

**FIRST & ONLY PUBLIC HEARING OF THE JCOPE/LEC REVIEW COMMISSION
OCTOBER 14, 2015, NEW YORK CITY**

Transcribed from the video by Elena Sassower

[at 0:44:06 minutes - 1:11:15 hours]

Chairman Volker: The next person is Elena Sassower, who is the judgewatch's organization's president.

Witness Sassower: I, too, have hand-outs for the panel.

Chairman Volker: Just so that you know, the press release did not indicate that I was named chair. In fact, I didn't know I was chair until I came to the first public hearing

Witness Sassower: But this is the first public hearing

Chairman Volker: No, no, no, no. We have had two or three others, but –

Comm'r Crowell: You mean, meeting of the group.

Chairman Volker: I'm sorry. Meeting of the group. I'm sorry. Yeah.

Witness Sassower: Thank you for your candor.

Chairman Volker: Okay.

Witness Sassower: And I will get to that point. I would appreciate if you would be kind enough to alert me that half my time has elapsed, five minutes, and then when I have two minutes remaining. Thank you.

My name is Elena Ruth Sassower. I am director and co-founder of the Center for Judicial Accountability, Inc., a nonpartisan, nonprofit citizens' organization that, for more than a quarter of a century has documented that New York's judiciary, from top to bottom, and including supervisory and appellate levels is pervasively corrupt and that actively abetting that corruption are New York's executive and legislative branches, whose highest public officers, excluding the Lieutenant Governor, are the Governor, the Attorney General, the Comptroller, and the majority and minority Legislative Leaders. These public officers are all under the ethics jurisdiction of JCOPE – the Joint Commission on Public Ethics – and the Legislative Ethics Commission. It is the ethics complaint that I filed against these very highest executive and legislative officers with both JCOPE and LEC that impels my testimony today.

Indeed, it is because these complaints that I filed establish, prima facie and col, col, and dispositively, that JCOPE and LEC are corrupt facades, brazenly violating the statutory and rule provisions under which they are supposed to operate so as to protect their appointing authorities – that is, the Governor and Legislative Leaders – and other influential and connected persons from investigation, prosecution and sanction, that I wrote to you a letter about these complaints, stating that any legitimate review committee, commission would have to blow the whistle on JCOPE and the Legislative Ethics Commission.

If you open your folders, the first item is the letter of June 18th entitled “Ensuring Honest Review by the JCOPE/LEC Review Commission” – that’s you. “(1) Your Methodology for Reviewing and Evaluating the Joint Commission on Public Ethics & Legislative Ethics Commission – Including Public Hearings; (2) Your Protocol with Respect to Conflicts of Interest.”

Now the letter pointed out that the press release of the Governor announcing your appointment had not identified who was the chair. And that under the provision under which you are operating that designation is made by the Governor and the Legislative Leaders – the Temporary Senate President and the Assembly Speaker. And I asked in my letter of June 18th:

“Was a chair not jointly designated by the Governor, Temporary Senate President, and Assembly Speaker, as the statute requires?”

And then I go on.

“Who among you has been designated chair and when was that designation made? Does the review commission have an office, a phone number, an e-mail, a website? Do you have staff – and who are they? What is your methodology? Will you be holding public hearings at which members of the public who have filed ethics complaints with JCOPE and LEC can testify and afford you the benefit of their direct, first-hand experience and insights? If so, when do you plan to announce those hearings?”

If you are not planning public hearings, will you be privately taking testimony from members of the public who have filed ethics complaints with JCOPE and LEC? Will you be doing outreach to them – or must they reach out to you?”

And then I go on to advise you and give you the complaints, accessible from the Center for Judicial Accountability’s website that I filed with JCOPE and the Legislative Ethics Commission, from which you can see that discharging your

duties as Commissioners would require you to not only blow the whistle on JCOPE, but to refer the appointing authorities –

Asst. Dvorkin: Five minutes.

Witness Sassower: – to prosecutorial authorities for their corruption. Now, notwithstanding this letter and this letter asking, how you, not only your methodology, but how are you going to handle conflict of interest issues, there was no response from you.

