

State of New York

JUL 2 2013

Department of State
Secretary of State



No. 106

EXECUTIVE ORDER

**DESIGNATION PURSUANT TO SECTION 6 AND SUBDIVISION 8 OF SECTION 63
OF THE EXECUTIVE LAW**

WHEREAS, individuals who are elected, appointed and hired to serve as public officials hold their positions in trust for the People of the State; and

WHEREAS, abuse of office by public officials and misconduct while in office, criminal or otherwise, undermines the trust of the People and diminishes the ability of government to function; and

WHEREAS, the laws, regulations, and procedures involving our electoral process, including the nomination of candidates, and the financing of campaigns and elections, must further the public trust and promote democracy and the accountability of elected officials to the voters and the selection of ethical public servants; and

WHEREAS, it is critical that the laws, regulations and procedures regulating conduct by public officials, the electoral process and financing of campaigns are strong, effective and comprehensive, and are fairly and vigorously enforced to promote public confidence in State government; and

WHEREAS, the New York State Board of Elections is vested with the authority to oversee the electoral process and to enforce election laws, including those related to campaign finance and the disclosure of contributions and expenditures; the New York State Division of the Budget is charged with carrying out the Executive's constitutional obligations with respect to the State's multi-billion dollar budget; and every State department, board, bureau, or commission is obligated to administer State contracts, grants, programs and funding streams in the best interest of the People of New York State, free from improper influence; and

WHEREAS, the Executive has the obligation under N.Y. Const. Art. IV, § 3 to report to the Legislature periodically on the "condition of the state, and recommend such matters to it as he or she shall judge expedient," and to "take care that the laws are faithfully executed"; and

WHEREAS, it is my judgment that it is of compelling public importance that weaknesses in such existing laws, regulations and procedures be further investigated and addressed so as to guard against further abuses, ensure accountability, reduce the influence of money in politics, and restore public trust in New York State government;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the laws of the State, and by the Constitution, including the authority pursuant to N.Y. Const. Art. IV, § 3 to report to the Legislature periodically on the "condition of the state, and recommend such matters to it as he or she shall judge expedient," and to "take care that the laws are faithfully executed," and pursuant to Section Six and Subdivision Eight of Section Sixty-Three of the Executive Law, do hereby:

- I. Appoint a Commission to be known as the Commission to Investigate Public Corruption with twenty-five members, who shall be Kathleen Rice, William J. Fitzpatrick, Milton L. Williams, Jr., J. Patrick Barrett, Richard Briffault, Daniel J. Castleman, Derek P. Champagne, Eric Corngold, Kathleen B.

Hogan, Nancy Hoppock, Seymour W. James, Jr., David Javdan, Robert Johnson, David R. Jones, Lance Liebman, Joanne M. Mahoney, Gerald F. Mollen, Makau W. Mutua, Benito Romano, Frank A. Sedita, III, P. David Soares, Kristy Sprague, Betty Weinberg Ellerin, Peter L. Zimroth and Thomas P. Zugibe as Special Commissioners to investigate the management and affairs of any department, board, bureau or commission of the State, or any political subdivision of the State, and weaknesses in existing laws, regulations, and procedures, regarding the matters set forth below. Robert M. Morgenthau shall be Special Counsel to the Commission. Joseph A. D'Amico, Raymond W. Kelly and Barbara Bartoletti shall be Special Advisers to the Commission.

II. The Commission shall:

- a. Investigate the management and affairs of the State Board of Elections, including but not limited to (i) determining whether the Board is fulfilling its obligation under the Election Law to administer the election process and oversee election campaign practices and campaign financing practices, (ii) examining the Board's interactions with outside individuals and entities, including candidates, donors, and committees, to determine compliance with applicable State laws, (iii) examining the statutory structure, composition, authority, and staffing of the Board, including but not limited to organizational structures and the roles of the Board of Elections, the Attorney General, the United States Attorneys and District Attorneys, and (iv) examining compliance with and the effectiveness of campaign finance laws; and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures;
- b. Investigate weaknesses in existing laws, regulations and procedures relating to the regulation of lobbying, including but not limited to examining compliance by organizations and other persons engaged in lobbying and other attempts to influence public policies or elections, including tax-exempt organizations under Section 501(c) of the Internal Revenue Code, with the requirements of existing State laws administered by the Joint Commission on Public Ethics, and the sufficiency of such requirements; and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures; and
- c. 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.

