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Elena Ruth Sassower, Coordinator

BY HAND

March 3, 2000

Chief Judge Judith Kaye
Chief Judge of the State of New York
230 Park Avenue, Suite 826
New York, New York 10169-0007

RE: 1. Meeting your Administrative and Disciplinary Responsibilities under §§100.3C and D of the Chief Administrator's Rules Governing Judicial Conduct;
2. Designation of a Special Inspector General to Investigate the Corruption of the New York State Commission on Judicial Conduct.

Dear Chief Judge Kaye:

This letter calls upon you, as Chief Judge of the State of New York, to take steps to ensure that Supreme Court Justice Stephen G. Crane is demoted from his position as Administrative Judge of the Civil Term of the Manhattan Supreme Court and that both he and Acting Supreme Court Justice William A. Wetzel are removed from the bench and criminally prosecuted.

As set forth in the enclosed copy of CJA's February 23, 2000 letter to Governor Pataki – to which you are an indicated recipient[1] -- Administrative Judge Crane and Justice Wetzel collusively used their judicial offices to subvert the judicial process in an important public interest Article 78 proceeding against the New York State Commission on Judicial Conduct to advance ulterior personal and political goals. Among these goals: to keep the Commission as the corrupt façade it is so as to deprive the public of its entitlement under Article VI, §22 of the New York State Constitution and Article 2-A of the Judiciary Law to a functioning disciplinary

[1] *See*, in particular, p. 32, fn. 58.

Rec'd by Chief Judge Kaye
3/2/00

Ex "K"

mechanism against abusive, biased, and dishonest judges – such as Administrative Judge Crane and Justice Wetzel.

This letter also calls upon you to appoint a "Special Inspector General" to investigate the Commission on Judicial Conduct -- comparable to the newly-appointed "Special Inspector General for Fiduciary Appointments in the Unified Court System", who you announced in your January 10, 2000 "State of the Judiciary Address" would "work closely with the Commission on Judicial Conduct" (Exhibit "A", p. 10). It is precisely because the Commission is corrupt that patronage in judicial appointments – long the subject of *facially-meritorious* judicial misconduct complaints, dismissed by the Commission *without investigation* – has flourished to the point where the media call it an "open secret"[2].

Designation of a "Special Inspector General" to investigate the Commission is essential because public agencies and officers having criminal and disciplinary jurisdiction over the Commission are compromised by disabling conflicts-of-interest. This is identified by CJA's enclosed February 25, 2000 memorandum-notice to the New York State Attorney General, the Manhattan District Attorney, the U.S. Attorney for the Southern District of New York, and the New York State Ethics Commission – to which you are an indicated recipient.

The most salient and frightening fact about the Commission's corruption, highlighted by CJA's February 25, 2000 memorandum-notice and particularized in CJA's February 23, 2000 letter, is that in three specific-Article 78 proceedings over the past five years, the Commission – whose duty it is to uphold judicial standards -- has been the beneficiary of fraudulent judicial decisions of Supreme Court/New York County, without which it could not have survived the challenges brought by complainants whose *facially-meritorious* judicial misconduct complaints the Commission had dismissed *without investigation.* Indeed, the Commission had NO legitimate defense in *any* of these three proceedings, relying on litigation fraud by "the People's Lawyer", the State Attorney General, who represented the Commission in flagrant violation of Executive Law §63.1[3].

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[2] Judicial patronage has also flourished because "the attorney disciplinary committees of the Appellate Divisions and other appropriate authorities", with whom the Special Inspector General will also "work closely", are – like the Commission -- dysfunctional and corrupted by conflicts-of-interest.

