

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101  
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: [cja@judgewatch.org](mailto:cja@judgewatch.org)  
Website: [www.judgewatch.org](http://www.judgewatch.org)

February 27, 2013

TO: Brad Usher, Chief of Staff to Senator Liz Krueger

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: Memorializing What You Told Me

This is to memorialize what you told me yesterday when I called to again request to meet with Senator Krueger – who, in addition to being a member of the Senate Judiciary Committee, is Ranking Member of the Senate Finance Committee – before whom I had testified on February 6, 2013 at the joint legislative hearing on “Public Protection” in opposition to the Judiciary’s requested budget for fiscal year 2013-2014 and the unspecified millions of dollars in judicial salary increases it seeks – and to whom, as she left the hearing room, I had given, *in hand*, a bound copy of CJA’s October 27, 2011 Opposition Report.

You stated to me that Senator Krueger could not meet with me, giving as an excuse that she is “busy with the budget”. When I reiterated that it was about the budget that I wished to meet with Senator Krueger, you told me there are “a lot of budget issues”, but that “[my] budget issue” is “not a priority” for the Senator. When I responded that “[my] budget issue” is the budget of the third branch of our state government – a \$2.6 billion dollar expense – you replied that the Senator, having “listened to [my] testimony”, does not “accept [my] argument”. When I protested that my supposed “argument” concerned the dispositive nature of the October 27, 2011 Opposition Report in establishing that the judicial salary increases recommended by the Commission on Judicial Compensation’s August 29, 2011 “Final” Report are fraudulent, statutorily-violative, and unconstitutional and, additionally, the insufficient itemization in the Judiciary budget, precluding meaningful review and rendering it unconstitutional, for which I had furnished the February 9, 2011 Supreme Court decision in *Pines v. State of New York* (Nassau Co. #13518/10) – both requiring findings of fact and conclusions of law – you resisted that such was necessary, stating that Senator Krueger does not have the time or resources, thereafter asking me what findings of fact and conclusions of law are.

When I stated that the Senate Finance Committee is the most resourced committee of the Senate, with a budget presumably matching, if not exceeding, the \$5.8 million budget of the Assembly Ways and Means Committee, and asked you what that budget is because, unlike the Assembly Ways and Means Committee budget, it is not specified in the Legislature’s requested budget for fiscal year 2013-2014 – you told me I would have to get that information from Senator DeFrancisco, its Chairman. You further told me that notwithstanding Senator Krueger is the Finance Committee’s Ranking Member, she has no power because she is in the minority, rejecting my assertions that she is

nonetheless in a position to secure the necessary findings of fact and conclusions of law and take other steps to protect the public purse.

According to you, Senator Krueger believes that the judicial salary raises are “justified” – and any contrary showing, such as by our October 27, 2011 Opposition Report, will have to be determined in a court of law. You adhered to this even as I pointed out the Commission on Judicial Compensation’s most flagrant statutory violation, evident from the face of its August 29, 2011 Report and so-highlighted by our Opposition Report (at pp. 18-21; 25-26; 31-33). That facially-evident violation is the Commission’s deliberate disregard of the requirement that it “examine, evaluate and make recommendations with respect to adequate levels of judicial compensation and non-salary benefits”, as the statute expressly mandates for any salary recommendation (Chapter 567 of the Laws of 2010, §1(a)) – thereby concealing a package of “fringe benefits” whose cost to taxpayers has been estimated at approximately \$40,000 a year for each judge.<sup>1</sup> Tellingly, the Judiciary conceals the annual dollar amount of “fringe benefits” for all judges, as opposed to everyone on the Judiciary’s payroll, in its budget request for \$660.7 million in “General State Charges”, whose increase for fiscal year 2013-2014 is a whopping \$93-plus million over the current fiscal year.

