

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
NEW YORK STATE SENATE, NEW YORK STATE ASSEMBLY,
DEAN G. SKELOS and JEFFREY D. KLEIN, as members and as
Temporary Presidents of the New York State Senate, and
SHELDON SILVER, as member and as Speaker of the
New York State Assembly,

Plaintiffs,

Index #160941/2013

[Proposed]
Verified Complaint

ELENA RUTH SASSOWER, individually and as
Director of the Center for Judicial Accountability, Inc.,
acting on her own behalf and on behalf of the People
of the State of New York & the Public Interest,

[Proposed] Intervening Plaintiff,

-against-

KATHLEEN RICE, WILLIAM J. FITZPATRICK, and
MILTON L. WILLIAMS, Jr. in their official capacities as
Co-Chairs of the Moreland Commission on Public Corruption
and THE MORELAND COMMISSION TO INVESTIGATE
PUBLIC CORRUPTION,

Defendants.

EX PARTE MOTION OFFICE
APPROVED
FOR THE PAYMENT
OF MOTION FEE
ONLY

-----X
[Proposed] Intervening plaintiff Elena Ruth Sassower as and for her verified complaint,

respectfully sets forth and alleges:

1. This verified complaint seeks adjudication of the important separation of powers constitutional issues presented, but materially misrepresented, by plaintiffs' unverified complaint.

2. The particulars as to those misrepresentations and as to defendant Commission's material misrepresentations and deceptions, including by its December 2, 2013 Preliminary Report, are detailed and attested to by the [proposed] intervening plaintiff's April 23, 2014 affidavit in support of her intervention motion, incorporated herein by reference.

3. For the convenience of the Court, a Table of Contents follows:

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Disqualification on Grounds of Interest, Vitiates, if not Voids, the
Recommendations of its December 2, 2013 Preliminary Report,
as a Matter of Law, with a Further Declaration that the Commission’s
Preliminary Report Manifests Actual Bias and Interest, Endangering
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* * *

JURISDICTION & VENUE

4. According to plaintiffs’ complaint, jurisdiction is proper pursuant to CPLR §3001 and venue proper pursuant to CPLR §§503(a) and 509.

PARTIES¹

5. [Proposed] Intervening plaintiff ELENA RUTH SASSOWER [hereinafter “Sassower”] is a New York born resident, citizen, and taxpayer of the State of New York. She is Director and co-founder of the Center for Judicial Accountability, Inc. (CJA), a nonpartisan, nonprofit citizens’ organization, headquartered in White Plains, New York and incorporated in 1994 under the laws of the State of New York. Its patriotic purpose is to ensure that the processes of judicial selection and discipline are effective and meaningful.

6. Plaintiff NEW YORK STATE SENATE [hereinafter “Senate”] is one of two governmental bodies in the New York State Legislature, consisting of 63 members.

7. Plaintiff NEW YORK STATE ASSEMBLY [hereinafter “Assembly”] is one of two governmental bodies in the New York State Legislature, consisting of 150 members.

8. Plaintiff DEAN SKELOS [hereinafter “Skelos”] is Temporary President of the New York State Senate.

9. Plaintiff JEFFREY D. KLEIN [hereinafter “Klein”] is Temporary President of the New York State Senate.

10. Plaintiff SHELDON SILVER [hereinafter “Silver”] is Speaker of the New York State Assembly.

11. Defendant KATHLEEN RICE [hereinafter “Rice”] was one of three Co-Chairs of the Commission to Investigate Public Corruption, having resigned at the end of January 2014.

12. Defendant WILLIAM FITZPATRICK [hereinafter “Fitzpatrick”] is one of two Co-Chairs of the Commission to Investigate Public Corruption.

¹ With the exception of the inclusion of the number of Senators and Assembly members in ¶¶6 and 7, the update in ¶¶11-13, necessitated by the resignation of Co-Chair Rice, and the correction in ¶14 as to the Commission’s name, the description of plaintiffs and defendants is taken from plaintiffs’ November 22, 2013 complaint.

13. Defendant MILTON WILLIAMS, Jr. [hereinafter “Williams] is one of two Co-Chairs of the Commission to Investigate Public Corruption.

14. Defendant MORELAND COMMISSION TO INVESTIGATE PUBLIC CORRUPTION [hereinafter “Commission”] was convened by Governor Andrew Cuomo on July 2, 2013. However, its name, pursuant to Executive Order #106, ¶I is Commission to Investigate Public Corruption.

FACTUAL ALLEGATIONS

15. On July 2, 2013, Governor Cuomo issued Executive Order #106, establishing the Commission (Exhibit A-1). In so doing, he stated that this was because the Legislature “failed to act” on his “clean-up Albany package, legislative package” (Exhibit A-2).

16. Executive Order #106 invoked not only the Moreland Act, Executive Law §6, which would have limited its jurisdiction to the Executive branch, but Executive Law §63.8, which extended its jurisdictional reach to the other branches. Such brought in Attorney General Schneiderman, effectively making the Commission an extension of his office and the Governor’s. Indeed, Executive Law §63.8 pertaining to the Attorney General’s “duties”, required “each” Commission member and deputy to furnish him and, through him, the Governor with “a weekly report in detail”.

17. Governor Cuomo and Attorney General Schneiderman sat side by side at the July 2, 2013 press conference announcing the Commission and were unequivocal as to its broad mandate, not limited to the Legislature. As summed up by Attorney General Schneiderman:

“This Commission will be uniquely empowered to take a top to bottom review of all aspects of our state government, to refer findings of specific cases of misconduct, and to recommend reforms.”

“They are empowered to investigate everything, any aspect of New York State and local governments...

...

We have a belt and suspenders here. There’s jurisdiction to look at any aspect of the state government. It is not specifically directed at the Legislature by any means. The Commission is empowered to investigate any and every aspect of the state government that relates to the issues the Governor has pointed to in his Executive Order. But this is going to be a commission uniquely empowered to take a full top to bottom review and identify wrongdoing and make recommendations for reform.” (Exhibit A-2, underlining added).

18. In addition to the prefatory “WHEREAS” paragraphs, the paragraph of the Executive Order giving the Commission its breadth was ¶II(c) mandating that it:

“Investigate weaknesses in existing laws, regulations and procedures relating to addressing public corruption, conflicts of interest, and ethics in State Government, including but not limited to criminal laws protecting against abuses of the public trust, and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures.”

19. At the July 2, 2013 press conference, the Governor emphasized the priority that was to be given to ensuring the efficacy of enforcement mechanisms:

“...Your mission is to put a system in place that says, A. we’re going to punish the wrongdoers and to the extent that people have violated the public trust they will be punished. Two, there is a system in place so that the public should feel confident that if there is wrongdoing going on, there’s a system in place that will catch those people and make sure it doesn’t happen again.

[The People] want to know that a system is in place that somebody is watching. And that is what they are really questioning about state government now. Is there a system in place that is effective at preventing this? And if people do wind up breaking the law, is there a system in place that’s going to catch them?

...

And there is no substitute for enforcement. As a former attorney general and as a former assistant district attorney in the great office of Bob Morgenthau, I know, first-hand, there is no substitute for effective enforcement. And any system, and any set of laws are only as good as the enforcement mechanism behind them.

...

...you have a dual mission. One, investigative enforcement.... So, first, investigative enforcement. That is what district attorneys do. It's what US Attorneys do. That's what Attorneys Generals do. That's the first order of business.

Second, to make suggestions for legislative reforms going forward. How do we fix the system. But it's a dual mission. This is not an academic exercise. Yes, we want a report on changes to the system, if they believe changes to the system need to be made. But the first order of business is the enforcement function and that's the predominance of expertise on this Commission." (Exhibit A-2, underlining added).

20. The Governor stated that his appointments to the Commission – 25 members, 1 special counsel, and 3 special advisors – should, in and of themselves, restore public trust:

"I believe there has never been a more credible group of law enforcement professionals assembled in this state on this type of commission, period.

...

This is truly a unique convening of the most seasoned, the most credible, the most experienced law enforcement professionals and government professionals that has been brought together. And I think the convening itself and your assemblage itself will go a long way towards telling the public they have a government that they can trust because someone is watching and people with experienced eyes are actually watching the system." (Exhibit A-2).

21. To underscore the importance of the "enforcement function", the Governor appointed 10 sitting district attorneys to be among the Commission's 25 members – including two of its three Co-Chairs, Fitzpatrick and Rice. A further district attorney, Robert Morgenthau, was to be its special counsel.

22. Not identified at the July 2, 2013 press conference was how the Commission was going to resolve conflicts of interest with respect to its investigations. Most obviously, would Commissioners appointed and deputized by Governor Cuomo and Attorney General Schneiderman have the independence to investigate corruption involving those public officers?

And with so many sitting district attorneys, would it have the independence to examine corruption and weakness among the state's 62 district attorneys – who were the state's primary law enforcement authorities – as well as among its four U.S. Attorneys, with whom the Commission's members, special counsel, special advisors, and staff had so many personal and professional relationships? Inferentially, the safeguard of the Commission's integrity lay in the supposed high quality of the individuals the Governor had appointed and the Attorney General deputized.

23. Co-Chair/District Attorney Fitzpatrick did assert, however, in response to a reporter's questioning about matters that might reach the Governor: "He's not looking for rubber stamps. He's looking for an independent commission. We'll do what deep throat told Bob Woodward to do: 'Follow the money'." (Exhibit A-2).

24. The issue of conflict of interest was of particular concern to Sassower, having spent the previous two years documenting "grand larceny of the public fisc and other corrupt acts" by Governor Cuomo, Attorney General Schneiderman, plaintiffs, and by a who's who of other high public officers relating to the three-phase judicial salary increase recommended by the August 29, 2011 Report of the Special Commission on Judicial Compensation and budget appropriations in fiscal years 2012-2013 and 2013-2014.

25. Sassower had already furnished the documentary proof of their corruption to U.S. Attorney for the Southern District of New York Preet Bharara, filing with him a corruption complaint on April 15, 2013 (Exhibit B-2). She furnished the same documentary proof to U.S. Attorney for the Eastern District of New York Loretta Lynch, filing with her a corruption complaint on May 13, 2013 (Exhibit B-3). Additionally, she had filed a corruption complaint with U.S. Attorney for the Northern District of New York Richard Hartunian on June 13, 2013

(Exhibit B-4). All three of these corruption complaints additionally requested the U.S. Attorney's intervention in a lawsuit that Sassower had commenced against, *inter alia*, Governor Cuomo, Attorney General Schneiderman, and plaintiffs to void the three-phase judicial salary increase. That case, *CJA v. Cuomo, et al.*, commenced on March 30, 2012, was sitting in limbo in Supreme Court/New York County by reason of misconduct by the New York County Clerk's Office, as to which Sassower had been unable to secure any redress.