[3] Executive Law §63.1 requires the Attorney General's involvement in litigation to be

You are already familiar with the fact that the earliest of these three Article 78 proceedings against the Commission was "thrown" by a fraudulent judicial decision. Like Governor Pataki, you long ago received copies of CJA correspondence describing it and appending CJA's Letter to the Editor, "*Commission Abandons Investigative Mandate*" (NYLJ, 8/14/95), and two public interest ads, "*A Call for Concerted Action*" (NYLJ, 11/20/96, p. 3) and *Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97, pp. 3-4)[4]. CJA's January 7, 1998 letter to you – which is Exhibit "E" to CJA's February 23, 2000 letter to the Governor[5] – referred (at fn. 2) to all three published pieces and appended a copy of "*Restraining 'Liars'*". This first Article 78 proceeding was *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (NY Co. #95-109141), "thrown" by a fraudulent judicial decision of Supreme Court Justice Herman Cahn[6].

It may be expected that you would be familiar with the second Article 78 proceeding "thrown" by a fraudulent judicial decision, *Michael Mantell v. New York State Commission on Judicial Conduct* (NY Co. #99-108655). This, because on October 5, 1999, the New York Law Journal featured a front-page, above-the fold story about Supreme Court Justice Edward Lehner's decision in that case under the eye-catching headline, "*State Commission Can Refuse to Investigate Judge*". From that story – and the published decision appearing two days later – you would have

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predicated on "the interests of the state". No "state interest" is being served by an Attorney General who corrupts the judicial process with defense fraud and misconduct in order to defeat a meritorious claim.

[4] Copies are annexed as Exhibits "B-1", "B-2", and "B-3", respectively, to CJA's February 23, 2000 letter to the Governor.

[5] CJA's January 7, 1998 letter to you – to which we received *no* response -- sought your leadership in vindicating the public's rights relating to the Governor's judicial appointments process, to which you are a participant by virtue of your designation of members of his judicial screening committees. It is annexed to our February 23, 2000 letter to the Governor because it reflects CJA's 1997 opposition to Judge Crane's candidacy to the Appellate Division, which we presented to the First Department Judicial Screening Committee – on which your designee Claire Gutekunst sits (at pp. 2-3).

[6] Conspicuously, Justice Cahn's decision in *Doris L. Sassower v. Commission* has never been printed in the law books – notwithstanding the July 31, 1995 New York Law Journal cited it as a "decision of interest" on its front-page, summarized it on its second front-page, and published it in its second section.

had no difficulty recognizing that the decision is legally insupportable – not the least reason being because it pretends that a judicial misconduct complaint filed with the Commission by a member of the public is analogous to one initiated by the Commission. Since the Court of Appeals regularly reviews appeals from the small handful of judges which the Commission subjects to public discipline, you surely are aware that these two types of complaints are governed by different provisions of Judiciary Law §44: subdivisions 1 and 2 – which Justice Lehner's decision purposefully obscures. These different provisions were recognized by the Court of Appeals in *Judicial Conduct v. Doe*, 61 NY2d 56 (1984), at 60. Such case followed the Court's recognition in *Matter of Nicholson*, 50 NY2d 597 (1980), that Judiciary Law §44.1 imposes a mandatory investigative duty upon the Commission:

> "...the commission *must* investigate following receipt of a complaint, unless that complaint is determined to be facially inadequate (Judiciary Law 44, subd. 1)..." at 346-7 (emphasis added).

Nor would it be surprising if you were already familiar with the recent fraudulent decision of Justice Wetzel in the third Article 78 proceeding, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York* (NY Co. #99-108551), since that decision was cited on the front-page of the February 24, 2000 New York Law Journal as being "of interest", summarized on the Law Journal's second front-page, and published in that second section. On its face, the decision departs from fundamental adjudicative standards – substituting conclusory and defamatory characterizations and innuendo for factual specificity. This includes the two paragraphs of the decision which rest dismissal of *Elena Ruth Sassower v. Commission*[7] exclusively on Justice Cahn's decision in *Doris L. Sassower v. Commission* and Justice Lehner's decision in *Michael Mantell v. Commission*.

