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May 14, 2009

Mr. Keith B. Richburg
The Washington Post
1150 15th Street, NW
Washington, D.C. 20071

Dear Mr. Richburg,

In your article, "N.Y. Federal Judge Likely on Shortlist" of May 7, you reported that Judge Sonia Sotomayor of the Court of Appeals for the Second Circuit (CA2) earns $179,500 as a circuit judge annually. The same day, your colleague Joe Stephens reported in "Sotomayor Rose High, with Few Assets" that she earned a salary during the eight years that she was in private practice. To that must be added her salary as a U.S. district judge since October 2, 1992, until her elevation to CA2. Yet, you wrote, "During the previous four years, the money in the accounts at some points was listed as low as $30,000". Since the whereabouts of the earnings is not stated, whether as cash or other assets, in the annual judicial financial disclosure reports required under the Ethics in Government Act, a reasonable question arises: Where did the money go?

The answer to that question calls for a *Follow the money!* investigation reminiscent of that conducted once by your two colleagues, Bob Woodward and Carl Bernstein. They asked themselves, 'Where did the money come from to pay the high-priced lawyers defending the presumed 'garden variety' burglars that broke into the Democratic National Committee headquarters at the Watergate Complex on June 17, 1972?' Their tenacious quest for an answer enabled them to find out that the money had come from a slush fund used to pay for criminal wrongdoing as a weapon of the campaign of the Republican committee for the reelection of President Nixon. The exposure led to his resignation and the imprisonment of most of his top aides.

The need for a *Follow the money!* investigation is more acute today as part of nominating and confirming the next Justice: While Nixon and his White House aides could only keep abusing power for the remainder of the second 4-year term, district and circuit judges and Justices hold office for life "during good Behaviour". Hence, at any time it is warranted to check the background and judicial philosophy of any judge because a judge's faithful discharge of personal legal duties reflects her respect or lack thereof for the law and the quality of justice that she dispenses to others. But doing so when the nation's attention is focused on choosing the next Justice is all the more effective to ascertain the current degree of integrity of the Judiciary. Their members are in effect unimpeachable –only 7 have been removed in the 220 years since 1789- and otherwise unaccountable. What prevents them from becoming "Judges Above the Law"?

Consequently, just as once the country needed Woodward and Bernstein to *Follow the money!*, there is a need now for you and Mr. Stephens to find out where Judge Sotomayor's money went, regardless of whether she is nominated for the opening Justiceship. Your investtigation can reveal her attitude, not only toward her personal duty of financial disclosure, but also toward integrity in judicial performance of judges under her appellate supervision. This ties in with another current focus of national attention, i.e. greed and fraud that leads to bankruptcies and how those that fail to disclose their holdings of money first got their hands on it.

Indeed, in FY08 there were filed 1,043,993 new bankruptcy cases. This represented a 30% increase over the 801,269 in FY07. Yet the number of such type of case filed in the regional circuit courts of appeals decreased 9% from 849 to 773. This means that bankruptcy judges

disposing of $10s of bls. annually were all but sure that whatever they decided would stand since only 0.07% of all bankruptcy cases went to the appeals courts or only 1 in every 1,351 cases. Yet, 61,104 appeals were filed in those courts. Moreover, since bankruptcy judges are appointed by circuit judges (28 U.S.C. §152), the former are further assured that the latter will not overturn their rulings on appeal, for that would call into question their capacity to appoint competent bankruptcy judges. Judges that dispose of $10s of bls. however they want with no adverse consequences have the most powerful incentive to engage in wrongdoing: riskless enormous profit.

Circuit judges can benefit so much more from such risklessness because they assure it. In the system of self-discipline provided for under the Judicial Conduct and Disability Act (28 U.S.C. §§351-364), they dispose of complaints against federal judges filed by any person. In the 1oct96-30sep8 reported period, they used that power to dismiss with no investigation 99.86% of the 9,140 complaints filed. Of the thousands of judges that served during those 12 years –in 2008 alone there were 2,153- only 11 received any discipline. They held themselves unaccountable. Yet, they wielded power over people's property, liberty, and life. Thus, they wielded absolute power, the kind that corrupts absolutely. What is more, Judge Sotomayor is a member of the Judicial Council of the 2nd Circuit, which during that 12-year period denied 100% of petitions to review complaint dismissals[1], thereby effectively abrogating in self-interest that Act of Congress.

Having engaged in wrongdoing themselves, whether by disregarding their reporting duties or worse, circuit judges cannot afford to expose their appointees as involved in bankruptcy fraud. Such crime carries up to 20 years imprisonment and a fine of up to $500,000. Therefore, an indicted bankruptcy judge would have every interest in plea bargaining by trading up: leniency or some form of immunity in exchange for testimony incriminating "bigger fish".

This is the context in which Judge Sotomayor and other colleagues of her decided the *DeLano* case, which is pending before the Supreme Court.[2] They ruled in favor of their bankruptcy judge appointee's non-disclosure of the whereabouts of at least $673,657 of the most unlikely of 'bankrupts': a 39-year veteran banker who at the time of filing for bankruptcy was an M&T Bank bankruptcy officer! To protect such concealment of assets by a bankruptcy system insider preparing his debt-free golden retirement, she and her colleagues denied *every single document* in all creditor-requests intended to expose where the banker had stashed his salary and other receipts for 30 years. Such denials were blatant violations of discovery rights. But when the top judges do wrong, those below them do whatever they want. Due process is nobody's doing.

Based on the evidence, it is reasonable to expect that if you and Mr. Stephens *Follow the money!* from Judge Sotomayor and the *DeLano* case's abundance of readily available leads, you will end up exposing a judicially supported bankruptcy fraud scheme as part of institutionalized discipline self-exemption and coordinated wrongdoing in the Federal Judiciary. Your exposure would trigger, as that of Watergate did, loud public outrage, which would force official investigations that could cause Congress to adopt effective transparency, accountability, and discipline legislation for the Judiciary, a process that would subsequently be followed in the states.

This is your and Mr. Stephens' opportunity to become the Woodward/Bernstein of our generation. Use it to advance your careers and render meritorious service to millions of Post readers and the public at large who receive or are denied justice at the mercy of judges that administer it without having to worry about being held accountable and subject to discipline.

I look forward to hearing from you.

Sincerely, Dr. Richard Cordero, Esq.

[1] http://Judicial-Discipline-Reform.org/JNinfo/25Committee/2DrCordero-petition_25feb9.pdf with links to official statistics

[2] http://Judicial-Discipline-Reform.org/US_writ/1DrCordero-SCt_petition_3oct8.pdf >US:2456§X & CA:2180 (pdf file 28 & 73)

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