26. Sassower had also sought investigation and corrective action by plaintiffs Senate and Assembly, including by a June 4, 2013 letter to the Senate Committee on Investigations and Government Operations and the Assembly Committee on Oversight, Analysis and Investigation (Exhibit B-5). Additionally, she had filed a corruption/ethics complaint with the Joint Commission on Public Ethics on June 27, 2013 (Exhibit B-6) – and, on July 11, 2013, would file a corruption complaint with New York Inspector General Catherine Scott Leahy (Exhibit B-7).

27. On July 19, 2013, Sassower filed a culminating corruption complaint with the Chief of the Public Corruption Unit of Albany County District Attorney P. David Soares, a Commission member (Exhibit B-1). Enclosed with it were all these prior corruption complaints – and, additionally, the initial corruption complaints she had filed with Attorney General Schneiderman and Comptroller Thomas DiNapoli on November 29, 2011 and March 1, 2012, respectively (Exhibits B-8, B-9).

28. Sassower's July 19, 2013 corruption complaint began by reciting the "background facts" leading up to her filing the complaint with Commission member/District Attorney Soares. She stated that Governor Cuomo's Public Trust Act had "put the Governor and all 62 New York district attorneys on record that investigating and prosecuting public corruption in this state is the district attorneys' job". In that connection, she noted that District Attorney Soares' Public

Integrity Unit was “the most important of all such district attorney units in the state as the state capital is within its geographic jurisdiction.” (Exhibit B-1, p. 3, underlining in the original) and that since most of the complained-of corrupt activity was centered in Albany, the U.S. Attorney sharing “geographic jurisdiction” with District Attorney Soares was U.S. Attorney Hartunian (p. 5, underlining in the original).

29. The July 19, 2013 complaint requested that District Attorney Soares personally review the complaint (p. 5, underlining in the original), noting that how his Public Integrity Unit handled it was “plainly germane to the Commission’s mandate”, as, likewise, how the U.S. Attorneys and other investigative bodies were handling her complaints to them.

30. Stating the threshold issue was:

“acknowledging and confronting conflicts of interest – starting with District Attorney Soares’ own financial interest and that of every other New York district attorney in perpetuating the ‘grand larceny of the public fisc’ here at issue inasmuch as district attorneys salaries are statutorily linked to judicial salaries.^{fn7}” (Exhibit B-1, p. 6, underlining in the original),

the complaint proposed that “this and other equally substantial conflicts of interest” be discussed:

“so that an appropriate threshold determination may be made as to whether District Attorney Soares can and should be handling this corruption complaint and intervention request – or whether referral to some other public officer or body is in order so that the public fisc and public interest may be served and protected.” (Exhibit B-1, p. 6).

31. Sassower’s July 19, 2013 corruption complaint to Commission member/Albany County District Attorney Soares and the succession of corruption complaints it enclosed (Exhibits B-1 – B-9) are true and correct in all material respects.

32. Although Sassower furnished the July 19, 2013 corruption complaint to the Commission with a July 22, 2013 coverletter (Exhibit B-10), she had actually notified it of the complaint three days earlier, on July 19, 2013, while finalizing it.

33. This is reflected by Sassower's August 5, 2013 letter to Commission Executive Director Regina Calcaterra (Exhibit F-1). Entitled "Keeping the Commission True to its Name and Announced Purpose", the letter raised questions as to the Commission's neutrality, giving preferential treatment to unnamed "good government" groups on whom it was relying, behind-closed-doors, while deferring public hearings. The letter asked for the Commission's procedures for handling "tips" and "public comments", stating that Sassower had provided substantive "tips" and "comments" to the Commission when she had called on July 19, 2013, to which there had been no response.

34. The letter noted that, in addition to Commission member/District Attorney Soares, the Commission's nine other district attorney members shared his financial interest in the July 19, 2013 complaint – and that six other Commission members and special advisors also suffered conflicts of interest. These were identified as: (i) its Co-Chair Williams; (ii) Commission member Betty Weinberg Ellerin; (iii) Commission member Richard Briffault; (iv) Commission member Daniel Castleman; (v) Special Counsel Robert Morgenthau; and (vi) Special Advisor Barbara Bartoletti, with particularizing information on a specially-created webpage of CJA's website, www.judgewatch.org.

35. The letter asked for the Commission's "procedures and rules", promulgated pursuant to Executive Order #106, ¶V, §2, and "the Commission's protocol for dealing with conflicts of interest, whether of Commission members, special advisors, or staff" (Exhibit F-1, p.

5). As to the latter, it questioned how staff working for the Commission from the Attorney General's office would be handling complaints against the Attorney General.

36. In that connection, the letter furnished an investigative agenda relating to the Attorney General, asserting that the Attorney General was "an essential safeguard to ensuring governmental integrity in this state", whose examination "must top the Commission's investigative agenda". The letter recounted that nine months earlier Sassower had furnished Commission member/Columbia University Professor Briffault a November 5, 2012 proposal for scholarship identifying *CJA v. Cuomo, et al.* as arising from "the official misconduct of a succession of New York State Attorneys General – the most recent being State Attorney General Eric Schneiderman, a named defendant", making it "a powerful case study for explicating and resolving critical issues at the core of the state attorney general's function". This was elaborated as follows:

"*CJA v. Cuomo* is illustrative of what happens time, after time, after time, at the New York State Attorney General's office. Citizens turn to the Attorney General with evidence of unlawful, if not unconstitutional, state government action, which he ignores. This then burdens the citizens with taking legal action as 'private attorneys general', suing the state and/or its culpable officials and agencies – at which point the Attorney General defends the state, etc. by dismissal motions, including dismissal motions that are frauds on the court, being based on knowing falsification and material omission of fact and law, thereupon granted by a biased and/or self-interested judiciary. In such fashion, our state's highest law enforcement officer functions not as a safeguard of government integrity and constitutional governance, as he was intended to be – but as a perpetuator of governmental corruption and abuse,..." (Exhibit F-1, p. 7, underlining in the original).

37. Sassower stated that this scholarship proposal had been reinforced by a follow-up January 24, 2013 letter, also furnished to Professor Briffault, which had highlighted essential legislation based thereon:

“*CJA v. Cuomo* establishes the necessity of crafting legislation to not only rectify the perversions wrought in Executive Law §63, but for developing ‘a powerful *qui tam* statute to protect the People from the Attorney General’s derelictions and misfeasance”. (Exhibit F-1, p. 8).

38. From these, Professor Briffault’s disqualification for interest was readily apparent, and with it – as the August 5, 2013 letter expressly stated (at p. 8):

“the corruption of yet another essential safeguard to protecting against public corruption: that furnished by academia through honest, evidence-based scholarship.”

39. Sassower’s August 5, 2013 letter (Exhibit F-1) is true and correct in all material respects.

40. Executive Director Calcaterra did not respond. Nor was there any response from the Commission’s three Co-Chairs or from Commission member/District Attorney Soares or his Public Integrity Unit Bureau Chief to whom the August 5, 2013 letter was also sent.

41. On August 21, 2013, Sassower was at the Capitol, in Albany, having hand-delivered for Governor Cuomo a letter of that date entitled:

“Achieving BOTH a Properly Functioning Legislature & Your Public Trust Act (Program Bill #3) – the *Sine Qua Non* for ‘Government Working’ & ‘Working for the People’” (Exhibit G-2),

about which she had been interviewed earlier that day by the Capitol Pressroom radio show, which airs live. Upon seeing Commission Special Advisor Bartoletti walking in the hall with a reporter, Sassower asked if she might speak with her, following which Ms. Bartoletti seemingly disappeared. Sassower recounted this in an e-mail, sent the next day to Ms. Bartoletti, which asked whether she would not agree that:

“each of the Commissioners should be furnished a copy of the letter for their evaluation – beginning with its assertion that ‘high on the agenda of the Commission to Investigate Public Corruption’

must be the question as to what legislative committees have been doing by way of ‘oversight’” (Exhibit G-1, underlining in the original).

42. Sassower’s August 21, 2013 letter asked this very question to the Governor. It stated that the purposes he had conferred upon the Commission were “actually duties of a properly-functioning legislature, discharging its oversight and law-making function.” (Exhibit G-2, p. 1, underlining in the original). Quoting from Executive Order #106, ¶II (Exhibit A-1), the letter stated that the areas directed for the Commission’s investigation and report were “oversight responsibilities of a large number of committees of the New York Legislature”, which, pursuant to the Legislative Law, had subpoena power and the ability to appoint subcommittees and commissions for the taking of testimony.

43. The letter went on to detail that the Commission would not have far to look in answering the question as to what legislative committees had been doing – as the Brennan Center had documented, by groundbreaking reports in 2004, 2006, and 2008, that “New York’s legislative process is broken”, with “Problem #1” being “DYSFUNCTIONAL LEGISLATIVE COMMITTEES” that neither engage in appropriate law-making or oversight.

44. These reports showed that the blame lay in Senate and Assembly rules vesting domineering powers in the Senate Majority Leader and Assembly Speaker, rendering the committee system moribund and eviscerating legitimate legislative process. The good news was that the solution was readily at hand: legislators could vote to change their rules. The letter summarized legislative attempts to achieve this, including, in 2009, by the Temporary Senate Committee on Rules and Administration Reform, which fully accepted the Brennan Center’s recommendations as to the importance of rule changes that would empower legislators and committees so that bills introduced would go through a robust legislative process of committee

deliberations, public hearings, mark-ups for amendments, votes – all reflected in substantive committee reports – followed by Senate and Assembly floor debate, amendments, and votes, with conference committees to reconcile divergent versions of the bills passed by each house.

45. The letter expressed surprise that notwithstanding the Governor’s campaign pledge to “clean up Albany” and end the “dysfunction” and “mess” – and hiring, as his “Special Counsel for Public Integrity and Ethics Reform”, Jeremy Creelan, who had been principal author of the 2004 Brennan Center report – his tenure as governor was marked by a complete disregard of legitimate legislative process, in favor of negotiated “three men in a room” deals, then sped through the Legislature for rubber-stamp approval. Illustrating this, the Governor’s Public Trust Act and other program bills constituting his “clean-up Albany package” whose supposed rejection by the Legislature was the Governor’s stated reason for establishing the Commission.

46. The letter asked the Governor:

“Were you unaware that Assembly Speaker Silver and Majority Coalition Leaders Skelos and Klein, with whom you were then and thereafter negotiating behind-closed-doors, were not themselves sponsoring the Public Trust Act nor furnishing it to rank-and-file legislators for sponsorship, with the consequence that it was never introduced because it had no sponsors?”