As set forth in CJA's February 23, 2000 letter to the Governor (at p. 22), the record before Justice Wetzel in *Elena Ruth Sassower v. Commission* contained fact-specific, legally-supported analyses showing that the decisions of Justices Cahn and Lehner are fraudulent[8] – the accuracy of which was wholly undenied and

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[7] These two paragraphs are analyzed at pp. 20-23 of CJA's February 23, 2000 letter to the Governor.

[8] The 3-page analysis of Justice Cahn's fraudulent judicial decision in *Doris L. Sassower*

undisputed by the Commission and its defense counsel, the State Attorney General.

A fact-specific, legally-supported analysis of Justice Wetzel's fraudulent judicial decision in *Elena Ruth Sassower v. Commission* appears at pages 15-29 of CJA's February 23, 2000 letter to the Governor, prefaced by an extensive discussion at pages 6-14 of Administrative Judge Crane's misconduct, reflecting his complicity in that decision. In summary, Administrative Judge Crane, who was self-interested in the proceeding, twice interfered with random assignment of the case, the second time to "steer" it to Judge Wetzel, who he had reason to know was even more disqualified than the judge to whom he had first "steered" the case, who had recused himself. Thereafter, and in the face of petitioner's written notice to him that within two weeks of receiving the case, Justice Wetzel was already making manifest his disqualifying bias and self-interest, Administrative Judge Crane wilfully ignored the Article 78 petitioner's legitimate request for:

1. the authority for his interference with random assignment;

2. the basis for "steering" the case to Court of Claims Judge Wetzel, whose appointive term had expired five months earlier, and for "steering" the case prior thereto to Court of Claims Judge Ronald Zweibel, whose appointive term was nearing expiration; and

3. information as to his awareness of the facts pertaining to Justice Wetzel's disqualification, set forth in petitioner's December 2, 1999 application for Justice Wetzel's recusal – a copy of which she sent to Administrative Judge Crane.

Likewise, Administrative Judge Crane ignored petitioner's request for a conference so that arrangements could be made to ensure that the proceeding be "assigned to a fair and impartial tribunal". This, notwithstanding the record before him showed that *Doris L. Sassower v. Commission* and *Michael Mantell v. Commission* had each been "thrown" by fraudulent decisions of Supreme Court/New York County and that petitioner was endeavoring to ensure that *Elena Ruth Sassower v. Commission* would not be the third such Article 78 proceeding to be "thrown".

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v. Commission is annexed as part of Exhibit "A" to petitioner Elena Ruth Sassower's verified petition. The 13-page analysis of Justice Lehner's fraudulent judicial decision in *Michael Mantell v. Commission* is Exhibit "D" to her December 9, 1999 letter to Justice Wetzel.

Administrative Judge Crane's misfeasance and wilful nonfeasance, as likewise the fraudulent judicial decisions of Justices Wetzel, Cahn, and Lehner, are wholly inimical to the goal of your "Year 2000 Program" to "build public trust and confidence in our justice system", repeatedly emphasized in your January 10, 2000 "State of the Judiciary Address" (Exhibit "A", pp. 1-2, 10). A justice system that fails to eject such miscreant judges cannot possibly foster "trust and confidence" among the public. Nor should it expect to. Indeed, by their misconduct, these judges knowingly and irreparably harmed the public by covering up the corruption of the *only* state agency empowered to safeguard adherence to judicial standards of conduct, as well as the complicity of New York's *highest* law enforcement officer, the State Attorney General, whose false and deceitful tactics in defending the Commission have constituted "the crimes of, *inter alia*, perjury, filing of false instruments, conspiracy, obstruction of justice, and official misconduct"[9].

