commission, Richard Rifkin, to more easily manipulate the four unchaired volunteer Commission members so as to wholly transform the Ethics Commission into an agency that covers up -- rather than investigates -- conduct by state officers and agencies which is not only unethical, but criminally corrupt. In the event you are unaware, a *confidential* resolution -- inaccessible to the tax-paying public -- purports to empower the Commission's Executive Director to dismiss filed ethics complaints *without* presentment to the

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[9] As to Executive Director Thea Hoeth's wrongful and dishonest November 26, 1993 dismissal of CJA's ethics complaint against the Board of Elections, *see* CJA's April 8, 1994 letter -- and Executive Director Rifkin's April 19, 1994 response; As to Executive Director Rifkin's wrongful and dishonest October 4, 1995 dismissal of CJA's ethics complaints against the Commission on Judicial Conduct and the Attorney General, *see* CJA's January 24, 1996 letter and Mr. Rifkin's February 29, 1996 response; and CJA's April 24, 1996 letter and Ethics Commission Chairman Bress' May 28, 1996 response.

> members of the Ethics Commission. Mr. Rifkin has dishonestly used such power to shamelessly subvert the very purpose of the Commission." [CJA's April 11, 1997 ltr, p. 2]

CJA's second letter, dated June 9, 1997, was addressed to the Commissioners and transmitted to them under a June 10, 1997 coverletter. It contrasted the Commissioner's non-response to our April 11, 1997 letter with the Governor's response to our April 15, 1997 letter: backdating the press announcement of Mr. Shechtman's appointment as an Ethics Commissioner. Based on what we viewed as Mr. Shechtman's "likely" designation as the Commission's next chairman, "when the Governor finally decides to meet his responsibility under Executive Law §94.4" (at p. 4), our June 9, 1997 letter requested that Mr. Shechtman respond to the issues presented by our unresponded-to April 11, 1997 letter and, specifically, those relating to the file evidence that the Commission on Judicial Conduct was corrupt, had corrupted the judicial process, and was the knowing beneficiary of a fraudulent judicial decision, without which it could *not* have survived our Article 78 litigation challenge[10]. This, in addition to answering questions about his appointment to the Ethics Commission -- similar to questions we also asked the Governor's appointment secretary, to whom we sent a copy of the letter.

CJA's third letter, dated December 16, 1997, was also addressed to the Ethics Commissioners -- with a copy to the Governor. It identified that we had received no response to either our prior April 11, 1997 or June 9, 1997 letters and that the Governor had not only failed to designate a chairman for the Ethics Commission -- despite the lapse of *nearly a year and a half* -- but that he was, once again, in violation of Executive Law §94.5 by failing to fill a vacancy, created *six months* earlier, in June 1997. As a remedy, our letter proposed that the Commission commence a mandamus proceeding against the Governor. The letter then specified other action for the Commission:

> "...since Executive Law §94.9(c) empowers the Ethics Commission to "adopt, amend, and rescind rules and regulations to govern procedures of the commission...", we also call upon the Commission to RESCIND the *confidential* resolution that purports to delegate to its Executive Director the power to dismiss filed ethics complaints *without* presentment to the Ethics Commissioners. In support thereof, we ask the Commissioners to review Mr. Rifkin's cover-up dismissals of our fully-documented ethics complaints against state agencies and officials -- including the state agency with which Mr. Rifkin was associated at the highest echelons -- the New York State Attorney General's office. We also ask the Commissioners to review Mr. Rifkin's

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[10] The particulars of this corruption and fraud were set forth in exhibits annexed to the June 9, 1997 letter: Exhibit "C": CJA's May 5, 1997 memorandum to public officials and agencies, including the Commission on Judicial Conduct and Ethics Commission, and Exhibit "D": CJA's testimony at the City Bar's May 14, 1997 public hearing on the Commission on Judicial Conduct.

peremptory rejection, *without* presentment to the Commissioners, of our requests for the Ethics Commission's intervention in our Article 78 proceeding against the New York State Commission on Judicial Conduct. That lawsuit was defended by the Attorney General's office by fraud and other litigation misconduct because it had *no legitimate defense* to the allegations and evidentiary proof of that state agency's corruption and protectionism. This was pointed out in our September 14, 1995 ethics complaint against the New York State Attorney General -- which complaint also supplemented our March 22, 1995 ethics complaint against the State Commission on Judicial Conduct.

Based upon such review, we request the Ethics Commission, which has authority to appoint the Commission's Executive Director under Executive Law §94.9(a), to remove Mr. Rifkin from that important position by reason of his official misconduct and to initiate a complaint against him, pursuant to Executive Law §94.12(a) for his gross and wilful violations of Public Officers Law §74(2) and §74.3, in particular, §74.3(d), while in office..." [CJA's December 26, 1997 ltr, pp. 2-3]

Much as the Ethics Commission did not respond to our April 11, 1997 and June 9, 1997 letters, so too, it did not respond to our December 16, 1997 letter[11]. This includes that portion of the letter (at p. 3) as requested that CJA's public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97, pp. 3-4) be considered "a supplement" to our September 14, 1995 complaint against the State Attorney General's office -- and against Dennis Vacco, personally" -- and offering the substantiating litigation file in the *Sassower v. Mangano* federal action, the ad described.

As to the Governor's response, he continues, to date, to wilfully violate Executive Law §94.5 by failing to fill the Commission vacancy, referred to therein -- now *nearly two-years vacant*. As to his violation of Executive Law §94.4, not until May 1998 did the Governor designate a chairman to fill the vacancy that had by then existed for *nearly two full years*. His designee, as predicted in our June 9, 1997 letter (at p. 4), was Mr. Shechtman, who the Governor simultaneously reappointed to a five-year term on the Ethics Commission.

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[11] Since our April 11, 1997 letter, there have been 13 Commission meetings: April 29, 1997, June 9, 1997, July 28, 1997, September 23, 1997, October 28, 1997, December 17, 1997, February 4, 1998, March 25, 1998, May 13, 1998, July 15, 1998, October 1, 1998, November 23, 1998, and January 25, 1999.

B. CJA's ETHICS COMPLAINT AGAINST FORMER ETHICS COMMISSION EXECUTIVE DIRECTOR, NOW DEPUTY ATTORNEY GENERAL, RICHARD RIFKIN

This letter reiterates, and formalizes as an ethics complaint against Mr. Rifkin, CJA's unresponded-to April 11, 1997 and June 9, 1997 letters complaining of his misconduct, and, especially CJA's unresponded-to December 16, 1997 letter, requesting that the Commissioners initiate an ethics complaint against him. These three letters not only highlighted Mr. Rifkin's dishonest dismissal of CJA's ethics complaints, which he had wrongfully *withheld* from the Ethics Commissioners, but that he had wrongfully *withheld* from the Commissioners a formal Notice of Right to Seek Intervention in *Sassower v. Commission on Judicial Conduct* and CJA's subsequent request -- following the Supreme Court's fraudulent dismissal decision therein -- for intervention to vacate that decision for fraud. As to such intervention issues, Mr. Rifkin *never* claimed that ANY determination had ever been made, let alone one in the Ethics Commission's name [*See* CJA's September 14, 1995 ltr, p. 5; CJA's January 24, 1996 ltr, pp. 1-2].

Mr. Rifkin's wilful misfeasance was the direct result of his conflict of interest, which he concealed. Notwithstanding CJA's September 14, 1995 ethics complaint against the Attorney General identified that Mr. Rifkin had occupied high-level positions in the Attorney General's office:

> "during the critical period in which it engaged in the litigation misconduct in [the] *Sassower v. Mangano, et al.* [Article 78 proceeding], on behalf of the judges of the Appellate Division, Second Department" [CJA's September 14, 1995 ltr, p. 6],

Mr. Rifkin omitted such fact from his responding October 3, 1995 letter in which he refused to disqualify himself and dismissed CJA's ethics complaints against both the Attorney General and the Commission on Judicial Conduct. CJA's January 24, 1996 letter (at p. 4) highlighted this and demonstrated his self-interest in preventing judicial review of the Commission's unlawful dismissal of CJA's September 19, 1994 judicial misconduct complaint, arising from the *Sassower v. Mangano* Article 78 proceeding, encompassed by the *Sassower v. Commission on Judicial Conduct* Article 78 proceeding. Indeed, because the Attorney General's litigation misconduct in the *Sassower v. Mangano* Article 78 proceeding had resulted in the Attorney General being named a defendant in the *Sassower v. Mangano* §1983 federal action, sued for money damages, that self-interest was all the greater -- a fact expressly identified in CJA's January 24, 1996 letter (at p. 6). Mr. Rifkin's response to this and to our fact-specific proof that his dismissal of our ethics complaints was based on wholesale misrepresentation and critical omission was a February 29, 1996 letter in which he made the bald-faced statement that "no new substantive issues" had been raised. The Ethics Commission then ignored CJA's April 24, 1996 letter particularizing this further example of Mr. Rifkin's dishonesty.