And when you publicly berated the Legislature for failing to act – explaining that this was the reason you were creating the Commission to Investigate Public Corruption – did you not know that Assembly Speaker Silver and Majority Coalition Leaders Skelos and Klein were also withholding from rank-and-file legislators your Program Bills #4, #5, and #12, which you had rhetorically joined with Program Bill #3 as your corruption-fighting package, such that all four program bills had no sponsors and were never introduced?” (Exhibit G-2, at p. 7, underlining in the original).

47. The letter then stated:

“To read the Public Trust Act – not to mention its accompanying memorandum and the June 11, 2013 letter of all 62 of this state’s

district attorneys, Republican and Democratic, urging its passage – and to watch your April 9, 2013 and June 11, 2013 press conferences on the subject – is to know:

- that if any legislation could halt public corruption, it was this;
- that had it been introduced, no legislator, including Assembly Speaker Silver and Majority Coalition Leaders Skelos and Klein could have opposed it, and certainly not publicly; and
- that, if accorded legitimate legislative process, it would have passed overwhelmingly, if not unanimously.” (Exhibit G-2, p. 7).

48. The letter further stated that Sassower had asked her own Senator and Assembly member to introduce the Public Trust Act and endeavor to secure legitimate legislative process of committee hearings, debate, vote, etc., that they had agreed, and that all that was necessary was for the Governor to endorse their doing so. The letter concluded:

“You have the state’s biggest ‘bully pulpit’. You can easily achieve enactment of the Public Trust – and do it in a way that models what is necessary if we are to truly get ‘government working’ and ‘working for the People’: a properly functioning Legislature, such as we do not have.

We look forward to your speedy, affirmative response.” (Exhibit G-2, p. 8, underlining in the original).

49. Sassower’s August 21, 2013 letter to the Governor is true and correct in all material respects.

50. There was no response from the Governor to her hand-delivered August 21, 2013 letter. Nor were her phone messages to speak with Jeremy Creelan returned.

51. On September 17, 2013, Sassower orally testified before the full Commission at its first public hearing² – furnishing it with written testimony that highlighted the significance of both the August 21, 2013 letter to the Governor and her August 22, 2013 e-mail to Special Advisor Bartoletti (Exhibit H-1, pp. 6-7).

52. Sassower did not read from her written testimony at the September 17, 2013 hearing (Exhibit H-1). Rather, she presented, extemporaneously, an express protest as to what had taken place with respect to that day’s public hearing in Manhattan, on behalf of the “many, many people” who the Commission had turned away – a state of affairs she described as having been deliberately created by the Commission’s willful disregard of the “tip” and “comment” she had furnished in calling the Commission on July 19, 2013 and reiterated by her August 5, 2013 letter and subsequent e-mails (Exhibits F-1 – F-5), all ignored.

53. Sassower asked how many of the Commissioners had read her August 5, 2013 letter. It appearing that the letter had not been distributed, she stated:

“This Commission is supposed to restore, restore public trust. It’s right behind you [referring to banner]. You have operated in such an illegitimate fashion, behind closed doors. You have serious and substantial correspondence about your procedures, your rules, and you don’t respond. And you put together a hearing where there’s hardly an opportunity to speak in three minutes, but let me say...

I respectfully submit and ask each member of this Commission to read the correspondence that was withheld from you by your executive director, Regina Calcaterra, and by your three co-chairs, because I think you need to know how they are operating. And also, because, as I’m sure you know, most of you being lawyers, that there are threshold issues relating to conflicts of interests. You are presuming to judge others as to conflicts of interest. How are you, how are you, what are your rules and

² The video of Sassower’s oral testimony before the Commission is posted on CJA’s website, www.judgewatch.org, accessible *via* the prominent homepage link: “CJA’s People’s Campaign to Hold the Commission to Investigate Public Corruption True to its Name and Announced Purpose”. The stenographic transcript of that oral testimony is part of Exhibit M.

procedures, what is your protocol for conflicts of interest?...”
(Exhibit M).

54. This was the context in which Sassower publicly presented the full Commission with the verified complaint in *CJA v. Cuomo* – identifying it as:

“the lawsuit against the state, suing Governor Cuomo and Attorney General Schneiderman, as the first named defendants, for corruption, for fraud, for grand larceny of the public fisc, involving tens and hundreds of millions of dollars and ultimately billions with respect to the judicial pay raises.”

She then identified the succession of corruption complaints she had filed with investigative and prosecutorial authorities, all based on that lawsuit and culminating in the July 19, 2013 corruption complaint to Commission member/District Attorney Soares (Exhibit B).

55. Despite interruption from Executive Director Calcaterra and Co-Chair Fitzpatrick to end her testimony, Sassower continued so as to publicly identify additional conflicts of interest faced by the Commission. She stated:

“...there are many people who are coming forward to complain about the corruption in the judiciary. The monitor is the Commission on Judicial Conduct of the State of New York. That Commission is the monitor. Betty Weinberg Ellerin threw the lawsuit, the key lawsuit against the Commission on Judicial Conduct, aided, aided and abetted – aided and abetted – aided, aided and abetted by Robert Morgenthau, by Daniel Castleman. How are you going to deal with conflicts of interest? And how are you dealing with conflicts of interest involving the judicial pay raises when district attorney salaries are tied to the judicial pay raises? How are you dealing with conflicts of interest?”

56. In the absence of any response from the Commission as to its protocol for conflicts of interest, Sassower ended her oral testimony with the words: “Shame. Shame. This is corruption, this is public corruption.”

57. Sassower’s September 17, 2013 written testimony also emphasized the importance of her unresponded-to August 5, 2013 letter and subsequent e-mails pertaining to the

Commission's "procedures and rules" – and...protocol for dealing with conflicts of interest, whether of Commission members, special advisors, or staff", expressly enclosing a copy of the August 5, 2013 letter and e-mails:

“so that each Commission member may be on record – and held accountable – for his views as to the public’s right to that information – and to the other information therein sought.”
(Exhibit H-1, p. 5).

58. Sassower’s written and oral testimony (Exhibits H-1, M) are true and correct in all material respects.

59. In addition to Sassower, 16 other ordinary members of the public testified at the Commission’s September 17, 2013 public hearing, expressing themselves about actual corruption, actual conflicts of interest, and actual abuses, mostly in the judiciary, as to which all investigative bodies and officers to whom they had turned were worthless: the Commission on Judicial Conduct, attorney disciplinary bodies, the Attorney General, district attorneys, the U.S. Attorneys. Their testimony filled the last 1-1/2 hour of the public hearing, the first two hours being for Co-Chair Fitzpatrick’s opening remarks, his introductions of the Commission members, special advisors, special counsel, for testimony by invited speakers U.S. Attorney Bharara, U.S. Attorney Lynch, New York County District Attorney Cyrus Vance – and for speakers supportive of public campaign financing.

60. On September 19, 2013, Sassower e-mailed the Commission’s three Co-Chairs, Commission member Soares and his Public Integrity Unit Chief an itemization of the documentary materials she had left with the Commission the previous day in support of her written and oral testimony, reiterating what she had stated in her August 5, 2013 letter that “honest, evidence-based scholarship” is an “essential safeguard to protecting against public

corruption”, but that it “does NOT exist for huge and critical areas to which [the Commission’s] investigations must reach” She closed by stating:

“I am available to assist the Commission in its investigations, including by furnishing methodologies that make sense. Feel free to call to invite me to do so.” (Exhibit H-2).

61. Virtually all Sassower’s subsequent correspondence to the Commission, like her prior correspondence, pertained to its public hearings, conflicts of interests, and her July 19, 2013 corruption complaint to Commission member/Albany County District Attorney Soares.

62. By an October 4, 2013 letter to Commission Executive Director Calcaterra (Exhibit J), Sassower asked “when will the Commission...be holding public hearings at which the public will be able to testify as to the breadth of public corruption within its knowledge and experience?”, stating:

“As you know, I rushed up to the dais to ask that question at the end of the September 24th Albany hearing. This, because that hearing had been topic-limited to ‘campaign finance, outside income of state elected officials or political party housekeeping accounts’ – areas predictably not within the knowledge and experience of members of the public. As a result, the Commission did not even have witnesses to fill the last half-hour. Yet, rather than asking whether, in the audience, there were members of the public who wished to testify about other public corruption – the answer to which the Commission knew to be yes – and without announcing dates of any subsequent hearings, the Commission closed the Albany hearing. As to my publicly-presented question as to when the Commission would be holding public hearings at which the public would be able to testify about the breadth of public corruption within its knowledge and experience, the Commission did not respond.

To date, the Commission has afforded the public only an hour and a half at a single hearing to testify as to the breadth of public corruption. That was at its September 17th Manhattan hearing, from which the Commission turned away untold numbers who had registered.

In the interest of transparency and consistent with what I stated in testifying on September 17th (at 2:14:44 – 2:28:04) please identify how many people registered to testify at the September 17th Manhattan hearing – and how many registrants you contacted by phone and/or e-mail telling them they would not be able to testify or even to be admitted into the hearing room because the hearings were at capacity and/or because their proposed testimony was purportedly not germane.

Please also identify how many members of the public registered for the September 24th Albany hearing – including before your registration page was modified to restrict the topics of the hearing – and the date and time the modification went on-line.” (Exhibit J, pp. 1-2).

63. Sassower’s October 4, 2013 letter (Exhibit J) is true and correct in all material respects.

64. Executive Director Calcaterra did not respond to this letter. Nor did the Commission Co-Chairs or Commission member/District Attorney Soares, to whom it was also sent.

65. Sassower addressed her next letter, dated October 17, 2013, to all Commission members and special advisors (Exhibit K). Entitled:

“Follow-Up to September 17, 2013 Testimony

(1) CJA’s Unresponded-to August 5, 2013 Letter and Subsequent Correspondence Pertaining to the Commission’s Procedures, Rules, Protocol for Conflicts of Interest, and Public Hearings;

(2) CJA’s Unresponded-to July 19, 2013 corruption complaint and intervention request to Commission Member Albany County District Attorney Soares”.

it asked whether, in the month since the September 17, 2013 public hearing, they had read her August 5, 2013 letter and subsequent correspondence (Exhibit F), as she had expressly requested in testifying. She then stated:

“Do you subscribe to the non-response of Executive Director Calcaterra and your Co-Chairs, Onondaga County District

Attorney William Fitzpatrick, Nassau County District Attorney Kathleen Rice, and Milton Williams, Jr.?

If not, why has there been no response from you since? And are you aware that your Executive Director and Co-Chairs have continued to ignore CJA's correspondence?..."

66. In recapitulating how the Commission had topic limited its public hearing in Albany on September 24, 2013 so as to prevent ordinary New Yorkers from testifying as to the breadth of public corruption within their knowledge and experience, Sassower stated:

"Presumably, this was to prevent a replay of what took place in the hour and a half of public testimony at the Manhattan hearing when so many members of the public presented oral and written testimony of pervasive judicial corruption in which U.S. Attorneys, District Attorneys, the New York State Attorney General, and other public officers and agencies are complicit. This is, of course, diametrically opposite to the Commission's pretense, born of its personal, professional, and political relationships and interests, that U.S. Attorneys, District Attorneys, the New York State Attorney General, and others are corruption fighters.