You twice repeated in your "State of the Judiciary Address" that:

> "the best way to begin the new millenium is by *being honest with the public* and with ourselves about our shortcomings..." (Exhibit "A", p. 10, emphasis added, *see* also, p. 1)

The second time, you reinforced the need for action:

> "Unquestionably, *we have to do everything in our power* to earn the trust and confidence of the public in the integrity, reliability and efficacy of our courts. And there is only one place to begin improving public perceptions about our courts: *by improving the realities*." (Exhibit "A", at p. 10, emphases added)

In light of such resounding rhetoric, the public has a right to expect that you will at long last be "honest" about the corruption of the Commission on Judicial Conduct, the reality of which is *readily-verifiable* from the record of the three most recent Article proceedings from Supreme Court/New York County. To that end, a copy of the record of *Elena Ruth Sassower v. Commission* is herein transmitted, with its

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[9] *See* notice of motion to petitioner *Elena Ruth Sassower*'s July 28, 1999 omnibus motion and her memorandum of law, pp. 8-9.

physically-incorporated copies of the record in *Doris L. Sassower v. Commission* and *Michael Mantell v. Commission.*

Being "honest with the public" will require you – like the Governor – to put aside your substantial conflicts of interest, born of your personal and professional relationships with innumerable persons implicated in the corruption of the Commission, or the beneficiaries of it. These may account for your silence throughout the years in which CJA's vigorous advocacy alerted you to the Commission's *readily-verifiable* corruption, which you chose not to verify – all the while referring aggrieved members of the public to the Commission when they turned to you for help against biased and abusive judges. This includes Vietnam War veteran Camou Bey, who twice complained to you about Justice Wetzel (Exhibits "B-1" – "B-4") and whose *facially-meritorious* judicial misconduct complaints against Justice Wetzel the Commission dismissed, *without investigation*[10].

Illustrative of these personal and professional relationships which may be presumed to have deterred you from safeguarding the public's right to a Commission on Judicial Conduct which is not a corrupt façade are those with:

1. Carmen Ciparick, the only other woman on the Court of Appeals, who, until her 1993 confirmation to the Court, was a long-time member of the Commission and whose confirmation CJA opposed, *inter alia*, because of her participation in the Commission's corruption;

2. Court of Claims Judge Juanita Bing Newton[11], a judicial member of the Commission until her appointment last year as Deputy Chief Administrative Judge for Justice Initiatives and whose 1996 reappointment and confirmation to the Court of Claims CJA opposed by reason of her involvement in the Commission's corruption, including her failure to take corrective steps in the face of knowledge that the Commission was the beneficiary of Justice Cahn's fraudulent decision; and

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[10] *See* pp. 29-30 of CJA's February 23, 2000 letter to the Governor and Exhibits "J-1" – "J-8" thereto.

[11] Judge Newton is cited in your "State of the Judiciary Address" (Exhibit "A", p. 2).

3. Albert Rosenblatt, your newest Court of Appeals colleague, who, while a justice of the Appellate Division, Second Department, was the beneficiary of the Commission's corrupt dismissals, *without reasons*, of three *facially-meritorious* judicial misconduct complaints against him, thereafter challenged in *Doris L. Sassower v. Commission*[12], and who, following his Senate confirmation to the Court of Appeals, was the beneficiary of the Commission's corrupt dismissal, *without reasons*, of an October 6, 1998 *facially-meritorious* judicial misconduct complaint against him based, *inter alia*, on his likely perjury on his publicly-inaccessible application for the Court of Appeals, thereafter challenged in *Elena Ruth Sassower v. Commission*[13].

Of course, also accounting for your silence and inaction on the subject of the Commission's corruption may be the fact that a Chief Judge, too, is subject to the Commission's disciplinary jurisdiction. As such, you have your own self-interest that the Commission continue its pattern and practice of "dumping" *facially-meritorious* complaints against high-ranking, politically-connected judges, which the cases of *Doris L. Sassower v. Commission* and *Elena Ruth Sassower v. Commission*.expressly challenged. That would make it less likely to investigate *facially-meritorious* judicial misconduct complaints against you and your fellow high-ranking colleagues. Certainly, based upon the record herewith transmitted, a *facially-meritorious* judicial misconduct complaint might reasonably be filed against you should you fail and refuse to discharge your mandatory administrative and disciplinary responsibilities under §§100.3C and D of the Chief Administrator's Rules Governing Judicial Conduct. Pursuant to §100.3D(1),

> "A judge who receives information indicating a substantial likelihood that another judge has committed a substantial violation of this Part *shall* take appropriate action." (emphasis added)

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[12] These three *facially-meritorious* judicial misconduct complaints, dated September 19, 1994, October 26, 1994, and December 5, 1994, are Exhibits "G", "I", and "J", respectively, to Doris L. Sassower's verified petition.