You additionally told me – by way of further excusing Senator Krueger’s complicity in grand larceny from the public purse – that the budget is decided by “three men in a room” – these being Governor Cuomo, Temporary Senate President Skelos, and Assembly Speaker Silver. Suffice to say, these “three men in the room” are the original recipients of our October 27, 2011 Opposition Report – and any findings of fact and conclusions of law to be made as to the October 27, 2011 Opposition Report would expose their official misconduct and fraud upon New York taxpayers, warranting their being criminally prosecuted and removed from office for corruption. This you well know from our several prior phone conversations, beginning on December 7, 2012 – and my extensive correspondence spanning from that date to January 9, 2013 – to which Senator Krueger was more than an indicated recipient.<sup>2</sup>

As you further know, no great time and resources are needed for Senator Krueger to verify the fraud, statutory violations, and unconstitutionality of the judicial salary increases demonstrated by our October 27, 2011 Opposition Report. All that is necessary is securing such findings of fact and conclusions of law as were made by the “three men in a room” – and by Chief Judge Lippman, the

---

<sup>1</sup> It was to conceal this very statutory infirmity that Chief Administrative Judge Prudenti, in testifying before Senator Krueger on February 6, 2013, referred to the Commission on Judicial Compensation as the “Judicial Salary Commission”, stating, in both her oral and written presentation, “We face significant cost increases in the coming year, including the judicial salary adjustments recommended by the Judicial Salary Commission...” (at 1:11:48; p. 2).

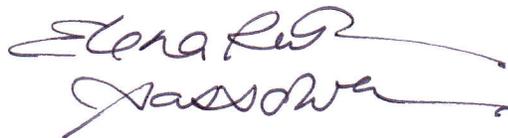
<sup>2</sup> This correspondence is posted on our website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the top panel “Latest News”, on the webpage entitled “CJA’s championing of appropriate rules and leadership for the New York State Legislature”.

fourth original recipient of the October 27, 2011 Opposition Report – as well as by our state’s highest law enforcement officer, Attorney General Schneiderman, to whom our Opposition Report was provided on November 29, 2011. This was highlighted by the correspondence to which I referred in my testimony, sent to you and Senator Krueger in the week and a half preceding the February 6, 2013 budget hearing – four copies of which I handed up at the hearing.<sup>3</sup>

What is Senator Krueger’s justification for refusing to demand that our highest constitutional officers produce their findings of fact and conclusions of law with respect to our October 27, 2011 Opposition Report, in discharge of her constitutional, statutory, and Senate-rule duties to protect the public fisc? This she could readily do, as a minority member of the Senate, with or without the support of a single other Senator or Assembly member. All that is necessary is that she write them a letter demanding production of their findings of fact and conclusions of law, to reiterate that demand at Senate Finance and Judiciary Committee meetings and on the floor of the Senate, and, of course, at press conferences in Albany and Manhattan, which she could easily call and which, given its subject, would be widely reported by the media, whose coverage would leave no choice to the “three men in the room”, to the Attorney General, and to the Chief Judge, but to disgorge the incriminating evidence. Or did Senator Krueger not even read our October 27, 2011 Opposition Report, from which her duty to her constituents and to the People of this State would be evident. As for you, you stated you had “looked through it”.

Should you deny or dispute the accuracy of the foregoing in any respect – or deny what is obvious from the most cursory examination of the October 27, 2011 Opposition Report, *to wit*, that findings of fact and conclusions of law with respect thereto will make it impossible for any member of the Senate Finance Committee or Assembly Ways and Means Committee to approve the judicial salary increases for all the reasons set forth therein and summarized by the “Executive Summary” which was distributed to Senator Krueger when I testified – please furnish specifics, without delay. In any event, please identify the salary you receive as Senator Krueger’s Chief of Staff – a salary paid by this state’s taxpayers.

Thank you.



cc: Senator Liz Krueger  
NYS Legislators, etc. & The Public

---

<sup>3</sup> These four copies were being publicly presented by me when Chairman DeFrancisco cut me off – and can be seen in the video of the February 6, 2013 hearing (at 7:34:48), which is posted on our website, together with that correspondence, accessible *via* the top panel “Latest News”, on the webpage entitled “Securing Legislative Oversight & Override of the 2<sup>nd</sup> & 3<sup>rd</sup> Phases of the Judicial Pay Raises...”.