From the copy of the verified complaint in the §1983 federal action[12], annexed as Exhibit "D" to CJA's January 24, 1996 letter, Mr. Rifkin had reason to know that the Attorney General had *no* legitimate defense to its particularized allegations of the Attorney General's misconduct in the *Sassower v. Mangano* Article 78 proceeding in the period of his tenure there [¶¶ 166-170, 173-178]. Indeed, Mr. Rifkin could actually examine the litigation papers in that Article 78 proceeding, interposed during his tenure, since we had furnished a full set to the Ethics Commission in support of our March 22, 1995 ethics complaint against the Commission on Judicial Conduct. This, because the litigation papers had been supplied to the Commission on Judicial Conduct simultaneous with our filing of our September 19, 1994 judicial misconduct complaint, which it thereafter unlawfully dismissed. From these, Mr. Rifkin knew, for a certainty, that an Ethics Commission investigation of our ethics complaint against the Attorney General would establishing plaintiff's entitlement to monetary damages against his office -- and to criminal and disciplinary referral of the relevant personnel. Whether Mr. Rifkin should have been among this personnel, based on supervisory involvement in the *Sassower v. Mangano* Article 78 proceeding or his knowledge of a general practice under Attorney General Abrams to engage in litigation misconduct and fraud in defense of judges sued for corruption[13], only Mr. Rifkin knew. To forestall any such Ethics Commission investigation, Mr. Rifkin not only dishonestly dismissed CJA's ethics complaints, but, upon information and belief, did so *without* even sending the Attorney General notification of the particularized allegations of the September 14, 1995 ethics complaint for "written response", as called for under Executive Law §94.12(a)[14]. As pointed out in CJA's December 16, 1997 supplement, such protectionism permitted the Attorney General to continue his litigation misconduct, this time to defeat the *Sassower v. Mangano* federal action, thereby again preventing judicial inquiry into his litigation misconduct in the *Sassower v. Mangano* Article 78 proceeding.

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[12] The verified complaint is also reprinted, in full, in the appendix to the cert petition in the *Sassower v. Mangano* federal action: A-49-100 [File Folder "I"].

[13] Upon information and belief, Mr. Rifkin was knowledgeable of the fact that Attorney General Abrams had been sued, for years, by Doris Sassower's former husband, George Sassower, based on the Attorney General's conflict of interest and litigation fraud in defending state judges, sued for corruption.

[14] In pertinent part, §94.12(a) of the Executive Law reads:

> "...If the commission receives a sworn complaint alleging a violation of section...seventy-four of the public officers law by a state officer or employee subject to the provisions of section seventy-three or seventy-three-a of the public officers law,...or if the commission determines on its own initiative to investigate a possible violation, **the commission shall notify the individual in writing, describe the possible or alleged violation of such section...seventy-four and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law...**" (emphasis added).

The fact that Mr. Rifkin covered up CJA's meritorious September 14, 1995 ethics complaint against the Attorney General and December 16, 1997 supplement, and then was appointed by Attorney General Spitzer, in December 1998, to oversee the very office which was the subject of those ethics complaints, creates an appearance that he was rewarded for his protectionism. Certainly, the proof that Mr. Rifkin has powerful political benefactors who protect him -- returning his protectionism of them and their interests -- is Attorney General Spitzer's non-response to the copy of our voluminous correspondence with Mr. Rifkin and with the Ethics Commission spanning from our September 14, 1995 ethics complaint to the December 16, 1997 supplement, transmitted to him under a December 24, 1998 letter. That letter is Exhibit "C-1" to CJA's enclosed January 27, 1999 letter to Mr. Spitzer [File Folder "II].

Had Mr. Rifkin properly discharged his duties in connection with those ethics complaints against the Attorney General -- and CJA's ethics complaints against the Commission on Judicial Conduct and the Board of Elections -- he would have exposed high-level corruption, requiring criminal referral of politically-powerful individuals, including those with whom he has personal and professional relationships. This would have "burned" his political bridges, compromising his ability for appointment beyond the Ethics Commission.

The very fact that Mr. Rifkin has returned to the Attorney General's office suggests that his improper dismissals of CJA's ethics complaints was motivated by his desire to return to that office at a propitious political juncture. That juncture presented itself with Mr. Spitzer's election.

C. CJA's ETHICS COMPLAINT AGAINST GOVERNOR GEORGE PATAKI AND ETHICS COMMISSION CHAIRMAN PAUL SHECHTMAN

CJA's ethics complaint against Governor Pataki is based on his knowing and repeated violations of Executive Law §§94.5 and 94.4. Such violations served to -- and did -- handicap the Ethics Commission in performance of its duties, thereby insulating the state agencies and public officers within its jurisdiction. CJA's aforesaid April 15, 1997 letter to the Governor and June 9, 1997 and December 16, 1997 letters to the Commissioners, with copies to the Governor, afforded him ample notice of both his violations of the Executive Law[15] and their consequences. This is over and beyond any communications between the Ethics Commission and the Governor on the subject of the Governor's outstanding obligations under the Executive Law -- information Mr. Rifkin refused to make publicly-available [*See* CJA's April 11, 1997 ltr, p. 3].

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[15] The Governor's knowledge of a vacancy on the Ethics Commission may be seen from his *own* November 20, 1998 press release announcing Mr. Giuffra's appointment. The press release itself identifies that "There is currently one vacancy on the Commission".

From the Governor's standpoint, the most significant public officer within the Ethics Commission's jurisdiction is himself. Apart from other official misconduct making him vulnerable to an ethics complaint, the Governor was fully cognizant that he has used his office to manipulate judicial appointments to the lower state courts. Indeed, CJA's April 15, 1997 letter to the Governor pointed this out (at p. 2). CJA's April 15, 1997 letter was the latest of voluminous correspondence with the Governor's office, chronicling that the Governor was using his temporary judicial screening committee as a "front", behind which the "highly qualified" ratings of his judicial appointees were being "rigged" and that he was complicitously covering up the corruption of the Commission on Judicial Conduct, as to which CJA had supplied him with case file proof. CJA had already publicized the Governor's official misconduct in a Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*"(New York Times, 11/16/96) and in a $1,600 public interest ad, "*A Call for Concerted Action*" (New York Law Journal, 11/20/96, at p. 3), copies of which were annexed to the April 15, 1997 letter.

CJA's June 9, 1997 letter chronicled Mr. Shechtman's presumed familiarity with that voluminous past correspondence, as the Governor's Director of Criminal Justice and a member of his temporary judicial screening committee, and specifically requested (at p. 4) in the unlikely event that Mr. Shechtman "was unaware of the copy of the file of our Article 78 proceeding against the Commission, which we had delivered to the Governor's office, and unaware of our June 11, 1996 letter about the Temporary Committee's 'rigged' ratings, which we also had delivered to the Governor's office", he so identify such fact. Mr. Shechtman never did. Consequently, in appointing Mr. Shechtman to the Ethics Commission in or about April 1997, the Governor was inserting someone who, as that correspondence reflects, was complicitous with him in covering up the corruption of the Commission on Judicial Conduct and in manipulating judicial appointments. The Governor could reasonably expect that Mr. Shechtman would not initiate or pursue ethics complaints against him based thereon -- nor initiate or investigate other ethics complaints involving those matters. Mr. Shechtman fully lived up to those expectations. Indeed, once the Governor appointed Mr. Shechtman as Chairman of his State Judicial Screening Committee in or about December 1997[16], Mr. Shechtman became DIRECTLY knowledgeable and complicitous in the Governor's manipulation of the judicial selection process to appoint politically-connected but demonstrably unfit individuals to state judgeships -- now the subject of this formal ethics complaint.

The pertinent background of the Governor's politically-motivated judicial appointments and the complicity of Mr. Shechtman is as follows: In April 1995, the Governor promulgated two Executive

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[16] Mr. Shechtman never responded to CJA's request, made in our December 15, 1997 letter to him (at p. 1), for information concerning the date the Governor appointed him Chairman of the State Judicial Screening Committee [File Folder "IV"].