Indeed, based on our July 19, 2013 corruption complaint to Commission member Albany County District Attorney P. David Soares, to which I referred when I testified and which our August 5th letter identified (at p. 5) as having been e-mailed to the Commission on July 22, 2013,^{fn2} nothing could have been more obscene than for the Commission, presumably by its Co-Chairs, to have invited U.S. Attorney Preet Bharara and U.S. Attorney Loretta Lynch to testify at the September 17th hearing, to be heralded as heroes by District Attorney Fitzpatrick^{fn3} and allowed to posture themselves and be portrayed as crusaders against public corruption^{fn4} – without a question from the Co-Chairs or District Attorney Soares as to their inaction on the open-and-shut, *prima facie*, April 15, 2013 and May 13, 2013 corruption complaints we filed with them against Governor Cuomo, Attorney General Schneiderman and New York's other highest public officers for grand larceny of the public fisc and other corrupt acts in connection with the judicial pay raises and unitemized, slush fund budget appropriations – inaction giving rise to our July 19th corruption complaint to District Attorney Soares.

Certainly, too, for District Attorney Fitzpatrick to have trumpeted District Attorney Soares' Public Integrity Unit as 'one of the

innovative things' he has done (at 0:8:50) – as if it is properly functioning – was a further deceit, unless he was unaware of that unit's inaction on our July 19th complaint, born of District Attorney Soares' financial and other conflicts of interest – conflicts afflicting other Commission members, special advisors, and staff, as well.

I was cut off at the September 17th hearing as I began to speak about the July 19th complaint. In the event you have not yet read it – a hard copy of which was beside me when I testified – here's the direct link to our webpage for the complaint, where it is posted with the six inches of documentary proof I furnished District Attorney Soares and the Commission.... Suffice to quote its concluding paragraphs..." (Exhibit K, pp. 1-3).

67. After quoting the paragraphs of the July 19, 2013 complaint identifying District Attorney Soares' "own financial interest and that of every other New York district attorney" in the complaint "inasmuch as district attorneys salaries are statutorily linked to judicial salaries" and proposing discussion of "this and other equally substantial conflicts of interest" (Exhibit B-1, p. 6), the October 17, 2013 letter went on to specify:

"the close relationship between District Attorney Soares and Governor Cuomo and Attorney General Schneiderman, such that, at the July 2, 2013 press conference at which Governor Cuomo announced this Commission, the video shows District Attorney Soares in an honored seat beside the Attorney General, with the Governor talking to him for a full two minutes before the press conference begins." (Exhibit K, p. 4).

68. Sassower went on to show the impact of such relationships from the testimony of former Erie County Assistant District Attorney Mark Sacha before the Commission at its Albany September 24, 2013 public hearing – as to which she had made public exclamation, audible from the video (at 2:22:58 – 2:29:26):

"Sacha: '...I am here to advise the public and the voting citizens of New York of the 'elephant in this room'. The hypocrisy which has not yet been addressed before this Commission. Election fraud and public corruption are not prosecuted properly, in my opinion,

not because of the lack of laws in this State but because of the lack of will.

Sassower: 'By the D.A.s.'

Sacha: 'The sad reality is that District Attorneys are political.'

Sassower: 'Yayy — right on!'

Sacha: 'Many have horrible conflicts of interest —'

Sassower: 'Yes they do!'

Sacha: '— which affect their ability to act. In order to reach their position, they make alliances, they accept political money, and they cut political deals with other politicians. They reach their goals through these people. The public has a right to know the truth based on my own personal experience. ...
...The public should know of the conflicts that exist.'

Sassower: 'On this Commission, that they refuse to address.'

...

Sacha: 'Ladies and Gentlemen, prosecuting the powerless is easy. The real test is when you are asked to prosecute or to investigate the powerful. The truth is that election law cases are not pursued because few elected District Attorneys will prosecute their political friends and political family.'

Sassower: 'Right.'

Sacha: 'District Attorneys have subpoena power. They have had it forever. They choose not to use it. They treat these cases differently, at least in my experience. They have the power and the means, but they lack the will. This is the sad truth. [Erie County District Attorney] Sedita has made public statements making it clear that he will not investigate election crimes. Yet he sits on this panel.

In this article from two days ago, Mr. Sedita says I do not investigate murder cases, I do not investigate sex crimes, and I damn sure don't investigate election cases. Yet he's on this panel.'

Sassower: 'Outrageous.'" (Exhibit K, pp. 4-5).

69. The October 17, 2013 letter then added a further question to the Commission members and special advisors:

“Do you approve of District Attorney Soares sitting on our July 19th corruption complaint for nearly three full months now? Surely, he would benefit from the Commission’s role model example as to how he should be handling the conflicts of interest that are disabling him from discharging his duties – as, likewise, disabling the Commission.” (Exhibit K, p. 5, underlining in the original).

70. To further assist them in answering, the letter quoted from Mr. Sacha’s own follow-up to his Albany testimony: a complaint he had filed with the Commission, which, under the heading “Conflicts of Interest”, described:

“[The] important preliminary point that must be understood^{fn5}:

‘Legal ethics are not situational ethics. They apply to all, especially to those lawyers with power such as District Attorneys, elected officials and even governors. As you know, New York State Law designates District Attorneys as the chief law enforcement officers in their respective county. Each County District Attorney takes an oath to enforce the laws of New York State.

Legal ethics rules require attorneys to avoid conflicts. Loyalty and independent judgment are essential. The State of New York Unified Court System’s Rules of Professional Conduct require that the judgment of a lawyer should be exercised free of compromising influences and loyalties. The District Attorneys Association of the State of New York (DAASNY) Code of Conduct for political activity states that District Attorneys may not misuse their public positions for the purpose of obstructing or furthering the political activities of any political party or candidate. The National District Attorneys Association standards state in Section 1-3.3 Specific Conflicts, Subdivision (D):

‘The prosecutor should excuse himself or herself from the investigation and prosecution, or other matter where personal interests of the prosecutor would cause a fair-minded, objective observer to conclude that the prosecutor’s neutrality, judgment or ability to administer the law in an objective manner may be compromised.’

No District Attorney should decide a matter in which he or she has a personal interest. To do so damages the public trust and hinders the interest of justice. Where an actual or potential conflict of interest exists, the prosecutor should seek the appointment of a special prosecutor.’ (at p. 3).” (Exhibit K, p. 6, italics in original).

71. The October 17, 2013 letter then closed by asking that Commission members and special advisors additionally advise:

“whether you will be taking steps to secure a special prosecutor for our July 19th corruption complaint and its requested intervention in our People’s lawsuit, *Center for Judicial Accountability, Inc. et al. v. Andrew Cuomo and Eric Schneiderman, et al.* – and, if not, how you will address District Attorney Soares’ inaction and that of every other investigative and prosecutorial body with respect thereto, including not only U.S. Attorneys Bharara and Lynch, but U.S. Attorney Richard Hartunian, who shares geographic jurisdiction with District Attorney Soares.” (Exhibit K, p. 7).

72. Sassower’s October 17, 2013 letter (Exhibit K) is true and correct in all material respects.

73. Neither Commission members, special advisors, or staff responded to this letter.

74. On October 24, 2014, Sassower sent Commission members and special advisors a further letter entitled:

“Public Access to the Record of the Commission’s September 17th and September 24th Public Hearings: Written Testimony & Other Supporting Materials” (Exhibit L).

75. Addressed to Executive Director Calcaterra, it stated, in pertinent part:

“At the September 17th public hearing in Manhattan, you prevented several members of the public from finishing their reading of their written testimony because they had reached the three-minute time limit on oral presentations. You assured them that their written testimony was part of the record, reiterating what you had announced at the outset of that hearing’s public participation portion:

‘we received a lot of written testimony that could expand the three minutes. It is already on the record. It will be given to the transcriber. And it is in the formal record, as well.’ (video at 1:48:48).

On September 19th, I e-mailed the Commission, asking whether the September 17th hearing was going to be stenographically transcribed and posted on the Commission’s website, <http://www.publiccorruption.moreland.ny.gov>. I received no response.

Last week, upon doing a google search, I found the transcript of the Commission’s September 17th hearing, posted on the internet at the following web address:

<http://publiccorruption.moreland.ny.gov/sites/default/files/PUBLIC-CORRUPTION09-17-13.pdf>. Does this reflect some publicly-inaccessible portion of the Commission’s website? And why does the posted transcript not include the ‘written testimony’ that you expressly stated ‘would be given to the transcriber’. Shouldn’t this ‘written testimony’ have been appended at the back of the transcript?

The purpose of a public hearing is for the public to hear the testimony. As witnesses at the September 17th hearing were prevented from reading their written testimony, in whole or in part, because of the three-minute time limitation, will the Commission be affording the public access to the written testimony? And what about the documentation submitted by witnesses in support of their testimony? Will this be made available so that the public can better evaluate the seriousness of witness testimony and how it is being addressed by the Commission?

...

Among the witnesses whose reading of written testimony you curtailed at the September 17th hearing was Cynthia Nebel (video at 2:38:50 – 2:42:36). Her testimony was about Governor Cuomo’s firing, without reasons, of the first Medicaid Inspector General, James Sheehan, who had recovered \$1.5 billion in improper Medicaid payments during his four-year tenure. You cut her off as she was seemingly connecting Mr. Sheehan’s firing to campaign contributions made by medical providers to political party housekeeping accounts. We request access to Ms. Nebel’s written testimony – and to her 10-page August 1st letter, sent to Commission Co-Chair Rice, to which she referred before leaving the witness table, asking whether all other Commission members had it. A copy of Ms. Nebel’s transcribed testimony is annexed, for your convenience.

Of course, it is not just the written testimony of witnesses who orally testified at the hearings that is part of the record. Also part of the record is the written testimony of those denied the opportunity to orally testify, notwithstanding they had registered. Indeed, this is the context in which the Commission's registration webpages for both its September 17th and September 24th hearings asserted:

'...time constraints may require that those wishing to provide oral testimony provide written testimony only. All written testimony that is submitted will be included in the record of the proceedings.' (underlining added).

As the Commission has taken down its registration webpages for the September 17th and September 24th hearings, copies of those webpages are enclosed in support of our request, based thereon, for access to the 'written testimony' of all registrants who the Commission did not permit to orally testify at these hearings." (Exhibit L, p. 2, pp. 1-2, underlining in the original).

