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Madeline Singas
Chief Asst. District Attorney
Nassau County District Attorney's Office
262 Old Country Road
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March 5, 2013

Re: Dr. David Pogge

Dear Chief Assistant Singas and Members of the Panel:

In reviewing my notes to insure that every possible piece of information in my possession is provided to you, I noted that during one of your interviews with Jesse, you informed us that you had provided Jesse's prison psychiatric records to Dr. David Pogge for his review and evaluation. You or Meg stated something to the effect that Dr. Pogge opined that Jesse's prison psychiatric records were consistent with Dr. Pogge's own evaluation of Jesse some 25 years ago. It appeared that you were using Dr. Pogge in some sort of consultative capacity.

I was recently amazed to learn that sometime either in December 1987 or January 1988, Dr. Pogge worked directly with Drs. Kaplan, Samit, Pelcovitz, and the other therapeutic child wranglers in providing their special brand of therapy to the "victims" of Jesse and Arnold Friedman. I attach a flyer from the "Family Crisis Program" initiated by Dr. Kaplan. (Exhibit A).

Jesse Friedman saw Dr. Pogge in October 1988, at a time when Peter Panaro was interviewing psychologists he was considering using as experts if the case were to go to trial. When Dr. Pogge agreed to meet with Jesse, which he did a couple of times, he never disclosed to Jesse Friedman or to Peter Panaro his conflict-of-interest (that he was part of the Crisis Program working with Jesse's alleged victims, and also working with Jesse's lawyer). A direct conflict like that would have absolutely precluded Dr. Pogge from seeing Jesse Friedman for any

evaluation, if professional norms were adhered to. Dr. Pogge had an absolute duty to immediately disclose this conflict and his failure to do so is but one more black page in a dark chapter.

No doubt, your investigation has uncovered this already, and you have made the appropriate disciplinary referral, so Dr. Pogge must finally answer for his transgressions. If so, of course, you obviously are not relying on Dr. Pogge in any fashion in your upcoming report. But given the opacity with which this process has been conducted, I feel that I must tell you things that you certainly know already, just to be safe.

In addition, my belated discovery of Dr. Pogge's disturbing double-dealing piqued my interest as to the quality of his work for Jesse. I engaged Dr. Richard Bohn Krueger, M.D., currently the Medical Director of the Sexual Behavior Clinic of the New York State Psychiatric Institute & Columbia University, and asked him to review the Pogge materials. Dr. Krueger's *curriculum vitae* is attached hereto as Exhibit B.

Dr. Krueger's report, attached hereto as Exhibit C, establishes that Dr. Pogge should never have used the MultiPhasic Sex Inventory to assess Jesse Friedman. The test itself states that it is not to be used with clients who deny sexual assault or misconduct allegations. (Exhibit D). In addition, Dr. Krueger asserts that these tests cannot be used to ascertain probable guilt, *vel non*, of a particular person.

Last, Dr. Krueger notes the extremely "tendentious" and "negative" image of Mr. Friedman portrayed in the Pogge report. The operative section of the report, which is a *machine-generated generic statement the program produces automatically* assuming the subject being assessed *has already confessed his guilt*, uses pejorative language such as: "This man is or has been deeply involved in the abuse of drugs..." and "edgy, irritable and hostile." In other words, the statement that begins "This man..." which seems to be a direct personal assessment of Jesse Friedman, is in fact something the computer generates automatically in response to certain input. In this case, since the input is inaccurate because Jesse was maintaining his innocence, the statement is without basis, represents no forensic assessment, and is utterly irrelevant.

Ironically, Dr. Pogge's assessment, like so many other elements of this case, is based on a supposition of guilt – here that supposition was so strong it caused him to use the wrong test, one that is not to be used with people who maintain their

innocence. It is a test which a world-renowned authority points out is widely known to be inappropriate in this circumstance.

In this way, Dr. Pogge, not unlike Detective Sgueglia, came into the case assuming Jesse Friedman was guilty, and it was a small matter for him to fit Jesse into a box that had already been tailored for his frame.

Thank you for your attention to this matter.



Ron

cc: Patrick J. Harnett
Susan Herman
Mark F. Pomerantz
Barry Scheck