Orders[17] to ensure that "judicial officer appointments are of the highest quality". Such Orders restricted the Governor to appointing judges from among candidates who had been found "highly qualified" by a screening committee whose members were enjoined from giving "any consideration to the...political party affiliation of a candidate". Candidates' ratings were to be by "majority vote of all members of the committee" after "a thorough inquiry". As to these candidates, the committee was to prepare "written reports" of their qualifications -- which would remain confidential, except in the event of appointment, at which point they were to be made "available for public inspection". Until permanent non-partisan judicial screening committees were appointed pursuant to Executive Order #10, a single temporary committee was to function, pursuant to Executive Order #11.

For reasons never explained, it was nearly two years before the Governor implemented his Executive Order #10 by designating the members of his permanent non-partisan department judicial screening committees -- and only did so because of the pressure of bar associations, following CJA's November 16, 1996 New York Times Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*". This subsequent bar pressure included a February 1997 City Bar report stating that his failure to set up such committees "might look like the Governor was waiting until 'political favors' had been paid with judicial appointments". In fact, the City Bar's report -- which focused on the appearance of impropriety -- covered up the *readily-verifiable* reality of political manipulation, then already documented by CJA in a six-month correspondence with the Governor's office. This was the subject of **CJA's March 7, 1997 letter to Michael Cardozo, then President of the City Bar, a copy of which was sent to the Governor [File Folder "III"]**. It described CJA's six-month correspondence as "an easy-to-follow 'paper trail'", establishing that the Governor's office had rigged at least one of the temporary judicial screening committee's "highly qualified" ratings: that of Court of Claims Judge Juanita Bing Newton, as to whom we had provided the Governor's office with documentary proof of her unfitness: the file of our Article 78 proceeding against the Commission on Judicial Conduct, on which she serves as a member. Among the six-month correspondence highlighted by CJA's March 7, 1997 letter -- and annexed as exhibits thereto -- was our June 11, 1996 letter to the Senators of the New York State Senate, hand-delivered to the Governor's office[18]. This is the same June 11, 1996 letter referred to in our June 9, 1997 letter to the Ethics Commissioners (at p. 4). Additionally highlighted and annexed as an exhibit was CJA's June 12, 1996 letter to the Governor's then counsel, Michael Finnegan, which, to no avail, reiterated CJA's prior requests for information substantiating the "highly qualified" rating of Judge Newton -- and the 25 other judicial candidates the Governor appointed with her in May 1996.

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[17] These Executive Orders are Exhibits "B" and "C" to CJA's June 2, 1997 letter to the Governor [File Folder "III"].

[18] CJA's June 11, 1996 letter itself annexed , as Exhibits "A" and "B", two of CJA's prior letters, dated April 11, 1996 and April 29, 1996, each sent to the Governor's office, certified mail/return receipt.

Even after the Governor belatedly announced the designation of members to his four permanent department judicial screening committees in March 1997, he continued to utilize his temporary judicial screening committee -- at least to make one further politically-motivated appointment, that of Westchester County Supreme Court Judge Nicholas Colabella to the Appellate Division, First Department in May 1997[19]. **By letter to the Governor, dated June 2, 1997 [File Folder "III"],** CJA questioned whether the permanent committees were actually operational and detailed facts showing that no screening committee conducting the "thorough inquiry" required under the Executive Orders could have found Justice Colabella "highly qualified". Indeed, the letter requested (at p. 4) a copy of the committee's "written report" substantiating Justice Colabella's "highly qualified" rating -- pointing out (at p. 3) that *both* Executive Orders #10 and #11 provided for public access to such "written reports". Based on the clear and unequivocal language of those Executive Orders, CJA also requested (at p. 4) the "written reports" of the 26 judicial nominees the Governor had appointed in May 1996, particularly Judge Newton -- which the Governor had never produced -- together with the written committee reports of the qualifications of each and every one of the judicial nominees" appointed during his tenure. Our letter indicated that, all told, the number of judges the Governor had thus far appointed was approximately 100.

Notwithstanding the public's clear right to the "written reports", pursuant to Executive Orders #10 and #11 -- and its right to basic information that would establish whether, and to what extent, the Governor's screening committees were actually functioning -- including information under the Freedom of Information Law as to the sum of taxpayer moneys expended by them (CJA's 6/2/97 ltr, at p. 9) -- the Governor did not respond[20]. Nor did the Governor -- nor anyone on his behalf -- contact CJA for copies of the documentary proof of Justice Colabella's politically retaliatory and corrupt conduct on the bench, detailed by the June 2, 1999 letter (at pp. 5-8) as establishing his absolute unfitness.

Six months later, CJA reiterated and supplemented its requests to the Governor for information about his judicial screening committees' operations and for copies of their "written reports". Our voluminous correspondence at this juncture was occasioned by the Governor's appointment in December 1997 of yet another politically-connected, unfit individual, Westchester County Executive Andrew O'Rourke to the Court of Claims. By this time, the Governor had appointed Mr. Shechtman to be Chairman of his State Judicial Screening Committee, the Committee which purportedly rated

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[19] Justice Colabella thereby became the Appellate Division, First Department's only Republican -- until, eight months later, he requested that the Governor send him back to the Westchester Supreme Court. This, after he was reportedly scheduled to be interviewed for the post of Appellate Division, First Department presiding justice. [New York Law Journal, "Update", p. 1: File Folder "III"].

[20] Nor did Mr. Shechtman respond --although, as a member of the Governor's temporary judicial screening committee, he was not only sent a copy of CJA's June 2, 1997 letter to the Governor, but CJA's June 12, 1997 coverletter, pleading for assistance in upholding the public's information rights. [File Folder "III"]

Mr. O'Rourke "highly qualified" for the Court of Claims appointment. Consequently, **all CJA's voluminous correspondence about the politically-motivated appointment of Mr. O'Rourke was sent to both the Governor's office and Mr. Shechtman [File Folder "IV"]**.

CJA's letters detailed Mr. O'Rourke's unfitness -- which would have been readily revealed to the State Judicial Screening Committee had it conducted the "thorough inquiry", required by Executive Order #10. Among these was **CJA's December 23, 1997 letter to the Governor's counsel, James McGuire [File Folder "IV"]**, reiterating a previous request for the "written report" on Mr. O'Rourke's qualifications. The letter pointed out (at pp. 5-6) that pursuant to ¶2d of Executive Order #10, the "written report" was expressly required to have been made available "upon announcement by the Governor of [the] appointment" -- and that it was now eleven days since the Governor's appointment was announced.

CJA's December 23, 1997 letter also sought other information substantiating the State Judicial Screening Committee's compliance with Executive Order #10 and its "Uniform Rules". This included information as to when and in what manner "public notice" was given of the vacancy and the date set for receipt of completed questionnaires (at p. 6). We further noted (at p. 5) that the Governor's failure to provide copies, in blank, of the questionnaire(s) used by his judicial screening committees, as repeatedly requested in past correspondence, had impeded us from establishing the nature and extent of Mr. O'Rourke fraudulent representations on any questionnaire he may have completed for the State Judicial Screening Committee. To demonstrate Mr. O'Rourke's prior misrepresentations of his qualifications when he had sought a federal judgeship six years earlier, we enclosed a copy of our **six-month investigative critique of Mr. O'Rourke's qualifications, which we had submitted to the U.S. Senate Judiciary Committee in 1992 [File Folder "IVa"]**. That critique, based on Mr. O'Rourke's *own* responses to a U.S. Senate Judiciary Committee questionnaire, not only exposed his lack of the requisite integrity, competence, and temperament unfitness, but that the American Bar Association's approval rating of Mr. O'Rourke had *not* been based on any meaningful investigation and that the City Bar's approval rating was the result of its having actually "screened out" disqualifying information. This was particularly significant because, according to a news article, Mr. O'Rourke had used those prior bar ratings to allay the State Judicial Screening Committee's misgivings about his qualifications. Based on this and other evidence that Mr. O'Rourke had deceived the State Judicial Screening Committee, which had *not* conducted a "thorough inquiry" of his qualifications, as mandated by Executive Order #10 and by its Uniform Rules, we called upon the Governor to withdraw the nomination and upon the State Judicial Screening Committee to withdraw its "highly qualified" rating of Mr. O'Rourke (at p. 7).

