

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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White Plains, New York 10605

By Fax: 518-486-9652

By Certified Mail/RRR: P-608-518-937

April 29, 1996

Michael Finnegan, Counsel to the Governor
Executive Chamber, The Capitol
Room 241
Albany, New York 12224

Dear Mr. Finnegan:

This letter memorializes our on-going "Twilight Zone" experience as we struggle to obtain what should be readily-available information about how Governor Pataki makes his judicial appointments.

After months of unsuccessful attempts via your office at the Executive Chamber of the Capitol in Albany to find out the names of the members of the Governor's Temporary Judicial Screening Committee--of which you are a member--we ventured on an alternative approach.

On Friday, April 26th, I called the Communications Office of the Office of Court Administration (212-417-5900), requesting information about the Governor's Department Judicial Screening Committees for the four judicial departments. I was told that for such information I would have to speak with the Governor's Press Office and was given the telephone number (212-681-4580).

I then called the Governor's Press Office. I was routed around four or five times--each time repeating my request for information about the Governor's judicial screening committees. Eventually, the individuals to whom my call was routed answered the telephone with the identifying introduction, "Executive Chamber" and "Michael Finnegan's office".

Ultimately, a woman on the other end of the phone asked me my name. After momentarily putting me on hold, she stated that the person I needed to speak with was "out of the office" and "very busy". She then falsely claimed that she had previously told me to put my request in writing. I asked the woman if she was Peggy, a secretary with whom I had spoken on April 11th, April 15th, and April 16th, when I left phone messages for a Nan Weiner. She confirmed she was.

EX "B"

April 29, 1996

After I vigorously denied that Peggy had ever told me anything but that Ms. Weiner would be returning my phone calls, Peggy gave me the address to which to send my written requests (the same as is indicated by this letter).

I then asked Peggy the name of the person to whom I was to address my communications. Peggy's memorable response was "I don't have her name. She only calls in for messages". Peggy maintained this ludicrous position as I tried to contain my laughter.

When I asked Peggy whether Ms. Weiner, who on my prior three calls she had refused to identify except as an "assistant to the Governor," was the person to whom I should address my written requests, Peggy enigmatically acknowledged that Ms. Weiner was "part of this". When I asked who else was "part of this", Peggy claimed she did not know.

So that the record is clear, we have spent months just trying to find out who in the Governor's office works on judicial appointments. Everyone in the Governor's office claims to be unable to give us this basic information. As further demonstrative of the outlandishness of this situation, I have spoken to Susan Meier, who has claimed that her involvement in judicial appointments ended this past January. Logically, this should mean that Ms. Meier would, at least, be able to tell us who sits on the Governor's Temporary Judicial Screening Committee, established by Executive Order in April of last year (Exhibit "F"). However, Ms. Meier has claimed that she does not know who its members are and that she does not know who has replaced her in handling judicial screening issues for the Governor.

As to placing our requests for information in writing, although no one in the Governor's office ever told us to do so, we have consistently set them forth in writing. This may be seen from our repeatedly faxed January 10, 1996 letter (Exhibit "A"), resent by mail under a March 29, 1996 letter (Exhibit "B-1"), then itself resent under a April 24, 1996 letter (Exhibit "B-2").

The aforesaid three telephone messages for Ms. Weiner which I left with Peggy--and which neither Ms. Weiner nor anyone on her behalf returned--were not for the purpose of obtaining information about the Governor's Temporary Judicial Screening Committee. Rather, they were to provide information to the Commission bearing adversely upon the qualifications of Juanita Bing Newton. According to an April 11th squib in the New York Law Journal, the Temporary Judicial Screening Committee was that day interviewing Judge Newton for reappointment by the Governor to the Court of Claims.

Having received no return call from Ms. Weiner and fearing that the Governor's office might "pull a fast one"--with Senate confirmation scheduled the day following the Governor's appointment so that by the time we would read about the nomination in the newspaper, the confirmation would already be over--as was the case, for instance, with the Governor's appointment last year of Jonathan Lippman to the Court of Claims (Exhibit "C")--we contacted the Senate Judiciary Committee to notify it of our opposition to Judge Newton. A copy of our April 18, 1996 letter to David Gruenberg, counsel to that Committee, confirming his assurance to us that we would be immediately notified should the Governor reappoint Judge Newton, was sent to you (Exhibit "D"). Consequently, that, too, is already in writing.

So that there is no mistake about the information we are currently seeking, this letter, therefore, constitutes our explicit written request for information as to Governor Pataki's Executive Orders 10 and 11 relating to the establishment of judicial screening committees. Copies of those Executive Orders are annexed hereto as Exhibits "E" and "F", respectively. What committees are, in fact, operational and who are their members?

We understand that the Temporary Judicial Screening Committee, set up by Executive Order 11 (Exhibit "F"), has not yet been superseded by a State Judicial Screening Committee, as contemplated by ¶4 of that Order. What is the reason for this?