Although Chairman Volker, well actually you, Chairman Volker, invoked the statute as defining your mission, but your statute also defines your composition. And you are unlawfully constituted, you are all lawyers and you need to blow the whistle on how you have been proceeding because it is yet another hoax, yet another fraud, just as the Commission to Investigate Public Corruption was and U.S. Attorney Preet Bharara who has been covering up the whole, the whole mess.

Now, Chairman Volker identified that this is not an opportunity for questions and responses. You will not answer my questions that I have, but in addition to pointing out that Chairman Volker and, unless he was appointed, and I would like to see the instrument that appointed you. You also are supposed to be composed of eight members. And without any reference to the fact that Mr. Piscata, I believe, is your name?

Comm'r Pisciotta: Pisciotta.

Witness Sassower: I'm so sorry. Thank you.

Comm'r Pisciotta: You're welcome.

Witness Sassower: But you were not on the press release, Seymour James was.

Comm'r Pisciotta: Correct.

Witness Sassower: And there is no explanation how you pop into the picture and whether you have been appointed. The fact of the matter is you are operating with complete disregard for lawful procedure. Methodologically what you are doing is a cover-up because you need to confront evidence and the evidence is complaints, among other things, it's interfacing with people like myself who can furnish you the documentation of the corruption of both JCOPE and LEC.

Now, Chairman Volker made the outrageous claim that you have a website. Let me just identify that the reason that, actually, this hearing is so shamefully attended and I believe the reason why you cancelled the Albany hearing is

because nobody or very few people had asked to testify.

Asst. Dvorkin: Two minutes.

Witness Sassower: The reason is because your website, which you apparently threw up at some point in the summer, it's not clear, is actually hidden. You can't find it. Okay. It's not under JCOPE/LEC Review Commission. You have to know that it's New York Ethics [Review] Commission. You renamed yourself. You put up a website that cannot be found. I only found it, well, in a way, at the last minute, with difficulty. But it's hidden.

Now, you also didn't do, you also, Chairman Volker, so-called Chairman Volker, said that outreach has been broad and diverse. No. If you had broad and diverse outreach than you would have called me up and asked me to meet with you or to give you further information about the complaints and to also furnish you with other information about the lawlessness of JCOPE.

One last thing before I close. The folders, now – and I'm closing only because you have arbitrarily limited testimony to ten minutes. In fact, you have no one here to testify because you made sure that you were operating under the radar. There was no outreach. There were no press releases that you were seeking information, documentation, people should come forward, including to testify.

Your ethical duty – and you haven't even identified how you are, how you are going to address conflict of interest issues and it is clear that you don't want to examine the most important issues, which is whether or not JCOPE and LEC have been protecting New York's highest public officers when they are the subject of complaint. And the complaints that I have filed are the evidence that the answer is a resounding yes.

One final thing. The provision that set up JCOPE, that set up JCOPE gave one important safeguard to the public. And that's the annual report, which required JCOPE to identify by number all the complaints it had received, by number, and the status. And as I pointed out to you in my second letter of June 22nd, all the annual reports of JCOPE fail to give an inventory of the complaints that they have received and their disposition, their status.

And as you know from the complaints that I furnished you, JCOPE has been sitting on them. And last thing. Of course, those letters, those 15-day letters that go out, there is no involvement of the Commissioners, there is no vote required by the Commissioners to send out those letters and yet, it appears, if you look at the annual reports, very few 15-day letters have actually gone out. And, of course, the Commission is not complying with the 45-day rule. I don't know whether or not you are aware of Donald Trump's lawsuit, if you have examined

Donald Trump's lawsuit against JCOPE.

But JCOPE made the argument that it did not have to vote as to whether it was going to, it was required, it did not have to vote within 45 days as the statute plainly requires. The statute pertaining to JCOPE sets time tables, time parameters.