Shortly thereafter, evidence surfaced that the Committee might not have even rendered a "written report" on Mr. O'Rourke's qualifications, as required by Executive Order #10, as well as by Section XII of its Uniform Rules. This was highlighted at the outset of **CJA's December 29, 1997 letter to the members of the State Judicial Screening Committee [File Folder "IV"]**, which quoted (at

p. 2) from a news article:

> "Michael McKeon, a Pataki spokesman, said no written report was produced. *'I don't think there is a report,'* McKeon said. 'They interviewed him and they voted, and then they communicated that to the governor." ["*Judicial Reform Group Challenges O'Rourke Judgeship*", Gannett Suburban Newspapers, December 27, 1997, emphasis added]

Based on Mr. McKeon's statement -- which, neither the Governor nor Mr. Shechtman thereafter denied or disputed -- and the fact that the State Judicial Committee's "written report" was never produced -- there is no reason to believe that a "written report" exists. As in the past, the Governor ignored ALL our informational inquiries about his judicial screening procedures, as well as the dispositive documentary proof we offered -- this time, as to Mr. O'Rourke's unfitness. Likewise, Mr. Shechtman, who, as Chairman of the State Judicial Screening Committee, had an independent duty to ensure that the judicial appointments process complied with the Executive Law, including the public's *express* rights to the Committee's "written report", ignored ALL our informational requests, as well as our documentary critique. Each also ignored the travesty of the Senate's "rubber stamp" confirmation, predicted (at pp. 7-8) in CJA's December 29, 1997 letter to the State Screening Committee and graphically depicted by **CJA's January 2, 1998 and January 9, 1999 letters to the Senate Judiciary Committee about Mr. O'Rourke's appointment, copies of which we sent to each of them [File Folder "IV"].**

Thereafter, the Governor and Mr. Shechtman permitted the demonstrably unqualified Mr. O'Rourke to unlawfully obtain a "waiver" so that, on top of his $113,000 judicial salary, Mr. O'Rourke would receive an $80,000 state pension. This, notwithstanding under §211 of the Retirement and Social Security Law, such waiver is available only where a candidate is uniquely qualified or the position cannot otherwise be filled -- circumstances which did not remotely exist in Mr. O'Rourke's case. **This waiver was the subject of press coverage [File Folder "IV"]**, including a front-page Gannett news story, "*O'Rourke Gets OK to Collect Pension While Serving as Judge*"(1/28/98), quoting Senator Richard Dollinger as saying "This is Governor George Pataki using taxpayer money to reward his friends" and "This is a sweetheart deal for a friend of George Pataki", and a Gannett editorial directed to the Governor, "*Governor Should Explain Double-Dip*" (1/31/98), with a reply by Senators Richard Dollinger and Franz Leichter, "*Unaware of 'Double-Dipping'*" (2/6/98), identifying that they had been told that the Governor had approved Mr. O'Rourke's decision to obtain a waiver. The Daily News editorial, "*O'Rourke*'s *Pork*" (2/5/98), also indicated the Governor's involvement in the waiver. On February 13, 1998, the Daily News printed CJA's Letter to the Editor, "*O'Rourke Appointment was Illegal*", calling for an investigation of the Office of Court Administration's improper approval of the waiver request. Such published Letter followed CJA's February 6, 1998 memorandum to Senators Dollinger and Leichter, with copies to OCA Chief Administrative Judge Jonathan Lippman and Chief Judge Judith Kaye, showing that Judge Lippman's

waiver approval was insupportable and based on knowing misrepresentation of the law[21]. Less than two months later, in April 1998, the Governor appointed Chief Administrative Judge Lippman to a full term as a Court of Claims judge, with Mayor Giuliani appointing his assistant, Ann Pfau, Deputy Chief Administrator -- who was the one to actually approve the waiver -- to a judgeship on the civil court in May 1998. These judicial positions were concurrent with their unabated administrative duties.

That same month, May 1998, the Governor, while maintaining the Commission vacancy complained about in CJA's December 16, 1997 letter, re-appointed Mr. Shechtman as a member of the Ethics Commission. At the same time he conferred on Mr. Shechtman the chairmanship of the Ethics Commission, then vacant for *nearly two years*. This was a chairmanship additional to Mr. Shechtman's chairmanship of the State Judicial Screening Committee.

This brings us to the Governor's latest dramatic corruption of the judicial appointments process -- this time of the "merit selection" process to the New York Court of Appeals. Unlike the Governor's appointments to the lower state courts, to which the state Constitution imposes no restrictions, except for the "advice and consent of the senate" [Article VI, §21a], his appointments to the state's highest court are governed by procedures set forth in the state Constitution and implementing statutory law [NYS Constitution, Article VI, §§2c-f; Judiciary Law, §§61-68]. These restrict his judicial appointments to candidates recommended to him by the Commission on Judicial Nomination, whose constitutionally-assigned duty is to ensure that its recommendees are "well qualified"[Article VI §§2c; 2d(4); Judiciary Law §63.1].

As hereinafter set forth, following the Commission on Judicial Nomination's recommendation of Appellate Division, Second Department Justice Albert Rosenblatt as a "well qualified" candidate for the Court of Appeals, **CJA notified the Governor, by phone and by letter dated November 18, 1998 [File Folder "V"]**, which was both faxed and mailed, that the Commission had "shamelessly abandoned 'merit selection' principles -- and that he should obtain from the Commission the documentary opposition we had presented it of Justice Rosenblatt's unfitness. Our letter identified that among the documents we had presented were copies of three *facially-meritorious* judicial misconduct complaints against Justice Rosenblatt, filed in 1994, which the Commission on Judicial Conduct had dismissed, *without* investigation, in violation of Judiciary Law §44.1. We stated that but for the corruption of the Commission on Judicial Conduct, "Justice Rosenblatt would long ago have been removed from the bench for retaliatory use of his judicial powers for ulterior, political purposes". We also identified that the Commission on Judicial Nomination had *never* contacted us or requested the substantiating case files we had proffered in support of our three *facially-meritorious* judicial misconduct complaints from 1994 or in support of a newly-filed October 6, 1998 judicial

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[21] CJA's February 6, 1998 memorandum and related correspondence on the O'Rourke waiver are available upon request.

misconduct complaint against Justice Rosenblatt, based, *inter alia*, on the *Sassower v. Mangano* §1983 federal action, wherein he was a beneficiary of the defense misconduct. This made no difference to the Governor, who, *without* contacting us or requesting from us copies of those substantiating files, appointed Justice Rosenblatt for the Court of Appeals.

Upon information and belief, the Governor and Justice Rosenblatt have personal and professional relationships, if not directly, then *via* their shared political patrons. The strength of these relationships may not only explain the Governor's appointment of Justice Rosenblatt, but the Governor's long-standing complicity in the corruption of the Commission on Judicial Conduct. Indeed, the file of *Sassower v. Commission on Judicial* Conduct, which we transmitted to the Governor's office in May 1996, contained copies of CJA's three *facially-meritorious* judicial misconduct complaints against Justice Rosenblatt[22]. The Governor's non-response to that litigation file was spotlighted in CJA's subsequent correspondence with him, including the November 18, 1998 letter (at p. 5), and graphically featured in our public interest ads, "*A Call for Concerted Action*" and "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" -- annexed to our various letters.

It would appear that the Governor colluded with Chairman Lack of the Senate Judiciary Committee to "ram through" Justice Rosenblatt's Senate confirmation. That confirmation was accomplished by an unprecedented no-notice confirmation "hearing" -- where, after CJA notified the Committee of its intended opposition, testimony was "by invitation only", with invitations extended only to Justice Rosenblatt's supporters. CJA was not only not invited, but expressly denied the opportunity to testify in opposition at the Senate Judiciary Committee hearing of which we had no notice. As highlighted by CJA's December 28, 1998 Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*"[23], Justice Rosenblatt's nomination would not have survived CJA's publicly-presented opposition.

Reflecting the Governor's collusion in the Senate Judiciary Committee's unprecedented no-notice December 17, 1998 "hearing" are Chairman Lack's introductory remarks:

> "I want to thank the members of the Committee for indulging and allowing me to call the meeting on such short notice. As I think all the members know, we agreed to consider, *with the consent of the Governor*, this nomination in session today in Albany

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[22] That exhibits annexed to the Article 78 petition in *Sassower v. Commission on Judicial Conduct* were dispositive of Justice Rosenblatt's unfitness for any judicial office was expressly brought to the Governor's attention by CJA's June 2, 1997 letter to him (at p. 7, fn. 7).

[23] A copy of that Letter to the Editor is annexed to CJA's January 27, 1999 letter to Attorney General Spitzer [File Folder "I": *See* last page of Exhibit "C-2"].