Under Executive Order 10, the State Judicial Screening Committee is charged with the duty to:

"promulgate appropriate rules and regulations to govern its proceedings and those of the Departmental and County Judicial Screening Committees established by this Order. The rules and regulations shall include standards and procedures for ensuring, to the extent possible, uniformity of criteria for evaluation the qualifications of candidates for appointment or designation to judicial office throughout the State." (Exhibit "E", p. 2)

If the State Judicial Screening Committee has not been set up, what are the rules and regulations under which the Temporary Judicial Screening Committee and the Departmental and County Judicial Screening Committees have been operating?

April 29, 1996

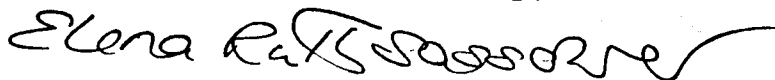
Inasmuch as the Governor's Executive Orders identify counsel to the Governor as being both a member of the Temporary and a would-be member of the State Judicial Screening Committee, we trust you will readily be able to respond with such information.

Finally, we note that Executive Order 11 charges the "Office of Counsel to the Governor" with the duty of making

"available to the [Temporary Judicial Screening] committee sufficient staff and resources to enable the committee to carry out properly its responsibilities including adequate investigations into all matters relevant to the qualifications of candidates for appointment to judicial office" (Exhibit "F", ¶3).

Since it is now many months that we have been endeavoring, without success, to know who in the Governor's office functions as liaison to the Temporary Judicial Screening Committee--and more than two and a half weeks since we left the first of our unreturned telephone messages for Ms. Weiner, advising that we had adverse information to present to the Screening Committee about Judge Newton's qualifications, we request that you identify what "staff and resources" you have made available to the Committee to permit it to meet its proclaimed purpose of "ensur[ing] that judicial officer appointees are of the highest quality" (Exhibit "F", title).

Yours for a quality judiciary,



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

Enclosures

cc: Senate Judiciary Committee
David Gruenberg, counsel
Committee to Encourage Judicial Service of the Association
of the Bar of the City of New York
Sidney H. Asch, Chairman
Fund for Modern Courts
Gary Brown, Executive Director
New York media

TIME: 04/29/1996 14:30
 NAME:
 FAX: 9146846554
 TEL:

DATE, TIME	04/29 14:27
FAX NO./NAME	15184869652
DURATION	00:02:50
PAGE(S)	05
RESULT	OK
MODE	STANDARD

P-608 518 937
 RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 1523-3

Sent to: *Michael Finnegan*
Chief to Gov. Pataki
 Street and No.: *Executive Chamber*
Capitol, Room 241
 P.O. Box and Zip Code: *Albany, NY 12224*
 Postage: \$ *170*

Certified Fee: \$ *110*

Additional Delivery Fee: \$ *110*

Postage and Fee Total: \$ *390*

Postmark or Date: *APR 30 1996*

WHITE PLAINS, NY 10805-9998

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):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
Michael Finnegan
Chief to Gov. Pataki
Exec. Chamber
Re Capitol
Room 241
Albany, NY 12224

4a. Article Number
P608 518 937

4b. Service Type

Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery
5-2-96

5. Received By: (Print Name)
Jim VanBuren

6. Signature: (Addressee or Agent)
Jim VanBuren

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

PS Form 3811, December 1994 Domestic Return Receipt

Print your name for using Return Receipt Service.

STATE OF NEW YORK

3996

1983-1984 Regular Sessions

IN ASSEMBLY

February 23, 1983

Introduced by M. of A. WEPRIN, M. H. HILLER --(at request of the Governor) -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to candidates for chief judge or associate judge of the court of appeals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Sections forty-five, sixty-three, sixty-four and sixty-six
2 of the judiciary law, as added by chapter one hundred fifty-six of the
3 laws of nineteen hundred seventy-eight, are amended to read as follows:
4 § 45. Confidentiality of records. Except as hereinafter provided,
5 all complaints, correspondence, commission proceedings and transcripts
6 thereof, other papers and data and records of the commission shall be
7 confidential and shall not be made available to any person except pur-
8 suant to section forty-four of this article. The commission and its
9 designated staff personnel shall have access to confidential material in
10 the performance of their powers and duties. If the judge who is the
11 subject of a complaint so requests in writing, copies of the complaint,
12 the transcripts of hearings by the commission thereon, if any, and the
13 dispositive action of the commission with respect to the complaint, such
14 copies with any reference to the identity of any person who did not par-
15 ticipate at any such hearing suitably deleted therefrom, except the sub-
16 ject judge or complainant, shall be made available for inspection and
17 copying to the public, or to any person, agency or body designated by
18 such judge.

19 Notwithstanding any provision in this section, the commission shall
20 provide to the commission on judicial nomination established by article
21 three-A of this chapter, the governor and the temporary president of the
22 senate and the chairman of the senate judiciary committee when the ad-
23 vice and consent of the senate is required, any information requested by
24 the commission on judicial nomination concerning an applicant for the
25 court of appeals, provided that the applicant consents to disclosure.

EXPLANATION--Matter in *italics* (underscoring) is new; matter in brackets
[] is old law to be omitted.

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