CENTER for JUDICIAL ACCOUNTABILITY

Box 69, Gedney Station • White Plains, New York 10605-0069
TEL: 914/997-8105 • FAX: 914/684-6554

By Fax: 914-761-9402
and By Mail

September 20, 1994

Westchester County Bar Association
300 Hamilton Avenue, Suite 400
White Plains, New York 10601

Att: Ellen Cherry, Executive Director

Dear Ms. Cherry:

This is to confirm our telephone conversation wherein I advised you that the by-law provision cited in your letter to me dated August 9, 1994 is inapplicable to my membership status.

Your by-law provision speaks of a "final decision by a Court suspending...a member from practice". The June 14, 1991 Order of the Appellate Division, suspending my professional license, was not a final decision, but, rather, as I stated to you, an interim Order "until the further order of this court."

A copy of the June 14, 1991 suspension Order is enclosed to permit ready verification of such fact. Indeed, as further shown by the November 18, 1992 Order of the Court of Appeals, also enclosed, the lack of finality has been asserted as a basis for denial by the Court of Appeals of my various attempts to obtain review by that Court.

Consequently, there is no need for any action by the Board of Directors of the Association on my request for reinstatement, inasmuch as your aforesaid by-law provision does not disqualify an interimly-suspended attorney from continued membership.

As you have advised me that the Board of Directors is meeting this Thursday afternoon, I believe it would be opportune to bring to their attention the facts concerning my interim suspension, so that they can determine what role the Association might play in assisting me in my present efforts before the Court of Appeals. Currently before that Court is my Article 78 proceeding against the Appellate Division, Second Department, entitled Sassower v. Hon. Guy Mangano, et al., challenging the constitutionality of New York's attorney discipline law, as written and as applied.

Ex "K-3"

My case graphically demonstrates the unconstitutional potential for abuse of the disciplinary power conferred under such law. In that connection, I also enclose a copy of the case of Mildner v. Gulotta, 405 F.Supp. 182 (1975) and refer the Board to Judge Weinstein's powerful dissenting opinion, holding the law unconstitutional nearly twenty years ago.

To give you just a minimal idea of the enormity of the Second Department's misconduct, you should be aware that at the time the Appellate Division, Second Department issued the June 14, 1991 interim suspension Order, it knew that said Order was jurisdictionally void and contrary to law and its own disciplinary rules in that there was no underlying proceeding on which any jurisdiction could be founded; no notice of charges; no hearing; no evidentiary findings to sustain jurisdiction or probable cause to believe that I had committed any act of professional misconduct. It must be further noted that I vigorously controverted the allegations made against me by the Chief Counsel for the Grievance Committee of the Ninth Judicial District in support of his motion to suspend me, which were totally groundless, false and perjurious. Consequently, an evidentiary hearing was absolutely required in the first instance.

Indeed, as examination of the June 14, 1991 Order readily establishes, the Appellate Division, Second Department stated no reasons for my interim suspension--although 22 N.Y.C.R.R. §691.4(l)(2) of its own rules explicitly required the court to "briefly state its reasons"--and made no findings, notwithstanding controlling decisional law of the New York State Court of Appeals in Matter of Nuey, 61 N.Y.2d 513, 474 N.Y.S.2d 714 (1984), reiterated in 1992 in Matter of Russakoff, 72 N.Y.2d 520, 583 N.Y.S.2d 949. For your convenience, I am enclosing a copy of §691.4(l)(2), as well as the Nuey and Russakoff decisions, to which my case is, in all respects, a fortiori.

Nonetheless, for more than three years, the Appellate Division, Second Department has refused, without reasons, to vacate this egregiously unconstitutional Order or give me a post-suspension hearing. Additionally, the Appellate Division, Second Department has advised that I will be subject to criminal contempt if I make any further motion, without prior judicial approval--again in violation of my rights under CPLR and decisional law.

In my aforesaid Article 78 proceeding, I charged the Appellate Division, Second Department with unlawful, retaliatory conduct--providing ample evidentiary proof in support thereof. Notwithstanding black-letter law and ethical rules require judges to disqualify themselves from adjudicating a case in which they themselves are parties or have a substantial interest in its

outcome, the justices of the Appellate Division, Second Department refused to recuse themselves and decided their own case in their favor. And, without any legal authority, their attorney, the Attorney-General of the State of New York, has not only argued before the Court of Appeals that this is proper, but that there should be no right of appellate review of his judicial client's self-interested decision. Such gross perversion of the law and of the historic Article 78 remedy, which is designed to provide independent review, must not be tolerated by our profession.

Since the Court of Appeals has already declined to take jurisdiction as of right, and is reconsidering the matter on my reargument motion, which, alternatively is a motion for leave to appeal, a letter of support from the Association urging the Court to take jurisdiction to review the matter, or alternatively grant leave to appeal, would be most helpful. I will, of course, be pleased to provide the Association with a copy of the papers before the Court of Appeals immediately upon request.

As a dues paying member of the Westchester Bar Association for many years standing, and as a leader of the bar with solid credentials, who, until the aforesaid unjust and retaliatory suspension, had more than paid her dues in over 35 years of public service activity, I would hope that when the Board of Directors meets on Thursday, this matter could be placed on its agenda for consideration.

For the information of the Board members, I enclose a copy of my 1989 listing in Martindale-Hubbell law directory, which consistently gave me an "AV" rating, together with a copy of a letter from the Fellows of the American Bar Foundation, confirming my election in 1989 to membership in that distinguished body, an honor "limited to one-third of one percent of lawyers licensed to practice in each jurisdiction".

I look forward to hearing from you as to both matters soon and thank you in advance for your kind assistance.

Most sincerely,

Doris L. Sassower

DORIS L. SASSOWER

Enclosures:
(a) 6/14/91 Order of Appellate Division, 2nd Dept.
(b) 11/18/92 Order of N.Y.S. Court of Appeals
(c) Mildner v. Gulotta Decision
(d) 22 N.Y.C.R.R. §691.4(l)(2)
(e) Matter of Nuey, Matter of Russakoff Decisions
(f) 1989 Martindale-Hubbell listing
(g) Fellows of the American Bar Foundation Letter