> so as not to have the nomination expire and have to be resubmitted after the first of the year..." **[File Folder "V": Senate Judiciary Committee transcript, at p. 3]**

Aside from the fact that the "short notice" referred to was *less than 24 hours*, the claim that the nomination would have otherwise expired is a fraud. Article VI, §2f of the New York State Constitution explicitly provides:

> "When a vacancy occurs in the office of chief judge or associate judge of the court of appeals and the senate is not in session to give its advice and consent to an appointment to fill the vacancy, the governor shall fill the vacancy by interim appointment upon the recommendation of a commission on judicial nomination as provided in this section. An interim appoint shall continue until the senate shall pass upon the governor's selection."

In nearly identical language, Judiciary Law §68.3 also provides that the Governor shall make an "interim appointment" when the Senate is not in session.

Indeed, two years earlier, the Governor's *only* previous nominee to the Court of Appeals, Richard Wesley, sat as an interim appointee until the Senate, thereafter, passed on his appointment.

As to the Governor's obligation under Judiciary Law §63.4 to make Justice Rosenblatt's financial statement " available to the public", the Governor has not responded to our request thereto, contained in **CJA's February 5, 1999 to the Commission on Judicial Nomination (at p. 2), and sent to him by certified mail/return receipt [File Folder "V"]**. As reflected by **CJA's March 12, 1999 letter (at p. 3) to the Commission on Judicial Nomination [File Folder "V"]** -- a copy of which will be sent to the Governor, together with this ethics complaint -- we are reiterating our right to such financial statement, pursuant to §63.4, and, in addition, invoking our rights to same under the Freedom of Information Law.

D. CJA'S ETHICS COMPLAINT AGAINST THE NYS COMMISSION ON JUDICIAL NOMINATION

CJA hereby initiates an ethics complaint against the New York State Commission on Judicial Nomination for substituting illegitimate political and personal considerations for qualifications in its recommendation of Albert Rosenblatt as a "well qualified" candidate for the Court of Appeals. Based upon dispositive proof before it, the Commission knew such rating to be fraudulent and wholly violative of its constitutional and statutory duty, set forth in Article VI, §§2c and d(4) of the State Constitution and §§63.1 and 64.2-5 of the Judiciary Law, as well as its duty set forth in its own implementing rules, 22 NYCRR §7100.6(b)-(d).

This dispositive proof was transmitted by **CJA in an October 5, 1998 coverletter to the Commission on Judicial Nomination [File Folder "V"]**, detailing Justice Rosenblatt's unfitness. In support thereof, we provided copies of our three *facially-meritorious* judicial misconduct complaints against Justice Rosenblatt, which the Commission on Judicial Conduct had unlawfully dismissed. These included our September 19, 1994 judicial misconduct complaint arising from the *Sassower v. Mangano* Article 78 proceeding. Also transmitted was a copy of **the *unopposed* cert petition and supplemental brief in the *Sassower v. Mangano* federal action [File Folder "I"]**, demonstrating that the judicial defendants, Justice Rosenblatt among them, had *no* defense to the allegations of their corruption and had, therefore, engaged in litigation fraud and misconduct.

Additionally, our October 5, 1998 letter particularized reasons (at pp. 4-8) for the belief that Justice Rosenblatt had perjured himself in responding to the Commission on Judicial Nomination's questionnaire, requiring him to provide information as to judicial misconduct complaints and litigations against him as a public officer. Based on this suspected perjury -- and on his complicity in the defense fraud and misconduct in the *Sassower v. Mangano* federal action -- we stated (at p. 8) that a copy of the October 5, 1998 letter would be simultaneously filed with the Commission on Judicial Conduct as "yet another facially-meritorious complaint against Justice Rosenblatt." Indeed, we provided the Commission on Judicial Nomination with a copy of **CJA's October 6, 1998 transmittal coverletter to the Commission on Judicial Conduct [File Folder "VI"]**.

Nevertheless, and *without* contacting CJA for the substantiating case files proffered by our October 5, 1998 letter, and notwithstanding our *facially-meritorious* October 6, 1998 judicial misconduct complaint was pending before the Commission on Judicial Conduct, the Commission on Judicial Nomination recommended Justice Rosenblatt as among its "well qualified" candidates.

This was set forth in **CJA's November 18, 1998 letter to the Executive Committee of the Association of the Bar of the City of New York [File Folder "V"]** -- then doing its own purported evaluation of the Commission's recommendees. That letter also identified (at p. 2) that the Commission's counsel, Stuart Summit, had refused to provide any information as to the Commission's post-recommendation procedures -- including whether, pursuant to Judiciary Law §66.2, the materials we had provided the Commission would be automatically transmitted to the Governor -- or only at the Governor's request. A copy of the November 18, 1998 letter was sent to Mr. Summit, in addition to the Governor and incoming Attorney General Spitzer[24].

By contrast to the ambiguity in the wording in that portion of Judiciary Law §66.2 as relates to the Governor's access to "all papers and information relating to persons recommended to him by the commission", there is *no* ambiguity in the further portion of Judiciary Law §66.2 that provides for

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[24] The Ethics Commission was an indicated recipient of that letter-- herewith transmitted for the first time.

public disclosure of information pursuant to §§63.3 and 63.4. As to §63.3, it requires that the Commission's recommendation of "well qualified" candidates:

> "shall be transmitted to the governor in a single written report which *shall* be released to the public by the commission at the time it is submitted to the governor" (emphasis added).

By **letter to Mr. Summit, dated February 5, 1999 [File Folder "V"]**, CJA invoked the public's access rights under §63.3 to request a copy of the Commission's "written report" for the candidates it recommended to the Governor in November 1998 as being "well qualified" for the Court of Appeals -- and specifically inquired as to: (1) what manner the Commission had made the simultaneous "release" of the report to the public; (2) why he had not informed CJA of such "release"; and (3) why the Commission's brochure conceals the existence of such publicly-available "written report" by its blanket assertion that "[a]ll proceedings and records of the Commission are confidential'. Additionally, for comparison and research purposes, CJA's February 5, 1999 letter requested copies of ALL the Commission's prior "written reports" that it had transmitted to Governors, pursuant to Judiciary Law §63.3 since the Commission's inception twenty years ago.

By letter dated February 24, 1999 [File Folder "V"], Mr. Summit transmitted what he purported to be a copy of the "Commission's Report to the Governor,...delivered November 12, 1998". However, as to the balance of CJA's February 5, 1999 letter, Mr. Summit stated he would "not respond".

On its face, the boiler-plate November 12, 1998 "Report", does NOT conform with Judiciary Law §63.3's *express* requirements that it "shall include the commission's *findings* relating to the character, temperament, professional attitude, experience, qualifications and fitness for office of *each* candidate" (emphases added). Moreover, the inference from Mr. Summit's failure to produce the requested prior "written reports" is that the Committee's November 12, 1998 "Report" is also non-conforming with them. This was set forth in **CJA's March 12, 1999 letter to Mr. Summit [File Folder "V"]**, which reiterated (at p. 3) the public's access right to those prior "written reports", pursuant to Judiciary Law §63.3, and, additionally, invoked our rights thereto under the Freedom of Information Law, requiring his response within five business days. As yet, we have received no response from Mr. Summit to that faxed letter.

E. CJA's SECOND SUPPLEMENT TO ITS MARCH 22, 1995 ETHICS COMPLAINT AGAINST THE NYS COMMISSION ON JUDICIAL CONDUCT

CJA hereby supplements, for a second time, our March 22, 1995 ethics complaint against the members and staff of the New York State Commission on Judicial Conduct. This supplement is based on the Commission's dismissal of CJA's October 6, 1998 judicial misconduct complaint against Justice Rosenblatt and his Appellate Division, Second Department brethren. CJA was notified of the dismissal of that complaint by **letter from the Commission's Clerk, Albert Lawrence, dated December 23, 1998 [File Folder "VI"]** -- a letter devoid of *any* reasons or other information. By then, Justice Rosenblatt had been appointed by the Governor and confirmed by the Senate to the Court of Appeals.

By letter dated December 29, 1998 letter [File Folder "VI"], CJA requested information substantiating that dismissal, including: (1) the date on which the Commission purported to review and dismiss the complaint; (2) the number of Commissioner's present and voting, (3) the identities of the Commissioners present and voting; (4) the basis for the purported dismissal; and (5) the legal authority for same. We also requested information as to "any and all procedures for review of the Commission's purported dismissal of CJA's *facially-meritorious* October 6, 1998 judicial misconduct complaint." **Mr. Lawrence's January 25, 1999 response [File Folder "VI"]** was to claim that all such information was "confidential by law".