You can change the rules all you want, you can change the statute all you want, legislatively and otherwise, but you have an entity, notwithstanding what Mr. Davis said and I think perhaps Mr. Carson, including in their report about, you know, these fine people, they make no aspersions about how hard working the Commission is, JCOPE Commission is. Actually that is not borne out by evidence and you need evidence and this Commission should close down with an acknowledgment that it has not proceeded in a methodologically proper way, it has no evidence, it has turned its back on evidence, it did not do outreach, its hearing was virtually unattended. Shame.

Chairman Volker: Ms. Sassower, let me explain something to you. We are [inaudible] ... that created JCOPE and set up a provision for a recheck committee, which frankly we have no staff. Our job is to make recommendations for potential changes in JCOPE. We do not have the power to investigate other than speak to people that are involved. And I must tell you I don't agree with you at all that we didn't do a wide web, because we did. The hearing potential in Albany had two people that responded. One of them was a person who had sent us a whole bunch of emails and we understand, the other person unfortunately was a disabled person and we felt it was a, it would be a disservice to him to have him come in for, you know, I was ready to go to Albany, but we thought it was a disservice to him.

Witness Sassower: With all respect, there was no announcement of any public hearing in Albany –

Chairman Volker: Yes there was.

Witness Sassower: – except for the one that was cancelled that had been scheduled for last week.

Chairman Volker: That's what I'm telling you.

Witness Sassower: Okay, that was a four hour hearing that you cancelled, presumably because you didn't have any turnout for that.

Chairman Volker: Yeah, nobody applied to go. The people were all applying here in New York.

Witness Sassower: And this is virtually empty. I mean. Look. The fact of the matter is that your threshold duty is to identify that this review commission follows upon the violation of law by the Governor and the Legislative Leaders who failed to

appoint the review commission that was required under the initial statute, the 2011 statute. The review commission which was to be established on June 1st 2014 and to render its report nine months later, March 1st 2015.

Chairman Volker: That is true.

Witness Sassower: Right.

Chairman Volker: But let me finish.

Witness Sassower: They were in violation

Chairman Volker: They were not in violation.

Witness Sassower: And my complaint, the second complaint that I filed with JCOPE, which is my complaint also to the LEC, the complaint dated December 11th, was a complaint against our highest public officers, that is the Governor and Legislative Leaders who had failed to appoint the review commission. Why? Because they well knew that any review commission doing an honest job would have to blow the whistle on JCOPE's protectionism of them, as exemplified by JCOPE's sitting on the complaint, for example, that I filed with JCOPE on June 27, 2013.

Witness Sassower: Last thing, because Chairman Volker mentioned the legislative pay raises that, uh.

Chairman Volker: Common Cause.

Witness Sassower: That Co – yes, that.

Chairman Volker: Citizens Union

Chairman Volker: Citizens Union, Okay.

Witness Sassower: The fact of the matter is that the complaint that JCOPE has been sitting on notwithstanding their 45-day voting requirement under the statute. And by the way they also have a requirement that they notify, when they dismiss a complaint, okay, when they, that they notify the complainant. Okay. That complaint that I filed, as identified by the letter that I wrote to you. This is what it, what it was about. That complaint was about the fraudulent, statutorily-violative, unconstitutional judicial pay raises that had gone into effect based upon the recommendation of the 2011 Commission on Judicial Compensation, notwithstanding it was the duty of the Governor and the Legislative Leaders to void those pay raises because of their fraudulence and violations of statute and law –

Chairman Volker: Well, Ms. Sassower –

Witness Sassower: as demonstrated, as demonstrated, as demonstrated by the Opposition Report that we did to those pay raises

Chairman Volker: I know you did, by the way. And let me tell you.

Witness Sassower: They failed to do that. And why did they fail to do that? Because they knew that in a system of three coordinate, equal branches of government their pay was ultimately going to be tied to judicial pay. So by allowing the judicial pay raises to go through, they were setting the foundation from which they too would have to have a bump-up in their salaries so they weren't going to void the pay raises. Moreover, they knew that the only way to get the pay raises, most efficiently...