76. Sassower's October 24, 2013 letter is true and correct in all material respects.

77. Neither the Commission members, special advisors, or staff responded to this letter.

78. On October 25, 2013, Sassower sent a letter to the president of the Precise Court Reporting Services, Inc. whose stenographer had stenographically recorded and transcribed the September 17, 2013 public hearing (Exhibit M). The letter documented and was so-entitled:

"The Pattern of Errors in the Stenographic Transcription of the Oral Testimony of Elena Sassower at the September 17, 2013 Public Hearing of the Commission to Investigate Public Corruption – Material to Her Presentation as to the Commission's Conflicts of Interest".

The letter requested that the stenographer's transcription of Sassower's testimony be corrected based on what was plainly audible from the video of the hearing.

79. Sassower's October 25, 2013 letter, to which the Commission was an indicated recipient, is true and correct in all material respects as to the errors in the stenographic transcript of her oral testimony at the September 17, 2013 public hearing.

80. Also on October 25, 2013, Sassower e-mailed the Commission, both *via* its website and by direct e-mail, a "Protest & Request to Testify" at the Commission's October 28, 2013 public hearing in Manhattan, stating:

"On behalf of the public, I protest that the Commission's October 28th 'public hearing' is not only 'topic limited' to prevent the public from testifying as to the breadth of public corruption within its knowledge and experience, but that it explicitly excludes the public from even testifying as to that limited topic, relegating *We, The People*, to nothing more than spectators who may 'attend only'.

Should the October 28th hearing, 'focus[ed] on Campaign Finance Reform', also encompass the "NYS Board of Elections Investigatory Hearing", briefly announced as the Commission's October 29th hearing at 'Lighthouse International' before it evaporated from the Commission's website, I request to be 'invited' to testify as to the State Board of Elections' nonfeasance and misfeasance with respect to its vital investigative function, as to which it impedes judicial review by litigation fraud and other misconduct, covered-up by a complicit and corrupt state judiciary. On that subject, see, *inter alia*, Doris L. Sassower's October 24, 1991 letter to Governor Mario Cuomo for appointment of a special prosecutor – accessible from our website, www.judgewatch.org, on a webpage of our correspondence with the first Governor Cuomo. Here it is: <http://www.judgewatch.org/web-pages/searching-nys/searching-gov-mario-cuomo.htm>.

Kindly advise, as soon as possible, if such invitation will be forthcoming so that I may prepare appropriately." (Exhibit N).

81. The Commission did not respond – and the October 28, 2013 hearing, whose beginning time, at the last minute, was moved forward by an hour – was, in fact, the Commission's previously-announced "Board of Elections investigatory hearing". As for the Commission's invited witnesses, all presented in support of public campaign financing.

82. During this October 28, 2013 “investigatory hearing”, Sassower twice interjected with questions, highlighting the selective, invidious nature of what the Commission was doing.

(a) The first question was addressed to the Commission’s failure to inquire as to the Legislature’s oversight of the Board, consistent with her August 21, 2013 letter (Exhibit G-2). Interrupting Commission member/Warren County District Attorney Kathleen Hogan’s interrogation of Elections Board Counsel, Sassower asked:

“Why haven’t the committees of the legislature been asking these questions? They have elections law committees, the Assembly and Senate both. Where have their hearings been?” (video, at 1:21 hours).

To this Co-Chair Rice responded:

“I have to ask members of the audience to please withhold their comments. Thank you very much.”

(b) The second question interrupted the questioning of Commission member Daniel Castleman, as to the Board of Elections’s policy not to investigate anonymous complaint.

Sassower: “Do the DA’s?”

Castleman: “Very often ma’am.”

Sassower: “Can you back it up with evidence?” (video, 2:28 hours)

83. The “Board of Elections investigatory hearing” consumed almost two hours of the Commission’s four-hour October 28, 2013 Manhattan hearing, and upon its abrupt conclusion, without any announcement of further hearings, Sassower rushed forward, much as she had at the conclusion of the Commission’s 2-1/2 hour October 24, 2013 Albany hearing. She stated that the Commission’s interrogation of the State Board of Elections had been materially deficient, identified that she had requested to testify at the hearing, and thereupon again asked if she could testify. Commission members ignored her as they rose from their seats to leave.

84. Sassower did manage to have an exchange with one Commission member, Bronx County District Attorney Robert Johnson, asking him whether it was not correct that he suffered from an additional conflict of interest with respect to the judicial pay raise issue inasmuch as his wife is a judge. He did not respond.

85. On November 8, 2013, Sassower sent the State Board of Elections a FOIL request entitled:

“Documentarily-Establishing that the New York State Board of Elections is ‘Low-Hanging’ Fruit’ for the Conflict-Ridden Commission to Investigate Public Corruption” (Exhibit O-1),

It stated:

“the Commission’s focus on the Board of Elections is to give the appearance that it is being tough – when, in fact, it is covering up for the ten sitting district attorneys who are among its 25 Commissioners and for other public officers with whom it has personal, professional, and political relationships.” (Exhibit O-1, p. 1).

86. The information and records requested by the November 8, 2013 letter were in furtherance of inquiries that the Commission should have, but had not, pursued. On November 12, 2013, Sassower made additional FOIL and record requests inquiries to the Division of the Budget (Exhibit O-2); to the Secretary of the Senate (Exhibit O-3); and to the Assembly Public Information Office (Exhibit O-4). All were also sent to the Commission, to its three Co-Chairs, and to Commission member/District Attorney Soares and his Public Integrity Unit Bureau Chief. A November 15, 2013 FOIL request relating to the October 28, 2013 hearing was also made to the Commission, e-mailed to its members (Exhibit Q).

87. On November 13, 2013 Sassower additionally sent a letter to District Attorney Soares, entitled:

“What are Your Procedures for Handling Public Corruption Complaints? – & Other Questions that an Unconflicted Commission to Investigate Public Corruption Would Ask” (Exhibit P).

In pertinent part, it stated:

“You were absent from the Commission to Investigate Public Corruption’s October 28, 2013 public hearing in Manhattan, at which the State Board of Elections was subjected to scathing interrogation about its procedures for handling complaints.

What are your procedures for handling complaints of public corruption? And how do they compare to your procedures for handling criminal referrals from the State Board of Elections, such as were featured in Ken Lovett’s August 5, 2013 Daily News article ‘*Members of Cuomo’s anti-corruption panel failed to pursue 1,500 criminal referrals by the Board of Elections*’? Did these criminal referrals from the Board of Elections go to your Public Integrity Unit – and was there no timely communication from it to the Board as to why it was not following through with any of 1,382 referrals since 2007? If the issue was one of resources, did you not request increased budget allocations for your district attorney’s office for such purpose?

As you know – including from our October 17, 2013 letter – your Public Integrity Unit has been sitting on our July 19, 2013 corruption complaint against Governor Cuomo, Attorney General Schneiderman, and New York’s other highest public officers for crimes including their grand larceny of the public fisc in connection with the judicial pay raises and the unitemized, slush fund judiciary and legislative budgets.

To date, nearly four full months after filing the July 19, 2013 complaint with your Public Integrity Unit Bureau Chief, Eric Galarneau – and more than 2-1/2 months after hand-delivering for him hard copies of the substantiating proof – we have yet to receive a written acknowledgment, let alone notification of any investigation. Is this normal and customary procedure where, with each passing month, the theft of taxpayer monies increases by many millions of dollars? Have you not examined the complaint and confirmed, as stated, that:

‘it presents an open-and-shut, *prima facie* case of plunder of public monies, verification of which can be accomplished in minutes...

What is taking you so long? Is there any explanation for your nonfeasance and misfeasance other than your financial, political, and personal conflicts of interest?

Please advise without further delay so that we – and the Commission to Investigate Public Corruption – may be guided accordingly.

Finally, inasmuch as the questions that the State Board of Elections was required to answer at the October 28, 2013 hearing are questions that an unconflicted Commission to Investigate Public Corruption would be requiring of all 62 of this state's district attorneys, please furnish your answers to the following:

1. What is the budget of your district attorney's office?
2. How does the budget compare with your requested budget?
3. How many people are employed by your district attorney's office?
4. How are public corruption complaints handled? Does the district attorney's office have a specifically designated public integrity unit to handle public corruption complaints – and is it identified by your district attorney's website and informational brochure?
5. Are public corruption complaints required to be on a special form? Must they be signed and or notarized? How about anonymous complaints?
6. Does your district attorney's office initiate public corruption complaints based on news reporting – if not, why not.
7. What is the intake procedure for public corruption complaints? Are all public corruption complaints logged? What kind of log is it? What kinds of information does it contain? Is it accessible to you and others in supervisory positions?
8. Are all public corruption complaints acknowledged? What is the length of time between receipt and acknowledgment and who does it?

9. Following acknowledgment, is there a preliminary review process preceding investigation? Who does it and what does it consist of?

10. Who decides whether a public corruption complaint is to be investigated and what is the criteria for investigation?

11. Who does the investigation and what does it consist of?

12. What system is in place to inform you and supervising staff of the status of corruption complaints?

13. Does your district attorney's office have a backlog of public corruption complaints? If so, what have you done to address it? Are public corruption complaints prioritized?

14. Do you inform complainants of the disposition of their public corruption complaints? Who does it and is it in writing?

15. How many public corruption complaints have been received in each of the past six years?

a. how many public corruption complaints have been investigated, including by issuance of subpoenas and subpoenas duces tecum?

b. How many public corruption complaints have resulted in criminal prosecutions? How many have been the subject of grand jury presentments? How many resulted in grant jury indictments?

c. How many public corruption complaints have ended in convictions or pleas?" (Exhibit P, underlining in the original).

88. Sassower's November 13, 2013 letter to District Attorney Soares is true and correct in all material respects.

89. On December 2, 2013, the Commission released its Preliminary Report. Its coverletter to the Governor identified that the Commission was "committed to restoring New

Yorkers' faith in the integrity of our civic institutions" and that its "active and ongoing" investigation of public corruption would "continue to follow the money".

90. The Preliminary Report emphasized how public trust and government integrity require transparency, disclosure, and "policing of conflicts of interest" (p. 10):

"Our investigation reveals that corruption and the appearance of corruption thrive when actual and potential conflicts of interest are shrouded in darkness." (p. 10);

"Our State needs stronger disclosure rules to avoid conflicts of interest – or even the appearance of such conflicts, which likewise can erode public confidence in the integrity of government." (p. 14);

"...additional disclosure would be a strong step toward exposing potential conflicts of interest for public servants." (p. 18).

This was repeated over and over again, the importance of "expanding that disclosure" (p. 18); "more disclosure"; "greater disclosure" (p. 19); "Strengthened Disclosure Requirements" (p. 54); "Creating an effective disclosure regime" (p. 55), "Disclosure – "Accessible Disclosure" (p. 58). Nowhere, however, was there any disclosure of conflicts of interest pertaining to Commission members, special advisors, or staff – or the Commission's protocol for addressing same.