Thereafter, **by letter dated February 3, 1998, CJA wrote the Commission's Administrator, Gerald Stern [File Folder "VI"]**, with an analysis showing that if the unidentified "law" was Judiciary Law §45, it did NOT prevent the Commission from supplying such reasonably-requested information to a complainant -- including information that the Commission was duly constituted and not tainted by bias or self-interest. CJA noted that, based on Judiciary Law §43 and 22 NYCRR §7000.11, it appeared that as few as two Commissioners, forming a majority of a three-judge panel, could summarily dismiss a complaint. The letter also presented facts showing the self-interest of Appellate Division, Second Department Justice Daniel Joy, as well as the bias of the other Commissioners, in particular, Commissioner Juanita Bing Newton, and Chairman Henry Berger, by reason of CJA's Article 78 proceeding against the Commission and public advocacy based thereon. As to Chairman Berger, CJA requested the legal authority for his continuation as Chairman over the past eight or nine years -- in light of Judiciary Law §41.2, limiting the chairmanship to a period of no more than two years.

Mr. Stern's response, by letter dated February 5, 1999 [File Folder "VI"], was to explicitly refuse to address CJA's analysis of Judiciary Law §45 and to ignore CJA's inquiries and argument as to the right of a complainant to have his complaint reviewed by a duly-constituted Commission, untainted by bias and self interest. Indeed, the ONLY question answered by Mr. Stern's February

5, 1999 letter was the basis for the summary dismissal of CJA's October 6, 1999 complaint:

> "The Commission determined that your October 1998 complaint against a judge who is being considered for the Court of Appeals was not valid on its face. No further explanation is warranted or expedient."

Since the allegations and proof presented by CJA's October 6, 1998 complaint are facially "valid", mandating the Commission's investigation under Judiciary Law §44.1, Mr. Stern's insupportable claim must be seen as continuing the Commission's pattern and practice of protecting powerful, politically-connected -- detailed in CJA's original March 22, 1995 ethics complaint. That March 22, 1995 complaint, focusing on the Commission's dismissal of eight *facially-meritorious* complaints against powerful, politically-connected judges -- including the three against Justice Rosenblatt, enclosed a copy of CJA's March 10, 1995 letter to the Judicial Conduct Commissioners, requesting information about the dismissal, *without* reasons, of those eight complaints.

CJA's letter to Mr. Stern, dated March 11, 1999 [File Folder "VI"] highlighted that neither he nor the Commissioners had ever responded to the information requested by the March 10, 1995 letter -- not even by invoking Judiciary Law §45 to deny it -- and that, in contrast to Mr. Stern's aforesaid unsubstantiated statement about the October 6, 1998 judicial misconduct complaint, he had never claimed that any of those eight complaints had been determined by the Commission to be "not valid on their face". CJA reiterated its right to that and other information.

By its unlawful dismissal of CJA's *facially-meritorious* October 6, 1998 judicial misconduct complaint, the Commission on Judicial Conduct not only protected from disciplinary investigation and prosecution the newly-elevated Court of Appeals Judge Rosenblatt and his Appellate Division, Second Department brethren, including Justice William Thompson -- a former Commission member -- but protected from public exposure Judge Rosenblatt's powerful political patrons, who fraudulently advanced his nomination with knowledge of CJA's dispositive document-supported opposition, including the three *facially-meritorious* judicial misconduct complaints, unlawfully dismissed by the Commission on Judicial Conduct. These powerful patrons include the Governor, the Senate Judiciary Committee, the Commission on Judicial Nomination, and the bar associations. All covered up the Commission on Judicial Conduct's corruption to advance the nomination and, with the exception of the Commission on Judicial Nomination, had done so for years. The Commission on Judicial Conduct could hardly then turn its back on its benefactors. Indeed, but for their cover-up, the Commission's members and staff would long ago been removed and criminally prosecuted.

Although the Commission's self-serving dismissal of CJA's October 6, 1998 judicial misconduct complaint can stand on its own as an ethics complaint against the Commission, it is appropriately considered as a second supplement to CJA's March 22, 1995 ethics complaint. Mr. Rifkin's pretext for dismissing the March 22, 1995 ethics complaint was that the Supreme Court decision in *Sassower*

v. Commission on Judicial Conduct "has decided the matters you presented to the [Ethics] Commission in your original complaint." Apart from the file proof establishing the decision to be a fraud, the decision, on its face, shows that NO judicial determination was ever made as to the lawfulness of Commission's dismissals of the eight *facially-meritorious* judicial complaints, which were disposed of with the *express* claim that "the issue is not before the Court". This was pointed out to Mr. Rifkin in our January 24, 1996 letter (at p. 5) in response to his October 3, 1995 dismissal and before that in our September 14, 1995 supplement itself, which highlighted (at p. 4) that by that very claim -- although false -- the Ethics Commission was free to address the March 22, 1995 ethics complaint.

F. CJA's ETHICS COMPLAINT AGAINST ATTORNEY GENERAL SPITZER, PERSONALLY

This formal ethics complaint against Attorney General Spitzer, personally, is based on his wilful protectionism of the powerful political interests and individuals implicated in the systemic governmental corruption, reflected by these numerous ethics complaints.

As detailed by **CJA's January 27, 1999 letter to Mr. Spitzer [File Folder "II"]**, long before his election as Attorney General, Mr. Spitzer had notice of his predecessor Attorneys General's litigation fraud and misconduct in the three litigations encompassed by the September 14, 1995 and December 16, 1997 ethics complaints: the two Article 78 proceedings, *Sassower v. Mangano* and *Sassower v. Commission on Judicial Conduct*, and the §1983 federal action, *Sassower v. Mangano*. Moreover, on December 24, 1998, CJA gave Mr. Spitzer full copies of the ethics complaints themselves, including a copy of the file in *Sassower v. Commission on Judicial Conduct*, so that, based on this dispositive proof of Mr. Rifkin's subversion of the Ethics Commission protecting the Attorney General and his corruption of the judicial process, Mr. Spitzer could rescind the appointment of Mr. Rifkin as his Deputy Attorney General for State Counsel. Simultaneously, and so that Mr. Spitzer could rescind the appointment of Michelle Hirshman as his First Deputy Attorney General, we provided him with correspondence[25] reflecting her betrayal of the public trust as Chief of the Public Corruption Unit of the U.S. Attorney for the Southern District of New York, when presented with the case file evidence of the Attorney General's corruption of the state judicial process in the *Sassower v. Mangano* and *Sassower v. Commission on Judicial Conduct* Article 78 proceedings -- and the inaction and cover-up of the Brooklyn and Manhattan District Attorneys[26].

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[25] ***See* pp. 4-5 of CJA's July 27, 1998 criminal complaint to the U.S. Justice Department's Public Integrity Section and Exhibit "G" thereto, particularly, "G-2" and "G-4" [File Folder "I"].**

[26] As reflected by the January 27, 1999 City Bar transcript (Exhibit "B", p. 6), Mr. Spitzer has high praise for Manhattan District Attorney Robert Morgenthau, for whom he long worked (*See* fn. 4, *supra*). Mr.

CJA's December 24, 1998 transmittal letter to Mr. Spitzer[27] identified that the most recent far-reaching consequences of the corruption of the Commission on Judicial Conduct, covered up by Mr. Rifkin and Ms. Hirshman, was the elevation of Albert Rosenblatt to the Court of Appeals. Quoting from our November 18, 1998 letter about the Commission on Judicial Nomination's fraudulent "well qualified" rating of Justice Rosenblatt, a copy of which we enclosed, our December 24, 1998 letter reiterated (at p. 2) that among Mr. Spitzer's first priorities should be the setting up an office of public integrity "with investigation of the State Commission on Judicial Conduct and the State Commission on Judicial Nomination among its top assignments."

Four days later, by letter dated December 28, 1998[28], CJA transmitted to Mr. Spitzer a copy of its Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*", appearing in that day's New York Post, publicly announcing CJA's intention to "call[] upon our new state attorney general, as the 'People's lawyer,' to launch an official investigation". To support such investigation -- and the need for "an office of public integrity under the attorney general to monitor state government"-- our December 28, 1998 letter stated that we would ready for transmittal the documentary materials provided to the Commission on Judicial Nomination in opposition to Justice Rosenblatt. Those and other documentary materials were then publicly presented to Mr. Spitzer, in-hand, *immediately* following his January 27, 1999 public announcement at the City Bar of his "public integrity unit", under CJA's January 27, 1999 coverletter.