[13] The *facially-meritorious* October 6, 1998 judicial misconduct complaint is Exhibit "C" to Elena Ruth Sassower's verified petition.

The transmitted record in *Elena Ruth Sassower v. Commission* provides much more than "information indicating a substantial likelihood". It presents incontrovertible *proof* of judicial misconduct by Administrative Judge Crane and Justice Wetzel so serious and far-reaching as to require you to take steps to secure their removal from office and criminal prosecution. Beyond that, it also presents incontrovertible *proof* of defense fraud by the Attorney General on behalf of the Commission so serious and far-reaching as to trigger your "Disciplinary responsibilities" under §100.3D(2) to "take appropriate action" against them – much as it triggered the "Disciplinary responsibilities" of Administrative Judge Crane and Wetzel – which they ignored.

Without forceful "action" by you, such as appointment of a "Special Inspector General" to investigate the *readily-verifiable* corruption of the Commission on Judicial Conduct – including the defense fraud of its attorney, the Attorney General, to defeat legitimate citizen challenges, as well as the fraudulent judicial decisions of Supreme Court/New York County of which it is a knowing beneficiary -- the public will have ample reason to distrust not only "our justice system", but your own fitness for the pre-eminent judicial position of Chief Judge of New York State.

Yours for a quality judiciary,

Elena Ruth Sassower

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

Enclosures

cc: Administrative Judge Stephen G. Crane
Justice William A. Wetzel
Governor George Pataki
New York State Commission on Judicial Conduct
New York State Attorney General Spitzer
District Attorney, New York County
U.S. Attorney, Southern District of New York
New York State Ethics Commission
U.S. Attorney, Eastern District of New York
Association of the Bar of the City of New York
Patricia Salkin, Director, Government Law Center/Albany Law School
Former Bronx Surrogate Bertram R. Gelfand
Media

INVENTORY: ***Doris L. Sassower v. Commission on Judicial Conduct of the State of New York*** [1] ***(N.Y. Co. #95-109141)***

1. Doris L. Sassower's Article 78 Petition, with Notice of Petition and Notice of Right to Seek Intervention (April 10, 1995)

2. Doris L. Sassower's Order to Show Cause for Preliminary Injunction, Default (May 11, 1995)

3. Attorney General's Affidavit in Opposition to Preliminary Injunction (May 22, 1995)

4. Attorney General's Dismissal Motion (May 30, 1995)

5. Doris L. Sassower's Affidavit in Opposition to Dismissal Motion and in Further Support of Verified Petition, Motion for Injunction and Default, and for Sanctions (June 8, 1995)

6. Doris L. Sassower's Memorandum of Law in Opposition to Dismissal Motion and in Further Support of Verified Petition, Motion for Injunction and Default, and for Sanctions (June 8, 1995)

7. Doris L. Sassower's Notice to Furnish Record to the Court Pursuant to CPLR §§409, 7804(e), and 2214(c) (June 9, 1995)

8. Doris L. Sassower's Affidavit in Support of Proposed Intervenors (June 9, 1995)

9. Supreme Court Memorandum Decision, per Herman Cahn (July 13, 1995)

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[1] Copy of record submitted as one of the free-standing file folders substantiating Elena Ruth Sassower's July 28, 1999 omnibus motion for disqualification of attorney general, sanctions, etc. in *Elena Ruth Sassower v. Commission* (NY Co. #99-108551).

