

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY FAX AND BY MAIL

212-262-5152

2 pages

December 1, 1998

State of New York Commission on Judicial Nomination
666 Fifth Avenue
New York, New York 10103-0084

ATT: Stuart A. Summit, Counsel

RE: Keeping the Record Straight

Dear Mr. Summit:

Reference is made to your November 25th letter wherein you decline to comment on my November 18th letter to the City Bar, except to baldly contend that I "substantially misstated the nature of our conversations". For the record, I had but a single conversation with you following transmittal to the Commission on Judicial Nomination of CJA's October 5th letter and substantiating evidentiary materials -- and that was on November 17th, following announcement of the Commission's recommendation of Justice Rosenblatt as a "well qualified" candidate for the Court of Appeals. My November 18th letter refers to that conversation and that conversation alone.

The reference, on page 2 of my November 18th letter, is as follows:

"The Commission on Judicial Nomination's counsel, Stuart Summit, has refused to divulge the Commission's procedures following its announcement of its recommendees. Judiciary Law, Article 3A, §66(2) states that "the governor shall have access to all papers and information relating to persons recommended to him by the commission." Mr. Stuart has refused to identify whether such 'papers and information' are automatically forwarded to the Governor or only at his request."

I stand by the truth and accuracy of the foregoing -- and invite you to specify the "misstatements" to which you are referring. Additionally, I invite you to now identify whether, as a matter of procedure, the Commission automatically transmits to the Governor all "papers and information" relative to the recommendees -- or only at the Governor's request.

EX "A-2"

December 1, 1998

As to your "surpris[e]" regarding the "tone" of my November 18th letter, it should have come as no surprise at all, considering our November 17th conversation. I would remind you that your *first* words to me in that telephone conversation -- when you returned my two voice mail messages left for you earlier that day and the day preceding -- was that you were considering *not* returning my call because you took umbrage at the fact that, in those messages, I had expressed shock and disgust at the Commission's recommendation of Justice Rosenblatt.

Much as your letter pretends that our "problem...with virtually everyone to whom we have communicated [our] position is that [we] cannot accept the possibility that others may disagree with [our] conclusions, without being 'dysfunctional' (sic) and 'corrupted'" -- so, likewise, in our November 17th conversation, you used such tactic to defend the Commission's recommendation of Justice Rosenblatt. My response to you then -- and now -- is that ALL our conclusions are substantiated by specified facts and law, whereas those who have purported to "disagree" with those conclusions have ALWAYS refused to confront those facts and law.

It is precisely because our conclusion as to Justice Rosenblatt's unfitness is substantiated by "irrefutable court records and other documentary proof"¹ -- which we provided and proffered to the Commission in our October 5th letter -- that I sought to verify, in our November 17th conversation, whether the Commission was going to be forwarding that documentation and letter to the Governor -- or whether the Governor was obliged to make specific request for same. As reflected by my November 18th letter (p. 2), you refused to respond to such straight-forward inquiry, even when framed as an inquiry as to the Commission's general procedures. Indeed, you were quite adamant that you would not provide any information as to how the Commission interprets the language of Judiciary Law, Article 3A, §66(2).

Inasmuch as your letter does not indicate that copies are being sent to any of the many recipients of my November 18th letter, I am not sending them copies of this letter. Obviously, if you have sent them "blind" copies of your letter, I expect -- and request -- that you promptly provide them with copies of this one.

Yours for a quality judiciary,



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

¹ See my November 18th letter, p. 1

ACCOUNTABILITY, INC.

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