The two-fold purpose of CJA's January 27, 1999 coverletter was to put Mr. Spitzer on notice of his "mandatory obligations under professional and ethical rules" -- which we listed for him (at fn. 1) -- to take corrective action in the three cases forming the basis of CJA's September 14, 1995 and December 16, 1997 ethics complaints and to initiate an investigation of Justice Rosenblatt's fraudulent appointment and confirmation, either within the Attorney General's office or by a referral to the Ethics Commission, whose jurisdiction includes the Commission on Judicial Nomination and

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Morgenthau's status would be considerably diminished by exposure of his failure to respond to the Notice of Right to Seek Intervention in *Sassower v. Commission on Judicial Conduct*, which his office thereafter covered-up by deceit, simultaneous with its pretense that CJA's May 19, 1995 criminal complaint against the Commission, substantiated by the *Sassower v. Commission* Article 78 petition, "is insufficient to warrant or support a criminal prosecution". This, in addition to exposure of Mr. Morgenthau's official misconduct in aiding and abetting the state judicial corruption long documented by George Sassower (*Cf.* fn. 13, *supra*) and for which Mr. Sassower, himself seeking to intervene in Doris Sassower's Article 78 proceeding against the Commission, sought to add Mr. Morgenthau as a respondent.

[27] **CJA's December 24, 1998 letter to Mr. Spitzer is annexed as Exhibit "C-1" to CJA's January 27, 1999 letter to him [File Folder "II"].**

[28] **CJA's December 28, 1998 letter to Mr. Spitzer is annexed as Exhibit "C-2" to CJA's January 27, 1999 letter to him [File Folder "II"].**

Governor.

Mr. Spitzer's non-response to CJA's January 27, 1999 letter, like his non-response to our December 24, 1998 and December 28, 1998 letters, is wholly inconsistent with his announced commitment to ensure "the integrity of our public institutions". Indeed, as pointed out by the January 27, 1999 letter (at p. 3), Mr. Spitzer's failure to discharge from his inner circle persons such as Mr. Rifkin and Ms. Hirshman belies his claim as to the "merit" of his staff appointments and demonstrates the impossibility of the Attorney General's office becoming, as he promised, "the greatest public interest law firm the state has ever seen". The fact that Mr. Spitzer has not set up his "public integrity unit" -- when the imperative for such unit was reinforced, overwhelmingly, by CJA's document-supported correspondence -- shows that Mr. Spitzer's priority is *not* the public good, but what is good for his powerful friends and political allies, complicitous in the systemic governmental corruption presented in that correspondence.

CONCLUSION

As hereinabove demonstrated, the consequences of your wilful inaction on CJA's April 11, 1997, June 9, 1997, and December 16, 1997 letters has been the subversion of yet more vital state agencies and functions, to the profound detriment of the People of this state. To protect the public from the systemic depredations of high-ranking, politically-powerful state officers, established by the record herein, immediate investigation of these ethics complaints is essential. In view of your disqualification and conflict-of-interest, referral must be made to Attorney General Spitzer's "public integrity unit", with a request that if the Attorney General's own disqualifying conflicts of interest and personal and professional relationships would prevent independent investigation by that as yet non-existent unit, he seek appointment of a special prosecutor and, if unsuccessful, make a referral to the U.S. Justice Department's Public Integrity Section.

Additionally, based on the overwhelming proof of Chairman Shechtman's "substantial neglect of duty" and "gross misconduct in office", the public is entitled to his prompt removal by the Governor pursuant to §94.7 of the Executive Law -- and steps must be taken to secure that end.

Elena Ruth Sassower

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

Enclosures: Inventoried on accompanying pages
cc: Governor George Pataki
NYS Attorney General Eliot Spitzer
NYS Commission on Judicial Nomination
ATT: Stuart Summit, Counsel
NYS Commission on Judicial Conduct
ATT: Gerald Stern, Administrator

VERIFICATION

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

ELENA RUTH SASSOWER, being duly sworn, deposes and says:

The facts set forth in the Center for Judicial Accountability's letter to the Commissioners of the New York State Ethics Commission, dated March 26, 1999, are true and correct to the best of my knowledge and belief.

Elena Ruth Sassower

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

Sworn to before me this
26th day of March 1999

Gerald Gates

Notary Public

GERALD GATES
Notary Public of New York
No. 4964632
Qualified in Westchester County
Commission Expires April 2, 1999

INVENTORY

FOLDER "I": §1983 Federal Civil Rights Action *Sassower v. Mangano, et al.*, U.S. Supreme Court #98-106

Petition for a Writ of Certiorari

Supplemental Brief

> **July 27, 1998 Criminal Complaint to the U.S. Justice Department, Public Integrity Section** against lower federal judges, New York State Attorney General, etc. [lodged with Supreme Court Clerk, *See* Supplemental Brief, p. 9 (fn. 2)]

Petition for Rehearing

> **November 6, 1998 Impeachment Complaint against Chief Justice William Rehnquist and Associate Justices of the U.S. Supreme Court**: November 6, 1998 memorandum to House Judiciary Committee and U.S. Justice Department, Public Integrity Section [transmitted to Supreme Court Justices, in conjunction with petition for rehearing]

INVENTORY

FOLDER "II": **CJA's January 27, 1999 Letter to Attorney General Eliot Spitzer, Publicly Presented to Him on January 27, 1999 at the Association of the Bar of the City of New York**

Exhibit "A":	*"Restraining 'Liars in the Courtroom' and on the Public Payroll"*, public interest ad, NYLJ, pp. 3-4
Exhibit "B"-1":	CJA's 9/19/95 ltr to Attorney General Vacco
Exhibit "B-2":	CJA's 1/13/98 ltr to Attorney General Vacco
Exhibit "C-1":	CJA's 12/24/98 ltr to Attorney General-Elect Spitzer
"C-2":	CJA's 12/28/98 ltr to Attorney General-Elect Spitzer
Exhibit "D-1":	CJA's 8/8/94 ltr to Attorney General candidate Spitzer
"D-2":	CJA's 9/7/98 ltr to Attorney General candidate Spitzer
"D-3":	CJA's 9/8/98 ltr to NYLJ, City Bar -- with receipted copy from Spitzer campaign headquarters
Exhibit "E":	CJA's 11/18/98 ltr to City Bar Executive Committee

INVENTORY

FOLDER "III": **Governor Pataki's Manipulation of Lower State Court Judgeships and his Sham Temporary Judicial Screening Committee, on which Paul Shechtman was a Member:**
Reappointment of Court of Claims Judge Juanita Bing Newton
Appointment of Westchester Supreme Court Judge Nicholas Colabella to the Appellate Division, First Department

CJA's March 7, 1997 ltr to City Bar President Michael Cardozo

CJA's June 2, 1997 ltr to Governor Pataki

CJA's June 12, 1997 ltr to the members of the Governor's temporary and permanent judicial screening committees and bar leaders, with a copy to Governor Pataki

RELEVANT NEWS CLIPPING:

"Update", p.1, New York Law Journal, January 14, 1998

INVENTORY

FOLDER "IV": **Governor Pataki's Manipulation of Lower State Court Judgeships and Paul Shechtman's Active Complicity as Chairman of the Governor's State Judicial Screening Committee:**
Appointment & Confirmation of Westchester County Executive Andrew O'Rourke to the Court of Claims and Waiver

CJA's December 15, 1997 letter to Paul Shechtman, with copy for Governor

CJA's December 23, 1997 ltr to James McGuire, Counsel to Governor, with copy to Chairman Shechtman

CJA's December 26, 1997 ltr to Andrew O'Rourke, with copies for the Governor and Chairman Shechtman

CJA's December 29, 1997 ltr to members of the State Judicial Screening Committee, with copies for the Governor and Chairman Shechtman

CJA's January 5, 1998 fax coversheet to James McGuire and Paul Shechtman, transmitting CJA's January 2, 1998 ltr to Senate Judiciary Committee

CJA's January 9, 1998 fax coversheet to James McGuire and Paul Shechtman, transmitting CJA's January 8, 1998 ltr to Senate Judiciary Committee

CJA's January 7, 1998 ltr to Court of Appeals Chief Judge Judith Kaye, with copies for the Governor and Chairman Shechtman