91. Similarly, the Preliminary Report repeatedly referred to how important it is to promote "democratic engagement"; and "empower ordinary New Yorkers" and "ordinary citizens" so that they do not "feel left out" of participating "in the decisions of our government"; "in politics and...our government's agenda" (p. 28). This was purported as a key benefit of public campaign financing: bringing "regular New Yorkers", "ordinary citizens into the political process"; "magnifying the voice of ordinary citizens" to create "more accountable government"; and "accountability of elected officials" (p. 29); "leveraging the power of ordinary individuals" and "increasing the impact of ordinary citizens" (p. 41). According to the Preliminary Report:

“Public funding makes it likely that more and different voices – ordinary citizens and the candidates they support – will be heard in the political process.” (p. 49).

92. Yet, the Preliminary Report made no mention of the participation and voices of “ordinary citizens” and “regular New Yorkers” at its September 17, 2013 public hearing – or that, with the exception of the last 1-1/2 hours at that Manhattan hearing, regular New Yorkers had been shut out of any opportunity to testify as to the breadth of public corruption within their knowledge and experience.

93. Indeed, the Preliminary Report flew in the face of the testimony of the “ordinary citizens” and “regular New Yorkers” at the September 17, 2013 public hearing by asserting:

“Federal prosecutors like United States Attorneys Preet Bharara and Loretta Lynch...should be applauded for their efforts to root out and punish illegal conduct by our public officials” (at p. 87)

and portraying district attorneys as “up to the job” of pursuing public corruption, except for “lack[ing] many of the necessary tools available to their federal counterparts” (at p. 86).

94. On December 4, 2013, Sassower left a voice mail on the Commission’s “tips line” (518-485-8477) regarding the telephone conversation she had just had with the president of Precise Court Reporting Services, Inc. to whom she had written her October 25, 2013 letter for correction of the errors in its transcription of her September 17, 2013 testimony. Sassower stated that the company president had told her that the Commission would not let her make any corrections to the transcript and had instructed that anyone calling about the transcript be directed to the Commission. She refused to identify who her contact was at the Commission. Sassower thereafter spoke with the Commission’s operations manager and was told that someone would get back to her. No one did – and Sassower so-stated in telephoning the Commission on December 16, 2013, again speaking to the operations manager.

95. On January 7, 2014, Sassower sent a letter to the Commission entitled:

“FOLLOWING THE MONEY’:

(1) investigating & reporting on the fraud and larceny in the proposed Judiciary and Legislative budgets for fiscal year 2014-2015 presented by CJA’s December 11 and December 30, 2013 letters;

(2) supplement to CJA’s July 19, 2013 corruption complaint & intervention request.” (Exhibit T-1).

It stated that Sassower had yet to receive an acknowledgment of a letter she had e-mailed to the Commission on December 11, 2013 (Exhibit S), simultaneous with e-mailing it to the Governor and Legislature, detailing the fraudulence and unconstitutionality of the Judiciary’s proposed budget for fiscal year 2014-2015 and requesting that the Commission investigate and render a report to the Governor and Legislature, consistent with its December 2, 2013 Preliminary Report, pledging to “follow the money” and its declaration:

“... most of all, members of the public have a right to understand how their tax dollars are spent and by whom, as well as the process used to appropriate state funds’ (at p. 25)”.

96. Sassower stated that she had e-mailed a further letter to the Governor on December 30, 2013 (Exhibit T-2), this time detailing the fraudulence and unconstitutionality of the Legislature’s proposed budget for fiscal year 2014-2015

97. Sassower requested the Commission also investigate and report to the Governor and Legislature on the December 30, 2013 letter, stating however, that should the Commission deem the December 11, 2013 and December 30, 2013 letters “properly the province of the Governor’s Division of Budget and the Legislature’s appropriate committees” that it so-state in “letters of referral to them” (p. 2).

98. Sassower additionally requested that the December 11, 2013 and December 30, 2013 letters (Exhibits S-2, T-2) be deemed a supplement to her July 19, 2013 corruption

complaint (Exhibit B-1), describing each as continuing “the saga of unabashed budget corruption presented” therein, with each, likewise, “an open-and-shut, prima facie case of public corruption, verifiable in a matter of minutes, involving huge sums of taxpayer monies”. She noted, however, that the letters presented even great conflicts of interest than those of the July 19, 2013 complaint – because “the recurrent corruption they detail involving the Judiciary and Legislative budgets directly results from [the Commission’s] wilful nonfeasance with respect to the July 19, 2013 complaint, born of [its] conflicts of interest.” (Exhibit T-1, p. 3, underlining in the original).

99. The January 7, 2014 letter concluded by noting that the Commission had “still not identified its protocol for dealing with conflicts of interest” and quoted the final paragraphs of Sassower’s October 17, 2013 letter (Exhibit K, p. 6) – now reinforced by the supplemental complaint – as to whether the Commission would be taking steps to secure a special prosecutor for the July 19, 2013 corruption complaint (Exhibit B-1) and, if not, how it would address:

“District Attorney Soares’ inaction and that of every other investigative and prosecutorial body with respect thereto, including not only U.S. Attorneys Bharara and Lynch, but U.S. Attorney Richard Hartunian, who shares geographic jurisdiction with District Attorney Soares.” (Exhibit T-1, p. 4).

100. By letter dated February 7, 2014, signed by Executive Director Calcaterra, the Commission purported “your matter falls outside of our mandate.” (Exhibit U-1). In so-stating, the letter made no mention of Executive Order #106, identified no referral of the “matter” to other investigative authorities within whose “mandate” it would be, and made no acknowledgment of any conflict of interest with respect to its disposition.

AS AND FOR A FIRST CAUSE OF ACTION

**For a Declaration that the Governor’s Still-Live Executive Order #106
Establishing the Commission to Investigate Public Corruption is,
As Written, an Unconstitutional Violation of Separation of Powers**

101. Sassower repeats, realleges, and reiterates ¶¶1-100 with the same force and effect as if more fully set forth herein.

102. To preserve separation of powers and the independence of the Legislature, the Constitution imposes a duty on the Governor to refrain from arrogating to himself powers residing in another branch of government.³

103. The purposes the Governor conferred upon the Commission are actually “duties of a properly-functioning legislature, discharging its oversight and law-making functions.” (Exhibit G-2, pp. 1-2, underlining in original).

104. For the Governor’s Executive Order #106, to be constitutional, *as written*, it would have had to recite the Legislature’s failure and refusal to discharge its oversight and law-making functions concerning the matters whose investigation and recommendations its ¶II directs (Exhibit A-1).

105. Yet, the Governor’s Executive Order #106 did not identify that the Legislature “failed to act” in any of its seven WHEREAS paragraphs.

106. The Governor’s verbal statements that the Legislature “failed to act” are false. Plaintiffs Skelos, Klein, and Silver aborted the legislative process with respect to each of the Governor’s program bills comprising his “clean-up Albany package”. (Exhibit B-1, pp. 2-3; Exhibit G-2, pp. 6-8).

³ Plaintiffs’ complaint, ¶88.

107. There is no evidence that the Governor could not have readily secured passage of his Public Trust Act, Program Bill #3, had he availed himself of legitimate legislative process, rather than, as he did, engaging in behind-closed-doors dealing-making governance with plaintiffs Skelos, Klein, and Silver. Likewise, there is no evidence that he could not have secured passage of key components of the other program bills that were part of his “clean-up Albany package” through legitimate legislative process. Sassower’s August 21, 2013 letter to the Governor sets this forth convincingly, and without contradiction from the Governor. Such only reinforces the unconstitutionality of Executive Order #106, *as written*, encroaching as it did upon the Legislature without just cause.

108. Had Executive Order #106 been constitutionally-drafted, it would have had to additionally direct the Commission’s investigation and recommendations with respect to the Legislature’s purported “fail[ure] to act”.

109. That such direction is further requisite for Executive Order #106 to be constitutional, *as written*, is reinforced by the fact that the Commission was so insensitive and disrespectful of separation of powers concerns as to not have independently recognized its duty, in the first instance, to have examined why the Legislature “failed to act” so as to evaluate the facts and circumstances and whether there might be some reasonable justification.

110. Had the Commission examined the Governor’s verbally-stated reason for establishing the Commission, it would have ascertained the same true facts as Sassower had – and that the Governor’s actual separation of powers violation was his colluding with plaintiffs Skelos, Klein, and Silver to deprive the Senate and Assembly’s “democratically-elected members” of their constitutionally-ordained legislative function, altogether preventing them from exercising their “functional responsibility to consider and vote on legislation”, such that each

“legislator and the thousands of New Yorkers he or she represents [were] unlawfully precluded from participating in the governmental process”, *Silver v. Pataki*, 96 N.Y.2d 532, 537 (2001).

111. The Commission would also have confirmed that the overriding cause of public corruption, including corruption in the Legislature, is this kind of “three men in a room”, behind-closed-doors governance, enabled by Senate and Assembly rules vesting the Temporary Senate President and Assembly Speaker with autocratic powers, emasculating committees and rank-and-file members and reducing the Legislature to a rubber-stamp, such that neither house remotely discharges its oversight and lawmaking functions (Exhibit G-2, pp. 3-6).

112. Indeed, the Commission would have discovered that so many of the varied proposals that its Preliminary Report would be putting forward – for example, closing the LLC “loophole” – in addition to public campaign financing, etc. – had, year, after year, after year, again and again, failed to result in any legislative enactment solely because of the stranglehold of leadership, cutting off legitimate legislative process. And it would have discovered that so emasculated are committees and rank-and-file members that the Temporary Senate President and Assembly Speaker have been able to seize control of the legislative budget – unauthorized by legislative rules and violative of the state Constitution – and craft for themselves a slush-fund of countless millions of taxpayer dollars with which to exponentially fortify their power: “rewarding the faithful and punishing the dissident” (Exhibit T-2, p. 6).

113. Senate and Assembly rules that foster such blatant unconstitutionality by conferring autocratic powers in the Temporary Senate President and Assembly Speaker – and do so not just here, but as a *modus operandi* of governance – are themselves unconstitutional.

AS AND FOR A SECOND CAUSE OF ACTION

**For a Declaration that the Governor’s Still-Live Executive Order #106
Establishing the Commission to Investigate Public Corruption is,
As Applied, an Unconstitutional Violation of Separation of Powers**

114. Sassower repeats, realleges, and reiterates ¶¶1-113 with the same force and effect as if more fully set forth herein.

115. Even were the Governor’s Executive Order #106 not unconstitutional, *as written*, it is unconstitutional, *as applied*, by reason of the Commission’s non-compliance with its terms.