INVENTORY: ***Michael Mantell v. New York State Commission on Judicial Conduct***[1]
(NY Co. #99-108655)

1. Petitioner's Notice of Petition and Verified Petition, dated April 22, 1999

2. Attorney General's May 14, 1999 letter

3. Signed stipulation extending time, dated May 14, 1999

4. Attorney General's Notice of Cross-Motion to Dismiss the Petition, dated June 3, 1999

5. Attorney General's Memorandum of Law in Support of the Cross-Motion to Dismiss the Petition, dated June 3, 1999

6. Petitioner's June 15, 1999 letter

7. Signed stipulation extending time, dated June 15, 1999

8. Petitioner's Amended Petition, dated June 15, 1999

9. Attorney General's Notice of Cross-Motion to Dismiss the Amended Petition, dated June 23, 1999

10. Attorney General's Memorandum of Law in Support of the Cross-Motion to Dismiss the Amended Petition, dated June 23, 1999

11. Petitioner's Reply Affidavit, dated July 14, 1999

12. Petitioner's Memorandum of Law, served July 14, 1999

13. Decision & Judgment of Supreme Court Justice Edward H. Lehner, dated September 30, 1999

14. Short-Form Order of Justice Lehner, dated September 30, 1999

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[1] Copy of record submitted with Elena Ruth Sassower's December 9, 1999 letter to Acting Supreme Court Justice William Wetzel in *Elena Ruth Sassower v. Commission* (NY Co. #99-108551)

INVENTORY: ***Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct*** **(NY Co. #99-108551)**

1. Petitioner's Notice of Right to Seek Intervention, Notice of Petition, and Verified Petition (April 22, 1999)

2. Attorney General's Affirmation (Carolyn Cairnes Olson) in Support of Respondent's Application Pursuant to CPLR §3012(d) (May 17, 1999)

3. Attorney General's Dismissal Motion (May 24, 1999), consisting of:
   (a) Notice of Motion, with Affirmation of Assistant Attorney General Michael Kennedy and Affidavit of Albert Lawrence, Clerk of the Commission on Judicial Conduct;

   (b) Memorandum of Law in Support of Motion to Dismiss, signed by Assistant Attorney General Carolyn Cairns Olson

4. Petitioner's Omnibus Motion (July 28, 1999), consisting of:
   (a) Notice of Motion, with Affidavit of Petitioner and Affidavit of Doris L. Sassower, CJA's Director;
   (b) Memorandum of Law in Opposition to Respondent's Dismissal Motion & in Support of Petitioner's Motion for Disqualification of the Attorney General, Sanctions, a Default Judgment, and Other Relief

   [*with* free-standing File Folder I: *Doris L. Sassower v. Commission* (NY Co. #95-108141)]
   [*see* inventory of other free-standing File Folders, annexed to Petitioner's Affidavit]

5. Attorney General's Reply Memorandum in Further Support of a Motion to Dismiss and in Opposition to Petitioner's Motion for "Omnibus Relief", signed by Assistant Attorney General Carolyn Cairns Olson (August 13, 1999)

6. Petitioner's Papers in Reply and in Further Support of her Omnibus Motion (September 24, 1999), consisting of:
   (a) Petitioner's Reply Affidavit
   (b) Petitioner's Reply Memorandum of Law

7. Petitioner's November 5, 1999 letter to Acting Supreme Court Justice Barbara Kapnick

8. Petitioner's December 2, 1999 letter to Acting Supreme Court Justice William Wetzel

9. Petitioner's December 2, 1999 letter to Administrative Judge Stephen Crane

10. Petitioner's December 9, 1999 letter to Acting Supreme Court Justice William Wetzel
    [*with* file *Mantell v. Commission* (NY Co. #99-108655)]

11. Petitioner's December 17, 1999 letter to Acting Supreme Court Justice William Wetzel

12. Decision/Order of Acting Supreme Court Justice William Wetzel, dated January 31, 2000