III. Kathleen Rice, William J. Fitzpatrick and Milton L. Williams, Jr., are hereby designated Co-Chairpersons of the Commission.

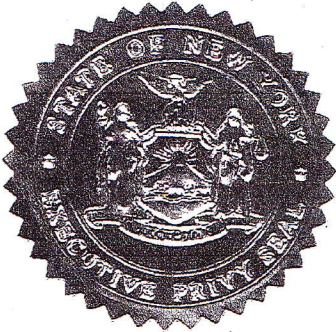
IV. Pursuant to Subdivision Eight of Section Sixty-Three of the Executive Law, I direct that the Attorney General inquire into the matters set forth in this Order, that I find involve public peace, public safety, and public justice, and request that the Attorney General do so by appointing those of the above named Commissioners who are attorneys as Deputy Attorneys General and delegating to such Deputy Attorneys General the authority to exercise the investigative powers that are provided for in an investigation pursuant to such Subdivision Eight of Section Sixty-Three.

V. I hereby give and grant to the Commissioners all the powers and authority that may be given or granted to persons appointed under authority of Section Six and Subdivision Eight of Section Sixty-Three of the Executive Law, including the powers to subpoena and enforce the attendance of individual witnesses, both public and private, to administer oaths and examine witnesses under oath, and to require the production of any books or papers deemed relevant or material; provided, however, that (1) the Co-Chairpersons shall unanimously approve any subpoena prior to its issuance; and (2) the Co-Chairpersons shall unanimously approve such procedures and rules as they believe necessary to govern the exercise of the powers and authority given or granted to the Commissioners pursuant to such Section Six and Subdivision Eight of Section Sixty-Three, including rules designed to provide transparency while protecting the integrity of the investigation and rights to privacy.

VI. If in the course of its inquiry the Commission obtains evidence of a violation of existing laws, such evidence shall promptly be communicated to the Office of the Attorney General and other appropriate law enforcement authorities, and the Commission shall take steps to facilitate jurisdictional referrals where appropriate. The Superintendent of the Division of State Police shall, as appropriate, authorize the Attorney General, pursuant to the provisions of Subdivision Three of Section Sixty-Three of the Executive Law, to conduct an investigation of any indictable offense or offenses arising out of any activity that is the subject of an inquiry by the Commission, and to prosecute the person or persons believed to have committed the same and any crime or offense uncovered by such investigation or prosecution or both, including but not limited to, appearing before and presenting all such matters to a

grand jury. The Commission shall cooperate with prosecutorial agencies to avoid jeopardizing ongoing investigations and prosecutions.

- VII. Every department, board, bureau, and commission of the State, including but not limited to State agencies, shall provide to the Commission every assistance and cooperation, including use of State facilities, which may be necessary or desirable for the accomplishment of the duties or purposes of this Order.
- VIII. The Commission shall issue a preliminary policy report on or before December 1, 2013, setting forth its initial findings and making such recommendations as required by this Order for the express purpose of consideration and enactment of statutory reforms by the Governor and the Legislature in the 2014 legislative session. The Commission shall further issue an additional report or reports on or before January 1, 2015, or on or before a date to be determined. All such reports must be approved by a majority of the Commissioners that includes all of the Co-Chairpersons.
- IX. The Commission shall 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.



GIVEN under my hand and the Privy Seal of the
State in the City of Albany this second
day of July in the year two thousand
thirteen.

A handwritten signature in black ink, appearing to read "Andrew Cuomo".

BY THE GOVERNOR

A handwritten signature in black ink, appearing to read "Lianne Scherwitz".
Secretary to the Governor