116. Sassower’s intervention affidavit highlights the many safeguarding provisions of Executive Order #106 that would have prevented the Commission from invidiously and selectively targeting the Legislature to coerce its passage of legislation in accordance with the Governor’s agenda and objectives of “good government” groups, with whom the Governor was materially aligned. All were wilfully violated by the Commission in furtherance of that targeting. These are:

Executive Order #106, ¶III(c): requiring the Commission to investigate and make recommendations with respect to “weaknesses in existing laws, regulations and procedures relating to addressing public corruption, conflicts of interest, and ethics in State Government”. (intervention affidavit, ¶43);

Executive Order 106, ¶V: vesting the investigative powers of Executive Law §§6 and 68.3 on “the Commissioners”, not on the three Co-Chairs who appear to have usurped this critical power, enabling the Governor and Attorney General to more easily influence the Commission’s investigative course (intervention affidavit, ¶¶18-20, 43);

Executive Order #106, ¶VI: requiring the Commission to “promptly” communicate “evidence of a violation of existing laws” obtained “in the course of its inquiry...to the Office of the Attorney General and other appropriate enforcement authorities...and take steps to facilitate jurisdictional referrals.” (intervention affidavit, ¶¶45, 47, 54-57);

Executive Order #106, ¶VIII: requiring that after the Commission’s “preliminary policy report on or before December 1, 2013”, that it “further issue an additional

report or reports on or before January 1, 2015, or on or before a date to be determined.” (intervention affidavit, ¶¶43, 69);

Executive Order #106, ¶IX: requiring the Commission to “conduct public hearings around the State to provide opportunities for members of the public and interested parties to comment on the issues within the scope of its work.” (intervention affidavit, ¶¶44-46, 48-52).

117. The Commission’s wilful and deliberate violation of these safeguarding provisions of Executive Order #106 to target the Legislature was a manifestation of its actual bias and interest, on which it knowingly acted in flagrant defiance of the most basic conflict of interest rules and obligations of disclosure and disqualification.

AS AND FOR A THIRD CAUSE OF ACTION

For a Declaration that the Commission’s Refusal to Disclose its “Procedures and Rules” for Conflicts of Interest and to Respond to Complaints Raising Disqualification on Grounds of Interest, Vitiates, if not Voids, the Recommendations of its December 2, 2013 Preliminary Report, as a Matter of Law, with a Further Declaration that the Commission’s Preliminary Report Manifests Actual Bias and Interest, Endangering the Public in Material Respects

118. Sassower repeats, realleges, and reiterates ¶¶1-117 with the same force and effect as if more fully set forth herein.

119. The Commission’s wilful and deliberate refusal to disclose its “procedures and rules” with respect to conflict of interest and to respond to complaints raising issues of disqualification by reason of conflicts of interest, suffice to vitiate, if not void, the recommendations of its December 2, 2013 Preliminary Report, *as a matter of law*.

120. The Commission lives on by its December 2, 2013 Preliminary Report on which the public is being detrimentally led to rely.

121. As demonstrated herein and by Sassower’s accompanying intervention affidavit, the Commission, collectively and by its members, special advisors, and staff, acted wilfully and

deliberately in furtherance of its self-interests and bias with respect to the “tips”, “comments”, testimony, and evidence it received.

122. The December 2, 2013 Preliminary Report manifests the Commission’s interest and actual bias. It is materially false and deceitful – and ¶¶58-68 of Sassower’s accompanying intervention affidavit furnishes illustrative particulars.

123. A declaration is required to protect the public from such a Preliminary Report, whose most endangering aspect is its praise of “Federal prosecutors like United States Attorneys Preet Bharara and Loretta Lynch” as “root[ing] out and punish[ing] illegal conduct by our public officials” (p. 87) and of district attorneys as “up to the job” (p. 86) – when the very opposite was attested to, again, and again, and again, by the ordinary citizens who managed to testify in the last 1-1/2 hours of the Commission’s September 17, 2013 Manhattan hearing and, with respect to district attorneys, by former assistant district attorney Marc Sacha at the Commission’s September 24, 2013 Albany hearing – and evidentially-proven by Sassower’s July 19, 2013 corruption complaint.

124. To date, Albany County District Attorney Soares has been “sitting on” Sassower’s July 19, 2013 corruption complaint (Exhibit B-1). Likewise, all other investigative, supervisory, and prosecutorial authorities have been “sitting on” the corruption complaints that Sassower filed with them (Exhibits B), including three federal prosecutors: U.S. Attorneys, Bharara, Lynch, and Hartunian (Exhibits B-2, B-3, B-4).

125. The Governor’s forceful, unequivocal directive to the Commission at his July 2, 2013 press conference was:

“...Your mission is to put a system in place that says, A. we’re going to punish the wrongdoers and to the extent that people have violated the public trust they will be punished. Two, there is a system in place so that the public should feel confident that if there

is wrongdoing going on, there's a system in place that will catch those people and make sure it doesn't happen again.

...

there is no substitute for enforcement. ...there is no substitute for effective enforcement. And any system, and any set of laws are only as good as the enforcement mechanism behind them." (Exhibit A-2).

126. The Commission – filled with district attorneys; former assistant district attorneys, former federal prosecutors, assistant and deputy attorneys general, all having personal and political relationships with Governor Cuomo, himself a former state Attorney General, and with its current occupant, Attorney General Schneiderman – were duty bound to investigate and report on the efficacy of those offices with respect to public corruption complaints. Instead, and to cover-up the nonfeasance, misfeasance, and actual corruption of those primary “enforcement mechanisms” in their handling of public corruption complaints – to which the September 17, 2013 hearing witnesses gave voice – they put their names to a Preliminary Report that misled the public as to what it most needed to know, betraying not only their trust, but well-being.

PRAYER FOR RELIEF

WHEREFORE, the intervener respectfully prays that this Court:

1. declare that the Governor's still-live Executive Order #106 establishing the Commission to Investigate Public Corruption is an unconstitutional violation of separation of powers, *as written*;
2. declare that, *as applied*, the Governor's still-live Executive Order #106 establishing the Commission to Investigate Public Corruption is an unconstitutional violation of separation of powers;
3. declare that the Commission's refusal to disclose its “procedures and rules” for conflicts of interest and to respond to complaints raising disqualification on grounds of interest,

vitiates, if not voids, the recommendations of its December 2, 2013 Preliminary Report, *as a matter of law*, with a further declaration that the Commission's Preliminary Report manifests actual bias and interest, endangering the public in material respects;

4. award the intervening plaintiff such other and further relief as may be just and proper, including referral of her July 19, 2013 corruption complaint and its January 7, 2014 supplement (Exhibits B-1, T-1) to appropriate "enforcement" authorities for criminal investigation and prosecution.

JANE ROMERO
Notary Public, State of New York
No. 01RO6176895
Qualified in Westchester County
Commission Expires Nov. 5, 2015


ELENA RUTH SASSOWER

Sworn to before me this
23rd day of April 2014


Notary Public

VERIFICATION

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss:


ELENA RUTH SASSOWER, being duly sworn deposes and says:

I am the [proposed] intervening plaintiff herein, Director of the Center for Judicial Accountability, Inc., acting on my own behalf and on behalf of the People of the State of New York and public interest. I have written the annexed [proposed] verified complaint and attest that same is true and correct of my own knowledge, information, and belief, and as to matters stated upon information and belief, I believe them to be true.

JANE ROMERO
Notary Public, State of New York
No. 01RO6176895
Qualified in Westchester County
Commission Expires Nov. 5, 20 15


ELENA RUTH SASSOWER

Sworn to before me this
23rd day of April 2014



Notary Public

TABLE OF EXHIBITS

- Exhibit A-1: Governor Cuomo's Executive Order #106
- Exhibit A-2: Transcript of July 2, 2013 press conference
- Exhibit B-1: CJA's July 19, 2013 corruption complaint to Commission Member/Albany County District Attorney P. David Soares
- Exhibit B-2: CJA's April 15, 2013 corruption complaint to U.S. Attorney Preet Bharara (SDNY)
- Exhibit B-3: CJA's May 13, 2013 corruption complaint to U.S. Attorney Loretta Lynch (EDNY)
- Exhibit B-4: CJA's June 13, 2013 corruption complaint to U.S. Attorney Richard Hartunian (NDNY)
- Exhibit B-5: CJA's June 4, 2013 corruption complaint to NYS Legislature's Senate Committee on Investigations and Government Operations & Assembly Committee on Oversight, Analysis and Investigation
- Exhibit B-6: CJA's June 27, 2013 corruption/ethics complaint to NYS Joint Commission on Public Ethics
- Exhibit B-7: CJA's July 11, 2013 corruption complaint to NYS Inspector General Catherine Leahy Scott
- Exhibit B-8: CJA's November 29, 2011 corruption complaint to NYS Attorney General Eric Schneiderman
- Exhibit B-9: CJA's March 1, 2012 corruption complaint to NYS Comptroller Thomas DiNapoli
- Exhibit B-10: CJA's July 22, 2013 transmitting coverletter, with e-mail
- Exhibit C-1: CJA's July 16, 2013 letter to Secretary of the Senate, Senate Majority Coalition Leaders Skelos and Klein & Minority Leader Stewart-Cousins –
"RE: Senate Rule XV 'Freedom of Information' Request: Governor Cuomo's 'Public Trust Act'/Program Bill #3"
- Exhibit C-2: CJA's July 18, 2013 letter to Secretary of the Senate, Senate Majority Coalition Leaders Skelos and Klein & Minority Leader Stewart-Cousins –

“RE: Senate Rule XV ‘Freedom of Information’ Request: Governor Cuomo’s Program Bills #4, #5, and #12”

- Exhibit C-3: Senate’s July 25, 2013 e-mail
- Exhibit C-4: CJA’s July 25, 2013 e-mail to Secretary of the Senate, Senate Majority Coalition Leaders Skelos and Klein & Minority Leader Stewart-Cousins –
“Subject: CJA’s As-Yet Unresponded-To 2 FOIL Requests to You and Senate Leaders – July 16 & July 18”
- Exhibit C-5: CJA’s August 16, 2013 e-mail to Senate Republican Counsel Beth Garvey –
“Subject: Awaiting Your Written Responses to our July 16th and July 18th Letters: Gov’s Program Bill #3 (Public Trust Act) & His Program Bills #4, #5, #12”
- Exhibit C-6: Senate Republican Counsel Garvey’s August 16, 2013 e-mail
- Exhibit D-1: CJA’s July 16, 2013 letter to Assembly Public Information Office, Speaker Silver & Minority Kolb –
“RE: Assembly Rule VIII ‘Public Access to Records’ Request: Governor Cuomo’s ‘Public Trust Act’/Program Bill #3”
- Exhibit D-2: Assembly’s July 23, 2013 letter
- Exhibit D-3: CJA’s July 18, 2013 letter to Assembly Public Information Office, Speaker Silver & Minority Leader Kolb –
“RE: Assembly Rule VIII ‘Public Access to Records’ Request: Governor Cuomo’s Program Bills #4, #5, and #12”
- Exhibit D-4: Assembly’s July 23, 2013 letter
- Exhibit E-1: CJA’s July 16, 2013 letter to Governor Cuomo’s Records Access/FOIL officer –
“RE: FOIL REQUEST: Governor Cuomo’s ‘Public Trust Act’/Program Bill #3”
- Exhibit E-2: Governor’s July 29, 2013 letter
- Exhibit E-3: CJA’s July 18, 2013 letter to Governor Cuomo’s Records Access/FOIL officer –
“RE: FOIL REQUEST: Governor Cuomo’s Program Bills #4, #5, and #12”
- Exhibit E-4: Governor’s July 25, 2013 letter
- Exhibit E-5: CJA’s July 25, 2013 e-mail
- Exhibit E-6: Governor’s August 22, 2013 letter