Chairman Volker: Ms. Sassower, you know, listen. I have been listening to you for 20 or 25 years. I was on the Judiciary Committee.

Witness Sassower: Correct.

Chairman Volker: And you have given testimony on many occasions

Witness Sassower: Document-supported.

Chairman Volker: that was completely false. And I must tell you something else. The legislative, the judicial pay raises were given as part of a commission set up by the Governor and the Legislature. You may not have liked it, but they were obviously legal and you, you have done reports that assume things that are not in the law.

Witness Sassower: This is –

Chairman Volker: Secondly, let me finish, I was named initially by the Governor, I found out, and then both Leaders agreed to it. This, this, this group here, is put together. I asked the Governor for some staff and some funding and, unfortunately, that hasn't happened. But, our job is not to condemn JCOPE, but is to recommend possible changes, that's our job.

Witness Sassower: Alright. I have given you. I have never testified or done anything that I knew to be false.

Chairman Volker: Okay.

Witness Sassower: I respect evidence.

Chairman Volker: Yeah.

Witness Sassower: And what I have, in addition to the folders which contain the two complaints filed with JCOPE that JCOPE is sitting on and the complaint filed with LEC that it is sitting on, is the Report of 2011 of the Commission on Judicial Compensation that recommended the pay raise, together with the statute and I have here the Opposition Report that –

Chairman Volker: Ms. Sassower, I know you gave that to the legislative committees.

Witness Sassower: I did, indeed, because of their self-interest in pay raises. Okay. And the Legislature because of their self-interest in pay raises, okay? Because they not only did not blow the whistle on these fraudulent judicial pay raises, but on the scam of the Commission on Judicial Compensation. Why? Because they knew that to get their own pay increase they would have to create a similar commission, which they did. And my June 18th letter to you identifies that, as part of the behind-closed-doors, three-men-in-a-room budget deal, the Governor and Legislative Leaders inserted a provision which repealed the statute that created the Commission on Judicial Compensation and replaced it with a Commission on Legislative, Judicial and Executive Compensation, modelled after the same unconstitutional statute as had created the Commission on Judicial Compensation.

I hand up all this documentation. The fact of the matter is that JCOPE has been sitting on that –

Chairman Volker: Alright, Ms. Sassower, listen, you have had your ten minutes.

Witness Sassower: Thank you.

Chairman Volker: And you are making the same testimony that you gave to the judiciary committees of both houses. And you know –

Witness Sassower: Yes, yes, yes. The question is when will there be some examination, action on the June 27, 2013 complaint that I filed against the Governor, the Attorney General, the Comptroller, the Legislative Leaders, and Legislature, dot, dot, dot

Chairman Volker: Yeah.

Witness Sassower: for the, their conflict interest with respect to the judicial pay raise issue, which has now metastacized into a Commission on Legislative, Judicial, and Executive Compensation.

Chairman Volker: Alright. Alright. It has nothing to do with this Commission.

Witness Sassower: Okay. Okay. Okay. I rest on these file folders –

Chairman Volker: Okay.

Witness Sassower: this material, but I am also handing this up and in addition to, in addition to the Opposition Report, which is here, which was furnished to our Legislative Leaders, and the Governor, the Attorney General, the Comptroller, I am handing up the four causes of action in the lawsuit that we brought on the judicial compensation – a lawsuit that is stalled in Supreme Court/New York County. Take a look at those four causes of action. Okay.

This is all posted, for those who are watching these proceedings so they can see what is before this panel. The website of the Center for Judicial Accountability is www.judgewatch.org. There is a prominent homepage link called “Exposing the Fraud of the Commission to Investigate Public Corruption” and by clicking on that link you will come to a link for JCOPE, which is where the Commission to Investigate Public Corruption did not go because they knew what they would find: a cover-up, a protectionism of New York’s most powerful public officers.

Chairman Volker: Okay. Thank you.

Witness Sassower: Thank you.

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Witness Sassower: You are not properly constituted. You are operating without any proper methodology. Your report is due in two weeks. Now you are holding hearings? Your hearings should have been held months ago.