CJA's January 13, 1998 notice to Senators, "Why You *Must* Vote *Against* Senate Confirmation of Andrew O'Rourke to a $113,000 Court of Claims Judgeship", distributed to ALL Senate offices

RELEVANT NEWSPAPER REPORTAGE ON THE O'ROURKE WAIVER:

"*O'Rourke Gets OK to Collect Pension While Serving as Judge*", 1/28/98, Gannett Suburban Newspapers
"*Governor Should Explain Double-Dip*", 1/31/98, editorial, Gannett Suburban Newspapers
"*O'Rourke's Pork*", 2/5/98, editorial, New York Daily News
"*Unaware of 'Double Dipping'*", 2/6/98, Letter to the Editor: In Reply, by Senators Richard Dollinger and Franz Leichter, Gannett Suburban Newspapers
"*O'Rourke's Appointment was Illegal*", 2/13/98, Letter to the Editor by Elena Ruth Sassower (CJA), New York Daily News

INVENTORY

FOLDER "IVa": **Governor Pataki's Manipulation of Lower State Court Judgeships and Paul Shechtman's Active Complicity as Chairman of the State Judicial Screening Committee:**
Appointment & Confirmation of Westchester County Executive Andrew O'Rourke to the Court of Claims and Waiver

CJA's May 1, 1992 critique of Andrew O'Rourke's responses to the U.S. Senate Judiciary Committee questionnaire pertaining to his qualifications for the U.S. District Court, Southern District of New York

Supporting Evidentiary Compendium

June 2, 1992 Supplement

[All transmitted to Governor, Chairman Shechtman, all members of the State Judicial Screening Committee, and to Chief Judge Kaye (*See* CJA's 12/23/97, 12/29/97, and 1/7/98 ltrs: File Folder "IV")]

INVENTORY

FOLDER "V": **The Corruption of the NYS Commission on Judicial Nomination's "Merit Selection" Procedures and Governor Pataki's Complicitous Cover-Up: *Appointment & Confirmation of Albert Rosenblatt to the Court of Appeals***

CJA's October 5, 1998 ltr to the NYS Commission on Judicial Nomination (Stuart Summit, Counsel)

CJA's November 18, 1998 ltr to the Executive Committee of the City Bar, with copies to the NYS Commission on Judicial Nomination, the Governor, incoming Attorney General Spitzer, NYS Ethics Commission

CJA's February 5, 1999 ltr to NYS Commission on Judicial Nomination (to Mr. Summit)

NYS Commission on Judicial Nomination's February 24, 1999 ltr to CJA, enclosing "the Commission's Report to the Governor,...delivered November 12, 1998" (from Mr. Summit)

CJA's March 12, 1999 ltr to NYS Commission on Judicial Nomination (to Mr. Summit)

Correspondence with the Senate Judiciary Committee:

CJA's December 16, 1998 ltr to David Gruenberg, Senior Counsel
CJA's January 13, 1999 ltr to Susan Zimmer, Committee Clerk

Transcript of Senate Judiciary Committee "hearing" on the nomination of Albert Rosenblatt to the Court of Appeals, December 17, 1998, 3:30 p.m.

Transcript of Senate proceedings, confirming Albert Rosenblatt to the Court of Appeals, December 17, 1998, 9:22 p.m.

INVENTORY

FOLDER "VI": **The Continued Corruption of the NYS Commission on Judicial Conduct in Unlawfully Dismissing, *Without Investigation*, CJA's *Facially-Meritorious* October 6, 1998 Judicial Misconduct Complaint against Albert Rosenblatt & his Co-Defendant Judicial Brethren in the *Sassower v. Mangano* Federal Action**

CJA's October 6, 1998 judicial misconduct complaint against Albert Rosenblatt and his co-defendant Appellate Division, Second Department brethren in the *Sassower v. Mangano* federal action

CJA's November 3, 1998 ltr to NYS Commission on Judicial Conduct
(to Gerald Stern, Administrator)

NYS Commission on Judicial Conduct's November 3, 1998 ltr to CJA
(from Lee Kiklier, Administrative Assistant)

NYS Commission on Judicial Conduct's December 2, 1998 ltr to CJA
(from Mr. Kiklier)

CJA's December 10, 1998 ltr to NYS Commission on Judicial Conduct
(to Mr. Stern)

NYS Commission on Judicial Conduct's December 23, 1998 ltr to CJA
(from Albert Lawrence, Clerk)

CJA's December 29, 1998 ltr to NYS Commission on Judicial Conduct
(to Mr. Lawrence)

NYS Commission on Judicial Conduct's January 25, 1999 ltr to CJA
(from Mr. Lawrence)

CJA's January 27, 1999 ltr to NYS Commission on Judicial Conduct
(to Mr. Stern)

CJA's February 3, 1999 ltr to NYS Commission on Judicial Conduct
(to Mr. Stern)

NYS Commission on Judicial Conduct's February 5, 1999 ltr to CJA
(from Mr. Stern)

CJA's March 11, 1998 ltr to NYS Commission on Judicial Conduct
(to Mr. Stern)

Z 509 073 634

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail *(See reverse)*

Sent to Commission on Judicial Conduct - Jerald Stern	
Street & Number 801 Second Ave	
Post Office, State, & ZIP Code NY NY 10017	
Postage	$ 3 20
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 5 85
Postmark or Date	

PS Form **3800**, April 1995

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that **we can return** this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
NYS Commission on Judicial Conduct
Att: Jerald Stern Administrator
801 Second Ave
NY, NY 10017

4a. Article Number
Z 509-073-634

4b. Service Type
☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery 3/31/99

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X E. Williams

Is your RETURN ADDRESS completed on the reverse side?

PS Form **3811**, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

Z 509 073 630

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail *(See reverse)*

Sent to NYS Commission on Judicial Nomination	
Street & Number 666 Fifth Avenue	
Post Office, State, & ZIP Code NY, NY 10103-0084	
Postage	$ 3 20
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 5 85
Postmark or Date	

PS Form **3800**, April 1995

ENDER:
Complete items 1 and/or 2 for additional services.
Complete items 3, 4a, and 4b.
Print your name and address on the reverse of this form so that we can return this card to you.
Attach this form to the front of the mailpiece, or on the back if space does not permit.
Write *"Return Receipt Requested"* on the mailpiece below the article number.
The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

Article Addressed to:
NYS Commission on Judicial Nomination
Att: Stuart Summit
666 Fifth Avenue
NY, NY 10103-0084

4a. Article Number
Z 509-073-630

4b. Service Type
☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery 4/8/99

. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

o. Signature: *(Addressee or Agent)*
X S. Harris

Is you.

PS Form **3811**, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

Z 509 073 631

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail *(See reverse)*

Sent to Gov Pataki Att: McGuire, Platkin	
Street & Number Executive Chamber: Rm 214	
Post Office, State, & ZIP Code Albany, NY 12224	
Postage	$ 320
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 3.85
Postmark or Date	

PS Form **3800**, April 1995

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form **so that we can return this card to you.**
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Governor Geo. Pataki
Att: James McGuire Counsel
Richard Platkin Senior Asst.
Executive Chamber
Room 214
Albany, NY 12224

4a. Article Number: Z 509 073 631

4b. Service Type
☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery: 3-31-95

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811**, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

Z 471 036 407

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail *(See reverse)*

Sent to NYS Ethics Commission	
Street & Number 39 Columbus Street	
Post Office, State, & ZIP Code Albany NY 12207-2717	
Postage	$ 1.35
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 3.00
Postmark or Date	

PS Form **3800**, April 1995

Is your **RETURN ADDRESS** completed on the reverse side?

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
NYS Ethics Commission
39 Columbus Street
Albany, NY
12207-2717

4a. Article Number
Z 471-036-407

4b. Service Type
☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
3.31.99

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811**, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

Z 471 036 406

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail *(See reverse)*

Sent to NYS Attorney General Eliot Spitzer	
Street & Number Att: Joe Palozzola 120 Broadway 25th Floor	
Post Office, State, & ZIP Code NY, NY 10271	
Postage	$ 2.40
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 10.05
Postmark or Date 07 APR 1999	

PS Form **3800**, April 1995

Is your **RETURN ADDRESS** completed on the reverse side?

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
NYS Attorney General
Eliot Spitzer
ATT: Joe Palozzola
120 Broadway 25th Floor
NY, NY 10271

4a. Article Number
Z 471 036 406

4b. Service Type
☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
APR 06 1999

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811**, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.