- Exhibit E-5: Governor’s August 22, 2013 letter
- Exhibit F-1: CJA’s August 5, 2013 letter to Commission Executive Director Calcaterra – “RE: Keeping the Commission to Investigate Public Corruption True to its Name & Announced Purpose”
- Exhibit F-2: CJA’s August 27, 2013 e-mail to Commission – “Subject: Status: Our August 5, 2013 Letter – ‘Keeping the Commission to Investigate Public Corruption True to its Name & Announced Purpose’”
- Exhibit F-3: CJA’s September 3, 2013 e-mail to Commission – “Subject: Request that the Upcoming Public Hearings of the Commission to Investigate Public Corruption be Live-Streamed, Videoed, & Stenographically-Recorded, Etc.”
- Exhibit F-4: CJA’s September 6, 2013 e-mail to Commission – “Subject: MISSING PRESS RELEASES: What’s Going On with the Commission to Investigate Public Corruption’s Public Hearings?”
- Exhibit F-5: CJA’s September 13, 2013 e-mail to Commission – *via* its form & website: “Subject: Request to Testify at September 17th hearing”
- Exhibit F-6: CJA’s September 16, 2013 e-mail to Commission – “Subject: draft testimony”
- Exhibit G-1: CJA’s August 22, 2013 e-mail to Commission Advisor Bartoletti
- Exhibit G-2: CJA’s August 21, 2013 letter to Governor Cuomo – “RE: Achieving BOTH a Properly Functioning Legislature & Your Public Trust Act (Program Bill #3) – the *Sine Qua Non* for ‘Government Working’ & ‘Working for the People’”
*With enclosure:* CJA’s August 13, 2013 letter to Senator George Latimer & Assemblyman David Buchwald – “RE: Constituent Request that You Introduce the Public Trust Act (Governor’s Program Bill #3), Consistent with the Senate and Assembly Informational Guides ‘*How a Bill Becomes a Law*’, and ‘*The Legislative Process and YOU*’”
- Exhibit H-1: CJA’s written September 17, 2013 written testimony
- Exhibit H-2: CJA’s September 18, 2013 e-mail to Commission – “Subject: Sept. 17th Testimony of Elena Sassower, Director/Center for Judicial Accountability”

- Exhibit I-1: CJA's September 19, 2013 e-mail to Commission –
"Subject: Request for CD-Video & Transcript of Commission's September 17th Public Hearing"
- Exhibit I-2: CJA's September 25, 2013 e-mail to Commission –
"Subject: Request for CD-Video & Transcript of Commission's September 24th Public Hearing"
- Exhibit I-3: CJA's October 2, 2013 e-mail to Commission –
"Subject: What 'law' requires the Commission to Investigate Public Corruption to report to the Governor & Attorney General 'on a weekly basis'?"
- Exhibit J: CJA's October 4, 2013 letter to Commission –
"RE: When Will the Commission to Investigate Public Corruption be Holding Public Hearings at Which the Public Will be Able to Testify as to the Breadth of Public Corruption Within its Knowledge and Experience?, Etc."
- Exhibit K: CJA's October 17, 2013 letter to Commission Members & Special Advisors –
"RE: Follow-Up to September 17, 2013 Testimony (1) CJA's Unresponded-to August 5, 2013 Letter and Subsequent Correspondence Pertaining to the Commission's Procedures, Rules, Protocol for Conflicts of Interest, and Public Hearings; (2) CJA's Unresponded-to July 19, 2013 corruption complaint and intervention request to Commission Member Albany County District Attorney Soares"
- Exhibit L: CJA's October 24, 2013 letter to Commission –
"RE: Public Access to the Record of the Commission's September 17th and September 24th Public Hearings: Written Testimony & Other Supporting Materials"
- Exhibit M: cc: CJA's Oct. 25, 2013 letter to Precise Court Reporting Services, Inc. –
"RE: The Pattern of Errors in the Stenographic Transcription of the Oral Testimony of Elena Sassower at the September 17, 2013 Public Hearing of the Commission to Investigate Public Corruption – Material to Her Presentation as to the Commission's Conflicts of Interest"
- Exhibit N: CJA's October 25, 2013 e-mail to Commission –
"Subject: October 28, 2013 'Public Hearing': CJA's Protest & Request to Testify – previously sent, via Commission's registration page: Oct 25 5pm"

- Exhibit O-1: *cc:* CJA's November 8, 2013 FOIL request to the NYS Board of Elections –
“RE: Documentarily-Establishing that the New York State Board of Elections is
‘Low-Hanging Fruit’ for the Conflict-Ridden Commission to Investigate Public
Corruption”
- Exhibit O-1a: Board of Election's November 19, 2013 e-mail
- Exhibit O-2: *cc:* CJA's November 12, 2013 FOIL request to NYS Division of the Budget –
“RE: New York State Board of Elections Budget Records - Fiscal Years 1989-
1990 through 2013-2014”
- Exhibit O-2a: Division of the Budget's November 19, 2013 letter
- Exhibit O-3: *cc:* CJA's November 12, 2013 records request to Secretary of the Senate –
“RE: Oversight & Budget Hearings of the New York State Board of Elections”
- Exhibit O-3a: Secretary of the Senate's November 19, 2013 e-mail
- Exhibit O-3b: Secretary of the Senate's December 4, 2013 e-mail
- Exhibit O-3c: CJA's December 16, 2013 e-mail to Secretary of the Senate
- Exhibit O-4: *cc:* CJA's November 12, 2013 records request to Assembly Public Information
Officer – “RE: Oversight & Budget Hearings of the New York State Board of
Elections”
- Exhibit O-4a: Assembly's November 20, 2013 letter
- Exhibit P: CJA's November 13, 2013 letter to Commission member/Albany County District
Attorney Soares –
“RE: What are Your Procedures for Handling Public Corruption
Complaints? – & Other Questions that an Unconflicted Commission to Investigate
Public Corruption Would Ask”
- Exhibit Q: CJA's November 15, 2013 e-mail to Commission –
“RE: FOIL Request: Request for Transcript of Commission's October 28th Public
Hearing & Other Documents Pertaining to the October 28th Hearing”
Also sent *via* the Commission's “Public Comment/Testimony” webpage

- Exhibit R-1: Commission’s December 2, 2013 Preliminary Report fn. 330 reference –
 Siena Research Institute October 21, 2013 Press Release: *“Moreland & Its Work Largely Unknown to Voters, Who Strongly Want Commission to Continue Investigations – Serious Problem: Corruption in Legislature-82%; Rest of State Govt.-77%...”*
- Exhibit R-2: poll questions: pp 4-6
- Exhibit S-1: CJA’s December 11/December 16, 2013 e-mail to Commission –
 “Subject: The Judiciary’s Proposed Budget for Fiscal Year 2014-2015: Safeguarding the Public Purse from Judicial Fraud & Larceny”
- Exhibit S-2: CJA’s December 11, 2013 letter to Governor Cuomo, Leaders of Legislature & its
 “Appropriate Committees” –
 “RE: SAFEGUARDING THE PUBLIC PURSE FROM JUDICIAL FRAUD & LARCENY: Your Constitutional & Statutory Duty to Reject the Entirety of the Judiciary’s Proposed Budget for Fiscal Year 2014-2015, Over & Beyond its Concealed, Unitemized Third Phase of the Judicial Salary Increase that Will Otherwise Take Effect, Automatically, on April 1, 2014”
Enclosure: CJA’s March 11, 2013 letter to Senate Budget Subcommittee on “Public Protection” – “RE: Rectifying your Absence at the February 6, 2013 Budget Hearing on ‘Public Protection’ by Verifying the Dispositive Nature of the Opposition Testimony to the Judiciary Budget & its Judicial Salary Increase Request”
- Exhibit T-1: CJA’s January 7, 2014 letter to Commission –
 “RE: ‘FOLLOWING THE MONEY’: (1) investigating & reporting on the fraud and larceny in the proposed Judiciary and Legislative budgets for fiscal year 2014-2015 presented by CJA’s December 11 and December 30, 2013 letters; (2) supplement to CJA’s July 19, 2013 corruption complaint & intervention request.”
- Exhibit T-2: CJA’s December 30, 2013 letter to Governor Cuomo –
 “RE: SAFEGUARDING THE PUBLIC PURSE FROM LEGISLATIVE FRAUD & LARCENY: Your Duty to Exclude the Legislature’s Proposed Budget from the State Budget for Fiscal Year 2014-2015 Because its Absence of Certified Itemized Estimates Violates Article VII, §1 of the NYS Constitution; Alternatively, to Recommend that the Legislature Reject it, or Alter it Based on Certification of Itemized Estimates”
- Exhibit U-1: Commission’s February 7, 2014 letter to Elena Sassower
- Exhibit U-2: Commission’s February 20, 2014 letter to Cie Sharp, first ordinary witness at September 17, 2013 public hearing

- Exhibit V-1: U.S. Attorney Bharara’s April 3, 2014 letter to Commission Co-Chairs, Executive Director, & Chief of Investigations –
“RE: Ongoing Moreland Commission Investigations”
- Exhibit V-2: U.S. Attorney Bharara’s April 9, 2014 letter to Commission members –
“RE: Ongoing Moreland Commission Investigations”
- Exhibit V-3: April 10, 2014 letter from Commission Co-Chairs to U.S. Attorney Bharara
- Exhibit W-1: “*Cuomo responds to Moreland rebuke*”, April 10, 2014, Capital New York
(Laura Nahmias)
- Exhibit W-2: Co-Chair Fitzpatrick’s April 14, 2014 column, “*My Moreland Mission*”,
Huffington Post
- Exhibit W-3: “*Co-Chairs’ Picks To Write Moreland Report Were Nixed For Second Floor Insider [UPDATED]*”, April 15, 2014, City & State, Morgan Pehme, Jon Lentz,
Matthew Hamilton